

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.

D. 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. Moreover, NLC supports equitable voting rights and protections for individuals whose ability to cast a ballot has historically been restricted on the basis of race, sex, disability, age, English proficiency, or housing status.

NLC does support federal establishment and enforcement of standards for voting for

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

R. District of Columbia

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

NLC RESOLUTION #01**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, forty-seven states, four U.S. territories, and the District of Columbia – representing 97.7 % of the U.S. population – have legalized some form of recreational or medical marijuana; 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, increasing the risks of theft crimes and tax evasion, and denying large groups of business owners the capital needed to enter the market; and

WHEREAS, the U.S. Department of Justice has rescinded guidance that previously provided a minimal level of confidence for financial institutions looking to provide services to this growing industry, causing Congress to introduce and pass legislation in the U.S. House of Representatives to try to tackle this issue; and

WHEREAS, on April 19, 2021, the House of Representatives passed H.R. 1996, the Secure and Fair Enforcement (SAFE) Banking Act of 2021. The bill would allow marijuana-related businesses in states with some form of legalized marijuana and strict regulatory structures to access the banking system. The bill passed with overwhelming, bipartisan support by a vote of 321 to 101, including 106 Republicans; and

WHEREAS, on March 23, 2021, Senators Jeff Merkley (D-Ore) and Steve Daines (R-Mont.) introduced the SAFE Banking Act in the Senate with nearly a third of the chamber supporting the bill.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities urges the federal government to remove cannabis from Schedule I of the Controlled Substances Act and provide guidance to financial institutions that results in the cannabis market having access to the federally regulated banking system, such guidance to include the United States Senate to pass the SAFE Banking Act and the President of the United States of America to sign the bill into law.

NLC RESOLUTION #02**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.

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

BE IT FURTHER RESOLVED that NLC 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 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 certainty to municipal issuers of tax credit and other federally subsidized bonds by exempting subsidies from sequestration rules.

NLC RESOLUTION #03**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, advanced refundings represented 27% of municipal bond market activity in 2016 and 19% in 2017; 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; and

WHEREAS, in the 116th Congress (the prior Congress) bills to reinstate tax-exempt advanced refunding was introduced in both chambers of Congress, as well as incorporated into H.R. 2., the Moving Forward Act. Legislation to reinstate tax-exempt advanced refundings was again introduced in the 117th (the current Congress).

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

NLC RESOLUTION #04**CALLING FOR THE MODERNIZATION OF THE SMALL BORROWER'S
EXEMPTION (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, creating a situation whereby small municipalities are not able to leverage bank-qualified debt to the degree they did 30 years prior; 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 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 #05**SUPPORT FOR REFORMING THE EARNED INCOME TAX CREDIT FOR
CHILDLESS WORKERS**

WHEREAS, the Earned Income Tax Credit (EITC) is a refundable credit to eligible workers. Even if a worker does not owe any federal tax, the worker may benefit from it; and

WHEREAS, the EITC is the nation's largest cash antipoverty program, with a tax year 2016 (returns filed in 2017) total of \$66.7 billion claimed on 27.4 million tax returns. Most of the claimed EITC dollars—\$64.7 billion, or 97% of total EITC dollars—were for taxpayers with children compared to \$2.1 billion in claimed EITC for taxpayers with no qualifying children; and

WHEREAS, the EITC is so small for childless workers, it effectively does not lift them out of poverty because the EITC for this group is much too small (and for some, isn't available at all) that it does not offset the income taxes and employee share of payroll taxes that they must pay; and

WHEREAS, this affects 5 million childless adults aged 21 through 66; and

WHEREAS, the maximum credit in 2018 is more than 10 times as much for a taxpayer with a child than a childless taxpayer; and

WHEREAS, recipients without children must be at least 25 years old—there are no age restrictions for parents; and

WHEREAS, prior to 2021 the maximum amount that a childless taxpayer could receive through the EITC was \$538; and

WHEREAS, as part of the American Rescue Plan Act, a childless taxpayer will be able to receive just more than \$1,500 from the EITC; and

NOW, THEREFORE, BE IT RESOLVED that NLC will support Congress making the EITC for childless workers permanent as a way to help reduce poverty in cities.

