

## 1.00 Introduction

Finance, Administration, and Intergovernmental Relations' chapter of NLC policy focuses on the interplay of federal policies and local governments. NLC recognizes that local government is the level of government most closely connected with citizens. Local government has the direct responsibility for providing necessary daily services, solving day-to-day public problems and responding directly to the needs of its citizens. The following chapter highlights important prerogatives of local governments and our concerns about how federal policies impede and restrict the authority and control of local elected officials to provide necessary daily services, solve day-to-day problems, and respond to needs of citizens.

### A. Intergovernmental Relations

Each governmental entity has a responsibility to provide services, solve problems, and answer to the needs of its citizens. Local government, through federalism, needs partnership with County, State, and Federal partners. Partnership involves cooperative behavior with give and take and sharing of duties and responsibilities. The Federal Government should avoid using its significant financial powers to the detriment of local government, and it should not use the bureaucracy of complex regulations, policies, and federal departmentalization to stunt, delay, impede, or control local governmental decisions regarding how to provide for the needs of its citizens. Federal overreach through mandates, failure to act on E-Fairness, interference with collection of local taxes, restrictions on local authority under Takings actions, preemption of municipal regulatory authority, and restriction on municipal annexation are all examples of

Federal power influencing and interfering with local government responsibly responding to the needs of its citizens.

Intergovernmental partnership must be strengthened through all levels of government, including Federal Government flexibility in working with local governments when local governments are providing necessary services, solving day-to-day problems, and responding to the needs of citizens. Federalism requires acknowledgment of respective roles, duties, and responsibilities for each level of government. Federalism is promoted when boundaries of authority and responsibility are identified, delineated, and respected by all the partners of government.

### B. Finance

There are numerous areas wherein federal policies directly impact the ability, authority, and constitutional autonomy of local elected officials to meet the needs of their citizens. Federally-created mandates create a burden on local officials to meet federal bureaucratic regulations, and lack of appropriate funding or assistance in meeting those requirements exacerbate that burden. As such, the Federal government should not create policies or regulations that impose disproportionate responsibilities on local governments or increased financial liability without recognizing and accounting for the fiscal impact of those policies or regulations. Federal policies and regulations affecting local governments should not mandate new costs for local governments without providing funding to support those new mandates.

Local governments need greater flexibility and control of taxpayer funds for construction, operation, and maintenance of

vital infrastructure. Local governments are directly and immediately linked to citizens and are in a better position to identify opportunities for development while maintaining a sense of community and developing tailored solutions to problems. Open and transparent federal budgetary processes, while allowing local governments the maximum flexibility and control over their funding and financing mechanisms, encourages economic growth both locally and nationally. Federal government's fiscal health directly affects local government's ability to provide necessary daily services and answer the needs of citizens. All federal fiscal policies should be designed to not diminish the ability of local elected officials to respond to economic needs of local government, especially during times of economic downturn.

### **C. Fiscal Conditions**

NLC supports policies that grant administrative control of programs, projects, and use of tax revenues to the lowest and most directly-connected level of government as possible. Local governments are best suited to administer programs and monitor programs for the benefit of local citizens. Activities by the Federal Government that impede the ability of local governments to manage franchising, zoning, permitting, local licensing, and local code development stymie the growth of local economies and cities. Preemption or federalization of programming and other regulator activities diminish citizen input for community development.

Local control protects the health, safety, and welfare of local citizens more nimbly, quickly, and realistically than federally-operated and controlled programs. As such, federal policies and regulations should always identify means, methods, and language that push greater control and flexibility to local levels for greater citizen

interaction, input, participation, and solutions.

## **1.01 Finance**

### **A. Federal Budgetary Practice and Deficit Reduction**

NLC supports and encourages an open and transparent budgetary process that includes analysis of the fiscal impact on municipalities and projections regarding sustainability of long-term programs and obligations.

There should also be demonstrable progress towards a balanced federal budget that does not impugn cities' local control and authority. In working towards the goal of a balanced budget, the taxing authority of local municipalities should not be pre-empted, degraded, or over-ridden in any manner. Deficit reduction should not rely on unfunded mandates imposed on municipalities, nor should the tax exemption on municipal debt interest – particularly as it relates to public buildings, spaces, infrastructure and utilities – be eliminated or in any way curtailed. The progressivity of the current tax system should remain in place, as should the deduction for state and local taxes. In order to level the playing field between states with an income tax and those without, the federal government should permanently restore the deductibility of state sales taxes to the same extent that state income taxes are currently deductible from income.

Further, NLC and its member cities should be party to the regulatory rulemaking process and any discussions that affect municipalities, with the flexibility and time provided to adequately and appropriately implement any adopted rules.

### **B. Municipal Finance Mechanisms**

The ability for local municipalities to retain maximum flexibility and control over their

funding and financing mechanisms is of utmost importance. To preserve and promote that condition, the tax exempt status of municipal debt obligations should be preserved and not altered in any fashion particularly as to public buildings, spaces, infrastructure and utilities. Rules relating to issuance, deductibility, refunding, credit enhancements and market advisors should be unambiguous and consistent, offering cities the ability to act in their best financial interest.

