



2012

National League of Cities

National Municipal Policy
and Resolutions

Adopted at the 2011 Congress of Cities
Phoenix, Arizona
November 12, 2011

PREAMBLES
to
National Municipal Policy

Federal Mandates

The National League of Cities recognizes two basic types of federal mandates: those that impose costs directly on municipal governments, and those that, while not imposing costs directly on cities, intrude upon the autonomy of local government.

The National League of Cities opposes the imposition of federal mandates of either type on municipalities unless the mandate is specifically identified in the National Municipal Policy as an exception to this general principle.

In addition, the National League of Cities believes that those federal mandates imposing direct costs much be accompanied by adequate federal funding.

Regulatory Planning

The National League of Cities endorses Executive Order 12866, “Regulatory Planning and Review.” The terms and conditions of this executive order should be enacted by Congress to provide a legislated framework to ensure this executive order is carried out effectively. Such legislation should authorize judicial review of the regulatory process to ensure compliance with the terms and intent of both the regulatory reform legislation and the executive order.

To improve regulatory content and the ability of local governments to implement rules and regulations, federal agencies shall, in compliance with Executive Order 12866, include local governments in the process of developing policy, rules and regulations. Local government input shall be sought to assure that flexibility and local priorities are part of the resulting rules and regulations.

Importance of Comprehensive Approaches

The issues confronting America today are complicated and interrelated. This is especially true in urban areas, where these problems are particularly concentrated. The solutions to our nation’s social problems – of education, poverty, crime, welfare, discrimination, substance abuse, housing and employment – also are inextricably linked together. The very nature of these problems both suggests and requires that the public policies designed to deal with these issues take balanced and holistic approaches. By recognizing and utilizing chains of reinforcement and interrelatedness, public policies will be more capable of solving these problems that are critical to the future of America’s cities and towns and the people who live in them. NLC strongly supports this holistic approach and supports efforts that take this approach in the development of policies to address these problems.

About the National League of Cities

The National League of Cities is the nation's oldest and largest organization devoted to strengthening and promoting cities as centers of opportunity, leadership and governance. NLC is a resource and advocate for more than 1,600 member cities and the 49 state municipal leagues, representing 19,000 cities and towns and more than 218 million Americans.

Copyright © 2011
National League of Cities
Washington, D.C. 20004

FINANCE, ADMINISTRATION AND INTERGOVERNMENTAL RELATIONS

1.00	Introduction	1
A.	Unfunded Mandates.....	1
B.	Preemption.....	1
C.	Fiscal Conditions	1
D.	Protect and Strengthen the Intergovernmental Partnership	1
1.01	Intergovernmental Relations	1
A.	Unfunded Mandates.....	1
B.	Taxation of Interstate Sales	2
C.	Collection of Business Taxes	2
D.	Takings	2
E.	International Trade and Local Authority	2
F.	Davis-Bacon Policy	2
G.	Preemption of Municipal Regulatory Authority	2
H.	Scope of Federal Regulation of Cities	2
I.	Grant Reform and Administration	2
	1. <i>Simplification of Procedures</i>	2
	2. <i>Consolidation and Integration</i>	3
	3. <i>Administration</i>	3
	4. <i>Information and Statistics</i>	3
	5. <i>Audit Appeals</i>	3
J.	Municipal Postal Zone Names and Zip Code Assignment Process	3
K.	Municipal Annexation	3
	1. <i>Rural Utility Services</i>	4
	2. <i>Rural Electric Cooperatives</i>	4
	3. <i>Rural Water Law</i>	4
L.	Tax-Exempt Property	4
M.	Federally Foreclosed Property.....	4
N.	Census	5
O.	Tribes and Trust Land	5
P.	Freedom of Information	5
Q.	Election Administration.....	5
R.	District of Columbia.....	6
1.02	Finance	6
A.	The Intergovernmental Partnership	6
B.	Federal Budgetary Practices	6
	1. <i>Federal Budget Deficits</i>	6
	2. <i>Federal Budget Process</i>	6
	3. <i>Federal Revenue Policy</i>	7
C.	Municipal Finance Mechanisms	7
	1. <i>Regulation of Municipal Bonds</i>	8
	2. <i>Advanced Refunding</i>	8
	3. <i>Municipal Bond Market Transparency</i>	8
	4. <i>Bond Market Liability</i>	8
	5. <i>Arbitrage and Refunding Bonds</i>	8
	6. <i>Municipal Credit Enhancements</i>	8
	7. <i>Increasing the Supply of Municipal Capital</i>	9
	8. <i>Financial Reporting</i>	9
	9. <i>Antitrust Issues</i>	9
	10. <i>Financial Emergencies and Municipal Tax Liens</i>	9
	11. <i>Full Insurance Public Deposits</i>	9
	12. <i>Municipal Sale Leaseback Financing</i>	9

FINANCE, ADMINISTRATION AND INTERGOVERNMENTAL RELATIONS

1.03	Municipal Administration	9
A.	Employee Relations and Benefits	9
	1. <i>Municipal Pension Plans and Social Security</i>	9
	2. <i>Employee-Employer Relations</i>	10
	3. <i>Municipal Employee Fringe Benefits</i>	10
	4. <i>Drugs and Alcohol</i>	10
	5. <i>Fair Labor Standards Act (FLSA)</i>	10
	6. <i>Occupational Safety and Health (OSHA)</i>	10
	7. <i>Americans with Disabilities Act</i>	10
B.	Municipal Decision Making	10
	1. <i>Civil Rights/Equal Opportunity</i>	10
	2. <i>Municipal Service Provision, Right of Way and Franchising Rights</i>	11
	3. <i>Regional Planning and Cooperation</i>	11
	4. <i>Municipal Liability</i>	11
	5. <i>Municipal Disaster and Terrorism Insurance</i>	12
	6. <i>Municipal Purchasing</i>	12
	7. <i>Right of Municipalities to Sue</i>	13
	8. <i>Reducing Barriers to Municipal Contracting with Federal Facilities</i>	13
	9. <i>Equal Access to Justice Act</i>	13
	10. <i>Federal Consent Decree Fairness Act</i>	13

RESOLUTIONS

#2012-1	Regarding the Closure of Post Offices	14
#2012-2	In Support of Federal Support for a Mutual Bond Insurance Company	16
#2012-3	Calling for a Balanced Approach to Deficit Reduction	17
#2012-4	Local Government Support for Federal Legislation on Streamlined Sales and Use Tax and Opposition to Additional Requirements Mandating State Collection of Telecommunications Taxes	19
#2012-5	United Nations Conference on Racism Resolution	21
#2012-6	Medicinal Use of Marijuana	22
#2012-7	Support for Modernization and Equal Application of the Community Reinvestment Act	23
#2012-8	Regarding the U.S. Capital Reinvestment of Foreign Earnings at a Lower Corporate Tax Rate for U.S. Multinational Corporations	25

ENERGY, ENVIRONMENT AND NATURAL RESOURCES

2.00	Environmental Quality	27
A.	Problem	27
B.	Goals	27
C.	Federal Policies	27
	1. <i>National Environmental Policy Act</i>	27
	2. <i>Federal Mandates</i>	27
D.	Principles	27
	1. <i>Regional Approaches</i>	27
	2. <i>Sustainability</i>	27
	3. <i>Climate Change</i>	27
	4. <i>Climate Change Adaptation</i>	27
	5. <i>Environmental Justice</i>	28
2.01	Energy	28
A.	Problem	28
B.	Goals	28
C.	Federal Policies	28
	1. <i>Research and Development</i>	28
	2. <i>Energy Emergencies</i>	29
	3. <i>Tax Policy and Financial Incentives</i>	29
	4. <i>Energy Assistance to Low Income Households</i>	29
	5. <i>Infrastructure Siting</i>	29
	6. <i>Federal Energy Regulatory Commission</i>	29
	7. <i>Public Awareness and Education</i>	29
D.	Energy Efficiency	29
E.	Energy Sources	30
	1. <i>Natural Gas</i>	30
	2. <i>Nuclear</i>	30
	3. <i>Petroleum</i>	30
	4. <i>Coal</i>	30
	5. <i>Hydroelectric</i>	30
	6. <i>Solar</i>	30
	7. <i>Wind</i>	30
	8. <i>Promising New Energy Sources</i>	30
F.	Electricity	31
	1. Infrastructure	31
	2. <i>Smart Grid</i>	31
	3. <i>Electric Utility Restructuring</i>	31
	4. <i>Distributed Generation</i>	32
G.	Transportation and Energy	32
2.02	Clean Air	32
A.	Problem	32
B.	Goals	32
C.	Federal Policies	32
	1. <i>Local Role</i>	32
	2. <i>State Implementation Plans</i>	32
	3. <i>Air Quality Control Strategy for Generation of Electricity and Production of Petroleum Products</i>	32
	4. <i>Climate Change</i>	33
	5. <i>Acid Rain Program</i>	33
	6. <i>Air Quality Standards</i>	33
	7. <i>Mobile Source Emissions</i>	33
	8. <i>Transportation Control Measures</i>	34

ENERGY, ENVIRONMENT AND NATURAL RESOURCES

9. Hazardous Air Pollutants	34
10. Transport of Air Pollution across Boundaries	34
2.03 Solid and Hazardous Waste	34
A. Problem	34
B. Goals.....	34
C. Solid Waste Policies	34
1. Source Reduction.....	34
2. Product Stewardship	34
3. Electronic Waste	35
4. Recycling	35
5. Environmental Labeling.....	35
6. Resource Recovery.....	35
7. Incinerator Ash.....	35
8. Landfills.....	36
9. Waste Flow Control	36
10. Interstate Transport of Municipal Solid Waste	36
11. Backhauling.....	36
D. Nuclear Waste Management Policies	36
1. Local Participation in Site Selection	36
2. High Level Nuclear Waste Storage	36
3. Nuclear Waste Management	37
4. Cask Testing	37
5. Routing.....	37
6. Notification.....	37
7. Liability	37
8. Federal Compliance.....	37
E. Hazardous Waste Management Policies.....	37
1. Landfill Regulations	37
2. Incinerator and Impoundment Requirements.....	38
3. Kilns, Boilers and Industrial Furnaces	38
4. Permit Requirements.....	38
5. Underground Injection.....	38
6. Leaking Underground Storage Tanks	38
7. Research.....	38
8. Insurance.....	38
9. Closure of Facilities.....	38
10. Brownfields	38
11. Federal Facility/Site Conversion	39
F. Superfund Policies.....	39
1. Superfund Trust Fund.....	39
2. Standards and Deadlines.....	39
3. State and Local Roles in Superfund.....	39
4. Liability	40
5. State Response Funds.....	40
6. State and Local Matching Share	40
7. Maintenance and Operating Costs	40
8. Post-Closure Liability	40
9. Environmental Impairment Liability Insurance	40
10. Right-to-Know.....	40
11. Deferred Listing	41
12. Accounting Procedures and Cost Study	41
13. Alternative Dispute Resolution.....	41

ENERGY, ENVIRONMENT AND NATURAL RESOURCES

2.04	Water Quality and Supply	41
A.	Problem	41
B.	Goals.....	41
C.	Funding.....	41
	1. <i>State Revolving Loan Funds</i>	42
	2. <i>Grants and Loans</i>	42
	3. <i>Local Financing</i>	42
D.	Watershed Planning and Management	42
E.	Water Pollution Control	42
	1. <i>Level of Treatment</i>	42
	2. <i>Conservation and Reuse</i>	43
	3. <i>Pretreatment</i>	43
	4. <i>State Water Quality Standards</i>	43
	5. <i>Total Maximum Daily Loads</i>	43
	6. <i>Effluent Trading</i>	43
	7. <i>Toxicity Testing</i>	43
	8. <i>Pollution Prevention</i>	43
	9. <i>Legal Remedies</i>	44
	10. <i>Wet Weather</i>	44
F.	Drinking Water Policies	45
	1. <i>Standard Setting</i>	45
	2. <i>Lead</i>	45
	3. <i>Protection of Drinking Water Resources</i>	45
	4. <i>Monitoring</i>	45
	5. <i>Notification</i>	45
	6. <i>Sole Source Aquifer</i>	45
G.	Ground Water Policies	45
	1. <i>Regulation</i>	45
	2. <i>Financing</i>	45
	3. <i>Enforcement</i>	46
	4. <i>Federal Evaluation</i>	46
H.	Water Supply Policies	46
	1. <i>Data Collection</i>	46
	2. <i>Federal Participation</i>	46
	3. <i>Water Project Evaluation</i>	46
	4. <i>Water Conservation</i>	46
	5. <i>Agricultural Conservation</i>	46
	6. <i>Municipal Water Uses</i>	46
	7. <i>Pricing and Economic Policies</i>	46
	8. <i>Planning at the Federal Level</i>	47
	9. <i>Desalination</i>	47
2.05	National Wetlands	47
2.06	Endangered Species	47
2.07	Invasive Species and Harmful Infestations	47

ENERGY, ENVIRONMENT AND NATURAL RESOURCES

2.08 Noise Control	48
A. Local Regulatory Responsibility	48
B. Airport Noise Policies	48
C. Federal Airbases	48
D. Highway Noise Policies.....	48
E. Railroad Noise Policies	49
F. Planning for Noise Abatement.....	49
G. Buy Quiet Program.....	49
2.09 Public Lands	49
A. Conservation Funds	49
B. Natural Resources in Public Lands	49
C. Wildfire Protection and Public Forests	49
D. Beaches and Shorelines	49
E. Closed Federal Facilities	49
2.10 Security of Critical Infrastructure	49
A. Problem.....	49
B. Goals.....	50
C. Federal Policies	50
1. <i>Water Infrastructure Protection</i>	50
2. <i>Energy Infrastructure Protection</i>	50
3. <i>Nuclear Facilities Protection</i>	50
RESOLUTIONS	
#2012-9 Water Infrastructure Financing and Regulatory Prioritization	51
#2012-10 Calling on the Federal Government to Address Issues of Sustainability and Support Local “Green” Efforts.....	53
#2012-11 Addressing the Response and Effects of the Deepwater Horizon BP Oil Spill and Ecosystem Restoration	58
#2012-12 Congressional Action to Support Property Assessed Clean Energy Programs	60
#2012-13 Clarification that Federal Law Does Not Preempt State and Local Energy Efficiency Building Codes ..	62
#2012-14 Milfoil	64
#2012-15 Tax Exempt Facility Bonds for Water and Wastewater	65
#2012-16 Supporting Healthy Food, Public Health and Sustainability Practices in the 2012 Farm Bill.....	66
#2012-17 One Health Initiative	68

COMMUNITY AND ECONOMIC DEVELOPMENT

3.00	Introduction	70
3.01	Community Development	70
A.	Principles	70
B.	Goals.....	70
C.	Recommended Federal Action	70
1.	<i>Comprehensive Community Investment</i>	70
2.	<i>Coordinated Approach</i>	70
3.	<i>Regional Approach</i>	71
4.	<i>Sustainable Development</i>	71
5.	<i>Strengthening Overburdened Communities</i>	71
6.	<i>Public, Private, and Intergovernmental Partnerships</i>	71
7.	<i>Community Development Research</i>	71
3.02	Financial Institutions.....	71
A.	Principles	71
B.	Goals.....	71
C.	Recommended Federal Actions	72
1.	<i>Community Reinvestment Act (CRA)</i>	72
2.	<i>Predatory Lending</i>	72
3.	<i>Insurance Redlining</i>	73
4.	<i>Regulation of Evolving Financial Institutions</i>	73
3.03	Community Development Block Grant	73
A.	Principles	73
B.	Goals.....	74
C.	Recommended Federal Actions	74
1.	<i>Full Funding</i>	74
2.	<i>CDBG as a Separate Federal Program</i>	74
3.	<i>Direct Funding to Cities</i>	74
4.	<i>Targeted to Low and Moderate-Income People</i>	74
5.	<i>Flexibility</i>	74
6.	<i>Enforcement Procedures</i>	75
7.	<i>Lower Administrative Costs</i>	75
8.	<i>CDBG Programs and Services</i>	75
3.04	Economic Development.....	75
A.	Principles	75
B.	Goals.....	75
C.	Recommended Federal Actions	75
1.	<i>Overarching Themes Regarding Economic Development</i>	75
2.	<i>Federal Economic Development Programs and Tools</i>	76
3.	<i>Private Investment</i>	76
4.	<i>Federal Role in Poverty Reduction</i>	77
5.	<i>Increasing Computer Access and Eliminating the Digital Divide</i>	77
6.	<i>Measuring Local Economic Conditions</i>	78
7.	<i>U.S. Business and the Global Economy</i>	78
8.	<i>Role of Technology, Research and Development in the U.S. Economy</i>	78
9.	<i>Helping Small Businesses Grow</i>	79
10.	<i>Federal Government and its Role in Local Economic Development</i>	79
11.	<i>Defense Industry</i>	79
12.	<i>Federal Assistance After a Disaster</i>	81

COMMUNITY AND ECONOMIC DEVELOPMENT

3.05	International Trade and Municipalities	81
A.	Principles	81
B.	Goals.....	81
C.	Recommended Federal Actions	81
	1. <i>General Concerns</i>	81
	2. <i>United States Trade Representative</i>	82
	3. <i>International Agreements</i>	82
	4. <i>Promoting International Trade</i>	83
	5. <i>Trade Impact Assistance</i>	83
3.06	Housing.....	83
A.	Principles	83
B.	Goals.....	83
C.	Recommended Federal Actions	84
	1. <i>Overarching Themes and Definitions</i>	84
	2. <i>Funding Streams</i>	85
	3. <i>Promoting Homeownership</i>	86
	4. <i>Homeowner Assistance and Avoiding Foreclosure</i>	86
	5. <i>Providing Affordable Rental Units</i>	87
	6. <i>Rehabilitation and Abandoned Properties</i>	88
	7. <i>Providing Transitional Housing and Comprehensive Services for the Homeless</i>	89
	8. <i>Housing and Welfare Policy</i>	89
	9. <i>Fair Housing and Local Zoning Authority</i>	89
3.07	Land Use.....	90
A.	Principles	90
B.	Goals.....	90
C.	Recommended Federal Actions	91
	1. <i>Federal Land Stewardship</i>	91
	2. <i>Social Responsibility</i>	92
	3. <i>Historic Preservation</i>	92
	4. <i>Land Use and Growth Management</i>	93
	5. <i>Federal Support Regarding Natural Disasters</i>	93
3.08	Recreation	94
A.	Principles	94
B.	Goals.....	94
C.	Recommended Federal Actions	94
	1. <i>Urban Recreation</i>	94
	2. <i>Unilateral Federal or State Action</i>	94
 RESOLUTIONS		
#2012-18	Support for Green Affordable Housing and Financing	95
#2012-19	Support for Sustainable Development in Cities and Towns	97

HUMAN DEVELOPMENT

4.00	Introduction	98
4.01	Social Services.....	98
A.	Principles	98
B.	Goals.....	98
C.	Recommended Federal Actions	98
	1. <i>Funding for Social Service Programs</i>	98
	2. <i>Necessary Federal Reforms</i>	99
	3. <i>Faith-Based Organizations as Service Providers</i>	99
	4. <i>Special Population Group Programs</i>	100
4.02	Children and Learning.....	100
A.	Principles	100
B.	Goals.....	101
C.	Recommended Federal Actions	101
	1. <i>National Commitment and Funding for Children and Youth</i>	101
	2. <i>Early Childhood Development</i>	102
	3. <i>School Age Children</i>	104
	4. <i>Teenage Pregnancy</i>	111
	5. <i>Higher Education Assistance</i>	112
	6. <i>Public Libraries</i>	112
4.03	Poverty and Income Support.....	112
A.	Principles	112
B.	Goals.....	112
C.	Recommended Federal Actions	112
	1. <i>Current Federal Welfare Program</i>	112
	2. <i>Education and Skills Development</i>	113
	3. <i>Welfare-to-Work</i>	113
	4. <i>Supporting Working Families</i>	114
	5. <i>Changing the Federal Poverty Level</i>	115
	6. <i>Preventing Homelessness</i>	115
4.04	Employment	116
A.	Principles	116
B.	Goals.....	116
C.	Recommended Federal Actions	116
	1. <i>Education and Training</i>	116
	2. <i>Job Creation and Retention</i>	117
	3. <i>Wages, Benefits, and Employment Services</i>	117
	4. <i>Unemployment Insurance</i>	117
	5. <i>Information Gathering and Delivery</i>	117
4.05	Equal Opportunity	118
A.	Principles	118
B.	Goals.....	118
C.	Recommended Federal Actions	118
	1. <i>Enforcement of Federal Civil Rights Law</i>	118
	2. <i>Promote Diversity</i>	118
	3. <i>Support for Affirmative Action</i>	118
	4. <i>Greater Opportunities for Minorities, Women, and Individuals with Disabilities</i>	119

HUMAN DEVELOPMENT

4.06	Social Security and Seniors.....	119
A.	Principles.....	119
B.	Goals.....	119
C.	Recommended Federal Actions.....	119
	1. <i>Financial Integrity</i>	119
	2. <i>Structure of Benefits</i>	119
	3. <i>Awareness, Education, and Understanding</i>	119
	4. <i>Cash Economy</i>	119
	5. <i>Senior Citizens</i>	120
	6. <i>Aging in Place</i>	120
4.07	Individuals with Disabilities	120
A.	Principles.....	120
B.	Goals.....	120
C.	Recommended Federal Actions.....	120
	1. <i>Compliance with Federal Law</i>	120
	2. <i>Self-sufficiency & Care-giving</i>	121
	3. <i>Education</i>	121
4.08	Health	122
A.	Principles.....	122
B.	Goals.....	122
C.	Recommended Federal Actions.....	122
	1. <i>Comprehensive Health Care Reform</i>	122
	2. <i>Medicaid, Medicare and Other Federal Health Policies</i>	126
	3. <i>School-Based Health Clinics</i>	128
	4. <i>Medical Records Privacy</i>	129
	5. <i>Public Health Systems – New Block Grant Program and Disaster Planning</i>	129
	6. <i>Substance Abuse</i>	130
	7. <i>Infectious Diseases</i>	132
	8. <i>Federal Policies to Promote an Increase and Distribution of Health Services Personnel</i>	132
	9. <i>Protecting the Nation’s Blood Supply</i>	132
4.09	Mental Health Care.....	133
A.	Principles.....	133
B.	Goals.....	133
C.	Recommended Federal Actions.....	133
	1. <i>Comprehensive Federal System</i>	133
	2. <i>Federal Oversight of the States</i>	134
	3. <i>Mental Health Parity</i>	134
	4. <i>Relationship between Mental Health and Youth Suicide</i>	134
	5. <i>Mental Health in Schools</i>	135
4.10	Immigration and Refugees.....	135
A.	Principles.....	135
B.	Goals.....	135
C.	Recommended Federal Actions.....	135
	1. <i>Ending Unlawful Immigration</i>	135
	2. <i>Providing Legal Avenues of Immigration</i>	137
	3. <i>Path to Legalized Status and Citizenship</i>	137
	4. <i>Federal Resources Needed</i>	137
	5. <i>Coordination between the Federal Government and Local Governments</i>	138

HUMAN DEVELOPMENT

4.11 Cultural Resources	138
A. Principles	138
B. Goals.....	138
C. Recommended Federal Actions.....	138
1. <i>Increased Federal Funding</i>	138
2. <i>Tax Laws</i>	138
4.12 Veterans.....	138
A. Principles	138
B. Goals.....	139

RESOLUTIONS

#2012-20 In Support of Comprehensive Immigration Reform.....	140
#2012-21 Endorsing Plans to End Chronic Homelessness	143
#2012-22 Calling for Federal Action to Address the Nation’s Jobs Crisis	146
#2012-23 Resolution on Disparities within the Bone Marrow Registry	148
#2012-24 In Support of Efforts to Improve Educational Outcomes for Disadvantaged Students	149
#2012-25 In Support of Healthy Eating Active Living (HEAL) Cities Campaign	150

TRANSPORTATION INFRASTRUCTURE AND SERVICES

5.00	Transportation Principles	151
A.	Local Control	151
B.	Flexibility	151
C.	Equity	151
D.	Intermodalism/Multimodalism	151
E.	Management and Operations	151
F.	Priorities/Prioritization	151
G.	Disadvantaged Business Enterprise (DBE) Requirements	151
5.01	Transportation Policies	151
A.	Transportation Planning	151
1.	<i>Metropolitan Planning Organizations</i>	151
2.	Rural Consultation	152
3.	<i>Project Identification</i>	152
4.	<i>Project Delivery</i>	152
5.	<i>Municipal Impact Analysis</i>	152
6.	<i>Research and Development</i>	152
B.	Transportation Finance and Administration	152
1.	<i>The Federal Role</i>	152
2.	<i>Surface Transportation Revenue Sources</i>	153
3.	<i>Transportation Tax Policy to Encourage Commute Alternatives</i>	154
4.	<i>Federal Aid Turnback</i>	154
5.	<i>Federal Earmarks</i>	154
C.	Air Quality	154
D.	Congestion Mitigation	154
E.	Transportation of Hazardous Materials	155
F.	Surface Transportation Security	155
5.02	Streets and Highways	155
A.	Highway Trust Fund Finance	155
B.	Bridges	155
C.	Highway Beautification	156
D.	Enhancements Programs	156
E.	Intelligent Transportation Systems	156
F.	Highway Safety	156
G.	Motor Carriers	156
1.	<i>Truck Weight and Size Limits</i>	156
2.	<i>Truck Routing</i>	156
3.	<i>Regulation of the Motor Carrier Industry</i>	156
4.	<i>National Commercial Truck Driver Standards</i>	157
5.	<i>Enforcement of Motor Carrier Safety Regulations</i>	157
6.	<i>Motor Carrier Substance Abuse Assistance Program</i>	157
7.	<i>Motor Carrier Data Collection</i>	157
5.03	Public Transportation	157
A.	Support for Public Transportation	157
B.	Role of the Private Sector	157
C.	Local Control	157
D.	Federal Role in Public Transportation	157
E.	Labor	157
F.	Handicapped Accessibility Requirements	157
G.	Procurement Requirements	158

TRANSPORTATION INFRASTRUCTURE AND SERVICES

H.	Innovative Transportation Technologies and Demonstration Projects for a Seamless Transportation Network	158
5.04	Air Transportation	158
A.	Funding.....	158
	1. <i>Airport Trust Fund</i>	158
	2. <i>Federal Airport Improvement Program</i>	158
	3. <i>Block Grants to States</i>	158
	4. <i>Off-Airport User Fees</i>	158
	5. <i>Passenger Facilities Charges</i>	158
B.	Small Communities	158
	1. <i>Essential Air Service Program</i>	158
	2. <i>Small Community Air Service Development Program</i>	159
C.	Airport Noise and Pollution.....	159
D.	Federal Role in Air Traffic Control	159
E.	Competition and the Air Transportation System	159
F.	Aviation Security.....	159
5.05	Rail.....	159
A.	Rail Principles	159
	1. <i>Local Role in Federal Rail Program</i>	159
	2. <i>Financing</i>	159
	3. <i>Rail Safety</i>	160
	4. <i>Operations and Maintenance</i>	160
	5. <i>Environmental Impacts</i>	160
B.	Passenger Rail	160
	1. <i>Amtrak's Self Sufficiency Requirement</i>	160
	2. <i>Development of and Access to a High Speed Rail Network</i>	160
	3. <i>Funding Options for Amtrak and High Speed Rail</i>	160
C.	Freight Railroads	160
	1. <i>Freight Rail Service</i>	160
	2. <i>Funding Options for Freight Rail</i>	161
	3. <i>Freight Rail Safety</i>	161
	4. <i>Rail Line Abandonment</i>	161
	5. <i>Rail Mergers</i>	161
5.06	Waterways, Ports and Landside Connections.....	161
A.	Local Infrastructure, which Connects Land Transportation to Ports	161
B.	Operations Funding to Implement the Transfer of Cargo to Portside Distribution	161
C.	Funding for Harbor Maintenance and Dredging to Increase Capacity	161
D.	Security.....	161
E.	Funding for Maintenance of Inland Waterways	162
F.	Federal Responsibility	162
5.07	Pipelines.....	162

RESOLUTIONS

#2012-26	Urging the Federal Government to Create an Adequately Funded Comprehensive National Surface Transportation Plan	164
----------	---	-----

PUBLIC SAFETY AND CRIME PREVENTION

6.00	Introduction	166
6.01	Crime Prevention.....	166
A.	Problem Statement	166
B.	Goals.....	166
C.	Weapons and Ammunition Control	167
D.	Youth Oriented Crime Prevention	168
1.	<i>Early Childhood Education</i>	168
2.	<i>Education</i>	168
3.	<i>School Safety</i>	168
4.	<i>Mass Media and Media Violence</i>	169
E.	Domestic Violence	169
F.	Driving Under the Influence.....	169
6.02	Public Safety	169
A.	Problem Statement	169
B.	Goals.....	170
C.	Youth and Gang Crime and Violence.....	170
1.	<i>Juvenile Records</i>	170
2.	<i>Sentencing</i>	170
3.	<i>Corrections</i>	170
D.	Prisoner Reentry.....	171
E.	Public Safety Technology and Intelligence	171
1.	<i>Public Safety Technology and Intelligence Goals</i>	171
2.	<i>Emergency Communications</i>	172
3.	<i>Law Enforcement Technology</i>	172
4.	<i>Training</i>	173
5.	<i>Information Sharing</i>	173
F.	Transportation of Hazardous Materials	173
1.	<i>Consolidation of Federal Programs</i>	173
2.	<i>Standards</i>	173
3.	<i>Notification and Communication</i>	173
4.	<i>Disaster Prevention and Training</i>	173
5.	<i>Enforcement</i>	174
6.	<i>Financing</i>	174
6.03	Homeland Security, Disaster Preparedness and Response	174
A.	Problem Statement	174
B.	Goals.....	174
C.	Prevention, Planning, and Mitigation	175
D.	Disaster Response and Recovery.....	176
E.	Training and Technical Assistance	176
F.	Domestic Terrorism.....	176
G.	Border Security.....	176
H.	Immigration Enforcement	177
1.	<i>Interaction with Local Law Enforcement</i>	177
2.	<i>Interaction with Local Officials</i>	177
3.	<i>Cost Recovery</i>	177
4.	<i>Visa Requirements</i>	177
I.	Profiling.....	177

PUBLIC SAFETY AND CRIME PREVENTION

6.04 Substance Abuse	178
A. Problem Statement	178
B. Goals.....	178
C. Economic Deterrents	178
D. Enforcement	178
6.05 Municipal Fire Policy	179
A. Problem Statement	179
B. Goals.....	179
C. Federal Roles and Responsibilities	179
1. <i>U.S. Fire Administration</i>	179
2. <i>National Fire Academy</i>	180
3. <i>Consumer Products Safety Commission</i>	180
D. Standard Setting	180
E. Arson Control	180

RESOLUTIONS

#2012-27 In Support of Interoperable Public Safety Communications Systems and Funding	181
#2012-28 In Support of Efforts to Fight Illegal Guns.....	183
#2012-29 Resolution on Cradle to Prison Pipeline.....	185
#2012-30 Urging Federal Resources to Support Increased DNA Use in Non-Violent Crimes	187
#2012-31 On Mental Health and the Criminal Justice System	188
#2012-32 Urging the Revision of the Current Mexican Extradition Policy	190
#2012-33 Encouraging Federal Efforts and Collaboration to Protect Against and Respond to Cyber Threats	191
#2012-34 On Stopping Human Trafficking.....	193
#2012-35 In Support of Federal Legislation and an Interstate Compact to Combat Pill Mills.....	195

INFORMATION TECHNOLOGY AND COMMUNICATIONS

7.00	Introduction	197
A.	Information Technology and Communications	197
B.	Local Authority	197
7.01	National Broadband Policy.....	197
7.02	Municipal Oversight.....	197
A.	Rights of Way.....	197
B.	Land Use and Zoning	198
	1. <i>General</i>	198
	2. <i>Adjudication</i>	198
	3. <i>Exclusive Remedy for Personal Communication Facilities</i>	198
	4. <i>Notice from FCC</i>	198
	5. <i>Radio Frequency Radiation Emissions</i>	198
	6. <i>Interference with Public Safety Communications</i>	198
C.	Telephone Services.....	198
D.	Internet-Based Services	198
E.	Cable Modem Services.....	199
F.	Satellite and Wireless Services.....	199
7.03	Consumer Protection.....	199
A.	Media Ownership	199
B.	Telephone Competition	199
C.	Privacy.....	199
	1. <i>Privacy and Consumer Protection</i>	199
	2. <i>Privacy and Public Records</i>	199
D.	Abusive Practices – Unsolicited Communications	200
E.	Abusive Practices – Unsolicited Wireless Communications	200
7.04	Universal Availability of Telecommunications Services	200
A.	Principles.....	200
B.	Recommended Federal Actions.....	200
C.	Financing of Universal Availability	201
D.	Network Neutrality	201
7.05	Spectrum	201
A.	General	201
B.	Spectrum Fees	201
C.	Spectrum Management Issues	202
D.	Spectrum Allocation for Low Power Over-the-Air Transmission.....	202
E.	Instructional Televised Fixed Services	202
7.06	Wireline Telecommunications Providers	202
A.	Federal/Local Jurisdiction over Wireline Telecommunications Providers.....	202
B.	Wireline Telecommunications Provider Competition	203
C.	Franchise Granting and Administration.....	203
	1. <i>Franchise Renewals</i>	203
	2. <i>Franchise Transfers</i>	203
D.	Franchise Fees	203
E.	Rate Regulation	203
	1. <i>Rate Structure and Service Options</i>	204
	2. <i>Defining “Effective Competition” for Rate Making</i>	204
F.	Billing Practices	204

INFORMATION TECHNOLOGY AND COMMUNICATIONS

G.	Consumer Protection	204
	1. <i>Customer Service and Consumer Protection</i>	204
	2. <i>Rate Complaints</i>	204
H.	Public Access Channels.....	204
I.	Technical and Signal Standards.....	204
	1. <i>Equipment Specification</i>	204
	2. <i>Minimum Standards</i>	204
	3. <i>Emergency Notices</i>	204
J.	Channel Control and Placement	204
	1. <i>Local Authority over Channels</i>	204
	2. <i>Must-Carry Requirements</i>	205
	3. <i>Channel Placement and Numbering for Cable</i>	205
K.	Market Share and Ownership Structure.....	205
	1. <i>Market Share</i>	205
	2. <i>Subsidiary or “Common Carrier”</i>	205
	3. <i>Non-Integrated Ownership</i>	205
	4. <i>Integrated Ownership</i>	205
L.	Municipal Liability Exposure and Franchise Administration.....	205
	1. <i>First Amendment</i>	205
	2. <i>Damages Immunity</i>	206
M.	Institutional Networks	206
7.07	Broadcasting	206
A.	Minority Opportunities in Communications.....	206
B.	Low Power Television and Low Power FM Radio	206
	1. <i>Support for Low Power Television</i>	206
	2. <i>Ownership Opportunities</i>	206
	3. <i>Low Power FM Radio</i>	206
	4. <i>Benefits to Consumers</i>	206
C.	Fairness Doctrine.....	206
7.08	Satellite Services	206
A.	Public Interest Requirements.....	206
7.09	Miscellaneous	207
A.	Slamming	207
 RESOLUTIONS		
#2012-36	Local Government Support of Community/Municipal Broadband Networks.....	208
#2012-37	Broadband Deployment: A Call for Universal Availability and World-Class Quality	210
#2012-38	Opposing the Federal Communications Commission Notice of Inquiry Relating to Acceleration of Broadband Deployment.....	212

1.00 Introduction

Local government is the level of government which has the principal responsibility for providing services, solving day-to-day public problems and responding directly to the needs of citizens. The following chapter highlights important prerogatives of local governments and concerns about how federal policies impede and constrain the ability of local elected officials to fulfill their duties in our system of intergovernmental partnership.

A. Unfunded Mandates

The federal government should avoid policies that impose disproportionate responsibilities on local governments or increased financial liability without recognizing the fiscal impact of those policies. In particular, federal policies should not mandate new costs for local governments without providing adequate funds to reimburse local governments for new mandates.

B. Preemption

Activities such as franchising, zoning, issuing permits and licenses, and local code development are fundamental responsibilities of local governments. Federal policies should not undermine these activities or preempt local authority to protect the health, safety and welfare of local residents. Furthermore, preemptive policies constrain the ability of local elected officials to tailor policies to local needs and demands.

C. Fiscal Conditions

The economic fortunes of local governments nationwide are closely linked to the fiscal health of the federal government. Federal fiscal policies should not diminish the ability of local elected officials to respond to economic needs at the local level, especially during times of economic downturn.

D. Protect and Strengthen the Intergovernmental Partnership

The intergovernmental partnership must be strengthened to provide a framework of economic growth that balances the critical role of each level of government in the economic health of the nation, while also preserving important principles of federalism.

1.01 Intergovernmental Relations

A. Unfunded Mandates

The federal government must not initiate laws, rules and regulations, or take other actions and activities that will mandate new costs for local governments without

providing 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. In the case of legislation, these statements and assessments must be available at the time of initial subcommittee consideration. In the case of rules and regulations, the statements and assessments must be included as part of the initial *Federal Register* publication. 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.

Legislation and resulting regulations should be formulated on well-founded peer-reviewed science or fact, not speculation, exaggeration or scare tactics.

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. Federal legislation requiring agencies to perform cost benefit analysis of “major rules” should define regulations

having a significant impact on local government as “major rules.”

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. Federal laws should provide that organizations representing elected state and local officials and governments are not subject to laws restricting entities subject to regulation from participating in consultative processes with federal agencies to make regulations workable. Such exemptions will help ensure that elected state and local officials participate at an early stage in the development of federal regulations.

B. Taxation of Interstate Sales

Federal legislation must be enacted permitting states and localities to require remote sellers, whether the sales are made electronically, by mail order or other means, to collect state and local sales and use taxes on orders made within their boundaries.

These state and local sales and use taxes are currently existing lawful sources of government revenue. Every year that such authority is not granted the federal government should reimburse state and local governments the lost (uncollected) revenue.

C. Collection of Business Taxes

NLC opposes any federal legislative efforts that have negative consequences for local taxing and regulatory authority and disproportionately affect local businesses.

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 explicitly 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. NLC also opposes federal regulations or statutes that preempt the power of a city to regulate conditions it may place on a shipping company docking at facilities located within that city.

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 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.

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.

1. Simplification of Procedures

The conflicting administrative and eligibility requirements accompanying federal assistance must be

simplified and standardized. Such reforms would be intended for easing the administration of programs while not reducing the accountability of local government for its expenditures of federal funds. Essential to simplifying the process of applying for federal assistance would be an enactment of a procedure for municipal governments to certify their compliance with cross-cutting requirements for achieving national objectives common to most grant programs. Organization-wide audits should replace grant-by-grant audits to rationalize the auditing procedure.

2. Consolidation and Integration

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.

Legislation in three areas would greatly increase consolidation and integration. First, the President should have the power to consolidate related grant programs by Executive Order subject to Congressional veto. Second, the federal government should encourage joint funding by strengthening integrated grant procedures so related programs can be comprehensively financed through several agencies. Third, the federal government should authorize the consolidation of federal planning requirements and technical assistance programs.

3. Administration

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, by further decentralizing the federal decision-making process, and by guaranteeing the right of city governments to participate in the agency rule-making process. The basis for grant recipient selection and the requirements for grant program administration and evaluation should be specified clearly and consistently by federal agencies. City governments should receive reimbursement for indirect costs associated with grant administration. Formulas for allocating funds should be periodically reviewed by the federal government to assure that programs serve actual needs.

4. Information and Statistics

The federal government should continually seek to improve its systems of providing information about grant programs and the availability of funding. Efforts to make materials and information known to small cities are particularly needed.

In order to increase the fairness and effectiveness of the distribution of federal funds, uniform use of population, employment, and other data should be made and ways of improving the accuracy and timeliness of all data should

be found. In addition, methods of improving indicators of urban needs should be continually explored.

5. Audit Appeals

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. Municipal Postal Zone Names and Zip Code Assignment Process

In order to eliminate confusion among citizens and businesses and to reinforce community identities, the United States Postal Service should consult with municipal officials on postal changes affecting their communities and avoid, where practical, assigning territory of a municipality the mailing address of another municipality.

Recognizing the national interest in clarifying the ZIP Code designation process, NLC supports a directive to the USPS to reform and standardize the appeal process for municipalities in all ZIP Code related matters. These will include, but not be limited to, ZIP Code boundaries and default ZIP Code city designation. NLC also urges the federal government to work with municipalities via a transparent process that provides for due process and allows local governments to present concerns related to ZIP Code designation. The federal government should direct the USPS to improve efforts to educate municipalities of the reasoning behind the ZIP Code designation, boundary, and default city designation processes.

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.

1. *Rural Utility Services*

Provision of utility services in rural areas must include the following:

- Recognition of the primary role and the existing or planned capacity of cities to deliver water and sewer services;
- Eligibility of cities for financing to extend or improve current municipal utility services to serve urbanizing rural areas;
- Direct participation of cities in the review and approval of rural electric cooperative project proposals to serve locations near cities; and
- Demonstration that such rural water and sewer facilities do not duplicate planned or existing city services.

2. *Rural Electric Cooperatives*

Any financing offered to any Rural Electric Cooperatives by a federal agency shall be offered to cities and towns on the same basis and at the same interest rate offered to the Rural Electric Cooperatives. That action should also contain a declaration that such financing is not intended to provide rural electric cooperatives with compensable water, sewer, or electric service territory rights in any state court or state agency proceedings.

If any rural electric cooperative is eligible to borrow funds for the establishment of water, wastewater, and electric systems, such proposals shall meet the following criteria:

- a. Demonstration that the proposal to serve the rural area with water, sewer, and electrical services will not encourage or result in the loss of valuable wetlands, agricultural land or resources;
- b. Completion of an environmental impact statement or other evaluation of the effect of such facilities on water resources, population settlement patterns, adopted local government land use development plans, and the availability of alternative financing, such as EPA or state-administered loans and grants; and
- c. Demonstration that the extension of such rural utility systems will not create obstacles to annexation and orderly growth of cities and towns. NLC opposes any and all efforts that would grant exclusive and perpetual federal franchises or territory rights to Rural Electric Cooperatives.

3. *Rural Water Law*

NLC urges Congress to amend Title 7 U.S.C. Section 1926 to eliminate any restrictions on the ability of a municipality to provide a full range of services within any portion of a rural service district which is incorporated within a municipality. A mechanism should be provided allowing a municipality to make a negotiated cash payment to a rural district that will extinguish section 1926 territorial protection for specified portions of the district's territory.

L. Tax-Exempt 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.

Federal pension law should not preclude the levy of non-discriminatory local taxes on entities that are otherwise taxable.

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.

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 it should follow the following practices:

- Property tax obligations (both current and delinquent) on such properties should be paid pursuant to all state and local laws, as if the property was held in private ownership; and
- Federal agencies should operate in full compliance with all applicable federal, state, and local laws in its disposition of property, particularly in regard to environmentally sensitive property.

N. Census

The U.S. Census is of highest importance to America's cities and towns. The vital information provided is critical to many city activities such as community planning and redistricting. 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 an advisory committee, including state and local government representation, to advise and comment on a continuing basis regarding the development and administration of census programs.

To improve accuracy the Census must include more effective ways to reduce the undercount and especially the differential undercount of ethnic groups. Methodologies implemented should provide for a more collaborative process between the Census Bureau and city governments, both to ensure more accurate initial counts and to provide for a process of validation. The full utilization of community partnerships is critical to a more accurate census count. Congress and the Census Bureau should be more open to innovations, including, but not limited to, contracting with communities to assist in obtaining an accurate count.

Selection of the method of Census administration to be employed in each decennial Census shall be made at least four years prior to the date of the census. Organizations of city governments shall be provided a formal opportunity to review and comment. The method shall be clearly defined and city government participation shall be incorporated. There shall be a release of preliminary Census counts to all jurisdictions. The appeals process for preliminary Census counts will be established in advance and should not involve costs to the appealing jurisdictions which effectively remove the appeal right. Adequate funding must be provided to achieve these objectives.

The final information from the U.S. Census should be made available to municipalities concurrent with its reporting to Congress. Information shall be released in

multiple formats including an electronic format compatible with existing commercial and public domain redistricting and geographic information system software.

NLC supports the American Community Survey to improve the utility of census data and permit more frequent releases of data to demonstrate emerging local and regional trends.

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. Freedom of Information

The Federal Government must respond to requests by cities for non-classified federal information, directly relevant to the requesting city, under provisions of the Freedom of Information Act. The federal response must occur in ways that foster 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 the voting process. Control of such processes should remain in the jurisdiction of state and local officials.

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.

1.02 Finance

A. The Intergovernmental Partnership

The health and vitality of local economies are critical to a robust and dynamic national economy. However, NLC believes the intergovernmental partnership, which has served as the foundation of economic growth and revitalization, is slowly deteriorating. In particular, federal budgetary conditions are prompting federal policymakers to assume a smaller federal role in assisting municipal governments with domestic priorities.

Instead, federal policymakers have increasingly shifted the burden of infrastructure investment and service provision to local officials without commensurate fiscal assistance. In addition to unfunded mandates, federal officials have further aggravated local economic conditions by preempting the authority of local officials to collect the necessary revenues to ensure that necessary infrastructure and services are adequately funded.

NLC believes current fiscal conditions reinforce the importance of a strong and effective intergovernmental system. NLC further believes the intergovernmental partnership must be strengthened to provide a framework of economic growth that balances the critical role of each level of government in the economic health of the nation, while also preserving important principles of federalism. To that end, the federal government should engage more directly with local elected officials to learn the impact of national policies and programs on America's hometowns by establishing a permanent venue of local, state and federal officials, as well as private citizens, to share information, develop consensus and report publically on policy ideas affecting local governments.

B. Federal Budgetary Practices

Representing elected officials and leaders of hometowns throughout the United States, NLC calls on Congress and the President to develop a non-partisan plan to reduce the deficit and bring the federal budget into balance over a defined period of years. While recognizing we cannot afford delay, Washington should recognize the health and vitality of local communities are critical to a robust

and dynamic national economy. NLC certainly understands the potential for federal budgetary conditions may dictate a smaller federal role in assisting communities with domestic priorities just when the needs of citizens in our communities are greatest. Reductions in spending should not be based solely on domestic discretionary programs essential to vibrant communities and the families who live in them. Any deficit reduction plan should not rely on accounting tricks by transferring responsibilities or imposing unfunded mandates on our cities and towns. It should not preempt local taxing authority or eliminate the Federal tax exemption on municipal debt so hometowns can continue to collect the revenue necessary to ensure that infrastructure and local services are funded adequately. Furthermore, any structural changes in federal programs implemented for deficit reduction should allow for an adequate transition period for our hometowns to be prepared for our shared sacrifice. As such, NLC asks for transparent decision making and for a seat at the table as options for cutting the federal deficit are considered.

1. Federal Budget Deficits

Large federal budget deficits have many destabilizing effects on the economy and continuing deficits jeopardize prosperity and cities' ability to finance governmental activities at reasonable interest rates. Therefore, the federal government should not incur them on a consistent basis but only in times of national emergency. When such a deficit exists, the President and the Congress should work together and develop a balanced plan of revenue increases and spending restraints that bring the budget into balance over a period of years.

Federal actions to reduce federal deficits that ultimately transfer responsibilities to or impose unfunded mandates on municipal governments must be avoided. Implementation of any federal deficit reduction plan must provide cities with sufficient regulatory flexibility to be able to operate efficiently under new fiscal realities. Any structural changes in federal programs implemented for deficit reduction, or for any other purpose, must allow for an adequate transition period. Cities should be a full partner with states and the federal government in this process.

2. Federal Budget Process

NLC urges the federal government to adhere to a budget process that presents the public with a candid and understandable assessment of the financial condition of the federal government and the long-term ability of the federal government to fund essential domestic programs. An analysis should be done of the intergovernmental fiscal and program impacts on cities or urban areas of new programs and any substantial modification in ongoing programs. Summaries of these analyses should be included in the budget document. An evaluation of

the tax expenditures budget should be an important part of the federal budgetary process.

Specific plans should be prepared, based on current Congressional Budget Office projections, to guarantee the ability of the federal government to meet its long term future financial obligations, especially with respect to all entitlement programs, trust funds, and federal loan guarantee programs. Alteration of accounting rules or the changing of other procedural or budget rules should not be used as a substitute for honest deficit reduction.

An annual summary budget report, designed for the general public, should be prepared and widely distributed. This summary should concisely illustrate the balance condition of the current budget, and also highlight the future projections for entitlement, trust fund, federal loan guarantee and other programs which involve major financial obligations for the federal government. Appropriations for federal assistance programs should, to the maximum extent practicable, be provided on a multi-year basis. The President's authority to defer expenditure of previously appropriated funds should not be utilized for policy purposes, but should instead be limited to its original purpose, as a cash management tool exercised under congressionally established procedures.

3. Federal Revenue Policy

Revenue policy influences the level and allocation of consumption, savings, and investment. These impacts are pervasive and critical to the health of city economies and, in turn, to the national economy of which these city economies are the major component.

Modifications of the federal revenue system should make equitable changes in existing tax burdens and not reduce the level of progressivity in the present system. The interrelationship of all revenue should be considered and their aggregate effect on progressivity evaluated. Modifications to the federal revenue system must also acknowledge the direct and indirect linkages between federal, state and local tax systems. Changes to the federal revenue system that reduce the ability of cities to raise revenues and capital must be accompanied by specific federal actions to address any adverse impacts.

Tax expenditures comprise such a large amount of the federal tax base that sound fiscal policy requires they be fully integrated into the Congressional budget process. All federal tax expenditures should be subjected to review and change so that these programs contribute, along with entitlement programs, to deficit reduction in a manner consistent with all other expenditure programs.

Tax cuts should not be made until concrete legislation to achieve a balanced federal budget has been implemented.

The current income tax system is too complex, and perceived to encourage noncompliance. Noncompliance is of special concern to cities, as most of their tax system relies upon public acceptance and voluntary compliance.

The provision of the federal income tax code that allows taxpayers to deduct their state and local tax obligations from their federal taxable income is a fundamental statement of the historical right of state and local governments to raise revenues and of individuals not to be double taxed. It enhances the ability of state and local governments to raise revenues, promotes equity in the federal taxing system, discourages the migration of businesses and individuals for tax purposes, increases national productivity by avoiding excessive cumulative federal, state or local income tax rates, and enhances the autonomy of state and local governments.

For these reasons, NLC opposes the elimination or reduction in value of the deductibility provision for state and local taxes in the federal income tax code. NLC believes the federal government erred when the deductibility of state and local sales taxes was disallowed. In future revisions of the income tax, Congress should consider restoration of sales tax deductibility.

NLC also opposes the imposition of federal sales and excise taxes on municipalities and their essential functions, just as the federal government prohibits municipalities from levying sales and excise taxes on the federal government and their activities.

C. Municipal Finance Mechanisms

The constitutional principle making municipal government, in exercising its legitimate functions, immune from federal government taxation must be uniform and should not be challenged, altered, or circumvented by any law, rule, or regulation. Municipal revenue authority must remain intact. Finance mechanisms like municipal bonds are of critical importance to municipalities and directly support the building of local infrastructure, housing and hospital development projects, redevelopment of rural and urban areas, municipal utilities, among many other uses.

NLC supports current federal income tax exemptions for the interest on municipal bonds and the exclusion of the alternative minimum tax levies on some classes of municipal bonds.

NLC supports efforts to find alternative administrative remedies in situations when an outstanding municipal bond is found in violation of federal law and would otherwise be declared taxable.

The federal government should modify its laws imposing tests for tax exemption that are dependent on factors

subject to change over time. The goal should be to create a one-time pre-issuance test of conformance to the requirements of federal law.

1. Regulation of Municipal Bonds

The authority of municipal governments or their agencies to issue tax exempt municipal bonds as legal obligations of those governments or agencies should not in any way be reduced or constrained by the federal government. Specifically, the federal government should not restrict municipal bond issuance or tax the interest on municipal bonds when:

- No private entity owns the bond-financed project; and
- The issuing government retains substantial operational, functional, or regulatory control of the bond-financed project.

NLC supports efforts to make consistent the definition of a small issuer under federal law for purposes of the arbitrage exemption and eligibility for the bank interest deduction, as well as efforts to raise and equalize the eligibility threshold for both the bank interest deduction limit and the arbitrage rebate exemption.

For purposes of computing small issuer eligibility for the arbitrage rebate exemption the following types of bond issuances should not be counted:

- Private activity bonds; and
- The amount of a refunding bond that does not exceed the outstanding amount of the bond to be refunded.

In order to ensure an orderly market for municipal bonds, Congressional proposals to alter laws regulating municipal bonds should have effective dates no earlier than the final passage date of the legislation. Changes in federal municipal bond law should not apply to any municipal bond with an issuance date prior to final passage of the law making the change.

2. Advanced Refunding

Tax-exempt bonds are an important source of capital investment at the local level. NLC supports federal legislation that allows the number of times local governments can apply for advanced refunding in order to take advantage of lower interest rates for refinancing public debt. Additional opportunities for advanced refunding would allow local governments to access capital at lower costs, thereby mitigating the strain on already finite resources at the local level and ensuring that necessary services are not shortchanged, neglected or eliminated.

3. Municipal Bond Market Transparency

In order to increase competition, NLC supports a more transparent municipal bond market including instantaneous reporting of stock exchanges, private

equity transactions, and underwriter discounts to reduce the cost of bond issuance.

4. Bond Market Liability

NLC supports federal efforts to increase confidence in municipal capital markets by exposing professionals serving the municipal bond market as advisors, counsels, bankers, accountants etc. to full accountability in federal courts for actions relating to fraud with regard to the purchase or sale of securities.

Municipal elected officials should be absolved from liability for any change in the tax status of municipal bonds if they exercise due diligence in the issuance of municipal bonds.

5. Arbitrage and Refunding Bonds

NLC supports current restrictions against issuing new municipal bonds or refunding prior issues of municipal bonds solely for the purpose of gaining arbitrage profit. However, in those instances where a reasonable amount of arbitrage profit may occur as a result of a bond issuance, a bond refunding, or in the prudent financial management of an issue, NLC would urge that such obligations not be subject to federal taxation. Primary control of arbitrage and refunding bonds should be done through statutory provisions rather than through administrative rules and regulations. Federal restrictions in these matters should not interfere with normal financing methods.

NLC also supports current federal law which limits application of federal arbitrage restrictions only to bond issue proceeds, not to reserved, sinking, or dedicated funds collected by the issuing entity. Arbitrage penalties should not include the potential of retroactive determination. Calculations of cash flow deficits for purposes of arbitrage regulations should not consider restricted or segregated municipal funds.

Municipalities should be allowed to enter into supply contracts or use other financial mechanisms to secure supplies of commodities such as natural gas or electricity, without restriction, so long as the size and terms of contracts are reasonably related to the future needs of the municipality.

6. Municipal Credit Enhancements

It is in the interest of cities to have as many institutions as possible eligible to provide credit enhancements for tax exempt bonds. Therefore, NLC believes nationally chartered commercial banks should be permitted to underwrite all types of investment quality municipal revenue and general obligation bonds.

Congress should amend the Internal Revenue Code to add the Federal Home Loan Banks to the list of organizations that can provide standby purchase

agreements, letters of credit and other credit enhancements to cities.

7. Increasing the Supply of Municipal Capital

The demands for capital improvements at the municipal government level should not be inhibited but supported by the federal government in the dual partnership required to maintain and rebuild access to a better urban life quality. Criteria against which such proposals must be judged include the following:

- Any new financing mechanism must preserve the ability of cities to act independently on matters of purely local concern;
- Any financing mechanism should offer cities at least as much financial advantage as cities presently enjoy by virtue of the tax-exempt feature of their securities; and
- The choice of use of any available financing mechanism must be solely at the option of the user. The administration of such financing mechanism must not subject the user to administrative or other delay that could jeopardize the ability of the user to gain maximum financial advantages.

8. Financial Reporting

Financial records should be kept in accordance with generally accepted accounting and reporting standards; financial reports should be made available in a form that is clear and understandable.

Compliance with financial reporting standards and auditing and accounting guidelines should remain voluntary in nature and not subject to mandates by the federal government.

9. Antitrust Issues

The federal antitrust laws should be amended to exempt from antitrust challenge any municipal action which is based on an affirmative municipal policy of replacing competition or monopoly service to protect the general public interest.

In addition, the federal antitrust laws should be amended to permit local governments, to bring antitrust actions against their suppliers.

10. Financial Emergencies and Municipal Tax Liens

In financial emergencies the federal government should assist a municipality to obtain needed funding if the municipality has exhausted all reasonable and prudent steps to secure financing under its own authority. Federal assistance should be designed to return a municipality to its former state of financial independence.

NLC supports changes to federal bankruptcy law to protect to the maximum extent the tax claims of municipalities against private entities that file for

bankruptcy protection. NLC believes that federal law should clearly state that the automatic stay provision of the federal code (section 362) does not apply to municipal tax liens; that payment of tax liens in full should be placed before junior lienholders; and other necessary changes to protect city revenues during private bankruptcy proceedings.

11. Full Insurance of Public Deposits

As long as state governments retain laws requiring substantial pledging of public securities for deposits of public funds in financial institutions, the federal government should not provide full insurance for those deposits because of the adverse consequences such action could have on the municipal bond market.

12. Municipal Sale Leaseback Financing

Current tax provisions for leasing equipment or using service contracts should be the same for cities and private companies.

NLC supports change in current law to provide for sale leaseback arrangements for buildings or facilities if they are for new construction or to finance substantial rehabilitation of an existing structure or facility.

However, if industrial development bonds are used to finance construction or rehabilitation costs, other than for resource recovery and municipal wastewater treatment plants, then the depreciation period should be extended.

1.03 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. Taxation of municipal pension plans and other employee benefit programs shall be opposed. Congress shall exempt municipal governments from the Internal Revenue Code, Section 415 limits, or allow municipalities to pay excess benefits to their employees.

b. **Social Security System:** Because of the unique, historical evolution of Social Security options and requirements for state and local governments and their employees, 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.

The Social Security program should be taken “off budget” and should be operated under federal government supervision by an independent board put in place to determine policy and govern the program.

- c. **Deferred Compensation Plans:** The federal government should recognize by law and regulation the unique status of section 457 deferred compensation funds. This recognition should provide that employee contributed funds should neither be converted to use for municipal purposes or be considered assets of municipalities in bankruptcy proceedings. Limits on individual employee deferrals should be indexed so that these limits increase over time. Roll-overs to other deferred plans should be allowed.

2. *Employee-Employer Relations*

The federal government should not undermine municipal autonomy with respect to making fundamental employment decisions by mandating specific working conditions. The federal government should not mandate collective bargaining rights, legalize strikes, or require compulsory binding arbitration.

In view of the labor protections provided by state laws, labor agreements, city government civil service systems and municipal personnel procedures, NLC opposes federal legislation which singles out a class of municipal employees to be provided special investigative and disciplinary procedures.

3. *Municipal Employee Fringe Benefits*

The primary responsibility for determining, providing and financing benefits for municipal employees is and should remain the responsibility of local governments. The federal government should not enact laws imposing fringe benefit requirements, such as health insurance requirements and leave provisions, on municipal employers. Cities, as employers, are better suited to develop fringe 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 provided by a municipality to its employees pursuant to state law or regulation, local laws and regulations, contracts or collective bargaining agreements.

4. *Drugs and Alcohol*

Drug and alcohol abuse can heavily impact the municipal work force. To combat this problem NLC would support federal actions such as legislation or technical assistance which would strengthen the ability of cities to initiate

and carry out drug testing and treatment of city employees for drug and alcohol abuse.

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 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 groups, women, and the handicapped to upgrade these employees to permit greater career development potential;
- d. Making maximum use of opportunities to employ the disadvantaged-unemployed or under-employed persons with educational, training, economic, physical, or other handicaps in suitably structured jobs where they have the opportunity to acquire, through work experience and training, the additional

knowledge and skills necessary for career advancement; and

- e. Assuring an equitable distribution of municipal services or benefits to all city residents.

Current duplication in federal civil rights provisions and inconsistency in federal agency interpretation of existing laws create confusion, impose unnecessary administrative burdens on municipalities, and do little to further the cause of justice for employers, employees, or the general public. The federal government should strengthen its commitment to an effective and coordinated anti-discrimination effort by consolidating and vesting rulemaking and enforcement authority over existing and future civil rights provisions in a single agency.

Federal, state and local governments should all be held equally responsible for achieving diversity in their own personnel practices. Furthermore, local governments should call upon federal government to pursue vigorously affirmative action programs in its own personnel practices or grant to local governments 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 take no action, which would intrude upon the authority of a city to directly operate, contract out or sell the operation of any service.

Public rights-of-way are properties held in common and controlled by municipalities for the benefit of the public. Municipal governments engage in a variety of activities to minimize service disruptions to the public, 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, the charging of fees, the levying of rental charges, and the issuance of permits.

The federal government should take no action that restricts the authority of municipalities in this area. The federal government should not enter into any international agreement that would enable any foreign entity to seek damages predicated on the actions of a municipality, regarding rights-of-way, which are legal under U.S. law.

3. *Regional Planning and Cooperation*

Urban problems frequently cross jurisdictional boundaries and require area-wide action to achieve measurable relief. If federal programs are to facilitate the efforts of local governments to deal with these problems, they should conform to several basic principles:

- a. Any federal legislation or regulation which mandates area-wide planning should provide necessary resources towards the development of such an organization and establish flexible performance standards for the planning process. State and local elected officials must be included in the decisions regarding the purpose and responsibilities of area-wide planning organizations;
- b. Any area-wide planning organization will include proportional representation based on the population of participating jurisdictions;
- c. Regional planning bodies should be created to increase cost effective delivery of service. These sub-state districts or regional planning bodies should allow for flexible interpretation of federal guidelines as a result of local political, economic, and social conditions and should include controlling mechanisms for local participants.

4. *Municipal Liability*

In recent years, cities have experienced unprecedented increases in costs in protecting themselves from public liability. While municipalities must take steps to improve their own internal management programs and policies to identify, reduce, eliminate, and protect against the risks of carrying out 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 1983 and related statutes by preventing the filing of traditional state tort claims in federal courts under the umbrella of civil rights actions or by other appropriate changes;
- Lessening the personal 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 that should be implemented are:

- 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 in federal law that expose municipalities to liability that attorney fee awards should go to the prevailing party;
- Providing for a six-month notice of claim requirement when a municipality is the potential defendant; and
- Providing in federal law that the statute of limitations period should be the limitations period for personal injury actions in the state of occurrence.

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 a specified period of time in advance of trial is greater than relief finally granted by the court.

In the drafting or revision 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 there should be provisions allowing the municipality to apply these fine amounts to cure conditions giving rise to the imposition of the fine;
- b. Limitations should be placed on the extent to which a city or its municipal officials may be held vicariously liable for the acts of their employees;
- c. Federal law should not limit 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. That 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.

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 Jones Act to exempt municipal government employees from the provisions governing the death or injuries to an employee working on a vessel.

In those cases where there is a trade-off of municipal authority and rights in federal legislation, which also provides 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 its coverage of terrorism, and if available, it is prohibitively expensive.

This limited ability to obtain natural disaster insurance also has restricted or stopped property transfers in some real estate markets. The federal government has stepped in to provide assistance to the states whose residents have lost coverage from their insurance companies, but often this assistance comes at the expense of other federal programs.

The costs to the federal government continue to increase as people cannot or do not seek private insurance to help cover losses from natural disasters. Similarly, the federal government must address reinsurance for acts of terrorism. Although a concentrated effort to prevent reliance on a 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 where such procedures are based on objective and otherwise legal criteria. Cities may decide to adopt special provisions,

for example: (a) grant 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 should respect state and local interests and policy judgment.

NLC RESOLUTION #2012-1**REGARDING THE CLOSURE OF POST OFFICES**

WHEREAS, the United States Postal Service (USPS) faces a severe fiscal crisis; and

WHEREAS, USPS is facing a deficit of \$8.5 billion in FY 2011 even after achieving savings of \$6 billion; and

WHEREAS, the Government Accountability Office recently added USPS to its list of “high-risk” federal agencies and issued a report calling on USPS to develop and implement a broad restructuring plan; and

WHEREAS, as part of its plan to address this fiscal crisis USPS is studying closing postal facilities and other service cuts; and

WHEREAS, USPS is also looking at consolidating mail processing facilities, realigning carrier routes, increased automation and reduction of mail service from six to five days per week; and

WHEREAS, as it studies postal facility closures, USPS is reviewing several factors including mail volume, proximity to other postal facilities and potential savings in labor and utility costs; and

WHEREAS, postal facilities often serve as an anchor of many central business districts and as a major focal point of urban commercial neighborhoods; and

WHEREAS, 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; and

WHEREAS, postal facilities located in central business districts and urban commercial neighborhoods are often more accessible to the elderly, people with disabilities and households without a motor vehicle than other post offices; and

WHEREAS, many low- and moderate-income households do not have Internet access; and

WHEREAS, under current law USPS must undertake a formal public notification and comment period prior to closing a post *office*; and

WHEREAS, legislation has been introduced to require USPS to undertake a formal public notification and comment period prior to closing any postal *facility*.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) understands the severity of the fiscal crisis USPS is facing and the need for USPS to take drastic action to address it; and

BE IT FURTHER RESOLVED that 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; and

BE IT FURTHER RESOLVED that NLC supports legislation that would create a formal public notification and comment period prior to the closure of any postal *facility*; and

BE IT FURTHER RESOLVED that NLC urges USPS to take a comprehensive approach to restructuring that does not rely disproportionately on postal facility closures; and

BE IT FURTHER RESOLVED that NLC urges USPS and Congress to prevent disproportionate impacts on cities and neighborhoods as USPS is restructured.

NLC RESOLUTION #2012-2**IN SUPPORT OF FEDERAL SUPPORT FOR A
MUTUAL BOND INSURANCE COMPANY**

WHEREAS, the municipal bond market has been devastated by the downgrades of every single municipal bond insurance company resulting in many small, infrequent, and lower-rated issuers of municipal bonds no longer having access to the market or only at rates that are significantly higher than they were prior to the downgrades of the bond insurers; and

WHEREAS, the economic crisis has put state and local governments across the country under great fiscal stress and this stress imperils (1) essential government services that taxpayers, rate payers and their families rely on and (2) governments' ability to pay for them such that prudent steps must be taken to alleviate the cost burdens of state and local governments including the cost of tax-exempt borrowing; and

WHEREAS, there continue to be market conditions that threaten the continuing viability of existing insurers and the ability of new insurers to succeed in the market; and

WHEREAS, alternative sources of credit enhancement, letters and lines of credit, from banks and other providers are insufficient to meet borrowers' needs, are only available at very high rates, or may only be available to issuers who are able to link depository relationships with these credit facility providers; and

WHEREAS, it is in the national interest to restore market access at lower borrowing costs for municipal issuers to support the financing of billions of dollars of infrastructure and other essential governmental projects that will create jobs and support national economic growth; and

WHEREAS, the National League of Cities (NLC) has proposed an alternative insurance mechanism, a mutual bond insurance company, which is a business structure that has proven to be successful, stable and policy-holder focused and provides greater service and lower cost to the purchasers of insurance; and

WHEREAS, NLC seeks an interest-bearing loan from the federal government to provide capital necessary to create the first-ever mutual bond insurance company, Issuers Mutual Bond Assurance Company, that will help return stability to the municipal market, reduce borrowing costs, stimulate job creation, and contribute to the nation's economic recovery.

NOW, THEREFORE, BE IT RESOLVED that NLC urges Congress and the Administration to provide the financial support necessary to provide a strong capital base for a new bond insurance company that will be mutually owned by state and local government bond issuers and will serve the public by providing market access for these issuers and reducing the cost of borrowing for essential governmental projects.

NLC RESOLUTION #2012-3**CALLING FOR A BALANCED APPROACH TO DEFICIT REDUCTION**

WHEREAS, current federal revenues and expenditures are unbalanced requiring large deficits to the detriment of future generations and to programs important to cities and towns; and

WHEREAS, the aging population and the rising cost of health care will cause spending on the major mandatory health care programs to grow from roughly 10 percent of GDP today to about 15 percent of GDP 25 years from now;¹ and

WHEREAS, the Government Accounting Office projects that by 2040 the national deficit will be so large that balancing the budget could require cuts in total federal spending levels of as much as 60 percent, or raising taxes to almost two times today's levels; and

WHEREAS, revenue from today's tax laws are insufficient to pay for the promises successive Congresses and Administrations have built into new and current programs; and

WHEREAS, long-term structural deficits have significant, lasting consequences for federal, state and local governments, as well as contribute to the further breakdown of intergovernmental relationships in the face of increased parochialism; and

WHEREAS, federal budgetary conditions may dictate a changing role for the federal government in communities, local businesses and the infrastructure that supports our national economy just when greater investment is needed to spur economic growth and ensure our competitiveness in the global arena; and

WHEREAS, to be globally competitive our economy demands an immediate reexamination and update of the nation's tax systems; and

WHEREAS, maintaining tax-exemption on municipal bonds is essential to help our national economy grow and create jobs because three-quarters of the total United States investment in infrastructure is accomplished with tax-exempt financing from over 50,000 state and local governments and authorities; and

WHEREAS, state and local budgets face significant uncertainty and serious risk of destabilization because of linkages to unsustainable federal policies; and

WHEREAS, the National League of Cities (NLC) further believes intergovernmental partnerships must be strengthened to provide a framework of economic growth that balances the critical role of each level of government in the economic health of the nation, while also preserving important principles of federalism.

