# Agenda: Finance, Administration and Intergovernmental Relations (FAIR)

Virtual Meeting

## Tuesday, June 16, 2020

<table>
<thead>
<tr>
<th>Time</th>
<th>Event</th>
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<tbody>
<tr>
<td>2:00 p.m. –</td>
<td>FEDERAL ADVOCACY GENERAL SESSION</td>
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<tr>
<td>2:45 p.m.</td>
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<tr>
<td>3:00 p.m. –</td>
<td>HUMAN DEVELOPMENT COMMITTEE MEETING</td>
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<tr>
<td>4:30 p.m.</td>
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<tr>
<td>3:00 p.m. –</td>
<td>WELCOME, INTRODUCTIONS AND MEETING OVERVIEW</td>
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<tr>
<td>3:10 p.m.</td>
<td>• The Honorable Chris Brown, Chair</td>
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<td>Controller, The City of Houston, Texas</td>
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<td>• Michael Gleeson</td>
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<td>National League of Cities</td>
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<td>Controller Brown will welcome the committee, and Michael will provide an update from the Cities are Essential campaign and efforts in Washington.</td>
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<tr>
<td>3:10 p.m. –</td>
<td>FAIR POLICY DISCUSSION AND RESOLUTIONS REVIEW</td>
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<tr>
<td>3:45 p.m.</td>
<td>Committee members will review and discuss changes to 2020 policy positions.</td>
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<td>3:45 p.m. –</td>
<td>BEST PRACTICES ROUND ROBIN</td>
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<td>4:30 p.m.</td>
<td>Committee members will share any challenges or innovative solutions from their city.</td>
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<tr>
<td>4:30 p.m.</td>
<td>NEXT STEPS AND ADJOURN</td>
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<td>• The Honorable Chris Brown, Chair</td>
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<td>Controller, The City of Houston, Texas</td>
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## Wednesday, June 17, 2020

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<th>Time</th>
<th>Event</th>
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<tr>
<td>4:30 P.m. –</td>
<td>GENERAL SESSION</td>
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<tr>
<td>5:00 P.m.</td>
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<tr>
<td>5:00 p.m. –</td>
<td>OPEN RECEPTION/HAPPY HOUR</td>
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Attachments:
- FAIR 2020 Committee Resolutions
- FAIR 2020 National Municipal Policy Chapter
- NLC Policy Development and Advocacy Process
- FAIR 2020 Roster
- Opportunity Zones: What You Should Know
- Economic Innovation Group Facts and Figures
- Economic Innovation Group Fact Sheet

Next FAIR Committee Meeting:

City Summit
Tampa, FL
November 18-21, 2020
NLC RESOLUTION

#1

CALLING TO RESOLVE THE CONFLICT BETWEEN STATE AND FEDERAL CANNABIS LAWS

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

WHEREAS, an increasing number of states have passed or are considering voter referenda or legislation to authorize the legal growth and distribution of cannabis for adults’ recreational use; and

WHEREAS, nearly all states have passed voter referenda or legislation authorizing the legal growth, distribution, possession and use of cannabis for a variety of medical conditions for patients suffering from serious and chronic diseases; and

WHEREAS, cannabis’ status as a Schedule I illicit substance on the Controlled Substances Act (CSA) and the CSA’s coupling with the Bank Secrecy Act have created a condition under which the cannabis industry has severely limited access to the federally regulated banking industry; and

WHEREAS, this condition has led to a reliance on “cash only” models that involve the transportation of large sums of paper money through cities, increase the risks of theft crimes and tax evasion, and deny large groups of business owners the capital needed to enter the market; and

WHEREAS, the federal government has rescinded guidance that previously provided a minimal level of confidence for financial institutions looking to provide services to this growing industry.

WHEREAS, the U.S. House of Representatives passed on September 25, 2019 the SAFE Banking Act that would provide federal protections to financial institutions that provide bank accounts and other services to cannabis businesses in states where they are legal.

NOW, THEREFORE, BE IT RESOLVED that, while it takes no stance on state-by-state efforts to legalize or prohibit any form of cannabis, NLC urges the federal government to resolve the conflict between state and federal cannabis laws, and to provide guidance to financial institutions that results in the cannabis market having access to the federally regulated banking system.
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, reduce costs to employees, and strengthen 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

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 20 to 25 percent on interest costs with tax-exempt municipal bonds as compared to taxable bonds; and

WHEREAS, a 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; and

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.

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

BE IT FURTHER RESOLVED that NLC supports maintaining the tax exemption for qualified private activity bonds (PABs) to finance critical infrastructure, affordable housing projects and other local services; and

BE IT FURTHER RESOLVED that NLC supports reinstating the tax exemption on advance refunding bonds that allows cities to respond to market fluctuations, achieve lower interest rates, responsibly save local taxpayer dollars and free up capital to make additional infrastructure improvements; and

BE IT FURTHER RESOLVED that NLC supports efforts to reduce the cost and redundant burdens of issuance and administration by eliminating redundant rules on arbitrage and private use; and
BE IT FURTHER RESOLVED that NLC supports Congress and the Administration providing greater certainty to municipal issuers of tax credit and other federally subsidized bonds by exempting subsidies from sequestration rules.
NLC RESOLUTION
#4

IN SUPPORT OF CRITICAL U.S. CENSUS BUREAU SURVEYS AND THE
2020 DECENNIAL CENSUS

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 its people; and

WHEREAS, the U.S. Census Bureau conducts the decennial census to fulfill the constitutionally
mandated enumeration of all persons living in the United States once a decade; and

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

WHEREAS, the data collected through the decennial census and related surveys are the basis
for defining federal, state and local political districts; determining how more than $800 billion of
federal funding is distributed and allocated across state and local governments; and informing
much of our research, planning and decision-making processes; and

WHEREAS, the 2020 decennial census will encourage and prioritize online submission for
approximately 80 percent of American households; and

WHEREAS, Title 13 of the United States Code requires the Census Bureau to keep personally
identifiable information strictly confidential and ensure only necessary information is being
collected.

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 to inform America’s local governments in their
decision-making; and

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

BE IT FURTHER RESOLVED, that NLC opposes the addition of a citizenship question and other untested questions to the census, which are projected to depress self-reporting rates and lower the quality of data, to the decennial questionnaire; and

BE IT FURTHER RESOLVED, that NLC opposes 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 related surveys and statistics relevant to local governments across the nation; and

BE IT FURTHER RESOLVED, that NLC urges Congress, the administration, the U.S. Census Bureau and other federal agencies to ensure that personally identifiable information produced through the decennial census and related surveys will only be handled in compliance with Title 13 statutes; and

BE IT FURTHER RESOLVED, that NLC urges the U.S. Census Bureau and Department of Commerce to address the continuing challenges many of our communities face as a result of the digital divide when planning and executing the decennial census and related surveys.
WHEREAS, the National League of Cities (NLC) continues to support legislative efforts to exercise fiscal responsibility and to better balance federal revenues with expenditures; and

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; and

WHEREAS, such an amendment would constitutionally bar the federal government from deficit spending, even when such action is beneficial or even necessary during times of economic slowdown, war or natural disaster, or other unforeseen circumstances; and

WHEREAS, such an amendment would inhibit the certainty and ability of federal entitlement and insurance programs to spend down trust funds to sustain critical benefits that our residents rely upon; and

WHEREAS, such an amendment would increase the likelihood of the United States defaulting on its debt obligations and risk a downgrade of the federal government’s creditworthiness; and

WHEREAS, such an amendment would greatly impair the role of the federal government in stabilizing economic cycles, and in limiting the duration and frequency of economic downturns; and

WHEREAS, there are numerous less restrictive and consequential ways in which the federal government can maintain a healthy balance of revenues to expenditures.