Municipal revenue generation capability should be protected, and preference for municipal tax liens in private bankruptcy proceedings should be retained.

All financing options should be available to cities, including sale and leaseback arrangements, equipment leases, and industrial development bonds, to allow for maximum flexibility in funding the various operations in which a city engages.

### **C. Federal Communications Tax Reform**

Federal communications taxes should be modernized while maintaining local autonomy and discretion as well as allowing for the rapid evolution and change taking place in the industry.

Cities' authority to raise revenues should be preserved, and any reforms should allow for a time of transition for implementation. Local tax policy and fees should remain agnostic with respect to technology, delivery method, or service provider. Reforms should be revenue-neutral at the local level and should simplify the collection, reporting and auditing of local taxes. Tax obligations should not be based on presence in a taxing jurisdiction; instead destination-based sourcing should be implemented.

## **1.02 Municipal Administration**

### **A. Employee Relations and Benefits**

#### *1. Municipal Pension Plans and Social Security*

a. **Municipal Pension Plans:** The primary responsibility for regulating municipal pension plans rests with either state or local government. The federal government should not attempt to regulate such plans, either by legislation or by regulation. NLC opposes taxation of municipal pension plans and other employee benefit programs.

b. **Social Security System:** The Federal Government should not expand mandatory Social Security requirements for state and local governments and their employees. Imposition of expanded requirements would create large costs for municipal taxpayers, threaten the solvency of state and local retirement systems and create irreconcilable conflicts among labor agreements, pension plans, contracts, state laws and constitutions.

#### *2. Employee-Employer Relations*

The federal government should not undermine municipal autonomy with respect to making fundamental employment decisions by mandating specific working conditions, mandating collective bargaining rights, legalizing strikes, or requiring compulsory binding arbitration. NLC opposes federal legislation which singles out a class of municipal employees to be provided special investigative and disciplinary procedures.

#### *3. Municipal Employee Benefits*

The primary responsibility for determining, providing and financing benefits for municipal employees is and should remain the responsibility of local governments. Cities, as employers, are better suited to develop benefit packages which are sensitive to local labor markets, city labor

requirements and employer-employee negotiations.

NLC is opposed to federal government taxation of “bona-fide” fringe benefits. “Bona-fide” benefits are those benefits provided by a municipality to its employees pursuant to state or local laws and regulations, contracts or collective bargaining agreements.

#### *4. Drugs and Alcohol*

NLC opposes any federal pre-emption of municipal authority over personnel matters related to drugs and alcohol, including treatment and drug-testing policies.

#### *5. Fair Labor Standards Act (FLSA)*

NLC supports Federal government efforts to reform the following areas of the Fair Labor Standards Act (FLSA):

a. The salary exemption test should be amended to provide an appropriately indexed exemption for executive, administrative, and professional employees and to provide that the “duties test” would not be considered for such employees.

b. The FLSA should be amended to allow state and local governments to deduct for absences of less than one day without losing exempt status for certain employees. Such an amendment will allow cities to discipline and control employees in the manner best suited to their individual situation.

c. The FLSA should be amended to allow state and local governments to apply disciplinary sanctions for less than one week without losing the exempt status for such employees.

#### *6. Occupational Safety and Health (OSHA)*

NLC opposes any impairment of the ability of state and local governments to indemnify their agents, officers and employees against

financial loss arising from the operation of locally adopted safety and insurance statutes.

#### *7. Americans with Disabilities Act*

NLC opposes any efforts by the federal government to dismantle or weaken the Americans with Disabilities Act.

### **B. Municipal Decision Making**

#### *1. Civil Rights/Equal Opportunity*

Municipal governments support equal employment opportunities and have a vital and continuing interest in the development, maintenance, and extension of vigorous and effective civil rights policies. To achieve this goal, cities are committed to:

a. Supporting fully the 1964 Civil Rights Act as amended;

b. Removing artificial barriers in the recruitment, selection, hiring, promotion, transfer or discharge of employees which have no relationship to standards of performance;

c. Developing and carrying out a written affirmative action program in the recruitment of minority job candidates, women, veterans and the disabled to maximize employment opportunities for these individuals and to foster career development and advancement, including through the use of technological advances to provide workplace accommodations.

d. There shall be an equitable distribution of municipal services or benefits to all city residents.

Federal, state and local governments should all be held equally responsible for achieving diversity in their own personnel practices. Local governments should be granted any exemptions to federal discrimination laws,

which the federal government now claims for itself.

## *2. Municipal Service Provision, Right of Way and Franchising Rights*

The federal government should take no action, which abridges the right of a city to franchise, regulate, or control any person or enterprise that provides services within that city. Further, the federal government should not intrude upon the authority of a city to directly operate, contract out, or sell the operation of any service.

The federal government should not restrict the authority of municipalities to engage in activities to protect public investments in the right-of-way, to assure the appropriate placement of service lines, to regulate the placement of service facilities, and to realize the value of this public asset. These activities include the granting of franchises and licenses, the promulgation of construction standards, the levy of taxes, fees and rental charges, and the issuance of permits.