¹ *2011 Long-Term Budget Outlook*, Congressional Budget Office (June 2011).

NOW, THEREFORE, BE IT RESOLVED that NLC calls on Congress and the President to adopt a non-partisan plan to reduce the deficit and balance needed reductions in spending with revenue enhancement, while making growth-enabling investments in cities; and

BE IT FURTHER RESOLVED that NLC calls on Congress and the President to maintain tax-exempt municipal bonds to promote employment and investment in our nation's cities and towns, and reform our nation's tax code to provide a more sufficient revenue stream; and

BE IT FURTHER RESOLVED that NLC calls on Congress and the President to obtain input and actively partner with cities in a transparent process that leads to a balanced plan to resolve and reduce the current and growing deficit over a defined period of years, so the federal government can meet its long-term future financial obligations and preserve the ability of local governments to invest in their own communities; and

BE IT FURTHER RESOLVED that reductions in federal spending should not come solely from domestic discretionary programs essential to vibrant communities and the families who live in them; and

BE IT FURTHER RESOLVED that any balanced deficit reduction plan should not rely on accounting tricks by transferring responsibilities or imposing unfunded mandates on our cities and towns; and

BE IT FURTHER RESOLVED that any structural changes in federal programs implemented for deficit reduction should allow for an adequate transition period for our hometowns to prepare for our shared sacrifice.

NLC RESOLUTION #2012-4**LOCAL GOVERNMENT SUPPORT
FOR FEDERAL LEGISLATION ON STREAMLINED SALES
AND USE TAX AND OPPOSITON TO ADDITONAL REQUIREMENTS
MANDATING STATE COLLECTION OF TELECOMMUNICATIONS TAXES**

WHEREAS, rapid growth in interstate commerce has complicated state and local government efforts to collect legally authorized sales and use taxes on remote transactions representing a significant loss of state and local government resources; and

WHEREAS, the University of Tennessee Center for Business and Economic Research estimates that annual national state and local sales tax losses on e-commerce will grow annually to \$11.4 billion by 2012 for a cumulative six-year total loss of \$52 billion; and

WHEREAS, the Streamlined Sales Tax Project (SSTP) adopted as its original mission the following statement: “The Streamlined Sales Tax Project will develop measures to design, test and implement a sales and use tax system that radically simplifies sales and use taxes”; and

WHEREAS, the National League of Cities (NLC) has supported the SSTP since its inception in 2000; and

WHEREAS, 44 states and the District of Columbia approved the Streamlined Sales and Use Tax Agreement (Agreement) which sets the minimum sales and use tax statutory simplifications required of any state that wishes to participate in the simplified system; and

WHEREAS, to date, 23 state legislatures have amended their sales and use tax statutes to conform to the requirements of the Agreement; and

WHEREAS, Congress is considering legislation to provide states that are members of the Agreement and in compliance with the federal legislation the authority to require out-of-state sellers to collect and remit sales and use taxes on remote transactions attributable to those states; and

WHEREAS, the federal legislation is expected to impose additional requirements beyond those supported by the SSTP and included in the Agreement, including simplification of collection and administration of local telecommunications taxes; and

WHEREAS, the proposed requirements for state collection and administration of local telecommunications taxes are contrary to local control and propose “federalizing” traditionally local tax matters; and

WHEREAS, the proposed requirements for state collection and administration of local telecommunication taxes are directly contrary to NLC’s longstanding policy, which opposes federal efforts to curb the ability of local officials to collect local telecommunications taxes.

NOW, THEREFORE, BE IT RESOLVED that NLC supports efforts by states to streamline and simplify their sales and use tax collection and administration systems; and

BE IT FURTHER RESOLVED that NLC commends the Streamlined Sales Tax Governing Board for considering the challenges that the Agreement's destination sales tax sourcing requirement presents to those states using origin-based sourcing and working to identify solutions that would allow those states to participate in the Agreement; and

BE IT FURTHER RESOLVED that NLC commends Congress on recognizing the importance of the issue and introducing legislation that would grant states the authority they need to require sellers, regardless of location, to collect sales and use taxes owed to them; and

BE IT FURTHER RESOLVED that NLC strongly opposes the inclusion in federal legislation of proposed requirements for state collection and administration of local telecommunication taxes, and will oppose federal legislation that includes such requirements; and

BE IT FURTHER RESOLVED that NLC opposes the inclusion in federal legislation of any other requirements, beyond those supported by the SSTP and included in the Agreement that would preempt local government collection or administration of revenues or would diminish local government net revenues.

NLC RESOLUTION #2012-5**UNITED NATIONS CONFERENCE ON RACISM RESOLUTION**

WHEREAS, the United Nations Conference on Racism took place in April 2009 in Geneva, Switzerland; and

WHEREAS, over 100 countries participated in the conference designed to combat racism and related forms of intolerance worldwide; and

WHEREAS, the United States boycotted the conference; and

WHEREAS, the United States also demanded that the reference to reparations for slavery be taken out of the document; and

WHEREAS, considering United States history, policy and practices of racial discrimination, there should be a ground swell of support for any world initiative designed to show a propensity for atonement for a national ill; and

WHEREAS, the United States, as a world power, should be a part of any and all discussions designed to shape world policy of any nature; and

WHEREAS, the United States should entertain the debate for the purpose of affording U.S. citizens reasonable opportunity to hear both sides of this divisive issue to enable consensus building; and

WHEREAS, the Conference was designed to help to eradicate the ills of racism; and

WHEREAS, the United States boycotted the conference on racism held in September 2011, thereby missing again an opportunity to lead the dialogue challenging racism worldwide; and

WHEREAS, the United States is the most powerful country in the world and should be a part of such critical world dialogue.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities urges the United States to participate in the next world conference on racism and related intolerance.

NLC RESOLUTION #2012-6**MEDICINAL USE OF MARIJUANA**

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

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

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

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

WHEREAS, America's cities are expending scarce resources as a result of this conflict between federal and state law.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) urges the federal government to resolve this conflict; and

BE IT FURTHER RESOLVED that NLC urges the federal government to consider a precise interpretation of the CSA to recognize and address whether the medicinal use of marijuana in prescribed circumstances is or is not in conflict with the CSA.

NLC RESOLUTION #2012-7**SUPPORT FOR MODERNIZATION AND EQUAL APPLICATION OF THE COMMUNITY REINVESTMENT ACT**

WHEREAS, the Community Reinvestment Act has encouraged responsible banking practices for more than 30 years; and

WHEREAS, the Community Reinvestment Act creates incentives for banks to provide basic financial services for low- and moderate-income communities including responsible home mortgage lending, housing and homeowner counseling, and foreclosure mitigation, and

WHEREAS, the U.S. Federal Reserve Board reports that the Community Reinvestment Act did not contribute to the current economic or home foreclosure crisis, and that only six percent of all high-cost, high risk loans in 2006 were considered on bank CRA exams; and

WHEREAS, fundamental structural changes to the U.S. home finance system and the housing market have weakened or eliminated the intended protections and benefits of the Community Reinvestment Act for the majority of U.S. homebuyers.

WHEREAS, fundamental structural changes to the U.S. banking and finance system have weakened or eliminated the application of CRA fiscal accountability measures for financial institutions to the cities and towns in which they do business; and

WHEREAS, cities and towns working to fulfill the CRA accountability gap in innovative ways that ensure that local tax generated revenues are invested in responsible financial institutions that partner with local governments to maximize benefit of public investments to the taxpayer; and

WHEREAS, on March 20, 2002, the City of Philadelphia signed into law a requirement that all banks authorized to receive deposits from the City submit an annual statement of community reinvestment goals within Philadelphia; and

WHEREAS, on March 5, 2010, the Los Angeles City Council unanimously supported a Responsible Banking Initiative that requires financial institutions with which the City contracts to provide an annual “report card” detailing their investment and lending activity in Los Angeles; and

WHEREAS, the ultimate ability of cities and towns to impact the activities of financial institutions operating within their jurisdictions is necessarily limited by federal regulatory authority and the financial impact of municipalities on financial institutions portfolios.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities supports Congressional efforts to modernize the Community Reinvestment Act such that it can remain relevant within dynamic market conditions, and

BE IT FURTHER RESOLVED, that standards and protections intended under the Community Reinvestment Act should be provided for all consumers regardless of how lending institutions may be classified; and

BE IT FURTHER RESOLVED, that the benefits afforded by the Community Reinvestment Act should apply equally to every city and town regardless of size or circumstance; and

BE IT FURTHER RESOLVED, that federal efforts to modernize the Community Reinvestment Act should encourage and compliment, and not supplant, efforts of local governments to incent transparent and responsible banking practices from financial institutions doing business with cities and towns.

NLC RESOLUTION #2012-8**REGARDING THE U.S. CAPITAL REINVESTMENT OF FOREIGN EARNINGS AT A LOWER CORPORATE TAX RATE FOR U.S. MULTINATIONAL CORPORATIONS**

WHEREAS, the United States is engaged in a global economic competition and our economy and job climate continues to struggle; and

WHEREAS, an estimated \$1.2 trillion in U.S. earnings are held outside of the U.S. because of inadequacies in the U.S. corporate tax system; and

WHEREAS, the United States now has one of the highest statutory corporate tax rate among the major industrial countries in the Organization for Economic Cooperation and Development (OECD);

WHEREAS, a high tax rate will prevent employers from investing these revenues in U.S. operations and limits the ability to create U.S. jobs, to build U.S. infrastructure and to develop new U.S. research and development opportunities; and

WHEREAS, repatriating U.S. foreign income would attract between \$1.2 trillion and an estimated \$565 billion to the U.S., that would otherwise remain outside of the U.S; and

WHEREAS, the additional investment would result in 425,000 additional jobs during a three-year period; and

WHEREAS, federal government revenues gained for all levels of government for vital jobs and infrastructure investments could increase by about \$112 billion in a three-year period; and

WHEREAS, additional federal, state and local revenues would stem from both the taxes paid on the repatriated foreign funds that otherwise would have remained outside the U.S. and the increased tax revenues generated by the increased economic activity stimulated by the U.S. multinational corporations' use; and

WHEREAS, the proposed repatriation policy not only provides a short run influx of capital to the U.S., it is also a sound policy for strengthening long-run U.S. capital investments that has wide bipartisan support.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) recognizes the importance to U.S. jobs and economic competitiveness and the need for the Administration and Congress to take short-term and long-term action to address it; and

BE IT FURTHER RESOLVED that NLC urges the Administration and Congress to fast-track proposals to spur U.S. economic and job growth as a high priority; and

BE IT FURTHER RESOLVED that NLC supports legislation to allow the temporary return of foreign earnings by U.S. multinational companies throughout the U.S. at a reduced corporate tax rate; and

BE IT FURTHER RESOLVED that NLC urges the Administration and Congress to stimulate the U.S. economy, boost U.S. job growth, enhance the competitiveness of U.S. companies, and increase federal, state and local tax revenues, by allowing existing profits earned by foreign subsidiaries of U.S. companies to be repatriated at a reduced U.S. tax rate to immediately inject capital into the U.S. economy creating jobs and deploying capital.

2.00 Environmental Quality

A. Problem

Environmental degradation respects no political boundaries; therefore a coordinated national environmental quality policy is vital to our nation. Without such a policy, no city or town can accomplish the most basic goals of protecting the health, welfare, and safety of its citizens.

B. Goals

A national environmental quality policy must:

- Improve the quality of the total environment while protecting the environment from further degradation; and
- Assess both current and long term environmental impacts, ensuring that the needs of the present are met without compromising the ability of future generations to meet their own needs.

C. Federal Policies

1. *National Environmental Policy Act*

NLC believes that the National Environmental Policy Act (NEPA) has encouraged the federal government to consider alternatives and mitigation options to proposed federal projects, and that the implementation of NEPA supports NLC's goals of environmental quality.

To reduce unnecessary project delays, NLC urges the federal government, in cooperation with local elected officials, to improve the NEPA process. NLC believes any attempts to improve NEPA must also:

- Mandate concurrent reviews among all federal agencies involved in the NEPA process for a project;
- Develop clearly defined procedures for resolving disputes among those federal agencies;
- Eliminate duplicative reviews by substituting more stringent or equal state environmental reviews for the federal review process;
- Require all agencies to determine appropriate time frames to complete their reviews, and penalize agencies that do not meet the deadlines; and
- Ensure adequate opportunity for public involvement.

To encourage public participation, NLC also recommends that NEPA documents include glossaries, bylines and phone numbers of the federal officials responsible for each document.

2. *Federal Mandates*

To meet national environmental quality goals, NLC recognizes that federal mandates are necessary. Where federal standards are established, the federal government

must assure local government adequate capacity, resources, and time to achieve those standards. In addition, the federal government should renew its financial partnership to assist municipalities in complying with these mandates. Moreover, local governments must have the flexibility to determine their own methods to achieve federal mandates.

D. Principles

1. *Regional Approaches*

The impact of federal environmental programs must be evaluated in terms of the total environment, and coordinated with local and area wide planning efforts. Regional approaches to resolve environmental issues that cross-jurisdictional boundaries should be encouraged.

2. *Sustainability*

NLC is committed to the concept of sustainability, that as a society we must find ways to meet the needs of the present without compromising the ability of future generations to meet their needs. This is especially significant when considering the environment and natural resources. From a municipal perspective, protecting and rebuilding existing communities are vital components of a national environmental protection program. Vast amounts of natural resources already have been committed to and by urban communities. Restoring and strengthening existing communities contributes toward ensuring a sustainable future.

3. *Climate Change*

NLC believes that the solution to reducing greenhouse gas emissions lies in balancing a commitment to conserving energy, protecting the environment, developing new technologies, and strengthening the economy.

4. *Climate Change Adaptation*

A successful national climate protection strategy must focus on mitigating the effects of climate change and on adaptation measures that are necessary to prepare cities and residents for those changes that may be unavoidable. The range of adaptation issues must be uniquely addressed by each local government. The increasing threats related to climate change include, but are not limited to, sea-level rise, extreme weather events, such as heat waves, wildfires, droughts, floods, heavy precipitation and strong storms, pest infestations, and disease, all of which can threaten human health, cause damage to local infrastructure, jeopardize water quality and availability, and lead to energy and food shortages.

The breadth and severity of these threats require the assistance and resources of the federal government.

NLC urges the federal government to:

- Comprehensively study the effects of climate change on the nation's cities, as well as different regional climate change impacts, and identify solutions to address current and future threats;
- Provide federal funding for local adaptation projects;
- Ensure that local governments have the information, resources and tools to adequately plan for and respond to climate change effects; and
- Establish a national climate service to communicate changes and impacts, and provide critical time-sensitive information to local governments and the public, as well as long-term climate change information.

5. *Environmental Justice*

Recent studies have suggested that the impacts of pollution fall disproportionately on poor and minority communities, an issue of special concern to the nation's cities and towns.

To mitigate these unacceptable impacts, NLC supports federal legislation that would require the Environmental Protection Agency (EPA) to:

- Identify those areas with the largest concentrations of toxic chemicals in air, land, and water;
- Assess the human health in the areas of highest impact;
- Provide opportunities and resources that will allow them to participate in determining adverse health effects and economic impacts;
- Identify activities that have significant effects on human health and develop plans that will result in net reductions in pollution;
- Include environmental justice as an integral component of all federal planning, programs, and statutes; and
- Enhance opportunities for early public and local government participation, including access to accurate, objective information about the consequences of permit issuance.

NLC opposes any federal regulations that place restrictions on state and local government actions regulating private property or that require additional compensation beyond current interpretations of the Fifth Amendment of the U. S. Constitution.

2.01 Energy

A. Problem

Fluctuations in the cost of energy, disruptions in supply from various energy sources, environmental degradation

as a result of energy production, and the lack of a national conservation policy, all threaten to dismantle the financial security of our nation's cities and our national economy.

B. Goals

NLC urges the federal government to work with local governments to develop and implement a sustainable energy policy that is reliable, equitable, environmentally responsible and evidence-based and that will:

- Promote the most efficient and affordable use of all sources of energy while protecting the environment;
- Protect the supply of energy by promoting the use of renewable sources and alternative fuels, while developing techniques to reduce the environmental impact of the use of conventional fossil fuels;
- Protect our economic and national security by reducing our dependence on foreign oil and encouraging environmentally responsible domestic production of conventional and renewable energy sources;
- Ensure a national energy supply, from all sources, which will decrease greenhouse gas emissions;
- Encourage conservation and increased energy efficiency among all geographic regions of the nation and sectors of the economy;
- Encourage the use of both distributed and utility scale generation of renewable energy; and
- Create a renewable portfolio standard that increases the share of electricity from renewable sources.

C. Federal Policies

1. *Research and Development*

NLC believes that the federal government should:

- Continue to assess the future of our nation's energy requirements to ensure that our energy policy adequately addresses the future needs of the country;
- Increase funding for research and development to implement the use of renewable energy sources, such as solar, wind, geothermal, biomass, tidal and hydro power;
- Increase funding to research and develop alternative fuels such as the use of hydrogen, ethanol, and coal bed methane;
- Continue its climate research to provide a better understanding of global warming;
- Assess conservation programs that most effectively reduce the use of energy and provide technical assistance to cities to implement such programs;
- Create standards for and evaluate the effectiveness of renewable energy products; and
- Promote and support improvements to the electrical grid, including capabilities and incentive for smart metering, support for large-scale distributed generation, and construction of long-distance renewable energy transmission capabilities.

2. *Energy Emergencies*

NLC urges the federal government to enhance energy emergency preparedness and include local elected officials in the planning process.

In the event that allocation controls are employed, the federal government must give priority to essential public health and safety services in every city. Regulations should be adjusted so that cities that have already reduced consumption are given proportional credit.

During times of energy stability, financial and technical assistance should be made available to cities to prepare for an energy emergency.

3. *Tax Policy and Financial Incentives*

a. *Conservation and Energy Efficiency*

NLC encourages the federal government to develop regulations and tax incentives that would improve the efficiency of home appliances and encourage energy efficiency for industrial, agricultural, commercial and residential consumers. An increase in efficiency in energy consumption could result from a carefully researched and implemented tax policy. Incentives also should be established for new and renovated buildings that meet or exceed nationally recognized energy efficiency standards.

b. *Alternative and Renewable Fuels*

Federal tax policies shall promote the development and use of alternative and renewable fuels. NLC supports long-term extensions of the investment tax credit and the production tax credit for renewable energy as an incentive for their development and deployment. NLC supports policies and financial mechanisms that lower the cost and eliminate financial and regulatory barriers to development and procurement of alternative and renewable energy sources by residential, commercial and municipal entities, as well as producers. The Department of Energy (DOE) should continue to offer grants to cities for the procurement of these non-conventional energy sources for use in municipal buildings.

c. *Demand Management*

NLC urges the federal government to establish tax incentives promoting demand-side management of energy, in such areas as distributed co-generation systems and electricity production, which reduces base load demand.

4. *Energy Assistance to Low Income Households*

Fluctuating energy prices disproportionately burden low-income households. NLC urges the federal government to continue to fund programs that address this issue, such as the Low Income Home Energy Assistance Program and the Weatherization Assistance program. Sustained periods of hot or cold weather, or higher than normal wholesale energy prices, can create unusually high

demand for these programs. NLC urges the federal government to create an emergency assistance fund to address abnormal weather conditions or price fluctuations.

5. *Infrastructure Siting*

The nation's cities recognize the need for an effective network of energy infrastructure. NLC urges the federal government to partner and consult with local governments to determine the area for infrastructure siting that would best meet the needs of the community. NLC strongly opposes any legislation that preempts local decision-making authority on the siting and permitting of oil refineries, pipelines, electric transmission lines, and nuclear and other energy-related facilities. This type of action would threaten to dismantle longstanding environmental laws that protect the health and welfare of the public, and constrain the ability of local residents to participate through their locally elected officials to tailor policies to meet their needs.

6. *Federal Energy Regulatory Commission*

NLC believes that the Federal Energy Regulatory Commission (FERC) should continue to review all purchased gas costs and wholesale electricity prices to ensure that they are "just and reasonable," to make public all requests for rate increases, and to shift the burden of proof to any pipeline or transmission company requesting a rate increase. NLC encourages the federal government to ensure that FERC has adequate resources to accomplish these goals. NLC opposes any attempts to grant eminent domain authority to any federal energy regulatory agency, including FERC. NLC opposes any legislation or regulations that would bring municipally owned utilities under FERC's jurisdiction.

7. *Public Awareness and Education*

The federal government should promote, and assist local governments and public utilities to promote, energy efficiency to the public.

D. Energy Efficiency

The federal government should support all cost-effective energy efficiency measures in order to reduce the use and production of energy. To promote energy efficiency, the federal government should:

- Develop and promulgate a model building rating system;
- Offer training and financial assistance to state and local governments to adopt and enforce building codes that implement energy efficiency gains;
- Promote financing mechanisms that take into account the reduced costs of operating energy efficient buildings;
- Provide incentives for retrofitting existing buildings to optimize their energy efficiency;
- Ensure that all new and existing federal facilities are energy efficient; and

-
- Promulgate and implement new national energy and water efficiency standards for appliances and equipment.

E. Energy Sources

1. Natural Gas

The federal government should encourage the domestic production of natural gas in an environmentally responsible manner.

The federal government should:

- Ensure that water quality and water resources are protected;
- Require the disclosure of chemicals used in hydraulic fracturing; and
- Study the relationship of hydraulic fracturing on drinking water resources and air quality, the impacts on land and aquatic ecosystems, seismic risks and public safety.

2. Nuclear

In the exploration of nuclear power options, the federal government should require the development of design and safety features that will maximize the safety of nuclear energy. The federal government should improve existing licensing and regulatory procedures for new and existing nuclear power plants. In particular, Congress should strengthen the Nuclear Regulatory Commission's (NRC) protection of the public by prohibiting "revolving door" employment between industry and the NRC. Final siting approval of nuclear facilities should be a shared responsibility among federal, state and local governments, subject to appropriate federal environmental laws and regulations.

Federal agencies providing review of emergency preparedness, response and evacuation plans must include cities in the development and review of the plans. These plans should include a protocol for educating communities, particularly those who reside within the evacuation zone, on radioactivity and radiological hazards before an incident occurs. Federal funding should be available to local governments as first responders for emergency preparedness and response for nuclear events. (*Specific policies for disaster preparedness and response are contained in Section 6.03 of the PSCP chapter.*)

3. Petroleum

The federal government should promote the production of domestic petroleum in an environmentally responsible manner.

In the event of a supply disruption, there should be no action by the federal government that causes the depletion of the Strategic Petroleum Reserve simply to mitigate oil prices.

The federal government should not reinstate price controls on domestically produced crude oil.

4. Coal

The use of clean coal technology (as defined by DOE standards) will help decrease emissions while helping cities affected by such emissions to reach and maintain attainment of air quality standards. Therefore, NLC urges the federal government to:

- Support research programs to develop the most efficient, environmentally responsible methods to extract, transport, and utilize coal for energy production;
- Streamline requirements for development and retention of leases for coal reserves on federal land in an environmentally responsible manner;
- Research the use and storage of coal byproducts, such as methane, as a future energy source;
- Develop incentives for the use of clean coal technology and Best Available Control Technologies for new and existing plants; and
- Increase research and development for carbon capture and storage technology and fund large-scale integrated demonstration projects for carbon capture, transportation and storage that reduce emissions from existing coal plants.

5. Hydroelectric

The pricing of hydroelectric power generated at federal projects should be as low as possible, while ensuring that all costs to the federal government are fully recovered including the cost of federal capital. The federal government should continue to own and operate the federal power marketing agencies and should not sell, transfer, exchange or otherwise dispose of them. NLC supports the protection of municipal utility purchases of hydroelectric power through federal contracts.

6. Solar

The federal government should support research programs to develop innovative and practical solar technology. Additionally, the federal government should promote financing mechanisms that stimulates and incentivizes the adoption and installation of solar technologies for residential, commercial and municipal use.

7. Wind

The federal government should support research programs to develop wind technology for commercial and residential use, clarify regulations related to its implementation, and provide incentives to promote its use.

8. Promising New Energy Sources

The federal government should support research and development efforts related to promising new energy sources that help meet goals of an efficient, economical, and environmentally responsible energy supply

F. Electricity

1. Infrastructure

NLC supports federal incentives for all generators and transmission grid owners to create new infrastructure, consistent with current environmental regulations and laws.

To ensure that the nation has an adequate and reliable national transmission grid, the federal government should coordinate with state and local governments. NLC opposes any attempts to preempt local authority in siting energy producing facilities or transmission grids.

2. Smart Grid

Smart grid technology will increase the capacity, quality and reliability of the electric power grid, increase the grid's energy and operational efficiencies, and enable significant increases in distributed renewable and stored energy. NLC supports federal programs that:

- Conduct research into smart grid technology and help promote its commercialization;
- Create standards for interoperability and security;
- Fund pilot programs to study techniques that reduce energy demand by giving customers more direct and automated control over their energy use, evaluate rate structures that more accurately reflect energy costs, and investigate the integration of renewable energy sources onto the local grid;
- Provide consumer education and workforce training; and
- Facilitate an accelerated implementation of smart grid technology across the distribution and transmission networks.

3. Electric Utility Restructuring

NLC believes that state and local governments, traditional regulators of the electric utility industry, should continue to be the primary decision makers in restructuring the electric utility industry. Congress and the Administration must work with state and local elected officials in any attempt to restructure the electric utility industry. Restructuring should not interfere with or reduce services provided by municipally owned utilities.

NLC supports the following principles in all attempts to restructure the delivery of electricity:

- **Preemption:** NLC opposes any federal action that preempts municipal authority to issue franchises, tax, aggregate, regulate use of rights-of-way, or interfere in any way with municipal revenue authority. NLC opposes any federal preemption of the rights of state utility commissions to regulate retail electricity rates. NLC opposes the preemption of any existing environmental policies in any restructuring proposal.
- **Affordability:** Any restructuring program must ensure that the system remains affordable for all communities and ratepayers.

- **Equitable Benefits:** Any restructuring program should result in all ratepayers – large and small, residential and commercial – equitably sharing in the benefits of a restructured environment.
- **Social and Environmental Impacts:** All market participants should contribute equitably to accomplish the following public policy goals: support for lifeline rates; energy efficiency and conservation; environmental programs; renewable energy sources; and alternative energy efforts. All generators should be held to applicable environmental regulations. NLC opposes less expensive electricity if it comes at the expense of environmental degradation.
- **Municipal Utilities:** Any restructuring must maintain the existing powers of municipalities, including the concept of municipal utilities; must not abridge the existing authority of municipal utilities to operate; and must not abridge the ability of cities to form municipal utilities or to compete in the future.
- **Rights-of-Way:** NLC opposes attempts to preempt local government authority to manage rights-of-way and to receive just compensation for their use.
- **Aggregation:** Cities must have the opportunity, either individually or on a regional basis, to become aggregators, to consider combining the electric loads of various users, and to negotiate the purchase of electricity on behalf of those consumers.
- **Market Power:** The federal government must closely examine any mergers or acquisitions in the deregulated electric industry, and prevent all mergers that are found to threaten competition. The federal government must exercise current regulatory authority through the Department of Justice to prevent anticompetitive behavior in order to protect the interests of all ratepayers in the deregulated electric industry.
- **True Access to Transmission:** State and local governments must maintain the exclusive authority to identify places for expansion of the transmission system. The federal government must:
 - 1) Ensure that transmission capacity is not a barrier to competition by requiring accurate and timely Actual Transmission Capacity postings;
 - 2) Facilitate retail access to transmission on a pro rata basis; and
 - 3) Not take other actions which affect fair access to transmission by all competitors.
- **Regional Transmission Organizations (RTOs):** To ensure fair compliance with transmission rates, efficient and reliable grid utilization, and enforcement of reliability standards, the federal government should require the formation of regional Independent System Operators.

4. *Distributed Generation*

The federal government shall develop a strategy for a comprehensive research, development, demonstration, and application program to promote the implementation of hybrid distributed energy systems.

G. Transportation and Energy

NLC supports federal programs that:

- Reduce dependence on fossil fuels used for transportation;
- Increase funding for federal research and development of alternative sources of energy for transportation;
- Pursue a national distribution system for alternative fuels for transportation use;
- Offer incentives for acquisition of zero- or low-emission vehicles, such as natural gas or electric vehicles. Incentives should be available for cities to purchase these vehicles for use in public transportation systems and municipal fleets and to public and private entities to install electric vehicle infrastructure;
- Minimize environmental harm associated with the extraction, processing, and disposal of metals used in electric vehicle batteries, and encourage development of alternatives; and
- Ensure that the air quality benefits of using zero and low emission vehicles are quantified and credited toward meeting national air quality goals.

NLC opposes a federally mandated phase-in of a fixed number of alternative fueled vehicles for fleets, in the absence of federal funding for this purpose.

2.02 Clean Air

A. Problem

Air pollution continues to be a serious threat to the health of citizens and the welfare of many communities.

The federal government must coordinate air quality regulations with local governments as well as federal agencies.

B. Goals

A national strategy must:

- Protect human health from the harmful effects of air emissions;
- Target sources responsible for current air emissions;
- Recognize regional problems and emphasize regional solutions;
- Emphasize air shed solutions to problems from the transport of air pollution across political boundaries;
- Coordinate policies of all federal agencies regulating air quality to avoid conflicting regulations, such as imposing stricter air standards while simultaneously cutting funding for mass transit;

- Anticipate and address the effects of climate change;
- Support local government efforts to partner with other local governments as a means of improving air quality on a regional scale;
- Encourage and give credit for voluntary reductions in air pollution; and
- Not adversely affect other environmental media, such as soil and water.

C. Federal Policies

1. Local Role

Authority to conduct air quality planning should be vested with general-purpose local governments and/or regional policy making organizations. State and local governments should continue to have the authority to establish stricter standards than those set by the federal government.

2. State Implementation Plans

EPA must continue to review the development of the basic elements of State Implementation Plans (SIP), which outline measures that will reduce pollution from stationary and mobile sources. However, EPA's oversight of every aspect of SIP development and implementation is duplicative, time-consuming, and unnecessary, and actually inhibits the rapid achievement of cost-effective emission reductions.

Increased federal assistance to local governments is needed. Federal funds should go directly to local agencies with SIP responsibilities.

State and local governments should generally be allowed to grant or alter permits without the need for federal approval so long as such actions are consistent with EPA-approved generic permit rules.

NLC supports the imposition of sanctions on regions that fail to submit an SIP, revise the SIP in accordance with EPA specifications, or implement the measures identified in the SIP. Where the SIP cannot be developed in accordance with requirements to "demonstrate attainment" because there are no known strategies available to accomplish the objectives of the Clean Air Act, EPA should be given the flexibility to refrain from imposing sanctions. Where sanctions remain the only tool to assure timely compliance, they should be imposed on the government whose actions were inadequate or inconsistent with the requirements of the law. Where a state has failed to develop and enforce its SIP, it is the state that should be sanctioned. In no case should the state be authorized to transfer any sanctions to its local governments absent a demonstration of that local government's culpability.

3. Air Quality Control Strategy for Generation of Electricity and Production of Petroleum Products

NLC believes that a comprehensive approach to emissions reduction from the generation of electricity

and the production of petroleum products is essential to protect the health of our citizens and our communities. NLC supports a streamlined air quality control strategy that:

- Establishes an integrated approach for regulating air emissions from all electric power plants and petroleum production facilities;
- Addresses all significant emissions from electric power generation and petroleum production facilities;
- Augments the existing Clean Air Act without weakening it;
- Caps emissions from power plants to establish stringent, feasible, and enforceable national emissions reduction goals;
- Requires the installation of technology no less stringent than the best available controls on all existing power plants by a compliance deadline;
- Includes a national emissions trading program, which equitably allocates any emissions allowances to all existing utilities, so long as specific sources credited are not allowed to increase their emissions;
- Encourages and credits utilities for early compliance, while enforcing deadlines to ensure steady progress;
- Offers flexibility to utilities to meet required emissions reductions; and
- Retains the authority of regions, states, and local governments to adopt and implement more stringent measures than those required by the federal government.

NLC believes that the implementation of such a multi-pollutant strategy will achieve greater environmental gains than those achieved by existing programs.

Strict emission control requirements must be maintained on all new sources. New source permits should continue to be required for all “major” sources that result in significant emission increases. However, once a permit has been issued for a source, it should be exempt from additional requirements for a reasonable period of time.

4. *Climate Change*

The federal government must develop policies to reduce greenhouse gas emissions in order to halt potentially irreversible effects on the global environment. NLC believes that a multi-pollutant strategy to reduce emissions from power plants, mobile sources and other major sources will provide significant reductions in greenhouse gas emissions that cause climate change. NLC supports this approach because it is flexible, predictable, and market based.

However, the federal government should continue to assess the potential economic and environmental consequences of proposed policies to reduce greenhouse gas emissions and ensure that the nation’s cities are part

of that process. Care must be taken to ensure that reductions in greenhouse gas emissions are justified and fair to our local governments. This is a global problem that demands a global solution; developing countries must be part of the solution and not exempted.

5. *Acid Rain Program*

The acid rain control program should be continued and require substantial reductions in sulfur dioxide and nitrogen oxide emissions from both stationary and all mobile sources.

6. *Air Quality Standards*

Primary air quality standards should be based on the protection of public health. The federal government should continue to evaluate the National Ambient Air Quality Standards (NAAQS) to ensure they are necessary and attainable. When revising the NAAQS, the federal government must ensure that:

- New standards are based on peer-reviewed science;
- Adequate technology is or will be made available to attain the revised standards; and
- Sufficient time is provided for areas to come into compliance.

Recognizing that climate, geography, and the transport phenomenon play critical roles in persistent non-attainment areas, the federal government should assure that research is undertaken to develop new control strategies and that control measures result in progress toward attainment.

However, to encourage innovation and private and public research, federal air quality standards must focus on measurable results and must not mandate the use of specific technologies to reach attainment.

Congress must assure that EPA is not forced to promulgate new and costly standards prematurely because of arbitrary court-ordered deadlines.

EPA should continue to set secondary ambient air quality standards to protect non-health related values.

7. *Mobile Source Emissions*

Where pollution is caused by mobile sources, the primary means for abatement of such pollution should be direct and stringent controls related to mobile source emissions, including emissions controls on currently exempt sources, such as airplanes, trains, and ships.

NLC supports federal efforts to strengthen or establish corporate average fuel economy (CAFE) standards for all mobile sources, while taking into consideration mobile source safety. In particular, the EPA should reevaluate CAFE standards in an effort to expand the number and classes of vehicles regulated. NLC opposes any

relaxation of current vehicle emission regulations that would lead to significant increases in emissions.

NLC supports federal efforts to promulgate and enforce standards for diesel fuel burning vehicles. Because the turnover rate for diesel fleets can be as long as 30 years, NLC encourages the federal government to expand its existing voluntary retrofit program by increasing available funding, providing incentives, and marketing of the program. The federal government should also provide grants to cities to support local government efforts to retrofit their fleets.

Where mobile source emissions standards are unattainable because of inadequate existing control technology, the federal government should commit itself to supporting the development of new or improved technology.

8. Transportation Control Measures

In areas projecting attainment and making projected yearly progress toward attainment by the statutory deadlines, implementation of transportation control measures should not be a mandatory federal requirement. Where reductions in vehicle miles traveled are needed to meet emission reduction targets, strategies such as economic incentives and transportation pricing should be permitted in place of mandated transportation control measures if it can be demonstrated that such strategies will provide equal or greater benefits.

9. Hazardous Air Pollutants

Congress should continue to require EPA to identify and set standards for hazardous air pollutants which protect public health by an ample margin of safety and which preserve the environment. EPA should be directed to impose controls on sources of hazardous air pollutants that are stricter than technology-based standards where necessary to protect public health and the environment. Congress should establish deadlines for the determination of those substances that are hazardous and should require mandatory listing of substances where EPA fails to meet the deadlines.

10. Transport of Air Pollution across Boundaries

The federal government should recognize that the trans-boundary nature of air pollutants calls for solutions that transcend the jurisdiction of any one local, state or national government.

NLC supports EPA designation of major pollution transportation regions consisting of attainment and adjacent non-attainment areas. Non-attainment areas should be required to install reasonably available controls on stationary sources of pollution.

2.03 Solid and Hazardous Waste

A. Problem

The disposal of solid and hazardous wastes and the conservation of resources are two of the most challenging issues currently facing local governments.

Improper disposal of hazardous wastes, including nuclear and radioactive waste, and spills of chemicals, oils, and other hazardous substances can endanger public health and pollute our nation's air, water, and land resources.

B. Goals

Waste management must be addressed through an aggressive program of source reduction, volume reduction, resource recovery, and minimizing the need for disposal. These actions must be compatible with protecting the environment.

C. Solid Waste Policies

A national solid waste management policy should take an integrated approach to provide the following options to best meet local needs:

1. Source Reduction

The federal government should:

- Limit generation of non-recyclable and excess trash;
- Support research and development on conversion technology, packaging materials, biodegradability and techniques to minimize solid waste;
- Promote public participation in reducing the volume of solid waste; and
- Support public participation and education programs to provide a better understanding of source reduction (reduce, reuse, recycle) and disposal options.

2. Product Stewardship

More than 75 percent of consumer waste consists of products and packaging which contain, for example, acids, plastics, petroleum by-products, mercury and other heavy metals, that undermine public health and the environment when not properly disposed. Manufacturers and others along the product chain are able to reduce the environmental impact of their products and the amount of trash directed to landfills by reducing packaging, designing products to be less toxic, easier to recycle, and creating and financing take-back programs.

Congress should protect and support the ability of local and state governments to establish producer responsibility legislation.

The federal government should adopt the following principles of product stewardship to guide federal policy and support local governments in their efforts to protect the public health and the environment:

- **Producer Responsibility:** The responsibility for reducing product environmental impacts should be

shared by all segments of the industry, including designers, manufacturers, importers, retailers, and conveyors of products and product components. Manufacturers, however, have the greatest ability to minimize product lifecycle impacts and consequently bear the greatest responsibility for addressing those impacts.

- **Internalize Costs:** All product lifecycle costs should be included in the total product cost. The environmental costs of product manufacture, use, and disposal should be minimized to the greatest extent possible and ultimately assumed by the manufacturers and consumers of products. Local governments and tax payers should be relieved of the financial burden of product and packaging management.
- **Incentives for Cleaner Products and Sustainable Management Practices:** Policies that promote and implement product stewardship principles should create incentives for manufacturers to design and produce “cleaner” products that are created using less energy, materials, and toxics. These policies should create incentives for the development of sustainable and environmentally-sound producer-led systems to collect, compost, reuse, and recycle products.
- **Flexible Management Strategies:** Those responsible for reducing the health and environmental impacts of products should have the flexibility to determine the most cost effective means of doing so. Performance measures are critical to determining the success and effectiveness of these programs.
- **Roles and Relationships:** Industry must take the lead in achieving these goals, but all levels of government and consumers must also play a role. Government should promote product stewardship through procurement practices, technical assistance, market development, and agency coordination. Government should also remove regulatory barriers that impede product stewardship and provide incentives and disincentives when necessary. To the greatest extent possible, these product stewardship principles should apply to those industries and vendors located in any country who sell their products in the United States.

3. *Electronic Waste*

NLC supports federal efforts to educate the public on electronic stewardship to minimize electronic waste and associated risks to health and the environment. NLC urges Congress to develop a system to maximize the reuse and responsible recycling of used electronics and create a viable financing mechanism. Congress should investigate the use of appropriate incentives to:

- Design products that facilitate source reduction, reduce environmental impact, and encourage reuse, recycling, product take back, and responsible reclamation of components;

- Ensure that used electronics are recycled in an environmentally sound manner, such as through an accredited third-party certification program;
- Promote green electronics as a source selection preference;
- Reduce toxicity by limiting the use of hazardous materials in electronics manufacture; and
- Increase recycled content and improve efficiency in all phases of development and operation of electronic products.

NLC urges Congress and the Administration to ensure that all exported electronics are handled and disposed of safely in a manner that does not harm health or the environment.

4. *Recycling*

To support municipal recycling initiatives, EPA should develop a clearinghouse and website to enhance the exchange of information on recycling programs among cities.

Congress should encourage development of long-term stable markets for waste and recycled products.

In addition, federal funding should:

- Support research and development and pilot programs to assist local governments in the demonstration of new recycling techniques;
- Fund research and development for conversion technology for recycled materials, including products from tires and batteries; and
- Develop fair and appropriate tax incentives to target problematic waste streams from recycling processing centers.

5. *Environmental Labeling*

NLC supports development of a national program to assure that environmental labels are based on a set of clear and verifiable definitions and standards.

6. *Resource Recovery*

Federal legislation and regulatory action must address environmental concerns about resource recovery and the disposal of incinerator ash. Specifically, the federal government must provide that the term of permits for new incinerators is for an adequate duration with periodic monitoring to ensure compliance with permit conditions. The federal government should also assist in the development of appropriate siting criteria and develop training and certification programs for operators of municipal incinerators. The federal government should exempt resource recovery facilities from any construction ban under the Clean Air Act.

7. *Incinerator Ash*

The federal government should designate incinerator ash as a “special” waste and establish new and appropriate

testing and treatment requirements. No federal law or regulation that presumes ash from resource recovery plants is toxic should be adopted or become effective unless Congress and EPA have scientific evidence of such toxicity. Federal regulations should provide for flexibility in disposal practices for ash. The federal government should also establish minimum design criteria for ash monofills, for disposal of ash that is not treated or tested or which fails toxicity tests. Federal legislation is needed to support and encourage the beneficial use of ash.

8. *Landfills*

New federal mandates that retroactively reclassify specific segments of waste, thus requiring new and more costly disposal methods and/or retrofitting of existing and closed disposal facilities, must be accompanied by financing to comply.

9. *Waste Flow Control*

Recent federal court decisions have found local flow control ordinances to be an unconstitutional restraint on interstate commerce. The legal status of waste flow control ordinances must be settled by Congress to assure that local governments can lawfully and effectively finance and implement municipal solid waste management plans.

Congress should specifically authorize local governments to direct or otherwise regulate the movement of municipal solid waste generated within or imported into their boundaries. In addition, Congress must uphold local authority to designate the facilities at which municipal solid waste will be managed. Congress should adopt legislation declaring such local action, if consistent with state approved solid waste management plans, is lawful and not an interference with or an unreasonable burden on interstate commerce.

10. *Interstate Transport of Municipal Solid Waste*

Congress should authorize states that develop approvable, comprehensive solid waste management plans, which include long-term capacity assurance for disposal of waste generated in-state, to restrict out-of-state use of their facilities unless there is planned capacity for out-of-state wastes. Municipal or regional authorities within states with approved plans must have the right to accept or reject solid waste from out-of-state. Congress should also authorize the imposition of phased-in differential, i.e., higher, disposal fees which must be equal for out-of-state solid waste at facilities in states with approved plans.

Municipalities accepting out-of-jurisdiction waste must be authorized by Congress to impose their standards on the importing jurisdiction.

11. *Backhauling*

Congress should prohibit the hauling of solid and/or hazardous waste in vehicles used for transporting food.

D. Nuclear Waste Management Policies

1. *Local Participation in Site Selection*

Federal policy related to nuclear and radioactive waste disposal should be amended to give local governments the authority to directly participate in the site selection process for permanent repositories for high-level nuclear and intermediate and low-level radioactive waste. The permanent disposal or storage of nuclear and radioactive waste, within any populated area, is completely unacceptable. Further, sufficient technical assistance funding from the Nuclear Waste Trust Fund should be provided to local governments to enable them to conduct technical studies of potential repository sites, to provide technical comments on federal siting-related documents, and to monitor the site selection process. This should apply to sites identified on federal property or reservations in close proximity to a municipal boundary.

2. *High-Level Nuclear Waste Storage*

Congress should adopt legislation to establish an integrated spent nuclear fuel management program to:

- Construct and operate a safe, permanent geologic disposal facility; and
- Create a federal budget mechanism to allow the Nuclear Waste Trust Fund to be used for the purpose for which the funds were contractually paid for by users of nuclear generated electricity.

Congress should also research additional options for managing nuclear waste.

3. *Nuclear Waste Management*

DOE, the federal agency that manages nuclear weapons complexes, should be required to clean up contaminated areas.

If DOE proposes waste disposal facilities on site, the agency should be required to obtain the approval of the affected local governments. Such facilities should be located in isolated areas, and must meet EPA and Nuclear Regulatory Agency standards.

Restoration and Long-Term Stewardship: NLC urges DOE to restore all contaminated lands at nuclear sites to an environmental standard negotiated with and approved by affected local governments for future use. In cases where full restoration is not currently possible, Congress must acknowledge and provide the long-term (thousands of years) stewardship costs associated with leaving nuclear and other hazardous waste contamination on site. Congress should continue to support research to develop necessary technology for consolidated nuclear waste disposal and cleanup.

Economic Aid and Restoration of Jobs: Transfer of uncontaminated lands to the surrounding communities for economic or public use should be a high DOE priority. Such lands should be indemnified for future use from any contamination that may not be known at the time of transfer. DOE should continue to work with local governments to create and attract new jobs and to replace industries lost through the closure and changing missions of nuclear facilities.

4. *Cask Testing*

Full scale testing of any prototype containers and equipment used for the transportation of high level radioactive waste should be required by the federal government.

5. *Routing*

Local governments should be consulted in the designation of routes for transportation of high level radioactive waste and spent fuel through their jurisdictions. Where state governments seek the designation of alternative routing to the Interstate system, they should be required by federal law to create a review and comment process that provides affected local jurisdictions with the opportunity to participate in the alternative routing decision.

Guidelines for the routing of high level radioactive waste should be established for the movement of such waste by all modes of transportation.

6. *Notification*

The federal government should be required to give general, not shipment-by-shipment, notification to affected local governments of the routes used and approximate frequency of shipments of high level radioactive waste through their jurisdictions.

7. *Liability*

The total financial pool that provides compensation for losses in case of a nuclear accident must be increased by raising the ceiling on each nuclear power plant's liability.

Furthermore, Congress should guarantee that federal compensation be provided if costs to victims exceed the available financial pool. Compensation for losses resulting from accidents at nuclear waste repositories and those involving transportation of nuclear waste should be provided in a manner similar to compensation for losses at nuclear power generation facilities. Furthermore, state and local governments should be compensated for the costs which they incur in preparing for and responding to a nuclear accident.

In order to encourage state and local participation in emergency response efforts, and to minimize the potential for lawsuits against these governments, state and local governmental liability should, under the Price-

Anderson Act, be explicitly waived in the event of a nuclear accident. Further, Congress should give consideration to amending the Price-Anderson Act so as to create a federal tort system for nuclear accidents. This approach would allow a victim to recover for damages without having to prove that the defendant was responsible for causing the damage.

8. *Federal Compliance*

Federal facilities should continue to comply with federal and state environmental, health and safety laws and should be subject to their enforcement provisions.

E. Hazardous Waste Management Policies

1. *Landfill Regulations*

The federal government should provide state and local governments with financial and technical assistance to evaluate potential new sites for hazardous waste disposal facilities. Hazardous waste landfill regulations should be a combination of technology based design and operating standards and should include minimum landfill location standards.

Class 4 injection wells, if found to pose a potential human health or environmental threat, should be banned.

EPA should require liners and leachate collection systems for existing hazardous waste land disposal facilities, with exemptions granted in those cases found not to pose a threat to human health or the environment, or where alternatives for preventing groundwater contamination can be demonstrated by the facility.

The federal government should also develop and implement techniques for assuring local governments that prompt and responsible emergency and long term action will be taken to protect public health and the environment in the case of spills or leakage at newly sited disposal facilities and in the transportation of hazardous materials to and from newly sited facilities.

2. *Incinerator and Impoundment Requirements*

EPA should retain existing incinerator and impoundment rules and enforce them. EPA should begin final permitting as soon as possible.

Incinerators whose primary purpose is the "beneficial recovery of heat" should not be exempt from Resource Conservation and Recovery Act (RCRA) regulations. Additionally, facilities which burn or blend hazardous materials for fuel or energy recovery purposes should be required to report these activities to EPA and authorized states. These facilities should also be required to label such fuel as containing hazardous wastes before marketing and distributing the fuel product.

NLC opposes the incineration of hazardous materials at sea until it is demonstrated through a pilot project that

the safety and efficiency of this method causes less harm to human health and the environment than other practical alternative means of disposal.

3. *Kilns, Boilers and Industrial Furnaces*

In order for these facilities to continue burning liquid hazardous waste as fuel, they must first obtain a use change permit to assure they are sited appropriately and in an environmentally protective manner to proceed with the burning of hazardous waste. Any facility burning hazardous waste must be a permitted facility in full compliance with both federal air emission control standards and monitoring requirements for the incineration of hazardous waste and with the requirements of Subtitle C (hazardous waste) of the RCRA. Operators of facilities using hazardous waste as a fuel must be trained and certified to insure proper operation of the facility.

4. *Permit Requirements*

All major expansions or additions to existing hazardous waste facilities should be treated as “new” facilities for permitting purposes. Once permitted, they should be allowed to expand according to their final permit requirements.

The permitting process should be standardized among cement kilns, boilers and industrial furnaces that recycle hazardous waste and incinerators.

EPA-issued permits should require the use of “best available technologies” and be effective for a fixed term. Any by-products derived through the recycling process must comply with the RCRA “derived-from” labeling requirements if such by-products are offered to the public. EPA should propose a modified permit procedure for those facility modifications that the regional EPA Administrator deems to be minor. The modified permit procedure should not, however, eliminate notice to local officials and the public, and if sufficient interest is generated, the modification should go through normal permit procedures.

5. *Underground Injection*

Underground injection of hazardous chemicals or wastes above, below or into an aquifer that is a potential source of drinking water should be prohibited.

6. *Leaking Underground Storage Tanks*

EPA should expeditiously promulgate guidelines or regulations governing such areas as: leak detection, spill cleanup, financial responsibility, and performance standards for new tanks.

EPA should establish a public education program to inform owners and/or operators of underground storage tanks, including governments, of responsibilities for identifying underground tanks, for replacing leaking tanks, for cleaning up any leaks or spills, and for

properly installing new tanks. EPA should work with NLC, other public interest groups and other trade associations to disseminate information about the underground tanks regulations as soon after promulgation as possible.

7. *Research*

The federal government should expand its research and development program in hazardous waste and materials management to:

- Develop industrial process modifications and raw materials substitution in order to reduce hazardous waste generation;
- Develop processes to recover resources from hazardous wastes and materials and improve existing treatment, long term storage and disposal techniques; and
- Prepare a comprehensive evaluation of the role of federal, state and local governments in the prevention of hazardous materials accidents. The study should identify the mechanisms for integrating existing governmental programs and activities into a single, integrated national prevention program.

A national clearinghouse for hazardous waste and materials information should be established as a repository for research results.

8. *Insurance*

Congress should assure that owners and operators of hazardous waste disposal facilities are financially insured to provide for the safe operation and closure of those facilities as well as any emergency response and liability that may occur as a result of a leak or spill.

9. *Closure of Facilities*

Upon the opening of a new hazardous waste or materials disposal facility, the federal government should require that a covenant restrict the use of each site for a period of 20 years after closure. Further, the covenant should require all future owners of each property to take the property subject to such restrictions including the continued, regular monitoring, inspection, and maintenance of the property as well as responsibility for any remedial action that may be necessary due to the hazardous wastes or materials disposed on such property.

10. *Brownfields*

NLC calls on the federal government to develop a program of economic revitalization and environmental restoration in coordination with states and local governments to assure that these currently unused resources can again serve a viable economic purpose, while ensuring that the public’s health is protected.

Congress should enact legislation addressing and resolving the disincentives created by potential liability to facilitate reuse of those properties. Such legislation

should provide for a waiver or a definitive limitation or elimination of liability for non-contributing current or future owners, developers, lenders, operators and tenants of previously contaminated sites which have been certified as “clean.” Congress should provide financial assistance for environmental cleanup of these areas. Cleanup standards for these areas should be based on the level and type of contamination and the purposes for which the area is intended to be reused, as outlined in the local land use plan.

11. Federal Facility/Site Conversion

With the downsizing of the nation’s military structure and its conversion to civilian use, NLC believes Congress and the Administration should adopt the following environmental cleanup policies:

- Develop standards sufficiently stringent to permit reuse of the facility or site in accordance with locally generated land use plans and to obviate the need for additional cleanup costs by the affected local governments or the private sector. Cleanup standards for these areas should be based on the level and type of contamination and the purposes for which the area is intended to be reused;
- Ensure the active involvement of local government officials in all phases of the environmental cleanup, including site evaluation and selection and implementation of cleanup remedies;
- Allow parcelization of federal facilities or sites, where feasible, to permit prompt redevelopment of uncontaminated portions of the property;
- Coordinate timetables for environmental impact statement, parcelization, and prioritization with civilian reuse plans; and
- Provide full and timely funding and appropriation for the cleanup of federally owned or operated contaminated facilities and sites.

F. Superfund Policies

1. Superfund Trust Fund

Congress should reauthorize the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA, also known as Superfund) so that existing hazardous waste disposal sites can continue to be identified, evaluated and controlled.

Congress should increase the size of the Hazardous Substance Response Trust Fund that supports the Superfund program so it will be adequate to clean up sites already on the National Priority List (NPL) as well as any additional sites added to the list. Trust Fund revenues should be derived from the following sources:

- doubling fees imposed on feedstocks used in the production of hazardous materials and used by hazardous waste-generating industries or importers of hazardous materials;
- eliminating some current exemptions from the fee;

- levying feedstock fees on some new chemicals deemed by EPA to be hazardous;
- establishing a broad-based tax (such as an ad valorem tax, excise tax, or corporate surcharge); and
- maintaining the current contribution of general revenue to the Trust Fund.

2. Standards and Deadlines

The federal government should mandate that Superfund sites be cleaned up to standards sufficiently stringent to permit reuse of the facility or site in accordance with locally generated land use plans and to obviate the need for additional cleanup costs by the affected local governments or the private sector.

In order to ensure expeditious cleanup of Superfund sites, Congress should establish timetables for cleanup of sites already on the NPL and separate deadlines for the identification, evaluation and cleanup of new sites added to the NPL.

EPA and other federal agencies involved in hazardous waste site cleanup should increase their economic and administrative commitments to the problem, and make better and more rapid use of the money already available for cleanup.

3. State and Local Roles in Superfund

The Superfund program can be made more efficient if state and local governments are given greater decision-making responsibilities under the program. State and local governments should have the option to assume full responsibility for planning and implementing Superfund response actions.

Furthermore, state and local governments that are engaged in Superfund site cleanup should be exempted from oversight cost responsibilities to EPA. Such costs are more properly borne by those parties who are liable at a site but have chosen not to participate in remediation.

CERCLA should require that EPA enter into agreements with local governments that give lead responsibility for site remediation and for cost recovery and other enforcement activities to qualified and willing local governments. Such agreements should recognize the local government’s unique qualifications to effectively administer longer term land use restrictions and other institutional controls.

Furthermore, the definition of the term “state” under CERCLA should be amended to include local governments. The law is unclear whether local governments engaged in the same type of cleanup work have the same special cost recovery status.

4. *Liability*

Municipal liability for cleanup costs under the federal Superfund statute must be clarified. EPA recognizes that municipal solid waste (including both garbage and sewage sludge) contains only insignificant amounts of hazardous constituents and in its Interim Municipal Settlements Policy provides that EPA will identify local governments as potentially responsible parties (PRPs) at hazardous waste sites only in exceptional circumstances.

The Interim Municipal Settlements Policy, while a laudable first step, is an inadequate response to the concerns of municipalities. First, the Policy applies only to (public and private) transporters and generators of municipal solid waste, but not to municipal owners and operators of Superfund sites. Second, the Policy does not protect transporters and generators of municipal solid waste from lawsuits by private parties for cost recovery and contribution to the clean up costs at these sites.

To assure that municipalities will not be held responsible, through private party litigation or otherwise, to assume full financial responsibility for clean up costs, NLC supports enactment of legislation which would:

- Eliminate local government liability under Superfund for the disposal of ordinary municipal waste, both garbage and sewage sludge;
- Provide expedited de minimus settlements for hazardous materials generated by local government operations;
- Exempt municipalities (as defined in the Clean Water Act) from cleanup liability resulting from ownership and/or operation of a facility in fulfillment of a public responsibility;
- Cap cleanup liability for municipal transporters and generators of municipal solid waste; and
- Strengthen local governments' ability to protect and restore the environment by enabling them to recover response costs and costs for damages to natural resources.

NLC recognizes the need to expedite the cleanup process, reduce transaction costs, and increase funds for cleanup while maintaining a level of fairness. Any effort to limit the retroactivity of these standards and to relieve responsible parties from liability for past activities could leave the cleanup of older hazardous waste sites funded at state and municipal expenses, funded through substantially increased Superfund taxes, or unfunded entirely (and therefore not cleaned up).

5. *State Response Funds*

Congress should amend CERCLA to repeal the current preemption of state authority to develop state hazardous response funds.

6. *State and Local Matching Share*

NLC believes the current state matching requirements under CERCLA are too burdensome, hampering intergovernmental agreements and cooperative efforts that would speed up and improve cleanup efforts. Congress should require states to pay only 10 percent of total cleanup costs at publicly owned and/or operated Superfund sites.

Additionally, Congress should liberalize conditions under which states may generate credits that can be used to offset the state matching requirements. This could be accomplished by crediting states for past cleanup actions, reimbursing states that have already expended more than 10 percent of costs at Superfund sites they owned and/or operated, or crediting a state's administrative expenses toward its matching share.

7. *Maintenance and Operating Costs*

Funds from the Hazardous Response Trust Fund should be used to support long-term operation and maintenance activities, such as cleanup of groundwater contamination at Superfund sites, after cleanup actions have been taken. This could be accomplished by requiring that state and local governments pay a matching share for maintenance and operating expenditures that is comparable to the matching share required for cleanup actions.

8. *Post-Closure Liability*

Congress should reauthorize the Post-Closure Liability Fund, which was established to provide assistance for monitoring, maintenance, and long-term care at RCRA-permitted hazardous waste sites. The fund should continue to be supported by a tax on hazardous wastes that are disposed of in RCRA-permitted facilities. However, in order to adequately finance post-closure activities, Congress should remove the \$200 million ceiling on the Fund's unobligated balance so that more revenues can accrue in the Fund. Additionally, Congress should amend current law to extend the liability period for owners or operators from five to 15 years after closure in order to ensure that RCRA sites are properly maintained in the post-closure period.

9. *Environmental Impairment Liability Insurance*

Congress should continue to examine the nature, scope and causes of the problem of scarce environmental impairment liability insurance and should take action to improve the availability of that insurance. As a first step, Congress should amend the Products Liability Risk Retention Act to facilitate the creation of interstate risk sharing pools. Congress should change the liability standards of CERCLA only with great caution.

10. *Right-to-Know*

Congress should enact federal community right-to-know legislation in order to establish a more uniform means of planning for and responding to emergencies caused by

the release of hazardous substances that may present an imminent and substantial danger to public health. The legislation should require the owner/operator to report to designated state and local agencies annually on the type of hazardous substances on-site, the present and anticipated amounts of the substances during a given year, and the location of the waste inventory.

Additionally, legislation should require each state to develop a statewide emergency response plan. Participation by local government representatives in developing the plan should be mandatory. The costs of developing state and local emergency response plans should be borne by the federal government.

The federal legislation should also preempt different or conflicting state and local right-to-know and emergency response requirements. However, states and localities should be allowed to seek a waiver from the preemption if they can demonstrate that they have a unique safety or health circumstance which necessitates passage of a right-to-know or emergency response requirement inconsistent with the federal requirements.

11. Deferred Listing

Congress should carefully examine the impact of a deferred listing approach as a means of better managing Superfund sites.

States, with the concurrence of local governments, should be allowed to petition EPA to defer certain sites. State petitions should be required to show that the state has consulted with and secured the concurrence of local governments involved in the site, and has provided reasonable notice to the public of its intent to petition. Provisions should be made for public participation in the remedy selection process.

12. Accounting Procedures and Cost Study

To ensure that adequate accounting data is obtained and reported, EPA and other federal agencies should be required to provide detailed accounting data as to the costs they have incurred under CERCLA. Further the Comptroller General should undertake a “costs study” to carefully examine the efficiency and efficacy of the current EPA oversight process.

13. Alternative Dispute Resolution

The use of alternative or non-litigation dispute resolution procedures, excluding the use of binding arbitration for local governments, should be examined and incorporated more effectively into CERCLA.

2.04 Water Quality and Supply

A. Problem

The nation continues to experience problems with the quality of our waters, as well as the adequate supply of sources of water to sustain our population.

The nation’s cities face a crisis in funding their water infrastructure needs. EPA has estimated a funding gap approaching \$23 billion annually between current local investments in aging and failing water infrastructure and meeting new and more costly federal mandates.

Federal assistance in meeting these needs has declined by 75 percent over the past 20 years, while municipal costs for operation and maintenance of their systems are escalating by 6 percent per year above the rate of inflation. Financing the gap with rate increases would result in a doubling or tripling of rates across the nation – making water and sewer bills unaffordable for a significant number of Americans.

B. Goals

The ability of municipalities to comply with any clean water program must be recognized as contingent upon adequate funds.

Given the inter-jurisdictional nature of waterbodies, NLC supports national standards and requirements as an appropriate mechanism for addressing the adverse effects of pollutants. While it is clearly necessary and appropriate that variations in climate, hydrology, and other unique regional circumstances be the foundation on which such national standards are built, any clean water goal must be applied on a uniform, national basis to prevent movement of industry in search of loosely enforced standards.

The nation’s drinking water should be as safe as technologically feasible at reasonable cost. It is imperative for the continued health and welfare of the nation that local governments have the financial resources and technical expertise needed to provide adequate and safe drinking water to their citizens.

C. Funding

Federal financing of the requirements it mandates is critical to the ultimate achievement of national water quality goals and the availability of safe drinking water. This participation must be both substantial and a reliable long-term source of capital to accommodate the gap between current expenditures and anticipated needs to enhance and maintain critical water infrastructure.

Federal funding for clean water purposes must be made available to meet all clean water mandates imposed on municipalities. Under no circumstances should the federal government look to traditional local sources of

revenues (e.g., a federal tax on water and sewer user charges or a federal tax on industrial dischargers to Publicly Owned Treatment Works, or POTW) as the federal contribution to financing water mandates.

Congress should remove current restrictions on the availability of federal tax incentives for private financing of wastewater treatment facility needs.

1. State Revolving Loan Funds

NLC supports state revolving loan programs (SRF) that include requirements for a portion of such funds to be made available as grants. The federal government should continue to authorize and appropriate funds annually which are distributed to the states according to a specified formula.

The federal government should reauthorize and fully fund both the Drinking Water State Revolving Loan Fund and the Clean Water State Revolving Loan Fund to ensure adequate resources for drinking water and wastewater treatment facilities.

Congress should prohibit states from charging loan origination fees on SRF funds or from using the interest on SRF loans to local governments to meet state matching requirements.

NLC supports set-asides in the SRFs that benefit municipalities and local ratepayers and that are targeted to such purposes as:

- State program administration;
- Research;
- Development of new, cost-effective technologies;
- Programs to train and certify operators of public water supply systems;
- Programs to assist economically-disadvantaged communities with mandated monitoring and compliance requirements; and
- Direct grants to economically disadvantaged cities for drinking water treatment and purification plants where deemed necessary to meet federal drinking water standards.

2. Grants and Loans

NLC calls on Congress to restore grant funding to assist cities. Cities should be eligible for any combination of federal loans and grants to meet their water pollution control and drinking water supply needs. The use of loans and/or grants should be tailored to the specific needs and capacity of each municipal applicant. Allocation of funds to municipalities should take into consideration a community's ability to pay and past local efforts to address the problem.

The federal government must support comprehensive research on all wastewater and drinking water-related issues.

Congress should provide funding to assure adequate resources for water treatment facilities in small, rural communities and to assist all cities in remediating their aging, deteriorating water infrastructure.

3. Local Financing

Federal law should allow local governments to choose between the ad valorem property tax, metered user charges, and any other mechanism for recouping construction and operating costs. Federally mandated sewer user charges should be deductible from federal income taxes.

D. Watershed Planning and Management

Recently, municipalities have been encouraged to invest in upstream pollution abatement as a lower-cost alternative to local treatment. Remediation or prevention of pollution from non-municipal sources is not, nor should it become, the responsibility of municipal ratepayers.

Municipalities cannot control pollution from sources outside their jurisdiction and must not be required to absorb the costs – either directly through subsidies to upstream polluters or indirectly through more stringent pollution reduction requirements on municipal point sources – of addressing these pollution sources.

The federal government should support and provide incentives for the development of a national system of watershed planning based on a process of local decision-making. Regional watershed management strategies and plans should be encouraged to involve all stakeholders to jointly prioritize the allocation of resources and participate in finding solutions to achieve water quality objectives. Implementation of watershed management plans must assure equity between point and non-point sources of pollution, and should not place one region at an economic disadvantage as compared to neighboring areas. Upon completion of watershed management plans, the National Pollutant Discharge Elimination System (NPDES) terms, conditions and limits should be modified to achieve the objectives of the plan in the most cost-effective way.

Local elected officials should be given a determining role in guiding federal investments in any new projects, and in reevaluation of presently authorized projects.

E. Water Pollution Control

1. Level of Treatment

The statutory requirement of “secondary treatment” should be defined as a desired level of water quality and not restricted to any one particular process. This desired treatment level required of municipalities should be defined to prevent expenditures for unnecessary and expensive facilities. Moreover, the least expensive solution should be favored.

2. *Conservation and Reuse*

Federal policies should encourage expanded conservation and reuse of water pollution control by-products when feasible. For example:

- Beneficial Use of Municipal Sewage Sludge: reasonably anticipated adverse effects associated with potential sewage sludge exposure and local geographical and climactic conditions must be considered in the safe disposal of sludge. If reasonable risk assessment analyses demonstrate sludge disposal to be environmentally sound, then federal regulations should permit the practice.
- Agricultural Conservation: NLC supports best management practices for agriculture uses, such as conservation buffers.

3. *Pretreatment*

EPA should establish national categorical pretreatment standards only for those industries that it has classified as major polluters and only for those classes of toxic pollutants which are known to be widespread and which may be causing human health and aquatic life problems.

Local governments should be allowed to devise methods to satisfy national standards that not only assure protection of water quality but which are also cost effective under the conditions of their particular jurisdiction. Therefore, as an alternative to federally mandated implementation of the national categorical pretreatment standards, Congress should authorize states to approve local pollutant elimination programs.

To qualify for the alternative local program, POTWs should be required to demonstrate to an authorized state agency that (a) the POTW is in compliance with the requirements of its permit under the NPDES; (b) it has developed and implemented a local pollutant elimination program that, in the aggregate, is equivalent to implementation of the national categorical pretreatment standards; and (c) it is maintaining a local monitoring and reporting program which is adequate to disclose the quality of the receiving waters.

4. *State Water Quality Standards*

Under no circumstances should a state be allowed to downgrade or revise its water quality standards where the designated uses have already been attained. States should be encouraged to revise their water quality standards if it can be demonstrated that: (a) the existing designated use is unattainable because of irretrievable conditions; or (b) attainment of the designated use would result in substantial and widespread adverse economic and social impact.

5. *Total Maximum Daily Loads*

NLC believes that the Total Maximum Daily Loads (TMDL) program should be reviewed and revised to ensure that attainment of national water quality

objectives requires the participation of all contributors to stream degradation.

NLC believes the federal TMDL program and any directives or guidance from EPA or its regional offices must include:

- Enforceable mechanisms to ensure that non-point sources are required to reduce pollutants commensurate with their contributions in the same manner and to the same extent as is expected of cities in addressing urban stormwater runoff;
- Recognition of the vital role of cities in protecting water quality and maintaining green space;
- Provisions which foster sensible growth in urbanized areas by encouraging, not penalizing, development and redevelopment; and
- Deference to the exclusive authority of local governments with respect to local land use planning involved in regulating and/or controlling flows.