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

BE IT FURTHER RESOLVED, that NLC supports more economically viable efforts to better balance federal revenues with expenditures; and

BE IT FURTHER RESOLVED, that Congress and the Administration should work together to find bipartisan solutions that put the U.S. on a long-term trajectory to safe and sound fiscal conditions and sustained economic vitality.
NLC RESOLUTION
#6

CALLING FOR THE RESTORATION OF THE TAX-EXEMPTION ON ADVANCE REFUNDING BONDS

WHEREAS, prior to January 1, 2018, municipal governments could issue tax exempt securities know as advance refunding bonds; and

WHEREAS, such single use bonds allowed municipalities to refinance outstanding debt and achieve interest rate reductions prior to the original bond’s call date; and

WHEREAS, lower borrowing costs allowed issuers to save at least $12 billion of local tax dollars per year in debt servicing costs and free up capital to invest in additional infrastructure improvements, better balance budgets and lower local tax rates; and

WHEREAS, advance refunding bonds provided municipalities with a tool to better-weather recessions by allowing them to reduce otherwise fixed costs as tax receipts fall; and

WHEREAS, the Tax Cuts and Jobs Act of 2017 eliminated the ability of municipalities to issue single use tax exempt advance refunding bonds.

NOW, THEREFORE, BE IT RESOLVED, that the National League of Cities supports the full reinstatement of the tax exemption advance refunding bonds or a substantial equivalent; and

BE IT FURTHER RESOLVED, that Congress and the Administration should not alter the tax exemption on municipal securities that remains critical to the fiscal health and proper functioning of our communities.
NLC RESOLUTION
#7

CALLING FOR THE MODERNIZATION OF THE SMALL BORROWER'SEXEMPTION (BANK QUALIFIED DEBT)

WHEREAS, small municipalities frequently struggle to access financing opportunities through the traditional bond underwriting process; and

WHEREAS, local and community banks are typically disincentivized from purchasing and holding municipal securities due to their inability to deduct the associated carrying costs from their federal income tax returns; and

WHEREAS, governments issuing $10 million or less in bonds per calendar year are able to have their bonds designated as bank-qualified; and

WHEREAS, banks are able to deduct most of the carrying costs associated with holding bank-qualified bonds and are therefore incentivized to buy directly from small municipalities; and

WHEREAS, these small municipalities are able to bypass the traditional underwriting process by selling their bank-qualified bonds directly to local banks at a substantial cost savings to local taxpayers; and

WHEREAS, more than three decades of inflation has reduced the utility of the $10 million threshold since it was set in 1986, leading to fewer small municipalities being able to issue bank-qualified debt; and

WHEREAS, the threshold was temporarily increased to $30 million from 2009 to 2010, which created a market for thousands of small borrowings for small municipalities during the Great Recession.

NOW, THEREFORE, BE IT RESOLVED, that the National League of Cities (NLC) supports the modernization of the small borrower’s exemption to allow more small municipalities, struggling to finance critical projects through the traditional bond underwriting process, to issue bank-qualified debt; and

BE IT FURTHER RESOLVED, that the small borrower’s exemption threshold should be permanently raised to $30 million and indexed to inflation for all future calendar years;

BE IT FURTHER RESOLVED, that the small borrower’s exemption should be modified to apply to governmental issuers and the borrowing organizations separately regardless of the issuer and permit 501(c)(3) organizations to provide the designation.
NLC RESOLUTION
#8

IN SUPPORT OF FEDERAL ACTION ON THE COVID-19 CRISIS

WHEREAS, the ongoing COVID-19 pandemic presents an unprecedented threat to the wellbeing of America’s cities, towns and villages; and

WHEREAS, the COVID-19 pandemic is overwhelming the social safety net, public safety, health and medical infrastructure, education facilities, public institutions, and businesses of American cities, towns and villages; and

WHEREAS, businesses and schools have closed to limit transmission and transitioned to mandatory remote work or online learning, despite the large numbers of residents who lack access to adequate broadband at home or cannot afford a subscription; and

WHEREAS, countless community events have been cancelled and local governments are conducting meetings and business online in order to adhere to social distancing protocols as established by the Administration; and

WHEREAS, local governments are on the frontlines of our nation’s public health emergency response and overall public safety efforts and need strong federal, state and local intergovernmental collaboration to address this crisis; and

WHEREAS, communities across the country are experiencing an economic crisis due to whole sectors of the economy coming to a halt at stunning speeds; and

WHEREAS, cities, towns and villages are experiencing unanticipated expenses due to the COVID-19 crisis as well as a loss of local revenue streams as the economy grinds to a halt; and

WHEREAS, a survey by the National League of Cities (NLC) of elected officials and city/town manager from cities, towns and villages from across the country found that local governments are taking a variety of actions to address the public health crisis and keep vulnerable populations safe, such as closing facilities and banning large gatherings, halting utility shutoffs and funding food delivery programs, like school meal replacement; and

WHEREAS, based on results of a similar survey conducted by the International City/County Management Association and the Government Finance Officers Association, it is estimated that 60% of local governments anticipate spending up to $500,000 in the next six months on COVID-19-related expenses; and

WHEREAS, on March 13, 2020, President Trump proclaimed that the COVID-19 outbreak in the United States constitutes a national emergency.
NOW, THEREFORE, BE IT RESOLVED that NLC calls on Congress and the Administration to take immediate, direct action to support pandemic response and recovery at the local level; and

BE IT FURTHER RESOLVED that NLC calls on the federal government to develop and coordinate a comprehensive containment strategy that involves commitments of federal funding, supplies, equipment, training, expertise, personnel, countermeasures, and public health measures; and

BE IT FURTHER RESOLVED that NLC urges Congress to enact a stabilization fund, with direct access provided to every unit of local government including cities, counties and states, and, if not provided directly to cities that Congress instructs states on how to clearly and efficiently pass through funding within 20 days to local areas for rapid-response and on-the-ground programming; and

BE IT FURTHER RESOLVED that NLC calls on Congress to provide substantial emergency supplemental appropriations to local governments through existing programs including, but not limited to, the Community Development Block Grant (CDGB), the Surface Transportation Block Grant, the Social Services Block Grant, and the Community Services Block Grant - all of which will help local governments protect residents and small businesses on the economic margins from financial decline resulting from the extraordinary measures taken in response to COVID-19; and