## *3. Regional Planning and Cooperation*

Urban problems frequently cross jurisdictional boundaries and may require area-wide action to achieve measurable relief.

a. Any federal legislation or regulation which mandates area-wide planning should provide necessary resources towards the development of such an organization and state and local elected officials must be included in decisions regarding the organization's purpose and responsibilities and the distribution of federal funding.

b. Any area wide planning organization should allow for flexible interpretation of federal guidelines to recognize local political, economic, and social conditions and to

ensure the equitable distribution of program funds.

## *4. Municipal Liability*

In recent years, cities have experienced unprecedented increases in costs to protect themselves against exposure to public liability. While municipalities must take steps to improve their own internal management programs and policies to identify, reduce, eliminate, and protect against the risk associated with providing public services, the federal government, in conjunction with state governments, can assist in these efforts by doing the following:

- Clearly defining and limiting the scope of public liability and exposure through legislation, including legislation reducing liability exposure under Section 42 U.S.C 1983 and related statutes by preventing the filing of traditional state tort claims in federal courts under the umbrella of civil rights actions;
- Lessening the personal liability risks facing individual officers and employees while performing public duties;
- Encouraging and assisting municipalities in developing flexible, cooperative solutions and alternatives for insurance, reinsurance, pooling, and risk-management; and
- Providing training, technical assistance, and education, which will improve the state of the art and practice of municipal liability, insurance and risk management.

Some specific methods for reducing municipal liability include:

- Providing in federal law that in those states where municipal liability caps exist, such caps should also be applicable to liability arising from federal statutes;
- Providing attorney fee awards to the prevailing party when federal law exposes municipalities to liability;

- Providing for a six-month notice of claim requirement when a municipality is the potential defendant;
- Providing in federal law that the statute of limitations period should be the limitations period for personal injury actions in the state of occurrence; and
- Eliminating “Monell” liability for municipalities by clearly expressing Congressional intent regarding 42 U.S.C § 1983 and clarifying that the definition of “person” under § 1983 does not include municipalities.

The federal government should consider creating alternative dispute resolution procedures, which must be exhausted before recourse to the courts is allowed for claims against municipal governments.

The federal government should implement “settlement before trial guidelines” that would allow municipalities to avoid the payment of a plaintiff’s attorney fees, if an offer of settlement by the municipality made within a specified period of time in advance of trial is greater than the relief finally granted by the court.

In the drafting or revising of federal statutes that expose municipalities or their officials to liability, the following general principles should be respected:

- a. If monetary fines are imposed by the court on a municipal government, include provisions allowing the municipality to apply these fine amounts to cure conditions giving rise to the imposition of the fine;
- b. Place limitations on the extent to which a city, or its municipal officials, may be held vicariously liable for the acts of their employees;

c. Retain the ability of a municipality to insure or otherwise protect city officials and employees from personal financial loss connected to claims arising from their municipal government affiliation; and

d. Require that in order to be eligible for the awarding of attorney fees, the plaintiff must substantially obtain the relief sought and any such attorney fees should be reasonable in relation to the judgment.

e. Municipal government workers, including workers that perform a share of their duties on vessels operating in navigable waters, are protected by workers’ compensation laws, without regard to fault. The federal government should, therefore, amend the federal Jones Act to exempt municipal government employees from the provisions governing the death or injuries to an employee working on a vessel operating in navigable waters.

f. In those cases where a trade-off of municipal authority and rights in federal legislation exists, thereby providing a legal remedy against cities, NLC believes that there should be specific statutory language declaring that the legal remedy specified is the exclusive remedy.

#### *5. Municipal Disaster and Terrorism Insurance*

In the wake of recent high-cost natural disasters and terrorist attacks, a number of insurance companies have been unable to properly cover the losses of their policy holders because the industry was overexposed to loss.

Since the September 11, 2001 terrorist attacks, the industry has virtually eliminated terrorism coverage, and if available, it is prohibitively expensive. Although a concentrated effort to prevent reliance on

long-term, federally-subsidized disaster relief is necessary, an initial reinsurance system must be made available to bring stability to both industry and government as a safeguard against future acts of terrorism.

NLC urges the federal government to work with state and local governments, the insurance industry, and other stakeholders to:

- Develop insurance and reinsurance programs that will make it possible for private insurers and reinsurers to make affordable disaster insurance available to cover damage and loss caused by catastrophic natural disasters and terrorism;
- Encourage the insurance and reinsurance industries to provide incentives through rate adjustments that reward policy holders who take mitigation actions;
- Work to ensure that insurance companies do not overexpose or underexpose themselves to risk;
- Develop an incentive-based disaster insurance and mitigation system that would encourage property owners to build new homes outside high risk areas, retrofit existing structures to reduce future losses, and enable government and business to obtain the proper coverage necessary for public safety, the delivery of public services, flow of commerce, and economic development.

#### *6. Municipal Purchasing*

The federal government should not disqualify cities from the receipt of federal grant funds if cities decide to adopt special purchasing procedures based on objective and otherwise legal criteria. For example: (a) granting preferred status to some classes of potential suppliers; (b) disqualify other classes of potential suppliers; or (c) grant less preferred status to other classes of potential suppliers.

#### *7. Right of Municipalities to Sue*

NLC opposes any federal preemption that would undermine the authority of municipalities to bring suits against other parties.