6. *Effluent Trading*

It is the responsibility of all who contribute to stream degradation, not just those from regulated point sources, to ensure that the nation's water bodies meet their designated uses and attain water quality standards. Where water quality standards may be attained more cost effectively by reductions from unregulated sources outside of a municipality, arrangements to finance such pollution control or mitigation activities from local revenues (effluent trading) must be entirely voluntary on the part of the affected local government. Where an affected local government is either unwilling or unable to participate in effluent trading, it should under no circumstances become the responsibility of the local government to offset from its own sources, the contributions of non-municipal entities to stream degradation.

7. *Toxicity Testing*

NLC supports the use of Whole Effluent Toxicity Testing for the assessment of the potential toxicity of wastewater discharges; however, legislation should be adopted to prohibit the use of such tests as "pass/fail" NPDES permit conditions imposing strict liability on POTWs.

8. *Pollution Prevention*

In addition to treatment policies, the federal government should develop, advocate, and institute pollution prevention measures for all contributors to degradation of the nation's water bodies. Products containing chemical levels which constitute a significant percentage of the total loading should be restricted as to their composition and/or use.

The federal government should adopt strict regulations to limit the placement of hazardous liquid pipelines. Where such pipelines already exist, or where there is no

alternative to their placement, regulations should be adopted to protect environmentally sensitive areas and public water supplies from pipeline accidents, and strong enforcement action should be taken against repeat polluters.

9. *Legal Remedies*

No municipality injured by a willful or negligent violation of federal or state law should be deprived a remedy if one exists under the federal Clean Water Act and other appropriate laws. However, EPA must be made a party where the defendant can demonstrate it has acted in good faith.

Municipalities should be granted the authority and sole discretion to bring environmental law enforcement actions against polluters within the municipal jurisdiction or when pollution from outside its boundaries poses a potential threat to the health, safety, or welfare of those living in the municipality.

10. *Wet Weather*

a. *Separate Storm Sewer Requirements*

NLC supports a more simplified and flexible approach to management of municipal stormwater run-off which would allow for orderly and cost effective development of information and program design.

Congress should amend the Clean Water Act to establish an alternative to the NPDES program for regulating urban stormwater that is more appropriately tailored to the nature of stormwater. Such legislation should require implementation of Best Management Practices (BMPs) to the Maximum Extent Practicable (MEP) with a legislative prohibition on requirements for end-of-the-pipe treatment for all cities subject to such requirements.

Until such legislation is enacted, EPA should continue its current policy of recommending against inclusion of end-of-pipe requirements in stormwater permits. Management of run-off from municipal industrial facilities should be incorporated as part of a system- or jurisdiction-wide stormwater management program.

The federal government should appropriate funds for research and for the development of pilot projects on stormwater management.

b. *Combined Sewer Overflow*

NLC supports EPA's Combined Sewer Overflow (CSO) control policy. In particular, NLC supports the following components of the policy:

- Implementation of the minimum CSO controls;
- Selection of a long-term CSO control plan that will ultimately result in compliance with Clean Water Act requirements. CSO control plans should give high priority to controlling overflows to sensitive areas. Cost-performance analysis of alternative levels of control should be considered. Permittees

should have the flexibility to select a long-term CSO control plan using either of the following approaches:

- 1) The presumption approach: a program meeting technology-based criteria in EPA policy would be presumed to provide an adequate level of control to meet Clean Water Act requirements; and
 - 2) The demonstration approach: a program that does not meet the presumption approach criteria may be selected if the permittee demonstrates that the program is adequate to meet Clean Water Act requirements.
- An implementation schedule for the selected long-term control plan may be phased in based on the relative importance of adverse CSO impacts and on the permittee's financial capability; and
 - A provision to exempt permittees that have constructed CSOs designed to meet water quality standards from planning and construction requirements of the policy.

NLC supports provisions in the EPA policy that encourage states and EPA regional offices to adapt water quality standards and implementation procedures to reflect wet weather events and site-specific conditions.

c. *Sanitary Sewer Overflows*

NLC supports the development of national guidance and, where appropriate, regulations to address Sanitary Sewer Overflows (SSOs). Any such guidance and/or regulations must, however, be developed with the understanding that sewer systems leak regardless of how well the wastewater treatment facilities and collection system are constructed and for reasons that may well be beyond the control of sewer system operators.

Federal policies to address SSOs should be developed in a manner that facilitates the reduction and/or elimination of SSOs. Furthermore, while NLC concurs with a ban on dry weather overflows, no policy should impose unachievable objectives—which foster new or expanded opportunities for litigation or public outrage—on municipal wastewater treatment facilities. At a minimum, federal policies should provide for:

- An affirmative defense mechanism that, under specified circumstances, holds cities harmless (i.e., not liable) for an SSO. Such a defense would include occurrences that are or were beyond the ability of the city to predict or prevent;
- Authority to use wet weather facilities in the collection system where expansion of the pipes or treatment plant is infeasible. Even where expansion of pipes and/or plants is feasible, it may take considerable time. Wet weather facilities should be allowed on a temporary basis while remediation is underway; and

-
- Priority remediation of SSOs that affect sources of drinking water or bathing beaches in season.

d. Blending in Wet Weather Conditions

NLC supports EPA's blending policy that permits municipalities to blend excess flow in wet weather conditions when:

- The effluent meets all permit requirements;
- The permit application outlines how the plant will be operated under wet weather conditions and the operation of the plant follows this outline;
- All flows receive primary treatment;
- The permit requires monitoring to ensure compliance with the water quality-based requirements; and
- The permit requires the ongoing maintenance of the plant.

NLC concurs with a ban on the practice of blending during dry weather conditions or when a feasibility study has not been conducted and supports EPA's policy to define such blending as an illegal bypass.

F. Drinking Water Policies

1. Standard Setting

NLC supports provisions in the 1996 Amendments to the Safe Drinking Water Act (SDWA) which mandate that drinking water standards be based on sound science, public health protection, occurrence of the contaminant(s) in drinking water supplies at levels of public health concern, risk reduction and cost, as well as provisions authorizing EPA to issue health advisories for contaminants for which there is insufficient information to promulgate a standard.

Where the contaminant is naturally occurring, monitoring should be required, but EPA should be required to demonstrate that any proposed remedial treatment would ensure greater health protection. For introduced materials, a risk-based standard should be developed.

2. Lead

The National Primary Drinking Water Regulation for lead, and any legislative initiatives addressing lead in drinking water, should give municipal water systems options for reducing drinking water lead levels.

Corrosion control should be considered the optimal tool for reducing exposure to lead through the drinking water supplies. Municipal water systems should be allowed to utilize the least expensive, yet effective, methods for reducing human exposure to lead in drinking water.

NLC supports measuring the level for lead in the public water system at the point where the water leaves the distribution system and enters the user's property. NLC

also supports programs for public education regarding safe drinking water.

3. Protection of Drinking Water Resources

Greater emphasis must be placed on preventing contamination of our drinking water resources from both point and non-point sources of pollution.

Initiatives in the SDWA, like those which protect underground sources of drinking water (the wellhead protection program) and sole source aquifers, should be adopted to ensure protection of surface drinking water supplies. Such efforts should complement and enhance non-point pollution control and watershed management provisions in other federal statutes such as the Clean Water Act and the Coastal Zone Management Act. In addition, Congress should authorize municipal water supply systems to develop and implement approved source water protection programs upstream of the drinking water source as an alternative to contaminant removal initiatives where appropriate.

4. Monitoring

NLC supports SDWA provisions which authorize monitoring flexibility for non-microbial contaminants when such contaminants have not been found at levels of public health concern.

5. Notification

NLC supports SDWA provisions authorizing the EPA Administrator to differentiate between those public notice requirements for minor and intermittent violations and those required for health related and persistent violations of all kinds.

6. Sole Source Aquifer

A cooperative federal, state, and local government approach should be established for preparing and carrying out plans to protect critical groundwater recharge areas.

G. Ground Water Policies

1. Regulation

Ground water protection can best be implemented through current federal environmental laws. The states should continue to have primary responsibility for developing and implementing groundwater protection programs. Such programs should emphasize management of ground water and environmental resources rather than complete elimination of known pollutants or restoration of all aquifers to drinking water quality.

2. Financing

State and local governments should be encouraged to develop ground water protection strategies. EPA grant assistance should be made available to implement these strategies.

3. *Enforcement*

Enforcement responsibility for ground water protection strategies should be the province of state governments, with additional limited enforcement provided by current federal legislation.

4. *Federal Evaluation*

Federal agencies seeking authorization for a federal water project should, on a uniform and timely basis, describe and evaluate ground water management programs in the area. Federal agencies with responsibility for water resources planning, development, and research should include assessments of ground water resources and appropriate management programs.

H. Water Supply Policies

1. *Data Collection*

Solutions to supply problems in river basins must be based on the best possible estimates of the amounts of water available, the amount being used, and the amount needed for future use.

2. *Federal Participation*

Where a significant portion of a region's land or water resources are controlled by the federal government, affected state and local governments should be full participants in water management decision-making.

3. *Water Project Evaluation*

Specific federal water development projects should be authorized and constructed to take advantage of those water supplies which studies have shown to be available. Such decisions should also be guided by these specific criteria:

- Final reviews and decisions to build projects should be based on up-to-date information;
- New water projects should be subject to uniform cost/benefit criteria. As part of these analyses, the discount rate should reflect the real cost to the government of borrowing money;
- Whenever appropriate, nonstructural alternatives should be given equal weight with structural solutions to water supply problems. Federal financing provisions should not bias choice in favor of one alternative over another;
- The environmental value of natural wetlands and marshes should be included in any analysis of costs and benefits of water projects; and
- New federal water projects must be assessed for their impact on patterns of urban development and should be consistent with national urban policy based on values of urban conservation.

4. *Water Conservation*

Conservation should be made the cornerstone of federal policies and programs for water. All federal decisions to expand water supplies should recognize that there are limitations on water resources. Federal feasibility

studies should include rigorously developed demand forecasts and consider, as precisely as possible, all environmental costs. Wherever possible, less costly, nontraditional alternatives, especially conservation measures, should be fully evaluated as options. Federal water projects funds should support and encourage water management, conservation, and pollution control programs in all types of water use.

5. *Agricultural Conservation*

Federal programs should help to eliminate institutional barriers to efficient water use, such as those that discourage resale of water from irrigation districts.

6. *Municipal Water Uses*

Federal programs to promote conservation in municipal water use should recognize the conservational value of improving and rehabilitating existing municipal delivery and storage systems and the differences in conservation strategies for local and regional situations. The federal government should not adopt uniform conservation requirements, but should promote and cooperate with state and local water conservation programs and authorities.

Where national objectives are sought through local governments, any additional costs of federal mandates should be met with federal funds. Where local governments seek to develop new and/or innovative conservation programs in keeping with national interests and objectives, the federal government should make available an appropriate combination of technical and financial assistance for environmentally sound and safe local solutions.

7. *Pricing and Economic Policies*

The federal government should clearly identify the beneficiaries of federal water projects and see that they are required to pay a reasonable share of the costs. More specifically, NLC believes that all federal agencies supplying water to users should adopt a uniform policy of cost-based pricing in all future contracts. Whenever practicable, federal agencies should extend the same policy to classes of users that are not now charged. Some social goals will not be realized simply by relying on price mechanisms, i.e. land use protection, or water quality. These goals must be achieved with other policy tools, including the appropriate mix of regulations and financial incentives. It is in these limited and precisely identifiable cases that subsidies are justified.

Federal research capabilities and resources should be committed to analyzing the consequences of municipal rate structures and to proposing alternatives. However, the authority for adopting such alternatives must continue to rest with local officials.

8. *Planning at the Federal Level*

Federal river basin commissions should be given a stronger role in regional water resource planning. This should be coupled with mechanisms for effective participation by local governments.

An effective dispute resolution process must be established so that all affected parties are represented and decisions are made on scientific bases. The federal government should develop such a dispute resolution process as quickly as possible.

9. *Desalination*

As freshwater and imported water supplies near exhaustion in some regions, finding alternative sources of water has become a critical issue for growing cities. Removal of dissolved minerals or “salts” from seawater, brackish groundwater, recycled water, and other high-salinity sources will be an important tool as the demand for high quality water increases with the population.

Although technological advances continue to expand options for salt removal, further efforts are needed. To improve the efficiency of this process, NLC urges the federal government to:

- Engage locally elected officials, stakeholders, and the public in education and outreach strategies about the need to conserve, preserve and enhance water supplies; and
- Provide financial incentives to expand research and development for water production, including cost-effective and environmentally-sound means to control salinity, desalt water, and manage the brine associated with these processes, but not at the expense of other water infrastructure programs.

2.05 National Wetlands

Wetlands have significant and irreplaceable value, and therefore Congress should establish a comprehensive national wetlands policy. Wetlands protection should occur not by memoranda of understanding between agencies, but rather through a public process that involves broad public debate over risks, costs and benefits, and the development of a national consensus.

The Administration should implement that policy by adhering to the traditional rulemaking process.

A classification plan should be developed for the nation’s wetlands that recognizes relative differences in the ecological value of individual wetlands areas, classifies them accordingly and treats them differently relative to their preservation, protection or development. A sound wetlands classification plan must also recognize the differential presence of wetlands among regions of the country and the need to exercise different policy

choices relative to their treatment for development purposes.

Coastal wetlands, which provide protection from rough weather and seas and support fisheries and other commerce, endangered plants and animals, energy supplies and navigation routes, must be protected, and where appropriate, restored. Congress should develop a programmatic plan based on the best available science to restore coastal wetlands and provide federal funding for implementation.

2.06 Endangered Species

NLC supports the protection of endangered species. In efforts to maintain the integrity and original intent of the Endangered Species Act (ESA), NLC supports federal policies that:

- Exercise reasonable judgment to prevent unintended consequences that adversely affect human health and safety or other aspects of the environment.
- Streamline federal permitting activities affected by federal endangered species regulations;
- Provide more opportunities for local governments to comment and participate in the federal decision-making process;
- Create a system of incentives to encourage state and local governments to develop comprehensive land-use and development plans that balance habitat preservation and environmental concerns with necessary development and economic growth;
- Focus more on protection of multiple species and the habitats upon which they depend, and give priority to conservation of the species and habitats that, if protected, are most likely to reduce the need to list other species dependent on the same ecosystem;
- Encourage, provide incentives for, and where appropriate, compensate landowners to engage in habitat conservation activities;
- Allow “safe harbor” agreements, through which landowners protect and/or improve habitats without compromising the use of their land;
- Provide a clear methodology for delisting recovered species; and
- Ensure ESA actions are based on scientific data.

2.07 Invasive Species and Harmful Infestations

Invasive species and harmful infestations include aquatic and non-aquatic plants, insects, pathogens and other species whose introduction does or is likely to cause economic or environmental harm or harm to human health. Invasive species and harmful infestations degrade, change or displace native habitats and compete

with native wildlife and are thus harmful to fish, wildlife and plant resources.

NLC urges Congress and the Administration to:

- Prevent the introduction of invasive species and harmful infestations;
- Detect, respond rapidly to, and control populations of such species in a cost-effective and environmentally sound manner;
- Monitor invasive species populations accurately and reliably;
- Provide for restoration of native species and habitat conditions in ecosystems that have been invaded;
- Fund and conduct research on the best practices for eradication of invasive species and harmful infestations, develop technologies to prevent introduction, and provide for environmentally sound control;
- Provide direct financial assistance to communities facing emergency situations with invasive species and harmful infestations; and
- Promote public education on invasive species and harmful infestations and the means to address them.

2.08 Noise Control

The federal government should, using the best available technologies, concentrate regulatory activities on establishing and monitoring noise limits for major surface and air transportation vehicles.

There should be ongoing federal research on noise mitigation, particularly on developing more sophisticated noise measurement devices. A program of direct federal technical and financial assistance should be maintained to assist local governments in managing local noise control programs and agencies. Sufficient federal assistance should be made available and targeted to severely noise distressed cities to help develop strategies to lessen noise impact. (See also *TIS Section 5.04, Air Transportation*)

A. Local Regulatory Responsibility

The federal government should permit state and local governments to establish more stringent noise standards, except in instances of safety. Cities must be free to achieve locally determined environmental noise standards for the protection of public health and safety.

B. Airport Noise Policies

NLC supports the work undertaken by the Federal Aviation Administration (FAA) to implement an airport noise policy through implementation of noise emission standards. The following policies should be pursued:

- The FAA should enforce target dates to further reduce noise emissions from aircraft; and

- The FAA should expand its noise abatement program to include the development of standards for the mitigation of low frequency sound level impacts.

The federal government should assist local airports in landing, take off, and climb and descent rate procedures to minimize noise impact.

The federal government should provide technical assistance to local communities for land use planning for airport development. A federal program supporting advance acquisition of property schedules to be incorporated into airport development under comprehensive airport plans must be initiated. This program must support acquisition of property outside airport property boundaries to minimize aircraft noise impact in existence as of the date of implementation. (See also *CED Section 3.05, Land Use*)

Local governments must have the authority and flexibility to establish more stringent or additional requirements on noise generators to achieve noise level relief. The federal government, because it has significant responsibility for control of aircraft noise and aircraft, must work closely with local governments to mitigate damage claims resulting from aircraft pollution.

Local governments should be eligible to receive federal Airport Improvement Program grants for noise compatibility planning and for the implementation of approved plans.

C. Federal Airbases

The federal government should ensure that environmental degradation will not occur before permitting operations and overflights by supersonic transport aircraft.

The right of local airport operators and governments to determine whether supersonic operations should be permitted at their facilities must be preserved.

Military and Air National Guard aircraft and operations located in populated areas should be compatible with local noise plans. In instances when it is not possible to transfer military and Air National Guard operations from an urban airport, the federal government should accept full responsibility for mitigation of damage.

D. Highway Noise Policies

The federal government should establish noise emission standards for trucks, buses, automobiles and motorcycles. State and local governments must have the authority to establish more stringent standards.

Interstate construction and other federally funded highway construction in urban areas should continue to include a provision for sound barriers or buffer zones to

be constructed as an integral part of the highway as required by local governments.

E. Railroad Noise Policies

The federal government should establish minimum noise emission standards for railroad operating equipment. Local governments should be able to adopt local rail noise control standards which are stricter than federal standards

F. Planning for Noise Abatement

The federal government should develop and disseminate noise standards and criteria which could be used by cities in noise planning and abatement efforts.

G. Buy Quiet Program

The federal government and their contractors should, to the greatest extent practicable, use their purchasing power to ensure that new equipment and replacements incorporate noise control features.

2.09 Public Lands

Public lands are held and managed by the federal government for the benefit of the entire nation. Due to the economic, social, and environmental impacts of the use of these lands on cities, the federal government must engage locally elected officials and consider the needs of nearby communities and the public when developing management plans for public land.

The federal government should offer the right of first-refusal, at no more than fair market value, to state and local governments to preserve land for public purposes. When considering the sale of public lands, the local impacts of those sales must be considered. In the rare instances that it is deemed necessary to sell parcels of public land, the income derived from those sales should be held in a trust for the benefit or improvement of other public lands, or the funds must be directed to an otherwise appropriate and related use. In no instance should public lands be sold for the purpose of reaping short-term financial gains.

When trading, purchasing, or selling public land, the federal government must ensure that land valuations are established without interference from buyer or seller and must use fair market value to determine price.

A. Conservation Funds

The Land and Water Conservation Fund (LWCF) was established as a visionary and bipartisan program in 1964 to create parks and open spaces, protect wetlands and refuges, preserve wildlife habitat, promote environmental stewardship, and enhance recreational opportunities for all Americans. NLC urges Congress to honor this commitment by fully and permanently funding the

LWCF and related programs such as the Urban Park and Recreation Recovery Program (UPARR).

B. Natural Resources in Public Lands

Fees for the extraction of resources such as minerals, oil, and gas must be restructured so that the taxpaying public is compensated based on the fair market value of the resource. Additionally, royalties on hard metals such as gold, silver, uranium and copper should be collected. Companies that extract these resources from public lands must be held legally responsible for mitigating the adverse effects of the extraction.

Commercial activities, using renewable resources, should be allowed as long as the activities are conducted in an environmentally-sensitive manner, and the public is fairly compensated.

C. Wildfire Protection and Public Forests

The protection of communities should be the central focus of any wildfire protection plan. To accomplish this goal, the federal government must:

- Engage locally elected officials in the development of fire protection plans;
- Promote the use of the best ecological research to accomplish the dual goal of protection from forest fires and promotion of forest health;
- Assist in the development of models to determine how to protect communities from wildfire; and
- Give priority to protection of municipal watersheds on federal lands when developing fire reduction plans.

D. Beaches and Shorelines

The country's public shorelines and beaches provide vital economic, environmental, fish and wildlife habitat, and recreational benefits to the nation. The federal government should partner with state and local governments to fund environmentally appropriate beach restoration and renourishment projects.

E. Closed Federal Facilities

Community efforts to redevelop closed federal facilities have often been hindered by environmental contamination which restricts transfer of federal property. Congress must fully fund environmental remediation to EPA standards of closed federal facilities, and ensure prompt action in order to facilitate the reuse of these facilities and support the economic viability and environmental quality of the affected communities.

2.10 Security of Critical Infrastructure

A. Problem

Cities and towns lack the financial resources to assess adequately vulnerabilities to terrorist attacks and natural disasters, such as earthquakes, extreme weather,

wildfires, floods, tsunamis, and human-caused disasters. Federal resources are needed to ensure that first responders are adequately trained to protect the public and evidence in the event of an attack.

B. Goals

The federal government must enhance its ability to assess potential threats to critical local infrastructure. Information on credible threats to local facilities must be shared with the appropriate local officials to assure adequate preparation to prevent or minimize the impact of any attack or natural disaster on critical local infrastructure.

The federal government must provide adequate resources to enable local governments to identify and rectify any structural vulnerabilities in their critical infrastructures. In addition, the federal government must provide technical assistance for the development of emergency alternatives to be used in the event of a major system disruption.

Since federally mandated vulnerability assessments have the potential to provide a blueprint for the effective disruption of specific municipal utilities, Freedom of Information Act requirements at both the federal and state level must be amended to exempt these documents from public access.

C. Federal Policies

1. Water Infrastructure Protection

NLC supports federal requirements to conduct vulnerability assessments and develop emergency response plans for drinking water and wastewater utilities and urges the federal government to provide financial assistance to comply with this mandate. NLC urges the federal government to provide water utilities with financial assistance, in addition to what is currently available through the State Revolving Loan Funds, to implement enhanced security measures. The federal government should also expand security research initiatives and make any resulting new information available to appropriate utility managers. Technical expertise on treatment, monitoring techniques, and prevention strategies is also required.

2. Energy Infrastructure Protection

NLC believes that energy diversification and distributed generation will help to limit the vulnerability of energy infrastructure facilities. To further reduce the vulnerability of these systems, NLC urges the federal government to work with local and state governments to protect critical energy infrastructure and coordinate emergency preparedness planning.

3. Nuclear Facilities Protection

NLC supports a federal regulatory system that protects nuclear facilities from direct attack or extreme events,

including natural or human-caused disasters. NLC opposes any attempts by the federal government to federalize nuclear plant security teams or to provide the Nuclear Regulatory Commission (NRC) with authority to summon any branch of the military.

NLC urges the federal government to increase funding available to local governments to train first responders in the event of a nuclear emergency.

NLC RESOLUTION #2012-9**WATER INFRASTRUCTURE FINANCING AND REGULATORY PRIORITIZATION**

WHEREAS, the nation's water infrastructure systems are significant assets that protect public health and the nation's water resources; and

WHEREAS, green infrastructure, such as constructed swales, wetlands, green roofs, infiltration planters, rain gardens, and enhanced floodplains and riparian buffers, augmented by permeable pavers, rain barrels, and trees, is a valuable part of water infrastructure systems that can help local governments manage runoff; and

WHEREAS, well-maintained systems contribute substantially to our citizens' general welfare and the nation's prosperity; and

WHEREAS, municipal resources dedicated to water infrastructure are currently overwhelmingly directed to compliance with new and ever more complex federal mandates and are therefore unavailable for critical maintenance, repair, and rehabilitation needs; and

WHEREAS, local water and sewer rates and stormwater fees are rapidly becoming unaffordable for many of our citizens; and

WHEREAS, financial participation by the federal government in assisting cities in maintaining and upgrading water infrastructure systems has declined severely in the past 20 years; and

WHEREAS, the gap between needs and expenditures for wastewater, stormwater and drinking water, according to multiple reports, is estimated at hundreds of billions of dollars over the next few decades; and

WHEREAS, this funding gap does not include anticipated expenditures to comply with new Clean Water and Safe Drinking Water Act mandates, new responsibilities and costs relating to water security, source water protection or additional needs for re-use of treated effluent; and

WHEREAS, at a time where financial resources are increasingly limited, costly federal and state regulatory requirements to carry out the objectives of the Clean Water Act are consistently being added without a sense of which regulations should be addressed first and in what priority order; and

WHEREAS, local governments deserve a regulatory approach to help determine where to invest ratepayer and city dollars to maximize water quality benefits and protect public health and safety.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities continues to urge Congress and the Administration to reverse the decline in federal financial participation in funding municipal water infrastructure needs by developing a financial option that strikes the right balance between local responsibility and federal assistance; and

BE IT FURTHER RESOLVED that Congress and the Administration enact new legislation which provides adequate and reliable long-term funding for municipal water infrastructure needs to help close the funding gap. This funding shall be used solely to address water infrastructure needs and must not rely on traditional sources of revenue, such as a federal tax on water or sewer charges.

BE IT FURTHER RESOLVED, that Congress and the Administration should work together to establish a new approach whereby local governments can work with their state and federal counterparts on an approach to regulatory prioritization based on principles of affordability and financial capability, while maximizing environmental benefit, to meet the requirements and objectives of the Clean Water Act.

NLC RESOLUTION #2012-10**CALLING ON THE FEDERAL GOVERNMENT TO ADDRESS ISSUES OF SUSTAINABILITY AND SUPPORT LOCAL “GREEN” EFFORTS**

WHEREAS, sustainability is a defining issue of our time, representing the broad notion that all activities should take into account implications for people and the environment so that our actions meet the needs of the current generation without compromising future generations; and

WHEREAS, a variety of challenges have brought increased attention and timeliness to sustainability, including the threat of climate change, increased demand for energy, and the depletion of natural resources; and

WHEREAS, acting in a sustainable fashion presents great opportunities, with the potential to result in multiple, significant benefits to individuals, communities and society, including:

- Economic prosperity
- Environmental protection
- Social well-being
- Public health
- National security; and

WHEREAS, a wide array of issue areas can and should be viewed in the context of sustainability, including energy and the environment; transportation; land use and economic development; housing; and public health; and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD), the U.S. Department of Transportation (DOT) and the U.S. Environmental Protection Agency (EPA) have formed an Interagency Partnership for Sustainable Communities to promote coordination of transportation, housing, community development, energy, and environmental policies which will help local communities plan for and create better and more affordable places to live, work, and raise families; and

WHEREAS, the nation’s local elected officials are in a unique position to provide a comprehensive perspective on these issues, as key decision-makers with a responsibility for representing all constituencies, and at a level of government where effects are felt and change can be implemented; and

WHEREAS, local governments recognize that they have a central role to play in effecting change, but need the support and cooperation of the federal government and its encouragement to collaborate in appropriate regional action to ensure regional sustainability; and

WHEREAS, cities and towns, both urban and rural, across America are not waiting for federal action, and are actively serving as leaders on this issue by seeking “green” solutions and implementing plans which achieve and promote sustainable development; and

WHEREAS, the efforts by America’s cities and towns on sustainability are echoed by many sectors of American society, including county and state governments, the business sector, the

academic and scientific communities, and countless other individual and organizational initiatives, which together represent a mounting consensus on the need for action; and

WHEREAS, America's cities can benefit from the exchange of experiences and engagement with local governments in other countries, and must join in international cooperation and collaboration efforts to mount meaningful actions to achieve sustainability goals and reduce the impacts of climate change.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) urges the federal government to include U.S. city and other local government leaders in every national delegation participating in international climate change negotiations (such as those convened through or involving the United Nations) in order to ensure that cities and local governments participate in defining issues, designing models for action, and drafting commitments that will engage local governments in mitigating the effects of and adapting to climate change and working toward a sustainable future; and

BE IT FURTHER RESOLVED that NLC supports the HUD-DOT-EPA Interagency Partnership for Sustainable Communities and urges Congress to pass legislation to officially authorize the partnership; and

BE IT FURTHER RESOLVED that for the betterment of the current generation, and to ensure that we meet our responsibility to future generations, NLC recommends that the federal government take the following actions:

In the area of energy and the environment:

- Work with local governments to implement a reliable, equitable, and environmentally responsible energy policy that promotes the most efficient and affordable use of all sources of energy, while decreasing greenhouse gas emissions;
- Provide consistent financial assistance to promote the development and use of renewable fuel sources while developing techniques to reduce the environmental impact of conventional fossil fuels;
- Encourage conservation and energy efficiency through incentives for industrial, commercial and residential consumers, and through promotional efforts targeting the public;
- Fund local energy efficiency programs for schools, housing, commercial and municipal buildings, including the Weatherization Assistance Program and Low Income Home Energy Assistance Program;
- Ensure that all new and existing federal facilities are energy efficient;
- Protect human health from the harmful effects of air pollution by targeting sources responsible for emissions and emphasizing regional solutions;
- Recognize the connection between the status of the nation's water infrastructure and the ability to accomplish water treatment, delivery and conservation by renewing the federal commitment to assist municipalities through reliable, long-term funding;
- Support and provide incentives for the development of a national system of watershed planning based on local decision-making and equitable stakeholder management;

- Promote responsible waste management, such as recycling through development of stable markets for recycled products and through the dissemination of information and best practices;
- Share best practices and lessons learned from state and local governments as a result of programs implemented through the Energy Efficiency and Conservation Block Grant;
- Provide financial and technical assistance to support local government climate change mitigation and adaptation efforts; and
- Promote efforts to reduce emissions from buildings.

In the area of transportation:

- Support Transportation Enhancements (TE), which helps achieve a multi-modal transportation system, by protecting the funding percentage and ensuring that funds arrive at the local level;
- Support the Congestion Mitigation Air Quality Improvement Program (CMAQ), which supports local governments' ability to address transportation as a significant contributor to emissions and air pollution;
- Change the tax code to provide incentives to encourage commute alternatives, such as ridesharing, mass transit and telecommuting;
- Increase federal funding and encourage demonstration projects for all forms of public transportation to reflect its status as an essential public service, so that mass transit can be a viable transportation alternative in all appropriate locations;
- Provide adequate funding to support national passenger rail, and support the development of high-speed rail in densely populated corridors;
- Reduce dependence on fossil fuels used for transportation by increasing funding for research and development of clean and sustainable alternative fuels, pursuing a national distribution system for alternative fuels, and developing incentives for low emission vehicles and public transportation systems;
- Support and further strengthen Corporate Average Fuel Economy (CAFE) standards for all mobile sources, including expansion of the number and classes of vehicles regulated, while taking safety issues into consideration; and
- Urge better collaboration among federal, state and local transportation authorities on sustainable development planning.

In the area of land use and economic development:

- Support the ability of local governments to encourage efficient land use management and sensitivity to the environment and neighborhoods, discourage sprawl, and generally consider the need to protect limited resources;
- Assist local governments in planning and managing growth through technical assistance training and financial incentives;
- Provide incentives for local governments to cooperate with regional and sub-regional planning organizations;
- Provide funding and incentives to encourage housing and business development in existing communities and distressed centrally-located areas;

- Fund federal brownfields programs which are needed to support local governments in these important economic and environmental efforts, and resolve the disincentives created by liability concerns;
- Encourage coordination of transportation and land use policy, including concepts such as Transit-Oriented Development;
- Involve local officials in the siting and building of federal facilities at the earliest possible point, while taking into account existing transportation and infrastructure systems;
- Continue to recognize the rights of local governments to set and control local land use policies;
- Make advanced planning tools and technical assistance available to local governments through the Census and other relevant agencies to analyze demographic shifts and trends; and
- Provide federal funding and technical assistance to local governments to undertake comprehensive economic and environmental analyses of proposed land use plans.

In the area of housing:

- Encourage the distribution and use of inexpensive mechanisms, such as smart home energy meters, to provide information on residential building energy performance for homeowners and homebuyers;
- Develop models that can account for transportation costs within household total energy consumption data;
- Increase federal investment in programs that provide energy efficient retrofits for low income and public housing, and broaden tax incentives that encourage energy efficient retrofits for all households;
- Ensure that federal rules and regulations continue to provide households and local governments with incentives for increasing energy efficiency without imposing unfunded mandates;
- Grant local governments flexibility to choose among nationally-recognized energy efficiency and green building guidelines, for example the Leadership in Energy and Environmental Design (LEED) rating system and International Code Council building code standards;
- Develop public service announcements and other educational materials that can be utilized by local governments to promote the benefits of energy efficient and resource conserving consumer products; and
- Prioritize grant applications that demonstrate energy efficiencies will result in a net reduction of cost for the project.

In the area of public health:

- Recognize relationships among the environment, food systems, animal health and human health, and support the *One Health Initiative*¹ to promote integration of those disciplines, policies, and practices;
- Support policies and programs that reduce the prevalence of obesity and improve of the overall health and wellness of those in our communities;

¹ www.onehealthinitiative.com

- Preserve and create urban and rural green spaces, such as urban parks, community green spaces and gardens, and farm and ranch lands, and reconnect citizens, particularly youth, to the outdoor environment by building a legacy of conservation;
- Support policies and programs that promote physical activity and active living;
- Ensure that all people have access to healthy, affordable and locally grown food and eliminate “food deserts” in our communities;
- Maintain the Supplemental Nutrition Assistance Program as a federal grant program;
- Improve the quality of food in schools, particularly through implementation of the Healthy, Hunger-Free Kids Act of 2010;
- Provide funding through the U.S. Department of Agriculture for research for food crop adaptation to climate change;
- Support implementation of the recommendations made through the *America’s Great Outdoors* initiative and the *Let’s Move!* initiative; and
- Support adoption of the 2012 Farm Bill that incorporates healthy foods, public health and sustainability practices.

NLC RESOLUTION #2012-11**ADDRESSING THE RESPONSE AND EFFECTS OF THE DEEPWATER HORIZON BP OIL SPILL AND ECOSYSTEM RESTORATION**

WHEREAS, on April 20, 2010, the Deepwater Horizon BP oil rig in the Gulf of Mexico exploded, leaving 11 crewmen dead and a broken wellhead from which millions of barrels of oil entered the Gulf of Mexico; and

WHEREAS, the leaking oil reached the shores of Alabama, Florida, Louisiana, Mississippi and Texas, and threatened other coastal states; and

WHEREAS, the effects of the oil spill are being felt by virtually all sectors of the local economy, including restaurants, tourism, entertainment industries, commercial and charter fishing, oystering, and shrimping, jeopardizing the livelihoods of thousands of Americans who live throughout the Gulf region; and

WHEREAS, the Gulf Coast Claims Facility has been commissioned by BP and sanctioned by the President to compensate businesses and individuals for their losses, but it has not paid 75 percent¹ of the interim claims filed against it and has excluded whole classes of businesses from being eligible for consideration; and

WHEREAS, the oil brought unprecedented harm to the environment and ecology of the Gulf region, including essential wetlands, beaches, and wildlife refuges, which are home to thousands of species of animals, plants and other living organisms that provide the foundation for the region's ecosystem; and

WHEREAS, a lack of enforcement of existing federal laws and regulations governing deepwater oil drilling and operations, coupled with the industry's failure to use best safety practices, were contributing factors in the Deepwater disaster; and

WHEREAS, the oil spill poses substantial and unique challenges to all levels of government, requiring unprecedented intergovernmental coordination among local, state, federal and foreign governments; and

WHEREAS, President Obama established a Gulf Coast Ecosystem Restoration Task Force as a result of a recommendation made in "*America's Gulf Coast: A Long Term Recovery Plan After the Deepwater Horizon Oil Spill*," a report by the Secretary of the Navy, to coordinate intergovernmental responsibilities, planning and exchange of information so as to better implement Gulf Coast ecosystem restoration and to facilitate appropriate accountability and support throughout the restoration process.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) calls on the President to ensure the federal government does not lose focus on this disaster and continues

¹ Gulf Coast Claims Facility, Overall Program Statistics (Status Report as of November 9, 2011), www.gulfcoastclaimsfacility.com

to act expeditiously to enact policies and implement plans to address the devastation caused by this oil spill and advance the rebuilding of affected ecosystems and economies; and

BE IT FURTHER RESOLVED that Congress and the Administration must hold BP and its business partners, as well as any of the relevant federal regulatory entities, accountable for the environmental, economic and health effects of the oil spill on our citizens, cities, nation and planet; and

BE IT FURTHER RESOLVED that NLC calls on Congress to enact legislation to separate the revenue collection, leasing and oversight functions of the U.S. Department of the Interior Mineral Management Service; and

BE IT FURTHER RESOLVED that NLC calls on Congress to enact legislation that will direct 80 percent of the Gulf Coast oil spill fines paid to the federal government under the Clean Water Act to a newly created Gulf Coast Restoration Fund for Alabama, Florida, Louisiana, Mississippi and Texas and that these Gulf states have access to funds for economic development, tourism promotion and ecosystem restoration as meets their specific needs; and

BE IT FURTHER RESOLVED that efforts toward Gulf Coast ecosystem restoration should focus on building resilient communities, restoring and conserving habitats, improving water quality and replenishing and protecting living coastal marine resources; and

BE IT FURTHER RESOLVED that the responsible parties, as well as the federal government, must ensure that cities and their emergency response personnel are fully consulted and their complete and timely input is sought in executing response plans and other emergency measures now and in the future; and

BE IT FURTHER RESOLVED that the federal government must provide updated data and projections on the magnitude of future possible spills, as well as stringent standards and greater oversight for oil industry contingency plans; and

BE IT FURTHER RESOLVED that the federal government must enforce all federal laws and regulations affecting the oil industry; and

BE IT FURTHER RESOLVED that the federal government must provide research, analysis, and recommendations that ensure federal, state and local governments will have the plans, resources, and capacity to address and respond to future man-made disasters.

NLC RESOLUTION #2012-12**CONGRESSIONAL ACTION TO SUPPORT
PROPERTY ASSESSED CLEAN ENERGY PROGRAMS**

WHEREAS, utility bills represent a major part of operating costs for home and business owners; and

WHEREAS, the building sector accounts for 39 percent of the nation's energy use, 72 percent of its electricity use, one third of all global greenhouse gas emissions and represents the single largest, most accessible opportunity for deep emission cuts in the United States; and

WHEREAS, investing in cost-effective energy efficiency and renewable energy improvements to homes and businesses can save energy, cut utility bills up to \$140 billion per year, create thousands of local jobs, reduce reliance on fossil fuels, and dramatically reduce greenhouse gas emissions; and

WHEREAS, Property Assessed Clean Energy (PACE) financing programs are an innovative local government solution to help property owners finance energy efficiency and renewable energy improvements – such as energy efficient boilers, upgraded insulation, new windows, solar installations, etc. – to their homes and businesses; and

WHEREAS, the PACE program removes many of the barriers of energy efficiency and renewable energy retrofits that otherwise exist for residential homeowners and businesses, particularly the high upfront cost of making such an investment and the long-term ability to reap the benefits of cost savings; and

WHEREAS, 27 states plus the District of Columbia have passed laws enabling local governments to develop PACE programs; and

WHEREAS, the White House and the U.S. Department of Energy strongly support PACE, have dedicated \$150 million to assist in the development of local PACE programs and issued guidelines to ensure that PACE programs meet safety and soundness requirements and adequately protect property owners, tax payers, and investors in the bond and mortgage markets; and

WHEREAS, locally-administered PACE programs are an exercise of the traditional authority of local governments to utilize the tax code for public benefit; and

WHEREAS, PACE programs help local governments meet a core obligation to their citizens to maintain housing stock and improve housing opportunities for all citizens; and

WHEREAS, the PACE program is an achievement of the intergovernmental partnership to realize national policy goals, namely, reducing energy consumption, that will positively impact the fiscal conditions of every level of government; and

WHEREAS, despite PACE's great promise, the Federal Housing Finance Agency and the Office of the Comptroller of the Currency on July 6, 2010 issued statements that immediately forced existing PACE residential programs to halt operations and froze the development of dozens of other residential PACE programs nationwide.

NOW, THEREFORE, BE IT RESOLVED that locally-administered PACE programs operating in accord with state and federal guidelines are a safe and sound investment of public and private funds; and

BE IT FURTHER RESOLVED that locally-administered PACE programs represent an essential contribution of local governments to further the national economic recovery and energy agendas; and

BE IT FURTHER RESOLVED that the National League of Cities (NLC) urges Congress to adopt legislation, such as the PACE Assessment Protection Act of 2011 (H.R. 2599) or similar legislation, that clearly reaffirms the right of state and local governments to exercise liens or assess special taxes or other property obligations to protect and improve housing stock for the public good, including energy efficiency improvements, by directing federal regulators to enforce underwriting standards that are consistent with guidelines issued by the U.S. Department of Energy for PACE financing programs or by implementing any other appropriate measure.

NLC RESOLUTION #2012-13**CLARIFICATION THAT FEDERAL LAW DOES NOT PREEMPT STATE AND LOCAL ENERGY EFFICIENCY BUILDING CODES**

WHEREAS, building codes address matters essential to the public health, safety, and welfare and, as such, have traditionally fallen within the jurisdiction of local governments; and

WHEREAS, while the traditional purposes of building codes centered on concerns like fire safety, sanitation, and structural integrity, local governments are increasingly using their building codes to promote energy efficiency; and

WHEREAS, energy efficient buildings consume less energy and emit fewer air pollutants, both significant governmental interests; and

WHEREAS, although there are nationally uniform energy efficiency standards for home appliances (the Energy Policy and Conservation Act, as amended by the National Appliance Energy Conservation Act and the Energy Policy Act of 1992), there is no federal law directly addressing energy efficiency in buildings; and

WHEREAS, it is unclear whether local standards that only indirectly concern the energy efficiency of products covered under these federal laws are preempted; and

WHEREAS, unless the federal government expressly preempts the field of green building regulation, local governments across the country will continue to seek methods of increasing buildings' energy efficiency, reducing resource consumption, and reducing pollution and construction waste; and

WHEREAS, the federal interest in ensuring that home appliances meet certain minimum standards for energy efficiency is not impacted by local standards; and

WHEREAS, the overall energy efficiency rating of a home depends upon many factors, not simply the Seasonal Energy Efficiency Rating (SEER) of the home appliances, and property owners are free to choose any mix of energy efficiency products and construction techniques in meeting such code requirements; and

WHEREAS, state and local building codes are tailored to local conditions: what works in Anchorage may not work in Miami; and

WHEREAS, a recent federal court case (*Air Conditioning, Heating and Refrigeration Inst. (AHRI) v. City of Albuquerque*, Civ. No. 08-633, 2008 WL 5586316 (D.N.M. Oct. 3, 2008)) held that provisions in various federal energy conservation acts concerning home appliances related to heating, ventilation, and air conditioning preempt local government green building regulations and temporarily enjoined the City of Albuquerque from enforcing its Energy Conservation Code, which sought to increase energy efficiency requirements for multifamily and commercial buildings by 30 percent by adopting regulations stricter than federal requirements; and

WHEREAS, *AHRI v. Albuquerque* suggests the need for Congress to clarify the authority of local governments to adopt green building codes in concert with federal statutes and regulations on appliance efficiency; and

WHEREAS, without this clarification, cities that seek to use green building codes to encourage high performing, sustainable development remain vulnerable to legal attack.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) urges Congress and the Administration to continue to respect the fundamental authority of local governments to develop local building codes in the best interests of their community and respect voluntary, above-code efforts; and

BE IT FURTHER RESOLVED that the NLC supports clarification that federal law concerning energy efficiency in home appliances does not preempt more stringent state and local “green” energy efficiency building codes.

NLC RESOLUTION #2012-14**MILFOIL**

WHEREAS, America's lakes are a precious natural resource that provide multiple benefits to our communities, our environment and our nation, and must be preserved; and

WHEREAS, milfoil affects power generation in dams by clogging intake pipes and pumps, causing government and private sources to spend millions per year in attempting to control milfoil; and

WHEREAS, our nation's lakes are choked with Eurasian water milfoil (*Myriophyllum spicatum*) which impedes water movement, decreases recreational use, and impacts ecological processes and functions; and

WHEREAS, milfoil starts spring growth earlier than native aquatic plants, thereby shading out beneficial plants that provide diverse habitats for fish and wildlife; and

WHEREAS, milfoil poses environmental and maintenance challenges for healthy lakes because it is widely distributed and difficult to control; and

WHEREAS, in addition to the health concerns for the lakes themselves, milfoil poses serious threats to the health and safety of people and pets using the lakes, including accounting for multiple deaths each year; and

WHEREAS, eradication of this invasive plant requires a multi-year approach with aggressive management actions, dedicated funding, strong community support and enforceable prevention measures; and

WHEREAS, individual communities are challenged in difficult economic times to fund and support an adaptive and sustainable eradication program, further deteriorating the nation's lakes and loss of beneficial uses; and

WHEREAS, strong sustained support for educating, engaging, and empowering communities to eradicate milfoil through regional cooperation among various levels of government is critical in addressing this increasingly prevalent species in our nation's lakes.

NOW, THEREFORE, BE IT RESOLVED, that the National League of Cities (NLC) urges the federal government to conduct research into the best practices for eradication of Eurasian milfoil from our nation's lakes; and

BE IT FURTHER RESOLVED that NLC urges the federal government to provide direct financial assistance to address emergencies, such as the situation currently facing communities with a growing milfoil infestation.

NLC RESOLUTION #2012-15**TAX EXEMPT FACILITY BONDS FOR WATER AND WASTEWATER**

WHEREAS, local governments are responsible for the vast majority of investment in water and sewer infrastructure, investing over \$1.6 trillion in the last 53 years; and

WHEREAS, future spending for public water and wastewater systems is estimated to range between \$2.5 and \$4.8 trillion over the next 20 years; and

WHEREAS, federal loan and grant assistance to cities and local governments continues to decline in real dollars; and

WHEREAS, public-private partnership approaches can provide options for communities to access sources of private capital to meet water infrastructure needs; and

WHEREAS, private activity bonds or tax exempt facility bonds are a form of tax-exempt financing that can be used for water infrastructure projects; and

WHEREAS, exempt facility bonds utilize private capital instead of public debt and shift the risk and long-term obligation from the municipality to the private equity partner; and

WHEREAS, Congress provides to states a capped annual allocation (“volume cap”) of tax exempt bonds, based on population, but historically, most of the tax-exempt bonds are issued to short-term projects such as housing and education loans; and

WHEREAS, Congress has previously enacted legislation eliminating the state volume cap for such municipal infrastructure projects such as airports, landfills, and ports; and

WHEREAS, eliminating the state volume cap is estimated to make available \$5-6 billion in private capital for water projects, while the cost in foregone revenue to the federal government is nominal.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities supports legislation removing the federal volume cap on tax-exempt bonds for water and wastewater infrastructure projects.

NLC RESOLUTION #2012-16**SUPPORTING HEALTHY FOOD, PUBLIC HEALTH AND SUSTAINABILITY
PRACTICES IN THE 2012 FARM BILL**

WHEREAS, cities throughout the country face multiple health, social, and environmental issues connected to food, including hunger and malnutrition, as well as having to cope with health problems such as Type 2 diabetes, heart disease, and other chronic diseases for which the increasing incidence of obesity and overweight adults and children are significant risk factors; and

WHEREAS, supporting public health and protecting our environment are essential to the viability and livability of our cities and our economy; and

WHEREAS, improving nutrition and reducing hunger are not only moral concerns, but also critical for decreasing social vulnerability, increasing the capacity of children to learn, and improving economic opportunity; and

WHEREAS, agriculture represents an important part of both rural and urban economies, yet, farmland, farms, and farmers are at risk because of policy barriers and inadequate infrastructure; and

WHEREAS, access to healthy food is increased when local and regional food production, processing, distribution and retail work together to build strong markets for healthy foods, and regional food economies are an important source of employment in our communities; and

WHEREAS, maintaining and improving the security of a diverse food supply is essential to local emergency preparedness and regional self-reliance; and

WHEREAS, the current food system has led to an unsustainable reliance on chemical inputs and cheap oil for production and distribution and the paradox of simultaneous increases in both obesity and chronic hunger; and

WHEREAS, around the country local governments and community groups are developing approaches to the renewal of the Farm Bill that reflect these concerns and priorities; and

WHEREAS, local governments have an important role to play in creating a healthy food system, but federal policies and actions significantly impact the ability of cities to fully realize these goals; and

WHEREAS, the policies, programs, and funding included in the 2012 Farm Bill will affect how successful cities can be in improving our local food systems and in doing so, advance goals of environmental sustainability, economic development, public health, race and social justice, and emergency preparedness.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities calls upon the federal government to adopt a Farm Bill that is consistent with these principles in the areas of healthy food, public health and sustainability:

- (1) **Health-centered Food System:** Focus on the relationship of food and ecologically sound agriculture to public health. Improving the health of the nation's residents must be a priority in developing policies, programs, and funding.
- (2) **Sustainable Agricultural Practices:** Promote farming systems and agricultural techniques that prioritize the protection of the environment so that the soil, air, and water will be able to continue producing food long into the future. Integral to both domestic and global agricultural policies should be agricultural techniques and farming practices that enhance environmental quality, build soil and soil fertility, protect natural resources and ecosystem diversity, improve food safety (to protect against foodborne illness and disease), and increase the quality of life for communities, farmers and farm workers. Sustainable agricultural practices should be more broadly supported and applied and reliance on oil should be reduced.
- (3) **Community and Regional Prosperity and Resilience:** Enhance food security by strengthening the viability of small and mid-scale farms, and increasing appropriately scaled processing facilities, distribution networks, and direct marketing. Develop strategies that foster resiliency, local innovation, interdependence, and community development in both rural and urban economies. New coordination across city, county, state, and federal agencies, as well as between government, civil society, and businesses is needed to allow communities greater flexibility to plan and take action for strong and diverse food systems in every region.
- (4) **Equitable Access to Healthy Food:** Identify opportunities and reduce barriers by developing policies and programs that increase the availability of and improve the proximity of healthy, affordable, and culturally-relevant food to urban, suburban, and rural populations. Protect the nation's core programs that fight food insecurity and hunger while promoting vibrant, sustainable agriculture.
- (5) **Social Justice and Equity:** Develop policies, programs, and strategies that support social justice, worker's rights, equal opportunity, and promote community self-reliance. The policies reflected in the Farm Bill impact the lives and livelihoods of many people, both in the United States and abroad.
- (6) **Systems Approach to Policymaking:** Reduce compartmentalization of policies and programs and approach policy decisions by assessing their impact on all aspects of the food system including production, processing, distribution, marketing, consumption, and waste management. Consider the interrelated effects of policies and align expected outcomes to meet the goal of a comprehensive health-focused food system.

NLC RESOLUTION #2012-17

ONE HEALTH INITIATIVE

WHEREAS, cities depend on the health and vitality of their inhabitants, reliable access to sufficient quantities of wholesome food and clean water, clean air, and the ecosystem services that support them; and

WHEREAS, government plays an important role in coordinating efforts to preserve and maintain those resources; and

WHEREAS, policymakers are challenged to make sense of complex inter-relationships among human health, animal health, and ecological health, and pressed to conform with decision-making models that often isolate those critical connections and shorten planning horizons; and

WHEREAS, cities' economic, social, and environmental well-being—the “triple bottom line” whereon environmental stewardship, economic prosperity, and social responsibility intersect—depends on our ability to integrate diverse interests through unified long-range planning, and to engage and inform policymakers and practitioners about critical interdependent needs; and

WHEREAS, the *One Health Initiative*⁴ is the collaborative objective of multiple disciplines, including the American Medical Association (AMA), U.S. Centers for Disease Control and Prevention (CDC), American Veterinary Medical Association (AVMA), their international counterparts, and environmental organizations, working locally, nationally, and globally to disseminate information about human health, animal health, and environmental health; and

WHEREAS, leaders in local government are ideally suited as partners in that responsibility; and

WHEREAS, successful adoption and implementation of the *One Health Initiative* will be predicated on the leadership, communication skills, and cooperation of its advocates; and

WHEREAS, *One Health* topics that pertain to local government include the costs and organizational structure of public health services; pandemic preparedness; health education; adaptation to climate change; animal control and vaccination requirements; transportation and land use planning affecting public wellness; water quality protection; waste management; energy choices; food safety and regional food systems; ecological protection, restoration, and monitoring; homeland security and bioterrorism; measures of economic trends and workforce preparedness relative to sustainable practices; health, healthcare costs, and absenteeism of personnel; and

WHEREAS, facilitating communication among increasingly specialized experts will improve health outcomes for communities through increased awareness of connections between climate

⁴ www.onehealthinitiative.com

variability, food production, and infectious diseases; cross-species contagion (zoonoses), and human and animal health conditions; and demands on municipal infrastructure and services; and

WHEREAS, climate change will affect energy costs, the frequency and severity of floods, fires, wind events, heat waves, and other extreme weather conditions; coastal development and building standards; incidence vector-borne illnesses; crop production; habitat loss; endangerment and extinction of species; and human illness; and

WHEREAS, cities can only thrive if they remain attractive and livable, with sufficient quantities of clean water, clean air, efficient, affordable buildings, healthful food choices, healthy food animals, and leaders who are committed to cooperative long-range planning for a sustainable future.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities supports integrated decision-making in the context of the *One Health Initiative*, and calls on the federal government to adopt legislation and practices that address human health, animal health, and ecological health in an integrated fashion and support local efforts to advance sustainability goals.

3.00 Introduction

America's cities are the strength of the nation – communities of neighborhoods where people live, work, learn, and play. When this principle is supported at the local, state, and federal levels, we can preserve the qualities that make each city unique and share better futures for all people.

It is imperative that the federal government immediately reinvest in America's cities – our infrastructure, our communities, and our people. The federal funding must be consistent, stable, and reliable. With sufficient federal funds leveraging new investment, cities can show a significant return on that investment that has been proven in the short-term and for the future of our nation.

The Administration and Congress must also continue to work with city officials on reversing or minimizing the negative effects of federal policies and programs on municipalities and while developing and implementing constructive federal-municipal partnerships.

Through policy recommendations and legislative action, the federal government must:

- Address community development needs that improve social conditions and economic opportunities that a community affords its residents;
- Encourage the active participation of the financial industry, since private financial institutions play a critical role in community development;
- Maintain and enhance the Community Development Block Grant (CDBG) and other federal programs and streamline the federal application process to help local jurisdictions access federal assistance and maintain local control;
- Assist communities in all regions of the country in pursuing economic development and vitality;
- Commit to developing sound international and national trade policies balanced with effective local autonomy;
- Support diverse housing opportunities in suitable living environments;
- Assure that legislation that affects land use is anchored by the principles of responsible federal stewardship, social responsibility, growth management and sustainable development, and respect for local authority; and
- Create an environment in which cities can provide needed community recreational services and facilities.

3.01 Community Development

A. Principles

Community development is most successful when people working together take ownership to revitalize and strengthen their community's quality of life and when communities grow in a planned, organized fashion, which they determine.

B. Goals

The goal of community development is to conserve and improve the physical, economic, cultural and social conditions and opportunities a community affords its residents. NLC urges the federal government to work with state and local governments as full partners to achieve this goal. Federal involvement in the development of local communities must:

- Strengthen municipal efforts to provide comprehensive community development;
- Provide a coordinated national approach that allows flexibility for local communities and economic regions to determine their own priorities;
- Encourage regional collaborations across municipal boundaries;
- Encourage efficient land use management that conserves limited resources and promotes sustainable development; and
- Support partnerships among the public, private, and non-profit sectors.

C. Recommended Federal Action

1. *Comprehensive Community Investment*

NLC supports federal policies that include a comprehensive community investment program that strengthens the quality of life for all and fosters social and economic growth. This investment must include, among other things, sufficient attention to improved community and economic development, transportation needs, physical infrastructure, housing, family needs, social development, job training, educational and workforce development, and employment conditions for all residents.

2. *Coordinated Approach*

NLC urges the federal government to pursue a coordinated approach to policy and program development. The direct and indirect effects of federal policies and programs must complement and encourage local community development efforts. For too long, federal programs and policies have created a conflicting patchwork that has hindered community development.

3. *Regional Approach*

NLC encourages federal policies that encourage and support a regional approach to comprehensive development, including:

- Collaborations within and among communities and regions;
- Cooperation between state and local governments;
- Promotion of regional community investment opportunities by neighboring states working together; and
- Proactive, collaborative, interstate and international partnerships pursued by metropolitan areas that cross boundaries.

NLC urges the federal government to appropriate funds for regional pilot programs. The costs and benefits of community development transcend jurisdictional boundaries that are no longer defined easily by political and geographic borders. Interlocking relationships exist among inner cities, suburbs, edge cities, and contiguous rural areas.

NLC is opposed to federal policies that inadvertently promote competition or pit cities against each other. These types of policies limit the development of comprehensive community development strategies and achievement of successful community development across the country. (*See also CED Section 3.04(C)(1)(b), Economic Development, No Inter-jurisdictional Battles*)

4. *Sustainable Development*

NLC supports federal policies that encourage efficient land use management and sensitivity to the environment and neighborhoods. The nation's finite physical and financial resources demand that the concept of sustainability guide community development initiatives to prevent exhausting limited resources.

For more details on sustainable development, see CED Section 3.07(C)(4)(c), Land Use, Promoting Sustainable Communities.

5. *Strengthening Overburdened Communities*

NLC encourages federal policies that ensure equity in program implementation and help strengthen the economic base of overburdened communities. The federal government must carefully consider program design effects on the different levels of need and fiscal capacity and constraints that exist in our large and diverse country.

6. *Public, Private, and Intergovernmental Partnerships*

NLC supports federal policies that encourage intergovernmental cooperation between the federal government, state agencies, counties, and municipalities as partners in community development efforts.

NLC also supports federal funding that encourages collaboration between local governments and community-based nonprofit organizations, community development corporations, and the business community, including:

- Cooperative partnerships with community-based nonprofit organizations to revitalize communities, reduce poverty, and provide critical social services;
- Collaborations with community development corporations to stimulate job creation, entrepreneurship, and community service; and
- Improved relationships with the private sector, because all levels of government must forge a commitment from the private sector to invest its resources in the maintenance and rehabilitation of the nation's local economic regions.

7. *Community Development Research*

The federal government should establish and fund a program of applied research and development regarding community development, housing, and economic development, which would assist local officials and practitioners to better understand and develop solutions to complex public policies and service delivery systems. Given the dynamic and complex nature of these communities, federal funding of this kind of research would represent a crucial investment that could improve local government decision-making and operations, which would secure the long-term success of economic and community development.

3.02 Financial Institutions

A. Principles

The federal government must remain an active player, through regulation and oversight, to influence the direction of the financial industry. This federal involvement must include all financial institutions, including commercial banks, mortgage lenders, savings and loans, mutual savings banks, credit unions, and industrial banks.

Playing a critical role in the development of our communities, financial institutions strongly influence future and current capital investments and economic development throughout local economic regions.

B. Goals

NLC supports actions by the federal government to:

- Strengthen and strongly enforce the Community Reinvestment Act, so that financial institutions better serve low- and moderate-income communities;
- Curb the practice of predatory lending, while still allowing subprime lenders to satisfy the home loan needs of high-risk consumers;
- Study and take appropriate action against insurance companies that are "redlining" certain communities; and

- Re-assess its regulation and oversight of the financial industry due to the removal of firewalls between banking, mortgage lending, insurance, and securities services.

C. Recommended Federal Actions

1. Community Reinvestment Act

The federal government must remain committed to the intent and application of the Community Reinvestment Act (CRA). NLC supports vigorous enforcement of the CRA and other related laws and regulations that encourage productive investments in cities and prohibit credit “redlining.” NLC opposes any federal efforts to weaken or eliminate the CRA, or to create safe harbors for financial institutions.

a. CRA Data Availability

NLC urges federal regulatory agencies to broadly disseminate all CRA and CRA-related information, ratings, and related data using the most efficient and effective means.

b. Performance Over Process in CRA Examinations

NLC endorses comprehensive CRA rating examinations by federal regulators that emphasize the lending, investment, and service performance by financial and related institutions in meeting a community’s CRA market needs rather than emphasizing compliance with administrative processes.

c. Uniform Evaluation Procedures

The federal government must include local branches and subsidiaries in CRA examinations and ratings, conduct CRA reviews on a community basis, and apply and standardize uniform CRA evaluation ratings and procedures to all lending and other financial institutions, including credit unions. NLC opposes exceptions or loopholes that allow financial institutions to “opt-out” of complying with the comprehensive three-part evaluation of the CRA. Focusing on the institution’s service to help under-served communities and peoples, the federal government must ensure that financial institutions collect sufficient information, make it publicly available, and strive to present it in a concise and understandable format.

Federal regulators must consider the following range of information when assessing a financial institution’s CRA performance in lending, investment, and service:

- Economic and demographic characteristics of an assessment area(s), with emphasis on the needs of lower-income, minority, and other under-served populations located in the lenders’ target area and the lenders’ specific plans to address those needs;
- Lending, investment, and services opportunities in the assessment area(s), with attention to measurable lending support for community-based counseling services and loans to community-based development agencies;

- The institution’s product offerings and business strategy;
- The institution’s capacities and constraints, including consideration of the comparative market capture ratios that the lender maintains in minority and non-minority communities; and
- The institution’s prior performance and its performance against comparable institutions.

d. CRA Enforcement

The federal government must carefully consider the unique circumstances and needs of the community when evaluating CRA compliance by lending institutions, because each community is distinctive. Federal regulatory agencies must ensure that stakeholders provide CRA plans tailored to the specific goals, needs, and assets of the community.

e. Unsatisfactory CRA Ratings

Federal bank regulatory agencies should deny applications submitted by lenders who receive unsatisfactory CRA ratings. Such lenders should be assigned a special examiner and a CRA specialist to assist them in their efforts to develop a meaningful and comprehensive CRA strategy.

f. Municipal Oversight

NLC urges rigorous federal application of the law, including developing incentives for local governments that encourage close working partnerships with local lending institutions to ensure compliant CRA outcomes.

g. Foreign-Owned Depositories

The federal government must ensure through legislation, regulation, or international agreement that foreign-owned banks operating and taking deposits from citizens in the United States also abide by the CRA.

2. Predatory Lending

In addition to enforcing the CRA, the federal government must require prime and sub-prime lenders to serve low-income populations honestly and without using predatory practices.

NLC strongly opposes the practice of “predatory lending,” whereby lenders take advantage of unsuspecting borrowers by marketing mortgage loans with excessively high interest terms and/or hidden fees, engaging in deception, or taking unfair advantage of a borrower’s lack of understanding. NLC supports legislation and regulatory action that curbs the practice of predatory lending, while still allowing sub-prime lenders to satisfy the home loan needs of high-risk consumers. NLC recognizes that not all sub-prime lending necessarily constitutes predatory lending and advises the federal government to clarify the distinction.

a. Strengthen and enforce current law

To ensure a coordinated attack on predatory practices, the federal government must:

- Strengthen the Homeownership and Equity Protection Act of 1994 (HOEPA) and expand the reach of current legislation to better regulate sub-prime lenders;
- Broaden, strengthen, and modernize other federal laws designed to protect consumers of mortgage loans, including the Truth in Lending Act (TILA), the Real Estate Settlement Procedures Act (RESPA), the Community Reinvestment Act (CRA), and the Home Mortgage Disclosures Act (HMDA);
- Allocate resources for enforcement and, where federal banking or fraud laws are violated, provide strong enforcement and stiff penalties against such predatory lenders, specifically those who target specific populations, such as the elderly, low-income families, and minorities; and
- Coordinate with states and localities to identify predatory practices and develop appropriate regulations.

b. Enact new laws to curb abusive practices and loan terms

Where appropriate, Congress must enact new legislation to restrict or prohibit such predatory practices as mandatory Single Credit Premium Insurance, unnecessarily high fees, loan flipping, balloon payments, prepayment penalties, home improvement scams, and property flipping.

Any new predatory lending legislation should include requirements for full disclosure of fees, points, and terms, and it should include strong enforcement mechanisms. Disclosure of loan terms is important, but insufficient. Congress must prohibit some outright predatory practices, such as the inclusion of single credit premium insurance or mandatory arbitration clauses.

c. Make home loan counseling more accessible and available

The federal government should allocate resources to local governments and qualified community-based organizations to provide increased counseling on the topic of home ownership and financing.

Federal law should require creditors to inform all loan applicants of available homeownership counseling programs prior to closing, to recommend that applicants seek such counseling, and to provide the prospective borrower with a list of certified counselors in the area. Once home loan counseling is available and accessible throughout the country, home loan counseling should be mandatory for certain kinds of sub-prime loans.

3. *Insurance Redlining*

NLC opposes insurance “redlining,” where individuals and businesses have difficulty obtaining insurance at a rate they can afford when they provide services or manufacture products in a high-crime or impoverished areas. This pattern can be a major factor in the depression of community and economic development in certain portions of our cities and towns. To reduce insurance “redlining,” the federal government must:

- Conduct studies to determine if pricing and underwriting requirements for insurance serve as a disincentive to businesses;
- Adopt appropriate remedial measures in the form of federal insurance or guarantees if inequities are found to exist; and
- Develop insurance application reporting systems similar to that of HMDA’s mortgage lending processes.

4. *Regulation of Evolving Financial Institutions*

The basics of banking and finance are being transformed by institutional consolidations and technological advances that are changing the way financial institutions perform their primary functions. Future capital investments and economic development are more likely to be influenced by these changes than by direct federal assistance.

In light of these changes, the federal government should:

- Encourage cooperative partnerships between local governments, financial and finance-related institutions, community groups, citizens, and the private sector that will help shape current and future social and economic needs of the community;
- Carefully review its role regarding safety, investment, and equity as the line separating banking, investment, and services industries disappears, as fire walls are eliminated between commercial banks, securities, like brokerage firms and mortgage companies, and insurance entities; and
- Encourage the banking, investment, and services industries to explore new ways to provide service and credit to help revitalize communities, with emphasis on affordable housing, small business loans, and consumer mortgages and lines of credit.

3.03 Community Development Block Grant

A. Principles

Because it provides funding directly to cities and allows local autonomy and flexibility, the Community Development Block Grant (CDBG) is the most effective form of federal assistance currently available to local governments. CDBG successfully mobilizes resources and addresses housing, community and economic development, and physical infrastructure needs. It is the

most successful federal block grant and the model against which all future federal programs must be measured. It is critical to the quality of life for our communities.

B. Goals

The federal government must fully fund CDBG as a direct allocation to cities, with the broad objective of helping low- and moderate-income people.

C. Recommended Federal Actions

1. Full Funding

As an investment in the future of America's communities, it is critical that Congress fully fund CDBG at an amount sufficient to ensure direct allocations to local governments are large enough to attract and create public/private partnerships, and to make lasting impacts on neighborhoods in need of revitalization. CDBG provides cities and counties with annual predictable levels of funding to address their unique low- and moderate-income neighborhood revitalization needs.

2. CDBG as a Separate Federal Program

CDBG, the HOME program, and federal homeless programs should be separate and distinct block grant programs. This will ensure that the communities receiving CDBG monies are able to continue to focus on their identified physical improvements, infrastructure repair and creation, neighborhood and community revitalization, social services, and economic development.

The importance of the community development aspect of the CDBG program must not be forgotten. Successful community development, including neighborhood revitalization, infrastructure, and housing, is imperative to achieving long-term economic development goals. The CDBG program provides the impetus and funding for local communities to build, maintain, and revitalize their neighborhoods unlike any other federal program.

NLC recognizes the responsibility of the federal government to review, and when necessary, improve performance measures and accountability standards for programs like CDBG in order to demonstrate meaningful and successful programmatic achievements to the public. However, the CDBG program is among the best manifestations of the partnership between federal, state and local governments. Congress and the Administration should always closely consult with municipal officials and NLC whenever legislative or regulatory reforms are proposed to the CDBG program. Moreover, any proposal that would significantly affect the distribution formula of CDBG grants to cities and towns should include hold harmless provisions that afford affected cities and towns a reasonable period of transition to adjust to the formula change.

3. Direct Funding to Cities

NLC supports direct CDBG allocations to cities. Neither the federal government nor state government should distribute CDBG funds directly to non-profit groups without approval by a city government.

NLC supports the current HUD distribution of 70% of CDBG funds directly to entitlement communities and 30% of CDBG funds to state governments to distribute to non-entitlement local governments. States must continue to allocate funds only to non-entitlement communities, based on strict guidelines enacted by Congress and controlled by HUD, with adequate input and consultation from small cities. NLC opposes any further expansion of the state role in the CDBG program.

NLC understands the difficulty in determining standards for poverty and community need. NLC supports efforts by Congress and the Administration to update the CDBG formula allocations in a cautious, timely, and methodical fashion, to include the recipients of CDBG funding in the process. In this way, CDBG funds can continue to be distributed in a way that takes into account poverty and community need effectively, based upon the law's original intent.