BE IT FURTHER RESOLVED that Congress should reduce burdensome reporting requirements and suspend the 15% public services cap on emergency supplemental funding for CDBG, which will allow for maximum flexibility in the use of the funds to assist vulnerable residents with critical social services (i.e., health services, food pantries, senior meals programs) and short-term rental assistance to help stave off evictions and assist people impacted by the massive slowdown occurring in local economies; and

BE IT FURTHER RESOLVED that Congress should support additional policies and programs that will provide local governments assistance, stimulate the economy and provide relief to residents and businesses, including but not limited to:

- funding for homelessness assistance, emergency rent relief, and other housing assistance funds to prevent housing instability and homelessness;
- supporting critical infrastructure services that depend on fares, including transit service and airports, which are essential to economic recovery;
- expanding access to the Lifeline program for low-income residents to subscribe to broadband at home;
- deploying emergency rapid-response funding to schools and libraries to distribute wireless hotspots for residents without in-home broadband;
- providing a mix of grants and loans for economic development assistance
- restoring tools for efficient use of government resources such as the advanced refunding tax exempt bonds;
- expanding tax supports for individuals and families including the Earned Income Tax Credit and the Child Tax Credit;
- ensuring the Federal Emergency Management Agency has enough resources to provide long-term technical, financial and procurement assistance to local governments to manage response and recovery efforts; and
- supporting local law enforcement, fire and emergency medical services.
BE IT FURTHER RESOLVED that NLC urges Congress to include a provision in law that provides tax credits to local governments for providing mandated paid sick and paid emergency family leave under the Families First Coronavirus Response Act; and

BE IT FURTHER RESOLVED that NLC urges the U.S. Census Bureau to take appropriate measures to ensure a full and accurate count of all people, especially historically undercounted populations; and

BE IT FURTHER RESOLVED that NLC urges the Administration to extend agency comment periods and suspend federal shot clocks for a reasonable period of time to allow state and local leaders to focus on addressing the nation’s immediate pandemic response needs and ensure their ability to devote proper consideration of agency regulations; and

BE IT FURTHER RESOLVED that NLC urges the federal government to respect local governance and local democracy during this unprecedented time; and

BE IT FURTHER RESOLVED that NLC urges Congress and the Administration to oppose measures that create new unfunded mandates on local governments, or those that preempt local authority.
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 deduction for state and local taxes.

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. Deductibility of State and Local Taxes
NLC supports the longstanding principle that state and local taxes (SALT) should not be considered federally taxable income and opposes efforts to further reduce the deductibility of SALT on federal income tax returns. In order to achieve parity among communities with different sources of revenues, the SALT deduction should apply
to local income, property and sales taxes. The $10,000 cap on SALT deductions should be eliminated to avoid the risk of double taxation and remove the downward pressure it places on local tax decisions.

C. 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. 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.)

C. Sales Tax Policy
NLC supports the autonomy of state and local governments to impose destination-based sales tax collection requirements on retailers that have an economic presence in their community, including on brick-and-mortar stores physically located within the state and remote retailers that solicit and fulfill sales into the state.

Arbitrary restrictions, such as the physical presence test and “single rate per state” rules create market distortions that unfairly disadvantage certain retailers over others.
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.
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Opportunity Zones
What Cities Should Know
About the National League of Cities

The National League of Cities (NLC) is the voice of America's cities, towns and villages. Representing more than 200 million people, NLC works to strengthen local leadership, influence federal policy and drive innovative solutions. Stay connected with NLC on Facebook, Twitter, LinkedIn and Instagram. NLC’s Center for City Solutions provides research and analysis on key topics and trends important to cities and creative solutions to improve the quality of life in communities.

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Foreword

A zip code shouldn’t determine the kinds of opportunities available to a person. But unfortunately, in many poorer communities across America, good jobs, affordable housing and resources are scarce. Local leaders have tried for years to even the playing field through programs and policies, but without increased strategic investment, it’s hard to bring more opportunity to neighborhoods that have been left behind.

The opportunity zones program, established under the 2017 Tax Cut and Jobs Act, aspires to close that gap by incentivizing private investment in the 8,700+ designated zones around the country. Given its potential to attract billions of dollars to disinvested neighborhoods, it’s no surprise that local officials are eager to see it succeed. At the same time, city officials must recognize the market will dictate where investments are—and are not—made.

For the opportunity zones program to succeed, it is critical that the people who lead our communities understand their roles when it comes to this program. Although many of the major decisions, such as the tax incentive structure and zone locations, have already been decided by their governors and the federal government, local leaders already have access to numerous existing tools or strategies to maximize the positive impact of new development in these neighborhoods.

With this new guide, “Opportunity Zones: What Cities Should Know,” my hope is that local leaders feel empowered to leverage this tool to better the lives of their residents and have the resources to form more equitable communities for all.

In many ways, our communities define who we are as individuals. Let’s continue to build the kinds of communities where everyone can prosper and thrive.

Sincerely,

CLARENCE E. ANTHONY
CEO and Executive Director
National League of Cities
Introduction

The opportunity zones program provides local and national investors with a package of tax incentives to encourage investment in economically distressed communities around the country. The program was created under the Tax Cuts and Jobs Act of 2017. In 2019, the federal government released additional regulatory guidance which provides more detail about how the program will work for investors.

Perhaps the most important feature of the latest regulatory guidance is that they made clear the program can support entrepreneurship and small business ownership as well as real estate investment. While the program is almost certainly going to be deployed primarily around real estate, new business creation is critical for the economic vitality of cities. New businesses represent the lion’s share of net new jobs generated.

City leaders should take full advantage of this opportunity and consider a multi-pronged strategy to support young businesses and create thriving communities. This primer offers a view of the rules governing opportunity zones. It also offers broad strategies to help municipal leaders and local elected officials take full advantage of the program.

What counts as an opportunity zone investment

The U.S. Department of Treasury released its second tranche of regulations governing the opportunity zones program in April 2019. This release clarified what types of investments meet the criteria to be held in an opportunity fund and emphasized the potential for both real estate and business investment. Here are three examples that show the wide range of qualifying investments:

HOUSING DEVELOPMENT

For example: A local developer is building or substantially improving a multi-family rental housing complex. This investment would qualify whether the development was designated either affordable or market rate housing because the real estate is within an opportunity zone.
The Opportunity Zone Program

In 2018, governors selected more than 8,700 opportunity zones from eligible census tracts in their states. The zones were approved by the U.S. Treasury Department and will remain the same for the length of the program. Eligibility requirements for census tracts included poverty rates of more than 20 percent or median incomes at or below 80 percent of the regional average. A small number of neighboring zones (five percent) in each state were permitted to exceed these thresholds if they were adjacent to a qualifying tract.

The opportunity zone program is not the first federal initiative designed to bolster investment in distressed areas. However, it gives private investors much more flexibility than previous programs, such as Empowerment Zones in 1993 or the New Market Tax Credits in 2000. For cities, that flexibility offers the potential for greater investment while at the same time raising the concern that many projects may have occurred without the tax credit.