#### *8. Reducing Barriers to Municipal Contracting with Federal Facilities*

The federal government should eliminate legal and procedural barriers and solicit proposals from municipal governments to provide services to federal installations such as public safety services, ground maintenance, and public works.

#### *9. Equal Access to Justice Act*

The eligibility limits for units of local government on assets and the number of employees for awards under the federal Equal Access to Justice Act should be eliminated. NLC has no position on the modification of eligibility thresholds for non-local government entities.

#### *10. Federal Consent Decree Fairness Act*

Congress should ensure that consent decrees imposed by federal courts are drafted as narrowly as possible, limited in duration, provide for review of continuing need, and respect state and local interests and policies.

### **1.03 Intergovernmental Relations**

#### **A. Mandates**

The federal government must not initiate laws, rules and regulations, or take other actions and activities that will mandate action on the part of local governments.

If the federal government does initiate laws, rules and regulations, the federal government must provide reimbursement funds to compensate local governments for such mandates. Any reimbursement program

should deliver funding directly to the unit of government incurring the costs.

Cost-benefit and risk assessments of current federal programs, regulations, and policies (e.g., tax policy) must be conducted to determine their adverse cost, structural, and intergovernmental impacts on local governments.

Cost-benefit and risk assessment statements must be added to all proposed legislation, rules, and regulations. Assessment of proposed rules and regulations must be completed by Congress prior to enactment and/or enforcement. NLC encourages cities to separately display the costs of state and federally mandated programs in their budgeting and reporting.

Local governments should be able to prioritize their resources to achieve the greatest risk reduction for the funds available.

The federal government should incorporate flexibility into federal and state regulatory processes because of variable local conditions. The federal government should avoid “one-size-fits-all” regulatory approaches to municipalities. While enforcement should be objective it should also take into account local conditions through the use of such mechanisms as variance/waiver procedures and locally-developed alternate compliance plans.

Local government should be afforded the opportunity for greater participation in the legislative and regulatory process. In developing and revising regulations, the federal government shall consider the impact of these regulations on municipal governments and shall reimburse municipal

governments whenever these federal mandates impose significant new cost.

Municipal elected officials and governments should participate as partners in the development of federal regulations that have a significant impact on state and local government. Laws restricting entities subject to regulation from participating in consultative processes with federal agencies to make regulations workable should be prohibited. Such exemptions will help ensure that elected state and local officials participate at an early stage in the development of federal regulations.

#### **B. E-Fairness**

Federal legislation must be enacted permitting states and localities to require remote sellersto collect state and local sales and use taxes on orders made within their boundaries.

NLC calls on Congress to close the online sales tax loophole by enacting e-fairness legislation which will level the playing field between online and brick-and-mortar retailers and does not introduce any new taxes.

#### **C. Collection of Local Taxes**

NLC opposes federal legislative efforts effecting local taxing authority including the collection of tax from local businesses and the collection of franchise fees.

*(See related policy under ITC Section 7.01(E)(3) Franchise Fees.)*

#### **D. Takings**

NLC opposes federal regulations or statutes that place restrictions on state and local government actions regulating private

property or requiring additional compensation beyond the continually evolving judicial interpretations of the Fifth Amendment of the U.S. Constitution.

The federal government shall indemnify a municipality for costs, including attorney fees, damages and awards, of litigation asserting inverse condemnation or regulatory takings claims, which arise from municipal actions necessitated by federal requirements.

The federal government should not enter into any international agreement that enables a foreign entity to seek damages predicated on the actions of a U.S. municipality, regarding alleged takings practices, which are legal under U.S. law.

#### **E. International Trade and Local Authority**

The federal government should include elected state and local government officials in international trade and all other treaty negotiations, because of their potential impacts on these governments.

#### **F. Davis-Bacon Policy**

The Davis-Bacon Act should be repealed.

#### **G. Preemption of Municipal Regulatory Authority**

The federal government shall not preempt municipal regulatory powers based on the police power of the state; however, when a clear and compelling need arises, the Congress must clearly express its intent to preempt, and accompany any such proposals with a timely intergovernmental impact analysis, including estimated costs. Local elected officials cannot manage or guide the financial condition, character and personality, public health and safety,

environmental protection or encourage the local self-determination of cities and towns without basic regulatory controls.

NLC opposes federal regulations or statutes that require retroactive compliance by municipal government.

#### **H. Scope of Federal Regulation of Cities**

The scope of federal intergovernmental regulations should be reduced and new regulations should be issued only when a clear and convincing case has demonstrated the necessity of federal regulations. In any event, federal regulation of cities should be confined to insuring individual political and civil rights, to providing for national defense, to regulating interstate commerce in resolving interstate disagreements, and to assuring the fiscal and programmatic integrity of federal grants and contracts. In all cases, maximum municipal flexibility and authority should be preserved.

In reviewing existing regulation of cities, the federal government should not use cross-over sanctions – sanctions permitting the use of federal money in one program to influence state and local policy in another as a compliance technique, should consult with states and cities on regulations involving preemption of local authority or joint standard setting, and should simplify and standardize cross-cutting requirements – federal grants used to establish certain conditions that extend to all activities supported by federal funds, regardless of their source.