4. Targeted to Low and Moderate-Income People

The primary purpose of the CDBG program is the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. NLC supports the current objective of CDBG to target benefits to low- and moderate-income people. Additional burdensome targeting rules are not necessary.

5. Flexibility

NLC supports the federal government's efforts to simplify the grant process, provide more local flexibility in setting priorities and implement programs, and encourage greater local accountability.

NLC urges Congress to maintain the broad flexibility given to local governments to use CDBG funds in their communities, because flexibility and local autonomy are the cornerstones of CDBG's effectiveness and continued success. NLC opposes the implementation of restrictive regulations without regard to diverse local and regional conditions, including any new federal restrictions on eligible uses of CDBG funds or any federal requirements that cities target all their CDBG funds to one particular neighborhood (often called "neighborhood targeting").

NLC also urges Congress to limit or oppose the use of set-asides to fund new community development programs, and instead create new eligible uses of CDBG funds if an issue is significantly important to warrant

consideration of a new program. Set-asides reduce the overall flexibility of the CDBG program.

Lastly, NLC supports federal financial and technical assistance to help cities target CDBG funds and leverage public and private funds in support of particular revitalization projects.

6. *Enforcement Procedures*

NLC supports adequate review, monitoring, and enforcement procedures. NLC also supports timely programming of funds.

7. *Lower Administrative Costs*

To lower administrative costs of local communities in complying with CDBG, the federal government must provide a streamlined process for administration of CDBG funds. This process should include use of compatible, affordable, and appropriate technology that will maximize efficiency in cities and towns and provide reasonable accountability for the federal government.

8. *CDBG Programs and Services*

The federal government must make federally-mandated caps on spending for social services informal and must administer them with flexibility to allow local governments to pursue a continuum of services.

NLC supports the Section 108 loan guarantee program, with improvements such as lengthening the payback period, extending eligibility to cities with multi-year grants, and allowing new single-family and multi-family unit construction.

NLC also supports permitting lump sum drawdowns of CDBG allocations for rehabilitation programs.

3.04 Economic Development

A. Principles

Successful economic development is achieved by investment in the economic, human, and physical infrastructure in a local economic region. At its core, economic development must invigorate the capacities of local economies to thrive and support municipal services. In developing its national economic policy, the federal government must work with local governments to balance the needs of local economic regions and the overall U.S. “common market.”

The federal government must recognize that unfunded mandates are detrimental to successful economic development and viability of communities throughout the nation.

All federal involvement must assure locally-driven decision-making. Municipal governments must continue to have the primary public sector responsibility to shape

regional economic development. To fulfill that role, municipalities need appropriate authority, flexibility, and resources from federal, state, and county governments.

B. Goals

To support economic development throughout our cities, the federal government must:

- Fully fund direct economic development assistance programs to help local communities generally;
- Use federal tools to help distressed communities with long-term economic stagnation, persistent unemployment, chronic shortages of private investment capital, and poverty;
- Enact appropriate tax benefits to stimulate private investment in all local communities, especially distressed communities;
- Strengthen and grow the U.S. economy by helping small businesses; supporting companies conducting technology, research and development; and encouraging businesses to maintain operations domestically;
- Use statistical tools to measure conditions and make assessments;
- Involve and support local governments in decisions about procuring, siting, maintaining, and rehabilitating federal infrastructure throughout our cities; and
- Work closely with local governments when converting a military base to private uses and aid the community in its adjustment to the closure.

C. Recommended Federal Actions

1. *Overarching Themes Regarding Economic Development*

a. Encourage Innovation

To stimulate and sustain the “engine of innovation,” the federal government must re-assess current policies, laws, regulations, and programs and eliminate those that unduly discourage reasonable and comprehensive economic development. Innovation by the private and public sector is essential for comprehensive economic development to thrive.

The federal government must stimulate innovation by:

- Designing policies to reward innovation;
- Eliminating rigid rules that block progress and allowing performance outcomes and regulatory flexibility through program changes and waivers;
- Correcting burdensome and/or duplicative regulations and laws that inhibit innovation;
- Conducting full studies of the economic effects of environmental laws, trade policies, and immigration and refugee policies;
- Undertaking a systematic effort to re-orient its policies such as taxation, transportation, regulation, facility siting, and procurement that have led to disinvestments in municipalities; and

- Establishing and maintaining an information clearinghouse of “best practices” in economic development projects.

b. No Inter-jurisdictional Battles

NLC opposes federal economic development assistance for recipients that intend to induce firms to move from one locality to another. The federal government must discourage such “smokestack chasing.”

Federal economic development assistance must neither promote nor degenerate into competition between cities and suburbs for the location of industry and business. Inter-jurisdictional and regional competitions have historically sparked economic development battles to poach businesses and capital. Among other things, this results in poor land use decisions, economic disparities among jurisdictions within a region and, in general, creates no new economic value for the overall economy.

Instead, NLC strongly supports federal efforts to encourage regional cooperation. (See also CED Section 3.01(C), Community Development).

2. *Federal Economic Development Programs and Tools*

NLC supports federal economic development tools as critical investments necessary for local and regional economic growth and increased employment. The strategy’s intended outcome is to create economic growth, income, and security for all.

The federal government must provide financial assistance to promote local economic development. It must facilitate, but not unilaterally initiate, successful economic development activities at the state, regional, or local levels. Federal programs to promote economic development must satisfy the following criteria:

- Federal funds must be distributed directly to cities in a reliable and timely manner and made available for a project’s reasonable duration;
- Local governments must be able to use the federal funds in a flexible manner, accommodating unique regional and local circumstances;
- Federal application and reporting procedures must not be burdensome to local governments. The federal government must streamline the process, harmonize conflicting rules, and standardize eligibility and application requirements across programs and agencies;
- Programs must focus on attracting, retaining, and growing local business; and
- Economic development tools must be carefully designed to ensure that they achieve productive results and are not mere windfalls.

NLC supports long-term, direct federal funding to cities provided through various programs, such as:

- Community Development Block Grant;

- HOME Investment Partnerships Program;
- Workforce Investment Act (WIA);
- Transportation Equity Act of the 21st Century (TEA-21);
- Economic Development Initiative (EDI);
- Economic Development Administration (EDA) Public Works program; and
- Renewal Communities, Empowerment Zones and Enterprise Communities program (RZ/EZ/EC).

3. *Private Investment*

a. Private Investment Generally

The federal government must provide policy tools that both stimulate and reward the private sector to invest its substantial resources in local communities in a manner conducive to sound economic development and with appropriate accountability measures. (See also CED Section 3.02(C)(1), *Community Reinvestment Act*)

As one means of stimulating private investments in cities, NLC supports the continued responsible use of Industrial Revenue Bonds. The federal government should maintain its federal tax exemption for these bonds. (See also FAIR Chapter)

b. Private Investment in Distressed Communities

In particular, the federal government must undertake a substantial effort to encourage private investment in local regions experiencing severe long-term economic problems. These communities, often inner-city neighborhoods and low-income rural areas, have become “distressed” and are plagued by persistent problems, such as high unemployment and underemployment, insufficient affordable housing, shortages of services such as shopping centers, and, most importantly, by a chronic shortage of the private investment capital needed to stimulate and support community and economic development. Infusions of private investment would enable them to become healthy and vital local economies.

- The federal government must provide a coordinated package of focused, direct regional economic investment pilot programs that would strengthen the economic health of distressed areas. Such programs, including grants, loans, and loan guarantees for private sector and public sector entities, should be directed by a regional entity or local government consistent with local development goals.
- NLC also supports targeted incentives in the federal tax code for the location of productive enterprises in areas of long-term economic stagnation, chronic unemployment, and poverty. Using incentives, enterprises should be encouraged to train and employ unemployed, under-employed, and low- and moderate-income persons.

c. New Markets Initiative

NLC supports implementation of the New Markets Tax Credit in a timely fashion. We urge Congress to provide

adequate funding for the Community Development Financial Institutions Fund, which administers the tax credit, to continue its community reinvestment efforts.

Congress designed the New Markets Initiative to provide incentives to stimulate billions of new private capital investment in targeted areas. The investments can be made by banks, foundations, companies, or individuals by acquiring stock or other equity interests in selected community economic development entities whose primary mission is to serve distressed communities, particularly those with high poverty and low median income. The goal of this tax credit is to encourage private investors who may never have considered investing in high-risk areas to do so, thereby exploring new markets and improving the quality of life for the people of these areas. This tax credit could be an incentive for the type of investments specified in the Community Reinvestment Act.

d. **Using Business Data to Attract Private Investment**
Using a coordinated approach, the federal government should provide necessary information and data to local governments to help them strengthen their markets and bring their local economies back into the mainstream.

To make business data available to attract private investment in distressed communities, federal government agencies should undertake “data inventories” to identify the useful information they already maintain and make it available to businesses and cities. Working with business sector advisors, the federal government should take the lead in developing and disseminating this new market data, thereby enabling center cities to attract economic investment and become attractive places to live and work.

4. *Federal Role in Poverty Reduction*

Overall, NLC supports a comprehensive federal policy that includes local, state, private and non-profit entities and links economic development policies, priorities, and programs to poverty reduction.

a. **Ability to meet job requirements**

Economic development involves more than job development. Economic development cannot be sustained in areas where the supply of workers is unprepared to meet basic job requirements and consumer demand is limited by poverty. The federal government should encourage and support effective education systems, realistic job training programs, social services, transportation alternatives, and affordable housing to complement and encourage employment. *(See also CED Section 3.06(C), Promoting Homeownership and Providing Affordable Rental Units, and HD Section 4.03, Poverty and Income Support)*

b. **Renewal Communities/Empowerment Zones/Enterprise Communities**

NLC supports the federal Renewal Community/Empowerment Zone/Enterprise Community (RZ-EZ-EC) initiative, whose goal is job creation and retention, encouragement of local minority ownership, and participation in new businesses and joint ventures.

The EZ/EC designation can be a useful addition to complement existing community and economic development programs, but it must not affect funding and administration of programs that are not part of the EZ/EC initiative. In addition to designating a community under the EZ/EC title, the federal government must provide substantially more direct federal funding to that community, through programs and agencies like CDBG, the Workforce Investment Act, and the Economic Development Administration, to ensure the success of a designated community.

NLC urges Congress to support legislation directing HUD to produce a comprehensive strategic plan to identify and evaluate alternative assistance and incentive provisions. This legislation should contain tools to assist economic revitalization in federally designated communities or state enterprise zones, including:

- Tax incentives that are relevant to the needs of new businesses and foster expansion and retention of existing businesses.
- Additional incentives to increase the involvement of minority and women-owned businesses in designated communities in a variety of areas such as procurement and equity partnerships;
- Local flexibility to set performance measures and goals for employment. Those measures, designed in cooperation with designated community stakeholders, must not conflict with federal anti-discrimination laws, and must encourage businesses within the zone to hire low income, disadvantaged, or structurally-unemployed workers; and
- Streamlined federal regulations for a designated community to address problems of administrative complexity and burden.

5. *Increasing Computer Access and Eliminating the Digital Divide*

The availability, capability, and use of advances in technology can greatly enhance economic opportunity in the private, public, and non-profit sectors. Job training and education are critical to advancements in this area.

NLC supports federal programs that assist in providing access to the Internet and computer technology. As one means of advancing universal access, NLC encourages flexibility in the use of Community Development Block Grant funding to provide for the placement of computers and Internet access in public facilities, such as schools, libraries, and community centers. *(For a detailed list of recommended federal actions, see ITC Chapter)*

Affordable access to the Internet is an essential economic development tool. Many people, primarily those of low income, do not have regular access to computers or to Internet services and, therefore, have less opportunity to take part in this country's new knowledge-based economy. Individual training and opportunities for personal advancement in essential computer literacy is directly tied to a community's ability for advancement, renewal, and economic growth. In addition, public facilities, such as hospitals, municipal government offices, and libraries located in these areas, are adversely affected and, as a result, the entire community suffers.

6. *Measuring Local Economic Conditions*

In addition to measuring national economic trends, the federal government should develop and implement improved statistical tools to measure local and regional economic conditions. The traditional measures of national economic health, such as the gross domestic product (GDP), unemployment or inflation, neither incorporate the importance nor measure the viability of local economies.

Specifically, the U.S. Office of Management and Budget (OMB) should coordinate the relevant federal agencies to assess the quality and availability of federal data necessary to develop indicators of local economies' capacity and performance. The Federal Reserve system should also develop more systematic reporting and analysis of local economic regions for its deliberations and assess the potential of more discriminating application of its monetary policy tools among local economic regions.

7. *U.S. Business and the Global Economy*

Because growth and retention of a strong employment base is essential to growth of the U.S. economy, the federal government must encourage companies to continue operations in local communities. The movement of U.S. jobs to locations abroad because of lower taxes, cheaper labor costs, and greater incentives concerns our cities.

NLC urges the federal government to increase incentives, opportunities, and support for the U.S. employment base by:

- Strengthening education and increasing training geared toward developing skills to support employability in a changing job environment (*see also HD Section 4.02, Children and Learning, and Section 4.04, Employment*);
- Providing tax benefits to companies that create a net increase in jobs in the United States;
- Providing incentives for U.S. businesses and educational institutions to conduct research and development domestically, including tax incentives, direct grants, and/or transfers of federally-funded research for the purpose of maintaining and adding

new jobs in the U.S. (*see also CED Section 3.04(C)(8), Technology, Research & Development*);

- Establishing criteria that any business that receives such federal R&D incentives must provide assurances to maintain operations in the U.S.;
- Expanding the Small Business Administration and Economic Development Administration programs that provide start-up capital and management training to U.S. companies;
- Providing additional funds to local communities to build and/or rebuild and maintain their physical infrastructure, including roads and mass transit systems, communications networks, electrical systems, and water and sewer systems (*see also TIS, ITC, and EENR chapters*);
- Supporting "business clusters" that already exist or developing and strengthening potential business clusters (*see also CED Section 3.02(C)(8), Technology, Research & Development*); and
- Focusing greater attention and resources to promote the export of U.S. goods and services through programs offered by the Departments of Agriculture, State, and Commerce as well as the Trade Development Administration, Export-Import Bank, and the Overseas Private Investment Corporation.

8. *Role of Technology, Research and Development in the U.S. Economy*

NLC urges cooperative efforts between federal, state, regional, and local governments to help craft national research and development (R&D) policies and strategies. Federal public policy attention to R&D, as an engine for economic development, should fuel partnerships, innovation, investment, and capacity building.

In particular, technology R&D is fundamental to the viability of many industry clusters, which drive local economies. Fostering R&D creates a ripple effect that strengthens those clusters, creates jobs and revenues, boosts local economic regions, and eventually grows our nation's economy.

a. R&D – Partnerships

It is imperative that the federal government include local governments as active partners in the public sector's economic development involvement with R&D. Traditionally, the states and federal government have led in this process. A rich vein of economic opportunity can be found in federal R&D facilities, research-related agencies, and the associated private sector, academic, and state organizations and activities located in many local economic regions. For some cities, this vein remains untapped.

b. R&D – Innovation

Research and development embodies the definition of innovation. NLC urges the federal government to:

- Maintain a commitment to speed the efficient transfer of technologies developed with federal

assistance or by the federal government, while, at the same time, retain appropriate protections for national security and patent integrity;

- Support creative and efficient ways to encourage national lab spin-offs and incubator facilities to promote regional economic development; and
- Maintain a commitment to assist workers and local economies affected by military downsizing through programs like the Technology Reinvestment Program (TRP) that encourages R&D for products with both civilian and military uses (i.e., “dual-use technologies”).

c. R&D – Investment

All levels of government should demonstrate a commitment to technology R&D by providing sufficient seed capital for investments, particularly for critical investments in infrastructure. The federal government must:

- Allow local governments to use a portion of their CDBG allocations as seed capital for R&D investments;
- Ensure the timely transfer of federal equipment and property to local and state governments for R&D purposes; and
- Increase funding for the Small Business Innovation Research (SBIR) program (*see also CED Section 3.04(C)(9), Helping Small Businesses Grow*)

d. R&D – Capacity-Building

The federal government should promote the integration of technology R&D into a region’s economic development strategy, which can help build capacities, including the provision of workforce training, better transportation options, child care, and other social service supports.

9. *Helping Small Businesses Grow*

To strengthen the U.S. economy in all regions of the country, the federal government should support the growth of U.S. small businesses, which create the lion’s share of new jobs and innovations, by:

- Disbursing adequate federal assistance to new and existing small businesses according to their special needs, including credit availability, equity investment, and technical and management assistance, with a strong emphasis given to those programs that assist minority and economically-disadvantaged businesses (*see also HD Section 4.05, Equal Opportunity*);
- Passing federal tax legislation that would encourage the creation and use of venture capital through flexible financing vehicles that enable business expansion;
- Eliminating governmental policies that make it counterproductive to issue flexible micro-business loan programs for entrepreneurial activity requiring less than \$10,000 in start up funds;

- Maintaining its commitment to stimulate more small businesses with more activities and programs like the Small Business Innovation Research (SBIR) program; and
- Increasing the capacity of the Small Business Administration (SBA) to assist companies wishing to access foreign markets.

10. *Federal Government and its Role in Local Economic Development*

NLC strongly urges the federal government to recognize the importance of local public facilities and supporting infrastructure to economic and community development.

The federal government should:

- Continue to provide assistance for local public works, particularly in deteriorated areas of cities;
- Give priority over new construction to the maintenance and rehabilitation of infrastructure, which is critical to support private economic development; and
- Target federal procurement to areas of high unemployment.

For more details about land use, see CED Section 3.07(C)(1), Federal Land Stewardship.

11. *Defense Industry*

The defense industry has become a vital element to the economic growth and stability of the nation’s cities and towns. Base closures, along with cancellation of defense contracts, have had a devastating impact on employment and economic development opportunities in our municipalities.

NLC understands that our U.S. military needs to maintain efficiency and update its inventories, but they must work with local governments when making such critical changes that impact our communities. When administering program funding for economic conversion, the federal government must:

- Assist public/private entities or consortiums in the economic conversion process with emphasis on dual-use technology applications and manufacturing extension;
- Increase assistance to dislocated military and civilian workers impacted by defense-related downsizing or base closures and realignments;
- Establish a national Economic Diversification Council, composed in part of municipal officials to serve as an advisory board to both the Congress and the White House on the most constructive means to assist communities most severely impacted by base closures or reductions in defense-related contracts; and
- Provide DOD Office of Community Adjustment planning and redevelopment funds and technical assistance for a longer duration and with more

flexibility in use when assisting communities adversely affected by defense-related cuts, including defense-related downsizing or base closures.

In general, to maximize the use of existing municipal resources, federal, state, and local governments must convert those industries that are no longer viable under their current practices into productive businesses. Several areas of concentration should be covered:

a. Base Closures

Military base closures have had significant, critical effects on the economic health of communities.

NLC urges the federal government to adopt the following policies to guide its activity related to military base closings:

- Cities should have a minimum of 30 days notice prior to official public announcements of base closures or military spending reductions or realignments. At a minimum, the federal government must keep local officials informed about the potential for closure and encourage more active participation in the closure process.
- Communities should have at least 12 months after a decision has been made to close a base before actual closure proceedings begin. During this time, the Department of Defense must continue to maintain the base adequately, making sure that the closing stages do not adversely affect the community and the subsequent transfer of property.
- The U.S. Department of Defense should provide an environmental assessment and economic impact analysis to affected communities that quantifies the impact of defense base closure plans to minimize local economic, health and safety impacts.
- The federal government should transfer ownership of closed military installations at no cost to municipalities that wish to redevelop these facilities for alternative uses. This no-cost conveyance should be transferred to the municipality for any use to be determined by the municipality with minimal restrictions.
- If affected municipalities decline to acquire closed military facilities, then affected counties or states should be allowed to acquire these facilities at no cost to the acquiring jurisdiction.
- When closed military facilities are acquired, the federal government should require acquiring entities to maintain these facilities in compliance with local ordinances.
- The federal government must make sufficient annual appropriations to pay all environmental cleanup costs associated with closed military bases prior to transfer of ownership to cities, counties, or states. If the local government would like to accept an earlier transfer, the federal government must assume perpetual responsibility for all environmental

problems on these bases resulting from past military actions and operations. (*See also EENR Chapter*)

- If reuse plans are not prepared and implemented within ten years after the transfer of ownership, the properties could revert back to the federal government, only with approval of the local government. Alternatively, the federal government should take all appropriate steps to expedite the process, including fully funding appropriations to clean up and transfer the property and facilities.

b. Technology Reinvestment

NLC supports federal programs designed to assist communities, businesses, and individuals that are economically affected by defense-related cutbacks. Given the challenges facing defense-related firms, NLC supports continued funding for the following programs:

- The Defense Conversion Adjustment Program (DCA), which provides retraining and readjustment assistance for workers affected by defense-related cutbacks;
- The Defense Diversification Program (DDP), which re-trains both military and civilian workers affected by defense-related downsizing;
- The Economic Adjustment Program in the Economic Development Administration (EDA), which helps states and local areas implement strategies for adjusting to situations that threaten serious economic dislocation - including defense downsizing; and
- Federal assistance to communities and regions to meet federal matching requirements in community development planning programs.

c. Business Development:

NLC supports federal programs that address diversification and reinvestment measures for defense firms to help them adapt to civilian markets. These measures are integral to the long term economic well being of communities.

Existing federal programs have made important strides in assisting defense firms seeking to diversify. Yet, by limiting support to funding of dual-use research and development, these initiatives do not offer remedies to the credit crunch that has severely impacted small and medium-sized defense firms.

NLC calls upon the federal government to support:

- A business development program that supports small business incubators and provides hands-on marketing and business planning assistance;
- Continued expansion of existing export promotion activities, with special emphasis on outreach to small and medium-sized businesses;

- The use of tax incentives to encourage partnerships between large and small defense firms and to encourage private initiatives which spur entrepreneurship;
- Creation of a Fund for Defense Conversion to enhance the availability of working capital for small and medium-sized defense firms;
- Continued action to enhance the availability of defense diversification projects;
- Creation of an advocacy position for small, minority, and women-owned businesses with the primary responsibility of furthering the interests of these groups in the economic conversion process; and
- Reduced regulatory, accounting, and procurement barriers to implement dual-use technologies.

12. Federal Assistance After a Disaster

After a natural or man-made disaster, the federal government must provide a streamlined, coordinated, and predictable economic assistance package to local communities to ensure long-term economic recovery and prosperity. The economic package should include federal grants, public loans, and public assisted private loans at favorable rates throughout the repayment cycle. The federal government must also provide technical assistance to assist local communities in accessing federal monetary assistance.

In providing this economic assistance, the federal government should follow these principles:

- This federal assistance must include direct grants to local government to replace city infrastructure, provide operating funds for continuance of government functions and key municipal-run services (e.g. water, police), as well as expedite economic recovery after damage to public buildings, business and manufacturing facilities, and other affected parties in local economies.
- It must minimize economic disruptions and losses from disasters through prompt reimbursement of all approved disaster recovery expenses.
- Local government authorities must be given decision-making authority and economic control in any unified redevelopment organization created by the federal government.
- Federal economic assistance must not promote and should strive to minimize competition between disaster struck cities and localities to attract business.
- The federal government must provide incentives to encourage the private sector to invest in sound recovery activities with some measure of accountability.
- The federal government must ensure that public and private funds are allocated to locally- based business as available, by maximizing the participation of local businesses and local residents in recovery

projects, including the provision of training or re-training local residents as needed.

- The Small Business Administration should continue to play a critical role in recovery for small businesses after disasters.
- The federal government must restore homeowner investment equity levels for residents of disaster struck localities and promote future property investment in local communities.

3.05 International Trade and Municipalities

A. Principles

Municipal governments are key players in economic development locally, nationally, and internationally. Municipalities play a critical role in developing comprehensive economic development plans, helping local businesses, and educating citizens about regional economic assets that support new investment and promote trade.

NLC is committed to sound international and national trade policies and effective local economic development strategies. International trade and multilateral investment agreements, negotiated by the U.S. government with other countries or within the auspices of the World Trade Organization (WTO), must be in harmony with those local initiatives and must not preempt local governments' policies, laws, or regulations.

B. Goals

It is imperative that the federal government recognize the role of municipal governments as key players in developing and expanding the U.S. economy internationally, and it must work in partnership with municipalities to encourage and promote fair international trade opportunities, ensure open markets and protection of intellectual property rights, and vigorously enforce existing trade rules against dumping.

The federal government must consult with state and local officials before pursuing trade and investment agreements that affect local law-making authority and local government functions. Under certain trade and investment agreements in the areas of investment, subsidies, procurement, and services, certain local policies may be adversely affected by global trade sanctions or federal preemption of local authority.

C. Recommended Federal Actions

1. General Concerns

a. Legal Standards

The U.S. must advocate for trade rules that contain legal standards consistent with the Constitution and applicable case law.

For example, international agreements that include standards such as “least trade restrictive” or “least burdensome” are inconsistent with the U.S. Constitution and may affect a municipality’s ability to implement effective economic development programs, environmental regulations, and zoning laws. According to U.S. Constitutional law, unless certain circumstances apply, the burden on local governments to defend their laws should be based on the standard “rationally related to a legitimate governmental interest.”

International agreements, such as the North American Free Trade Agreement (NAFTA), that define “expropriation of property” to include “indirect expropriation” or “tantamount to expropriation” are also inconsistent with U.S. Constitutional law. According to U.S. Constitutional law on takings, the term “expropriation” includes only direct expropriations.

b. Transparency in Claim Resolution

The United States and any international tribunal set up to hear challenges under these trade and investment agreements, must provide prompt notification to local governments when their local regulations or laws are being challenged. In addition, local governments must be allowed to participate fully in the international tribunal’s hearing and deliberation processes.

c. Disclosure Requirements

The United States should oppose any requirement that all national and sub-national governments disclose their subsidy programs, procurement programs, or other current or proposed local regulations and legislation to the WTO or any other international tribunal. If such a requirement were imposed, the federal government should provide a funding source to cover the administrative costs incurred by states and local governments when satisfying such disclosure requirements.

2. *United States Trade Representative*

NLC urges that the Office of the United States Trade Representative (USTR):

- Increase transparency, openness, and due process in trade policy and negotiations;
- Prior to negotiations, release texts of provisions currently under consideration for public and legislative analysis;
- Allow for a minimum 90 day period for review and comment by potentially affected communities;
- Provide more resources to local governments for technical assistance and education about the effect of international trade and bilateral investment agreements on their lawmaking, including regular and complete updates regarding all challenges to state and local laws brought under international agreements that could have implications for the local government’s ability to keep its own laws intact; and

- Seek NLC’s input by including NLC representatives on its Advisory Council, which NLC strongly recommends meet at least quarterly, and give reasonable weight to the input of the Advisory Council.

3. *International Agreements*

a. Subsidies

Currently the WTO Agreement on Subsidies & Countervailing Measures (SCM) prohibits government programs designed to favor domestic entities, including any financial contribution (subsidies, direct monetary benefits, tax credits, contributions of goods or services and price supports). NLC is concerned that many local subsidy programs may ultimately be considered violations of SCM or other trade agreements.

NLC supports the addition of a provision that protects subsidies that provide for coverage of the following two categories:

- Aid to promote economic development in areas where the standard of living is abnormally low or where there is serious underemployment; and
- Aid to facilitate the development of certain economic activities or areas, where such aid does not adversely affect trading conditions.

b. Procurement

Currently the WTO Agreement on Government Procurement (GPA) requires national governments to purchase goods and services based only on price and performance criteria. NLC is concerned that many local government programs, small business preferences, environmental preferences, or women-owned & minority business preferences, may ultimately be considered violations of GPA or other trade agreements.

NLC discourages the expansion of the GPA to include coverage of local governments. Instead, NLC supports maintaining the current status where procurement agreements only apply to national governments.

c. Services

Currently, the WTO Agreement on Trade in Services (GATS) mandates that domestic regulations must have a legitimate objective and be “no more burdensome on businesses than necessary to ensure the quality of the service.” NLC is concerned that many local government regulations may ultimately be considered violations of GATS or other trade agreements.

NLC opposes the federal government expanding service disciplines in GATS or other agreements to include coverage of:

- Basic infrastructure services, such as roads, water, power, and energy utilities;
- Restrictions on access to commercial presence on land; or

- Government service sectors, such as land and resource management, hazardous waste management, education, health care, and prison management. At a minimum, the federal government should study the effect of the current restrictions on local government before including more sectors under GATS.

NLC supports the maintenance or expansion of current exceptions to the Agreement that allow federal, state or local governments to

- Protect public morals and order,
- Protect human, animal, and plant life; and
- Secure compliance with laws or regulations regarding fraud, privacy and safety.

d. Investment

NAFTA Chapter 11 mandates that national and sub-national laws must be “least trade restrictive” on a private investor who can bring a claim for financial damages against a country. NLC is concerned that many local land use regulations may ultimately be considered violations of NAFTA or other investment agreements. Thus, NLC urges the United States government to advocate for changes in the trade rules so they are consistent with the U.S. Constitution and applicable case law. Where the trade rules may adversely affect municipalities, the U.S. government should advocate for appropriate exceptions to the current trade rules.

4. *Promoting International Trade*

The federal government must work in partnership with municipalities to encourage and promote international trade opportunities.

a. Communications

The federal government must continue to collect and make accessible to municipalities the array of trade promotion and marketing services, trade data and trends, emerging market opportunities, and planned trade missions. Those services and information are not only essential to help local and regional governments grow their economies, but are also critical to help businesses compete globally.

b. Education

The federal government should continue to provide local officials with technical assistance and education about international trade and its opportunities. The Administration should provide this aid directly to local governments.

5. *Trade Impact Assistance*

The federal government must carefully measure the domestic impact of international trade agreements that further open global markets; and consider the impact of trade agreements on local, regional and state economies in addition to the national economy. Moreover, the federal government should be accountable to state and local governments when federal trade agreements

negatively impact industries that support local jobs. Therefore, it is incumbent on the federal government to provide trade impact assistance to local communities.

Industries of all type, and the jobs they support, are constantly evolving in often unpredictable ways. For that reason, federal trade impact assistance programs such as the Trade Adjustment Assistance program should have a high degree of flexibility in terms of the types of jobs eligible for assistance when domestic workers are displaced as a result of global commerce.

Federal trade impact assistance should consist of both direct support for displaced workers and direct financial support to local governments that stand to lose significant tax revenue as a result of job losses created by trade agreements. Lastly, the federal government should increase support for education and retraining efforts in areas where unemployment significantly rises as a result of a federal decision to enter into an international trade agreement.

3.06 Housing

A. Principles

NLC strongly supports federal housing policies that encourage affordable homeownership, promote affordable rental housing, and provide special needs housing and transitional housing for the homeless. NLC urges the federal government to fully fund federal housing programs at current or increased levels.

Every American deserves a decent home in a suitable living environment with adequate financial stability to maintain it. The federal government must give priority, whether directly or through provisions in the federal tax code, to meeting the housing needs of people who cannot otherwise obtain decent, affordable housing.

There is an irreplaceable role for the federal government in addressing our nation’s housing needs. Affordable housing is critical to lower-income families throughout the nation. In addition, development of affordable housing contributes to the economic vitality of our communities and local economic regions as a vehicle for creating jobs and increasing municipal tax bases. Furthermore, the development of mixed-income communities with appropriate support services, workforce development, and education is the most effective approach to addressing concentrated poverty.

B. Goals

So local communities may support affordable homeownership and affordable rental housing, NLC supports:

- A permanent dedicated revenue stream to produce and preserve affordable housing;
- Full funding for current affordable housing programs, such as the HOME Partnerships

Investment Program, Section 8 vouchers, and public housing;

- Federal tax incentives that encourage private investors to build and rehabilitate affordable housing;
- Federal programs to promote homeownership; and
- A balance between national fair housing priorities and local zoning authority.

C. Recommended Federal Actions

1. Overarching Themes and Definitions

a. Definition of Affordable Housing

NLC urges the federal government to develop policies, goals, and programs that are consistent with a definition of “affordable housing” that is based on a personal income-to-average community income ratio. The definition must also allow sufficient flexibility to meet unique local needs and circumstances.

b. Relationship Between the Federal Government and Localities

HUD’s primary roles should be as funder, facilitator, and monitor of locally focused housing programs to ensure that performance objectives are met.

NLC urges regulatory flexibility and reform of administrative guidelines in all federal public, Section 8, and other affordable housing programs. These affordable housing programs provide a viable source of housing for low- and moderate-income individuals and families, and for special populations like the elderly, persons with disabilities, and individuals with AIDS. For example, NLC supports flexible federal regulations and policies that promote local and regional balances between housing production and conservation to meet local objectives, needs and conditions.

c. Federal Housing Reform

As Congress and HUD attempt to reform federal housing programs, they must evaluate the following:

- Program reform must be results-oriented, achieving equity while balancing its direct and indirect effects on different levels of need, fiscal capacity, and constraints.
- Existing programs like CDBG and HOME, which are efficient and effective in meeting national needs, must be the models for other programs.
- Municipal governments must be involved as a partner in any program reform efforts at the federal level. If the form of federal affordable housing programs changes, local governments must still retain a central role in their implementation and management.
- Reform must not impose disproportionate responsibilities on cities and towns by reducing or withdrawing federal involvement.

- Despite varying degrees of state involvement, the federal government should not generally transfer any of its roles in federal housing programs to states.
- Federal administrative policies must increase flexibility and minimize the administrative burdens and costs to local governments. In most cases, local governments need to layer subsidies to create a workable plan to construct or rehabilitate affordable housing stock. Some programs do not work well with others because of differing federal requirements, such as use or income requirements. Federal administrative reform should expedite this layering process.

d. Consolidated Housing Plan

NLC supports, in general, the federal Consolidated Plan (the “Consolidated Plan”) as a planning tool and as a means to assess performance for housing, Community Development Block Grant, and Emergency Shelter Grant (ESG) programs. NLC strongly encourages HUD to partner with local governments to help meet the goals outlined in their Consolidated Plans.

The Consolidated Plan planning process provides cities with the opportunity to make key decisions about the mix between new, rehabilitated, and existing housing that should be assisted; the type of housing to be constructed or utilized; and the location of assisted housing units. Within broad federal guidelines, these decisions must remain at the local level, except for over-riding reasons of national importance.

In addition, the federal government must streamline the application process and help with information gathering. The preparation of a Consolidated Plan is currently complex and time-intensive for local governments. Despite good faith efforts by local governments, achieving Consolidated Plan goals is extremely difficult, so the federal government should not turn too quickly to punitive measures.

e. Assisting Senior Citizens

The federal government must continue to ensure that senior citizens have adequate housing. Federally subsidized housing programs provide an indispensable form of security against homelessness, institutionalization and loss of community for a large segment of the nation’s poor senior citizens. NLC supports:

- HUD’s Section 202 program, which provides capital advances for construction and rehabilitation supportive housing for very low-income elderly persons and rent subsidies for the projects to help make them affordable;
- Use of Section 8 vouchers and other rental assistance programs with particular consideration of seniors’ needs; and

-
- Federal housing programs that include long-term supportive services for the elderly. (*See also HD Section 4.06, Social Security and Seniors*)

2. Funding Streams

a. Permanent Dedicated Revenue Stream

In addition to HOME and other housing programs, Congress must establish a permanent dedicated revenue stream directly to local governments to produce and preserve affordable rental housing. These programs must allow maximum authority to local governments in meeting the needs of these households. The federal government should facilitate the provision of Section 8 vouchers for use in these affordable rental units.

It is critical to increase the availability of affordable housing for low- and moderate-income households.

- Federal funding must continue to be based on demonstrated need and go directly to localities to allow them to determine the type of housing that best meets local needs.
- Establishment of a permanent funding stream must not come at the expense of other housing programs.

b. HOME Investment Partnerships Program

NLC strongly urges the federal government to maintain the HOME Investment Partnerships Program's flexibility and to increase its annual funding to allow local governments to increase the number of affordable housing units available in their communities. The HOME Program should not include set-asides.

HOME is the nation's first block grant primarily focused on affordable housing. It has produced dramatic results, giving many low-income, working American families a quality of life in decent, affordable housing and an opportunity to move toward self-sufficiency and establish a stake in their communities. The HOME Program works well because it allows local governments flexibility within their communities, making it one of the most effective resources for new and preserved affordable housing.

c. Other Housing Programs

Other housing programs, such as Public Housing and Section 8 Subsidies, are still important federal programs, even though they do not always provide funding to cities directly. NLC supports increased funding for these important federal housing programs. (*See also CED Section 3.06(C)(4) for more details on these programs*)

- NLC supports federal housing programs that streamline procedures and eliminate burdensome, outdated federal regulations. In cooperation with local governments, the federal government should develop broad, performance-based guidelines that provide flexibility for local governments to solve locally-identified problems.

- The federal programs should also encourage local governments to develop housing policies that offer a comprehensive continuum of care for individuals. NLC supports federal incentives to encourage regional and area-wide partnerships among the public, nonprofit, and private sectors.
- Municipalities must be the primary providers or "entitlement entities." NLC opposes state control of federal housing monies, unless requested or authorized by the municipalities. Program and funding priorities must be set at the community level. NLC also opposes any efforts to include community-based organizations as entitlement entities.
- Block grants and other housing programs should not include set-asides.

See also CED Section 3.03 on policies related to Community Development Block Grants and Section 3.04(C) for recommendations related to federal economic development programs.

d. Tax Policies to Promote Affordable Housing

NLC supports a comprehensive, equitable national housing plan. It should include tax-incentive financing for affordable housing and other tax policies, including federal mortgage insurance, that provide incentives to public-private partnerships, help leverage federal assistance, and aid municipalities in their economic redevelopment efforts.

The federal government should allow revenues derived from changes in housing-related tax provisions and from housing expenditure programs to be used for production, rehabilitation and housing allowances for low-income households.

Until effective housing supply and financing mechanisms are put in place, the federal government should retain the present tax incentives for the production, rehabilitation, and maintenance of low-income housing. NLC strongly supports reauthorization of the Mortgage Revenue Bond and Low Income Housing Tax Credit (LIHTC) programs.

i. Low-Income Housing Tax Credit (LIHTC)

NLC supports Congress's affirmation of the success of the LIHTC programs by ensuring its permanent status in the federal tax code. Congress must continue to resist any efforts to weaken or eliminate it.

Providing states with millions of dollars in new credit authority annually, the LIHTC program remains one of the few successful federal rental housing production tools available. It has sparked private investment in nearly one million units. Congress must continue to ensure that LIHTC is indexed for inflation.

Based on the following guidelines, NLC encourages prudent modifications that will make the LIHTC program more effective in meeting housing needs:

- The federal government must conduct a thorough review of the LIHTC program to assess the effectiveness of the tax credits and identify ways to ease their implementation. Considerations should include streamlining the administrative process, thus minimizing the substantial front-end costs in the form of syndicating and underwriting fees, legal expenses, and other administrative costs.
- The federal government must encourage increased flexibility to use the tax credits to build single-family units as well as multi-family units.
- The federal government should encourage greater local participation in the state allocation process.

ii. *Tax Reform Act of 1986*

The Tax Reform Act of 1986 reduced the incentives for creating and rehabilitating affordable housing, and it also disrupted a number of agreements for existing low-income housing. NLC supports:

- Repeal of all retroactive provisions pertaining to low income housing which have a negative impact on such housing; and
- Reestablishment of pre-1986 accelerated depreciation measures for low-income housing.

iii. *Tax Incentives to Revitalize and Stabilize Older Communities and Center Cities*

NLC supports federal tax policies to promote opportunities for revitalization and stabilization of older communities and center cities. Promoting residential activity in our cities and centrally located suburban communities is essential to avoid unsustainable patterns of unplanned growth.

Federal tax policies should provide more incentives, such as lower-cost mortgages and expansion of historic preservation tax credits, to single-family residences in center cities to strengthen cities' efforts to increase home ownership, attract new residents to the cities, and ensure a more stable residential base. NLC also supports tax policies and some limited approaches, such as tax-exempt bonds, which can be used in CDBG targeted areas, as encouragement for those with mid-level incomes to live in cities or to use existing housing that would otherwise be abandoned.

3. *Promoting Homeownership*

Everyone must have the option to pursue homeownership, a symbol of the American dream. NLC supports federal homeownership programs whose essential components include, but are not limited to:

- Low and stable mortgage interest rates;
- Reduced amount of down payment and closing costs;
- Accessible information about the availability of federal affordable housing programs for low and moderate-income people;

- Provisions for long-term supportive services for low and moderate-income occupants and associated supportive services to create and maintain a healthy physical and social neighborhood environment, including community-based homebuyer counseling programs to help families achieve and maintain homeownership;
- Innovative ownership options for interested renters;
- Increasing the maximum FHA mortgage guarantee and the VA program;
- Supporting the continuation of mortgage revenue bonds that target first-time buyers and low- and moderate-income households;
- Allowing first-time homebuyers to use Individual Retirement Account (IRA) funds and other self-funded bonds, without penalty, for down payments;
- Supporting employer-sponsored and assisted housing;
- Implementing programs that encourage homebuyers with diverse incomes, not necessarily first-time buyers, to relocate in lower-income areas with few owner-occupants, to help increase the number of stakeholders and increase the economic strength and diversity of neighborhoods;
- Providing financial support to low- and moderate-income persons to cover increasing homeownership costs as reinvestment occurs in their neighborhoods and they are potentially displaced by "gentrification;" and
- Encouraging increased use of Section 8 vouchers as mortgage supplements for low-income homeowners.

4. *Homeowner Assistance and Avoiding Foreclosure*

The economic and social impact of a home foreclosure can be devastating for both families and neighborhoods, and therefore should be treated as an option of last resort by those invested in non-performing mortgages. NLC urges Congress and the Administration to clarify and improve the federal foreclosure intervention strategy to ensure struggling homeowners have opportunity and resources to respond to notices to foreclose, including, but not limited to:

- Financial and housing counseling for new homeowners;
- Financial and housing counseling for homeowners at risk of foreclosure;
- Foreclosure intervention and mediation services;
- Federal programs that support the refinance and modification of non-performing mortgages when a refinance or modification would likely result in preventing foreclosure;
- Federal incentives for financial institutions that demonstrate avoidance or refusal to participate in federal programs aimed at preventing foreclosure or otherwise avoid or ignore families that have received a notice of foreclosure; and

-
- Rapid rehousing for families made homeless as a result of foreclosure.

For all mortgages judged to be abusive or especially onerous, NLC urges Congress to pass legislation that permits bankruptcy courts to treat the primary residence in the same manner as other property, and to grant bankruptcy courts the authority to modify the terms of home mortgages on primary residences as a last resort to preventing foreclosure.

Lastly, NLC urges Congress to continue investing in programs, such as the Neighborhood Stabilization Program, that provide grants to cities and towns to undertake activities that prevent neighborhood decline as a result of vacant and abandoned property caused by foreclosure.

5. *Providing Affordable Rental Units*

NLC advocates a comprehensive federal policy, which provides sufficient funding to state and local governments to create more affordable rental housing, focused on low-income families with children, the homeless, the elderly, and individuals with disabilities. These programs must allow maximum authority to local governments in meeting the needs of these households.

NLC supports “public housing” and privately owned, federally subsidized housing created with funds from HOME, the Low-Income Housing Tax Credit, and other HUD-financed programs to allow localities to maintain and preserve an adequate amount of rental housing stock. The federal investment in housing over the years has generated a valuable national housing portfolio that must be preserved through federal funding, since state and local resources can rarely cover all of the financial needs for rehabilitation and owner equity.

NLC urges the federal government to continue to provide cash subsidies, such as Section 8 vouchers, to low-income families to help them afford private market-rate rental housing. However, lack of enough vouchers, coupled with the dynamics of the real estate market, is often insufficient to house all families in need.

The federal government should allow localities to determine the future of their public and assisted housing based on past performance and local conditions. A tenant-based housing voucher system to help poor people afford decent housing may be a useful addition to, but not a substitute for, the existing menu of assisted housing programs. Rental assistance should be an integral part of housing production/preservation programs, including cash subsidies, support services, and the expansion and strengthening of the Section 8 rental subsidies.

a. Section 8

NLC supports the Section 8 Housing Choice Voucher program. Congress must adequately fund Section 8 housing vouchers and associated administrative costs so

that all families and individuals in need can be housed in a safe and suitable environment.

NLC opposes the replacement of housing vouchers with a dollar-based block grant that eliminates most federal protections for low-income families. Congress should instead consider a different method to make the annual appropriation for Section 8 more predictable. For example, NLC supports the “hybrid” voucher funding policy, which relies on a longer period of time for HUD to determine the dollar amount for each jurisdiction, adds adjustments and adequate reserves for communities experiencing different cost trends, provides local incentives for cost containment, and guarantees stable funding for vouchers for the elderly and disabled.

NLC supports congressional proposals to allow HUD to provide more local flexibility in administering the Section 8 program by local Public Housing Authorities (PHAs). This flexibility should allow PHAs to determine on a local basis if they want to maintain the requirement that families cannot pay more than 30 percent of their income for public housing. NLC also supports allowing local PHAs to impose time limits on voucher recipients, as long as it is not a requirement by the federal government.

Congress must also continue to support the Section 8 “project-based” program to help local communities with critical housing shortages to maintain their current level of affordable units. The project-based Section 8 program remains important for cities. HUD must determine fair market rents by using a local community’s housing data, not with area wide data currently used by HUD. Any change to the fair market rent standard should preserve a careful balance. It is our nation’s responsibility to protect those families in need; however, we must also preserve the supply of available housing units and encourage growth by ensuring that local property owners realize a reasonable economic return on their investment.

Since the purpose of the subsidy is to provide affordable housing, it is imperative that adjustments to the recipient’s level of assistance and the community’s payment standard be made annually. Assistance payments, on behalf of a tenant family, should be made directly to the landlord by the PHA.

To be successful, the Section 8 program should also require a “continuum of care” strategy including effective outreach, counseling, and fair housing support.

The federal government must provide incentives to maintain affordable rental housing supply as part of any “tenant-based” voucher system. NLC opposes the trend of converting “project-based” Section 8 certificates, with a term of fifteen-thirty years, into one-year “tenant-based” vouchers. NLC is concerned that a “tenant-based” system would discourage private landlords from

maintaining housing units at affordable rents for low-income families. If this trend becomes permanent, then Congress should extend “tenant-based” vouchers for a full 15-year period.

b. Public Housing

NLC supports publicly owned subsidized housing, or “public housing,” and supports increased funding for the Public Housing Capital Fund and full funding for the Public Housing Operating Fund. Congress should also continue to fund the HOPE VI program at funding levels sufficient to eradicate the remaining public housing dwellings that are considered “severely distressed” and replace them with new or rehabilitated mixed-income units. Public housing is essential to providing decent and safe rental housing for eligible low-income families, the elderly, and persons with disabilities.

Well-run public housing authorities (PHAs) deserve full regulatory flexibility. The federal government should not convert public housing to a tenant-based voucher system nor alter it except where a change would create more efficiency and cost-effectiveness. Troubled PHAs should be put in the hands of receivers or taken over by HUD.

Drugs and crime in public housing have reached epidemic proportions and require drastic actions. NLC supports:

- Prohibiting those evicted from public housing for criminal offenses from receiving new assistance in the form of public housing or Section 8 vouchers;
- Allowing PHAs to develop administrative grievance procedures for eviction of tenants engaged in criminal activities;
- Broadening the rights and legal authority PHAs have in fighting drugs and crime in public housing;
- Allowing leases to explicitly order evictions for criminal offenses;
- Allowing PHAs full access to national criminal history databases; and
- Increasing funds for security improvements, drug education, outreach and other preventive measures.

c. Addressing the Potential Loss of Current Affordable Housing Stock

NLC strongly advocates federal policies on and intervention in the potential critical shortage of safe, sanitary, and affordable rental housing.

d. Housing Related Supportive Services

Rental assistance, such as financial management, basic housing maintenance, and counseling to enable individuals and families to obtain self-sufficiency, should occur concurrently with federally-funded support services.

e. Lead-Based Paint and Mold Concerns

NLC supports federal legislation, regulatory alterations, or other actions to ensure adequate financing for training, clearance testing, and lab analysis and removal of lead-based paints for Section 8 and public housing landlords. Federal lead-based paint regulations have resulted in substantial outlays that seriously increase per unit housing costs for HUD-funded programs. The increased costs have resulted in fewer units that can be rehabilitated. The regulations discourage existing rental property owners from participating in the Section 8 Housing Assistance Payments Program, thus reducing housing choices for program clients.

Toxic mold growing in federally-funded affordable housing units is a danger to families living there. To reduce current and future health risks, the federal government must:

- Educate owners and tenants on how to reduce the risk of mold contamination;
- Support local health department programs that address indoor air quality;
- Establish standards of performance in mold prevention and remediation to ensure the long-term health of residents; and
- Investigate the possible establishment of a federally-guaranteed insurance pool to cover residents as well as contractors and their technicians who remediate mold.

6. *Rehabilitation & Abandoned Properties*

a. Rehabilitation

NLC urges flexibility in federal regulations to allow local governments to make decisions regarding housing rehabilitation. Local flexibility is essential because demolition and new construction often provide quicker and more cost-effective benefits than rehabilitation. The federal government must also strengthen and supplement existing rehabilitation programs, to include social services, homeownership, and home-maintenance counseling.

b. Abandoned Properties

NLC urges the federal government to update and streamline its rules and procedures governing the purchase and remediation of federally owned and abandoned commercial, industrial, and residential properties. This action would encourage local governments, non-profit organizations, tenant groups, and the private sector to buy and recycle those properties. It will also foster comprehensive local community revitalization, economic development, and “homesteading” efforts.

7. *Providing Transitional Housing and Comprehensive Services for the Homeless*

NLC urges the federal government to acknowledge its responsibility and continue to provide assistance to local communities to address the needs of all persons affected by homelessness. Such assistance should include funding and technical assistance for emergency shelters, transitional housing, and supportive services to homeless families and individuals. The federal government should:

- Provide federal funding and incentives for the operation of homeless shelter facilities;
- Intensify efforts to identify and make available surplus federal property and equipment for emergency shelter use;
- Ensure the availability of liability insurance for emergency shelters and service providers; and
- Provide funding and support for transitional shelter to assist individuals and families moving from shelter to permanent housing.

See also HD Section 4.03(C)(6), Poverty and Income Support, Preventing Homelessness.

8. *Housing and Welfare Policy*

NLC strongly encourages cooperation between HUD, the Department of Health and Human Services, and the Department of Labor to integrate housing and welfare policies, ensuring that welfare recipients receive the housing services to meet their particular needs.

NLC opposes efforts to “cash-out” housing programs for welfare, without the addition of a vast new amount of monies to the welfare system. Such changes would have a negative effect on the effort to provide decent housing for everyone.

NLC supports the following measures:

- Continuation and expansion of HUD’s Project Self-Sufficiency;
- Extended use of Section 8 certificates or “second tier” welfare shelter allowances on a project basis;
- Expanded support for family development programs and federally assisted housing, particularly public housing;
- More transitional housing and permanent affordable housing for welfare families, including more access to housing in the private market;
- Coordination of family, elderly and disabled services in federally assisted housing;
- Allowing state and local governments to test alternative approaches that will provide for the more efficient coordination of welfare and housing assistance resources at the state and local level and encourage upgrading of housing for families receiving TANF assistance; and
- Expansion of federally-funded research on the differences between welfare and housing assistance.

9. *Fair Housing and Local Zoning Authority*

a. *NLC Opposes Housing Discrimination*

NLC supports vigorous enforcement of comprehensive federal laws and policies that will ensure and require a wide range of housing opportunities for all persons in the community of their choice. NLC supports and encourages the uniform enforcement of the Fair Housing Act and its Amendments (“FHAA”) to eliminate housing discrimination based on race, color, sex, religion, family status, national origin, and disability. It is essential that Congress make adequate federal funding available to meet these Fair Housing goals.

b. *Communities Must Maintain Local Authority*

NLC supports the FHAA and also supports local authority to enact and administer local land use laws that are “non-discriminatory” – providing for uniform application and “reasonable accommodation” to uphold a compelling public interest.

Equal housing opportunities and land use authority for local governments are not incompatible policies. Communities must be able to provide adequate facilities and services to meet the demands of proposed development. The federal government must not restrict or withhold its funds due to zoning issues unless a court has ruled, at the conclusion of a litigated case, that a zoning law enacted was in violation of anti-discrimination laws.

c. *A Regional Approach to “Fair Share” Housing – Building and Zoning Codes*

NLC urges the federal government to encourage comprehensive planning, regional cooperation, and timely implementation of innovative strategies that expand housing opportunities for everyone.

NLC encourages the federal government to provide financial incentives for implementing “fair share” arrangements across a region. NLC recognizes the responsibility of communities to provide their “fair share” of housing opportunities for low and moderate-income people.

The social and economic challenges to building adequate and sufficient housing for everyone may be met more efficiently and effectively when approached regionally, rather than competing across jurisdictions.

d. *President’s Fair Housing Council*

NLC supports the work and policies of the 1994 President’s Fair Housing Council. The Council is charged with reviewing federal policies for conformity, eliminating any impediments to fair housing, and facilitating consultation and coordination of federal efforts to promote fair housing.

NLC encourages the Council to position itself as a facilitator available to help interested parties in resolving

the challenges they face in the provision and oversight of group home services.

e. Federal Administration and Litigation

The federal government must respect the legal rights of municipalities and local housing agencies and:

- Refrain from investigating or filing a housing discrimination suit against a municipality if the complaining party knowingly violates local zoning ordinances and provisions, or fails to demonstrate a good-faith effort to seek a “reasonable accommodation” to such ordinances and provisions through appropriate legal processes;
- Require that, before initiating its own investigation, HUD must refer a housing discrimination complaint to the appropriate state or local public agency for action, unless certain limited circumstances apply; and
- Administer all federal programs and activities related to housing in a manner that advances fair housing practices and objectives outlined in federal law, including preparation of an annual report on federal efforts to advance fair housing.

f. Federal Contract Standards for Group Homes

The federal government must utilize preference points for local community-based group home providers in its contract standards when contracts are let for group home services in a particular community.

g. Concerns Regarding Group Care Facilities

So cities can maintain their local zoning authority in the face of legal challenges by group care facilities, Congress must amend the FHAA to eliminate ambiguities that have exposed cities to costly, avoidable and time-consuming litigation and have even led to uneven and often perplexing judicial rulings. Communities must have local influence over the siting, proximity, and density of group care facilities to avoid over-concentration of such facilities in primarily minority, low- and moderate-income neighborhoods, and continued down-grading of those areas as more group care facilities enter.

NLC supports changes in the FHAA that would:

- Strengthen the protections in the FHAA against intimidation, harassment, and retaliation;
- Protect the First Amendment rights of residents and local officials who communicate about the siting of a group care facility;
- Require fair housing complaints to be filed in enough detail to clarify any allegation so that a local authority can prepare an informed response;
- Require a group care facility operator to comply with appropriate non-discriminatory local zoning and land use requirements, allowing a municipality to work toward a “reasonable accommodation” before-a formal FHAA complaint is filed;

- Narrow the definition of “familial status” to exclude individuals convicted of felony level crimes from protections under the FHAA;
- Permit local governments to reasonably limit the density and over-concentration of group care facilities in neighborhoods, without completely limiting housing for children in foster care and without zoning out FHAA-protected group care facilities entirely (except when conviction for felony level crime is a factor);
- Allow cities to regulate the number of recovering drug addicts and alcoholics residing in a group care facility established in a residential neighborhood;
- Allow cities to regulate group homes for individuals with disabilities who have also been convicted of a felony level crime (both adults and juveniles); and
- Increase federal funding for adequate licensing and oversight of group homes to ensure that residents are adequately supervised and cared for, and to ensure their health and safety and that of their neighbors.

NLC supports practical and long-term means to resolve these important issues regarding the scope of city authority relating to the siting and operation of group homes. Current HUD and Department of Justice regulations regarding disabled residents and children do not address how local governments can determine if residents in group homes are a threat to public safety and provide no guidance on how a municipality can respond to threats to public safety until an actual incident occurs.

3.07 Land Use

A. Principles

Local communities must be able to control land use and zoning issues, and the federal government must respect these local code and land use plans.

However, NLC acknowledges that some legitimate national policy interests may override local interests in land use matters. These factors include protecting land with natural and renewable resources, enforcing federal fair housing laws, mitigating for natural disasters, and coordinating transportation needs with land use decisions to minimize air quality concerns. Under those circumstances, the federal government must:

- Work closely with local governments to achieve that balance; and
- Provide financial incentives, technical assistance, and information to aid local communities in satisfying these national interests.

B. Goals

Land and its uses are powerful issues for many people. The different levels of government must carefully balance individual property rights with responsible land stewardship. NLC’s land use policies are anchored by the following vision:

- NLC supports federal construction and procurement policies that promote the goals of comprehensive land use planning and minimize the harm on local communities.
- The federal government must encourage local land use that is well-planned, utilizing a regional approach that protects the environment and that supports historic preservation.
- Federal policies must encourage local planning that creates and preserves sustainable communities and a strong quality of life, safeguards economic health, and fairly assigns costs and responsibilities.
- Federal policies must respect local authority and land use decisions. NLC opposes any federal, state, county or any other non-municipal government unilaterally making local land use decisions. Local government should have the opportunity to develop responsible land use plans and policies by themselves within the context of general federal, state, and regional goals.
- Because land use is related to many of today's pressing public policy issues, any federal policy addressing land use should include economic development, transportation, affordable housing, "brownfields" reclamation, wetlands preservation, infrastructure improvements, regional cooperation, historic preservation and revitalization, in addition to zoning and planning.

C. Recommended Federal Actions

1. Federal Land Stewardship

a. Direct Federal Actions – Building and Procurement
Federal construction, consolidation, and relocation policies can either aid in revitalizing an area or hasten its decline.

The federal government should collaborate with state and local governments to:

- Involve local officials in its siting and building planning at the earliest possible point;
- Build or adapt structures in developed areas with existing transportation and infrastructure systems rather than moving to the fringe of an urban area;
- Locate facilities in accordance with municipal development plans, zoning and building codes;
- Prepare environmental impact statements for federal facilities that include social and economic ramifications;
- Encourage leasing rather than federal ownership, to avoid reductions of the local property tax base;
- If federal properties are not leased, provide payments in lieu of taxes for facilities, such as those paid by PHAs;
- Incorporate the most current design and building technologies to help mitigate potential structural damage from natural and man-made disasters; and
- If the federal government closes or moves major facilities, make available those existing facilities to

cities for their economic development efforts, with appropriate financial and reuse assistance to facilitate the shift.

b. Federal Post Offices

The U.S. Postal Service (USPS) and other quasi-governmental agencies should follow all of the above recommendations. In addition, the USPS should consider the effect of facility closures on towns and cities.

To preserve the downtowns of this nation's communities, Congress must require the USPS to cooperate with local governments when planning to restore, replace, close, or relocate a postal facility, including dialogue and cooperative efforts between the USPS and local communities before any actions are undertaken. NLC supports federal legislation that would allow communities the opportunity to offer alternatives to Postal Service plans to restore, replace, close, or relocate facilities. The USPS should evaluate and discuss its options with the local community in the least disruptive manner.

c. Implicit Federal Land Use Policies

Although not labeled as "land use" programs, many federal actions, such as federal tax and regulatory policies, and federal grant and categorical programs, have substantial land use effects on regions and communities.

- At a minimum, the federal government should establish reliable methods to identify negative effects and avoid or stop specific federal actions that contribute to them. Local jurisdictions with actual or potential adverse effects must be party to these procedures.
- The Executive Branch and Congress should regularly review existing and proposed federal programs and policies for their indirect impacts and make changes to minimize any negative land use outcomes.
- The federal government should work directly with local government to eliminate or change federal policies and regulations that contribute to or encourage unplanned growth, such as provisions contained in the federal tax code or in housing, transportation or environmental protection rules.
- Federally-owned or controlled lands and facilities must be compatible with land use plans and goals of jurisdictions in which they are located and must contribute to the revitalization and/or stabilization of center cities.
- Federal and state governments should provide compensation to local jurisdictions suffering revenue losses and other adverse effects from land use or land use-related decisions that are imposed by federal or state government and do not conform to regional and local plans.

d. Federal Surplus Property

The federal government holds title to many unused and underused land parcels and properties across the nation. Legal authority exists to allow the federal government to dispose of properties that exceed federal agencies' needs and make them available to local governments at reasonable cost or no cost.

NLC urges vigorous and sensitive use of this authority. Federal agencies should regularly reassess their needs for unused or under-used properties, especially those located in communities with shortages of land. Listing and transfer of any available properties should fall under the General Services Administration's jurisdiction, who should offer the properties to local governments at reasonable or no costs and provide development assistance. (*See also FAIR Chapter*)

e. Federally Owned Public Lands

When federally owned public lands are not designated as protected or national refuge lands, NLC supports the federal government's release of those public lands to units of local government, if the unit of local government chooses to accept it. Transfer of these lands to local government control can be a critical component to economic development activities of communities dominated by public lands. Federal agencies with jurisdiction over these public lands must guarantee clean up of any contamination on or from the federal land that occurred prior to the transfer or contemporaneously with the transfer. (*See also EENR Chapter*)

2. Social Responsibility

a. Regional and Comprehensive Land Use Planning

NLC supports federal programs that provide financial and technical assistance to local governments for land use planning and coordination of planning with related activities, especially those mandated by the federal government (e.g., economic development, environmental protection, transportation) and those including energy conservation and natural disaster mitigation dimensions to this coordinated planning.

NLC also supports federal programs that provide incentives for local officials to cooperate with regional and sub-regional planning organizations. (*See also FAIR Chapter*)

b. Metropolitan Environmental Design

The federal government, in cooperation with local officials, should encourage improved metropolitan environmental design by:

- Ensuring sufficient federal funds for design management activities in communities;
- Requesting that federal agencies involved in physical development in cities evaluate the social, economic, and cultural effects of completed projects in metropolitan areas;

- Promoting more federally-funded research into the effects that well-designed and locally-designed development can have on the metropolitan community;
- Increasing the local government's role in the planning and siting of federal construction projects to promote design excellence and good design practices; and
- Discouraging federal subsidies that enable large commercial developments to locate on the fringes of metropolitan areas, thus contributing to sprawl.

3. Historic Preservation

a. Encourage Rehabilitation

NLC supports federal efforts to encourage the rehabilitation of older properties and the preservation, restoration, or adaptive re-use of significant historic, cultural, landscape, and architectural landmarks and properties. Historic preservation is a vehicle for stimulating neighborhood and downtown revitalization, economic development, job development, energy conservation, and tourism.

b. Streamlined Federal Regulations

NLC encourages federal efforts to improve effectiveness and efficiency through streamlined historic preservation regulations and elimination of inefficient administrative requirements for historic preservation planning and projects.

While NLC supports active roles for federal and state governments in providing programs for the protection of historic properties, local governments must have lead responsibility for decisions on properties considered for National Register of Historic Places designations, and protection of historic properties should be balanced with other important objectives and policies critical to community viability and quality of life.

Within this context, NLC supports stronger participation in the federal preservation program by local government.

c. Federal Tax Incentives

NLC supports existing federal tax incentives that encourage rehabilitation of older properties, and the preservation, restoration or adaptive re-use of historic, cultural, landscape, and architectural properties. NLC urges the federal government to consider expanding historic preservation tax credits to residential properties if the direct and indirect budgetary, economic, and social policy benefits exceed the projected costs to taxpayers.

d. Federal Appropriations

NLC supports continued appropriation of adequate and reliable federal financial assistance to aid in the administration of state and local preservation programs.

e. Role in Affordable Housing:

NLC urges federal, state, and local governments and all other stakeholders to work cooperatively to harmonize national historic preservation goals with the special economic and social needs associated with affordable housing, infill development, and related economic development activities.

- Financial Assistance – Historic preservation policy and projects must be flexible to avoid “backdoor evictions” of residents who do not have the financial resources to comply with federal rehabilitation standards and requirements. The federal government should support adequate and consistent funding to low- and moderate-income homeowners whose homes are either located in historic districts or are designated as historical as part of the funding appropriated for redevelopment projects.
- Programmatic Approaches – The federal government should encourage state, county, and local governments to develop programmatic agreements to streamline the Section 106 review of federally-assisted projects, particularly redevelopment projects, including the adoption of “treatment and design protocols” for rehabilitation of affordable housing and infill new construction.

4. Land Use and Growth Management

a. Local Decision Making about Growth

The federal government must support local determinations of livability policies and must not implement policies that hamper a local government’s ability to control growth and land use. Growth is inevitable in many communities. Local governments face challenges to cultivate a planned growth process that preserves a strong quality of life, safeguards economic health, and fairly assigns costs and responsibilities. The tough, practical issues revolve around choices, costs, and unintended consequences of unplanned growth, commonly referred to as sprawl.

b. Encouraging Planned Growth

The federal government should, however, encourage local governments to use planned growth strategies, through technical assistance and training, as well as financial incentives. NLC supports planned growth, including housing development and/or regional land use planning, for the purpose of sustaining and improving the vitality and quality of life in our nation’s communities. Likewise, NLC opposes unplanned growth and further disinvestment in center city areas that undercuts the vitality of existing developed places. Such policies lead to unnecessary consumption of valuable open space, agricultural land, and government resources.

c. Promoting Sustainable Communities

In cooperation with state and local governments, the federal government must promote the concept of sustainability to guide local community development activities and prevent draining limited energy and natural

resources to meet today’s needs at the expense of future generations. Unplanned growth could result in loss of environmentally sensitive areas like wetlands, wildlife habitats, flood plains, unique geological formations, coastal zones, and renewable resource lands, as well as prime agricultural lands, steep slopes, forest and grazing lands, energy sources, watersheds and aquifers. (*See also EENR Chapter*)

To meet national sustainable goals, the federal government must:

- Promote land development that permits appropriate integration of living, working, shopping, recreation, transportation, communications, education, and natural resources;
- Provide continued funding to revitalize distressed areas, including federal tax incentives to encourage housing and business development in those areas;
- Encourage “in-fill” redevelopment of neglected urban/suburban areas to discourage unplanned growth;
- Identify financial tools and technical resources that help broaden the development choices available to communities;
- Provide relevant information for communities to support their efforts to grow in ways that ensure a high quality of life and strong, sustainable economic and physical growth;
- Provide incentives for communities to work together to meet the challenges and embrace the opportunities presented by growth;
- Eliminate or modify federal policies and regulations that encourage unplanned growth;
- Maintain a strong appreciation for sustainability in community and economic development and housing policies and program implementation (*see also EENR Chapter*); and
- Encourage thorough coordination of transportation policy with land use and economic development, as with “transit-oriented development.” Transportation and infrastructure are critical influences on land use. (*See also TIS Chapter*)

5. Federal Support Regarding Natural Disasters

Critical to the recovery of cities and towns affected by natural disasters, the federal government must provide economic support by:

- Reducing the high cost of natural disasters to local government through federal funding, such as tax incentives, of appropriate local pre- and post-disaster mitigation activities, such as retrofitting existing structures and locating new construction outside of high-risk areas; and
- Providing clarification by the Federal Emergency Management Agency (FEMA) of its definition of a high-risk area, taking into account changes in new and existing construction.

See also PSCP Chapter and CED Section 3.04(C)(12),
Federal Assistance After a Disaster.

3.08 Recreation

A. Principles

Recreation opportunities are an essential aspect of the quality of life and must be available, affordable and accessible to all citizens.

B. Goals

A broad range of recreation opportunities, including physical, artistic, and cultural, should meet the needs of people where they live – in the nation’s municipalities, large and small. There is a particular urgency to provide public open space and recreational facilities in inner city neighborhoods.

C. Recommended Federal Actions

1. Urban Recreation

In addition to existing federal recreation programs, Congress must establish a program specifically geared toward urban recreation. The program should include adequate funding directly to municipalities and counties to acquire land, construct quality facilities, and provide competent staff.

2. Unilateral Federal or State Action

When unilateral federal or state action decreases the recreation land or facilities available to citizens, the federal government should provide funds to the affected local government to improve existing facilities or to purchase and develop additional land to replace the land or facility taken.