One thing is certain, the scope of potential investment is significant. In 2017, U.S. households held an estimated $3.8 trillion in unrealized capital gains that are eligible for the tax credit, these opportunity zones may be U.S. cities’ largest means for economic development in decades. Given the scale of potential investment, local elected officials are eager to position their municipalities as attractive targets for investors. Yet, for many leaders, the excitement around opportunity zones has created more confusion than clarity as cities rush to prepare. Rushing, however, is not a necessary strategy. City leaders should instead consider long-standing municipal priorities and use opportunity zones as catalysts to achieving established goals.

LOCAL SERVICE SMALL BUSINESS

For example: A local wedding planner bases its operations and stores supplies and equipment at a location within an opportunity zone. Even though the business has clients outside the opportunity zone, it qualifies for the opportunity-zone tax credit because the majority of its assets are within a zone.

HIGH-GROWTH START UP

For example: A small global technology startup is headquarters in a co-working space within an opportunity zone. The startup sells its products to customers around the world online and has some staff abroad. But because its management and software developers are working within the zone, more than 50 percent of the company’s total hourly compensation exists within the zone, which qualifies the business for the benefits of the opportunity zone program.
How Opportunity Funds Work for Investors

The program encourages investors to reinvest unrealized capital gains—that is, profits from earlier investments that have not yet been sold or exchanged—into new Opportunity Funds that are required to hold assets in the designated zones. It’s important to remember, investors can be anyone, located anywhere in the country, so long as their ultimate investment is made within an opportunity zone. There are three parts of the incentive package for those who choose to invest in businesses and real estate in these areas:

Temporary deferral: After selling a profitable asset, an investor would typically include those earnings as taxable income and owe a 15 or 20 percent tax on their profits. If they put their earnings in an opportunity fund within 180 days of selling the asset, that tax bill is delayed until the investor takes their money out or at the latest, December 31, 2026.

What it means for city leaders:

While this provision creates a significant tax incentive for investors to place capital gains in opportunity funds, that has little bearing on where investments will be made. In other words, the deferral encourages local investment, but doesn’t impact which zones will actually see investment. Some zones will see investments, others will not.

“Step-Up” in Basis: To encourage investors to keep their money in opportunity funds, the program provides an additional incentive that reduces the amount of original earnings subject to taxation. Investments that remain within an opportunity fund for at least five years are able to exempt 10 percent of the original investment from taxation. If held for more than seven years, it is increased by an additional five percent, thereby excluding up to 15 percent of the original gain from taxation. In order to take advantage of the full 15 percent under current law, investors need to do so by December 31, 2019.

What it means for city leaders:

There may be an initial rush for investors interested in the full tax benefit, but significant and more consistent investment will likely be made between 2020 and 2026. City leaders should be ready for investment by 2019, but plan for follow incremental investment over the next half decade.
Permanent Exclusion: Perhaps the largest potential benefit for investors and cities is the permanent exclusion provision, which pertains only to the increase in value of investments in opportunity zones. If a qualified opportunity fund investment is held for at least 10 years, it is not subject to any capital gains taxes upon its sale or exchange. In other words, investors that make money on their investment within the zone, do not need to pay any taxes on those additional profits. This provision applies to any investment made prior to the end of 2026 and, under current law, does not expire until 2047.

What it means for city leaders:

Investors have a strong incentive to keep investments in the zones for at least 10 years—meaning these investments are fairly “patient”. It also means investors benefit by increasing the economic value of the opportunity zone over time. Cities should identify ways new investments can improve the long-term quality of a neighborhood seeking investment.

To show how this package of incentives encourages long-term investment in opportunity zones, consider the following example from the Congressional Research Service of a $100,000 reinvestment in an opportunity fund that grows at 7 percent annually:

In years five and seven, the “step up” in basis flattens the growth of taxable gains, but in year ten, the permanent exclusion provision kicks in and dramatically reduces the total taxable gains. Combining the entire package, in this scenario the final tax liability ($85,000) is less than it was in the first year, even though the investment has nearly doubled in value.

Simply put, there is significant incentive for investors to be patient versus quickly flipping investments.
How Opportunity Zones Can Work for your Community

If your city includes one or more opportunity zones, it has the potential to leverage this program to increase investment in the communities within these zones. Here, we offer a few guiding principles for local elected leaders as well as perspectives from experts working in cities around the country about how to help your city benefit from this program.

**Opportunity zones offer the chance to recommit to a long-term economic-development strategy.** The program targets small geographies and encourages patient investment. As a result, it has the potential to attract a critical mass of investment over time enabling neighborhoods to become market-sustaining with or without the temporary tax advantage. But this will only come to pass if local leaders focus on projects that translate into moderate and long-term value creation, rather than “quick wins.” Local leaders should consider what projects best align with their regional growth strategies. To be successful, they must work with developers and investors to target those projects and ensure the deals have provisions that help ensure long-term appreciation.

In many cities, this work can be done by existing economic development infrastructure before creating new organizations. Opportunity zones have been cast by the media as an unprecedented local intervention, but cities and states have a long history of both attracting outside investment and firms and place-based tax incentives. Instead of creating new organizations and activities, cities should first look to leverage their existing economic development entities.

The Amazon HQ2 bidding process provides some related insights: while the potential reward served as a distraction in some cities, others were able to use it as a galvanizing opportunity to pull together public, private, civic, and university leadership to address and strengthen existing priorities. For these cities, even though they ultimately lost the bid for Amazon, they were left with a shared vision and clarification of their strengths.

**Opportunity zones have the potential to significantly benefit current residents, but only if city leaders commit to supporting that goal.** Since there are no requirements that opportunity fund investments benefit existing low-income residents or businesses, there is growing concern around the
outcomes of the program. Some zones that were already primed for investment are at risk for increased market pressure and displacement of current residents or businesses. For an even larger share of zones, there may simply not be enough market potential to attract investment.

While city governments have no direct role in the opportunity zone program, cities do have the power to influence development via zoning or other regulatory measures. Local leaders can continue to use the tools at their disposal to either ensure that current residents and businesses benefit (in hot markets) or to increase the likelihood of investment in neighborhoods that experience persistent disinvestment. Such tools include community benefit agreements, state and local tax credits and incentives, and, in the case of some large projects, zoning and regulatory approval.

It can be a challenge to balance to build a favorable climate for outside investment while still ensuring that resources translate into real community benefits. As with all investment and business attraction strategies, some deals are better for investors than communities. This is particularly true when municipalities add financial incentives. Because the opportunity zone incentive is already generous, additional tax credits may not induce additional investment.

Opportunity zones are not just a real estate programs—local leaders should promote the potential for small businesses and entrepreneurs. The opportunity zone program allows for investment in new and existing businesses located within a zone. City leaders should prioritize and attract investment into actual businesses, particularly those with the ability to grow and support job creation. Cities should also not expect or wait for private investors but should create their own strategies and priorities for investment in local companies. For instance, leaders can identify the businesses with potential for significant growth, or those neighborhoods in the greatest need of local businesses, within zones.