NLC RESOLUTION #06**EXEMPTS FROM TAXATION INCOME FROM LOAN MODIFICATION,
FORGIVENESS OR CANCELLATION FOR SMALL BUSINESSES**

WHEREAS, for this resolution a “small business” or “small businesses” is defined as a business having fewer than 50 full-time employees; and

WHEREAS, the recent economic downturn and lockdowns forced many businesses to forgo significant amounts of revenue; and

WHEREAS, prior to the pandemic, struggling small businesses would have been able to refinance debt or extend lending terms on the original agreement; and

WHEREAS, today, many small businesses are fighting for survival, and creditors face a choice of demanding payment under the original terms outlined in the agreement or engage in loan modification, forgiveness or cancellation; and

WHEREAS, the viability of many small businesses in the coming months to stay afloat will rely on loan modifications, forgiveness, or cancellation to stay in business; and

WHEREAS, the modification, forgiveness and cancellation of debt comes with its own burdens; and

WHEREAS, Internal Revenue Code (“IRC”) general rule considers cancellation of debt (“COD”) ordinary income under Sec. 61(a)(12); and

WHEREAS, for example, XYZ business has a loan with a bank with a balance of \$500,000, and modifies the loan to cancel 50 percent of the balance – \$250,000. The business will receive a 1099-C stating it had income of \$250,000 for that tax year. The business might not have the corresponding cashflow to pay the taxes on the cancelled portion of the loan when the tax bill comes due and may have to close despite altering its loan terms to try to stay afloat.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities will advocate for small businesses as defined herein this resolution to be exempt from taxation on income from loan modification, forgiveness or cancellation to help maintain healthy thriving cities.

NLC RESOLUTION #07**CALLING TO PRESERVE AND ENHANCE VOTING BY MAIL**

WHEREAS, voting is a constitutionally protected right; and

WHEREAS, all governments, especially state and local, must ensure an accessible, safe and secure method of voting for all citizens; and

WHEREAS, measures are taken to ensure electoral integrity and prevent fraud when votes are cast by mail; and

WHEREAS, use of the terms “voting by mail” and “absentee voting” varies from state to state, “voting by mail” is assumed to mean any ballot sent through the mail, including by absentee voting; and

WHEREAS, all states allow voting by mail in certain circumstances; and

WHEREAS, in the 20 years prior to 2016, the percentage of voters casting ballots in person on Election Day has gradually declined, falling from 89% in 1996 to 60% in 2016; and

WHEREAS, in 2016, nearly ¼ of all U.S. votes were cast by mail. Due to the pandemic the number of voters casting ballots on Election Day in 2020 rose to 46%; and

WHEREAS, opinion polls consistently find that a majority of Americans’ support having an option to vote by mail; and

WHEREAS, COVID-19 has pushed states to expand options for voting by mail due to limited election facilities and poll workers, increased sanitation costs, the nature of COVID-19 being spread through person-to-person contact, and the need to ensure all citizens have equal access to exercise their right to vote.

NOW, THEREFORE, BE IT RESOLVED that while it takes no stance on individual state election laws, the National League of Cities supports federal efforts that preserve and enhance systems that allow for accessible, safe and secure vote by mail options.

NLC RESOLUTION #08**SUPPORT FOR THE JOHN LEWIS VOTING RIGHTS ADVANCEMENT ACT**

WHEREAS, voting is fundamental to democracy in the United States' form of government; and

WHEREAS, the Voting Rights Act of 1965 was passed to ensure that millions of Black, Latinx, Asian American and Native American citizens who were previously denied suffrage have an equal opportunity to cast their ballot; and

WHEREAS, in the 2013 *Shelby County v. Holder* decision, the United States Supreme Court upheld Section 5 of the Voting Rights Act, requiring jurisdictions with a history of discrimination to submit any proposed changes in voting procedures to the U.S. Department of Justice or a federal district court in Washington, D.C. to ensure the change would not harm minority voters (known as "preclearance"); and

WHEREAS, in the *Shelby County V. Holder* decision, the United States Supreme Court struck down Section 4(b) of the Voting Rights Act of 1965, which contained the coverage formula used to determine which jurisdictions are covered by Section 5 of the Act; and

WHEREAS, Section 5 of the Voting Rights Act of 1965 is practically defunct; and

WHEREAS, following the 2013 *Shelby County V. Holder* decision, several states enacted new voting restrictions that, prior to the 2013 decision, would have been subject to preclearance under Section 5 of the Voting Rights Act of 1965; and

WHEREAS, the United States House of Representatives, in a report entitled *Voting Rights and Election Administration in the United States of America* concluded that "without federal protections, new and old barriers to voting have emerged" that "disproportionately impact minority voters;" and

WHEREAS, the John Lewis Voting Rights Advancement Act creates a new coverage formula that applies to all states; and

WHEREAS, the John Lewis Voting Rights Advancement Act establishes a targeted process for reviewing voting changes in jurisdictions nationwide, that utilizes measures that have historically been used to disenfranchise minority voters; and

WHEREAS, the National League of Cities is opposed to any federal laws that restricts American citizens from exercising their most fundamental constitutional right to vote.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities supports the John Lewis Voting Rights Advancement Act and urges its enactment into law.