NLC RESOLUTION #2012-18**SUPPORT FOR GREEN AFFORDABLE HOUSING AND FINANCING**

WHEREAS, our nation's low-income households spend on average 19.5 percent of annual income on home energy costs, while the average median-income household spends just 4.6 percent; and

WHEREAS, the greening of affordable housing will not only lower utility costs for low-income families, but also create healthier, more vibrant home environments for families that live in public housing developments; and

WHEREAS, incorporating green building practices in affordable housing will promote environmentally smart site planning near public transportation and other community resources, energy efficiency, water conservation and the use of environmentally beneficial building materials that foster healthier outdoor and indoor environments; and

WHEREAS, a number of cities, state housing agencies and the federal government have already incorporated green building criteria into their affordable housing programs; and

WHEREAS, many affordable housing developers have already demonstrated that it is possible to build both green and affordable, including over 9,000 affordable units (40 percent) of the over 22,000 residential units registered with the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) for Homes Rating System; and

WHEREAS, following the National Green Building Standard can facilitate the development of housing that is both environmentally friendly and affordable; and

WHEREAS, affordable housing owners have also demonstrated an ability to complete green retrofits where incentivized by U.S. Department of Housing and Urban Development (HUD), including 80 percent of private owners in the Mark to Market program electing to pursue HUD's innovative Green Initiative; and

NOW, THEREFORE BE IT RESOLVED that the National League of Cities calls on the Congress to adopt legislation that would transform and modernize the U.S. housing market through the use of Energy Efficient Mortgages and Location Efficient Mortgages while ensuring that the benefits of green buildings are accessible to Americans of all income levels through the use of standards and incentives for affordable housing projects, including green building standards for single-family or multifamily structures.

BE IT FURTHER RESOLVED that federal regulators, including the Federal Housing Finance Agency, should respect local governments traditional authority to utilize the municipal tax code in the best interests of the public and, furthermore, assist local governments that undertake innovative financing mechanisms, such as the Property-Assessed Clean Energy (PACE)

program, that enable municipal investments in new green housing and energy efficiency retrofits to single-family or multifamily homes without direct federal funding.

NLC RESOLUTION #2012-19**SUPPORT FOR SUSTAINABLE DEVELOPMENT IN CITIES AND TOWNS**

WHEREAS, over half of today's global population lives in an urban setting – a number expected to increase to over 70 percent by 2050; and

WHEREAS, this rapid urbanization has led to pockets of resource use intensity, resulting in increased waste, pollution and greenhouse gas emissions; and

WHEREAS, cities and towns sit at the intersection of law, policy, economic development, land use decisions, and the public interest and can be a guide to the federal government and other entities of how to address these challenges and encourage sustainable development; and

WHEREAS, many cities and towns are already at the forefront of developing and implementing cutting-edge strategies to inspire a bottom-up approach to resource efficiency through the adoption of climate action plans, the implementation of green building codes and standards, the revision of an existing municipal plan, or the use of policies based on the U.S. Green Building Council's Leadership in Energy and Environmental Design (LEED) or the National Green Building Standard; and

WHEREAS, the federal government has shown increased support for sustainable communities through the Sustainable Communities Partnership, a collaboration between the Department of Housing and Urban Development, the Department of Transportation, and the Environmental Protection Agency,

NOW, THEREFORE BE IT RESOLVED that the National League of Cities calls on the Congress of the United States to adopt legislation, such as the Livable Communities Act and the Enhancing Livability for All Americans Act, that incents, but does not mandate, sustainable planning and development activity at the local and regional level.

HUMAN DEVELOPMENT (2012)

4.00 Introduction

Through concerted action that improves the social, economic, and physical well being of our residents, we can conserve our nation's most important resource, human capital. In particular, the cornerstone of the federal government's comprehensive human development strategy must be the self-sufficiency of every individual.

Through policy recommendations and legislative action, the federal government must:

- Create a coordinated system of social services to assist our society's citizens attain the highest level of self-sufficiency and independence;
- Establish and implement a national policy on children and youth, including full funding for early childhood programs, child care, Head Start and Early Head Start for all children who need them;
- Fully fund federally-mandated education programs, including No Child Left Behind Act (NCLB) and the Individuals with Disabilities Education Act (IDEA);
- Create a comprehensive system of services designed to prevent unwed teenage pregnancy and eliminate poverty;
- Promote full employment and assist the unemployed;
- Promote equal opportunity efforts in education, employment, and social services;
- Provide a floor of financial support through Social Security upon retirement or disability;
- Provide assistance to individuals with disabilities so that they too may realize their potential;
- Ensure that Americans are able to access adequate health care and establish a federal block grant program to enhance our public health systems;
- Establish a comprehensive, coordinated, flexible and continuous system of care for individuals with mental illness;
- Implement an effective immigration enforcement policy and provide resources directly to local communities for the transition costs associated with new immigrants and refugees; and
- Support coordinated planning or program development by cities to ensure that cultural resources are accessible to all citizens.

4.01 Social Services

A. Principles

While recognizing that human resources policy relates to all citizens, the federal government must give special emphasis and priority to social service funds for the problems of the nation's most vulnerable: the poor, the working poor, the unemployed, the physically and mentally challenged, the elderly, young people, and minorities. With this assistance, they too can attain the highest level of independent living of which they are capable.

Within the framework of national priorities, the federal government should allow the state and local governments to determine the types of services most appropriate to meet the communities' needs.

The federal government must ensure that preventive services, which provide long term benefits, must be an essential part of any system. Elimination of such services often results in more serious, continuing problems that cost substantially more to treat.

B. Goals

The federal government should:

- Provide increased funding for the Social Services Block Grant and other federal block grants that help local communities to provide social services;
- More effectively provide coordination, flexibility, and oversight, in full partnership with local officials;
- Not provide direct grant funding to religious organizations without maintaining critical constitutional safeguards; and
- Focus on assisting senior citizens, individuals with disabilities, children, immigrants and refugees, and homeless individuals.

C. Recommended Federal Actions

1. Funding for Social Service Programs

The federal government must continue to provide flexible federal funding to local communities for quality and responsive human resource programs. To support that process effectively, the federal government must increase funding for effective social service programs by an amount that compensates for the annual rate of inflation at a minimum.

NLC urges the federal government to adequately fund the Social Services Block Grant (SSBG), which helps serve many of the needs of special population groups. NLC opposes reductions in the funding level of the SSBG program or reductions in the flexibility for use of these funds.

NLC also supports the Community Services Block Grant (CSBG), a program that was enacted with the SSBG to complement its functions. The federal government should maintain CSBG as a separate program since it provides federal funds for distribution to local agencies for activities designed to reduce poverty.

NLC supports the federal government's actions in using federal block grants to provide social services, such as the Temporary Assistance for Needy Families (TANF), the Social Services Block Grant (SSBG), the Community Services Block Grant (CSBG), and the Child Care Development Block Grant. However, the federal government must:

- Protect the goals of the original programs even after the development of the block grant;
- Ensure that the shift in authority from the federal to the state level does not create fragmentation at the local program level; and
- Maintain or increase the funding levels so that states are not allocating funds to replace lost federal dollars. The result is often less funding for already inadequately funded programs and elimination of other programs, rather than the creation of a more efficient and effective comprehensive delivery system.

2. *Necessary Federal Reforms*

a. Coordination by the Federal Government

The federal government must create a coordinated system of administration and delivery of human services, which should minimize fragmentation of services on the local level where public and private services are delivered. The Administration should establish an Intergovernmental Human Development Task Force with its primary focus on working toward coordination and related human service planning and management.

b. Local Involvement

In addition to consultation with multi-county and nonprofit organizations, the federal government must include local elected officials in the planning, monitoring, evaluating, and decision making on federal policies and programs.

c. Flexibility

Federal regulations governing social services must be more flexible so that local governments can ensure that programs meet local needs. The federal government should consolidate programs to provide flexibility to permit adaptation to local needs. There should be few regulations and a minimum of red tape.

d. Performance Standards

The Administration should evaluate social service programs on the basis of well defined performance standards that relate to program administration and participant development, as well as on the basis of numbers served or placed. The federal government must eliminate programs that it has evaluated and found to be ineffective.

3. *Faith-Based Organizations as Service Providers*

NLC has significant reservations about the philosophical foundation and assumptions of the federal faith-based initiative. NLC opposes any grant of federal funding to religious organizations. If, however, the federal government authorizes any faith-based system of assistance and service delivery, it should operate under the policies described below:

a. Separation of Church and State

Local governments have a long and rich history of working with faith-based organizations that provide a variety of community and social services using government funds. While NLC appreciates federal efforts to encourage community and faith-based programs to expand the provision of such services, any federal initiatives to directly fund faith-based organizations must maintain critical safeguards to protect the separation of church and state. NLC supports the following constitutional safeguards:

- Organizations may not use government grant or contract funds for religious activities such as worship, religious instruction, or proselytizing.
- The federal government should not fund programs where religious exercise is a required element of the program (such as promoting religion to counter drug abuse).
- Any federal funding program should require that the religious organization segregate the government contract and grant funds it receives into a separate bank account to ensure that taxpayer money is not being spent on religious activities.
- Beneficiaries should have a right to a secular alternative if they do not wish to receive services

from a religious organization. Any federal provisions that require local governments to operate parallel programs (both faith-based and secular), however, must include adequate federal funds to finance such local government activities. If not, the requirement constitutes an unfunded mandate.

b. Civil Rights Issues

Faith-based organizations must satisfy the same legal standards as other non-profit and community development organizations competing for federal grants. NLC urges Congress to ensure that any federal legislation to provide funding directly to faith-based organizations specifically upholds state and local laws.

- Employees – When hiring employees for programs funded by the government, all grantees must follow local, state, and federal laws, including Title VII of the federal Civil Rights Act of 1964. Religious organizations should retain their ability to use religious criteria in employment for those positions in nongovernmental programs that are privately funded.
- Clients – When serving clients in programs funded by the federal government, a faith-based organization cannot be allowed to discriminate. In addition, a faith-based organization must follow all state and local civil rights laws.

c. Funding

Any federal faith-based initiative must provide additional resources for social service programs operated by religious groups. In particular, if the federal government requires cities to provide alternatives to faith-based programs, it must provide additional resources to cities to fund those alternatives. It should not redirect existing appropriations currently allocated to local governments and social service providers and redistribute them to religious organizations. Religious organizations cannot replace government's role of supporting a social safety net.

d. Block Grants to Local Governments

The federal government should not make grants directly to faith-based organizations. Any federal faith-based initiative should distribute federal funds directly to local governments, preferably through block grants. Relying on federal guidelines and criteria, cities and towns should be able to set the rules specific to their local needs and organizations.

e. Accountability

Using the same accountability standards for other community-based organizations, the federal government must hold faith-based organizations accountable for the use of government funds and for the provision of services delivered.

f. Technical Assistance Needed

The federal government should provide technical assistance to small organizations so that they may increase their ability to compete for grant funding and develop the capacity needed to deliver social service programs.

g. Liability Issues

Any legislation to promote a federal faith-based initiative must not impose new legal liabilities on local governments or their officials. Congress must not impose an increased liability on cities and their individual elected officials based upon denial of funding opportunities to faith-based organizations.

4. *Special Population Group Programs*

Although cities recognize the need for flexibility in social services programs, certain population groups require additional consideration because of the need to focus a range of federal programs on their special problems.

These groups include:

- Senior Citizens (*see also HD Section 4.06, Social Security and Seniors*);
- Individuals with Disabilities (*see also HD Section 4.07, Individuals with Disabilities*);
- Children (*see also HD Section 4.02, Children and Learning*);
- Immigrants and Refugees (*see also HD Section 4.10, Immigration and Refugees*); and
- Homeless Individuals (*see also HD Section 4.03(C)(5), Poverty and Income Support, Preventing Homelessness*).

Such a policy does not support further categorization of programs. Rather it suggests that the federal government must carefully explore the effect of federal policy in other programs on these groups.

4.02 Children and Learning

A. Principles

All children must be able to develop their capabilities to the greatest extent possible. This capability should be achieved through effective, comprehensive early

childhood development programs and high-quality education, resulting in employability and lifetime skills.

The federal government must ensure that local governments are able to prepare children to be ready to learn through the prenatal care of mothers, parental training and support, and quality programs for infants, toddlers, and pre-schoolers.

Through legislation and funding, the federal government must work with states and local communities to improve basic educational programs for citizens in general and for groups with special needs. Because the quality of its public education system is one of the major determinants in a city's ability to offer a satisfactory quality of life for its residents, as well as to attract and retain business and industry jobs that support its residents, cities play a critical role in education. The out-migration of residents of inner cities to suburban and rural areas can be traced, in many cases, to substandard education programs.

The federal government must also ensure that local communities have sufficient resources to support families, children and youth from the child's age of 5 years to 18 years. This will assure continued school readiness by providing and facilitating services supportive of families and the educational process. Examples include library services, health care, safe disciplined drug-free environments, parks and recreation programs, and joint cooperative use of facilities with school districts.

B. Goals

Working with local leaders and schools, the federal government must provide strong leadership for our children and families through the following actions:

- Establish and implement a national policy on children and youth, which is coordinated, holistic, and focused on preventive efforts;
- Provide a comprehensive array of services that foster appropriate early childhood development for all children, including health and nutrition for proper development, parent training and support, and appropriate early learning experiences;
- Ensure that high-quality, safe, and affordable child care is available to all children who need it;
- Adequately fund Head Start and Early Head Start;
- Congress must fully fund all federally-mandated education acts, including No Child Left Behind and the Individuals with Disabilities Education Act (IDEA);

- Provide resources to local communities to help individual students meet performance standards; and
- Provide resources for pilot programs to more effectively involve parents, strengthen families, and bring communities into our schools.

C. Recommended Federal Actions

The federal government must:

- Establish a broad, coordinated policy based on sound data, funding for development of creative program models, and support for a broad range of family and child-oriented services for low-income people;
- Allow state governments to provide leadership to adapt national priorities to their own conditions; and
- Recognize that local government bears the burden of responding directly to the problems and must be seen as the critical participant in molding services for the children, families, and youth in its community.

1. National Commitment and Funding for Children and Youth

Congress and the Administration must increase their commitment by establishing a national policy on children and youth.

This policy must:

- Make children and youth a truly national priority and must recognize the needs and problems of children and youth, particularly the special needs of disadvantaged youth;
- Be comprehensive in scope and insure the coordination and cooperation of service delivery systems at all levels of governments;
- Provide a permanent source of funding at levels sufficient to meet the needs of children and families; and
- Recognize and address a comprehensive continuum of care and development, taking a holistic, integrated and preventive approach to the problems of children and families, without fragmenting and treating each problem separately.

To implement and direct this national policy with an integrated and sustained effort, the President must form the "President's National Children and Youth Council" consisting of the Secretaries of Education, Labor, Health and Human Services, Agriculture, and Housing and Urban Development.

This Council should also receive input from a diverse advisory group and focus on establishing a permanent source of funding on a national scale, developing model programs, fostering partnership initiatives, and creating a reliable national database on children and youth.

2. Early Childhood Development

Early childhood development efforts, from birth to age six, have the greatest potential for enriching a child's life in the long term. As part of a comprehensive approach to early childhood development, the federal government must include the following elements:

- Health and nutrition for proper development;
- Parent training and support, including flexible child care arrangements; and
- Appropriate early learning experiences.

The federal government should base its early childhood development policies and programs on a holistic approach. This approach should go beyond the provision of a safe environment and adequate nutrition to include enrichment of the entire environment during the early years. This holistic approach should support the creation of sound relationships between child and caregiver, self-esteem, curiosity, appropriate language development, and sequential learning.

NLC urges the federal government to provide increased funding and programmatic flexibility, technical assistance and policies that support collaboration and participation across the federal, state and local levels so that local governments are able to provide for early childhood education for all children.

a. Health and Development of Infants, Toddlers, and Pre-schoolers

Pre/postnatal health services and nutritional assistance are critical to the proper development of children ages zero through six. The federal government must provide for the basic health and development of infants, toddlers, and preschoolers through increased funding and expanded services of:

- Programs that meet the nutritional needs of infants and toddlers in low-income families, such as the "Women, Infants, and Children" Program (WIC) and food stamps;
- Prenatal and postnatal health care and immunization, for all women and children, including welfare recipients and working poor families, obtained through Medicaid and State Children's Health Insurance Program (S-CHIP)

(see also HD Section 4.08 for NLC policy on presumptive health insurance for all children);

- Programs serving infants and toddlers with physical and mental disabilities, as well as those with terminal illnesses, including AIDS; and
- Additional comprehensive programs that identify developmental problems in the earliest years, emphasizing prevention and intervention services. (See also HD Section 4.02(C)(3) on the Individuals with Disabilities Education Act)

b. Parenting Programs

Because early childhood development is critical, the federal government must also establish family support programs, including parenting education for mothers and fathers, family health care, and nutritional guidance.

NLC supports federal funds for parenting skills programs. Concepts of care giving and environmental stimulation should be part of any parenting skills programs.

NLC urges the federal government to develop and fully fund a new competitive grant program to provide direct funding to cities for parenting programs in their communities. For infants, toddlers, and preschool children, the cognitive and social environment provided in the home predicts children's language development, intelligence, school readiness, and school achievement in reading and math.

The federal government must allow cities that receive federal funds the flexibility to tailor their parenting programs to local concerns. Eligible programs should aid mothers and/or fathers, and should:

- Partner with school districts to provide a comprehensive program of pregnancy prevention and/or parenting skills to youth;
- Partner with community organizations to provide classes for parents about non-violent discipline techniques, family literacy, building language skills of young children, and establishing stable family routines;
- Encourage low-income parents to enroll in parenting skills programs and provide information about and access to the programs through TANF, food stamp, and unemployment offices, housing authorities and public housing communities, child care and Head Start centers, and other points of contact for public assistance;
- Work with non-custodial parents, mothers and/or fathers, who need to learn how to develop healthy relationships with their children;

- Provide one-on-one programs with social workers or volunteers who mentor and advise parents; and
- Offer in-home sessions of observation and counseling to strengthen family relations.

See also HD Section 4.02(C)(3), School-Age Children, for a discussion of strengthening families with school-age children.

c. Child Care

A high federal priority in this country should be the creation of new, and expansion of existing, high-quality child care services that are safe, accessible, and affordable.

NLC urges the federal government to:

- Significantly increase funding to the Child Care Development Block Grant (CCDBG) to ensure that all families can find accessible and affordable child care and encourage states to use some of their CCDBG funds for capacity building to increase the number of child care providers;
- Ensure that child care is available full day and after-school, evenings, nights, and weekends. It should provide a physically safe environment with flexible hours for working parents and should be community-based, near work sites, or easily accessible to transportation. The federal government should provide training and financial incentives for child care centers and in-home day care providers to maintain more flexible hours;
- Ensure that the child care services are comprehensive, incorporating preventive and protective services for child abuse and neglect, early and periodic health screening, nutritional programs, educational enrichment, and appropriate intervention for children with special needs;
- Create minimum federal standards for high-quality, safe and affordable child care. High-quality day care should provide intellectual stimulation, opportunities to learn and reinforce language and socialization skills, high staff-to-child ratios, an appropriate developmental curriculum, and child care workers with the expertise to address developmental problems. These federal standards should also provide maximum flexibility on the local level to reflect the diverse needs of each community;
- Provide supplemental funds to states to improve the quality of their child care providers, while still increasing the number of children served.

These funds can be used to develop a larger, well-trained pool of early childhood workers through strengthened recruitment, training, compensation and scholarship programs, grants-in-aid and low-interest loans for those studying childhood development. Recruitment efforts should include attracting bilingual/bicultural personnel;

- Support research geared to developing first-class day care models and provide a consistent data base of information on child care needs, solutions to child care problems, successful programs, and sources of funding for child care programs; and
- Provide incentives such as training grants, capital improvement funds, liability protection, etc. to encourage home care providers to come into compliance with existing and/or new regulations.

NLC also recognizes that the federal government cannot be the only means of subsidizing child care. The federal government should:

- Provide tax incentives to businesses to provide child care facilities at worksites and to subsidize the child care costs of their employees;
- Encourage public-private partnerships through matching funds and financial incentives;
- Educate employers on the economic benefits of providing child care; and
- Urge the Small Business Administration (SBA) to view child care as a legitimate business and make available low-interest loans to those interested in starting day care services.

d. Bridging Child Care and Early Learning

The federal government must strengthen the entire child care/early learning system by:

- Providing linkages between child care providers and preschool programs to ensure a smooth transition for children; and
- Supporting policy development within Head Start that fosters collaboration with other early education programs and/or child care and reduces barriers to such collaboration.

e. Early Learning

i. Early Childhood Learning Programs

Recognizing parents' efforts in fulfilling their responsibilities, NLC strongly supports quality, early childhood learning programs for all children. NLC also supports federally-subsidized, quality, early childhood learning programs for all children who are at risk or low-income, particularly those ages three to five. Local leaders should be able to easily

coordinate these Pre-School, Pre-Kindergarten, and Head Start programs without legal and regulatory barriers to working with each other or extended child care.

Developmentally appropriate early childhood learning programs can make major contributions to the development of children's physical and emotional well-being, social competence, and cognitive abilities. By ensuring that such programs are available to all children, they will then be better prepared to begin their elementary education and achieve long term school success.

As part of this federal policy for children and youth, NLC urges the federal government to provide:

- An increase in funding for and expansion of services provided by those programs that have proven to be cost effective;
- Strengthened recruitment, training, compensation and other retention efforts targeted at child development, personnel-creating scholarship programs, grant-in-aid programs for students who will commit to working in the local community for a specified period of time, and low-interest loan programs for early childhood development training;
- Incentives for more involvement by the private sector in funding early childhood activities, leveraging federal and non-federal support for these programs, and providing employee benefit packages that ensure greater participation by parents in the early education of their children; and
- Support for continued development and evaluation of educational approaches for preschool children.

ii. Head Start and Early Head Start

The federal government should appropriate adequate funds to provide Head Start preschool experiences for all low-income children ages three to five years. NLC supports the Head Start program and urges the federal government to extend its authorization and increase its appropriations, so that all eligible children can participate.

NLC also urges the federal government to adequately fund the Early Head Start program, which provides high quality child and family development services to pregnant women and low-income families with children ages zero to three. The federal government should also increase its funding of developmental activities for low-income children from birth to age three, such as Early Head Start.

Where appropriate, the federal government should provide sufficient funding to structure Early Head Start and Head Start as full-day programs. NLC supports the following essential features of Head Start:

- **Comprehensiveness** – Head Start should remain in the U.S. Department of Health and Human Services because of the importance of its comprehensive approach, addressing health care, nutrition needs, emotional and social development, education, and self-esteem of both children and parents. It is also crucial that the program continues to provide families with essential links to other community services.
- **Family Involvement** – Parental involvement with Head Start is essential in situations where personal, social and economic problems would otherwise result in the disintegration of the family unit. The federal government should continue to encourage parental involvement by increasing flexibility and expanding opportunities for training in parenting skills, classroom volunteering, and career development counseling. NLC supports the federal Head Start requirement of a 20 percent in-kind match by the local community (usually satisfied through parental volunteering), but urges the Administration to waive that requirement under certain circumstances.
- **Facility Needs** – The federal government must encourage the availability and accessibility of Head Start centers by providing financial assistance to build, maintain, and/or renovate facilities.

3. School-Age Children

a. Full Education Funding

In implementing “No Child Left Behind” (NCLB), the federal government must support comprehensive programs to raise student achievement instead of focusing solely on the accountability of school administrators and teachers. In its appropriations, education policies, and regulations, the federal government must recognize that student achievement is directly tied to early childhood programs, social service supports, health and nutrition, language skills, character development, and family involvement from birth until graduation and must link appropriately funded programs to the implementation of NCLB. In addition to fully funding NCLB at the authorized levels, Congress must also appropriate increased funds for programs such as Head Start, Early Head Start, Individuals with Disabilities Education Act (IDEA), and the 21st Century Community Learning Centers.

NLC supports federal programs that provide funding directly to local communities for parenting programs. (See also *HD Sections 4.02(C)(3)(b), Children and Learning, Recommended Federal Actions, Early Childhood Development, Parenting Programs, and 4.02(C)(6), Family and Community Involvement*)

Congress must act in a timely fashion on annual education appropriations and fully fund any federally mandated education programs, especially NCLB and IDEA.

i. Funding for Head Start and Early Head Start

To realize educational achievement of school age children, the federal government must also appropriate enough funds to provide Head Start and Early Head Start to all eligible children. (See also *HD Section 4.02(C)(3)(e)(ii), Head Start*)

ii. Supplementary funding through Title I

NLC urges Congress to continue and expand the funding of programs, through Title I of the “No Child Left Behind Act” (formerly the Elementary and Secondary Education Act (ESEA) or other appropriations of federal funds, that motivate disadvantaged students to stay in school and to provide support mechanisms for academic achievement of these students in school.

NLC urges Congress to ensure that these federal and state supplements provide sufficient funds to ensure improvement in educational achievement for all students and meet the special needs of certain groups of students, such as the gifted and talented, the socio-economically disadvantaged, individuals with disabilities, and minorities. In some states, current allocations across school districts are extremely inequitable – allowing huge funding disparities between neighboring schools, and providing insufficient resources for inner-city schools. In attempting to resolve this inequity, NLC opposes any federal action that would prohibit the use of local property taxes to finance public education. However, the federal government and states should supplement local expenditures in communities that cannot afford to provide sufficient educational resources. The small percentage of current federal funding that local educational agencies receive through their NCLB allocations is insufficient to ensure that students and teachers have enough resources.

iii. After-School, Out-of-School Youth and Vocational Programs

NLC urges the federal government to increase funds directly allocated to local communities for after-school programs and summer and year-round youth

employment and vocational programs that are linked to staying in school. In particular, it should strengthen and fully fund the 21st Century Learning Centers at the levels originally authorized in the “No Child Left Behind Act.” This will provide improved prospects for academic and employment opportunities that will also motivate teenagers to postpone parenthood. (See also *HD Section 4.03, Poverty and Income Support, and PSCP Chapter for support of after-school programs, stay-in-school programs, mentoring programs, and school-to-work opportunities*)

The federal government should increase funding for programs that support students who have dropped-out of school so they can return to school easily or move into the employment sector effectively.

In addition, for students who are not actively pursuing education beyond high school, NLC supports continued federal investment in research and local programs, including vocational programs that help students to transition from school to work.

b. Basic Support for Federal Education Policy

NLC supports the goals of current federal education law, which strives to close the achievement gap by ensuring that all children are learning basic skills and meeting high academic standards. It is imperative that Congress reform the law for greater effectiveness. The federal government’s core focus must be accurate assessment, identification of needs, and well-funded remediation for districts, schools, teachers, and students to provide the most effective learning environment, teaching tools, and support systems. Also, the federal government must allow for local flexibility in implementing the standards, including locally-driven alternatives regarding assessments, requirements of teachers, and students’ abilities to transfer from “low-performing” schools. Lastly, these federal requirements should not impede, require the diversion of funds, or in any way minimize the importance of other critically enriching programs, such as art, gym, music, social studies, and foreign language.

c. Standards and Testing

NLC supports the federal requirement that each state must establish standards and create assessments that students must pass to demonstrate that they are learning basic skills and meeting high academic standards.

The federal government must provide states adequate federal funding to help them develop and implement performance standards and achievement tests so that

each state's current funding is not diverted from existing educational purposes.

With direct involvement of local officials, the federal government should provide general guidance to states to strengthen performance standards and applicable achievement tests to better measure the educational progress of all schools and students. Parents, community leaders, the business community, and students should also be actively involved in the standards setting process.

The federal government should ensure that the state assessments are aligned with the state standards, and that all state assessments are valid and reliable by professional standards.

Great care should be taken to ensure that the testing process does not become a demoralizing factor for students, parents, teachers, and administrators. Performance standards should not be limited to standardized testing but should also include broad measures of outcomes such as employment and participation in higher education. NLC urges the federal government to include in any guidance that:

- Tests should not be given so often as to take away significant time from teaching lessons and experiential activities; and
- Programs must be in place to de-aggregate the test results and help individual students to achieve.

The federal government must continually work with states and localities to develop, improve, and adopt the most flexible, efficient, and successful methods of assessment and accountability, including allowing any state to include a workable growth model as part of its state plan. Furthermore, the federal government must allow all states to implement assessment programs that emphasize the academic growth of individual students, so schools can follow students' academic growth and target help where it is needed. Where feasible, the federal government should also help states and localities build capacity to develop these longitudinal models that can more precisely target individual student growth.

Most importantly, testing is useful only if it serves as an additional tool for administrators, teachers, and parents to improve instruction of students. Without well-funded and effective programs to improve the educational system, standards and achievement tests are meaningless assessments and do not help students. To ensure that federal education law serves that purpose, NLC supports federal initiatives that provide research and funding for mentoring, tutoring,

and teaching assistance programs that help to increase achievement test results, satisfy performance standards, and decrease the drop-out rate.

i. Evaluating Special Education Students

For students enrolled in special education programs, NCLB should indicate that the standards should be assessed individually based on the students' progress toward their Individual Education Plans (IEP). To reach the goal of appropriate assessment of special education students, the federal government must help states build capacity to strengthen teachers' ability to properly identify and evaluate the achievement of special education students.

For communities to have all the resources they need, Congress must fund the Individuals with Disabilities Act (IDEA) at its fully authorized levels.

For more on special education students, refer to HD Section 4.02(C)(3)(h).

ii. Evaluating Students with Limited English Proficiency

NLC supports the ultimate goal of teaching all students to speak, read, and write in English. To achieve that goal, the federal government should strengthen its capacity to develop, evaluate, and promote the most effective ways to ensure that all students learn English and also reach proficiency in their academic subjects.

NLC supports the inclusion of all students, including students with Limited English Proficiency (LEP) or "English Language Learners" (ELL), in the accountability system to assess their individual skills. However, Congress must work to alleviate the difficulty for schools to demonstrate that these students are performing at a proficient level if this student group is narrowly defined to include only students having problems performing in regular English-language classroom settings. To do so, NLC urges the federal government to:

- Provide sufficient funding to assist local communities in helping LEP and ELL students through bilingual teachers, appropriate lessons, and other needed support services;
- Continue to implement flexible policies based on different communities' needs; and
- Continue to allow states to give some school districts time-limited waivers regarding assessments of students who are homeless or new immigrants.

Most importantly, NLC urges the federal government to evaluate and support the use of growth models for

LEP or ELL students in relation to their educational, individual, or community starting point and growth. This is a valuable tool for schools to be accurately assessed as each student or community's academic background varies and these differences may result in the incorrect evaluation of these students. To implement this model effectively, the federal government must help states build capacity so teachers and administrators can use individual assessment tools to measure, monitor, and guide LEP and ELL students in their progress with English and their academic growth, because these students need individualized progress monitoring to recognize appropriate gains in different circumstances.

d. Education Reform

Federal education requirements must focus more on supportive mechanisms to produce meaningful education reform and less on corrective or punitive actions. NLC especially supports the current requirements for a locally-determined School Improvement Plan, which includes public involvement in determining the plan.

First, the federally imposed timeline of corrective action is currently too restrictive. At minimum, Congress should reform NCLB to allow schools that are not making Adequate Yearly Progress (AYP) to provide supplemental services to students *before* being required to transfer students to other higher performing schools. The transfer provisions should take effect only *as a last resort* after the supplemental services provisions have been found to be ineffective. Priority for both supplemental services and transfers should be limited to students that are not satisfying AYP.

More broadly, Congress should reform NCLB's corrective action requirements. Instead of mandating compliance with NCLB's federally imposed timeline of corrective action, Congress should require that the state collaborate with the local school district to determine an appropriate, locally-based timeline of action that includes technical assistance to establish and implement a plan of reforms, a wider list of allowable reforms, federal financial support for implementing the reforms, and an appropriate listing of required corrective actions for failure to make the planned reforms.

i. Assistance in setting up the locally-determined plan:

The locally-directed, comprehensive plan must include tangible, urgently-needed assistance from the state and federal government to achieve those reforms:

- Technical assistance, funded with federal funds, to help the local community establish a workable plan that meets the needs of that community yet satisfies the requirement that every student must be obtaining basic skills and meeting high academic standards; and
- An opportunity for local community members to provide input into the plan through public hearings, consensus building exercises, and an understanding of the potential corrective actions if the reform plan fails to ensure that the students are learning the basic skills and satisfying the state academic standards.

ii. Remediation and Supportive Actions

The federal and state government must also provide comprehensive assistance, including financial support and technical assistance, to implement the plan effectively for each school in need of improvement. Instead of only mandating supplemental services, choice, and restructuring, the locally-directed comprehensive reform plan should have the flexibility to include the following components:

- Technical assistance – Flexibility to hire an outside expert to advise the school immediately after identification as a school in need of improvement;
- Community and Parent Involvement – More support for “community schools,” that include family-oriented, neighborhood services with the schools and stronger parental involvement programs that will encourage parents to engage with their school children and community members to get involved with their neighborhood schools (*see also Section 4.02(C)(3)(e), Family and Community Involvement*);
- Students – The schools should be allowed more flexibility in helping students struggling to acquire the skills needed to achieve, including the ability to increase the number of in-school tutors or teachers' aides or create smaller class sizes;
- Teachers and Administrators – More support for teachers and administrators, including professional development, opportunities to share best practices, mentor programs for teachers and administrators, and workshop days where teachers get the opportunity to share ideas, work through challenging situations, and/or visit with other schools or classrooms; and
- Academic Changes – Implementation of a new evidence-based or research-based curriculum or flexibility in extending the school day or year.

e. Family and Community Involvement

i. Parental Involvement Requirement

NLC urges the federal government to significantly strengthen and enforce the “parental involvement” requirements of federal education law and promote successful involvement by parents, guardians, and other legal care-takers, in Head Start and other early learning component of their children’s education, the partnership with their school-age children’s teachers, and the reform process of their schools. NLC urges the federal government to ensure that “parental involvement,” or a broader, more inclusive term, is included in all education policies and adequately funded so that the involvement of parents and other legal caretakers becomes a centerpiece of federal education law. It is critical that “parental involvement” promotes parental accountability, parent-teacher relationships, and assistance to parents to achieve better parenting skills, reinforcing homework, discipline, and other learning behaviors.

ii. Strengthening Family and Community Programs

Regardless of whether a school has been identified as one in need of improvement, NLC supports federal initiatives that encourage and reinforce family involvement in school programs, such as the Communities in Schools program. Family and community involvement in schools is essential for the academic and social achievement of students. In particular, NLC supports federal funding for local programs that:

- Strengthen families’ and caregivers’ abilities to provide their children the discipline and motivation to attend school and learn;
- Help students with homework and extracurricular activities;
- Develop communication skills related to school and career challenges; and
- Help families remove barriers to learning.

For students who cannot get sufficient parental involvement, federal resources should be available to help schools promote adult relationships with other family members or community mentors.

The federal government should also support locally-initiated “community schools” by funding demonstration programs to local communities, as well as promoting research and information dissemination. Community education programs coordinate and make comprehensive human services, like healthcare, family literacy programs, mentoring, and family counseling, available at neighborhood schools.

iii. Parenting Skills Programs for School-Age Children and Their Parents

The federal government should support parenting skills programs for school-age children that:

- Partner with school districts to provide a comprehensive program of pregnancy prevention and/or parenting skills to youth;
- Partner with community organizations to provide classes for parents about non-violent discipline techniques, family literacy, building language skills of young children, and establishing stable family routines;
- Encourage low-income parents to enroll in parenting skills programs and provide information about and access to the programs through TANF, food stamp, and unemployment offices, housing authorities and public housing communities, child care and Head Start centers, and other points of contact for public assistance;
- Work with non-custodial parents, mothers and/or fathers, who need to learn how to develop healthy relationships with their children;
- Provide one-on-one programs with social workers or volunteers who mentor and advise parents;
- Ensure early identification and intervention of disabilities and special needs; and
- Offer in-home sessions of observation and counseling to strengthen family relations.

f. Teacher Quality

NLC supports the congressional requirement that all schools hire and maintain “highly qualified” teachers who are academic experts in the core subjects they teach. High quality and sufficient quantity of public school teachers is crucial to student success and achievement across our country.

However, to fully implement this requirement, the federal government must first address the teacher shortage in particular communities and fields. It should increase the current pool of teachers and reduce class size by funding research and innovative pilot programs that strengthen the recruitment, preparation and support of new teachers who make a binding commitment to work in low-income communities. The federal government should also provide effective incentives for teachers to work in those high-need districts and schools, such as expanded loan forgiveness programs, grants, or bonuses, because appropriate teacher compensation is one important way to provide the support they need.

In addition, NLC urges the federal government to:

- Expand federal funding for professional development programs, which includes cultural diversity training;
- Continue federal funding for alternative certification programs like “Teach for America;”
- Encourage appropriate teacher autonomy and flexibility, opportunities for mentorship, and master teacher promotions; and
- Promote the use of effective social service providers and law enforcement resources in schools to provide a support network for students, administrators, and teachers.

NLC supports the principles behind the highly qualified teacher requirement; however, the federal government must not implement it with such rigidity to discourage competent, skilled veteran and new-hire non-education background teachers from the field. The federal government must allow alternatives to the teacher requirements if circumstances warrant such local flexibility. The federal government must also continue its policy on flexible and appropriate means of assessing teacher quality and should ensure that all states have the capacity to implement their alternative processes for veteran teachers and new hires from non-education backgrounds.

Additionally, the federal government should also promote better coordination among federal teacher requirements, state certification programs, and institutions of higher education to ensure a growing number of quality teachers in all states. The federal government must ensure that schools of education are teaching the most up-to-date, scientifically-based methods of educating students.

The federal government must ensure that all states have the capacity to provide appropriate alternatives for special education teachers to satisfy the highly qualified teacher requirements if they are instructing students in core subject matters in separate special education classrooms. The federal government should also promote the use of highly qualified teachers for all students considered “English Language Learners” (ELL) or those with Limited English Proficiency (LEP) to ensure their academic success. In both cases, the federal government should initiate pilot programs to encourage partnership between specialized teachers and core academic subject teachers.

g. High School Reform, Reducing Student Dropout Rates, and Increasing Graduation Rates

For Americans to be competitive in the global economy, the federal government must ensure that every student has the opportunity to graduate from

high school prepared for college or meaningful employment and a living wage. To reach that goal, the federal government must make available to secondary schools the leadership capacity, professional tools, and supports necessary to reach and teach all students, especially those with needs for literacy and math assistance, English as a second language training, academic remediation, and recovery from dropout status.

Most importantly, the federal government must make a significant new financial investment that can be dedicated to support structures for individual at-risk students and dropouts and comprehensive reforms of low performing secondary schools. It is critical that these additional federal resources be applied to capacity building, implementation of comprehensive reforms, and supports needed at both the middle and high school levels.

One of the most important tools is student data, if used effectively. The federal government should also provide states with the financial and technical tools to build capacity to implement and expand longitudinal data collection systems. Using these systems, school administrators should be able to track individual students’ progress, identify potential drop-outs, better address students’ challenges, account for movement between and among districts and schools, and identify dropouts in need of recovery options. These longitudinal systems should also help local educational agencies to keep track of all students, especially those enrolled in school district-run alternative programs.

The federal government must join with state and local governments to address the poor graduation rates throughout the United States, especially in rural and inner city schools. Specifically, to reduce the number of students dropping out of school, increase the number of students taking and excelling in rigorous academic coursework, and raise the graduation rate significantly, the federal government must provide funding, coordination, and support to states, local communities, and schools for the following crucial activities:

- Early childhood education, early interventions, and learning of fundamental literacy and numeracy skills in grades K-3 are indispensable to academic success throughout elementary and secondary school (*see also NLC policy on the topic*);
- Supports and interventions through transition years and middle school;
- Literacy and math programs, so students that are falling behind have a chance of catching up,

mastering appropriate rigorous coursework, passing more challenging classes, and advancing to the next grade on their way to graduation;

- Building state capacity to develop longitudinal data systems and local capacity to use that data effectively to identify students at risk and in need of sustained interventions and supports;
- Partnering with the states to identify and utilize a consistent set of data and analytical tools nationwide to obtain accurate school dropout statistics;
- Research, development, and implementation projects to build on effective models, and dissemination of information on research-based supports, interventions, and reforms;
- Leveraging of community-based services and opportunities to provide every student with the academic and nonacademic supports necessary for success;
- Sufficient resources for additional counselors, social workers, and truancy officers affiliated with the schools to provide comprehensive wrap-around services for all at-risk students; and
- Providing targeted, comprehensive, and systemic supports and interventions to low-performing students and schools, especially where comprehensive reform is needed in the lowest performing schools where the majority of students drop-out and remain in concentrated poverty.

Additionally, NLC supports full funding of federally authorized community programs targeted at providing support in areas that most negatively affect high school dropout rates. The federal government should:

- Fully fund the 21st Century Learning Centers to strengthen the entire community's ability to educate their children (*see also HD Section 4.02(C)(3)(a)(iii), After-School, Out-of-School Youth and Vocational Programs*);
- Initiate and fund existing programs that allow localities the flexibility to address teenage pregnancy prevention and teenage parenting assistance most efficiently (*see also HD Section 4.03(C)(2), Prevention of Poverty*);
- Provide funding and technical cooperation with state and local governments to maximize the impact of dropout-related community programs by unifying education, youth development and community development programs, using comprehensive programs like community schools as useful templates; and
- Support better-defined, larger scale, and well-resourced options and alternatives that combine

on the local level to provide all students (including those who may have dropped out) with multiple pathways to graduation, college readiness, and effectiveness in future roles as workers and citizens.

For additional discussion of federal education law, see NLC policy sub-sections on School-Age Children.

h. Special Education

NLC supports the Individuals with Disabilities Act (IDEA) and urges the federal government to fully fund the commitment it made originally in 1975 to fund 40 percent of the per-pupil cost of the services required by this Act. State and local governments are incurring the costs required to meet responsibilities under the Act, but the federal government is not fulfilling the financial partnership agreement it committed to when the law was enacted. Failure to fully fund IDEA constitutes an unfunded mandate that is unacceptable to our schools, our students with disabilities, and our communities.

Congress must also work to improve IDEA further. NLC supports the following changes in the Act:

- More focus on prevention and early intervention whenever possible, particularly in learning to read. Preventable and remediable conditions grow into intractable problems when not addressed initially.
- Incentives to encourage flexibility and opportunities for schools to work closely with families and students to customize service and placements should reduce adversarial legal and administrative procedures.
- Expanded programs that provide opportunities for general education teachers to interact with and learn from special education teachers and occupational therapists, particularly regarding the effective placement of disabled children into their classrooms.
- More accountability, including performance standards and achievement tests. By including performance-based standards in IDEA whenever possible, and providing the resources to satisfy those standards, students will be encouraged to achieve more and graduate at a higher rate.

See also HD Sections 4.02(C)(3)(c)(i), Evaluating Special Education Students, and 4.07, Individuals with Disabilities.

i. Safe Schools

NLC recognizes that widespread bullying and harassment—including bullying based on sexual orientation or gender identity—result in poor grades,

lower academic achievement, high rates of absenteeism, and a lack of safety within schools, that lead to poor individual and school scores, higher dropout rates, and student suicides. Therefore, NLC urges Congress and the Administration to pass and sign into law legislation that would address the problem of bullying and harassment in America's schools. The legislation should require that local school districts and their schools:

- Adopt comprehensive and effective student conduct policies that include clear prohibitions regarding all bullying and harassment, including bullying and harassment based on sexual orientation and gender identity;
- Create effective prevention strategies and professional development programs designed to help school personnel meaningfully address issues associated with bullying and harassment; and
- Implement procedures to maintain and report data regarding incidents of bullying and harassment in order to inform the development of effective federal, state, and local policies that address these issues.

4. Teenage Pregnancy

a. Prevention and Support

Teenagers who become pregnant are more likely to drop out of school, live in poverty, not receive timely and consistent prenatal care, and have children that are more likely to become teen parents themselves. All levels of government and the private sector need to make a concerted effort to prevent teenage pregnancy and ensure that teenagers that do become pregnant receive adequate prenatal care and parenting counseling.

The federal government must address the high poverty rate of teenagers who become pregnant and who are unprepared for pregnancy and child rearing by ensuring that these teenagers acquire, in addition to parenting skills, the education and job skills training they need.

The federal government must address teenage pregnancy as a significant reason why children grow up in poverty. Congress should indicate that significant reduction of teen pregnancy is a priority of the TANF Block Grant reauthorization and must provide adequate supplemental funding for states to achieve this goal. Federal funds should not be limited to "abstinence only" programs. Federal law must allow local communities to develop teen pregnancy programs appropriate for their needs, including federally-funded programs that provide access to comprehensive sex education, counseling,

and contraception. With respect to prevention, there is an imperative need for the inclusion of school-based health clinics, sex education, and life planning in school curricula.

Through policies and funding resources, the federal government must address the high incidence of teen pregnancy, often caused by despair, low self-esteem, and perceived lack of future opportunities by both male and female youth. NLC urges the federal government to increase funds directly allocated to cities for after-school programs and summer and year-round youth employment programs that are linked to staying in school. This will provide improved prospects for academic and employment opportunities that will motivate teenagers to postpone parenthood. *See also PSCP Chapter for support of after-school programs, stay-in-school programs, mentoring programs, and school-to-work opportunities. (See also HD Section 4.02, Children and Learning)*

The federal government must ensure that prenatal care and parenting skills programs, as well as day care facilities and counseling services, are available in communities for teenagers and young adults who do become pregnant. Counseling should target both of the parents and focus on the prevention of additional pregnancies as well as the completion of the students' education. *(See also HD Section 4.02(C)(2), Families and Children, Early Childhood Development)*

The federal government must also study the strong links between sexual abuse of children and young teenagers and teenage pregnancy. The federal government should provide funds for local programs to prevent further abuse and provide services to the young victims. *(See also PSCP Chapter)*

b. Fatherhood Initiatives

NLC supports federal initiatives to promote fathers' financial and emotional involvement in their children's lives. Except under circumstances of domestic violence, it is essential that both parents provide support to raise their children.

c. Child Support

NLC supports federal efforts to improve the collection of child support both through direct federal action and through federal encouragement of state coordination of financial and other incentives. Stronger policies of enforcement of court-ordered child support are necessary to help parents adequately care for children.

5. Higher Education Assistance

As part of the overall federal financial commitment to education, the federal government must increase its financial support that makes access to loans, grants, and loan guarantees easier for students in higher and technical education. This federal financial aid is an essential element of an education strategy to extend opportunity and equip students for the economy of the future.

NLC also supports college preparation programs, authorized by the Higher Education Act, that help to bridge the transition from high school to college. For example, GEAR UP, Upward Bound, Talent Search, Student Support Services, and Educational Opportunity Centers are all good examples of federal programs that are exclusively targeted at providing college awareness for underserved middle- and high school students. These programs provide critical information about college admissions and student financial aid to disadvantaged students, and their funding should be increased.

6. Public Libraries

The federal government should consider legislation to designate public libraries as educational institutions able to qualify for broader sources of funding. Public libraries are integral components of public education and should therefore be made eligible for any funding programs extended to educational agencies.

4.03 Poverty and Income Support

A. Principles

The federal government must work to eliminate poverty, ensure a basic quality of life for all Americans, and promote self-sufficiency. All levels of government must combine their resources and direct them toward the goal of self-sufficiency for all people. This goal requires programs of employment, social insurance, and income support.

The federal government cannot fulfill its responsibility for addressing poverty by providing money alone.

The federal government must ensure:

- Comprehensive and coordinated systems of services for families in need to provide a level of support that takes into account regional differences in the cost of living;
- Programs are administered in an effective and cost-efficient manner; and

- States and local governments work together to design, deliver and evaluate services.

B. Goals

Real welfare reform on the federal level should:

- Focus on creating a coordinated system of services designed to prevent and eliminate poverty;
- Create an accessible, comprehensive system that provides support for people in need;
- Reflect a genuine concern for and protection of our nation's children so they may grow into healthy, productive citizens; and
- Support working families transitioning to full self-sufficiency.

C. Recommended Federal Actions

1. Current Federal Welfare Program

NLC supports the reauthorization and expansion of funding for the Temporary Assistance for Needy Families (TANF) block grant program. NLC supports federal efforts to encourage employment and reduce welfare caseloads. Federal assistance is crucial for many low-income families that are unable to achieve and maintain a standard of self-sufficiency.

However, Congress must also review and improve the 1996 welfare reform law in a number of ways to recognize the factors that serve as obstacles to economic independence.

- NLC urges Congress to change the central focus of TANF to poverty reduction rather than welfare caseload reduction. The true test of success should be measured by the number of families able to become economically independent and socially productive.
- Reauthorization legislation should not pass along unfunded mandates to state and local governments.
- While NLC supports time limits for cash assistance, working families that remain too poor to leave TANF should not be subject to arbitrary time limits for necessary work supports, such as transportation, child care, and housing supplements.
- The federal government should define work requirements in an expanded manner to include flexible levels of work hours, participation in support services, work study, and the pursuit of educational attainment.
- Federal welfare-related legislation should provide incentives to states to provide strong workable contingency plans for times of recession.

-
- With reauthorization, the federal government must not exclude legal immigrants from eligibility for TANF funding. (*Regarding legal immigrants, see also HD Section 4.10, Immigration and Refugees*)

2. Education and Skills Development

a. Educational Opportunities

NLC urges Congress to maintain and expand the use of TANF grants for increasing the educational level of low-income families. Since education and job skills are essential if families are to become truly self-sufficient, states should have the option of not counting the time that welfare recipients pursue education against their federal five-year TANF lifetime limit. The federal government should base the continuation of benefits, while under such a time extension option, on making satisfactory progress within formal education programs.

Federal law should provide greater incentives for states to use their TANF grants to provide educational opportunities for low-income residents at four-year colleges, community colleges, and technical schools. The federal government must encourage states to advise or inform current and former welfare recipients, as well as working individuals with low incomes, about the potential educational uses of the TANF block grant, including permissible income supports while attending school as well as tuition scholarships and supplementary programs like transportation and child care.

NLC also urges Congress to facilitate better coordination of services offered under existing federally supported financial aid programs for the disadvantaged with the educational needs of citizens qualifying under TANF.

b. Employment and Training Programs

Federal employment and training programs should make every effort to upgrade the job skills of low-income workers, including support for more vocational education and trade skills tied to targeted job openings. The federal government should foster policies to create more full-time jobs in the private sector, including the Targeted Jobs Tax Credit, as a means of expanding job opportunities for low-income workers.

3. Welfare-to-Work

To be successful, the federal government must provide adequate funding to help individuals transitioning from welfare to employment by:

- Meeting the diverse and often complex needs of families and children;

- Providing families and children with choices of avenues to self-sufficiency; and
- Recognizing that some families have multiple barriers to employment and providing realistic time frames based on assessments.

The federal government must also work toward increasing the number of meaningful job opportunities and wages. (*See also HD Section 4.03, Employment*)

a. Populations with Significant Barriers to Employment

The key to economic self-sufficiency lies in meaningful employment. Through increased funding for the TANF block grant and/or other federal programs, the federal government must assist the high percentage of welfare recipients that are dependent on public assistance because of significant barriers to stable employment. Such assistance should include: basic and remedial education, with an emphasis on literacy; vocational, technical and higher education; English language training; skills training; work experience; job search and placement assistance; affordable day care services, health insurance, substance abuse treatment, entrepreneurial opportunities, and/or adequate access to transportation.

The federal government must recognize that some individuals, because of factors such as physical and psychological barriers, may never reach self-sufficiency. After necessary assessment and reclassification, families with physical disabilities, health limitations, and/or mental health disorders, of either a parent or a child, should receive Supplemental Social Insurance (SSI) or Social Security Disability Insurance (SSDI). Where treatment and/or counseling could help some individuals with physical ailments, mental disabilities, and/or substance abuse to overcome these barriers to employment, the federal government should encourage states to provide access and referral for treatment and other supportive services. (*See also HD Section 4.09, Mental Health*)

b. Transitional Jobs Programs

NLC urges Congress and the Administration to provide a clear commitment of federal funds for competitive grants to local governments for publicly-funded “Transitional Jobs” programs. These programs would include time-limited paid employment, guidance, and supervision that will give recipients meaningful job skills that can lead to long-term employment. In addition, Congress should reauthorize the Department of Labor’s Welfare-to-

Work grants to aid TANF recipients and other individuals with significant barriers to employment. Transitional jobs programs avoid many of the shortcomings of traditional “workfare” or “make-work” programs and enable individuals to qualify for the EITC and Child Tax Credit because they provide paid employment.

c. Tracking and Supporting Former TANF Recipients

As part of its efforts to minimize poverty and lower welfare caseloads, the federal government should require states to use whatever mechanisms that are legal and necessary, including Social Security numbers and state tax records, to track people leaving welfare to determine how many have jobs paying enough to sustain self-sufficiency.

Instead of cutting off assistance, the federal TANF law should promote additional education and training opportunities for former welfare recipients and other low-income workers, particularly those having difficulty keeping permanent employment. (*See also HD Section 4.03(C)(5), Education and Skills Development*) The federal government should help states and localities expand their outreach to families eligible for income supports.

4. Supporting Working Families

The federal government must take action to minimize the number of families that are still living in poverty despite having at least one working family member. Poverty in “working families” is a result of low wages and an insufficient number of full-time jobs. The most dramatic example of the link between low wages and poverty is the minimum wage earner, for whom even full-time, year round employment will not yield an income above the poverty line.

a. Living Wage

To create a living wage, the federal government must increase the minimum wage and Earned Income Tax Credit (EITC) to levels that, in combination, allow families to support themselves above the poverty level. (*See also HD Section 4.04, Employment*)

b. Tax Credit Programs

The federal government must increase the EITC to relieve more low-income workers of tax obligations and/or to provide larger refunds to those that qualify.

To increase use of the current EITC, the Internal Revenue Service (IRS) should work diligently to make the Schedule Earned Income Credit (EIC) less complicated and more user-friendly. Where possible, NLC supports the efforts of the IRS to complete the

individual’s tax form and distribute the EITC as appropriate.

The federal government should use the U.S. Census and other data sources to determine if more people are qualified for the EITC than are currently applying for it.

To increase awareness of the EITC among eligible populations, the federal government must:

- Work with states, local governments, county welfare agencies, and non-profit organizations to educate their service providers about EITC, so they are able to educate recipients;
- Allow state use of TANF funds to provide outreach and guidance on the EITC; and
- Ensure that free tax preparation is available.

NLC also supports expansion of the Child Tax Credit to increase tax savings for moderate- and low-income families.

c. Supportive Services

The federal government should provide sufficient funding so that essential supportive services can be continued for a period of time after job placement until wages increase to a family sustaining level. Most families require help in making this move with continued support for quality child care, training programs focused on meaningful jobs, transportation, housing, health care, and transition counseling for heads of households, both mothers and fathers.

In particular, for welfare recipients and working, low-income families who do not receive TANF funds, the federal government must provide sufficient funding to subsidize child care costs. (*See also HD Section 4.06(D)(3)(d), Child Care*) If the federal government increases the number of work hours required each week by TANF recipients, it must substantially increase child care funding so that all children are cared for in safe, affordable, high-quality child care settings.

5. *Changing the Federal Poverty Level*

NLC calls upon the federal government to create new federal poverty guidelines that accurately reflect the regional costs of goods and services and the spending needs of individuals and families. The current poverty guidelines were created in the early nineteen-sixties and do not reflect modern budgetary needs, including the rising costs of medical insurance, energy and transportation costs, the addition of childcare to many working families budgets, and cost variations of housing and goods across regions. The federal government must create new poverty guidelines that more accurately assess the number of individuals living in poverty in the United States and allocate an appropriate level of assistance so all individuals and families may work towards achieving self-sufficiency.

6. *Preventing and Ending Homelessness*

The scale on which homelessness exists today suggests that there are fundamental deficiencies in society's ability to meet basic human needs. The condition of being homeless or precariously and/or inadequately housed represents an assortment of personal, social, economic and political problems, often present in combinations.

a. Comprehensive Services

The federal government should fund and support the creation of a seamless system of comprehensive services to prevent homelessness and to provide shelter to those who are homeless. Such a system of comprehensive services should recognize and address the unique needs of diverse populations who are precariously housed and homeless, especially the elderly, the mentally ill, physically disabled, families with children, and runaways.

One of the more critical needs is for adequate and affordable housing for families, as well as individuals.

To address the affordable housing crisis comprehensively, the federal government must also ensure the provision of permanent supportive housing, support services, an adequate income support system, sufficient job training and employment assistance, and health and mental health care.

b. Affordable Housing

Regarding affordable housing, the federal government must work in four areas to prevent homelessness and assist the homeless and precariously housed:

- Prevention;
- Emergency shelter;

- Transitional shelter; and
- Permanent housing.

The inadequate supply of affordable housing and the high rates of homelessness reflect a national state of emergency. *For a discussion on prevention and long-term affordable housing, see CED Section 3.06, Housing.*

c. Emergency Shelter

The federal government should provide a comprehensive array of services to homeless individuals and families in need of emergency services. In particular, the federal government should:

- Continue and expand the emergency food and shelter programs;
- Expand programs which provide funding for housing and emergency health services to homeless individuals with mental or physical disabilities or other special needs; and
- Provide funding and support for social services, especially outreach and counseling services for homeless individuals and families.

d. Transitional Shelter

The federal government must recognize that it is often difficult to move from an emergency shelter back into traditional permanent housing. In particular, the federal government should:

- Provide funding for food, health services and mental health services for individuals and families in transitional shelters;
- Provide funding and support for social services, especially counseling for those in transitional shelters;
- Provide funding and support for transportation, education, job training, career counseling and job placement for those in transitional shelters;
- Provide funding and support for programs which assist and educate those in transitional shelters concerning life skills;
- Improve access to federal entitlement programs for those in emergency or transitional shelters by conducting outreach activities in shelters or by providing drop-in facilities at federal agencies; and
- Modify existing regulations to increase the eligibility and duration of benefits such as SSI and food stamps for those in shelters.

4.04 Employment

A. Principles

The private sector has the predominant role in job creation. The federal government, however, must maintain an economic environment that promotes job creation and job access. When the federal government seeks to alter or reform its policies, the federal government must consider the effects its actions will have on job creation and job access.

B. Goals

The federal government must:

- Ensure the success of public education programs across the country to minimize the need for basic skills training and also provide resources for workforce development and training as necessary;
- Address the insufficiency of decent job opportunities by working to create meaningful jobs in areas of high unemployment;
- Make work pay by setting the minimum wage and earned income tax credit at levels so that, in combination, they allow families to support themselves above the poverty level;
- Work with the states to protect the financial integrity of the Unemployment Insurance Program; and
- Coordinate the production of employment and unemployment statistics, so that the federal government can work with states to improve the functioning of employment services.

C. Recommended Federal Actions

1. Education and Training

a. Education

The federal government should ensure that public education programs provide all students with adequate and basic skills so that all may enter the workforce with the necessary requirements for entry level positions, at a minimum. Workers who are employed currently (“incumbent workers”) should have access to federally sponsored training and employment programs through which they may upgrade their skills and adjust to changing job markets.

b. Workforce Development

Although the private sector plays the predominant role in on-the-job training, when appropriate the federal government should provide resources for a range of services, including basic educational and job skills training for welfare recipients, structurally unemployed individuals, dislocated workers, and at-risk youth, and job placement services to ensure that

all trainees have access to higher paying, higher skills jobs. To ensure that these goals and objectives are met, Congress should fully fund the Workforce Investment Act (WIA) or its successor.

Federal job training programs should:

- Allow cities and towns working individually or together to utilize funds in ways that reflect the local workforce, available jobs, and the needs of the business community;
- Ensure that a portion of the funds are targeted to those most in need: persons living in poverty, those who are structurally unemployed and are not likely to return to their previous jobs, ex-offenders, and disconnected youth who are at-risk of long-term poverty;
- Establish workforce development areas that are based on regional economies rather than arbitrary measures such as population or political boundaries;
- Prohibit states from diverting all federal funds toward those who are already employed or job ready rather than those in greatest need;
- Ensure that local elected officials play a significant role in the planning, development, and implementation of regionally-based workforce development programs;
- Encourage collaboration between governments, education agencies including community colleges, organized labor, and the private sector to provide job skills training that meets the needs of workers and employers alike;
- Establish a permanent summer jobs program for young people ages 14 through 24 that is designed to provide economically disadvantaged and disconnected youth with paid jobs that provide measurable world-of-work training and job skills development; and
- Provide two-year base funding so that programs may provide long-term training and services across program years.

When the federal government closes military bases or major federal facilities, the federal government should provide direct assistance to ensure that individuals receive the retraining and job placement assistance they need.

c. Training

i. Government-Sponsored Training

Local governments and workforce development programs should be free to use a variety of training approaches including, but not limited to: individual training accounts, classroom training, and on-the-job training. Individual training accounts should be one

method by which to provide training and assistance to individuals.

ii. Individually-Sponsored Training

Workers should also have the ability to establish tax-sheltered accounts that can be used for retraining and incumbent worker training when desired or needed. Such accounts could be tax-sheltered accounts into which individuals can direct savings or systems such as employer-established accounts into which there is a compulsory employer contribution. Such portable accounts tied to an individual could be drawn upon to fund retraining and education activities on an as-needed basis.

2. Job Creation and Retention

a. Job Creation

To achieve real welfare reform and reduce poverty, the federal government must address the lack of jobs that provide a living wage. The U.S. economy does not produce enough full-time jobs for all citizens to achieve self-sufficiency, and many jobs available to the poor do not provide adequate wages or benefits.

The federal government should assist in areas of high unemployment to promote the creation of jobs. NLC supports a Targeted Jobs Tax Credit as one incentive to private industry to provide jobs to disadvantaged youth and other hard-to-employ populations. The federal government should provide broad marketing of this program to the private sector and there should be no limitations restricting use of the credit to defined geographic areas.

NLC also supports transitional jobs, or public sector jobs that are designed to provide individuals with temporary employment that will lead to full-time permanent employment after a period of classroom, on-the-job, and other types of training consistent with permanent, full-time employment. The President and Congress should establish a national infrastructure program with the goal of stimulating job growth, retraining the workforce, and boosting local economies. The federal government should allow tax-exempt bond financing outside the volume cap for capital expenses of a business that employs dislocated workers in high unemployment communities.

b. Laws Regulating Plant and Business Relocations

NLC supports federal laws that would require businesses and manufacturing plants of significant size that choose to relocate to:

- Provide advance notice of relocations and consult with local municipal officials so that the

individuals and community affected can plan for needed adjustments; and

- Make supplemental financial contributions, where required, to support the unemployment insurance fund to assist in worker transition.

When requested by the municipal government, the federal government should designate a federal liaison for communities affected by such closures or relocations. Such a liaison would help access federal information and assistance.

3. Wages, Benefits, and Employment Supports

a. Living Wage

The federal government must increase the minimum wage and EITC to levels that, in combination, allow families to support themselves above the poverty level. Full-time work should provide earnings sufficient to move all family members out of poverty.

NLC opposes the enactment of a federal sub-minimum wage for youth. The federal minimum wage is the lowest wage which workers should be paid, regardless of age, sex or classification of employment.

b. Family and Medical Leave

NLC strongly supports the Family and Medical Leave Act (FMLA).

4. Unemployment Insurance

The federal government should:

- Continue its partnership with states in providing unemployment insurance to cushion individuals against short-term periods of joblessness;
- Structure the unemployment insurance system in such a way that it is financially sound and capable of providing expected benefits;
- Create other income support programs so that the unemployment program is not stretched to a point that cannot be sustained; it should not be expected to provide benefits beyond this core purpose; and
- Provide needed funding to alleviate the immediate needs of unemployed workers and to extend unemployment benefits during times of regional or national high unemployment.

5. Information Gathering and Delivery

a. Labor Market Information

The federal government must:

- Coordinate production of labor market information, including employment and unemployment statistics, so that they are

comparable across different regions of the country;

- Compile timely and relevant data on economic characteristics of new and significant industries;
- Conduct periodic surveys of employers to identify needed employment skills; and
- Adequately fund the production and dissemination of this information and do so in ways that provide the information promptly.

b. Employment Services

The federal government should seek to improve the functioning of the employment service so that the states can adequately project job needs and publicize job opportunities.

Through the Employment Service, the federal government should make vigorous sustained efforts to connect the long-term unemployed with job opportunities, through such techniques as comprehensive databases of job openings and job seekers, matching services and the siting of outreach offices in areas with large numbers of job seekers.

4.05 Equal Opportunity

A. Principles

The federal government must uphold fundamental principles of tolerance, equality and the rule of law. NLC condemns acts of bias, bigotry and racism against anyone.

The federal government must take greater action to ensure equal opportunity for all persons. However, in its formulation of policies to assure greater educational, economic, and social opportunities, the federal government must recognize the special needs of certain groups, especially minorities, women, and individuals with disabilities.

B. Goals

To ensure equal opportunity for all, the federal government must:

- Enforce civil rights laws and eliminate discrimination with regard to race, color, religion, national origin, age, sex, sexual orientation or any social barriers or physical disadvantage;
- Promote and encourage efforts in employment, delivery of services, and health care to ensure that every person is considered only with regard to individual need or merit; and
- Take current action to remedy past discrimination.

All individuals must have an opportunity for better health, employment, educational and training services so that throughout their lives, they will be able to achieve their fullest potential.

C. Recommended Federal Actions

1. Enforcement of Federal Civil Rights Laws

To eliminate discrimination, the federal government must support and fully enforce its civil rights statutes, such as the 1964 and 1971 Civil Rights Acts, the Equal Employment Opportunity Act of 1972, Title V of the Rehabilitation Act of 1973, and the Equal Rights Amendment of 1974.

The federal government must:

- Substantially increase resources to the federal agencies enforcing equal opportunity laws;
- Deploy its legal and judicial resources to reduce the backlog and ensure prompt resolution of equal opportunity complaints and conflicts over affirmative action programs; and
- Develop and disseminate legal standards that will provide clear guidance on the use of mechanisms to address present or past racial discrimination.

2. Promote Diversity

To encourage local governments, private businesses, and educational institutions to foster diversity in a proactive way, the federal government must:

- Make federally-funded technical assistance programs available for that purpose;
- Conduct a continuing public information campaign documenting and publicizing the degree of disparity in income and employment that exists in American society; and
- Fund programs for training and educational investments in individuals to further the goal of diversity.

3. Support for Affirmative Action

NLC supports affirmative action. The federal government must:

- Encourage all public employers, private businesses, and labor unions to adopt and carry out effective affirmative action programs in the recruitment, training, and promotional opportunities of minority groups, women, and individuals with disabilities;
- Ensure that federal contractors hire and train individuals reflecting the diversity of the community at all wage and salary levels; and
- Coordinate a public information campaign on the types of affirmative action policies that cities may legally implement and make its statistical

resources available at no cost to help support municipalities defending affirmative action programs and policies.

4. *Greater Opportunities for Minorities, Women, and Individuals with Disabilities*

The federal government should seek greater opportunity for entrepreneurs who are minorities, women, or individuals with disabilities. The federal government should encourage the use of such entrepreneurs in federal procurement, especially through creative programs of assistance in the areas of bonding and insurance. The federal government should offer training in entrepreneurial skills to members of socially and economically disadvantaged groups. This should emphasize training for young people in such groups in order to expose them to the potentials, challenges and realities of self employment and business ownership. (*See also CED Section 3.04(C)(9), Helping Small Businesses Grow*)

4.06 Social Security and Seniors

A. Principles

The federal government must protect the Social Security program. A major segment of the American population relies on the Social Security system as a base of income during retirement years or in the event of disability. The program is particularly important to those who have worked at the lower end of the pay scale. Its benefits should continue to serve three beneficiary classes: the retired, the disabled and the dependents or the surviving dependents of the previous two classes.

B. Goals

From a human development perspective, the Social Security system should provide participants with a floor of financial support upon retirement or disability which would be supplemented by the participants' private savings, pension and other federal and state programs based on eligibility.

C. Recommended Federal Actions

1. *Financial Integrity*

NLC supports a number of reforms to strengthen the financial integrity of the Social Security system (*see also FAIR Chapter*). Despite the recent reliance by many private employers on the tax benefits of Internal Revenue Code Sections 401(k) and 401(a), the federal government must still ensure a floor of retirement income for workers.

2. *Structure of Benefits*

NLC supports the current method of structuring benefits. Under the current system, lower income

workers receive a relatively higher level of benefit as compared to their contributions than those with higher levels of earnings. This has been done to ensure that there is a minimum floor of benefits for all workers regardless of income.

NLC also supports the current method for establishing cost-of-living adjustments (COLAs) and opposes any effort by the federal government to reduce COLAs. While NLC recognizes that it is important for Social Security to remain solvent, NLC believes that any changes in the structure of the program should be made in the pre-retirement elements of the programs either around minimum retirement age or taxes.

However, if in fact it does become necessary for the federal government to make changes in the benefits structure, such that there is a reduction or potential for reduction in benefits, those changes should be phased in over time and should be designed so that they do not impact those who currently are receiving benefits or are likely to receive benefits within a five year window so that these individuals do not have to make major adjustments to their retirements.

In addition, NLC believes that the federal government as part of the Social Security system should take into account the number and types of non-traditional families that are emerging and ensure that these families receive the same types of retirement benefits as traditional families, particularly in terms of the treatment of dependents and survivors.

3. *Awareness, Education, and Understanding*

NLC urges the federal government to provide future retirees with appropriate information about the purpose of social security.