Opportunity zone investment is not a competition or a zero-sum game. The pool of capital eligible for investment greatly exceeds the projected final size of the program, which means zones should not compete for dollars. Local leaders should focus on creating sound investment opportunities within their cities and not on the speed and scope of investment elsewhere. As with all new investment opportunities, there is the threat of a “race to the bottom”, where cities falsely believe they are competing with one another and only through increasingly generous giveaways can cities succeed. This is not the case for opportunity zones and may inappropriately jeopardize the municipality’s fiscal health.
Expert Perspectives

Coordinating in a large city with many designated opportunity zones

“Baltimore is attracting and supporting investments in high-impact projects across the city’s 42 opportunity zones that are positioned to grow the local economy, create benefits for residents and businesses, and align with city’s neighborhood investment strategy.”

BEN SEIGEL
Baltimore Opportunity Zones Coordinator
Baltimore Development Corporation

Designate a point person to track investments locally and best-practices nationally. As our dedicated opportunity zone coordinator, I serve as an information clearinghouse and a partnership builder, with a focus on tracking rules and best practices nationally, connecting investors with project sponsors, engaging communities, and monitoring investments and impacts.

Working with the city, the community, and private sector partners, Baltimore is maintaining an active pipeline of investment-ready projects that can be matched with opportunity funds and other investors, based on the investment criteria and project preferences of these investors.

Educate and involve the community throughout the process. One of my priorities is working at the community level to ensure that neighborhood organizations, leaders, and residents are informed about what opportunity zones are and how they can get involved as potential partners, project sponsors, or investors. Activities include community workshops and individual meetings with local developers, nonprofits, and others to provide an overview of opportunity zones and “workshop” potential projects.
Engaging local and national philanthropy

“Cities seeking to make the opportunity-zone tax incentive work for residents and businesses in their communities may find willing partners in philanthropy, especially community foundations. Some national foundations already are investing in advocating for a robust reporting framework, in developing an investment prospectus, and in creating forums for sharing best practices. Now is the time to reach out to philanthropists interested in your community. The key is asking for concrete assistance.”

JANE CAMPBELL
Former Mayor of Cleveland, Ohio and Senior Advisor to Public Private Strategies

Help to create investable opportunities. Success requires a pipeline of projects that meet both the community need and the return expectations of potential investors. Philanthropic investment can be crucial by providing early investment needed to take an idea to the project proposal stage. Creative philanthropic investment can play a role in reducing risk exposure for investors.

Demonstrate how to build wealth for current residents. Philanthropy can engage with investors and cities. These engagements provide seed capital for experimentation and demonstration transactions that intentionally include mechanisms to build wealth for current residents and small business owners. Strategies to minimize displacement risks could include commitments to hiring from within the community, providing financial upsides for local organizations, and/or clauses for business owners to buy back their equity at a pre-agreed price. Philanthropic partners can demonstrate to the investment community that deals structured to meet the current needs of the community and create mechanisms for wealth creation throughout the process, including at exit, do exist.

Create tools to streamline the process. Because opportunity zones are a new tool, template agreements and other documentation needed to enable transactions are yet to be developed. Philanthropy can help by investing in efforts to establish a collection of model agreements that could be shared across locations and projects. Such an investment would reduce transaction costs and help establish norms and expectations with respect to social impact.
Create one marketing document where investors can learn about your community and potential projects. For example, Accelerator in America and Drexel University’s Nowak Metro Finance Lab created a template for a local Investment Prospectus that dozens of cities have used to show the potential of their communities. An Investment Prospectus is a mix of quantitative analysis and qualitative knowledge about the community. Building one requires collaborative action among public, private, civic and community institutions and organizations.

Communicate what makes your community unique but also how your opportunity zones compare to similar places around the country. In creating their prospectuses, cities should pay particular attention to the “typologies of opportunity zones”—is your community near a large anchor institution? Is it an older industrial district or a residential center? Another thing to consider are the emerging prototypes of deals.

The opportunity zone market will be created via norms and models that allow for routines to be established across the 8,762 opportunity zones. An investment prospectus allows you to express the unique assets and potential of your community in a template that the broader investment community can understand.

It is likely that many projects will require a blend of debt, equity and subsidy capital provided by disparate commercial banks, community development financial institutions, qualified opportunity funds, local and state governments and philanthropies. Cities should work towards building systems that makes the alignment of resources transparent and free of friction.

Communicating the potential of your opportunity zones

“Opportunity zones will only realize their full potential if cities communicate the market potential of their designated tracts and unveil projects that are both investor-ready and community-enhancing.”

BRUCE KATZ
Director of the Nowak Metro Finance Lab
at Drexel University
Attracting investment to smaller cities and rural zones

“Rural opportunity zones have unique challenges. However, in some cases those challenges have potential advantages, if communities can mobilize quickly and efficiently. We’ve seen rural Alabama communities attract opportunity fund capital by taking the following steps quickly.”

ALEX FLACHSBART
Founder of Opportunity Alabama

Convene a regional opportunity zone coalition. Getting community leaders, developers, landowners, local business owners, entrepreneurs, bankers, accountants, attorneys, and other key stakeholders together to learn how the program works can spark opportunity. Educating these stakeholders about what kinds of rural projects are best for investment can catalyze the formation of a coalition that meets regularly to work on three priorities: developing an opportunity zone strategy, identifying a pipeline of investable local projects, and building a comprehensive marketing document.

Connect with Investors. Go to market with your pipeline of projects and marketing document, including as many local partners as you can (to provide investors with more pipeline to review). While there are plenty of national investor groups out there, remember that there’s nothing like local capital for local projects. Make sure your local investors are a part of your coalition from the start. In some states (like Alabama), third-party organizations are interfacing with investors on behalf of communities. We’ve found this to be an effective, scalable model to help resource-constrained rural communities and would encourage others to replicate.
Looking Forward

The opportunity zone program may constitute the largest economic development-based tax benefit for cities in the nation’s history. It may also simply accelerate investments that would have taken place regardless. Municipal leaders face the task of balancing the opportunities presented by the program with the risk of over-allocating time and precious public dollars (both operationally and in terms of additional tax advantages) to projects that the market would have produced without the program.

At the same time, elected officials are under pressure to move quickly given the timeframe of investments. But with targeted planning, understanding local assets, and deliberate partnerships, cities can leverage these opportunities to improve life for communities within the opportunity zones as well as for cities to reap financial benefits of the program for years to come.
The following resources provide more information about opportunity zones:

**Economic Innovation Group:**
Includes information on how opportunity zones work, including state averages of opportunity zones compared to national averages. eig.org

**Enterprise Community:**
Contains an interactive map for each opportunity zone having a report that measures five indices: housing, education, mobility, economic security and health. https://www.enterprisecommunity.org

**Smart Growth America:**
Interactive mapping tool with overlays of opportunity zone projects, such as brownfield sites. smartgrowthamerica.org

**Urban Institute: Opportunity Zones:**
Comprises tract-level data on all opportunity zones and a case study on Chicago. www.urban.org

**Opportunity Zones:**
An Analysis of the Policy’s Implications: An in-depth look at how the policy works along with a table breaking down state opportunity zones

**The Opportunity Zone Investment Prospectus:**
Early Observations & Next Steps, Bruce Katz, Rick Jacobs, and Aaron Thomas. (Nowak Metro Finance Lab at Drexel University and Accelerator for America, 2019).