#### **I. Grant Reform and Administration**

Federal grants to local governments should be used to provide fiscal support, initiate new programs or approaches to solving urban

problems, increase socio-economic equity, and achieve national objectives. The following administrative and legislative measures would increase the effectiveness of this indispensable form of assistance to local governments.

- The conflicting administrative and eligibility requirements accompanying federal assistance must be simplified and standardized.
- Municipal governments could utilize federal assistance more flexibly and efficiently if some of the narrow categorical programs were consolidated into broader categorical or block grants.
- The municipal role in the federal system should be strengthened by mandating the right of city governments to review and comment on all federal assistance programs which affect their jurisdictions, and by guaranteeing the right of city governments to participate in the agency rule-making process.
- City governments should receive reimbursement for indirect costs associated with grant administration.
- In order to increase the fairness and effectiveness of the distribution of federal funds, the federal government should make uniform use of population, employment, and other data and should improve the accuracy and timeliness of all data.
- Federal legislation should be enacted to provide for the recovery from the federal government of legal, technical, and operating costs

associated with reviewing and commenting on any proposed and/or final federal audit report and/or the costs of appealing adverse grant eligibility determinations arising from such an audit report, which were incurred by a municipality, provided that the municipality substantially prevails against the recommendations of the audit report.

#### **J. Postal Facilities**

Postal facilities often serve as an anchor of many central business districts and as a major focal point of urban commercial neighborhoods. The loss of a postal facility can severely impact the health of a central business district or urban commercial neighborhoods and pose a setback to local government community and economic development plans. Under current law USPS must undertake a formal public notification and comment period prior to closing a post office. NLC urges USPS to consider impacts on local government community and economic development plans and impacts on low- and moderate income households, the elderly and the disabled as it studies postal facility closures. NLC supports legislation that would create a formal public notification and comment period prior to the closure of any postal facility and urges USPS to take a comprehensive approach to restructuring that does not rely disproportionately on postal facility closures.

#### **K. Municipal Annexation**

Annexation procedures established by state law provide for orderly growth and development of cities and annexation of unincorporated areas. While states have and should continue to have the preeminent role in annexation regulation, actions of the federal government, through operation of

many of its programs, can unintentionally or by design interfere with planned urban growth and annexation proceedings.

Recognition of the authority and ability of cities to deliver utility services is directly related to issues of growth and annexation. Federal policies must take account of this essential role of city government in determining the impact of legislation affecting the provision of such services in rural areas. Increased interest by rural electric cooperatives in competing with cities to deliver utility services in rural areas experiencing residential growth and commercial/industrial development has raised serious concerns for cities. Federal policy should require that proposals to deliver such services in rural areas not duplicate the capacity of cities to serve those locations. Federal laws should not prohibit the option for cities to exercise extraterritorial jurisdiction over development, planning, and delivery of utility services in urban fringe areas adjacent to their corporate boundaries.

#### **L. Federally Owned Property**

The federal government should pay to municipalities an annual sum in lieu of payment of real property taxes on federally owned, occupied, or controlled property otherwise exempt from such property taxes. Municipalities should in no way be constrained from collecting taxes of any type that are normal and fair from any individual, business, or corporation conducting activities on or within any federally owned, occupied, or controlled property or installation.

The federal government in its development of federal facilities should: comply with city zoning and land use practices; consult with local jurisdictions when preparing

architectural and construction plans; adhere to nationally recognized building and fire and life safety code standards; maintain its facilities to the standards normally provided for similar public and private facilities; and should participate in paying the infrastructure and environmental impact mitigation costs and service fees related to the federal facility.

The federal government should not assert or cause its contractors to assert partial or full immunity from state or local taxes on a retroactive basis, for federally foreclosed property.

#### **M. Federally Foreclosed Property**

When in the course of its regulatory and other functions the federal government comes into possession of property which it does not intend to retain for its own use.

#### **N. Census**

The U.S. Census is of highest importance to America's cities and towns. The vital information provided is critical to many municipal activities such as community planning, redistricting, intercensal population estimates and providing data for federal grant formulas. Statistics produced by the Census drive the allocation of federal and state funds. Census numbers are also frequently used to help make decisions about the allocation of resources.

Cities are therefore vitally concerned that the Census produce the most accurate and timely information possible. Furthermore, the Census Bureau shall make every effort to reduce the gap in time between the reference date of statistics and their use in formulas.

In order to enhance the usefulness of the Census, Congress, working with the

Administration, should create a Commission on the Census. This Commission should be composed of members of the executive and legislative branches and state and city officials. The Commission shall make recommendations for the most accurate census feasible. Whether or not such a Commission is convened, the federal government should create a separate state and local advisory committee, to advise and comment on a continuing basis regarding the development and administration of census programs.

NLC supports the ongoing engagement and development of partnership and communications efforts aimed at reducing the differential undercount of underserved segments of the Nation's cities and towns.

To overcome the problem of non-response, NLC encourages the use of proven sampling methods and other processes which will instill confidence by the local population. If numbers are produced both: (1) employing sampling methods; and (2) not employing sampling methods, both sets of numbers should be made publicly available on the same time schedule and at the smallest possible geographic level.