NLC also urges the federal government to provide information about the relationships between Social Security and other federally-sponsored income support programs such as Supplemental Security Income (SSI), Temporary Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP) (formerly known as Food Stamps), Medicare and Medicaid.

4. *Cash Economy*

The federal government should initiate programs of enforcement and education for employees and employers so that domestic workers and others who may have traditionally worked in the cash (underground) economy are not disadvantaged or disqualified from the receipt of benefits.

5. *Senior Citizens*

Despite the goals of Social Security, and despite its overall success in lifting millions of seniors out of poverty, a significant number of elderly lack the resources to adequately feed, cloth and house themselves, or cover their health and medical expenses. For example, it is estimated that more than one-third of all seniors participate in SNAP. Congress must appropriate sufficient funds to meet the needs of the elderly so that local governments do not become the provider of last resort for a range of services including housing, nutrition, health care and the like. The federal government also must provide local governments with the necessary resources and flexibility to carry out their responsibilities so that they are able to assure seniors within their communities of their safety, mobility, health, and welfare.

The federal government should assure, through Social Security, Medicare, and federal funding for a variety of community-based programs that senior citizens have:

- A floor of financial support which would provide an adequate standard of living;
- An opportunity for employment free from discriminatory practices because of age;
- Suitable housing;
- An appropriate level of physical and mental health services;
- Ready access to effective social services;
- Appropriate institutional care when required;
- A life and death with dignity;
- Information about available supportive services; and
- Supportive services that enable the elderly persons to remain in their homes.

See also HD Section 4.08(C)(1)(f) for a discussion on long-term care costs.

6. *Aging in Place*

NLC believes that the federal government should take the lead in planning, research and development of a universal and comprehensive approach to aging in America that includes programs that will enable senior citizens to “age in place” and enjoy their elderly years in the comfort, safety, dignity and familiarity of their own homes. In support of this effort, NLC urges the federal government to enact tax policies that take into account costs associated with aging in place, elder care and senior homesteading and establish programs that reduce home care costs, increase the quality of care, reduce reliance on nursing homes, address mental capacity and mobility,

provide transportation and accessibility services, create a continuum of housing options, and increase access to broadband and internet services to improve healthcare and social networking.

4.07 **Individuals with Disabilities**

A. Principles

The federal government must make special efforts to prohibit employment discrimination and ensure that social and economic opportunities are available, that individuals with disabilities can fully integrate into society to the extent possible. (*See HD Section 4.05, Equal Opportunity*) However, any local assistance mandated by the federal government must be reasonable in its requirements and expectations.

B. Goals

The federal government must:

- Adopt clear rules for cities to follow regarding accessibility for persons with disabilities;
- Provide financial resources directly to cities to help with the costs of compliance;
- Increase its support to allow persons with disabilities to achieve the maximum degree of self-sufficiency; and
- Fully fund the Individuals with Disabilities Education Act (IDEA).

C. Recommended Federal Actions

1. Compliance with Federal Law

a. Clear and Consistent Rules for Compliance by Local Governments

With input from cities and states, Congress and the Administration must adopt clear and consistent rules for cities to follow regarding accessibility for persons with disabilities. Currently, many federal regulations regarding programs for individuals with disabilities confuse and contradict the federal laws that guarantee rights and privileges for individuals with disabilities. Because of this confusion, the federal government interferes with the ability of cities to clearly understand their responsibilities.

The federal government should base its regulations on performance standards worked out at the local level. These standards should emphasize “program accessibility” rather than “structural accessibility.” In cases involving structural accessibility, the federal government should apply one set of standards.

The federal government should provide waivers for certain historic landmarks, with conditions based on uniform criteria. The federal government should be a leader in assuring that all its programs and services

meet the same standards that municipal governments must satisfy.

b. *Appropriate Definitions*

The term disability or disabled has multiple definitions. These definitions have evolved through legislation, regulations, and court decisions and apply to specific programs. One definition cannot apply to all programs.

The federal government should:

- Provide clear guidance for each program;
- Clearly specify the particular definition that is applicable to a specific program, providing clear guidance to state and local governments; and
- Support public education about disabilities.

c. *Federal Assistance to Cities*

Congress must acknowledge that assuring persons with disabilities full access to facilities and programs requires a large financial investment. Congress should provide funding adequate to permit cities to achieve compliance and provide flexibility for local options that allow cities to determine and implement the most cost-effective solutions to achieving full accessibility for individuals with disabilities.

The federal government should also provide technical assistance and resources for staffing disability compliance activities. Wherever possible, a lead federal agency should coordinate the technical assistance. There should be a uniform compliance review process with, one lead agency that reviews a city's overall compliance efforts.

Before withdrawing or holding up the timely distribution of federal funds, the federal government should provide a reasonable model of compliance to measure the good faith efforts of a city to comply with disability requirements. In instances of hardships, the federal government should grant extensions to cities conditioned upon the demonstration of good faith efforts. Such extensions should include a specific schedule for achieving compliance.

d. *Liabilities of Cities*

Federal law should require that individuals with grievances must first exhaust the local, as well as state, grievance procedures before they can initiate a hearing process with the federal government. The Architectural Compliance Board and Interagency Coordinating Council should make Congress aware of all the potential and actual costs of compliance.

e. *Compliance by Private Actors*

Congress should provide additional tax incentives to private entities for the adaptation of existing housing and business facilities to make them accessible to individuals with disabilities.

2. *Self-Sufficiency and Care-Giving*

The federal government should increase its efforts to provide funding for employment, social services and housing programs for disabled persons. These efforts should include financial incentives for self-sufficiency.

Federal laws and programs for rehabilitation, income support disability insurance, and institutional and custodial care must provide the incentives or resources for persons with disabilities to become self-sufficient. Currently, millions of qualified persons are denied access to employment opportunities programs and services because they have disabilities.

The federal government must recognize that some individuals with disabilities will not be able to attain self-sufficiency. When structuring its programs, it should give particular attention to two particular needs:

- Develop strategies to provide care to persons with disabilities, including paying family members, to compensate them for providing services to disabled family members who might otherwise qualify for more costly federally financed services; and
- Provide funding for respite care for caregivers to individuals with disabilities.

3. *Education*

NLC supports the Individuals with Disabilities Education Act (IDEA) and urges the federal government to fully fund the commitment it made originally in 1975 to fund 40 percent of the per-pupil cost of the services required by this Act.

State and local governments are incurring the costs required to meet responsibilities under the Act, but the federal government is not fulfilling the financial partnership agreement it committed to when the law was enacted. Failure to fully fund IDEA constitutes an unfunded mandate that is unacceptable to our schools, our students with disabilities, and our communities. (*See also HD Section 4.02(C)(3), Children and Learning, School-Age Children*)

4.08 Health

A. Principles

All residents should receive health care benefits. Access to health care is a serious problem for many residents and imposes a substantial burden on local governments, which often serve as the service provider of last resort for residents in need.

American cities are concerned about the health status of their residents, but also as major employers who, despite rising and significant costs, continue to offer health care coverage to municipal employees and their dependents.

Restructuring the health care system can provide access to all residents, eliminate the current incentives to shift costs, and increase the performance of the U.S. health care system. It can improve standard health indicators such as infant mortality, life expectancy, and immunization rates of the young against preventable diseases. It can also eliminate disparities in treatment.

B. Goals

- The federal government must institute major reform initiatives in the health care system to control costs and reduce the rate of growth in health care expenditures and coverage costs;
- Ensure universal health care coverage;
- Until restructuring of the health system occurs, the federal government should reform Medicaid, Medicare, and the State-Children's Health Insurance Program (S-CHIP) and promote school health clinics to expand access and availability of health care;
- Congress must establish and fully fund a federal block grant program to enhance our public health planning, capacity building, and disaster response systems; and
- With more coordinated systems in place, the federal government could help public health departments to better address infectious diseases, such as HIV/AIDS, and increase health services personnel.

C. Recommended Federal Actions

1. Comprehensive Health Care Reform

NLC urges the federal government to undertake major reform initiatives in the health care system to control costs and reduce the rate of growth in health care expenditures and coverage costs. Under the current system, where employers pay for the majority of health care coverage, local governments expend billions of dollars each year for employer-provided

health insurance benefits. As health care costs continue to rise dramatically, providing health care coverage to city employees, dependents, and retirees is dramatically influencing municipal budgets.

Comprehensive federal reforms are needed in all areas of the health care system—consumers, medical providers, hospitals, drug manufacturers, and insurers. The federal government should rely on four basic principles when making these comprehensive reforms to reduce costs without adversely affecting quality and value:

- Individual Health Care Choices – The federal government should play a lead role in providing its citizens with education, incentives and health care programs that encourage effective use of the health care system and the pursuit of healthy lifestyles.
- Transparency of the Health Care System – Employers, insurers, and patients need to be more knowledgeable and proactive medical consumers, which would include the ability to evaluate quality, compare costs, and distinguish between medical providers, hospitals, insurance companies, and medicines. Well-informed consumers will demand an effective health care marketplace, which will lead to improvements in quality and reductions in cost.
- Modernization – To implement a more effective, less costly and higher quality system, the health care industry must modernize its administrative capabilities as effectively as it has created and adopted new medical procedures, equipment and medicines. Modernization is necessary to lower direct administrative costs, reduce errors and duplication, provide accessible reporting of quality standards and performance, and allow for comparative information. It is critically important to maintain privacy rights as the health care system is modernized.
- Comprehensive Approach – Comprehensive reform of the health care system must incorporate medical care, dental care, mental health care, vision care, and treatment of substance abuse.

a. Personal Responsibility of Health Care Consumer

The federal government should implement policies that make consumers medically proactive and able to manage costs by better understanding their own basic health needs, making well-informed decisions regarding the health care system, and managing chronic disease.

i. Basic Health

Consumers should become more educated about basic health by understanding what foods, activities, and lifestyle choices are linked to healthier bodies and prevention of disease, especially of chronic conditions, and take actions consistent with this knowledge. To facilitate that process, the federal government should promote an integrated system of general awareness, knowledge about specific needs and concerns, and counseling by appropriate providers of care. It should:

- Make health care a policy priority in the federal government realm with more public focus on basic health, wellness, and prevention;
- Increase federal funding for research on wellness, prevention, and disease management, including a means to translate that research into effective local programs;
- Promote a preventative model over a disease model by covering all appropriate critical screenings in federal programs, such as Medicaid, Medicare, and Veterans Administration, and encouraging all private insurers to cover appropriate screenings;
- Encourage local public health systems to focus more on wellness and prevention techniques;
- Provide incentives for purchasers and beneficiaries of health care plans to integrate prevention and wellness into insurance coverage, including use of dietitians, nutritionists, and exercise facilities; and
- Provide the same tax preferential treatment now enjoyed by individuals for medical expenses for health-related activities that are proven to prevent or reduce the risks and costs of disease and injury.

ii. Understanding the Marketplace

Consumers need to be able to make thorough, educated comparisons of costs and suitability of different medical providers, hospitals, comparative medicines, and insurance plans and premiums. To effectuate a more transparent and accessible health care system, the federal government should promote health information technology (Health IT), quality, and reporting of performance standards.

b. Medical Providers and Hospitals

The federal government must promote the quality and efficiency of hospitals, physicians, and other health care providers. Health information technology, performance standards, and reduction of duplication and errors should help the medical community to increase quality while decreasing costs.

i. Quality

Fewer errors, less duplication, and higher quality are critical components to more effective and less costly medical care.

- Working with all the relevant stakeholders, the federal government should establish national performance standards for physicians and hospitals. These standards could be created through a national board or an ISO certification program.
- The satisfaction of these performance standards should be reported by all medical providers and hospitals. The federal government should coordinate a national database on performance standards, costs for medical procedures, implementation of safety measures, and non-frivolous malpractice cases. Available information on the costs and quality of services would allow consumers to conduct educated comparisons, which may ultimately reduce the risk of medical errors and inefficiencies.
- In addition to transparency for consumers to become educated, the federal government must provide oversight by implementing a comprehensive system of reporting and voluntary compliance.

In addition, NLC urges the U.S. Department of Health and Human Services (HHS) to expand its work with hospitals by continuing to provide a vehicle for hospitals to report their quality standards and for consumers to compare one hospital's quality to others.

ii. Health Information Technology

It is also critical that medical providers and hospitals implement and use information technology to improve care coordination, patient compliance, and patient safety. Because medical providers and hospitals would incur significant upfront costs to update their administrative systems, the federal government must provide financial incentives and direct grants to promote the implementation of Health IT infrastructure. This implementation must include the updating of patient records by making them predominantly electronic and setting up privacy protections, as well as updating the administrative systems used by doctors and hospitals.

As a result of Health IT, medical providers and hospitals would make fewer errors and have fewer redundancies in testing and procedures. Health IT will also enable medical providers to share information more easily with other providers to effectively coordinate patient care. They would also

be able satisfy process standards and report outcomes more efficiently.

iii. Disease Management

Because of the high incidence of and costs related to chronic conditions, such as asthma, diabetes, heart disease, stroke, and cancer, the federal government must also address effective disease management. Through federal research, studies, recommended protocols, and/or pilot programs, the federal government should work diligently to promote the prevention, coordination of care, and management of chronic conditions.

Currently, because of structure of the payment system, the medical community relies on episodic medical procedures and medicines to treat the chronic disease, instead of addressing the root causes and preventing or controlling disease. The Medicare, Medicaid, the Veterans' Administration, and all other federal systems should employ an updated payment system to reimburse health care providers for "care management" or "disease management," working closely with patients to develop a coordinated treatment plan, monitor their progress, and assess results in a continuously improving process. This will allow the health professionals to detect and prevent deterioration, complications, and unnecessary costs associated with chronic diseases. The federal government should promote the use of this updated payment system throughout the private insurance and self-insurance sectors as well.

iv. Alignment of Needs and Resources

The federal government should conduct a national evaluation and help local communities make a cost-effective match between medical needs and medical resources. Appropriate alignment between needs and resources should reduce the overutilization of certain technologies and specialty services in certain communities and the problems of accessing critical screenings, services, and technologies in other communities.

v. Full Reimbursement to Providers

The federal government should reimburse medical providers fully for the costs of services provided to the recipients of government-paid health care programs, such as Medicare, Medicaid, and the Veterans Administration, and require states providing Medicaid programs to do the same to obtain the federal match. This will reduce cost shifting to the private health care market.

NLC also supports health care coverage for everyone. See Section 4.08(C)(1)(e) ("Health Care Coverage")

Full coverage will also end cost shifting by medical providers and hospitals from uninsured individuals to others who are covered by insurance.

vi. Community Health Centers

The federal government should adequately fund community health centers, which play a critical role in providing services for the uninsured and underinsured.

c. Insurance Industry

NLC supports dramatic changes to reduce administrative costs in the current market system of multiple insurance carriers. Standardization of codes, simplification of insurance company forms, transparency of insurance company costs, and enforcement against fraud should help to reduce the costs of insurance.

i. Reducing Administrative Costs

Simplification and modernization would assist in helping to reduce administrative costs and provide purchasers of health care the ability to compare premiums and costs to make educated decisions about their health care coverage. To reduce the administrative costs incurred by medical providers and hospitals, the federal government should:

- Simplify its medical codes and standardize its claim forms under Medicaid and Medicare;
- Promote and facilitate the use of one claim form throughout the insurance industry with a reduced and simplified number of codes so that medical providers and hospitals are not required to complete a multitude of different claim forms;
- Promote the modernization of the insurance industry through the implementation of information technology infrastructure, the expansion of electronic patient records, and the reduction of paper bills; and
- Promote the use of a swipe card for health insurance coverage of medical providers' services, which would verify patients' insurance benefits, provide transparency to patients by showing co-payment and insurance company payment amounts for review, and allow the health care provider to collect the correct payment instantly.

ii. Transparency

NLC supports a federal requirement that insurance companies publicly disclose their premiums, co-payment rates, administrative costs, provider reimbursement rates, and profit margins and provide them in an easy-to-read format so purchasers of insurance can effectively compare rates. City governments and other purchasers of health care

coverage need that transparency to effectively negotiate less costly health care benefit plans. The federal government should also encourage the disclosure of insurance company “community rating models” that are based on provider contracts in a particular geographic area and the experience of that area, without overhauling the insurance industry’s right to its proprietary statistical information. This information must be available in a format that enables consumers to make educated choices.

iii. Tort reform

Because high medical liability affects the cost of medical malpractice premiums and the rate that defensive medicine is practiced, NLC supports appropriate medical malpractice reform on the federal level. To accomplish this goal, the federal government must evaluate all elements of potential tort reform, including “safe apology,” health courts, and frivolous lawsuits, and excessive jury verdicts.

NLC opposes caps to damages as determined on the federal level, because states should continue to have primary jurisdiction over malpractice claims. As most of the lawsuits are brought in the state courts, the federal government should instead provide states with the information and capacity to make their own reforms. *See also FAIR Section 1.03(B)(5) (Municipal Liability), which opposes movement of that traditional state tort claims to federal court.*

iv. Fraud

NLC urges the federal government to conduct stronger enforcement of federal laws against health care fraud, including false claims and bribes. Congress, working with the U.S. Department of Justice, the U.S. Department of Health and Human Services, and the Federal Bureau of Investigation, should effectively coordinate, properly fund, and successfully implement the congressionally-mandated Health Care Fraud and Abuse Control Program. In addition, the federal government should coordinate with state insurance commissioners to provide strong enforcement of health care fraud violations on the state level.

d. Pharmaceutical Industry

NLC supports the preventive and proactive role that pharmaceuticals play in the health care system. The federal government should continue to encourage research and development by the pharmaceutical industry to create new and better medicines. However, the federal government must also act to reduce the rising costs of prescription drugs and help medical providers and patients become better consumers of medicine.

i. Directly Reducing Costs

NLC urges the federal government to work diligently to reduce the cost of prescription drugs both within federal government programs, like Medicare, Medicaid and Veterans Administration, and to help individuals and employers in the private and public sectors. These efforts may include:

- Giving the Administration authority to negotiate directly with the pharmaceutical companies to reduce costs in any possible forum (without cost-shifting from the federal market to the private market);
- Finding a safe and reliable way for U.S. citizens to obtain prescription drugs from sources outside of the United States, especially Canada and Mexico, and then enacting federal legislation that would remove legal barriers to such importation, as long as the federal government ensured that proper safeguards exist and that citizens are educated about the risks;
- During international trade negotiations, discussing the reduced costs of prescription drugs achieved around the world through foreign governments’ price controls;
- Encouraging the use of generic drugs where applicable; and
- Studying the possibility of reducing the time frame on prescription drug patents.

ii. Promoting Better Consumer Decisionmaking

The federal government must address the increases in prescription drug costs that include unnecessary over-utilization of newer, more expensive, overly advertised medicines.

- Physicians, pharmacists, and purchasers of health care services and medicines should have clear and easily understood information about whether a newly approved drug does, in fact, provide additional value for the higher cost. The Food and Drug Administration (FDA) should update its approval process for prescription drugs that currently allows drug manufacturers to demonstrate only that their new drug works against a placebo. Either the federal government should mandate comparative testing of the new drug against a similar drug (as a precedent to approval or as a requirement of continued approval) or it should conduct comparative testing itself and provide consumers and physicians with the comparative information, including the benefits and the side effects.
- The FDA should require that pharmacies include the full price of the prescription drugs on the drug bottle and/or receipts.

- The federal government should promulgate and enforce comprehensive regulations about direct-to-consumer advertising by drug manufacturers, including truth-in-advertising rules and a requirement to list the drug's benefits and its side effects. NLC opposes direct-to-consumer advertising that has the effect of leading consumers to use newer, more expensive, less-proven drugs over their generic or more established counterparts if there is no medical value added.

For drug manufacturers that receive federal Research and Development (R&D) funds, the federal government should require drug manufacturers to disclose, in an easily understood format, how much they spend on direct-to-consumer advertising and marketing to physicians.

e. Health Care Coverage

NLC supports universal health care coverage. It is good public policy. It will make it more likely that patients will receive health care services in a timely manner, which will prevent and manage chronic disease more effectively. Also, hospitals and other medical providers of last resort will not shift costs to others who are covered by insurance. The federal government should continue to study the potential implementation of a single-payer, publicly administered program of coverage and payment or any other means to achieve universal health care and cost reduction, including expansion of Medicare, Medicaid, or the State Children's Health Insurance Program; allowing individuals and employers to buy into the federal system (FEHBP); or establishment of another state or federal program.

f. Long-Term Care Costs

Through public service announcements, informational materials, action kits, and funding to local governments for educational activities, it is critical that the federal government educate all Americans of their need to prepare financially for "long-term care," necessary supportive and health services when they no longer have the capacity for self-care. Long-term care can include placement in an institutional setting such as a nursing home, moving to a more independent living arrangement such as an assisted-living facility, or provision of an in-home caregiver; and its costs are expensive and rising.

The federal government must make it clear that federal Social Security and Medicare funds do not cover long-term care and must instead encourage the purchase of private long-term care insurance.

Specifically, the federal government should evaluate and develop additional ways to provide information and encouragement to public and private employers to make long-term care insurance available to their employees, and for individuals to purchase it. Encouragement should include tax incentives or other means to employees and individuals.

The federal government should also review the current reliance on the Medicaid program to cover long-term care costs when people are unprepared financially. Studies should include alternative models of care, less reliance on expensive institutions, increased use and funding of community services, and other potential cost savings.

g. Federal Government's Role in an Imperfect Market System

Where the market may fail, the federal government should be the developer of lowest cost, maximally effective preventive measures, treatments and cures and make such benefits available throughout the public domain. The federal government should work through National Institutes of Health (NIH), direct grants, and tax treatment for private sector research and development.

The federal government should provide incentives to the drug manufacturers to align them with the most pressing medical needs that could result in greater and faster production of life-saving drugs, instead of concentrating in the development, production, and use of lifestyle enhancing drugs. The National Institutes of Health (NIH) should prioritize its research toward development of new drugs that address chronic diseases and save lives and away from lifestyle enhancing drugs and other drugs that are very similar to already-established drugs. The FDA should also streamline its approval process of drugs that address chronic diseases and save lives.

2. *Medicaid, Medicare and Other Federal Health Policies*

As a means toward achieving the ultimate goal of universal health care coverage, NLC supports the following reforms of the Medicaid, Medicare and other Federal health policies:

a. Medicaid

Until restructuring of the health system occurs, NLC urges reform of the Medicaid Program – the nation's primary source of health insurance for the poor – to broaden the program's availability to all people in need, to make eligibility standards and benefits more uniform, and to separate out long-term care costs from acute care costs.

The federal government must:

- Maintain separate Medicaid eligibility from Temporary Assistance to Needy Families (TANF), making all individuals at or below the poverty line eligible for Medicaid;
- Offer states matching federal funds to cover all working adults with family incomes at or below 150 percent of the federal poverty standard; and
- Remove long-term care costs from Medicaid and establish a block grant to states to cover such costs, with requirements that all persons currently covered under Medicaid continue to be eligible for coverage under state block grant programs.

b. Medicare

The federal government must comprehensively reform and restructure the current Medicare system. Legislative changes to cover some prescription drug costs are insufficient. A prescription drug benefit for Medicare beneficiaries is necessary, but adding such a benefit without providing for comprehensive reform will intensify Medicare's financial and administrative problems. Comprehensive reform and restructuring of Medicare must continue to be a major priority of both the Administration and the Congress. Otherwise, Medicare's explosive spending, if left unchecked, will overwhelm funding and assistance for other national priorities, such as education and human services.

As such reforms are made to Medicare, the federal government should move toward universal health care coverage. It should also make any changes to the eligibility age carefully to recognize their impact on the entire health care system, as well as the changing demographics in our aging population.

The federal government must seek innovative and creative ways to control the increasing costs of Medicare, with the goal of securing its long-term solvency. Such efforts could include:

- A study of what has occurred in other industrialized countries that subsidize the cost of drugs to their citizens;
- Reduction of unreasonably restrictive regulations that increase costs without allowing for more flexible and cost-effective alternatives;
- Negotiation with prescription drug companies to reduce the costs of prescription medicine;
- Increasing federal funding for nursing home care and assisted living facilities;
- Dedication of a portion of the General Fund to Medicare;

- Establishing a unified trust fund (combining Medicare Part A and Part B) as an accurate measure of the solvency of Medicare; or
- Creating an off-budget separate account for Medicare surpluses, so that when such surpluses do occur, they cannot be directed to other federal programs, but must automatically go toward strengthening and modernizing Medicare.

In addition, the Administration should modify Medicare regulations so that paramedic services provided can be directly billed to and paid by Medicare, even if they are not provided directly by personnel of the transporting unit.

c. Children's Subsidized Health Care

NLC supports recent reforms that provide states with the option to increase the number of insured low-income children through the State-Children's Health Insurance Program (S-CHIP) or expanded use of Medicaid. Despite these reforms, however, millions of children still lack health care coverage.

To ensure that all children receive basic health care benefits, NLC urges Congress to adopt legislation that would establish a new "presumptive" health insurance program for children. Regardless of family income, the federal government would automatically enroll all newborns in one national health care plan and guarantee coverage until age eighteen. Parents would have the option to decline the national plan coverage and choose private or public insurance instead. The new program should also cover all basic dental and mental health services.

Until such a universal program for children is implemented, NLC supports improving the S-CHIP and Medicaid programs to increase the number of insured children. The federal government must:

- Increase the long-term authorization and annual appropriations for S-CHIP;
- Ease the enrollment process by simplifying the application form, requiring fewer supporting materials, and requiring re-application less frequently;
- Require states to decrease the number of uninsured children in their states by conducting outreach to eligible families and lowering the eligibility threshold for children in working families;
- Provide funding and technical assistance directly to local governments to conduct outreach to increase the enrollment of eligible low-income families;

- Provide states the flexibility to improve the services offered by Medicaid and S-CHIP to include dental care coverage for children; and
- Study the potential elimination of co-pay requirements and equity limitations, such as a family's ineligibility because of home ownership.

d. Other Interim Federal Policies

The federal government should:

- Continue to fund block grant and categorical grant programs for health, such as the Maternal and Child Health Services Program, the Preventive Health and Health Services Block Grant, funding for community health centers and health programs for Native Americans, Migrants and Refugees;
- Require the extension of health benefits for laid-off workers and their dependents, as well as the creation of subsidized health insurance pools for workers without employment-based coverage;
- Provide funding for programs which offer transitional care and home health care services;
- Expand preventive health care programs for the poor;
- Pay the COBRA premiums for people with catastrophic terminal illnesses who have left their jobs and cannot afford to pay the health insurance premium;
- Review its transportation policies regarding health access to ensure that the poor and remote have access to health services and facilities (*see also TIS chapter*); and
- Develop tax policy to encourage self-employed individuals to obtain coverage and methods to lower the cost of health insurance for small businesses.

NLC supports federal legislation to finance and provide care to the medically indigent and to reimburse hospitals for providing uncompensated care to this population. NLC supports strengthening of federal prohibitions against the "dumping" of patients by private hospitals into public hospitals through the establishment of appropriate transfer rules and enhanced record-keeping.

e. Tobacco

Any revenues raised by increasing federal tobacco excise taxes must be earmarked for health services and tobacco control activities.

Any federal legislation on tobacco must not preempt stronger state and local tobacco control laws or remedies.

Congress should give the Food and Drug Administration authority by law to regulate tobacco as an addictive drug, provided that such regulation does not restrict state and local government authority to impose more stringent controls.

f. Elimination of Disparities in the Delivery of Health Care to Racial and Ethnic Minorities

NLC urges Congress and the Administration to address the disparities in health care access and treatment between racial and ethnic minority population groups and Caucasians by following the recommendations of the National Institutes of Medicine, the National Healthcare Disparities Report and the President's New Freedom Commission report. In addition, Congress should adopt legislation and the Administration should develop an administrative initiatives and education campaign that address and increase the awareness of the general public, health care providers, insurance companies, and policymakers about health and mental health disparities based on race and ethnicity.

g. Development and Implementation of a National Prevention Strategy to Address Health and Wellness

NLC urges the federal government to partner with cities and towns to improve the health of all Americans, but not to result in unfunded mandates. This should be done by developing a cross-sector, integrated national strategy that identifies priorities for improving the health of Americans and provides to cities and towns the support that is needed to create healthy and safe communities, expand clinical and community-based preventive services, empower people to make healthy choices, and eliminate health disparities. Specifically, NLC urges the federal government to address the significant problems faced in maintaining clean air, water, and land, and to focus on designing and promoting affordable, accessible, safe and health housing; strengthening local health departments so that they are able to provide essential services; integrating health criteria into decision making; and using health goals and objectives as benchmarks for existing conditions and as targets for future actions.

3. School-Based Health Clinics

NLC urges the federal government to provide more resources for pilot programs and the implementation of innovative school-based clinics. NLC strongly supports the use and growth of school-based clinics, which often help both students and local community members obtain accessible healthcare and mental health services, increase immunizations, and promote prevention of teen pregnancies. By bringing the community into the school, patients can have access

to a comprehensive array of individualized services that address their physical, emotional, and social needs.

4. *Medical Records Privacy*

Privacy standards for electronically-stored and maintained health and medical information are of primary importance and concern to cities and towns across the country.

The federal government must:

- Allow municipal governments flexibility to formulate or develop privacy policies for all medical records and individually-identifiable health information that address the needs and circumstances unique to their respective jurisdictions;
- Allow municipal governments the ability and authority to be more proactive in developing and implementing privacy standards for information records that they store and maintain, both electronically and in paper files;
- Include municipal governments in the development of any final federal regulation on medical records privacy, the implementation of such regulations or related legislation;
- Include municipal officials on any federally-created privacy commission that deals with the issue of medical records; and
- Provide federal funding directly to municipal governments for education and training to comply with any federal medical records privacy requirements.

The federal government must consider the following areas of concern for cities and towns with respect to the development of federal privacy standards for medical and health information, including: personnel records, accessibility for law enforcement investigations and prosecutions, emergency medical services, third party (business partner) liability, social services, immigration records, juvenile records, student records, and consumer information.

5. *Public Health Systems – New Block Grant Program and Disaster Planning*

The federal government must:

- Help states and localities create and maintain coordinated public health systems; and
- Provide funding to improve the delivery and coordination of services.

NLC urges Congress to establish and fully fund a federal block grant program to enhance our public health planning, capacity building, and disaster response systems. Currently, the public health

system is disjointed and underfunded. The responsibilities of different public agencies are often unclear.

- The block grant should be based on population levels of cities.
- NLC supports a formula with 70 percent of funds going directly to local “entitlement” communities and 30 percent of funding to states to distribute to smaller local communities. There should be a cap on state spending for administrative costs.
- The federal program should promote flexibility and local decisionmaking.

a. *Health-Related Disaster Planning*

Providing direct financial and technical assistance to municipalities, the new federal block grant must help municipalities develop a city-wide hospital, health facilities, and health-care disaster plan in the event of a mass casualty incident, including an attack with a weapon of mass destruction.

With this federal block grant funding, municipalities can:

- Conduct an analysis of local inventory and medical equipment;
- Work with local and regional partners to create a multi-agency plan and conduct simulation exercises of local public health disasters;
- Prepare for surge capacity involving their public health systems, medical laboratories, hospitals, and Emergency Medical Service (EMS) systems; and
- Design a communications system that can handle public health alerts and transfer information between government agencies and health providers.

b. *Public Health Infrastructure Needs and Resources*

A new federal block grant must provide direct funding to local governments to build a public health infrastructure that is prepared to respond to mass casualty incidents, including a bioterrorist attack. With this federal block grant funding, municipalities can:

- Ensure that health facilities nationwide obtain the appropriate equipment and training. Regions must have the technological means to adequately handle bioterrorism-type agents, including materials and equipment suitable for bioterrorism response, such as sophisticated respiratory protection and/or chemical protective suits, laboratory and decontamination equipment, state-of-the-art x-ray machines, ventilators,

intensive care beds, and sufficient isolation facilities;

- Use classroom training, distance learning, and hands-on training activities to prepare the health and medical community for bioterrorism and disease awareness; and
- Have enough capacity to accommodate a massive number of victims, such as sufficient space in hospitals and isolation areas.

c. *Involvement of Local Officials*

NLC urges the federal government to recognize that local officials must be involved in the assessment and design of an economic and comprehensive public and personal health services delivery system. Any federal effort to aid states in implementing disaster planning must include a requirement that the states include local officials in the planning process.

The federal government should encourage city officials to actively participate in projecting and certifying the need for facilities and in evaluating the performance of existing facilities in meeting city health needs. After a public health threat, terrorist attack, or natural disaster, the federal government must communicate quickly and effectively with local governments about public health activities and requirements.

d. *Metropolitan Medical Response System (MMRS)*

NLC supports the Metropolitan Medical Response System (MMRS) program and urges Congress to reauthorize, increase funding, and expand MMRS to work with additional cities and cover broader geographic areas. This would ensure that all cities have a coordinated response system in place with the necessary equipment and training to respond to bioterrorist events and other disasters.

e. *Vaccination Stockpiles*

The federal government must accelerate development and procurement of all vaccines and those pharmaceuticals needed to control and treat biological threats, such as smallpox and anthrax. Local health officials must have the ability to quickly access appropriate medical supplies and vaccines through the National Pharmaceutical Stockpile Program of the Centers for Disease Control and Prevention (CDC).

f. *Combating a Global Flu Outbreak*

A pandemic flu outbreak could cause serious problems worldwide and overwhelm the public safety, health and medical infrastructure, education facilities, public institutions, and private businesses

of American cities and towns. The federal government, in coordination with the international community, should further develop and coordinate a comprehensive research and containment strategy that involves commitments of federal funding, supplies, equipment, training, expertise, personnel, countermeasures, and public health measures.

The federal government must provide clear guidance, criteria, and decision tools to inform state, local and the private sector of protective measures, planning, and response actions. These disaster preparedness plans must have strong communication and coordination throughout all relevant federal agencies and create clear and appropriate divisions of responsibilities between local, state, and federal governments, with protocols for communications between them. In addition, the federal government must provide detailed information and funding supports to local public health systems to ensure that preparedness information and aid is readily available to the community. In the event of a pandemic flu, the federal government must be prepared to supplement and support state and local efforts.

g. *Post-Disaster*

The federal government should continue to assist localities after a disaster or attack. The federal government should make funding available directly to local governments to provide mental health counseling and critical incidence stress management (CISM). The Administration should also develop an inclusive guide of best practices so cities may effectively address the after effects of a disaster or attack.

6. *Substance Abuse*

The federal government must maintain the definition of addiction and alcoholism as illnesses and must ensure that there are enough facilities for those who need alcohol and/or drug treatment. Currently, private facilities are expensive, and public ones lack the funding, space, and personnel to treat the growing number of individuals seeking treatment.

a. *General Policies*

The federal government must immediately begin a complete reevaluation of alcohol and drug abuse policies. It must bring together the resources of the public, non-profit, and private sectors to address this problem. The issue of illegal and legal drugs should be a top, national priority. The end product of this federal reevaluation should be the development of a comprehensive strategy that includes education, treatment, prevention, research and enforcement.

The federal government must provide adequate federal funding for local anti-drug efforts. It must recognize that municipal governments are in the best position to implement anti-substance abuse policies and give them adequate resources and flexibility to address local concerns. NLC supports a block grant approach with funds going directly to cities of all sizes without requiring matching funds. This approach should include flexibility for municipal governments to devise programs that will meet the needs of each individual locality.

The success of federal policies requires the recognition that education, treatment, enforcement, research, intervention, and prevention efforts are interrelated. As a result, NLC supports adequate funding for an office that is responsible for coordinating all federal anti-substance abuse efforts and developing more effective and cost-efficient policies and programs, including a review of laws and regulations governing confidentiality issues. (See also *PSCP Chapter*)

b. Substance Abuse Prevention and Youth

While the illegal use of drugs and alcohol is a problem throughout our society, it is a problem that poses special dangers for youth. NLC calls for the creation of a National Drug Education Corps for youth to instruct them on the perils of substance abuse. This could incorporate strategies such as curricular instruction, after school programs, programs for parents, alternative education settings for apprehended users, and summer school programs linked to remediation. Prevention of substance abuse should also include early intervention programs, which are part of the total human resources network of services.

The federal government must play a major role in financing local substance abuse education and prevention programs and on research into model programs for replicability.

The federal government must provide funding to help schools, beginning with elementary grades, provide drug and alcohol education/prevention strategies. Schools, however, cannot shoulder the full responsibility for preventing substance abuse. The federal government should also help foster community involvement, including local government agencies and officials, religious and social organizations, and the private sector to complement the efforts of school officials.

c. Treatment

The federal government must work to develop more effective drug treatment methods. In an effort to provide treatment to those requesting it, NLC urges the federal government to:

- provide sufficient and on-going funds to support treatment facilities – enough that individuals seeking treatment may receive it on demand;
- establish adequate drug treatment programs for youth offenders at the federal, state and local levels;
- provide adequate funding for research into appropriate methods of treating those addicted to or abusing drugs;
- provide funds for special counseling, rehabilitation and detoxification programs designed especially for young people; and
- reevaluate the cost of treatment within the health care system to make it more affordable.

d. Children Born Addicted

It is imperative that the federal government develop a national policy on children and youth (see also *HD Section 4.02, Children and Learning*). In particular, a generation of children is being born addicted because their mothers are abusing drugs while pregnant. Specifically, the federal government must:

- Develop special programs to rehabilitate incarcerated, pregnant drug addicts;
- Develop an aggressive outreach effort to ensure pregnant addicts receive adequate prenatal and post-natal care, especially while incarcerated and after release. This effort must stress clearly that no punitive measures will be taken for past conduct against women who seek this care;
- Maintain adequate funding to health providers to help offset the cost of care for addicted children; and
- Commit federal resources for the development of methods of treatment for the addiction problems of newborn infants and their biological parents, including improved and expanded foster and family care facilities.

e. Research

NLC strongly supports increased federal funding for substance abuse research, prioritizing the identification of the following:

- Causes of addiction and the best method to treat addiction, and
- Successful programs in the areas of education, treatment, prevention and enforcement.

7. *Infectious Diseases*

The federal government must make special efforts to address the preventable spread of infectious disease in the United States, including, but not limited to, such diseases as hepatitis, Acquired Immune Deficiency Syndrome (HIV/AIDS), Small Pox, West Nile Virus, and Severe Acute Respiratory Syndrome (SARS).

The federal government must play a key public policy role in preventing the spread of HIV/AIDS, finding effective treatments, and discovering a cure. In addition to its toll in human lives, AIDS exacts tremendous costs in health care, insurance premiums and loss of human productivity.

The federal government must:

- Lead the way to finding effective, affordable treatment, preventive vaccines, and a cure for AIDS through funding and direct involvement in clinical and other types of research;
- Educate about the magnitude of the AIDS epidemic and ways to prevent, or minimize, the risk for contracting the disease, including providing technical assistance to state and local governments, community organizations and groups serving high-risk populations;
- Encourage and provide adequate funding to assure widespread availability and access to voluntary, confidential HIV antibody testing, but make testing mandatory for pregnant women;
- Increase direct funding to cities through the Ryan White CARE Act to provide primary health care and support services for people with HIV/AIDS;
- Appropriate additional funds through the Office of Minority Health for local jurisdictions where funds are most needed;
- Implement a new funding strategy to relieve the disproportionate financial impact on the public health, health care, housing and social service facilities in local communities;
- Increase the federal financial commitment for the health care provided to medically indigent persons with HIV/AIDS by paying the COBRA premiums for people who have left jobs and cannot afford to pay the health insurance premium, waiving the 24-month Medicare waiting period, providing life prolonging drugs that are not covered under Medicaid or third party payers, and subsidizing hospitals that provide charity care;
- Ensure the protection of the civil rights of all individuals afflicted with HIV/AIDS, exposed to the AIDS virus, or perceived to be at risk of contracting the disease;

- Promote the safe and non-discriminatory provision of dental care to those with HIV/AIDS by working with state dental licensing authorities; and
- Support foster care, where required, as well as the maintenance of appropriate care facilities for children and infants with AIDS, particularly those without parents capable of providing care.

8. *Federal Policies to Promote an Increase and Distribution of Health Services Personnel*

The federal government must develop and expand its programs to actively promote the education and distribution of medical, nursing and allied health professionals to meet critical health manpower shortages and address the uneven geographic distribution of such personnel. The federal government must take the following actions:

- Encourage more physicians and other health personnel to offer primary care; and
- Require those who benefit from federally-subsidized medical training to devote a specified amount of service to understaffed communities.

Regarding the emerging national nursing shortage, the federal government must take specific actions to:

- Promote the nursing profession through a public awareness campaign;
- Encourage individuals to enter the nursing profession by expanding federal programs that provide scholarships to nursing students;
- Award grants to designated eligible entities to increase the number of practicing nurses;
- Increase Medicare/Medicaid reimbursements for nursing care in hospitals;
- Provide financial incentives to community colleges, universities, hospitals and other appropriate entities to open, re-open, or expand nursing education programs and promote multiple training levels; and
- Eliminate federal disincentives, including low reimbursements, to practice in underserved areas.

9. *Protecting the Nation's Blood Supply*

NLC remains deeply concerned about the potential for local, regional and national blood shortages that can occur when certain types of men are prohibited from donating blood. Therefore, NLC joins with the American Red Cross, the American Association of Blood Banks and America's blood centers in asking that the Food and Drug Administration address the

potential for blood shortages by issuing guidelines that ensure that anyone who is healthy enough to give blood is able to do so regardless of their sexual orientation or gender identity.

4.09 Mental Health Care

A. Principles

Through increased funding and oversight, the federal government must address the serious problems in our nation's mental health care system. The mentally ill should have available to them a full network of accessible and appropriate mental health services and, as needed, other supportive services and benefits (such as housing and residential services, job training and access to jobs). Each person should receive the treatment, training and support necessary to enable him/her to function at his/her highest level.

B. Goals

- Working closely with state and local officials, the federal government should establish a comprehensive, coordinated, flexible and continuous system of care with full access for those who are mentally ill.
- The federal government must develop effective state-based plans for preventing, diagnosing, and treating mental illness.
- Congress should adopt legislation that would create comprehensive parity between coverage of mental and physical health benefits in all health plans and health insurance coverage.
- The federal government should provide funding and support to local communities to improve mental health in schools generally and to prevent youth suicide particularly.

C. Recommended Federal Actions

1. *Comprehensive Federal System*

Working closely with state and local officials, the federal government should ensure that there is a comprehensive, coordinated, flexible and continuous system of care with full access for those who are mentally ill.

a. Flexible, federal funding to states and cities
Congress should dramatically increase funding for the Community Mental Health Block Grant program to provide grants to state and local governments to fully develop plans to prevent, diagnose, and treat mental illness.

Federal law must allow flexibility in using federal resources to maximize the local community's ability to affect treatment according to age and diagnosis. In

particular, federal law should allow more flexibility in the expenditure of the Community Mental Health Block Grant, allowing states to provide a range of community services in lieu of nursing homes.

b. Continuum of Care

- The federal government should provide added resources to the states for sufficient support services for the mentally ill, including day care, outpatient treatment and recreation, including evenings and weekends. Families caring for the mentally ill at home should have respite care and supportive services available.
- There should be federal funding for a continuum of housing that is affordable for low-income people with mental illness. That should include small group homes, transitional housing, independent living, supportive housing during crises/emergencies, and hospital care for those at risk from violence to themselves and/or others. There should be adequate income for those covered by SSI disability.
- The care should be treatment for the purpose of restoration and maintenance of health, rather than custodial care.

c. Research

The federal government must advance the science and knowledge about mental illnesses and their treatment at the fastest possible rate. Congress should appropriate more money for research into the biological, psychological, and social factors that cause or exacerbate mental illness. The federal government should develop a data bank, with uniform data on the incidence of mental illness and services available, accessible to federal, state and local governments and to researchers to facilitate planning.

d. Multi-disciplinary Teams

Congress should appropriate additional funds for training multi-disciplinary teams that treat mental illness to give comprehensive coverage. There should be an adequate team of professional staff trained to deal with the bio-, psycho-, social-treatment needs of the mentally ill.

e. Rights of Mentally Ill

The federal government should ensure that the rights of mentally ill people are protected.

f. Deinstitutionalization

Through its oversight functions, the federal government should ensure that states appropriately address deinstitutionalization – the movement to diminish the role of state hospitals and transfer mentally ill patients to community settings. For local

governments, one of the most serious problems to result from deinstitutionalization has been the dramatic increase in the homelessness of the mentally ill population. De-institutionalized mentally ill people often need comprehensive services including special housing, income support, rehabilitative services, social services, education, job training and employment. In many communities, these services are either not available, coordinated, or easily accessible by those in need.

It is estimated that major portions of the homeless population suffer from some form of mental illness. Federal regulations should be based on realistic needs and abilities of the patients, to make sure that the patients are appropriately cared for and housed. (See also *HD Section 4.03(C)(6), Preventing Homelessness*)

2. Federal Oversight of the States

The Administration should continue to oversee state governments' actions regarding mental health care.

Through this oversight function, the federal government must ensure that states:

- Develop effective state-based plans for preventing, diagnosing, and treating mental illness;
- Adequately fund and implement a system of comprehensive, coordinated public and private programs and facilities to better meet the care and treatment needs of individuals with mental illness;
- Provide a continuum of care and case management for those with mental illness, ranging from community-based counseling and out-patient treatment, long-term in-patient care for those who need such long-term treatment, and care and treatment for individuals after release from mental health or correctional facilities;
- Provide mandatory and proper licensing and oversight of group homes to ensure accountability concerning the care and treatment of group home residents; and
- Provide training on how to respond to the mentally ill for law enforcement, emergency services personnel, and health care professionals.

3. Mental Health Parity

NLC urges Congress to adopt legislation that would create comprehensive parity between coverage of mental and physical health benefits in group health plans and other private health insurance plans, federal programs like Medicaid and Medicare, and the State Children's Health Insurance Program (S-CHIP).

The federal legislation should prohibit discriminatory limits on the frequency of mental health treatment, number of outpatient visits, days of inpatient coverage and also rule out higher co-payments, deductibles, and limits on total amount payable for mental health care. Furthermore, any federal health insurance bill should include mental health services.

Parity should not be limited to only "biologically-based" or "serious" mental illnesses. Federal legislation should provide full parity for all categories of mental health conditions listed in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-IV), including substance abuse/addiction disorders. Parity should also include:

- Mentally ill patients with co-occurring substance abuse disorders, so they may receive comprehensive and integrated services; and
- Psycho-social rehabilitation services for the chronically mentally ill, including ambulatory mental health services for all ages.

4. Relationship Between Mental Health and Youth Suicide

Because suicide is the third leading cause of death for America's youth, the federal government must play a more active role in the prevention of youth suicide. Reports indicate that almost all children and adolescents who commit suicide have a diagnosable mental illness. Currently, more than two-thirds of all children and adolescents in need of mental health treatment do not receive services.

a. Federal Funding to Prevent Youth Suicide

Because of the powerful relationship between mental illness and suicide, the federal government must ensure that appropriate mental health services are available and accessible to all of our nation's youth.

Congress must provide federal resources to:

- Identify and study the variety of factors that may cause a youth to seriously contemplate or attempt suicide;
- Local governments and community organizations to develop and implement youth suicide prevention programs, systematic suicide screening mechanisms, effective referral structures, and intensive crisis services; and
- Fully fund the suicide prevention program and hotline and other programs that address mental illness and youth suicide.

b. Mental Health Care Awareness

The federal government must provide more effective awareness of mental health issues, reduce the stigma

associated with mental health illness, and facilitate the willingness of individuals and families to seek appropriate help when necessary. The federal government must consider mental health as one aspect of the total health care system, not separate and isolated.

5. *Mental Health in Schools*

a. Comprehensive Planning and Mental Health Services

NLC supports the expansion of federally-funded pilot programs that help schools develop comprehensive plans to improve the school climate, allow teachers to acquire skills that promote personal growth among students, and provide comprehensive screening, referral, and treatment. Schools are currently the primary provider of mental health services to children and the sole provider of services to over half of children with serious emotional disturbances.

To adequately address temporary emotional crises or long-term mental illnesses, these programs can help schools assess their needs and acquire more full-time professional mental health counselors whose time is not otherwise directed toward scheduling, special education testing, assessments, and paperwork.

b. School-Based Clinics

NLC urges the federal government to provide more resources for pilot programs to establish innovative school-based clinics. NLC strongly supports the use and growth of school-based clinics, which often aid both students and local community members in obtaining accessible healthcare and mental health services, whether or not patients are insured. There are numerous benefits of school-based clinics:

- Because of the potential for immediate and informal mental health counseling, school-based health clinics can serve as appropriate facilities for treating students or assessing them when they need to be referred elsewhere;
- Patients can have access to a comprehensive array of individualized services that address their physical, emotional, and social needs; and
- Services can be integrated with linkages between the youth and family service agencies and other appropriate community-based programs.

4.10 Immigration and Refugees

A. Principles

When admitted through a well-regulated system, immigrants strengthen the United States by creating economic opportunities, increasing America's scientific and cultural resources, strengthening our ties with other nations, fulfilling humanitarian

commitments, and supporting family ties and family values that are necessary to build strong communities.

The federal government must take immediate responsibility for decisions made regarding the influx and settlement of immigrants into the United States. Immigration and refugee policy are set at the national level, and our entire nation feels the effects of federal immigration policy.

B. Goals

The federal government must:

- Adopt and implement a strong and effective enforcement policy – both at our borders and in the U.S. interior;
- Provide an adequate and workable immigration system to include temporary foreign workers, legal permanent residents, and naturalized citizens, as appropriate;
- Provide financial resources and technical assistance directly to local communities for the transition costs associated with new immigrants and refugees; and
- Communicate, consult, and coordinate with local governments regarding general immigration policies and specific resettlement efforts.

C. Recommended Federal Actions

1. *Ending Unlawful Immigration*

NLC urges the federal government to adopt and implement a strong, uniform, and effective enforcement policy. The federal government must be steadfast and persistent in its strong enforcement of its immigration laws against persons entering illegally at the borders, overstaying visas, working without proper documentation, or employing undocumented workers.

Congress must provide the Administration with sufficient resources and direction to enforce current immigration laws. These enforcement mechanisms should strongly discourage immigrants from entering or remaining in an unauthorized status.

Unlawful immigration raises social service costs to local governments substantially. Local taxpayers fund services, including education and health, yet the federal government collects most tax and other payments, such as Social Security made by undocumented workers. Undocumented workers are here because of federal actions and failure to act effectively. They are a federal responsibility, and the federal government must act accordingly.

a. Border Enforcement

The federal government must improve its enforcement at all of our borders. NLC supports legislation to: increase staff and resources at the borders; penalize smugglers of undocumented aliens; expedite deportation procedures; and prevent mass entry by groups of undocumented immigrants. (*See also PSCP section 6.03(G), Border Security*)

The United States has lost control of all its borders and entry points. Several million undocumented immigrants now live and work unlawfully in the United States, and thousands more arrive each month. Continued, uncontrolled entry of these immigrants will further depress wages and working conditions in these sectors and regions, and it will put even more pressure on already overburdened local services, including housing, education and health.

b. Visa Review and Tracking

In addition to border enforcement, the federal government must also address unlawful immigration by increasing interior enforcement over those individuals who enter the United States legally with student, tourist, or business visas and remain in this country after their visas expire. (*For more details on visa enforcement, see PSCP section 6.03(H)(4)(1), Visa Requirements*)

c. Interior Workplace Enforcement and Verification

The federal government must dramatically improve the enforcement of immigration laws in the U.S. interior. NLC supports effective enforcement of federal law that makes it illegal to employ undocumented immigrants and to penalize employers significantly who continue to do so. The federal government should fully staff the U.S. Immigration and Customs Enforcement Office (ICE), dramatically increase enforcement efforts at worksites, and vigorously enforce administrative and criminal sanctions. Congress must increase sanction levels and close loopholes to create real disincentives. This course of action, coupled with more rigorous enforcement of existing fair labor standard laws (like the minimum wage law), should dramatically reduce existing incentives to employ or exploit undocumented immigrants.

As a critical tool for workplace enforcement of immigration laws, the federal government must develop and implement a universal, reliable, effective, secure, non-discriminatory identification verification system, using the most up-to-date technology.

NLC also supports the implementation of a simpler fraud-resistant system for verifying work authorization as one way to address a critical means of addressing workplace enforcement of unlawful immigration. An option for a secure, non-discriminatory “identification verification system” is a computerized registry.

2. Providing Legal Avenues of Immigration

The federal government must provide an appropriate, legal means of immigration, as is determined to be necessary and effective for the United States, for foreign nationals that want to work here temporarily, as well as those who desire to become legal permanent residents or gain citizenship.

a. Temporary Foreign Workers

NLC supports efforts to improve employment opportunities for U.S. citizens and legal residents. In particular, the federal government must increase funding of education and training in needed areas to enhance employment opportunities for U.S. citizens and legal residents, especially in scientific and technological fields. (*See also HD Section 4.04(C)(1), Education and Training*) The federal government should also encourage U.S. businesses to work with local organizations to find and hire low-skilled citizens and legal residents that are currently unemployed.

However, NLC also recognizes that the federal government must find a consistent and enforceable balance regarding the use of foreign labor to fill domestic needs. While some U.S. regions and sectors face chronic severe unemployment, others face serious labor shortages. Currently, inadequate laws and enforcement policies have allowed many of these shortfalls to be filled by foreign labor, much of it undocumented.

Where there is great need for foreign workers, the federal government should provide an accessible, effective system to ensure that businesses are able to hire foreign workers legally without excessive bureaucratic red tape and that all foreign workers are authorized and documented. To determine the annual need for and type of foreign workers granted temporary work visas, the federal government should conduct a deliberative evaluation of the real economic needs of American businesses. This evaluation should include an assessment of potential displacement of unemployed residents or potential wage suppression, potential exploitation of temporary workers, and the effects of a large influx of new immigrants on local communities or regions.

b. Permanent Legal Residents and Naturalized Citizens

In addition to providing a legal means for U.S. businesses to hire a sufficient number of foreign workers on a temporary basis, the federal government should also ensure an appropriate legal avenue for immigrants who wish to remain in the United States permanently and/or gain citizenship.

NLC supports naturalization as a national priority; it is the most visible means of civic incorporation of immigrants into American society. The federal government should allocate sufficient resources to expedite the citizenship application process.

NLC also supports efforts to provide same-sex couples with equal rights of immigration sponsorship as opposite-sex couples and urges the federal government to amend current law to allow lawful permanent residents to sponsor the permanent partner for legal residence in the United States provided they are over 18 years of age, financially interdependent with the sponsoring individual, not married or in a permanent partnership with anyone other than the sponsoring individual, unable to contact with the sponsoring individual in a marriage recognizable under the Immigration and Naturalization Act, and is not a first, second, or third degree blood relation.

3. *Path to Legalized Status and Citizenship*

The federal government must address the millions of foreign nationals currently living in the United States without proper authorization or documentation. To address this broad challenge, NLC supports strong enforcement, effective and efficient avenues for legal immigration, and a path to legalized status and citizenship. NLC supports a process whereby undocumented immigrants living in the United States may earn legalized status through payment of appropriate fees and back taxes, background checks, absence of criminal or gang activity, consistent work history, and the ability to meet English and civics requirements. NLC also supports programs that provide undocumented students with a path to U.S. citizenship through educational attainment. Immigrants who earn such legal status should also be able to apply for citizenship through additional processes, as appropriate and practical, as long as they do not move ahead of applicants with proper documentation waiting to adjust their status or those waiting on lists in their home countries.

4. *Federal Resources Needed*

The federal government must accept its responsibility for the transition costs associated with new immigrants and refugees, including public safety, language services, housing, health, education, and

social services. The federal government must redress the disparity between revenue sources and uses, rather than shift the costs onto localities.

The federal government must provide both resources and leadership to help local government cope with the results of these federal decisions. While city officials welcome immigrants and refugees to their communities and assist them in adapting to and enjoying the benefits of life in our nation's cities, local governments can no longer afford to bear the financial responsibility for caring for these individuals. Urban resources are becoming increasingly scarce, particularly in housing, education, employment opportunities and social services, and are inadequate to serve the needs of citizens, immigrants and refugees alike.

The federal government must provide the following to local governments:

- Additional federal resources to minimize the competition between disadvantaged Americans and new immigrants and refugees for scarce publicly assisted housing resources and employment opportunities;
- Increased aid to local education programs experiencing large immigrant and refugee enrollments and increased demands for English language proficiency courses for adults, including increased funding to implement the No Child Left Behind Act to provide additional resources to prepare school-age children with limited English proficiency (LEP) for academic achievement and increased funding through the Refugee School Impact Grant program;
- Full reimbursement of case management support for new arrivals in addition to cash and medical assistance. Such programs should include employment training, language acquisition, child care and civic integration and acculturation; and
- Full reimbursement to hospitals and health care clinics that are providing care to uninsured immigrants, including costs for translators managed to provide such care.

a. *Legal Immigrants and Welfare Benefits*

NLC opposes eliminating welfare benefits for legal immigrants or "deeming" their sponsors' income as their own for unreasonably long periods. Local budgets and taxpayers will bear the burden under either of these situations. Instead, NLC favors making sponsorship agreements legally binding and supports extending sponsor deeming for a reasonable period of time. A reasonable consideration of the age and health of the immigrant and any changes to the

financial situation of the sponsor is essential. (See also *HD Section 4.03, Poverty and Income Support*)

b. **Refugee Settlement Costs**

As part of a cohesive policy to alleviate the impact of refugee resettlement problems in communities, the federal government must make an ongoing fiscal commitment to adequately fund refugee assistance programs and must consider its commitment for funding at the same time a decision is made for relocation and resettlement.

The federal government should immediately adjust the population counts of local governments that receive significant inflows of refugees. The federal government must also provide other forms of impact aid to affected localities. The federal government should provide technical assistance and 100 percent reimbursement for the costs they incur for the influx of refugees and for participating in refugee transitioning efforts.

5. *Coordination between the Federal Government and Local Governments*

The federal government must communicate, consult, and coordinate directly with local governments; the involvement of local officials is critical to effective national immigration and refugee policy.

NLC supports federal efforts to develop and promote improved ongoing outreach plans with local government to help locate new immigrants and refugees in specific communities. This is essential to communities in border states and those non-border cities and towns that are affected as our country's immigrant population grows.

In particular, effective refugee resettlement requires the direct involvement of local elected officials. So cities may effectively plan resettlement efforts, the Coordinator for Refugee Affairs should:

- Develop better coordination and cooperation between states, local governments, voluntary resettlement agencies and refugee groups at the local level;
- Develop criteria for an impact profile and solicit information regarding the makeup of a state's refugee population, the service needs of various refugee groups, and the local impact in terms of housing, education, employment, and service delivery;
- Give cities timely notification and relevant information concerning the planned initial placement of refugees and the likely secondary migration patterns; and
- Immediately notify cities about any federal refugee decisions.

4.11 Cultural Resources

A. Principles

If we are to achieve an improved quality of life for the nation's cities, all levels of government should recognize the arts and humanities as an important part of life. Citizens should have access to cultural development, expression and involvement.

B. Goals

The federal government should:

- Increase direct federal funding for cultural resources; and
- Review tax laws to facilitate indirect financial support of the arts.

C. Recommended Federal Actions

1. *Increased Federal Funding*

To enable the arts to be effective in contributing to the survival of the cities, Congress must appropriate increased federal funds for the arts to levels consistent with the goal of making the arts accessible to all citizens. This includes increased funding of the National Endowment for the Arts and the National Endowment of the Humanities, as well as the creation of incentive programs within other federal agencies whose concerns impact on the arts. Such action requires coordination of national cultural policy at a high level within the federal government.

In addition, federal funds should be available to cities to:

- Develop public lands and facilities use of the arts;
- Provide employment in cultural services; and
- Promote the use of the arts as a stimulus to economic development.

2. *Tax Laws*

The federal government must evaluate its tax laws to assess their effect on the full development of cultural opportunities. The non-profit arts organizations should receive treatment equal to that accorded other non-profit organizations.

4.12 Veterans

A. Principles

NLC believes that all levels of government have an obligation to support the men and women of the armed services who have made sacrifices to preserve the freedom of the American people. Many veterans and their families face physical and psychological challenges when they return to communities across the country. The federal government must provide increased funding and support for veterans so they

may make successful and healthy transitions after military service.

B. Goals

NLC believes the federal government must:

- Provide an effective veterans health care delivery system;
- Support programs that provide homeless veterans with safe, affordable, and permanent housing and fund programs to eliminate root causes of veterans' homelessness, including research, treatment, and support programs;
- Ensure that comprehensive mental health services are available to veterans and their families;
- Provide veterans with the employment and education resources needed to succeed in the 21st century workforce; and
- Ensure that National Guard and Reservists have access to support services when they return from active duty.

NLC RESOLUTION #2012-20

IN SUPPORT OF COMPREHENSIVE IMMIGRATION REFORM

WHEREAS, historically, the cities and towns of the United States are a melting pot of multiple cultures and nationalities based on our nation's history of welcoming immigrants; and

WHEREAS, when admitted through a well-regulated system, immigrants strengthen the United States by creating economic opportunities, increasing America's scientific and cultural resources, strengthening our ties with other nations, fulfilling humanitarian commitments, and supporting family ties and family values that are necessary to build strong communities; and

WHEREAS, failure on the part of the federal government to secure the borders, track visa recipients in the interior, or enforce worksite laws allows illegal immigration to thrive, with an estimated 11-12 million residents living and working in the United States without legal authorization or proper documentation¹; and

WHEREAS, despite increases in border security and upgrades in tracking technology, approximately 500,000 people continue to enter the United States illegally each year²; and

WHEREAS, 30-40 percent of undocumented workers in the U.S. entered legally and overstayed their student, tourist, or employment visas³; and

WHEREAS, the worksite enforcement program does not adequately deter employers who willingly hire unauthorized workers because they face little likelihood that the federal government will investigate, fine, or criminally prosecute them; and it does not help employers who genuinely want to follow the law because their employee verification efforts are hindered by the extensive use of fraudulent documents; and

WHEREAS, the lack of infrastructure and capacity at the federal level makes the federal government unable to adequately track the entry and exit of visitors and temporary workers, and it creates unacceptable application backlogs and long delays, which provide strong disincentives for foreign nationals to abide by the legal means to enter or remain in the country; and

WHEREAS, approximately 206,000 workers in 2009⁴, representing about half of the undocumented seasonal workers in the United States⁵, used the current temporary, unskilled worker programs (the H2-A and H2-B visas); and

¹ Jeffrey S. Passel and D'Vera Cohn, "U.S. Unauthorized Immigration Flows Are Down Sharply Since Mid-Decade," Pew Hispanic Center (Sep. 2010).

² Gordon H. Hanson, "The Economics and Policy of Illegal Immigration in the United States," Migration Policy Institute (Dec. 2009).

³ *Id.*

⁴ Department of Homeland Security Office of Immigration Statistics, *2009 Yearbook of Immigration Statistics* (Aug. 2010).

⁵ William Kandel, "Profile of Hired Farmworkers, A 2008 Update," U.S. Department of Agriculture, Economic Research Service (July 2008) (finding that there about 1 million hired farmworkers and noting that the U.S.

WHEREAS, the current immigration system inadequately addresses the growing numbers of individuals wishing entrance to the United States through a temporary work visa program or as legal permanent residents; and

WHEREAS, roughly one-third of undocumented immigrants have lived in the United States for ten years or more⁶, 1.1 million are children, and another 4 million U.S.-citizen children have at least one undocumented parent⁷; and these families are forced to live “underground,” unable to get drivers’ licenses or car insurance in most states, unlikely to obtain health insurance, and afraid to report crimes to local law enforcement; and

WHEREAS, since immigrants are barred from most federal public assistance, the burden of providing social services, education, and health care falls to the state and local governments, who are increasingly feeling the financial impact of both legal and illegal immigrants living in their communities.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) urges Congress to move quickly to enact comprehensive reform of the current immigration laws with support of the Administration to implement the immigration laws effectively; and

BE IT FURTHER RESOLVED that the federal government enforce its current immigration laws consistently and vigorously to eliminate illegal entry at the borders, visa overstays, working without proper documentation, and employing undocumented workers; and

BE IT FURTHER RESOLVED that the federal government must increase enforcement of visa overstays through the full implementation and staffing of the US-VISIT and SEVIS programs; and

BE IT FURTHER RESOLVED that local personnel, such as police officers, fire inspectors, educators, health personnel and social service personnel, should not be conscripted into federal service because the federal government has not adequately funded and staffed its immigration enforcement agencies; and the federal government must not transfer the responsibility of enforcing U.S. immigration laws to local personnel by making undocumented status in the U.S. a criminal offense; and

BE IT FURTHER RESOLVED that the federal government must strengthen its worksite enforcement capacity and dramatically increase enforcement efforts at places of employment, as well as providing employers with a universal, reliable, effective, secure, non-discriminatory, and non-counterfeitable employee verification system, using the most up-to-date technology that will minimize fraud; and

Department of Labor’s National Agricultural Workers Survey finds that “half of all hired crop farmworkers lack legal authorization to work in the United States”).

⁶ Robert McNatt and Frank Benassi, “Econ 101 on Illegal Immigrants,” *Standard & Poor’s RatingsDirect* (Apr. 2006).

⁷ Jeffrey S. Passel and Paul Taylor, “Unauthorized Immigrants and Their U.S.-Born Children,” Pew Hispanic Center (Aug. 2010).

BE IT FURTHER RESOLVED that the federal government must increase its capacity and infrastructure to enforce the laws and provide efficient means for foreign nationals to obtain legal authorization for temporary visas or legal permanent residency; and

BE IT FURTHER RESOLVED that the federal government must provide an appropriate, legal means of immigration, as is determined to be necessary and effective for the United States, for foreign nationals that want to work here temporarily, become legal permanent residents, or gain citizenship; and

BE IT FURTHER RESOLVED that NLC supports establishment of a process whereby undocumented immigrants currently living in the United States may earn legalized status through payment of appropriate fees and back taxes, background checks, absence of criminal or gang activity, consistent work history, and meeting English and civics requirements; and that the immigrants who have earned such legal status should also be able to apply for citizenship through additional processes, as appropriate and practical, as long as they do not move ahead of applicants with proper documentation waiting to adjust their status or those waiting on lists in their home countries; and

BE IT FURTHER RESOLVED that the federal government should provide local governments with financial and technical assistance to alleviate the local impact of new immigrants, including the costs of providing social services, health care, education, language services, and civic integration; and

BE IT FURTHER RESOLVED that NLC also supports federal legislation like the “Dream Act” that can facilitate state efforts to offer in-state tuition to undocumented students and provide certain students with a path to U.S. citizenship.

NLC RESOLUTION #2012-21

ENDORISING PLANS TO END CHRONIC HOMELESSNESS

WHEREAS, people experiencing chronic homelessness are our most disabled and vulnerable citizens and most likely to die on the streets of our communities; and

WHEREAS, elected officials in partnership with the United States Interagency Council on Homelessness are committed to ending chronic homelessness in our nation's communities; and

WHEREAS, local communities are on the front lines of the response to chronic homelessness; and

WHEREAS, the National League of Cities (NLC) and the United States Interagency Council on Homelessness have partnered to prevent and end homelessness in our nation's communities in a partnership of accountability and results; and

WHEREAS, as a result of the partnership with jurisdictional leaders, the private sector, and all other stakeholders, more than 500 local governments have partnered to create 350 jurisdictionally led, community based, business oriented plans to end homelessness; and

WHEREAS, plans have identified innovations, such as cost benefit analysis, Housing First/Rapid Re-housing, private sector Community Champions, Project Homeless Connect, and Assertive Community Treatment Teams that have been adopted by communities across the country; and

WHEREAS, private sector leaders bring a business mindset to the role of Community Champion in the development and implementation of plans to end homelessness, a mindset that recognizes the importance of investing in solutions that are research and data driven, performance based, and results oriented; and

WHEREAS, jurisdictional leaders have adopted the Community Champion model, disseminated as a national innovation by the United States Interagency Council on Homelessness, in the appointment by jurisdictional elected officials of highly visible and credible private sector leaders not primarily associated with homelessness to lead plans; and

WHEREAS, Community Champions have leveraged significant new resources, including attracting new private sector partners in support of plan implementation, showing direct impact on the results that communities are achieving; and

WHEREAS, research has shown that people experiencing chronic homelessness are very expensive in mainstream health, treatment, and law enforcement systems and may cost the community between \$35,000 and \$150,000 per person per year in their random ricocheting through such systems, versus the cost of providing permanent supportive housing in Housing First/Rapid Re-Housing models which ranges from \$13,500 to \$25,000 per person per year,

offers the central antidote to homelessness in the form of housing, and results in the potential for significant cost savings to community infrastructure; and

WHEREAS, research studies across the country indicate that 85 percent of people experiencing chronic homelessness who move into Housing First/Rapid Re-housing options stabilize and maintain that housing; and

WHEREAS, in order for persons experiencing chronic homelessness to succeed in their housing, supportive services are necessary to mitigate health, substance abuse, and mental health problems; and

WHEREAS, a number of communities implementing plans and adopting these innovations are reporting reductions in the number of people experiencing chronic homelessness living on their streets and languishing in shelters, the first such reductions communities have seen in over 20 years; and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) in the Third Annual Homeless Assessment Report (AHAR) released in July 2008 reported a 30 percent reduction in chronic homelessness, from 175,914 in 2005 to 123,833 in 2007; and

WHEREAS, these reductions in chronic and street homelessness are improving the quality of life for everyone in the community, housed and homeless alike.