**Opportunity Zones Investment Prospectus Guide:**
Shows how five cities — Louisville, Oklahoma City, South Bend and Stockton — create a prospectus guide for the investment community that fits within their community plans.
Facts & Figures

*NOTE: Figures were updated in January 2020 based on the U.S. Census Bureau’s American Community Survey 2014-2018 5-year estimates.*

In the summer of 2018, the U.S. Department of the Treasury certified 8,766 individual census tracts across all 50 states, six territories, and the District of Columbia as Opportunity Zones. 294 Opportunity Zones contain Native American lands and nearly a quarter (23.2 percent) are in rural areas. These communities were chosen by governors from the wider universe of qualifying low income census tracts. Governors selected tracts that on the whole demonstrated far more distress across nearly every available social and economic measure than the eligible tracts they bypassed. The result is a map of both need and opportunity across which one of the most exciting economic and community development experiments in at least a generation will play out.
By most measures of socio-economic well-being, Opportunity Zones are among the highest-need communities in the United States

Population and demographics

31.5 million people call Opportunity Zones home (35 million including Puerto Rico and the territories). The majority of Opportunity Zones residents, 57 percent, are non-white minorities, compared to 39 percent of the country as a whole. Black Americans are particularly over-represented in Opportunity Zones, constituting nearly twice as large a share of the zone population as they do the national population.

Total U.S. population grew by 6.3 percent from 2006-10 to 2014-18. By comparison, the average population growth rate of an Opportunity Zone over that time period was just 0.6 percent, a fifth of the average growth rate of non-Opportunity Zone tracts. All together 3,520 Opportunity Zone census tracts (45 percent of the total) registered population declines between the 2006-10 and 2014-18 time periods, collectively shedding 1.4 million residents.

Poverty

In total, 7.9 million Americans residing in Opportunity Zones live in poverty. Opportunity Zones have an average poverty rate of 27.7 percent compared with the national poverty rate of 14.1 percent.

Poverty rates rose in 53 percent of zones between the 2006-10 and 2014-18 periods.
Even though Opportunity Zones only cover one-quarter of the country’s low income census tracts, they cover 38 percent of all U.S. census tracts that have been persistently poor (with a poverty rate of at least 20 percent) since at least 1980. They cover 49 percent—essentially half—of the country’s pockets of concentrated persistent poverty, meaning census tracts in which at least 40 percent of the population has lived in poverty since at least 1980.

Income

The median family income (MFI) in the average Opportunity Zone is $47,316, compared to $73,965 nationally; the value in the median tract is $45,547. Fully three-fifths of zones have an MFI below $50,000. Only six percent of zones have an MFI above the national one. There are as many Opportunity Zones in the $40,000 to $42,500 band alone than there are above the national MFI.

Even as median family income increased by 17 percent at the national level between the 2006-2010 and 2014-18 periods, incomes declined for the median family in 27 percent of Opportunity Zones.

Adjusting for inflation, the median family in half of zones saw the buying power of their income decrease between the two periods.

Life expectancy

Life expectancy in the average Opportunity Zone is 75.1 years, more than three years shorter than the 78.3 nationwide or the 78.6 outside of Opportunity Zones.¹

Health outcomes

The Center for Disease Control and Prevention (CDC) publishes census tract level health data for 500 US cities. This dataset covers 3,500 Opportunity Zones, a little less than half of all Opportunity Zones. Even though the dataset is not comprehensive and only features urban areas, it does nonetheless provide a snapshot of the health challenges facing residents in a large number of Opportunity Zones. Individuals living in these Opportunity Zones are less likely to take advantage of preventative health services, such as flu shots, mammograms and dental care and more likely to suffer from medical conditions that include asthma, diabetes and heart disease versus those living in non-Opportunity Zone tracts. The average obesity rate in these Opportunity Zones is 7.4 percentage points higher (35%) than non-Opportunity Zone tracts and a third of residents of these Opportunity Zones did not participate in any leisure-time physical activity, compared to 24% of residents of non-Opportunity Zone tracts.²
Food access

The U.S. Department of Agriculture provides data on “food deserts”, which are defined as low income census tracts without a full service grocery store within a 1 mile radius in urban areas or within a 10 mile radius in rural areas. While Opportunity Zones represent around 11 percent of all census tracts, they account for 24 percent of the nation’s food deserts. In total, 2,225 Opportunity Zones, or 28 percent of all zones, qualify as food deserts.3

Education

Educational attainment in Opportunity Zones is lower than the nation as a whole, with 18 percent of adults 25 and older having obtained at least a four-year college degree, compared to 31 percent of adults nationally. Tellingly, more adults in Opportunity Zones lack a high school diploma than have a four-year college degree.

Opportunity Zones have troubled residential housing markets

Vacancy

The housing vacancy rate in the average Opportunity Zone is 13 percent, compared to 8 percent nationally. In 47 percent of zones, housing vacancy rates rose between the 2006-10 and 2014-18 periods.

Rent burden

Fifty-five percent of renting households in Opportunity Zones are rent-burdened, several percentage points higher than the rest of the United States. Households are defined as rent-burdened if they spend 30 percent or more of their household income on rent.

Aging stock

Opportunity Zones’ housing stock is much older than that of non-Opportunity Zone areas; in the average zone, the median residence was built 50 years ago—more than 10 years before the median residence nationwide.

Home values
The average median home value in an Opportunity Zone is $159,577, compared to $204,900 nationwide. The median home is worth less than $100,000 in 43 percent of zones, and median home values declined in 46 percent of all Opportunity Zones between the 2006-10 and 2014-18 periods.

**Homeownership**

Homeownership rates are lower in Opportunity Zones than outside: 46 percent of the Opportunity Zone population owns a home, compared to 64 percent nationwide. 1.7 million Opportunity Zone homeowners are minority black or Hispanic.

**Continued disinvestment and low levels of economic mobility threaten the vast majority of Opportunity Zones and residents**

Data from Harvard University’s [Opportunity Insights](https://opportunityinsights.org), the research organization associated with Raj Chetty’s pathbreaking studies into equality of opportunity in the United States, shows that today’s Opportunity Zones are overwhelmingly places that have struggled to deliver economic opportunity to their residents for at least a generation.