#### **O. Tribes and Trust Land**

NLC recognizes and appreciates that Native-American tribes are independent governments and should be partners in developing policy.

In order that all lands can be uniformly regulated and taxed under municipal laws, lands acquired by Native-American tribes and individuals shall be given corporate, not federal trust, property status through negotiation or statutory change.

Nothing in this policy should be construed as affecting lands currently in trust.

#### **P. Transparency**

The Federal Government must respond to requests by cities for non-classified federal information, under provisions of the Freedom of Information Act. The federal response must occur in ways that foster transparency and open intergovernmental communication, and must not use fees charged for the cost of information production as a practical deterrent to such communication.

#### **Q. Election Administration**

Voting is fundamental to democracy in the United States' form of government. Citizen trust in the integrity of this process is essential. Procedures and administration of this process must be completely honest, transparent and impartial. State and local officials are primarily responsible for administering the voting process but all levels of government – federal, state and local should exercise oversight in a balanced and even-handed manner. NLC is opposed to any federal laws that disenfranchise individuals from exercising their most fundamental constitutional right to vote.

NLC does support federal establishment and enforcement of standards for voting for Americans overseas, particularly members of the U.S. military and federal government employees and their dependents. The federal government should annually review state laws for any procedural or statutory inconsistencies with applicable federal laws and promptly inform state governments, the state municipal league and the state association of counties in each state of any problems and ways to cure them.

**R. District of Columbia**

NLC recognizes and fully supports the right of the District of Columbia's elected representative to have full voting rights in the U.S. House of Representatives. The District of Columbia should be granted legislative and budget autonomy from the federal government.

**NLC RESOLUTION #1****CALLING TO RESOLVE THE CONFLICT BETWEEN STATE AND FEDERAL MARIJUANA LAWS**

**WHEREAS**, state and local governments share with the federal government the responsibility to ensure public health and safety is addressed through competent, thoughtful, and comprehensive legislation and regulation and is reflective of local values and needs; and

**WHEREAS**, some states have passed or are considering voter referenda or legislation authorizing the growth and distribution of marijuana for adults' recreational use; and

**WHEREAS**, a growing number of states have passed voter referenda or legislation authorizing the growth, distribution, possession and use of marijuana for a variety of medical conditions for patients suffering from serious and chronic diseases; and

**WHEREAS**, the federal Controlled Substances Act (CSA) establishes a regulatory system designed to combat recreational drug use by making it unlawful to manufacture, distribute, possess or use any controlled substance including marijuana; and

**WHEREAS**, the federal government has classified marijuana as a Schedule I controlled substance, creating a conflict between the laws in various states authorizing medicinal and recreational marijuana in certain circumstances and the CSA's prohibitions against marijuana under any circumstance; and

**WHEREAS**, the federal government has not provided guidance to financial institutions on the accommodation of businesses associated with authorized medical or permitted adult recreational use of marijuana, leaving those businesses without banking and financial services; and

**WHEREAS**, the lack of banking services creates a cash-only operation that heightens the risk of crime in local communities.

**NOW, THEREFORE, BE IT RESOLVED** that the National League of Cities (NLC) urges the federal government to resolve the conflict between state and federal marijuana laws, including providing guidance to financial institutions; and

**BE IT FURTHER RESOLVED** that NLC urges federal government to conduct research on the effects of marijuana; and

**BE IT FURTHER RESOLVED** that while NLC does not endorse the use of marijuana, NLC urges the federal government to consider a precise interpretation of the CSA to recognize and allow the medicinal and adult recreational use of marijuana in those states where their people choose to allow it.

**NLC RESOLUTION #2****ENABLING ADOPTION OF PENSION BENEFIT ALTERNATIVES THAT REDUCE COSTS TO PUBLIC SECTOR EMPLOYEES**

**WHEREAS**, many local and state governments are struggling to provide retirement security for employees over the long term, while dealing with structural budget problems, tax base and investment losses from the economic downturn, and other fiscal pressures; and

**WHEREAS**, in many cases, the rising costs of providing pension and retirement benefits have resulted in significant contribution increases borne by public sector employees and taxpayers; and

**WHEREAS**, local and state governments are proposing changes to pension plan offerings that can address budget problems, while also reducing the cost of retirement benefits to public sector employees through their voluntary election of alternative plans; and

**WHEREAS**, underfunding due to lenient rules that, over time, have called into question the viability of meeting their long-term commitments; and

**WHEREAS**, the perpetual underfunding could jeopardize city services as a growing percentage of budgets are forced to reconcile these shortfalls; and

**WHEREAS**, U.S. Department of the Treasury guidelines, rulings, and review processes related to determining the tax treatment of retirement plan contributions impact whether local governments can effectively offer those choices to employees; and

**WHEREAS**, the U.S. Department of the Treasury has been asked by several local and state governments to review such pension plan proposals and issue such guidance as provided prior to 2006.

**NOW THEREFORE, BE IT RESOLVED** that the National League of Cities (NLC) calls for federal administrative and regulatory action to clarify these tax issues and enable offerings of alternative pension plans that would ensure a more sustainable pension system, reduced costs to employees, and stronger local and state government financial conditions; and

**BE IT FURTHER RESOLVED**, NLC calls upon the U.S. Department of the Treasury to expeditiously promulgate clarifying guidelines or rules that ensure favorable tax treatment of certain retirement plan contributions picked up by governmental employers when employees are given an option to choose a lower-cost plan.