NOW, THEREFORE, BE IT RESOLVED that NLC endorses and encourages local communities to develop and implement plans to end homelessness that include the field-tested, evidence-based national innovations of Housing First/Rapid Re-housing, Community Champions, and other best practices; and

BE IT FURTHER RESOLVED that NLC endorses the targeting of federal resources to Housing First/Rapid Re-housing strategies and other innovations that have demonstrated results in reducing and ending the homelessness of our poorest neighbors; and

BE IT FURTHER RESOLVED that NLC, to achieve the goal of ending chronic homelessness, urges Congress to appropriate \$2 billion in HUD's Homeless Assistance Grants program, which would support communities in developing 15,000 units of permanent supportive housing; and

BE IT FURTHER RESOLVED that NLC urges Congress to create new permanent funding sources for supportive services for people experiencing homelessness within the U.S. Department of Health and Human Services budget; and

BE IT FURTHER RESOLVED that NLC calls on Congress and the Administration to provide additional proposed Section 8 Vouchers for the HUD-Veterans Affairs Supported Housing (HUD-VASH) program; and

BE IT FURTHER RESOLVED that NLC endorses and urges Congress to enact legislation that would provide Federal housing assistance and services to youth over the age of 18 aging out of foster care and in need of assistance; and

BE IT FURTHER RESOLVED, that NLC affirms the value of the United States Interagency Council on Homelessness and commends its initiatives to support jurisdictional leaders as they implement plans to end homelessness.

NLC RESOLUTION #2012-22

CALLING FOR FEDERAL ACTION TO ADDRESS THE NATION'S JOBS CRISIS

WHEREAS, more than 14 million Americans remain out of work, 6.2 million Americans have been unemployed for six months or longer, and the unemployment rate has hovered at nine percent or above for two years, documenting the difficulty the United States continues to face as it seeks to recover from the 2008 recession; and

WHEREAS, from 2008 to 2009, the median household income in the United States dropped by more than 2.3 percent and in 2010 the median annual household income fell below \$50,000 for the first time since 1996¹; and

WHEREAS, by the end of 2010, the number of persons living in poverty had grown to 46.2 million, an increase of nearly one percent over 2009 and the highest post-recession poverty rate since 1980²; and

WHEREAS, the U.S. Census Bureau, based on poverty and employment data, has determined that this is the worst post-recession economy ever recorded³; and

WHEREAS, economists believe that a sustained growth rate of over 3 percent is necessary to meaningfully reduce unemployment, and the U.S. Commerce Department reported in July that the nation's GDP grew at the annual rates of only .4 percent and 1.3 percent for the first and second quarters of this year, respectively; and

WHEREAS, private sector job growth has stalled due to the lingering economic uncertainties facing American businesses⁴; and

WHEREAS, municipalities continue to lay off and furlough employees due to state aid cuts and declining revenues, which will likely result in cuts to essential services like education and public safety and delays in or cancellations of infrastructure projects; and

WHEREAS, there is consensus that without a concerted effort to create real and sustainable jobs the United States may face a double-dip recession; and

WHEREAS, a climate ripe for economic recovery must include investments in the public infrastructure that support private sector investments and growth⁵; and

¹ DeNavas-Walt, Carmen, Bernadette D. Proctor and Jessica C. Smith, U.S. Census Bureau, *Income, Poverty, and Health Insurance Coverage in the United States: 2010*, U.S. Government Printing Office, Washington, DC, 2011, p.1.

² DeNavas-Walt, p.14.

³ DeNavas-Walt, pp.5 and 13.

⁴ Mutikani, Lucia, "Job growth stalls, fuels recession fears," Reuters, Washington, D.C., September 2, 2011.

⁵ Pollin, Robert, "Testimony before House Committee on Education and Labor on 'Building an Economic Recovery Package: Creating and Preserving Jobs in America,'" October 24, 2008.

WHEREAS, investing in infrastructure development, repair and improvements -- including public transit, roads, bridges, water systems and schools -- is a proven strategy for creating significant numbers of private and public sector jobs⁶; and

WHEREAS, there is a clear and apparent need for a national economic recovery strategy to address the current jobs crisis; and

WHEREAS, there is a clear and apparent need for the federal government to play a lead role in addressing the current jobs crisis.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) calls upon Congress and the President to enact legislation now that will address the current jobs crisis; and

BE IT FURTHER RESOLVED that NLC supports the following federal action to accelerate jobs and economic growth in our country:

1. Extending unemployment insurance benefits to help individuals and families facing long long-term unemployment due to a lack for job growth;
2. Investing in occupational training, transitional jobs, and youth employment programs to help ensure that unemployed and underemployed individuals and our youth are prepared for new economy jobs;
3. Funding federal programs that will help protect the delivery of essential government functions in our communities, such as education and emergency management, that are necessary to economic recovery and private sector job creation;
4. Increasing investments in programs to modernize the nation's aging infrastructure – roads and bridges, water and water systems, transit and transit oriented development, schools, and the nation's housing stock – that will lay the foundation for long-term prosperity in our communities; and
5. Providing incentives for business and industry to grow and hire new workers; and

BE IT FURTHER RESOLVED that, to avoid a double dip recession that would cause more harm to families and our communities, NLC calls on Congress and the Administration to overcome partisanship with leadership focused on helping create jobs and ensuring the success of our cities and our country.

⁶ Rodriguez, Francisco, *The Role of Infrastructure Investment in Economic Growth*. The Century Foundation, New York and Washington, September 2011.

NLC RESOLUTION #2012-23

RESOLUTION ON DISPARITIES WITHIN THE BONE MARROW REGISTRY

WHEREAS, the National Marrow Donors Program (NMDP) has been funded by the C.W. Bill Young Cell Transplantation Program (Program) to provide a single point of access for patients to access matching adult donors and umbilical cord blood; and

WHEREAS, the program is funded at levels substantially below those recommended for the program; and

WHEREAS, there is a need to increase recruitment of African-Americans and other minorities in the NMDP registry; and

WHEREAS, African-Americans, in particular, and people of color, in general, have a substantially smaller chance of finding unrelated donors as whites because the NMDP, which lists more than 6.2 million donors, is not sufficiently diverse to ensure that the pool of African-American donors and donors representing other people of color are included in the NMDP; and

WHEREAS, there is general consensus that the costs of tissue testing and current privacy issues must be addressed in order to increase the number of minority donors in the NMDP; and

WHEREAS, African-Americans and other minorities should be educated on the importance of joining the registry;

NOW, THEREFORE, BE IT RESOLVED that Congress and the Administration maintain the Cell Transplantation Program so that it remains the single point of access for patients to access matching adult donors and umbilical cord blood; and

BE IT FURTHER RESOLVED that the Cell Transplantation Program establish an expanded national inventory of donors; and

BE IT FURTHER RESOLVED that Congress and the Administration adopt legislation and policies that fund, at sufficient levels to ensure that anyone who wishes to participate may do so, the C.W. Bill Young Cell Transplantation Program.

NLC RESOLUTION #2012-24**IN SUPPORT OF EFFORTS TO IMPROVE
EDUCATIONAL OUTCOMES FOR DISADVANTAGED STUDENTS**

WHEREAS, disadvantaged youth, in general, and male students and students of color, including African-Americans, Latinos, Native Americans, and Pacific Islanders, face unacceptably high dropout rates, low graduation rates and widening achievement gaps between themselves and those who graduate;

WHEREAS, parents, educators, business and community leaders, local elected officials, and federal policymakers must put the education needs of all school-age children first, but especially those of potential and actual dropouts, so that all children have the education and skills they need to adequately contribute to American society; and

WHEREAS, putting the interests of children first means using every educational tool at our disposal to improve the quality of education, and making every educational option available so that otherwise disadvantaged students are successful in school and society at-large;

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) calls upon the federal government to make the necessary investments in education, especially those targeted at reducing dropout rates, increasing graduation rates and addressing the achievement gap, to ensure that all children obtain the best education possible; and

BE IT FURTHER RESOLVED that NLC supports increased educational opportunities for all children, especially those who are disadvantaged, scholarship tax credit and opportunity scholarship programs to help all disadvantaged students who are in need, including African-American, Latino, Native American, and Pacific-Islander children succeed in school.

NLC RESOLUTION #2012-25**IN SUPPORT OF HEALTHY EATING ACTIVE LIVING (HEAL) CITIES CAMPAIGN**

WHEREAS, the prevalence of obesity in the US is 32.2% among adult men and 35.5% among adult women¹²; and more than half of United States' adults are overweight or obese and therefore at risk for many chronic conditions including diabetes, heart disease, cancer, arthritis, stroke, and, hypertension; and

WHEREAS, obesity is a costly condition that can reduce an individual's quality of life and increase their risk for many serious chronic diseases and premature death; and

WHEREAS, obesity and associated chronic diseases disproportionately affect low income communities and communities of color, particularly those without healthy food retail and safe places to engage in physical activity; and

WHEREAS, one in four youth between the ages of 9 and 16 in the United States is overweight; more children are being diagnosed with diseases linked to overweight and obesity previously seen only in adults, such as Type 2 diabetes and heart disease; and

WHEREAS, the League of California Cities' efforts encouraging cities to embrace policies that promote healthier lifestyles and communities has led to the inception of the Healthy Eating Active Living (HEAL) Cities Campaign in 2008; and

WHEREAS, the League of California's efforts to encourage cities to embrace healthier lifestyles through the HEAL Cities Campaign is about to become a national program;

NOW, THEREFORE, LET IT BE RESOLVED that the National League of Cities calls upon the federal government to adopt programs like the Healthy Eating Active Living (HEAL) Cities Campaign which have as their goal the reduction of obesity and the improvement of the overall health and wellness of city and town residents; and

BE IT FURTHER RESOLVED that NLC supports the Healthy Eating Active Living (HEAL) Cities Campaign and urges member cities and towns to adopt HEAL's policies and implement its programs so that all American cities can become healthier, better places to live.

¹ Prevalence and Trends in Obesity Among US Adults, 1999-2008

5.00 Transportation Principles

The United States' transportation systems contribute to the economic growth and vitality of our nation's cities and towns. These systems can preserve and strengthen local and regional economies, stimulate economic growth and strengthen our competitive position in world trade. The safe and efficient movement of people and goods must be the prime objective of transportation policy at all levels of government, and federal, state and local governments should be guided by the following principles in the development and implementation of transportation policies and programs.

A. Local Control

Fundamental responsibility for transportation decision-making should be at the local level. NLC supports the ability of states and municipalities to set their own priorities in transportation investment, and to have a greater voice in influencing transportation plans that satisfy local needs and objectives.

Where there are overriding national or statewide transportation concerns, federal and state governments have a legitimate role in planning and decision-making, but local governments should never be excluded from those processes. Congress should strengthen provisions for local decision-making as a central component of any federal transportation program, and any funds intended for local use must not be diverted to state governments.

B. Flexibility

NLC supports local flexibility to build, operate and maintain transportation projects. It is important that state and local government officials have the ability to "flex funds," or use federal transportation funding as they properly determine.

C. Equity

Federal policy should treat all transportation modes with equity and should urge federal, state, and local officials work together on the safe, efficient, and environmentally-friendly designs for solving transportation problems. No single transportation mode to move people and goods should have a competitive advantage over another as a result of federal public policy choices. Public subsidies for particular modes of transportation, if used, must be explicit in the outcomes required and must support and enhance the efficient operation of our market-based economic system. Rural and urban transportation needs should be treated equitably.

D. Intermodalism/Multimodalism

It is essential that the nation's transportation system be seamless. Federal policy should encourage "closing the gap" of independent modal elements of the transportation system, with the goal of ensuring that efficient connections between modes are available for the movement of people and goods.

NLC supports federal priority funding for improving the efficiency of the connecting modes of intermodal/multimodal facilities.

E. Management and Operations

Federal policy must encourage integrated management and operation of all transportation systems at regional and local levels, maximizing the use of information technology for traffic management, monitoring structural integrity, and enforcement for public safety.

F. Priorities/Prioritization

The federal government should give highest priority to the efficient utilization, management, and maintenance of the nation's existing transportation infrastructure. Second priority should be given to adding capacity to existing systems. Third priority should be given to the development of new transportation systems. None of the above priorities are meant to preclude the utilization of new, cost effective technology that provides the same level of service.

G. Disadvantaged Business Enterprise (DBE) Requirements

The federal government should seek greater economic opportunity for disadvantaged businesses in federal procurement and financial assistance programs. DBE goals should be high enough to be effective, and enforcement should be reasonably consistent. Furthermore, a flexible, efficient waiver procedure should be instituted to take into account the percentages of DBEs in an area and the availability of DBEs.

5.01 Transportation Policies

A. Transportation Planning

1. Metropolitan Planning Organizations

The federal government must continue to require that Metropolitan Planning Organizations (MPOs) be responsible for a continuing, comprehensive, and coordinated transportation planning process that develops multimodal transportation programs in cooperation with state transportation departments, public transportation agencies, and local implementing agencies. The MPO endorsement of these plans and programs must be a prerequisite for approval of federally

assisted transportation projects in urbanized areas. The federal government should continue to provide adequate financial assistance to MPOs for planning efforts.

The federal government should allow the MPO and/or the local government to plan projects that use alternate design standards when the use of rigid federal design standards is inconsistent with local needs.

Federal regulations should continue to require that the elected officials of general purpose local governments be adequately represented on the MPO and that such officials participate in the designation and re-designation of the planning organization and its membership.

MPOs representing metropolitan areas with populations of more than 50,000 must be the direct recipients of federal transportation funding for all transportation planning and program efforts in those areas. Small cities with populations less than 50,000 should have the option to receive federal transportation funding directly or retain the current practice of state suballocation.

The federal government shall require states to work cooperatively with MPOs to develop joint forecasts of anticipated federal transportation funding to create more accountability in federal highway projects.

2. *Rural Consultation*

The federal government must require states to implement a process for consulting with local jurisdictions in rural, non-MPO areas, regarding transportation project planning and decision making.

3. *Project Identification*

States should be prohibited from implementing projects unless they are first included in the transportation improvement plans, except for Management and Operations (M/O) projects.

NLC urges the federal government to require states to consult with affected local communities on transportation projects regarding the inclusion of environmental retrofits, such as storm water runoff and noise abatement, as part of projects that are exempt from federal environmental requirements, including categorical exclusions.

4. *Project Delivery*

The federal government must streamline the federal transportation project delivery process to facilitate construction of federally funded projects and reduce project delays. Delays in the implementation of federally funded transportation projects must be eliminated in order to increase local control and make more effective use of limited financial resources. The federal government should require states to implement transportation projects identified on the local level and of

local importance with the same timeliness and priority as other regional transportation projects.

The project delivery process must:

- Mandate concurrent reviews among all federal and state agencies involved in the environmental review of all federally funded transportation projects;
- Standardize environmental policy and the review/approval process within DOT modes;
- Develop clearly defined procedures for resolving disputes among those agencies;
- Require all agencies to determine appropriate time frames to complete their reviews;
- Eliminate duplicative environmental review by crediting equal or more stringent state environmental review actions during the federal environmental review process;
- Continue to allow federal transportation dollars to be used by local and state government to provide the resources necessary to meet the time limits established for the federal environmental process; and
- Include locally elected officials in any pilot program created to examine environmental streamlining efforts.

5. *Municipal Impact Analysis*

The social, environmental, economic, and energy impacts of proposed federal transportation legislation and regulations should be identified by the MPO or local jurisdictional body prior to implementation, and steps should be taken to mitigate any adverse impacts. Existing and proposed federal transportation programs and regulations must be carefully designed to ensure that actions taken support municipal elected officials and their constituents' efforts to improve the social, economic and environmental sustainability of their communities and flexibility in the use of federal dollars to achieve local goals.

6. *Research and Development*

The federal government should continue to research and develop new technologies through federally-financed programs, and include local governments as key partners.

B. Transportation Finance and Administration

1. *The Federal Role*

The current federal surface transportation programs are not meeting the financial needs of the transportation system. NLC supports broadening the definition of innovative financing techniques beyond debt financing to include:

a. *Innovative Management of Funds*

NLC encourages the federal government to permit municipalities to use innovative financial management techniques in connection with federal transportation funds. Innovative management must follow generally-

applicable accounting principles. NLC believes that advanced construction financing, toll credits and the use of flexible and tapered federal-local match options are examples of innovative financial management techniques that would help maximize limited public funds and leverage private capital to deliver needed surface transportation projects.

b. Credit Assistance

Credit assistance, tax incentives and other transportation finance tools have been effective tools in expanding the available revenue for transportation investments. NLC supports federal direct loans, loan guarantees and credit line assistance with favorable terms through programs like Infrastructure Banks and the Transportation Infrastructure Finance and Innovation Act (TIFIA). NLC supports the application of objective approval criteria for credit assistance. Approval factors should include, but not be limited to, threshold cost requirements, consistency with long-range regional and state transportation plans, generation of economic benefits, goods movement and congestion relief improvements, leveraged private capital, and the promotion of innovative technologies.

While TIFIA has provided flexible funding for major transportation projects and helped local governments leverage private and other non-federal investments, limited budget authority and delays in the approval process can result in cost increases. NLC supports an increase in the available funding for the TIFIA program and greater flexibility for DOT in approving projects that can take advantage of favorable financing.

c. Revenue Generation

The federal government should encourage a new generation of creative and innovative revenue generation options at the state and local levels such as public-private partnerships to help finance critical transportation infrastructure needs. (See also *FAIR Section 1.02C.5, Increasing the Supply of Municipal Capital*)

d. Debt Financing

Debt financing for highway and transit projects is an important financial tool, but one that must be exercised prudently. Where federal funds are involved, NLC recommends ensuring sufficient protections to balance immediate transportation needs against the financial burden on future generations. Such protections include, but are not limited to, debt ceiling caps and required public referenda.

2. Surface Transportation Revenue Sources

a. Guiding Principles

NLC endorses the preservation of federal fuel taxes to fund the Highway Trust Fund (HTF), which funds national surface transportation needs. Dynamic economic, technological, and social conditions affect

HTF revenue collections, and trends indicate the need for the careful and collaborative development by the public and private sectors of a complementary or, if necessary, alternative transportation funding system to meet the nation's long-term needs. Vehicle miles traveled (VMT) and other experimental ideas hold promise and should be encouraged.

The following principles should guide federal efforts to achieve this objective:

- i. *Fairness*: Any new transportation revenue system must ensure that no single segment of the population bears an inequitable financial burden.
- ii. *Privacy*: The design of any new transportation revenue and related tax collection system must integrate privacy protections.
- iii. *Administrative Ease*: The design of any new transportation revenue system should improve administrative effectiveness and efficiency. At minimum, there must be no administrative deterioration from the current system.
- iv. *Seamless Transition*: The implementation of any new transportation revenue system must provide for a seamless transition to ensure stable revenue collections, tax fairness, administrative ease, and policy stability.
- v. *Revenue Generation*: Any new transportation revenue system must be able to generate more revenue than collected currently, and it must maintain the precedent under the current system's design that protects against cheating to avoid paying one's fair share of fuel taxes.
- vi. *Reliability*: Revenue streams must be reliable and sufficient to meet the diverse and growing transportation infrastructure needs of the nation.
- vii. *Technology Improvements*: The increasing shortfall of revenues from fuel taxes caused by the reduction in gasoline usage from fuel efficient vehicles and alternative fuel cars and trucks (i.e., hybrid, all-electric, alternative fuel, and hydrogen-electric vehicles), and higher use of alternative transportation systems that utilize no gasoline.

b. Fuel Taxes as HTF Revenue Source

Until a new, national transportation financing system is in place, Congress must maintain a dedicated federal fuel tax on diesel, gasoline, and gasohol that generates sufficient annual revenues dedicated to the HTF for transportation purposes only.

- Congress should require heavier trucks to increase their contribution to the HTF so that they pay in proportion to the costs they impose on the highway system. The heavy-use truck fee should continue to be required until such time as the Department of Transportation can recommend to Congress an alternative tax which is more equitable than the heavy-use tax, easy to administer, and will generate at least as much revenue as the use tax.
- Congress should allow the use of toll financing on federally aided highway, tunnel and bridge projects.
- Congress should develop incentives for local governments to increase their contribution to the federal highway program, for instance, by allowing localities to increase the local matching share of highway funds at their discretion. However, those increased contributions should not be considered a substitute for the federal highway funds to which a state or locality is entitled.

c. Funding Public Transportation

NLC supports an increase in funds designated for public transportation, and urges the federal government to preserve current guaranteed funding mechanisms and increase the percentages allocated to the federal transit program.

To provide a viable alternative to the automobile, public transportation services need to be of quality and frequency if they are to attract a significant number of passengers, and this can only be accomplished with an increased commitment of public funds for essential equipment, staff, and maintenance. Because it is unlikely that public transportation will ever be self-supporting, transit should not be measured exclusively in terms of revenue generated and should continue to be subsidized by a partnership of federal, state and local governments. Federal mandates related to the Clean Air Act, the Americans with Disabilities Act, and others, require additional federal funding.

NLC opposes state-by-state minimum allocations for federal transit funding. NLC opposes the imposition of “caps” on the amount of federal transit funding a state may receive. Caps do not address differences in transit needs in the country, and force a “one-size-fits-all” approach to federal spending on transit programs.

A federal commitment should be made to new funding and not by shifting funding from existing transportation programs. States or localities that provide a greater financial commitment shall receive higher priority for federal funding for public transportation systems.

Maintenance and productivity indices should be incorporated into federal allocation formulae and there should be incentives in the matching-ratio to encourage productivity improvements and maintenance of existing transit facilities. However, productivity improvements

alone will not mitigate the problems of rising transit costs and inadequate transit revenues.

Federal policy should also continue to emphasize the proper management of existing transit systems and the implementation of low cost transit improvements.

3. *Transportation Tax Policy to Encourage Commute Alternatives*

NLC supports changes to the tax code and federal tax incentives to encourage vanpooling, ridesharing, transit usage, telecommuting and other commute alternatives. Current law prohibits employers from providing tax-free commuter benefits. NLC seeks reinstatement of those tax-free benefits that were deleted by Congress as part of the 1986 Tax Reform Act. NLC urges the federal government to ensure that pretax benefits offered for commute alternatives, including transit, are equal to or greater than those offered for parking.

NLC strongly urges the federal government to promote transportation demand management programs and other commute alternatives. NLC supports federal tax incentives for small employers to coordinate and promote ridesharing programs.

4. *Federal Aid Turnback*

NLC strongly opposes proposals to dismantle federal transportation finance by turning back all or a portion of the federal aid to the states.

5. *Federal Earmarks*

NLC is opposed to federal earmarks in the congressional transportation funding process that are inconsistent with regional and local priorities. NLC believes that such earmarks are inefficient, and often reduce the funding available to a state or locality for higher priority projects.

C. Air Quality

Specific air quality policies are contained in Section 2.02 of the EENR chapter.

Transportation sources are significant contributors to the levels of pollutants, and as congestion increases in cities and the nation, levels of these pollutants increase as well, despite efforts to reduce emissions from mobile sources. Addressing transportation issues is an effective way of reducing emissions in cities. Therefore, NLC urges the federal government to offer a funding program for non-attainment areas and those cities struggling to maintain attainment to address emissions from mobile sources. The United States Department of Transportation (DOT), and not the states, should administer this program.

D. Congestion Mitigation

To maintain economic viability, congestion mitigation programs must be available to all cities. A comprehensive, federal funding program to address

congestion would foster project innovation, enhance intermodal planning, promote savings in infrastructure investment, and increase the livability and economic viability of communities across the country. The federal government must develop a congestion mitigation program that provides direct funding to all cities to address congestion problems in their communities. Eligible projects could include Intelligent Transportation Systems, projects to increase vehicle occupancy, demand management strategies, traffic flow improvement projects, congestion pricing, innovative transportation technologies such as Personal Rapid Transit, and other projects that would address the efficiency of cities' transportation networks. NLC recognizes the need for regional strategies to create a seamless, national transportation system.

E. Transportation of Hazardous Materials

The condition of the nation's roads and railroad infrastructure impacts the frequency and severity of accidents. Consequently, increased investment in this infrastructure will also help reduce the number and severity of accidents involving hazardous materials by improving the safety of roads, bridges, and rail. Therefore, NLC continues to advocate for increased federal investment in this critical infrastructure.

NLC supports existing federal performance standards to guide the selection of highway and rail routes along which hazardous materials can be shipped including shipments made by or under the direction of the United States Department of Energy or Defense.

States and localities must be allowed to adopt and enforce highway and rail route requirements (including time-of-day restrictions, escorting, and local bans) that are consistent with the federal performance standards. NLC supports federal exemptions when a state or locality can demonstrate that it has unique local safety requirements.

F. Surface Transportation Security

NLC does not support diverting any portion of the federal fuel tax to fund security measures for surface transportation systems. Securing these systems is a matter of national security and must be funded as part of our national defense.

Any federal attempts to secure the surface transportation system shall include affected locally elected officials in the planning process. NLC urges the federal government, in cooperation with local governments and transportation system operators, to assess the vulnerabilities of the entire surface transportation system. Federal agencies must assist local governments by sharing information, intelligence, technology, and best practices, and by providing adequate funding for vulnerability assessments.

NLC urges all sectors of the transportation industry, including public transportation systems, water transportation, public and private transit and rail companies, and highway systems, to participate in cooperative vulnerability assessments, emergency response plans, and drills. Federal financial assistance must be made available to implement these plans and assessments.

NLC expects the federal government to:

- Provide technical assistance to local governments to develop possible countermeasures to deter, detect and delay the consequences of terrorist threats against vulnerable assets;
- Continue to research technologies to detect chemical, biological, and nuclear contaminants in transit systems and provide technical and financial assistance to local governments to implement these technologies;
- Develop methods to harden assets deemed most vulnerable;
- Provide current security guidelines for all transportation systems; and
- Encourage the use of information technology in traffic management, including the enforcement of traffic laws, monitoring infrastructure integrity, and public safety.

5.02 Streets and Highways

A. Highway Trust Fund Finance

NLC supports increased federal fuel taxes to support the ever growing infrastructure needs of the transportation system and to balance the effects of inflation on the Highway Trust Fund by indexing the gas tax to the consumer price index (CPI), never to decrease and not to exceed five percent annually. NLC strongly opposes diverting any of these funds, including reducing or masking the federal deficit.

Unobligated revenues should not be allowed to accumulate in the HTF, and must continue to have the protection of budget "firewalls."

Every state should also be guaranteed a minimum percentage of funds to cushion any negative annual shifts in a state's historical share of federal transportation funds. Any funds that may be distributed by the federal government to the states should be distributed in each state on an equitable basis.

B. Bridges

NLC urges the federal government to maintain the current Bridge Replacement and Rehabilitation program with sufficient funding to repair bridges that are structurally or operationally deficient. Off-system bridges should continue to be eligible for federal bridge

funds, and the discretionary bridge program should be preserved.

NLC urges the use of information technology in monitoring the structural integrity of bridges.

NLC also strongly urges efforts at all levels of government to review road and bridge needs and work to provide adequate revenue to ensure the safety of our transportation infrastructure.

C. Highway Beautification

NLC recommends that the responsibility for controlling outdoor advertising and junkyards should be returned to municipalities, and to states in areas outside municipalities. These governments should have the authority to order the removal of those signs and the relocation of those junkyards that are incompatible with state and local land use plans and zoning laws, and allow sign and junkyard owners to amortize their losses through advertising revenues.

Federal controls over outdoor advertising should be retained only on interstate highways outside the jurisdictions of municipalities and on federally aided primary highways selected as scenic highways by states.

D. Enhancements Programs

NLC encourages the federal government to support a program for enhancement projects that strengthens our nation's multimodal transportation system. Projects eligible for this funding should include bicycle and pedestrian facilities, rails-to-trails projects, landscaping and scenic beautification, and environmental retrofit programs. Funding from this program should be distributed to cities in its entirety.

NLC supports a dedicated funding source for enhancements such as bike and pedestrian facilities and rails-to-trails projects that have a direct impact on congestion mitigation and contribute to a cleaner environment.

NLC opposes the abuse of the rescission process to subvert the minimum transportation enhancement funding allotments mandated by transportation legislation.

E. Intelligent Transportation Systems

NLC supports intelligent transportation systems (ITS) technology development and deployment and an increase in federal funding for these purposes. By applying ITS technologies and services, we can improve the safety and efficiency of goods movement, and thus the competitiveness of America's intermodal and international freight transportation systems.

The federal government should give funding priority to ITS projects that improve traffic flow on existing streets and highways as alternatives to major new construction, especially in high-density areas. Priority should also be given to street and highway improvements which benefit public transit, such as preferential lanes for high occupancy vehicles, bus lanes, ramp metering, computerized traffic control, one-way streets, reversible traffic lanes, traffic signal priority for buses, parking management strategies.

The federal government should facilitate the use of uniform technology in the collection of tolls on roads across jurisdictions and transportation systems such as vehicle mounted toll tags or passes and transit stickers or passes.

F. Highway Safety

Greater consideration should be given to safety in planning, design and construction. Additional resources need to be focused at all levels of government on research, education and enforcement to increase highway safety, including work zones. NLC supports the use of incentive grants to encourage states to adopt more stringent impaired driving and seat belt use laws. NLC also supports the use of information technology in traffic enforcement, such as red light cameras.

G. Motor Carriers

1. Truck Weight and Size Limits

NLC opposes increases in truck weight limits unless and until such increases are accompanied by simultaneous and sufficient increases in the heavy truck-user tax.

NLC opposes allowing the longer combination trucks (i.e., "triple-trailers" or "truck trains") both on and off the designated national network of truck highways until the impact of increased truck length and width standards on highway costs and safety is assessed and reflected in highway user fees and appropriate safety regulations. NLC supports demonstration projects to determine safety.

2. Truck Routing

NLC supports federal performance standards for the designation of routes along which longer, wider trucks may travel. State and local governments should also retain authority to designate truck routes, truck access pickup and delivery points on roads which are not a part of the designated truck network.

3. Regulation of the Motor Carrier Industry

The federal government should encourage increased competition within the trucking industry and remove barriers to free entry by increasing the flexibility of carriers to set rates and establish routes. No federal action should be taken to weaken truck safety requirements in any way. NLC also urges that federal

motor carrier safety requirements be applied uniformly for both domestically-registered and foreign-registered vehicles. NLC opposes any reduced level of truck service to small and rural communities.

4. National Commercial Truck Driver Standards

NLC continues to support federal national uniform standards for licensing interstate and intrastate drivers of commercial motor carriers and states should administer those standards.

5. Enforcement of Motor Carrier Safety Regulations

The federal government should continue adequate Highway Trust Fund funding for the Motor Carrier Safety Assistance Program (MCSAP). This program provides grants to states for development and implementation of programs (including roadside vehicle inspection programs), which enforce federal and compatible state motor carrier safety regulations.

The federal and state governments should identify and develop new technologies and innovative strategies, which will enhance and improve commercial motor carrier safety, protect the driving public from commercial motor carriers that do not pass safety inspections, and promote and enforce much stricter safety standards for commercial motor carriers, such as adequately securing truck loads and imposing penalties for missing treads.

6. Motor Carrier Substance Abuse Assistance Program

NLC supports a federal incentive grant program for states that wish to conduct random roadside inspections for driver alcohol and drug abuse.

7. Motor Carrier Data Collection

NLC urges the federal government to develop a centralized system for collecting and disseminating information on motor carrier drivers and vehicles. The federal government should:

- Expedite the development of the National Driver Register (NDR);
- Ensure that commercial truck driver records are included in the Register;
- Adequately fund the program; and
- Assist states with collecting, exchanging, and maintaining comprehensive truck accident and violation data and truck driver and inspection records.

5.03 Public Transportation

A. Support for Public Transportation

Public transportation can contribute to the viability of the nation's cities by helping to reduce congestion, protect the environment, stimulate economic development and create employment opportunities; therefore, its provision is in the national interest.

Public transportation is an essential public service that provides mobility for all people, including the disabled, elderly, and economically disadvantaged, in all places and is not simply for those who can afford to pay for the service.

B. Role of the Private Sector

Decisions about the terms and conditions of private sector participation in transit, including the decisions to subcontract with private providers if warranted, should be made at the local level, not the federal level.

NLC opposes federally imposed, competitive privatization of transit service because such privatization undermines the public-serving nature of transit and may have deleterious effects on the ridership and revenue base supporting transit. Further, since privately provided transit services will never serve all transit needs, the burden of meeting transit needs should continue to rest on the shoulders of the public transit authority or other public transportation providers.

C. Local Control

NLC encourages the federal government to require a public transit operator that accepts federal funding to cooperate with cities whose residents contribute to the funding of the operator concerning the location, operation, and maintenance of transit stops, routes and facilities within those cities.

D. Federal Role in Public Transportation

NLC urges a continued federal role in public transportation policy, and strongly opposes federal actions which would reduce or eliminate the federal commitment by turning back the transit program to states, eliminating funding eligibility for new fixed rail starts, or phasing out operating assistance.

The federal government should facilitate the use of uniform technology in the collection of tolls on roads across jurisdictions and transportation systems such as vehicle mounted toll tags or passes and transit tickets or passes.

E. Labor

Section 13(c) of the Urban Mass Transit Act (UMTA), as amended (49 USCS Appx 5333(b)), should be repealed.

With regard to the Fair Labor Standards Act, the federal government should not make determinations on "traditional and integral" functions of state and local government without consulting local governments and documenting the fiscal impact on state and local governments.

F. Handicapped Accessibility Requirements

NLC supports federal performance standards that indicate the level of handicapped-accessible service that

is to be provided without specifying the means for achieving the service levels. Decisions regarding the specific nature and level of service for citizens with special mobility needs should be made at the local level, based upon locally identified needs, goals, and resources.

Existing accessible services, where it is demonstrated that such services adequately serve the needs of those with mobility impairments, should constitute local compliance with federal accessibility requirements. Under no circumstances should the federal government impose additional accessibility requirements (beyond the performance requirements) on existing fixed guideway systems, or require existing bus fleets or rail systems to be retrofitted with accessibility equipment.

G. Procurement Requirements

NLC supports federal procurement policies that expedite the production and procurement of transit vehicles. Alternative bidding procedures which are better suited to present transit production conditions should be given due consideration. Additionally, NLC supports federal performance and equipment standards that replace the present transit design specifications, and that give manufacturers latitude in choosing an appropriate technology to meet a specific technical objective.

H. Innovative Transportation Technologies and Demonstration Projects for a Seamless Transportation Network

Recognizing the nation's dependency on a single type of transportation fuel, which has serious negative impacts on both the environment and economy, and the need to explore other fuel sources and transportation alternatives, NLC endorses the use of innovative transportation technologies and demonstration projects, such as Personal Rapid Transit or congestion pricing, that are specific to the needs and requirements of each city to further enhance mass transit and transportation efficiency. These transportation technologies should complement and work with existing regional technologies to create a seamless, national transportation network.

5.04 Air Transportation

NLC advocates federal policy that provides adequate, predictable, and long-term funding for airport development projects which enhance system capacity and ensure aviation safety.

However, NLC opposes attempts by the federal government to mandate expansion of federally-aided airport facilities, or to otherwise limit the ability of local governments to continue to determine the scope and type of airport facilities needed, or the type of airport use restrictions, including airport noise or airport access restrictions, imposed in their particular location. Local

airport operators and local governments must have the authority to regulate airport use and development in order to protect the public health and safety of surrounding communities, to enforce airport uses that are appropriate to the airport's capacity and to ensure that local transportation, environmental (including noise control) and economic needs are met.

A. Funding

1. Airport Trust Fund

The user-generated Airport and Airway Trust Fund should continue to be used to finance airport development and improvements. Funds from aviation user fees and tax receipts should be appropriated and should not accumulate unspent in the Trust Fund. Aviation users should benefit from the aviation-related taxes they pay.

2. Federal Airport Improvement Program

The federal Airport Improvement Program (AIP) should continue to be disbursed to air carrier airport sponsors through existing funding mechanisms. Eligible airports should be allowed to compete for discretionary funds.

NLC supports increased AIP flexibility, including extending AIP eligibility to groundside improvement projects. However, NLC opposes diversion of AIP funds for federally mandated security projects.

3. Block Grants to States

NLC strongly opposes proposals to restructure the airport grant program for small- and medium-sized airports into a state block grant program. Local governments and airports sponsors must continue to be directly responsible for airport planning and development.

4. Off-Airport User Fees

NLC opposes federal preemption of a local government's ability to charge off-airport user fees.

5. Passenger Facilities Charges

NLC supports local jurisdictions setting passenger facilities charges (PFCs), which give local airport authorities the flexibility to address capacity and to implement major capital equipment upgrades, new technologies, and operational costs.

B. Small Communities

Insufficient service and unreasonably high fares have left some small communities without commercial air transportation service. To address these problems, NLC recommends the following policies:

1. Essential Air Service Programs

The federal government should maintain current funding for the Essential Air Service (EAS) program and NLC urges Congress to fully fund the EAS program.

To promote competition and ensure efficient use of federal dollars, the USDOT should hold designated EAS air carriers to existing performance standards.

2. *Small Community Air Service Development Program*

Projects funded through this program have the potential to identify a broad variety of options to expand and improve service in small communities. NLC urges continued Congressional support of this program.

C. **Airport Noise and Pollution**

The federal government must intensify its efforts to provide prompt relief to residents of cities located close to airports from unacceptable levels of aircraft noise and aircraft pollution. (*See clarifications at EENR Section 2.09, Noise Control, and CED Section 3.06, Land Use*) Increased funding should be made available to airports for noise abatement projects and compatibility planning.

The Federal Aviation Administration should require adherence to fly-quiet programs, preferred runway usage, preferred flight paths, and local curfews as established by local governments and authorities.

NLC encourages the appropriation of funds to cities and towns that adjoin an airport but do not operate the facility for compatible land use and noise mitigation planning purposes.

D. **Federal Role in Air Traffic Control**

The federal government should provide funding for and ensure all airports are participants in a national air navigation system which provides for safe aircraft operation such as the conversion of radar based guidance systems to GPS.

E. **Competition and the Air Transportation System**

The federal government must guarantee that all airlines have a fair opportunity to compete in the air transportation system. NLC urges the federal government to issue guidelines that would clarify the definition of unfair exclusionary practices and anticompetitive behavior to facilitate enforcement of current laws that prohibit unfair exclusionary conduct.

NLC urges Congress to direct and provide funding for the U.S. Department of Transportation (DOT) and the U.S. Department of Justice (DOJ) to pursue allegations of unfair competitive practices in the air transportation system, and rigorously prosecute cases against airlines that engage in such practices.

DOJ and DOT must carefully examine all mergers and acquisitions to ensure that they offer benefits to all consumers. DOJ must exercise its authority, through current antitrust laws, to prevent any mergers or acquisitions that do not provide these benefits.

F. **Aviation Security**

A thorough assessment of the current and potential threat to the air transportation industry is required. The Transportation Security Administration (TSA), the FAA and other aviation experts, in partnership with locally elected officials and law enforcement, must work cooperatively and take immediate action to ensure that the aviation security system is capable of responding to specified threat levels. The public interest demands an aviation system capable of deploying a mix of technology and procedures as a unified system capable of countering all vulnerabilities, while considering effects on passenger convenience.

NLC strongly urges the federal government to ensure air travel safety through implementing the screening of commercial cargo on passenger planes, improving passenger and airport employee screening procedures and improving terminal safety requirements. NLC also encourages Congress, or the U.S. Department of Homeland Security through the regulatory process, to further strengthen the “known-shipper” program by improving procedures for monitoring and auditing “known-shippers” of cargo.

To develop an effective aviation security policy, Congress must clearly define responsibilities within the structure of the federal transportation program. The TSA, FAA, state and local governments, and the US DOT must develop a coordinated plan to determine the level of authority each agency and government entity controls in any situation.

Since aviation security is a matter of national defense, any funds necessary to assure security must come from defense funding, not from additional fees levied on passengers. NLC opposes continued diversion of AIP and PFC funds for aviation security measures. The federal government must reimburse local governments for the expenses incurred from the mandated local law enforcement presence at airports. Congress should also reimburse costs to airports accrued from compliance with mandated security upgrades, including installation and deployment of Explosive Detection Systems.

5.05 Rail

A. **Rail Principles**

1. *Local Role in Federal Rail Program*

The federal government should require states to involve local governments in state rail planning efforts required under federal law to ensure that local needs and objectives are satisfied.

2. *Financing*

NLC supports investment in the nation’s rail infrastructure and encourages the federal government to enact policies and programs that would expand public

and private investment in both passenger and freight rail mobility.

3. *Rail Safety*

NLC urges the federal government to promote safe and efficient passenger and freight rail transportation and to seek creative solutions.

Federal and state governments should fund local rail safety programs to reduce safety hazards at railroad crossings through rail relocation, sealed quiet zones, grade separation, or by other means. To increase traffic safety at crossings, stricter penalties for rail crossing violations should be imposed.

Based on all digital technology, positive train control (PTC) is the first major advancement in controlling trains in decades. It will severely limit incidents caused by human error, a safety advantage not now found in most U.S. railroad signal systems.

Congress passed the Rail Safety Improvement Act of 2008, which requires railroads to implement positive train control systems on specific rail lines by the end of 2015. While the Rail Safety Improvement Act authorizes \$50 million annually to support PTC deployment, the funding is yet to be authorized and is grossly inadequate to fund PTC on rail lines by the end of 2015.

NLC supports authorizing the \$50 million annually to support PTC and also the development of a funding mechanism under the Railroad Rehabilitation & Improvement Financing (RRIF) Program that allows direct loans and loan guarantees up to \$35 billion.

4. *Operations and Maintenance*

NLC urges the federal government to readdress rail track standards for dual freight and national intercity passenger rail uses.

NLC further urges the federal government to redefine the responsibility and funding mechanisms for maintaining tracks that carry both freight and national intercity passenger rail traffic.

5. *Environmental Impacts*

Federal law regulating railroad activity should not preempt local, state, or federal environmental review and requirements for permitting and mitigation of railroad activities. The environmental impacts of railway activities and facilities, including pollution, poor air quality, land use, vibration, and noise, should not be exempt from local environmental, public health, safety, or welfare-based regulations.

Railroads should be subject to noise constraints and calls for uniformity among the different federal agencies in

their policies governing acceptable noise levels. (See also EENR Section 2.08, *Railroad Noise Policies*)

B. Passenger Rail

NLC urges Congress and the Administration to develop a long-range vision and fund for passenger rail in the United States. Amtrak, in cooperation with state and local transportation officials, citizen groups, and other stakeholders, must develop such a plan as expeditiously as possible. National passenger rail plans should include acquiring and improving rail lines that would otherwise be abandoned. NLC urges the Administration to prioritize the safety review and approval of the use of information technology and crashworthy vehicles, such as passenger rail cars on low speed urban dual use passenger and freight lines.

NLC recommends the following:

1. *Amtrak's Self Sufficiency Requirement*

NLC urges repeal of Amtrak's statutory self-sufficiency requirement, since no known passenger rail system operates without government subsidies.

2. *Development of and Access to a High Speed Rail Network*

NLC supports high-speed rail development. Cities up to 500 miles apart in densely populated corridors hold the most promise for competitive service. NLC urges Congress to support creation of new high-speed rail along such corridors.

3. *Funding Options for Amtrak and High Speed Rail*

NLC supports the development of a long-term funding mechanism for infrastructure acquisitions, improvements, and rights-of-way and operating costs. In addition to appropriations, options include:

- Increasing the federal fuel tax specifically for passenger rail;
- Directing the diesel fuel tax currently levied and deposited into the general fund into a newly created Trust Fund for rail improvements;
- Allowing state, regional and local government entities to spend a portion of their federal transportation allocation on intercity rail; and
- Allowing federal and state governments to issue tax-exempt or tax-credit bonds for financing rail improvements.

C. Freight Railroads

1. *Freight Rail Service*

Congress and the public and private sectors must cooperate to ensure and provide for the efficient movement of freight, especially with regards to the relocation of rail lines and increased rail traffic within metropolitan areas, which could constitute a safety hazard and disrupt municipal functions.

2. *Funding Options for Freight Rail*

Federal monies should be available to state and/or local governments for light density branch lines, the abandonment of which would have serious adverse economic and social impacts.

3. *Freight Rail Safety*

NLC urges Congress to review the following freight rail safety issues:

- The hazard of reduced crews or lack of current safety technology use undermines the safe and efficient movement of trains and takes away the trained first responder at rail incidents and accidents. This action leaves no other person to monitor quickly changing circumstances or affirm, discuss or point out critical operations and safety issues;
- The lack of railroad maintenance has jeopardized safety. The closure of poorly maintained crossings cause congestion on remaining crossings and cause short trips to be substantially extended due to poor road access, putting operators and passengers of motor vehicles at a greater risk; and
- The switching and storage of railroad cars containing hazardous materials in urban and residential neighborhoods.

4. *Rail Line Abandonment*

Congress must protect national, state and local government interest in alternative public transportation regarding the use of abandoned rail corridors.

Congress should:

- Specify how the federal government should balance the impact on shippers and the community of losing rail service against the burden upon the railroad of continued service and the potential use of the corridor for public transportation, including biking and hiking.
- Require railroads to provide specific information concerning traffic trends, profitability, and rail line conditions to rail users and state and local governments six months prior to the filing of the abandonment application.
- Require a railroad to transfer an abandoned rail corridor to a state or local agency for no more than the constitutional minimum valuation, for alternative public uses including walking and biking, and public-private transportation initiatives. Public interest in alternative use of rights-of-way should be fully considered during rail merger proceedings.
- Provide federal financial assistance for the purpose of converting existing rail terminals into intermodal/multimodal facilities.

5. *Rail Mergers*

Freight rail operations in the United States are expanding through rail mergers, often resulting in the

implementation of new routes, or intensified use of existing ones, as well as new and expanded rail yards. Because of the potential impact mergers can have on local municipalities, federal law should ensure that local governments have police, zoning, and land use authority for the protection of the environment and public safety.

The Surface Transportation Board should be required to consider all aspects of a railroad's safety record as one of the criteria for approving railroad mergers or expansions.

5.06 Waterways, Ports and Landside Connections

Waterways and ports are an integral part of a comprehensive, intermodal transportation system vital to our nation's economic security and the financial health of cities.

The effects of ports go beyond their immediate boundaries. NLC recommends that the federal government consider the following funding and public safety issues related to ports:

A. **Funding for Harbor Maintenance and Dredging to Increase Capacity**

Recognizing the importance of ports and their impact on the national economy and job creation, NLC supports funding for harbor maintenance and funding for dredging to increase capacity. NLC urges Congress to recommend a defined revenue source for this purpose and provide support for development of environmentally friendly ship channel shoreline systems. NLC further calls on Congress to provide financial and technical assistance to communities and their watershed partners to promote innovative approaches for the construction and maintenance of shorelines in the vicinity of federally maintained navigable waters.

B. **Local Infrastructure, which Connects Land Transportation to Ports**

NLC expects the federal government to provide the needed financial resources to support the landside infrastructure required to operate an efficient intermodal system and to support efficient port operations including commuter transportation at port facilities such as ferries.

C. **Operations Funding to Implement the Transfer of Cargo to Portside Distribution**

NLC supports the design and implementation of equitable waterway commercial user fees and customs duties necessary to generate sufficient revenues to finance waterway and port operations and improvements.

D. **Security**

Because cargo containers are distributed throughout the country, any dangerous cargo in a particular container

could pose a threat to any city in the nation. Greater security can be achieved by establishing partnerships with industry and foreign ports to encourage increased security in their supply chains and the federal government should continue to establish such partnerships as quickly as possible. To reduce cities' vulnerability from cargo containers, NLC recommends that the federal government:

- Increase funding for waterways and port security;
- Allow locally elected officials to coordinate waterway and port security at the local level, in conjunction with the U.S. Coast Guard and other affected federal agencies;
- Continue to provide technical guidance and oversight for port vulnerability assessments, entrusting one federal agency with this responsibility;
- Require screening and background checks of port personnel;
- Establish a grant program for ports to acquire new security technology;
- Increase inspections on cargo containers, through the U.S. Customs Service, and provide additional funding and equipment to Customs to monitor cargo without slowing the movement of commerce;
- Establish criteria for identifying high risk containers;
- Pre-screen containers, according to international agreements, before shipment; and
- Develop and require the use of containers that are resistant to tampering.

Port security measures should be funded through national defense programs and general fund revenues, not through increased user fees.

E. Funding for Maintenance of Inland Waterways

Recognizing the importance of inland waterways and their impact on the national economy and local economies, NLC supports sufficient funding for inland waterways infrastructure, fully funding the Inland Waterways Trust Fund.

F. Federal Responsibility for Planning and Funding Freight Mobility

The U.S. goods movement system needs greater federal leadership. Freight bottlenecks can be found all over the country, but the task of prioritizing and fixing them is often beyond the means of the states, counties, and cities in which projects are located. A national freight strategy and dedicated, competitive and formula funding is critical in order to maintain the efficiency of the transportation system and the U.S. economic competitiveness. NLC urges the federal government to adopt the following specific measures:

1. *National Freight Strategy*: The Secretary of Transportation should be directed to develop a national freight strategy that addresses multi-modal freight needs in the United States. In addition to covering domestic

freight, the strategy should address the movement of U.S. imports and exports through U.S. ports.

2. *Senior, Focused Freight Leadership*: A multi-modal freight office led by an official at least at the assistant secretary level should be established with the Office of the Secretary of Transportation. This official would develop the national freight strategy and associated policies, advocate for freight across the modal administrations, and award funding for goods movement programs and projects.

3. *Dedicated Freight Program and Funding*: A dedicated, formula-based goods movement program with dedicated funding should be created within the Department of Transportation. Ports should be eligible to seek funding from this program for freight projects both inside and outside their terminals.

4. *Projects of Regional/National Significance*: A discretionary, merit-based grant program for projects of national significance should be established. Freight measures should be heavily weighted among the criteria used to select projects for funding.

5. *Freight Eligibility for Existing Programs*: Eligibility requirements for existing surface transportation programs should be expanded to better address freight requirements.

a. *Congestion Mitigation and Air Quality (CMAQ)*: Although freight projects are currently eligible for CMAQ funding, they are not major recipients of funds. CMAQ criteria should be refined to more appropriately recognize freight's potential to contribute to air quality improvements.

b. *Road-rail grade separations*: The criteria for funding grade separation projects should be expanded to acknowledge congestion relief and freight benefits, as well as safety benefits.

c. *TIFIA*: The TIFIA program should be clarified to include projects located within a port terminal that improve the intermodal interchange, transfer, and surface access of goods into and out of ports and that reduce environmental impacts of freight movement.

6. *Tax Credit for Rail Infrastructure Investment*: To encourage the expansion of freight rail capacity, a tax credit should be created for certain rail infrastructure investments that generate public benefits.

7. *States' Freight Planning*: Each state should be required to develop a freight plan and establish a freight advisory committee.

5.07 Pipelines

The system of gaseous and liquid pipelines is an important component of an efficient transportation network for moving hazardous material. Our nation's pipelines keep portions of these hazardous materials off of our roads, waterways, and rail lines, making those modes of transportation safer for all users.

Unremitting attention to the safety of this system is vital to cities, due to the hazardous nature of these materials, the proximity of many pipelines to homes and businesses, and the potential environmental impacts of any failure in the system.

To improve the safety of the system, the federal government, through the Office of Pipeline Safety (OPS), must:

- Continue to allow states the flexibility to impose safety requirements beyond federal requirements, and extend the right to enforce those safety requirements to states that have imposed such requirements;
- Develop standards for periodic testing of pipelines and periodic hydrostatic tests;
- Define “environmentally sensitive areas” and “high density population areas” which would be severely impacted if a failure in a pipeline were to occur; and
- Strengthen rules regarding pipeline operation, maintenance, and public reporting.

To reach the goals stated above, NLC recommends that the federal government:

- Require formal testing and certification of pipeline operators;
- Mandate and enforce a pipeline integrity management plan to reduce failures associated with corrosion;
- Require study and implementation of new technologies to detect leaks;
- Impose equivalent safety standards for both liquid fuel and natural gas pipelines;
- Require pipeline operators to report all spills to the Office of Pipeline Safety and affected jurisdictions, except those spills truly de minimis in nature;
- Require pipeline operators to disclose to local and state authorities the results of all pipeline inspections;
- Require the Office of Pipeline Safety to work with local emergency response providers to develop preparedness and response plans, and to provide appropriate funding, including grants, to local jurisdictions to implement such plans;
- Recognize the right of local governments through franchise provisions to require pipeline operators to 1) provide to local governments the data and results

- from internal and external pipeline testing along with a description of the testing methods to allow for their analysis of the potential risks to public safety; 2) require pipeline operators to cooperate with local governments in emergency preparedness and response and 3) require pipeline operators to have state of the art safety, warning, detection and emergency response capabilities to protect cities and their citizens and to mitigate potential damages from an accident;
- Require pipeline operators to provide data to the National Pipeline Mapping system administered by OPS and make this data available to local jurisdictions;
- Require periodic management audits of pipeline companies to assure compliance with the foregoing;
- Provide enhanced funding to federal agencies and states charged with the implementation and oversight of pipeline safety laws and regulations; and
- Require pipeline operators to provide for anti-tampering devices and surveillance systems to protect pipelines from criminal activity, including terrorist attacks to deny service, and drug cartel use of the pipelines for drug deliveries.

NLC RESOLUTION #2012-26**URGING THE FEDERAL GOVERNMENT TO CREATE AN ADEQUATELY FUNDED COMPREHENSIVE NATIONAL SURFACE TRANSPORTATION PLAN**

WHEREAS, America's national transportation network faces challenges of congestion, energy supply and costs, environmental impacts, and sprawl that threaten the economic, social and environmental future of the nation and our local economies; and

WHEREAS, the U.S. infrastructure has lost its place as first in the world in economic competitiveness and our lack of investment in maintaining, repairing and rebuilding our aging national transportation infrastructure system continues to impact our economy, national security, and cities and towns which are the economic engine of our nation; and

WHEREAS, a seamless and nationally connected multimodal transportation network is essential for the efficient movement of goods and people; and

WHEREAS, discussion of new surface transportation legislation must enhance the local role in programmatic funding for transit, road and bridge projects and modernize the funding distribution and decision-making process to acknowledge the role of metropolitan areas in growing our economy and creating new jobs; and

WHEREAS, the largest share in the growth of transportation investment has come from state and local sources according to the Congressional Budget Office and citizens are choosing to tax themselves to support new transit and road initiatives as evidenced by the passage of 77 percent of transportation ballot initiatives adopted in 2010 in difficult financial times and (according to the Center for Transportation Excellence);

WHEREAS, credit assistance such as the Transportation Infrastructure Finance and Innovation Act (TIFIA) and other federal tax incentives are effective transportation finance tools to help local governments leverage revenues and attract private capital; and

WHEREAS, the lack of uniformity among agencies in the environmental and other regulatory review and approval process continues to add needless delays and expense to transportation projects; and

WHEREAS, transportation is a major consumer of energy, mostly in the form of fossil fuels and its share of energy consumption continues to increase with motor vehicles accounting for 1/3 of world oil consumption and 2/3 of US oil consumption, and we must accomplish the difficult task of expanding the transportation network's capacity to serve a growing population and an expanding economy while simultaneously reducing the carbon footprint of the system; and,

WHEREAS, many communities are seeking more sustainable policies that help communities integrate social, economic and environmental systems and, incorporate best practices in

transportation planning, land use, environmental investigation, energy conservation and impacts of alternative fuels; and

WHEREAS, according to numerous reports, the nation's transportation system is in crisis and a new transportation plan with funding must be completed in a timely manner to spur our economic recovery, create jobs and enhance mobility.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) supports pursuing a comprehensive multimodal national transportation program that recognizes the central role that transportation plays in local economies and provides full funding for infrastructure initiatives that promote long term outcomes, protects the environment, creates jobs and helps the economy grow; and,

BE IT FURTHER RESOLVED that Congress and the Administration should take immediate action to ensure the sustainability of both the highway and mass transit accounts within the federal Highway Trust Fund; and

BE IT FURTHER RESOLVED that NLC pledges to promote partnership between the federal, state and local governments to provide improved multimodal transportation in the 21st Century; and

BE IT FURTHER RESOLVED that NLC strongly urges Congress and the Administration to support a comprehensive national transportation plan that would:

- Include a strong federal role that would call on the knowledge and expertise of, and collaboration with, state and local governments in policy-making.
- Include principles of sustainability, innovative technology, regional decision making, and performance measures.
- Invest in outcome-oriented solutions rather than mode-designated grants.
- Integrate the highway, rail, air, and port freight systems of the North American trade bloc to enable the U.S. to remain a competitive economy and to connect between urban and rural communities to the global economy.
- Recognize the vital role of a funded rail infrastructure system that promotes enhanced freight mobility and provides additional options for intercity travel.
- Recognize the connection between transportation and land use planning, housing, energy, the economy and the environment.
- Improve the quality of life for all citizens through a dramatic increase in safety, managed and/or reduced travel time, energy independence, and affordable transportation.
- Collaboratively establish national performance goals, intergovernmental roles and responsibilities, and accountability mechanisms to achieve the goals.
- Streamline regulatory review processes including incentives for innovative project implementation.
- Create and expand revenue-generating mechanisms that are developed collaboratively by federal, state, and local governments, reflect the true cost to the infrastructure of every mode of transportation, and recognize the need for new methods of revenue generation.

PUBLIC SAFETY AND CRIME PREVENTION (2012)

6.00 Introduction

Providing for the public's safety is ultimately the responsibility of municipal government and one of its highest priorities. "Public safety" means not only putting an end to the levels of crime and violence that impact the everyday lives of our residents, but just as importantly, delivering life-saving rescue services, preventing fires, and preparing for and responding effectively to domestic terrorism and natural disasters.

The primary goal of local public safety and crime prevention efforts is to ensure that the nation's cities and towns provide a safe, healthy environment in which residents can live. To achieve this goal, federal, state and local officials must view the safety of the community in holistic terms. Officials must recognize the danger of focusing exclusively on prevention, intervention, or punishment. Public safety efforts are more likely to result in safer communities if all solutions are integrated into a single strategy.

Recent crime statistics demonstrate the significantly greater risks of direct criminal victimization of poor people. In addition, indirect victimization of crime also falls disproportionately on poor individuals. Neighborhoods with large concentrations of low income people are also generally the geographic areas of cities in which there are greater reports of crime, particularly street crime. Other chapters of the *National Municipal Policy* cover a variety of programs and initiatives to reduce poverty and address affordable housing issues. These should be viewed as a way to get at the root causes of crime and violence.

6.01 Crime Prevention

A. Problem Statement

Crime prevention is everyone's responsibility. Crime and violence plague American cities and towns. Serious discussions continue to be held by all levels of government over the complex coordinated services that can make a difference, but substantive action has been slow in coming. These services include preschool education, recreation, neighborhood and employment programs targeted for youth, substance abuse treatment on demand, victims assistance programs, economic development, and job training and creation.

Prevention of crime and violence is the goal; public safety education is the key. This can be done by such

efforts as implementing drug awareness programs, restricting access to guns, increasing recreational programs, returning schools to the "safe havens" they once were, providing children with successful role models, and celebrating positive successes of our youth. This nation needs to view young people as assets – not liabilities.

The attention of all levels of government should not only be aimed at the perpetrators of crime and violence, but also their victims. Toward this end, NLC supports direct federal funding to cities for local victims assistance efforts and programs funded through an office for victims of crime.

The practice of community policing is an important part of crime prevention and has helped to return a sense of unity between local law enforcement and the community.

B. Goals

Action must be taken to prevent crime and violence in our communities. To accomplish this, NLC:

- Strongly supports community policing efforts;
- Supports adequate and direct federal anti-drug, anti-violence and gang prevention funding to cities and towns that can be directed towards community policing efforts, anti-crime and violence activities, and rural enforcement programs;
- Urges a greater role for municipal elected officials in federal decision-making regarding the local use and expenditure of federal anti-crime and violence funds. This would allow flexibility to redirect financial resources from drug interdiction activities to prevention and treatment;
- Urges on-going reevaluation of state and federal laws and regulations related to public safety and crime prevention issues. This reevaluation should include a review of laws and regulations which address the age at which juveniles are charged as adults and should include the input of municipal elected officials;
- Urges the federal government to continue to gather information on hate crimes, family status, educational level and income as well as race in its crime statistics on perpetrators and victims and give the reporting of these variables equal prominence;
- Encourages federal law enforcement officials to investigate and prosecute cases in which crimes occur because of the real or perceived race, national origin, religion, gender, sexual

orientation or disability of a victim. Such investigation and prosecution should not supersede the right of state and local communities to legislate and prosecute in the area of hate crimes;

- Urges Congress to continue to support the efforts of the National Crime Prevention Council (NCPC) which has provided cities and towns with the hands-on, how-to, materials and publications to assist citizens in their efforts to organize and fight back against crime and violence;
- Urges the United States government to use all means at its disposal to secure the extradition of those alleged to have committed crimes against the people of the United States; and
- Encourages and supports federal efforts to address the growing forms of electronic or “cyberspace” crimes through the Department of Justice and other federal law enforcement agencies. Cooperation, specialized training and tracking equipment is essential for federal, state and local law enforcement personnel. Continued federal funding to train local governments and law enforcement agencies on how to deter, identify, and capture cybercriminals is essential to prevent and detect on-line crime.

C. Weapons and Ammunition Control

The growing abuse of firearms in cities and towns throughout this nation is the common denominator for most violent deaths. Firearms do not kill and maim without someone pulling a trigger. Controlling weapons and ammunition is just part of a more comprehensive effort necessary to reduce violent acts. NLC urges all levels of government to adopt statutory, regulatory, and policy actions to confront, curb, and eventually eliminate firearms violence in America. Specifically, NLC asks the federal government to:

- Require registration of all hand guns in the United States;
- Continue to enact initiatives and strengthen laws imposing mandatory sentences for the use of a firearm in the commission of any federal, state, or local crime;
- Strongly support enhanced gun control that will disrupt the illegal markets for firearms;
- Regulate, in a manner consistent with the Constitution, Internet facilitated firearms commerce and provide the same oversight as other types of commerce involving the sale and/or transfer of ownership of firearms; grant authority to the appropriate Federal agency to

regulate and otherwise oversee the design, safety, and responsible marketing of firearms;

- Support flexible federal funding for local crime prevention programs that address gun violence and promote gun safety;
- Urge firearm manufacturers to be responsible corporate citizens by:
 - 1) including safety devices with their products and developing new technologies to make guns safer;
 - 2) selling only to authorized dealers and distributors, and allow their authorized distributors to sell only to authorized dealers;
 - 3) allowing no firearm sales at gun shows or similar events unless all background checks are completed;
 - 4) not selling firearms that can readily be converted into fully automatic weapons or that are resistant to fingerprints;
 - 5) not selling large (more than 10 rounds) capacity ammunition clips;
 - 6) maintaining an electronic inventory tracking plan; and
 - 7) forgoing firearm sales to licensed dealers known to be under indictment.
- Institute a federal ban on all manufacture, sale, importation or use of armor-piercing bullets that can penetrate bullet-proof vests except for legitimate use by the military and police officers. This legislation must include a precise definition of “armor-piercing handgun bullets” so that legitimate recreational ammunition will not be affected. The Department of Justice and Congress must devise and agree on such a definition as soon as possible;
- Support passage of federal, state, and local laws imposing substantial mandatory sentences, with no possibility of parole, probation, or suspended sentence for the use of armor-piercing bullets in the commission of any crime;
- Institute a ban on the manufacture, sale, importation, or transfer of all automatic assault type weapons and semi-automatic assault type weapons which can be rendered automatic except for legitimate use by the military and police officers;
- Apply a 30-day waiting period for the purchase or transfer of all guns so that local police agencies may check the criminal and mental health status of purchasers. A uniform, national computerized system to check criminal records in other states that maintains confidentiality must be implemented;

- Require federal licensing of gun dealers. Applicants for Federal Firearms Dealer licenses should be required to show proof of compliance with state and local laws to the Bureau of Alcohol, Tobacco, and Firearms (BATF) before the agency issues a gun dealer license. The BATF must be required to provide each general purpose government with a list of that jurisdiction's Federally Licensed Firearms Dealers annually;
- Require that the background of an individual who redeems a weapon from a pawnshop be subject to the same scrutiny as an individual who purchases a firearm from a federal firearms licensee;
- Enact federal legislation that would allow states and/or local governments to adopt stricter standards and rules regarding purchase, storage and possession of firearms; and
- Enact federal legislation to prohibit an individual over the age of 18, but under the age of 21, from purchasing or possessing an assault rifle or handgun, including, without limitation, an assault pistol.

D. Youth Oriented Crime Prevention

It is essential that all levels of government, community leaders, the business community, and residents work together to create and sustain environments in which violence is not a pervading presence in the everyday lives of our nation's children.

1. Early Childhood Education

All levels of government must work together to ensure that all children, regardless of economic status, are given the chance to begin healthy, violence-free lives. Prevention efforts that provide quality childcare and preparation for school will ensure young children get off to a good start. Studies have consistently shown that quality childcare reduces crime and violence in later years. The federal government must provide adequate funding for quality early childhood education in order to provide development opportunities and school readiness. (See also the HD Chapter for a complete discussion of quality childcare)

2. Education

The educational system can play a major role in the prevention of criminal activity. The educational system should improve and provide the quality of education for all youth. The federal government should continue to fund programs designed to motivate students to stay in school, including

supporting programs which provide alternatives to the traditional school environment. By giving priority to prevention and intervention efforts and by recognizing that the current serious levels of youth violence have not always existed, the federal government can help to foster safe, healthy, long lives for our nation's youth.

The federal government must continue to fund educational programs that address parent training, school-to-work opportunities and after-school activities for youth. *Specific policies for youth programs, education, and employment are contained in the HD Chapter of the National Municipal Policy.*

3. School Safety

The federal government must provide increased federal funding to augment local efforts aimed at improving school safety, such as School Resource Officers. The long-term effectiveness of programs that help to improve school safety can succeed with continued investments by federal, state, and local governments. The federal government must provide funding for the implementation of effective intergovernmental partnerships to truly achieve the goal of developing a comprehensive approach to school safety, including comprehensive mental health treatment and counseling for all youth and their families, sensitivity training programs, and other services that help prevent students from becoming perpetrators or victims of crime and violence.

The federal government should increase flexible funding for Title V, juvenile justice programs and innovative approaches to school safety that can be replicated by communities across the nation. The federal government must work with state and local authorities to establish more uniform guidelines and recommend mandatory reporting for crime and violent incidents in schools. School districts should be required to provide the U.S. Department of Education and other federal agencies, as well as state education agencies and state and local law enforcement agencies, with school incident reports. The school districts should also provide these agencies with an analysis of incidents and intervention techniques to create a national database of school crime and violence incidents and "best practices" for intervention.

This responsibility to report creates a difficult task of defining what a violent incident is. Intergovernmental cooperation, to establish reporting standards and criteria for federal, state, and local education and law enforcement agencies, would

establish benchmarks for consistent guidelines on reporting school crime and violence.

NLC calls for a consistent commitment among all levels of government, school systems, businesses, and community groups to ensure that public safety contributes to a good quality-of-life in all communities.

4. *Mass Media and Media Violence*

NLC urges the federal government to adopt an approach toward violence in the media that emphasizes alternative approaches which encourage and applaud pro-social values, demystify violence, and teach youth how to handle frustration, prevent suicide, and deal with conflict.

NLC supports entertainment rating systems that will provide advance notice of violent content in programming. NLC supports a federal public health campaign in schools that targets violence in a manner similar to that used to combat drunk driving.

The federal government must:

- Provide a clearinghouse that coordinates and evaluates recently conducted credible studies on the mental health implications of mass media violence; and
- Provide flexible, direct funding and/or assistance for Internet filtering capabilities for our nation's libraries, schools, community centers and other local public facilities that provide children access to computers and other interactive media.

E. Domestic Violence

Domestic violence is a serious social crime and a criminal justice problem that significantly impacts our nation's cities and towns in a variety of ways, including emergency shelters, schools, law enforcement and emergency medical service agencies, and the courts. Domestic violence crosses all socio-economic strata and should not be viewed as a private family matter, but in the context of other crimes and problems requiring prevention, intervention, and prosecution.