**Incarceration**

Young adults from poor backgrounds who grew up in Opportunity Zones were significantly more likely to be incarcerated in 2010, the benchmark year. Fully 3.2 percent of the children of low-income families in the average Opportunity Zone were in prison, compared to 2.0 percent outside of Opportunity Zones and 2.7 percent in the average low-income community that was not designated an Opportunity Zone.¹

**Income mobility**

Economic mobility for children from poor backgrounds is measurably worse in Opportunity Zones than outside. Only 7.3 percent of children born to poor parents in the average Opportunity Zone were able to climb into the top fifth of the income distribution upon adulthood, lower than the 13.2 percent average for poor children outside of Opportunity Zones.
Gentrification and the rapid transformation of historically poor urban neighborhoods into mixed or higher-income enclaves can be a traumatic process for long-term residents who may be displaced by rising rents, rising property taxes, or cultural change. At the same time, re-investment combined with the right policy tools benefits long-term residents and their children in meaningful and long-lasting ways. However, all assessments of the scale of gentrification across the United States find that the phenomenon is extremely rare, and that fact holds across the country’s Opportunity Zones. EIG’s analysis of community socioeconomic change found that the ratio of Opportunity Zones losing population to those showing signs of gentrification is approximately 12 to 1. Across the vast majority of Opportunity Zones, just like most low-income communities in the United States, stagnation and decline prevail.

A comprehensive nationwide assessment conducted by the Urban Institute flagged 284 census tracts, or 3.6 percent of Opportunity Zones, as having experienced high levels of socioeconomic change from 2000 to 2016. That figure matches closely with the findings of EIG’s own study examining population, income, poverty, and demographic trends, which found that 3.7 percent of Opportunity Zones showed signs of gentrification at the time they were nominated. Leadership in these communities must be deliberate about preserving access and opportunity in their zones. Cities should be proactive about mitigating any potential displacing effects of community reinvestment by ensuring their policy toolkits are refreshed and well-stocked.

Despite these challenges, many Opportunity Zones retain economic assets that could serve as anchors for revitalization

Jobs and businesses

Opportunity Zones are more likely to host commercial and business activity than non-Opportunity Zones, which is to be expected given that governors typically prioritized commercial areas or mixed-use districts for this investment incentive than purely residential neighborhoods. Together they contain a total of 24 million jobs and 1.6 million businesses. According to business intelligence provider SMB Intelligence, zones are home to 6,300 prime growth businesses poised for investment and expansion in the near term. Between 2015 and May 2019, businesses based in Opportunity Zones won over 3,200 Small Business Innovation Research and Technology Transfer (SBIR/STTR) grants, which are awards federal agencies extend to especially innovative and high-potential small technology businesses.

Despite these nodes of economic activity, 31 percent of prime age adults residing in Opportunity Zones are not working, compared to 22 percent across the United States. There remains considerable untapped potential in local workforces.

Assets and anchor institutions
There are at least 284 entrepreneurship incubators or accelerators in Opportunity Zones (and counting; several Opportunity Funds are investing in more such facilities).\textsuperscript{9}

Opportunity Zones are home to at least 379 2- and 4-year colleges and universities, with numerous other institutions directly adjacent. Of the 379 zone colleges and universities, 47 are HBCUs, or Historically Black Colleges and Universities. A further 16 are tribal colleges. According to \textit{The New Localism}, of the 8,766 total Opportunity Zones, one-third either contain a hospital or are within a half mile of a hospital. A total of 479 airports of varying sizes are located in Opportunity Zones, with many more directly adjacent to them as well.\textsuperscript{10}

\textit{Brownfields}

Opportunity Zones, which represent only 10.7 percent of all U.S. census tracts, contain nearly one-third (32 percent) of the country’s brownfield sites, which are properties that have been contaminated by prior (often industrial) use and typically stand vacant for years or decades.\textsuperscript{11} All together the country’s 8,766 Opportunity Zones contain over 14,700 known brownfield sites.

\textit{Clean energy}

Clean energy is already taking root in Opportunity Zones. There are 475 solar energy installations producing more than 1MW of activity in Opportunity Zones, as well as 127 wind farms and 15 battery plants of at least the same capacity.\textsuperscript{12}
**SNAPSHOT  Opportunity Zones**

The average **Median Family Income** (MFI) in an Opportunity Zone is two-thirds the national MFI.

- **$47K** Average MFI Opportunity Zones
- **$74K** MFI United States

**21%** of adults in the average Opportunity Zone lack a high school diploma, compared to 12% nationwide.

**28%** of Opportunity Zones are food deserts, according to data from the U.S. Department of Agriculture.

The average **poverty rate** in an Opportunity Zone is double the national poverty rate.

- **18%** Average Poverty Rate Opportunity Zones
- **14%** Poverty Rate United States

Half of the country’s persistent concentrated poverty census tracts are Opportunity Zones.

**83%** of Opportunity Zones have an average life expectancy below the national average.

**Sources:**
2. U.S. Center for Disease Control and Prevention “500 Cities Project” data.
8. EIG analysis of Small Business Administration data.
9. EIG analysis of state incubator association directories
10. According to a tabulation provided by Southern Sky Aviation.
11. EIG analysis of Environmental Protection Agency “Cleanups in My Community” data. Estimates are conservative and reflect only contaminated sites the EPA tracks. Figures include Puerto Rico.
Too many communities in our great nation feel passed over by economic growth and forgotten by our political leaders. We need a new formula for the public and private sectors to work together to generate new investments, new businesses, and new good paying jobs in places that have fallen behind. The Investing in Opportunity Act will harness much-needed private capital to flow to more American communities and empower state and local leaders to build a more prosperous future. Americans of all political stripes should unite behind this critical priority, and its congressional leaders—Senators Scott and Booker and Congressmen Tiberi and Kind—demonstrate there is hope for the type of bipartisan action that can provide a better future for millions of Americans.

The Honorable Andrew Young
Chair of the Andrew J. Young Foundation, former U.S. Ambassador to the United Nations, and former U.S. Congressman
How do Opportunity Zones work? Investors can now choose to roll capital gains over into qualified Opportunity Funds, which in turn channel patient capital into qualifying equity investments in Opportunity Zones for at least a decade in exchange for capital gains tax reductions and possible exemptions. This new source of risk capital will seed new startups, accelerate business expansions, create jobs, increase and improve housing options, and revitalize the built environment in distressed communities across the country.

Here’s what we know about where these communities stand today.

<table>
<thead>
<tr>
<th></th>
<th>Poverty Rate</th>
<th>Median Family Income</th>
<th>Minority Share</th>
<th>Adults without a high school diploma</th>
<th>Adults with a bachelor’s degree or higher</th>
<th>Prime age population (25-54) not working</th>
<th>Housing vacancy rate</th>
<th>Life expectancy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opportunity Zones</td>
<td>27.7%</td>
<td>$47,318</td>
<td>56.5%</td>
<td>21.1%</td>
<td>18.1%</td>
<td>31.1%</td>
<td>12.8%</td>
<td>75.1</td>
</tr>
<tr>
<td>Non-OZ low income census tracts</td>
<td>23.1%</td>
<td>$52,400</td>
<td>52.8%</td>
<td>19.3%</td>
<td>20.1%</td>
<td>27.5%</td>
<td>11.0%</td>
<td>76.2</td>
</tr>
<tr>
<td>All low-income census tracts</td>
<td>24.4%</td>
<td>$50,984</td>
<td>53.9%</td>
<td>19.8%</td>
<td>19.5%</td>
<td>28.4%</td>
<td>11.5%</td>
<td>75.9</td>
</tr>
<tr>
<td>United States</td>
<td>14.1%</td>
<td>$73,965</td>
<td>38.9%</td>
<td>12.4%</td>
<td>31.5%</td>
<td>22.2%</td>
<td>8.2%</td>
<td>78.6</td>
</tr>
</tbody>
</table>


Note that several of the sources cited here do not provide data for U.S. territories. The following analysis therefore presents information on the 7,826 zones across the 50 states and D.C. unless otherwise noted. Similarly, all figures are derived from the latest available American Community Survey 5-year estimates unless otherwise noted.
The Opportunity Zones program offers three tax incentives for investing in low-income communities through a qualified Opportunity Fund:

**Temporary Deferral**
A temporary deferral of inclusion in taxable income for capital gains reinvested into an Opportunity Fund. The deferred gain must be recognized on the earlier of the date on which the opportunity zone investment is disposed of or December 31, 2026.