**NLC RESOLUTION #3****LOCAL GOVERNMENT SUPPORT FOR E-FAIRNESS**

**WHEREAS**, Main Street merchants are important parts of our local communities – providing employment to residents, contributing to charities, and keeping communities vibrant; and

**WHEREAS**, the Supreme Court ruled that state and local governments do not have the authority to require the collection of sales tax by retailers that have no physical presence or nexus in the state (Bellas Hess 1967; Quill 1992); and

**WHEREAS**, the Court’s precedent puts Main Street merchants at a five to ten percent competitive disadvantage by following the law and collecting sales tax at the time of purchase, while remote online retailers are not required to do so; and

**WHEREAS**, if state and local governments could collect the \$23 billion in sales taxes on e-commerce that are already owed, cities could better provide basic services, such as infrastructure investment and public safety, to residents without a penny coming from the federal government; and

**WHEREAS**, the federal government, historically, has been reluctant to interfere with the ability of local governments to raise and regulate their own revenues and should not undermine municipal autonomy with respect to remote sales tax collection.

**NOW, THEREFORE, BE IT RESOLVED** that the National League of Cities (NLC) commends Congress on recognizing the importance of resolving the issue to put remote retailers and traditional ones on a level playing field; and

**BE IT FURTHER RESOLVED** that NLC urges Congress to pass destination rate-based legislation that would give states the option to collect from remote online retailers the same tax that merchants on Main Street currently collect.

**NLC RESOLUTION #4****PRESERVING THE TAX-EXEMPT STATUS OF MUNICIPAL BONDS**

**WHEREAS**, the federal tax exemption for municipal bonds has been in place since the federal income tax was instituted in 1913; and

**WHEREAS**, tax-exempt municipal bonds are the primary funding mechanism for state and local government infrastructure projects with three-quarters of the total United States investment in infrastructure being accomplished with tax-exempt financing from over 50,000 state and local governments and authorities; and

**WHEREAS**, the tax-exemption for municipal bonds was granted to ensure affordable access to credit for municipal projects that, among other things, provide for public health and well-being, and as a result, local governments have saved taxpayers an average of 25 to 20 percent on interest costs with tax-exempt municipal bonds as compared to taxable bonds; and

**WHEREAS**, the cap or elimination of the federal tax exemption for municipal bonds would place federal, state, and local governments at cross-purposes because any savings realized by the federal government as a result of tampering with the tax exemption would be more than offset by economic losses at the state and local level due to higher credit costs, canceled infrastructure projects, fewer job opportunities, and a greater burden on local taxpayers; and

**WHEREAS**, stability in the municipal bond market rests on the tax exemption for municipal bonds, and market stability is essential to local and national economic recovery.

**NOW, THEREFORE, BE IT RESOLVED** that the National League of Cities (NLC) calls on Members of Congress and the President to state their support for maintaining the tax exemption for municipal bonds to promote employment and investment in our nation's cities and towns; and

**BE IT FURTHER RESOLVED** that NLC strongly opposes any attempt to eliminate or limit the federal tax exemption for municipal bonds as a part of a federal deficit reduction plan or as a short-sighted consequence of efforts to advance comprehensive tax reform; and

**BE IT FURTHER RESOLVED** that NLC calls on Members of Congress and the President to state their support for maintaining the tax exemption for private activity municipal bonds to promote employment and investment in our nation's cities and towns; and

**BE IT FURTHER RESOLVED** that NLC calls on Members of Congress and the President to state their support for maintaining municipal bond advance refunding to promote thrift in the use of public funds that ultimately passes savings on to local tax-payers.

**NLC RESOLUTION #5****CALLING FOR COMPREHENSIVE TAX REFORM**

**WHEREAS**, the federal tax code is in major need of comprehensive reform, including both the individual and business sections of the tax code, to address the rising federal deficit and to promote jobs and economic growth; and

**WHEREAS**, the last major tax reform took place in 1986 when President Reagan signed the 1986 Tax Reform Act into law; and

**WHEREAS**, tax reform proposals will invariably impact local governments' ability to provide critical infrastructure – schools, water and sewer systems, hospitals, roads, bridges and public transportation systems; and

**WHEREAS**, the National League of Cities (NLC) supports the well-established federal, state and local partnership embodied in principles of federalism, and opposes any preemption by Congress of local taxing authority; and

**WHEREAS**, stability in the municipal bond market rests on the tax exemption for municipal bonds and market stability is essential to local and national economic recovery; and

**WHEREAS**, granting preferential tax treatment to certain industries at the expense of other tax payers, erodes local revenues, undermines tax policy and dismantles federalism.

**NOW, THEREFORE, BE IT RESOLVED** that NLC calls on Congress and the President to create a plan for comprehensive tax reform which ensures that local governments retain the authority to set their own tax policy; and

**BE IT FURTHER RESOLVED** that NLC strongly opposes any attempt to eliminate or limit the federal tax exemption for municipal bonds and the state and local tax deduction as a part of a federal deficit reduction plan or as a short-sighted consequence of efforts to advance comprehensive tax reform; and

**BE IT FURTHER RESOLVED** that NLC opposes federal preemptions that would grant preferential tax treatment to certain industries and threaten the fiscal health of local governments; and

**BE IT FURTHER RESOLVED** that NLC calls on Members of Congress and the President to preserve tax incentives when no similar tool is available in the private market, including the Historic Tax Credit (HTC), which encourages the redevelopment of historic and abandoned buildings in unique and challenging circumstances, and the New Markets Tax Credit (NMTC), which is a modest tax incentive that significantly increases the availability of private capital to small businesses and local entrepreneurs working in distressed communities; and

**BE IT FURTHER RESOLVED** that NLC calls on Members of Congress and the President to ensure that tax reform does not undermine the nation’s social safety net and path to the middle class by maintaining and improving tax credits including the Low-Income Housing Tax Credit, the Earned Income Tax Credit, and the Work Opportunity Tax Credit.

**NLC RESOLUTION #6****IN SUPPORT OF CRITICAL U.S. CENSUS BUREAU SURVEYS**

**WHEREAS**, the U.S. Census Bureau serves as the leading source of quality data about the nation's people and economy; and

**WHEREAS**, the U.S. Census Bureau is authorized by the U.S. Constitution and Federal law to collect and disseminate data guided by scientific objectivity to provide information about the nation; and

**WHEREAS**, Title 13 of the United States Code requires the Census Bureau to keep information strictly confidential; and

**WHEREAS**, the U.S. Census Bureau conducts a host of surveys to collect and distribute data to policy makers at all levels of government, including but not limited to the American Community Survey, Economic Census, and Census of Governments; and

**WHEREAS**, the U.S. Census Bureau conducts the American Community Survey (ACS) to collect data on demographic, housing, social, economic, and financial characteristics of all cities; and

**WHEREAS**, the data collected by the ACS ensures that mayors and other policymakers have the most current information for policy development allocation of funds and program evaluation; and

**WHEREAS**, ACS estimates provide America's cities with data that the business community uses for investment and hiring decisions, resulting in job opportunities; and

**WHEREAS**, local firefighters, police officers and other emergency personnel use ACS estimates for natural disaster planning and response; and

**WHEREAS**, the Economic Census is collected every five years – in years ending in “2” and “7” – to provide reliable business statistics that are essential to understanding the American economy; and

**WHEREAS**, only the Economic Census provides information on industry revenues and other measures of American business performance that are consistent, comparable, and comprehensive across industries and geographic areas; and

**WHEREAS**, government agencies, trade associations, and chambers of commerce and businesses in America's cities rely on data from the Economic Census for economic development, business decisions, planning and key economic reports; and

**WHEREAS**, the Economic Census provides America's cities information on comparative and trend data used to identify business expansion opportunities in local communities; and

**WHEREAS**, the U.S. Census Bureau conducts the Census of Governments every five years – in years ending in “2” and “7” – of all state and local governments, which includes organizational data, employment data, and finance data; and

**WHEREAS**, the Census of Governments is the only source of comprehensive, uniform statistics on state and local governments; and

**WHEREAS**, the Census of Governments data are used to calculate the Gross Domestic Product and to better understand the current fiscal conditions of America’s cities.

**NOW, THEREFORE BE IT RESOLVED**, that the National League of Cities (NLC) supports the U.S. Census Bureau’s mission to produce complete and accurate data that meets the needs of America’s cities; and

**BE IT FURTHER RESOLVED**, that NLC supports the U.S. Census Bureau’s use of sound scientific and objective methods to apply statistical samplings, conduct surveys, and collect preliminary and supplemental statistics; and

**BE IT FURTHER RESOLVED**, that NLC supports the U.S. Census Bureau’s authority to collect data that provides timely estimates that inform America’s local governments in their decision-making; and

**BE IT FURTHER RESOLVED**, that NLC recognizes the importance of the American Community Survey, Economic Census, Census of Governments, Annual Population Estimates, and a number of other surveys and statistics to local governments across the nation; and

**BE IT FURTHER RESOLVED**, that NLC supports funding for and robust implementation of the American Community Survey, Economic Census, Census of Governments, Annual Population Estimates, and other relevant surveys and statistics to local governments across the nation; and

**BE IT FURTHER RESOLVED**, that the nation’s cities urges Congress to oppose legislation that would make the American Community Survey a voluntary survey, as well as any other bills that would eliminate the American Community Survey, Economic Census, Census of Governments, Annual Population Estimates, and other surveys and statistics relevant to local governments across the nation.

**NLC RESOLUTION #7**

**OPPOSITION TO A “BALANCED BUDGET AMENDMENT” TO THE U.S. CONSTITUTION**

**WHEREAS**, a national effort is underway to pass state resolutions calling for a constitutional convention to include a Balanced Budget Amendment to the U.S. Constitution, which would result in dangerous cuts to the federal budget and to vital programs upon which so many Americans depend.

**NOW, THEREFORE, BE IT RESOLVED** that the National League of Cities (NLC) opposes a Balanced Budget Amendment to the U.S. Constitution.