**Step-Up In Basis**
A step-up in basis for capital gains reinvested in an Opportunity Fund. The basis is increased by 10% if the investment in the Opportunity Fund is held by the taxpayer for at least 5 years and by an additional 5% if held for at least 7 years, thereby excluding up to 15% of the original gain from taxation.

**Permanent Exclusion**
A permanent exclusion from taxable income of capital gains from the sale or exchange of an investment in an Opportunity Fund if the investment is held for at least 10 years. This exclusion only applies to gains accrued after an investment in an Opportunity Fund.
The Opportunity Zones program is designed to incentivize patient capital investments in low-income communities nationwide. All of the underlying incentives relate to the tax treatment of capital gains, and all are tied to the longevity of an investor’s stake in a qualified Opportunity Fund, providing the most upside to those who hold their investment for 10 years or more.

The figure above and table below illustrate how an investor’s available after-tax funds compare under different scenarios, assuming various holding periods, annual investment appreciation of 7%, and a long-term capital gains tax rate of 23.8% (federal capital gains tax of 20% and net investment income tax of 3.8%). For example, after 10 years an investor will see an additional $44 for every $100 of capital gains reinvested into an Opportunity Fund in 2018 compared to an equivalent investment in a more traditional stock portfolio generating the same annual appreciation. Table 1 and the examples that follow provide additional information on the tax liabilities and differences in the after-tax annual rates of return.

Table 1. How Investing in an Opportunity Fund Compares to a Traditional Stock Portfolio

<table>
<thead>
<tr>
<th>Holding Period</th>
<th>Appreciation Rate</th>
<th>Investment in a Stock Portfolio</th>
<th>Investment in an Opportunity Fund</th>
<th>Difference in After-Tax Annual Rate of Return</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Total Tax Liability</td>
<td>After-Tax Funds Available</td>
<td>Total Tax Liability</td>
</tr>
<tr>
<td>5 Years</td>
<td>7%</td>
<td>$31</td>
<td>$100</td>
<td>$31</td>
</tr>
<tr>
<td>7 Years</td>
<td>7%</td>
<td>$35</td>
<td>$111</td>
<td>$35</td>
</tr>
<tr>
<td>10 years</td>
<td>7%</td>
<td>$41</td>
<td>$132</td>
<td>$20</td>
</tr>
</tbody>
</table>
Example 1: Investor holds the O-Fund stake for 10 years
Susie has $100 of unrealized capital gains in her stock portfolio. She decides in 2018 to reinvest those gains into an O-Fund that invests in distressed areas of her home state, and she holds that investment for 10 years. Susie is able to defer the tax she owes on her original $100 of capital gains until 2026. Further, the basis is increased by 15% (effectively reducing her $100 of taxable capital gains to $85). Thus, she will owe $20 (23.8% of $85) of tax on her original capital gains when the bill finally comes due. In addition, since she holds her O-Fund investment for at least 10 years, she owes no capital gains tax on its appreciation. Assuming that her O-Fund investment grows 7% annually, the after-tax value of her original $100 investment in 2028 is $176. Susie has enjoyed a 5.8% effective annual return, compared to the 2.8% an equivalent non-O-Fund investment would have delivered.

Total tax bill in 2028: $20
After-tax value of investment in 2028: $176
Effective after-tax annual return on $100 capital gain in 2018: 5.8%

Example 2: Investor holds the O-Fund stake for 7 years
As in Example 1, in 2018 Susie rolls over $100 of capital gains into an O-Fund. She holds the investment for 7 years, selling in 2025. As in Example 1, she temporarily defers the tax she owes on her original capital gains and steps-up her basis by 15%, so that in 2025 she will owe $20 (23.8% of $85) of tax on her original capital gains. Unlike Example 1, however, Susie will owe capital gains tax on the appreciation of her O-Fund investment, since she holds the investment for less than 10 years. Assuming that her O-Fund investment grows 7% annually, in 2025 Susie will owe $15 (23.8% of $61) of tax on the O-Fund investment’s capital gain. Susie did not take full advantage of the Opportunity Zone program but nevertheless received a 3.3% effective annual return compared to the 1.5% an equivalent non-O-Fund investment would have delivered.

Total tax bill in 2025: $35
After-tax value of investment in 2025: $126
Effective after-tax annual return on $100 capital gain in 2018: 3.3%

Example 3: Investor holds the O-Fund stake for 5 years
As in Example 1, in 2018 Susie rolls over $100 of capital gains into an O-Fund. She holds the investment for 5 years, selling in 2023. As in Example 1, she can temporarily defer the tax she owes on her original capital gains, but her step-up in basis is only 10%, so that in 2023 she will owe $21 (23.8% of $90) of tax on her original capital gains. As in Example 2, Susie enjoys no exemption from capital gains tax on the appreciation of her O-Fund investment, since she holds the investment for less than 10 years. Assuming that her O-Fund investment grows 7% annually, in 2023 Susie will owe $10 (23.8% of $40) of tax on the O-Fund investment’s capital gain. Susie did not take full advantage of the Opportunity Zone program but nevertheless received a 1.8% effective annual return on her initial capital gains compared to the -0.1% effective annual return an equivalent non-O-Fund investment would have delivered.

Total tax bill in 2023: $31
After-tax value of investment in 2023: $109
Effective after-tax annual return on $100 capital gain in 2018: 1.8%
1. A qualified Opportunity Fund is a privately managed investment vehicle organized as a corporation or a partnership for the purpose of investing in qualified opportunity zone property (the vehicle must hold at least 90 percent of its assets in such property). Governors (or the Mayor in the case of the District of Columbia) may designate 25 percent of their state’s low-income census tracts as qualified opportunity zones, subject to certification by the U.S. Secretary of the Treasury. Low-income census tracts are defined in Internal Revenue Code Section 45D(e). If the number of low-income census tracts in a state is less than 100, then a Governor may designate a total of 25 tracts. Qualified opportunity zone property includes any qualified opportunity zone business stock, any qualified opportunity zone partnership interest, and any qualified opportunity zone business property. Only taxpayers who roll over capital gains of non-zone assets before December 31, 2026, will be able to take advantage of the special treatment under the provision.