All levels of government must make domestic violence initiatives a priority on their agendas. Federal legislation should be enacted to provide funding for local government programs to address the problems of domestic violence through prevention, intervention, treatment, and effective prosecution. y legislation must take into account the potential impacts on already overburdened probation and parole departments.

NLC encourages the federal government to:

- Provide funding and assistance to maintain successful domestic violence programs already in existence, to initiate demonstration projects, and to aid local governments and organizations in modeling programs after successful holistic approaches;
- Establish a central point for the collection and dissemination of information on domestic violence programs taking place across the country that includes examples of what is and is not working, the progress of legislative initiatives at both the state and federal levels, recent studies on domestic violence issues, and other relevant information;
- Assist all levels of government in the development of programs that work with children exposed to domestic violence and in the development of general education programs for all children on domestic violence issues; and
- Fully fund the Violence Against Women Act programs, as well as, efforts which support the abolition of physical, sexual and psychological human rights abuse and oppression of women.

F. Driving Under the Influence

The enforcement of driving under the influence laws, adjudication of cases, treatment of offenders, prudent punishment of repeat offenders and the development of public awareness are all important state and local functions.

The role of the federal government, through the National Highway Traffic Safety Administration in assisting state and local governments should continue and be expanded. These efforts should focus public attention on the driving under the influence problem, facilitate public and private sector actions to counter the problem and provide administrative support for interstate coordination of driving under the influence countermeasure efforts.

6.02 Public Safety

A. Problem Statement

Public safety requires the commitment of all levels of government. Information sharing among levels of government must be comprehensive and timely. Through the joint efforts of local, state, and federal governments, as well as the responsible actions of individual residents and corporate citizens alike, the safety and well-being of our business and civic communities can be controlled successfully.

B. Goals

In order to keep our cities and towns safe:

- Cities must continue to partner and collaborate with state and federal government to help combat youth and gang violence;
- Cities should continue to work with state and federal government agencies to provide resources for transitional services to all prisoners reentering society;
- The federal government should assist cities and towns across the nation in acquiring modern emergency communications capabilities and advanced law enforcement technology; and
- Federal, state and local law enforcement must share information and intelligence across intergovernmental and jurisdictional boundaries.

C. Youth and Gang Crime and Violence

The number of juveniles taken into custody has increased dramatically and admissions to juvenile facilities are at their highest levels ever. Federal juvenile justice efforts within the Department of Justice have not had enough resources devoted to them to address the full range of problems in the area of youth victimization and youth crime.

Rising youth crime has also been associated with increased gang activity across the nation. Many schools and public facilities have become battle grounds for youth gang members. As gang activities have become increasingly mobile in crossing geographical boundaries, NLC urges the federal government to continue its work toward placing increased penalties on gang-related crimes, such as prosecuting offenders under organized crime statutes.

The federal government must prioritize establishing and maintaining effective juvenile crime and gang prevention programs on the local level by directly funding city, town, and multi-jurisdictional initiatives. Federal partnership and collaboration with cities and towns is the best way to take advantage of local leadership on this issue while encouraging innovative thinking and cooperation across jurisdictions and levels of government.

The federal role in juvenile justice should also focus on support services for state and local governments and information gathering and dissemination in the areas of rehabilitation of juveniles and progressive sanctions.

NLC supports:

- Federal assistance for the establishment and operation of youth courts to ensure swift and

appropriate sanctions for certain juvenile offenses;

- Direct, flexible funding to municipalities for local juvenile justice and delinquency prevention initiatives with strict limitations on the amount of federal funds that can be used for administrative costs to ensure that a high percentage of the funds go to the local level; and
- Continued federal technical assistance to train local governments on how to apply for federal funds administered through states and units of local governments.

1. Juvenile Records

The federal government should establish and maintain a national system to track juvenile criminal records for use by local, state, and federal law enforcement agencies and provide assistance to states and local jurisdictions to update their record keeping procedures. Such collaboration would help local officials share and access juvenile records, identify and monitor habitual offenders, and address truancy rates.

2. Sentencing

NLC believes that, except in cases of federal crimes, the federal government should not be involved in juvenile sentencing – this is a state and local function. In particular:

- Decisions regarding the transfer of violent juveniles to the adult criminal justice system should be left to state and local governments;
- Parental responsibility laws are inappropriate at the federal level; and
- The federal government should not pass laws or regulations that significantly hinder the ability of local governments to develop and implement alternative sentencing programs for juveniles.

3. Corrections

The federal government should provide funding for mandates imposed on state and local governments that call for more accountability in punishing juvenile offenders. Currently not enough juvenile holding facilities are available to adequately meet the demands of the justice system. Overcrowding and the high costs of implementing specific separation requirements are problems that severely hinder rehabilitation efforts. More flexibility is needed in all areas of juvenile corrections, including juvenile detention facilities and the education of juvenile offenders. NLC urges the federal government to provide sufficient funding for all phases of all juvenile justice mandates to achieve desired results.

D. Prisoner Reentry

Each year prisoners are released back into society without access to immediate supervision and/or support. These prisoners face a multitude of problems including homelessness, a lack of job opportunities, educational deficits, mental health issues, substance abuse, infectious diseases, and no connection to their families and communities. Over half of all released prisoners will be rearrested causing increased costs and burdens for cities.

In order to combat this problem, the federal government must provide local and state governments with resources for transitional services to all prisoners in the areas of housing, education, mental health treatment, substance abuse counseling, employment opportunities, and healthcare. In addition, the U.S. Department of Justice should adopt a policy mandating that all federal prisoners be screened for drug/alcohol addiction, mental health problems, infectious diseases and other risk factors prior to release and then require these prisoners to seek continued treatment while on federal parole. Furthermore, the federal government should encourage state governments to require policies mandating that all state prisoners have DNA collected during the initial screening and exiting process in an effort to solve open cases. All prisoners should further be screened for drug/alcohol addiction, mental health problems, infectious diseases and other risk factors prior to re-entry into society.

For prisoner reentry to succeed, reintegration must be emphasized as soon as a prisoner enters a correctional institution. Emphasis must be placed on identifying a prisoner's specific risk factors, providing treatment while in custody, and following up with community-based treatment once a prisoner is released. Programs must be implemented on both the federal and state level to involve the prisoner's family unit or mentor in any decisions or treatment plans, both during incarceration and at the time of release. Federal grant money is needed to fund community-based intervention and treatment programs focusing on the issues of housing, job opportunities and training, mental health screening and treatment, substance abuse, healthcare, education, and family reunification. In addition, attention must be paid to the specific struggles and barriers associated with youth prisoner re-entry. Often, youth leaving the criminal justice system lack age-appropriate levels of education, needed social and developmental skills, and are returning to environments that do not foster rehabilitation and development. Emphasis must be placed on creating the necessary support systems and opportunities to help youth transition into adulthood,

reintegrate into communities, and stop cycles of recidivism.

Successful federal, state, and local pilot projects must be expanded to address challenges related to prisoner reentry and the full spectrum of problems. The federal government should fund programs that include the cooperation of corrections officials, probation and parole officers, former offenders who can serve as mentors, families, police, prosecutors, the court system, mental health administrators, healthcare providers, housing agencies and rental advocates, substance abuse counselors, businesses, educational and vocational training providers, victim advocates, community- and/or faith-based organizations, neighborhood associations and coalitions, researchers and records personnel, and public affairs officers.

E. Public Safety Technology and Intelligence

1. Public Safety Technology and Intelligence Goals

NLC urges the federal government to assist cities and towns across the nation in acquiring modern emergency communications capabilities and advanced law enforcement technology. Specifically, the federal government should:

- Make surplus equipment available to local governments (without undue restrictions on use) that would improve emergency response capabilities;
- Provide funding for research and training opportunities and publicize these opportunities;
- Make direct, flexible grants to local governments for local law enforcement and fire safety training and equipment;
- Conduct regular, well publicized training sessions and provide coordinated technical assistance to local public safety personnel operating public safety technologies;
- Encourage manufacturers to make public safety equipment available at reasonable costs to local government that can be easily upgraded for future purposes;
- Provide technical assistance and funds to local police for the adoption of advanced policing technology, particularly alternative use of force options that help safely deescalate violent situations; and
- Provide technical assistance and support to established intergovernmental institutions to ensure a collaborative exchange of information that maximizes resources, streamlines operations, and improves the ability to fight crime and terrorism by merging data from a variety of sources.

-
- NLC strongly urges flexibility in the use of federal public safety funds for upgraded technology and training. Many municipalities face great difficulty in purchasing necessary public safety equipment because of budget constraints or inability to qualify for available funds. New duties placed on law enforcement related to homeland security have constrained budgets further. NLC urges the federal government to assist all municipalities with public safety advancements without imposing stringent compliance guidelines.

2. *Emergency Communications*

Having the capability to transmit vital information to different emergency response personnel among all levels of government without interference and delay is key to disaster preparedness and emergency response. No man, woman, or child should lose his/her life because public safety officials cannot communicate with one another.

The federal government should take immediate action to provide local governments with the broadcast channels needed to enhance their communications capabilities. Reliable and interoperable wireless communications are essential to public safety's mission to protect life and property.

The federal government should encourage regional planning for public safety communication needs and address the current shortage of spectrum channels with a long-term plan that ensures sufficient and appropriate spectrum to meet future public safety needs across the nation, communications equipment with open standards, and funding for the necessary building, operation, and maintenance of a national interoperable emergency communications system. If federal reallocation of radio spectrum forces a municipality to change radio frequencies and/or channels to preserve its public safety and emergency communications services, there should be prompt and fair compensation made for transfer costs, such as new equipment and additional personnel and training. (*NLC's policies on public safety communications are detailed further in the ITC Chapter of the National Municipal Policy.*)

The federal government should also link all emergency warning systems across the nation, supplying all areas with appropriate equipment so that no area is left unprotected. Emergency alert systems should be used to ensure that any presidentially declared emergency, homeland security, and National Weather Services alerts are timely and accurate and provide direction on

recommended protective measures local governments should take when the threat level is increased. Local governments should be reimbursed for any costs associated with heightened alerts.

NLC urges the federal government to ensure that all areas of the country have access to modernized 9-1-1 technology for emergency use. Currently, cities and towns that do not have timely emergency response services usually have not implemented a 9-1-1 system or their systems are antiquated. NLC also urges the federal government, in particular the Department of Justice and the Federal Communications Commission, to continue its efforts to improve the wireless 9-1-1 or E 9-1-1 services by working in partnership with state and local land use authorities, public safety officials, and the telecommunications industry. The telecommunications industry must fully develop and fund wireless emergency locator services and tracking systems and lead efforts to resolve interoperability problems that affect emergency communications systems throughout the nation. These efforts must continue to respect the premise of local autonomy, avoid burdensome mandates, and reflect the need for greater funding in underserved jurisdictions.

3. *Law Enforcement Technology*

The ability to transmit and access information quickly and easily helps local, state and federal law enforcement agencies prevent and reduce crime. The federal government should facilitate criminal records information sharing among all levels of governmental law enforcement agencies. Such an information system would provide law enforcement agencies a tool to track and apprehend transient, violent, repeat offenders, and/or suspected terrorists and share information with prosecutors, courts, corrections, parole agencies, and other relevant agencies. This integrated system would be particularly useful to localities in securing essential data during a time of emergency or disaster.

Advanced public safety technologies including mobile data terminals, geographic information systems, and biometric information repositories increase efficiency and can help return law enforcement officers to the streets, enhancing community policing efforts. In addition, modern technology is cost-effective because it manages workloads which reduce overtime among personnel. The federal government should facilitate the availability of these technologies to cities regardless of size.

4. *Training*

As local governments acquire new public safety technologies, the federal government should continue to promote interagency sharing of equipment during emergencies among all levels of government and provide training to local public safety personnel. To promote greater compatibility among training programs and curriculum, the federal government should lead efforts to ensure that public safety training programs provide a level of consistency among all agencies, which are essential to implement mutual aid and regional cooperation agreements. Federal assistance that enables local governments to improve public safety services will always be a key component to reducing crime, planning for and predicting disasters, and responding to emergencies.

5. *Information Sharing*

Access to both specific and aggregate information on public safety threats — ranging from acts of terrorism, to health threats, to gang violence trends — gathered by the federal government, should be shared with local law enforcement and other necessary agencies in potential impact areas.

The federal government must continue to improve standing task forces, centers, and institutions for sharing classified information on threats with first responders. Both federal financial and technical assistance, as well as on-site assistance of federal personnel, should be provided to local government, to assist in these information sharing institutions and joint analysis efforts.

The federal government should assist local law enforcement with acquiring the proper equipment, technology, and training to participate in information sharing activities, such as establishing fusion centers. The federal government should continue to refine policies and practices surrounding these institutions to ensure all activities respect civil liberties and privacy concerns.

F. Transportation of Hazardous Materials

The transportation of hazardous materials, including nuclear waste, must be made as safe as possible. Minimizing the danger of injury, environmental damage and other costs of such events requires knowledge of the materials so that appropriate measures can be taken and decisions made regarding evacuation or traffic diversion. NLC urges the federal government to provide adequate funds, training and equipment to all cities affected by the transportation and disposal of hazardous waste to

assure the protection of public health and safety in the event of an accident.

The federal government must also ensure that the transport of high-level radioactive waste (HLW) be safely accomplished by employing state of the art technology, engineering and procedures.

1. Consolidation of Federal Programs

NLC supports federal efforts to consolidate hazardous materials policies and to designate the U.S. Department of Transportation (DOT) the lead federal department. NLC believes that when more than one federal agency regulates a hazardous material, the appropriate agencies must take steps to correct conflicting or inconsistent policies.

2. Standards

a. *National Hazardous Materials Driver Standards*
NLC supports federal hazardous materials driver training standards that are tailored to the transportation of specific materials. As a prerequisite to receiving a license, drivers of such vehicles must be required to certify that they have received special training.

b. *Insurance*

NLC supports existing federal regulations that require motor carriers to maintain sufficient liability coverage. NLC also supports continuation of federal law that provides supplemental liability coverage in the event of a catastrophic accident involving radioactive materials.

3. Notification and Communication

NLC encourages federal guidelines to clarify the level and frequency of notification and communications between state and local officials necessary to protect public safety. Currently available technologies and systems must be used to ensure immediate communication between transporters and all entities charged with responding to any incidences. Any carrier must be required to make an immediate notification to designated local emergency personnel when a hazardous materials incident occurs.

Federal, state, regional and local governments should cooperate in the development of a unified data and notification system.

4. Disaster Prevention and Training

First responders regularly respond to incidents involving the release or threat of release of hazardous materials in transport, therefore emergency response

should continue to be the primary responsibility of state and local governments. The federal government must ensure that first responders have the resources and capacity to address and respond to any hazardous materials incidents.

In order to respond quickly and efficiently to any hazardous materials incidents federal, state and local governments should develop a centralized emergency response command structure within each of their jurisdictions to improve inter-jurisdictional communications when an accident does occur. There must be terrorism response plans for shipments of hazardous materials.

The federal government should set minimum training and education standards, require all stakeholders to participate, and offer technical and financial assistance to support these efforts. The federal government should evaluate and certify training programs used by regional, state and local emergency personnel.

5. Enforcement

NLC believes that the federal government should continue to be responsible for the enforcement of hazardous materials transportation regulations. The federal government must be more vigilant in its enforcement of its regulations regarding unregistered carriers and shippers.

States and localities should be allowed to adopt and enforce vehicle operating requirements and standards, including the imposition of fines or civil penalties for infractions of these federal requirements.

The Federal Railroad Safety Act should be amended so that the federal and state governments have concurrent authority to enforce federal rail safety regulations that relate to hazardous materials.

Finally, the Federal/State Rail Safety Participation program should be continued and adequately funded.

6. Financing

NLC urges Congress to appropriate sufficient federal funding to operate hazardous materials programs. NLC supports raising registration fees to pay for such programs while opposing federal preemption of local fees on carriers.

Motor Carrier Safety Assistance Program (MCSAP) grants from the Highway Trust Funds should be increased and made available to local governments.

6.03 Homeland Security, Disaster Preparedness and Response

A. Problem Statement

The lives lost, property damaged, and economic hardships suffered due to criminal and terrorist acts and natural, manufactured and technological disasters pose severe problems for individual residents, communities, businesses and all levels of government. Local governments are the first level of government to respond to most disasters and emergencies and must be regarded as the focal point of all disaster mitigation and recovery activities. The federal government should provide funding directly to local governments for homeland security, emergency preparedness and response.

An effective system must be developed to ensure that federal and state emergency management officials conduct substantive consultations with local officials for key decision-making affecting homeland security, disaster preparedness and response at the local level.

Federal and state technical and financial assistance should be structured to allow local officials maximum flexibility in meeting identified needs. Regarding the homeland security funding formula, NLC supports the federal government continuing to fund risk-based threats in highly populated and high-threat areas. NLC also supports a minimum level of funding for state grants sufficient to allow jurisdictions to prepare for possible terrorist-based threats, with flexibility to use the funds for dual-use (risk and all-hazards) pursuant to their state homeland security plans.

The potential for hazardous or radioactive material spills, pipeline accidents, large scale social disorders, and domestic terrorism compels all levels of government to coordinate efforts to protect communities. Such coordination must result in a comprehensive national homeland security and disaster preparedness strategy. The Department of Homeland Security must continue to have a central office for coordinating local and state domestic preparedness activities. Regional plans and cooperation must be fostered through this central office.

B. Goals

In order to maintain viable communities and an economically sound nation, all levels of government must work together to reduce the likelihood of

disaster losses incurred. Specifically, the federal government should:

- Continuously strive to improve the coordination of local, state, and federal disaster preparedness plans, including Emergency Management Assistance Compact (EMAC) operations;
- Assure continued availability of adequate property and casualty insurance and excess insurance coverage to all regions of the nation, at affordable rates without unreasonable exclusions or geographic redlining;
- Provide clear and appropriate division of responsibilities between local, state, and federal governments in presidentially-declared disaster areas, with clear channels and protocols between leaders, including maintaining the appropriate role of the U.S. military forces in supporting emergency response;
- Ensure FEMA has the funding, authority, clear mandate, and flexibility it needs to respond quickly and effectively; and
- Do nothing to impede efforts by first responders and state and local authorities.

C. Prevention, Planning, and Mitigation

The highest priority of all levels of government in addressing disaster and terrorism issues should be prevention and mitigation. Mitigation saves lives and reduces injuries; reduces economic losses; maintains and protects critical infrastructure; and reduces the liability borne by local governments and elected officials.

Knowing that improved safety from disasters in the future relies on what we can learn from the disasters of today, the federal government should collect data on the effects of disasters and lessons learned from the analysis of such data should be disseminated to aid state and local disaster-related efforts. Similarly, the federal government should provide assistance to state and local governments to help them conduct annual hazard and risk assessments to determine the vulnerability of particular areas or structures to disasters or terrorist acts based on historical and/or intelligence information.

The federal government can also help mitigate potential disasters by working closely with local governments to develop a useful uniform emergency warning system to ensure that as people travel throughout the nation, they will be informed of existing emergencies and advised how to respond. The federal government must also educate and train local emergency services on the effects of disasters

and lessons on the warning system and what precautions need to be taken.

In addition, the federal government should fund and support a sustained effort to develop and improve the nation's health and medical readiness, ensuring surge capacity in disaster situations. Our nation's hospitals and other medical facilities operate at or near maximum capacity and lack the space and staff to adequately care for the influx of victims in a disaster situation. All levels of government must work together to pre-assess high-risk areas, build and pre-position the necessary medical infrastructure, including mobile and temporary response centers, and create clear and comprehensive health care related disaster plans. *(See HD Chapter 4.08 "Health" for additional policy on public health and disaster planning)*

The federal government should provide an adequate level of funding for local emergency preparedness and disaster planning and management. Such funding should allow a city to tailor its disaster preparedness planning to the special circumstances and needs of the area, particularly to any facilities and densely populated areas that have the potential to be terrorist targets, as well as provide local governments with appropriate emergency response equipment and communication as necessary.

In addition to directly assisting cities and towns in their mitigation efforts, NLC urges the federal government to:

- Require federal agencies to develop and coordinate pre- and post-disaster mitigation programs for the types of emergencies they manage;
- Provide fiscal, technical, and staff support for the development and operation of fusion centers and other standing information sharing institutions;
- Develop a comprehensive evaluation of risk factors for potential terrorist targets;
- Make their mitigation training programs more accessible and affordable and ensure that proven mitigation technology is more widely publicized and utilized;
- Support local governments in their efforts to encourage the public and private sectors to retrofit existing structures to reduce future losses from natural disasters and to locate new construction outside of high-risk areas such as flood plains, coastal areas or on or near earthquake faults;
- Encourage lending institutions to incorporate mitigation provisions as conditions for loans;
- Enact legislation that will allow for federal assistance in the accreditation of municipal

-
- levees in a cost-effective and responsible manner;
 - Support federal programs to encourage public, private, and individual disaster plans, such as Citizen Corps;
 - Sufficiently fund agricultural counterterrorism and food safety efforts; and
 - Adopt strict standards for the enforcement and transport of hazardous materials.

D. Disaster Response and Recovery

Federal programs should be structured to support municipal governments with adequate funding and authority to immediately and effectively respond to all types of disasters, including training and equipping first responders and the public and private medical community.

The federal government must increase funding to local governments for response, including processes to resolve equity issues in disaster relief efforts. The federal government must review all regulations dealing with disaster relief that raise equity issues, and based on such a review, propose corrective action. Specifically, when multiple cities have been damaged by a disaster, a formula or waiver process should be available to resolve disaster-related damage in a fair manner. The federal government also should allow municipalities to request their municipality be declared a disaster independently of other local government entities.

Accidents or terrorist acts involving nuclear, biological or chemical (NBC) materials represent a special subset of disasters. The federal government must ensure that local governments and their first responders have the resources and capacity to address and respond to NBC incidents. The federal government should coordinate with state and local governments for public education regarding NBC incidents.

Additionally, the federal government should assist in the establishment and training of interdisciplinary, multi-jurisdictional search and rescue teams in each state to respond to and recover from natural and manufactured disasters.

When a city is asked by the federal government to provide services to citizens from jurisdictions outside their own in times of a declared state of emergency, it is the right of that city to recoup reimbursement from the federal government for expenses. Federal agencies must reimburse cities outside the declared state of emergency for costs related to disaster evacuation and sheltering, including straight time for

city employees and the use of city-owned sheltering facilities at the direction of the federal government.

E. Training and Technical Assistance

The federal government must provide technical assistance and regional training devoted to disaster preparedness and response. This technical assistance should include the gathering and regular dissemination of information to local governments on general disaster issues and terrorist threats as well as specific disasters where they occur. This sensitive information must be shared with local government without jeopardizing national security. As part of its technical assistance efforts, the federal government should encourage regions to share resources and equipment needed for preparedness and response through mutual aid agreements and regional coordination.

F. Domestic Terrorism

The federal government should help local authorities by providing appropriate training to local governments in terrorism prevention. Public safety personnel must be taught and provided the necessary equipment to manage a situation involving weapons of mass destruction, including biological or chemical weapons.

Information or intelligence on likely or imminent acts of terrorism, gathered by any means by the federal government, must be shared across agency lines and with local enforcement agencies in potential impact areas. A policy for sharing certain classified information on threats or potential threats of terrorism with first responders must be implemented. Both federal financial assistance and federal personnel should be provided to the local government immediately when terrorist acts take place. The federal government must include local governments in federal plans and operations relative to issues in their jurisdictions and provide legal assistance to local governments that have high profile public or private targets within their boundaries.

G. Border Security

NLC supports increased coordination and cooperation between federal, state and local law enforcement agencies to achieve operational control of our nation's borders. When all agencies work together and share information, our borders will become less porous and our nation will be safer. Local law enforcement should not be conscripted into Federal border patrol service. If the federal government does require local law enforcement to act on its behalf, absolute immunity and/or indemnification should be given so that localities are

not liable for the actions taken on the federal government's behalf. All costs associated with enforcement, training and equipment for these duties should be paid directly to the local jurisdiction by the federal government.

H. Immigration Enforcement

1. Interaction with Local Law Enforcement

Local police have a responsibility to cooperate with the federal government to apprehend specific persons identified as having committed a crime and violated US immigration laws. Local police should promptly report to appropriate federal immigration authorities any reasonable suspicions they have regarding persons already in their custody. However, local police should not be responsible for the enforcement of federal immigration laws or the ongoing detention of individuals merely suspected of violating those laws. Local personnel cannot be conscripted into federal service because the federal government has decided not to fund and staff its immigration enforcement agencies to meet demand. This type of action can divert local personnel from their primary duties, break important trust that has been built within the immigrant community and constitute a cost shift onto local governments. The federal government should not transfer the responsibility of enforcing U.S. immigration laws to local police by making undocumented status in the U.S. a criminal offense.

The federal government has a responsibility to share information with local law enforcement on criminal immigrants. An accessible database that can track illegal immigrants must be developed and local police must be provided access and training on the database.

If the federal government does require local law enforcement to act on its behalf, absolute immunity must be given so that localities are not liable for the actions taken on the federal government's behalf. All costs associated with enforcement, training or equipment for these duties must be paid directly to the local jurisdiction by the federal government.

2. Interaction with Local Officials

Other city personnel such as fire inspectors, educators, health personnel and social service personnel should not be responsible for reporting those persons who cannot produce proof of their legal presence in the United States.

3. Cost Recovery

Any costs associated with the detention of illegal immigrants on behalf of the federal government must

be fully reimbursed to local governments. NLC strongly supports full funding of the State Criminal Alien Assistance Program (SCAAP), which provides funding for the costs of detaining illegal immigrants.

4. Visa Requirements

The federal government must address unlawful immigration by increasing enforcement over those individuals who enter the US legally with student, tourist or business visas and remain in this country after their visas expire. To effectively track all individuals entering and exiting the U.S. under the various visa systems, the federal government must enforce visa overstays through the full implementation and staffing of the US-VISIT and the Student and Exchange Visitor Programs (SEVIS). The US-VISIT program is a biometric security measure which tracks individuals prior to entry and exit within the U.S., the SEVIS program is a web based system which maintains information on international students and exchange visitors in the United States. An accessible immigration database should be maintained that identifies when the visa expires. Appropriate and timely review of the visa status of individuals visiting the US should help to address this concern, as well as a mandatory notification of change in address.

I. Profiling

All Americans have a right to expect equal treatment by law enforcement officers, prosecuting authorities, judges and correctional officials. Discriminatory enforcement of criminal laws has a corrosive effect on our cities and towns, undermining the confidence of the community in law enforcement and interfering with our efforts to prevent crime and prosecute offenders.

Unfortunately, our country has a long history of disparate treatment in our criminal justice system. Numerous studies confirm that racial minorities, especially African Americans and Latinos, are more likely to be arrested, more likely to be prosecuted and more likely to be incarcerated for offenses than whites accused of the same crime.

NLC supports federal legislation and action which eliminates discrimination in the enforcement of our criminal justice system. NLC opposes profiling of suspects based solely on race, ethnic origin, religion or other similar factors.

In addition, the federal government should assist local law enforcement agencies in their efforts to provide education and training for law enforcement officers regarding appropriate investigative and enforcement techniques.

6.04 Substance Abuse

A. Problem Statement

Substance abuse is a public safety concern. Cocaine, crack, heroin, PCP, amphetamines, methamphetamines, marijuana, and other illegal drugs—as well as the illegal use of alcohol and prescription drugs—are all straining the capabilities and resources of governments—especially public safety budgets.

Despite considerable efforts, there has been little discernible progress being made in reducing the social costs of drug abuse. Efforts to control drug trafficking have been, for the most part, unsuccessful. Local law enforcement efforts continue to be hampered by inadequate and ill-defined state and federal laws, limited resources, overcrowded prisons, and overburdened criminal justice systems.

Drug abuse prevention is under-funded, particularly at the federal level, and there is uncertainty and disagreement at all levels of government about what constitutes prevention. Currently, federal funding is focused on programs which stress care to the chronic substance abuser, while providing only minimal attention to programs aimed at preventing the proliferation of illegal alcohol and drug use among America's youth.

B. Goals

NLC supports a comprehensive strategy for substance abuse prevention, intervention, treatment and law enforcement, including alternatives to incarceration. NLC further urges that a balance in expenditures should be sought between prevention, treatment and corrections. NLC supports:

- Federal research into alternative sentencing programs for first-time non-violent drug use offenses;
- Funding for the creation of non-incarceration alternatives for first-time non-violent drug use offenses;
- Federal funding and standardized training for police, fire fighters, and public emergency medical personnel on identifying, seizing and clean up of methamphetamines labs;

- Reimbursement of the cost associated in the clean up and damages to property contaminated by methamphetamines;
- Funding for hazardous material equipment and training that reduces the occupational health issues associated with methamphetamine lab seizures and clean-up; and
- Technical assistance, national information sharing services, and direct fiscal support for Prescription Drug Monitoring Programs; and,
- Increasing the ease of access to and prevalence of safe, environmentally sound disposal of prescription drugs through convenient take-back options for all unwanted prescription drug medications.

C. Economic Deterrents

In order to effectively address the drug issue, the economic incentive is a critical element to any anti-drug strategy. To do so, NLC supports the following actions:

- Aggressively using all legal means to pursue actions against financial institutions that knowingly conduct financial transactions which involve proceeds from unlawful activity;
- Withholding foreign aid to source countries being uncooperative in interdiction efforts;
- Developing treaties with countries to restrict the flow of precursor chemicals into drug manufacturing countries; and
- Seizing the assets of individuals convicted for involvement in illegal drug activity. These funds should go to local law enforcement agencies.

D. Enforcement

Current enforcement efforts have simply not been effective in controlling the manufacturing, sale, distribution and use of illegal substances. NLC believes that better definitions in state and federal laws related to illegal drug and alcohol use will enhance enforcement efforts.

To improve this situation, sufficient federal resources must be committed to ensure that enforcement strategies are realistic and are coordinated with efforts in education, prevention, treatment and research.

NLC supports:

- The maintenance of adequate funding for local, federal and state law enforcement agencies to deal with drug-related problems;
- An increased focus on enforcement against those involved in cases that are determined as high-level manufacturing, sales and distribution of

- illegal drugs, especially those selling or furnishing illegal drugs to minors;
- Prosecution to the fullest extent of the law for those involved in crime and violence related to illegal drug use;
- Increased penalties for those convicted of drug offenses where firearms are possessed by the offender;
- Increasing the use of the Coast Guard and other federal public safety personnel in the interdiction, arrest, search, and seizure of narcotics and illegal drugs;
- Federal assistance in the arrest and prosecution of those responsible for the death or injury of public safety and/or armed services personnel involving official investigations of illegal drug operations;
- The utilization of extradition as a key tool in combating international trafficking;
- The deportation of aliens convicted of offenses related to the sale of illegal drugs after the court's disposition has been fulfilled; and
- The aggressive pursuit and prosecution of medical personnel prescribing, selling, administering, dispensing, mixing or otherwise preparing any prescription drug, including any controlled substance under state or federal law, for other than therapeutic purposes.

6.05 Municipal Fire Policy

A. Problem Statement

In the United States fire departments respond to nearly two million fires each year. Compared to other developed nations the U.S. is severe. Our cities have higher death rates and per capita loss due to fire than cities of comparable size abroad. It also causes more loss of life than all natural disasters combined. Fire-related injuries number in the tens of thousands each year. Since 1992, fire and fire casualty trends have declined.

Compounding this issue, many local communities are affected by the lack of resources required to provide the necessary levels of public fire safety education and training, and fire fighting personnel. Budget limitations, combined with the fire services expanding responsibilities in homeland security, emergency medical services, hazardous materials incidents response, search and rescue, and other emergency demands, translate to more duties and fewer dollars to support them.

Rural communities face particular challenges in handling the problems that fire presents. Almost all rural and small city fire protection is provided by

local citizens on a volunteer basis, who have less time for training, pre-fire planning and prevention activities. In addition, the distances that must be covered in rural areas are greater and the availability of water supply is less, impeding response. Lastly, fewer new volunteers are signing up for duty, signaling a potential crisis in adequate volunteer personnel.

B. Goals

The highest priority in fire safety is the protection of life and prevention of injury to the general population and fire protection personnel.

Better management of our fire protection resources and a continued society-wide commitment to fire safety education and fire prevention are necessary. Proven technology such as smoke detectors and sprinkler systems should be more widely publicized and utilized.

Changing human behavior through fire prevention, including fire safety education and arson control, fire prevention and outreach programs and the distribution of smoke alarms are critical in addressing our fire problem.

To focus attention on this commitment, annual goals for reduction of property loss, life loss and injuries should be established and the U.S. Fire Administration should continue to report on progress toward and barriers to achieving these goals.

C. Federal Roles and Responsibilities

Fire protection will continue to be financed on the local level, but federal government programs established to help cities address fire-related problems should be funded at a level commensurate with the size of the U.S. fire problem. The federal government is in the best position to teach, train, and lead the fire service to higher levels of management skills. The U.S. Fire Administration and National Fire Academy should serve as a national focus for development and dissemination of fire-related research, development and training of both the general public and the nation's firefighters.

1. *The U.S. Fire Administration must:*

- Continue to be the focus of federal fire programs and should be funded at a level commensurate with the size of U.S. fire problems. Its programs should be designed to develop the highest level of professionalism and management skill in the administration of local fire departments;
- Strive to improve the timeliness, accuracy and geographic coverage data of the National Fire

Incident Reporting System. This data and resulting analysis should be shared with local fire departments and research organizations;

- Assist small cities in utilizing master planning procedures and developing fire reporting procedures;
- Give priority to the education of fire personnel in the areas of fire safety, public education, fire prevention, and management skills;
- Research the problems of fire control and continue developing improved safety equipment for firefighters. The information gained from this research, as well as information on new techniques and technologies, should be made readily available to local officials;
- Actively and regularly solicit the advice of elected municipal officials, municipal administrators, and fire professionals on priorities for research and development efforts; and
- Research methods to improve fire prevention and share the results of this research with municipal officials.

2. *The National Fire Academy must:*

- Maintain training programs for improvement of management and leadership skills needed for the development of future fire service officers;
- Continue and enhance training programs for firefighters in order to increase fire fighter safety and reduce the number of deaths and injuries;
- Supplement state and local training efforts by developing model training programs for use by local fire fighting administrations and line personnel;
- Receive sufficient funding to enable it to function both as a central educational facility and as a provider of training sessions for local fire administrations and line personnel;
- Provide a forum in which fire executives can exchange information on fire administration and management techniques, as well as new fire fighting methods and technology;
- Actively solicit the advice of elected city officials, administrative personnel and fire professionals on the design of its training programs; and
- Continue and expand its “train the trainer” and other outreach programs to provide cost effective and current training materials to fire departments of all sizes, both paid and volunteer.

3. *The Consumer Products Safety Commission should:*

- Give high priority to the improvement of the fire safety of consumer products; and

- Encourage the use of voluntary performance standards, design and labeling practices and in extreme cases, make use of mandatory standards or product bans.

D. Standard Setting

The federal government should refrain from adopting or giving other status to fire standards developed by bodies not having adequate representation by elected officials. NLC urges that national committees constituted to develop fire service standards include significant representation of elected municipal officials and municipal fire protection professionals. Mandatory involvement of municipal officials will help to ensure that the resulting standards consider the implications of the proposed standards on local jurisdictions.

E. Arson Control

Those federal agencies who have the responsibility for the nation’s arson problem, particularly those with criminal justice and fire protection concerns, should implement policies and effective programs to reduce arson nationally. These policies and programs should continue to be coordinated through an inter-agency committee on arson control.

National arson criminal data should be accessible to state and local investigators, fire marshals, and law enforcement officials, and should encourage the comprehensive interstate reporting of arsonists. Federal arson-related training, program development, and research activities need to be improved. The U.S. Fire Administration should be authorized and provided with adequate appropriations to conduct a comprehensive arson training, program development, and technical assistance effort of national scope. Effective programs already developed should be updated and shared through direct technical assistance.

The federal government should develop and provide programs for the orientation and education of public officials, the judiciary, and prosecutors on arson issues in addition to training fire and police personnel.

NLC RESOLUTION #2012-27

**IN SUPPORT OF INTEROPERABLE PUBLIC SAFETY
COMMUNICATIONS SYSTEMS AND FUNDING**

WHEREAS, interference-free broadcast spectrum and reliable and interoperable wireless data and voice communications are essential to the public safety role of municipalities' first responders; and

WHEREAS, public safety has been granted only small sections of spectrum over time, but never enough to consolidate communications into a single frequency band, resulting in a fragmented public safety spectrum that does not meet the needs and requirements of the post September 11th environment; and

WHEREAS, in the line of duty, first responders must be able to utilize mobile technologies citizens take for granted, such as: distributing and receiving pictures, video and data in real-time from other officers, citizens and emergency dispatch systems in order to achieve better policing and disaster response; and

WHEREAS, in disaster situations, commercial customers usage blocks first responders from accessing commercial networks; and

WHEREAS, the segment of 700MHz spectrum known as the “D Block” is uniquely positioned to provide a one-time opportunity to improve first responder communications and emergency response capabilities by allowing first responders to have full control of deciding when public safety needs dedicated and secure access to a network rather than allowing private industry to decide; and

WHEREAS, the federal government has a responsibility to provide adequate telecommunications spectrum as to create secure and dedicated Nationwide Public Safety Voice and Broadband communications networks among public safety and emergency services.

NOW, THEREFORE, BE IT RESOLVED that the federal government must reallocate the 700 MHz D Block of spectrum to public safety for the purpose of building a Nationwide Public Safety Broadband communications network; and

BE IT FURTHER RESOLVED, that the federal government must preserve the current 700 MHz narrowband reserved for voice communications through the current lifecycle of local investments in this infrastructure to prevent harmful interference to narrowband operations or impairment of narrowband interoperability; and

BE IT FURTHER RESOLVED that the Department of Commerce, the Department of Homeland Security, and the Federal Communications Commission must work directly with representatives of state and local governments to ensure an appropriate governance model for the D Block of spectrum; and

BE IT FURTHER RESOLVED that the federal government must ensure that municipalities are included in all national interoperability planning efforts; and

BE IT FURTHER RESOLVED that the federal government must provide funding and assistance to states and localities to build out the Nationwide Public Safety Broadband communications network and ensure affordable access to the equipment necessary.

NLC RESOLUTION #2012-28**IN SUPPORT OF EFFORTS TO FIGHT ILLEGAL GUNS**

WHEREAS, 60 percent of the guns used in crimes are traced back to just one percent of gun dealers; and

WHEREAS, 85 percent of gun dealers have never had a gun used in a crime traced back to them; and

WHEREAS, local governments and law enforcement have the responsibility to curb illegal guns both through criminal and civil actions; and

WHEREAS, the ability of local governments and law enforcement to use trace data held by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) is crucial to shutting off the supply of guns to criminals; and

WHEREAS, Congress has enacted restrictions that prevent local governments, law enforcement, and research institutions from using the trace data to its greatest effect; and

WHEREAS, there are bills before Congress that would further weaken the ability of Federal, State and local governments and law enforcement to keep guns out of the hands of criminals; and

WHEREAS, on April 25, 2006 a bipartisan group of fifteen Mayors met in New York City at the Mayor's Summit on Illegal Guns, co-chaired by Mayor Michael R. Bloomberg and Mayor Thomas M. Menino, to begin a nationwide effort to fight illegal guns; and

WHEREAS, as local officials we are bound to do everything in our power to protect our residents, especially our children, from harm; and

WHEREAS, the illegal use of guns is a significant threat to public safety.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities calls on Congress to reject legislative proposals that limit our cities' ability to solve and prevent crime in our communities; and

BE IT FURTHER RESOLVED that local governments and law enforcement agencies be allowed to fully and publicly utilize ATF gun trace data because it is critical to successful criminal investigations and crafting strategies to reduce violent crime in our cities and towns; and

BE IT FURTHER RESOLVED that Congress should remove restrictions it has placed on the availability and use of trace data that prevents the data from being used for academic and not-for-profit research; and

BE IT FURTHER RESOLVED that as local officials we will adopt and work together to find innovative new ways to advance the following principles:

- Punish—to the maximum extent of the law—criminals who possess, use and traffic in illegal guns;
- Target and hold accountable irresponsible gun dealers who break the law by knowingly selling guns to straw purchasers;
- Oppose all federal efforts to restrict cities' right to access, use, and share trace data that is so essential to effective enforcement, or to interfere with the ability of the ATF to combat illegal gun trafficking;
- Work to develop and use technologies that aid in the detection and tracing of illegal guns;
- Support all local, state and federal legislation that targets illegal guns; coordinate legislative, enforcement, and litigation strategies; and share information and best practices; and
- Expand the number of local officials engaged in this effort to combat illegal guns.

NLC RESOLUTION #2012-29**RESOLUTION ON CRADLE TO PRISON PIPELINE**

WHEREAS, homicide is the leading cause of death among black males ages 15-24, and black males ages 15-19 are almost four times as likely as their white peers to die from a firearm injury and six times as likely to be homicide victims; and

WHEREAS, a black child born in 2001 has a 1 in 3 chance of going to prison in his lifetime and black juveniles are about four times as likely as their white peers to be incarcerated; and

WHEREAS, today 580,000 black males are serving sentences in state or federal prison, while fewer than 40,000 black males earn a bachelor's degree; and

WHEREAS, although minority youth represented just 39 percent of the U.S. juvenile population they represent 60 percent of committed juveniles; and

WHEREAS, the suspension rate among black public school students is three times that for white students and black children are almost twice as likely as white children to be retained in a grade; and

WHEREAS, a Harvard Civil Rights Project and Urban Institute Report found in 2001 only 50 percent of black students graduated from high school on time with a regular diploma; and

WHEREAS, black babies are almost twice as likely as white babies to be born to teen parents and 56 percent of black children live in a single-parent household; and

WHEREAS, single mother households are almost six times as likely to be poor as two-parent households; and

WHEREAS, in 2006, 17.4 percent of children in America, 13 million children (one in six), were poor; and

WHEREAS, today in America, the richest nation on earth, there are 1.2 million more children living in poverty than there were in 2000, an increase of 11 percent; and

WHEREAS, black babies are almost four times as likely as white babies to have their mothers die in childbirth and more than twice as likely as white babies to be born at very low birth weight and to die before their first birthday; and

WHEREAS, a congressional study found 15,000 children in juvenile detention facilities, some as young as 7 years old, solely because community mental health services were unavailable; and

WHEREAS, studies have reported that as many as three-fourths of incarcerated youths have mental health disorders and about 1 in 5 has a severe disorder; and

WHEREAS, racial disparity runs through every major system impacting children's life chances such as health care, education, child poverty, family status and the juvenile/criminal justice system with these contributing factor being the fuel to the Cradle to Prison Pipeline.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) urges Congress and the President to encourage that every child has a healthy start through available and affordable comprehensive health and mental health coverage that includes pregnant women wherever they live in America; and

BE IT FURTHER RESOLVED that NLC urges Congress and the President to encourage all children to be ready for school and make sure every child can read by the 4th grade through Early Head Start, child care and preschool; and

BE IT FURTHER RESOLVED that NLC urges Congress and the President of the richest nation on earth to end the child and family poverty that drives so much of the Prison Pipeline process and the racial disparities faced by black children who are disproportionately poor; and

BE IT FURTHER RESOLVED that NLC urges Congress and the President to dramatically decrease the number of children who enter the child welfare and juvenile and criminal justice systems and stop detaining children with adults and reduce the racial disparities in these and other child serving systems; and

BE IT FURTHER RESOLVED that NLC urges Congress and the President to work for a fundamental paradigm shift in child policy and practice away from the too frequent first choice of punishment and incarceration to prevention and early intervention and a sustained child investment.

NLC RESOLUTION #2012-30**URGING FEDERAL RESOURCES TO SUPPORT
INCREASED DNA USE IN NON-VIOLENT CRIMES**

WHEREAS, a 2008 pilot study by the National Institute of Justice found that DNA collection and analysis in non-violent propriety cases yielded twice as many suspects identified, arrested, and cases accepted for prosecution than traditional investigations, as well as those arrested had twice the amount of prior arrests and prior convictions; and

WHEREAS, suspects identified by DNA had at least twice as many prior felony arrests and convictions as those identified by traditional investigation; and

WHEREAS, DNA is at least five times as likely to result in a suspect identification compared with fingerprints; and

WHEREAS, since 2001 Great Britain has had success expanding the use of DNA analysis to non-violent criminal incidents, such as property crimes like burglary, with tremendous success; and

WHEREAS, the increase use of DNA collection has been proven to remove repeat offenders from the streets who often avoid arrest and convictions with traditional methods; and

WHEREAS, cities across the country would benefit from expanding DNA evidence collection and analysis to non-violent criminal investigations; and

WHEREAS, despite the promising findings, expansion of DNA use will place increased costs on already stretched local criminal justice budgets.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities urges the federal government to direct resources to increase the use of the DNA collection and analysis in criminal cases, including resources for cities for training and additional law enforcement costs.

NLC RESOLUTION #2012-31**ON MENTAL HEALTH AND THE CRIMINAL JUSTICE SYSTEM**

WHEREAS, interactions between law enforcement and persons with mental illness can require special training, be difficult to resolve, and involve volatile situations that risk the safety of all involved; and

WHEREAS, a June 2009 study¹³ found that 15 percent of men and 31 percent of women in United States prisons and jails have serious mental illness, constituting more than one in every eight inmates; and

WHEREAS, these numbers suggest that as many as 2 million bookings of people with serious mental illnesses may occur each year, resulting in the criminalization of the mentally ill; and

WHEREAS, substance abuse and dependence, which are both highly inter-related with mental illness, lack of psychiatric treatment, and noncompliance with psychiatric medications are significant predictors of arrest for those with mental illness; and

WHEREAS, deinstitutionalization, lack of adequate community support for persons with mental illness, difficulty gaining access to community treatment, and the attitudes of police officers and society are all commonly cited as causes for persons with mental illness being placed in the criminal justice system; and

WHEREAS, because jails and prisons are not the optimal settings to provide acute psychiatric treatment, many communities have instituted mechanisms to divert individuals with serious mental illnesses from jail to community-based services or provide offenders with mental illness reentry strategies and transitional services upon release.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) believes that how the criminal justice community engages people with mental illness is an issue of national concern; and

BE IT FURTHER RESOLVED that NLC urges Congress to support programs that provide mental health consultation to law enforcement in the field, and formal training on how to identify the symptoms of mental illness and the most effective ways to interact with individuals displaying these symptoms; and

BE IT FURTHER RESOLVED that NLC urges the Department of Justice and Congress to fund joint efforts between local law enforcement and health officials, to reduce repeat calls for service and better serve people with mental illnesses; and

¹³Henry J. Steadman, Fred C. Osher, Pamela Clark Robbins, Brian Case, and Steven Samuels. *Prevalence of Serious Mental Illness Among Jail Inmates*, Psychiatric Services 2009 60: 761-765.

BE IT FURTHER RESOLVED that NLC urges Congress to provide funding for programs to improve the screening of incoming jail and prison detainees for mental illness; promote diversion to mental health programs when appropriate; increase the availability of grants for mental health courts and other diversion efforts; provide intensive treatment when necessary; and, ensure transitional services when leaving jail; and

BE IT FURTHER RESOLVED that NLC urges Congress to pass legislation that ensures that appropriate programs such as, Medicaid, disability, educational or vocational retraining or other federal benefits are available to eligible individuals on the first day of their release, ensuring access to the necessary services and resources vital to making a successful transition back into society.

NLC RESOLUTION #2012-32

URGING THE REVISION OF THE CURRENT MEXICAN EXTRADITION POLICY

WHEREAS, the Preamble to the U.S. Constitution lists providing for the “common defense” as one reason for forming our national government; and

WHEREAS, the Constitution prohibits state and local governments from entering into treaties with foreign governments to protect their citizens and arrange extradition for criminals; and

WHEREAS, the “Extradition Treaty” (1980) allows Mexico to refuse to extradite a fugitive if U.S. courts charge the suspect with a capital offense, and now the Mexican Supreme Court has recently ruled that Mexico will not extradite criminals who face a life sentence in the United States; and

WHEREAS, this restriction and policies followed by Mexico and other nations provides a safe haven for those who are charged with the most serious crimes in our municipalities, including murder and terrorist acts; and

WHEREAS, the existence of any safe haven for those who are alleged to be the most heinous criminals presents an enormous challenge for border states seeking to defend their citizens; and

WHEREAS, the resolution of this issue is critical to defending our nation from enemies both foreign and domestic.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities calls upon the President and Congress to use all diplomatic means at their disposal to insist that the “Extradition Treaty (1980)” be revised to resolve the critical issue of the extradition of those alleged to have committed serious and violent crimes against the people in the United States.

NLC RESOLUTION #2012-33**ENCOURAGING FEDERAL EFFORTS AND COLLABORATION
TO PROTECT AGAINST AND RESPOND TO CYBER THREATS**

WHEREAS, the growing number of attacks on our cyber networks has become "one of the most serious economic and national security threats our nation faces;"¹⁴ and,

WHEREAS, cyberspace has been recognized by the federal government as a key strategic asset for the United States with its security being vital; and,

WHEREAS, in 2011 the General Accountability Office added "the Nation's Cyber Critical Infrastructures" to its list of operations it identifies as "high risk... problems impeding effective government and costing billions of dollars each year;"¹⁵ and,

WHEREAS, the federal government has warned that cyber-based infiltrations of the nation's electric grid, water, sewer, and other critical infrastructure have already occurred, and have left behind software programs that could be used to disrupt the system; and,

WHEREAS, the 2003 Northeast power blackout, although in no way connected to a cyber-attack, showed how failure in even a small part of the grid can have cascading effects; and,

WHEREAS, municipalities manage critical infrastructure such as utilities and transit systems, as well as maintain sensitive databases on individuals, public works, and industries; and,

WHEREAS, information sharing across all levels of government and the private sector is lacking, often leaving municipalities unaware of the latest threats to data systems; and,

WHEREAS, municipalities are often not aware of steps that can be taken to mitigate threats to networks; and,

WHEREAS, changes in how we utilize electronic communications has resulted in important questions about civil rights and privacy protections; and,

WHEREAS, Congress has recognized the need for a greater federal role, introducing approximately 50 cyber-related bills in the last session; and,

WHEREAS, as a result of its 60-day Cyberspace Policy Review, the White House has proposed comprehensive cybersecurity legislation to Congress and intends to continue to mature the federal role in cyberspace.

NOW THEREFORE, BE IT RESOLVED, that NLC believes there is a crucial federal role in cybersecurity related to national security, protection of sensitive information and intellectual property, and the availability and continuity of infrastructure; and,

¹⁴ President Barack Obama. "Remarks By The President On Securing Our Nation's Cyber Infrastructure." May 29, 2009.

¹⁵ General Accountability Office. Report GAO-11-278, "High-Risk Series: An Update." February 2011.

BE IT FURTHER RESOLVED, NLC applauds the Administration and Congress for recognizing the increasing importance of securing cyberspace, taking initial steps to review federal policy on cyberspace, and reaching out to state and local governments, and the private sector, on this issue; and,

BE IT FURTHER RESOLVED, that federal engagement with state and local governments, as well as the private sector, must increase to ensure the safety of e-commerce and to secure critical infrastructure from online threats; and,

BE IT FURTHER RESOLVED, that the frameworks for facilitating the sharing of information on cyber threats among all levels of government, such as the Multi-State Information Sharing and Analysis Center (MS-ISAC) and other members of the National Council of ISACs, as well as with the private sector, must be encouraged; and,

BE IT FURTHER RESOLVED, the federal government should disseminate cyber-intrusion detection and prevention tools to intergovernmental partners, and be permitted, when requested, to provide assistance to localities and other entities in addressing and repairing damages from a major cyber-attack and for advice on building better defenses; and

BE IT FURTHER RESOLVED, NLC urges Congress and the administration to safeguard civil liberties and privacy of its citizens while maintaining the safety and stability of the internet.

NLC RESOLUTION #2012-34**ON STOPPING HUMAN TRAFFICKING**

WHEREAS, 150 years ago President Abraham Lincoln issued the Emancipation Proclamation, proclaiming the freedom of millions of slaves; and,

WHEREAS, the 13th Amendment to the Constitution officially abolished and continues to prohibit slavery and involuntary servitude in the United States; and,

WHEREAS, human trafficking is a modern day form of slavery that impacts people of all ages and of both genders, where services, labor, or sex are supplied by victims who are forced, defrauded or coerced to work through such methods as involuntary servitude, debt bondage, and forced labor; and,

WHEREAS, human trafficking is a high-profit and low-risk endeavor for the traffickers, estimated to bring in \$32 billion a year internationally making it second only to the narcotics trade in international profitability; and,

WHEREAS, at the heart of this heinous crime are the myriad forms of enslavement – not the activities involved in international transportation—and hundreds of thousands of U.S. citizens and other permanent residents, including kidnapped and homeless youth, are considered to be at risk for or victims of trafficking; and,

WHEREAS, victims of human trafficking live among us in our cities and towns, but are typically captive and isolated, unaware of their rights, powerless to access services, and afraid to ask law enforcement and other authority figures for help; and,

WHEREAS, human trafficking occurs across the United States, in large cities as well as small towns, in affluent and poor neighborhoods; and,

WHEREAS, combating human trafficking requires a collaborative, comprehensive approach across all levels of government; and,

WHEREAS, the U.S. Congress passed the Trafficking Victims Protection Act in October 2000, updating human slavery statutes and creating for the first time a comprehensive Federal law to protect victims of trafficking and to prosecute their traffickers; and,

WHEREAS, municipalities support the subsequent efforts of the Department of Justice, the Department of Homeland Security, the Department of Health and Human Services, and the Department of State to work with state and local governments, as well as key service providers, to prevent human trafficking, apprehend and prosecute human traffickers, and support the victims of human trafficking.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities calls on the United States Congress to reauthorize and provide adequate funding for the Trafficking Victims Protection Reauthorization Act, which will give law enforcement additional tools and resources to prevent

human trafficking, investigate human trafficking crimes, promote increased cooperation among federal agencies, between the U.S. and other countries, and between federal, state and local law enforcement; and,

BE IT FURTHER RESOLVED that the federal government should continue training key state, local government, and non-profit personnel, as well as make efforts to increase the public's awareness of human trafficking.

NLC RESOLUTION #2012-35

**IN SUPPORT OF FEDERAL LEGISLATION AND AN INTERSTATE COMPACT TO
COMBAT PILL MILLS**

WHEREAS, the Office of National Drug Control Policy states that prescription drugs account for the second most commonly abused category of drugs, behind marijuana and ahead of cocaine, heroin, methamphetamine, and other drugs.

WHEREAS, prescription drug abuse poses a unique challenge because of the need to balance prevention, education, and enforcement, with the need for legitimate access to controlled substance prescription drugs.

WHEREAS, the term “pill mill” is used to describe a doctor, clinic or pharmacy that is prescribing or dispensing powerful narcotics inappropriately or for non-medical reasons.

WHEREAS, H.R. 1065, known as the “Pill Mill Crackdown Act of 2011,” as introduced toughens federal penalties for pill mill operators by doubling the prison sentence for offenders from 10 to 20 years and tripling the fine from \$1 million to \$3 million.

WHEREAS, H.R. 1065 as introduced uses assets seized from drug violators to fund state drug monitoring databases, enforce actions against pill mills, and support drug treatment programs.

WHEREAS, H.R. 1065 as introduced reclassifies hydrocodone combination drugs (some of the most addictive and dangerous drug mixtures) to make them more difficult to prescribe and obtain.

WHEREAS, prescription monitoring programs (PMPs) are highly effective tools utilized by government officials for reducing prescription drug abuse and diversion. PMPs collect, monitor, and analyze electronically transmitted prescribing and dispensing data submitted by pharmacies and dispensing practitioners.

WHEREAS, currently 48 states and one territory have legislation authorizing the creation and operation of a PMP. Thirty-five states currently have a PMP that is operational, whereby they are collecting data from dispensers and reporting information from the database to authorized users.

WHEREAS, the ideal means for achieving greater uniformity, information sharing and cooperation across state lines does not yet exist.

WHEREAS, an interoperable system of information sharing among the various state monitoring programs is likely to be a far more reliable and effective means of ensuring that these medicines are properly distributed.

WHEREAS, the Council of State Governments, in conjunction with federal and state policymakers, state legislators, and other interested stakeholders, has developed the Prescription Monitoring Program Compact.

WHEREAS, congressional consent is required by Article I, Section 10 of the United States Constitution to create an interstate compact.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) support the passage of H.R. 1065, known as the “Pill Mill Crackdown Act of 2011,” as introduced.

BE IT FURTHER RESOLVED that NLC supports the creation of an interstate compact to link prescription drug monitoring programs from state to state.

7.00 Introduction

A. Information Technology and Communications

Local officials have traditionally been leading proponents of the development of new and emerging technologies and NLC supports federal policies that promote universal access, technological innovation, competition, and implementation of new services. For local communities, the existence of an affordable and modern communications infrastructure means rapid dissemination of and efficient access to information, increased productivity, new economic development opportunities, and an improved quality of life. Communications and information technology have become integral to efficient, equitable, and affordable health care, social services, public safety, education and job training, transportation and other lifeline services. *(In this chapter, unless specifically noted, the word telecommunications shall include voice, video, data, and all other services delivered over cable, telephone, fiber-optic, wireless and all other platforms.)*

B. Local Authority

NLC supports a balanced approach to telecommunications policy that allows new technologies to flourish while preserving traditional local regulatory authority. In particular, federal policies should not undermine the ability of municipal officials to protect the health, safety and welfare of their residents by diminishing local authority to manage public rights-of-way, to zone, to collect just and fair compensation for the use of public assets, or to work cooperatively with the private sector to offer broadband services. Regulation and oversight of basic telecommunication services are important prerogatives for local officials to advance community interests, including the provision of high quality basic services that meet local needs and are available at affordable rates to all consumers.

7.01 National Broadband Policy

NLC advocates for all levels of government (local, state, and federal) to facilitate the deployment of broadband networks and services through policies and regulations that favor government and private sector investments and further encourage development.

NLC supports federal proposals that promote community/municipal broadband that preserves the authority of local governments to act in the interest of their citizens by offering broadband internet access, and preempts states from barring local governments from offering such services in their communities.

Recognizing the varying needs of communities, NLC urges the creation of national standards for broadband connection speeds that support rich internet applications needed by our communities, are internationally competitive, and allow for technological advancement.

7.02 Municipal Oversight

A. Rights of Way

Public rights-of-way are properties owned by the citizens of a municipality that are managed by local governments for the benefit of those citizens. Proper management is essential for transportation of people, goods and services and for utilities including power, clean water, stormwater, sanitary sewer and telecommunications. Municipal governments engage in a variety of activities related to rights-of-way to protect the public safety and welfare, to minimize service disruptions to the public, to protect public investments in rights-of-way, to assure the proper placement of service lines, to regulate the placement of service facilities and to realize the value of this public asset. Underlying these municipal roles and control is the fact that the use of publicly-owned rights-of-way is a privilege, not a right. Use of municipal rights-of-way is not an entitlement flowing from the Federal Telecommunications Act. Local governments are legally and ethically obligated to control and charge for the use of rights-of-way. Moreover, the federal government must not mandate to local governments that the various users of rights-of-way (sewer, electricity, cable etc.) be treated in precisely the same fashion, given that these industries place dissimilar demands and risks on the rights-of-way.

Municipalities, authorized to manage and receive compensation for commercial use of the public rights of way, may conduct a number of activities to achieve their management goals, including, but not limited to, the granting of franchises and licenses, the promulgation of construction, restoration and maintenance standards, the levying of taxes, the charging of fees, the levying of rental charges and the issuance of permits. The federal government should take no actions which restrict the authority of municipalities in these areas.

As telecommunications and other services (that utilize public rights-of-way) are offered by different providers, and as services are bundled together or separated (segmented) in different ways, cities need the ability to adjust their regulations to the new provider environment. The federal government should remove federal barriers to this adjustment process by municipalities. Federal law should not preempt municipal regulations which require advance notification to the municipality of the offering of new services (using the rights-of-way) or when the use

of existing facilities within the rights-of-way are converted to new uses. In addition service providers should be encouraged to deploy new technologies and not withhold implementation to the detriment of a community.

Federal law should make clear that rent and other payments based on market value for public property, including rights-of-way, are appropriate and legal. Municipalities must have the authority to assess fees reflective of just and reasonable compensation for the use of public rights-of-way. There should be no federal limitation on the ability of a franchising authority to impose appropriate franchise fees for the provision of non-cable services or the provision of service by any provider of telecommunications services and its affiliates, or multi-channel video programming distributors using public property or public rights-of-ways. Moreover, franchising authorities should be able to assess a franchise fee on all operations of the service provider, or any other provider of cable or any other telecommunications system capacity, as any such use constitutes a valuable right for which a city should receive fair compensation.

Municipal requirements for users of the rights-of-way including but not necessarily limited to the following should be clearly recognized in federal law as appropriate exercises of municipal authority:

- Posting bonds;
- Notifying the municipality of excavations;
- Notifying the municipality of time, place, and manner of entry into rights-of-way;
- Complying with municipality requirements regarding excavation methods;
- Participating in the costs of street reconstruction;
- Qualification requirements for contractors and subcontractors;
- Demonstrating ability to guarantee the quality of restoration work;
- Complying with regulations specifying the frequency of when a street can be excavated; or
- Being subject to special assessments for street paving.

The type of requirements listed above should never be classified under federal law as illegally discriminatory practices or as barriers to market entry.

B. Land Use and Zoning

1. General

The Federal Government must not preempt or restrict zoning authority and other local land use laws or requirements applied in a non-discriminatory and timely manner that regulate the location, placement, size, appearance, screening or siting of transmission and receiving facilities and any other communications facilities such as satellite dishes, radio towers, broadcast

facilities, microwave facilities, equipment housing and similar facilities. (*See Related Policy under CED Section 3.07 (A) Land Use*)

2. Adjudication

Disputes over local zoning and land use matters must be adjudicated by the state courts and not the FCC.

3. Exclusive Remedy for Personal Communications Facilities

NLC supports judicial decisions and legislation that express the clear Congressional intent to preclude application of damages and attorney fee remedies against local and state governments under federal civil rights statutes for violations of section 704.

4. Notice from FCC

A copy of each application filed with the Federal Communications Commission, for construction of broadcast transmission facilities, must be provided concurrently by the applicant to all units of general purpose local government impacted by the proposed facilities, and at a minimum all those located within 20 miles of the proposed facility.

5. Radio Frequency Radiation Emissions

The federal government has established standards for radio frequency emissions. Local governments must be permitted to monitor and enforce these standards.

6. Interference with Public Safety Communications

Local governments must have the authority under federal law to enforce zero-tolerance standards for interference with public safety communications.

C. Telephone Services

NLC opposes federal efforts to curb the ability of local officials to collect local telecommunications taxes. NLC opposes efforts to classify wireline digital subscriber lines (DSL) as an information service, thereby removing DSL platforms from under current regulation under Title II of the *1996 Telecommunications Act*.

D. Internet-Based Services

The Internet is providing both new opportunities and new regulatory challenges. Local governments must have the ability to exercise their legitimate authority to regulate service and collect revenue from telecommunications providers, including companies that operate or provide Internet services within their jurisdictions. Since broadband networks and the Internet will increasingly emerge as the delivery mechanism for telecommunications services, NLC is concerned about the adverse consequences of efforts to exempt all broadband Internet access services from municipal oversight. In particular, NLC opposes efforts to classify telecommunications, including standard voice services, as information services because the carrier has used Internet protocols for some or all of the transmission of

the service or because the service is routed over the Internet or is otherwise associated with the Internet.

NLC disagrees with federal efforts to classify or re-classify VoIP services as information services - what has historically been known as telecommunications, cellular or cable services - simply because a service provider uses Internet protocols for some or all of the transmission of the service. The federal government should not preempt the ability of local governments to regulate and/or impose taxes and fees on communications companies doing business within their community simply because of the technology employed to code the transmission of a voice, video or data signal. NLC believes that all VoIP providers should be required to incorporate those technologies as a part of their basic offerings that ensure full and effective access by all households of 911 emergency services and E911 location technology.

E. Cable Modem Services

Municipal regulation of cable television is essential for many reasons, including management of public rights-of-way and protection of consumer interests. NLC believes cable modem service should be classified as a “cable” service, not as an information service, thereby subjecting the service to municipal oversight.

F. Satellite and Wireless Services

NLC opposes federal actions that have the direct or indirect effect of preempting legitimate state and local authorities from collecting revenues from wireless services transactions, sales, or other means.

7.03 Consumer Protection

Municipalities have a fundamental responsibility to protect the public health, welfare and safety through the exercise of police powers vested in them by action of their residents or the operation of state law. Through such mechanisms as: direct provision of services, franchising, permitting, and licensing, municipal governments have and maintain oversight over multiple communication systems, which are essential to this objective.

A. Media Ownership

The public interest is best served by the availability of a diverse range of viewpoints. Federal laws and regulations must ensure a competitive framework that preserves the independence and quality of local media markets and provides the public with different perspectives, services and programming.

Government regulation is required to ensure the continued presence of smaller, independently owned media outlets in markets where there would be little or no market pressure to provide for independent journalism and reporting. Media outlets that make use of valuable,

publicly owned resources such as radio frequency spectrum and local rights-of-way must be regulated by a government entity to ensure that those public resources are used in the public interest rather than just in the media outlet owner’s private interest.

B. Telephone Competition

Section 251 of the Telecommunications Act of 1996 requires incumbent telephone providers to open up their networks and enable competitors to lease parts of the network. Unbundled network element platforms grant competitors access to individual elements of the incumbent networks in order to provide competitive services. NLC opposes federal deregulatory efforts that might hinder competition at the local level and ultimately affect consumer choices and services rates.

C. Privacy

1. Privacy and Consumer Protection

Federal law must not limit the ability of municipalities to protect consumers from the misuse of personally-identifiable information. The consequences to individuals from the use and misuse of personal information and shifting public expectations for information privacy should be at the forefront of federal policy decision-making. The collection, maintenance, use and dissemination of personal information have been facilitated by the vast capabilities of modern information technology.

2. Privacy and Public Records

Local governments have an important role as collectors and caretakers of vital information about the people and communities they govern. This information is a unique resource used by governments to plan and deliver services and, under state and local guidelines, by citizens and the private sector to enhance educational, social and economic objectives.

NLC opposes any federal law or regulation, which would limit a municipality’s discretion in determining what information, held by a municipality, should be made available electronically.

A municipal government should have no legal exposure under federal law or regulation if a municipality makes information, which is public under its state law, available to any member of the public.

To safeguard municipal interests and promote expanded use of innovative information technologies, municipalities should never be required by federal law or regulation to provide data electronically, or in an electronic format that involves a significant development cost without reasonable compensation for, at minimum, the marginal cost of providing the service. Cities should be allowed to provide information in the format that is generally employed to meet the needs of the

municipality, which may not necessarily be in the form that a requester desires.

D. Abusive Practices – Unsolicited Communications

NLC supports federal efforts to curtail unsolicited communications, including, but not limited to, phone calls, faxes, e-mails, pop-up Internet ads and abandoned phone calls, except in situations where an established business relationship exists. In addition to being a nuisance, the costs of such unsolicited communications are often passed on to consumers and businesses. However, federal actions, such as national “do not call” registries, should not preempt or weaken existing state or local laws.

E. Abusive Practices – Unsolicited Wireless Communications

NLC encourages federal action to eliminate unsolicited wireless communications, including, but not limited to, phone calls and text messages, except in situations where an established business relationship exists. In addition to being a nuisance, the costs of such unsolicited communications are fully paid for by the recipient.

7.04 Universal Availability of Telecommunications Services

A. Principles

Telecommunications services are no longer bound to a single, exclusive engineering or physical delivery mechanism. Convergence refers to delivering services over non-traditional platforms, utilizing multiple technologies to deliver a particular service, and delivering multiple services over a single platform. A common example is telephone (voice) and data delivered by cable. Past regulatory regimes – applied to specific communications services, delivered via specific technologies – will be irrelevant and unworkable in a market where “cable companies,” “phone companies,” and their competitors deliver packages of comparable services via different technologies.

Implementing the principles of universal availability requires participation from the private, non-profit and governmental sectors. The private sector's role is to meet consumer demands by innovation and engaging actively in the market through product and service development and support. The non-profit sector may provide support for individuals that are not adequately served by the market or government programs.

Governmental programs are required in this area because the market cannot fully meet local, state and national objectives. Barriers of geography, technology, settlement patterns, poverty and other factors stand in the way. All levels of government have a role in ensuring universal availability. Despite the move to de-regulate services, states, through their public utility regulatory structures, have significant and changing roles in this area.

Municipal and other local governments can make significant contributions to universal availability through community needs analysis, regulation, financing, franchising, direct provision of services, progressive management of city properties including rights-of-way and a variety of other means. The federal government must not preempt municipal authority to act in the interest of its citizens, especially where fully competitive and affordable services do not exist.

The federal government, because of its scale and geographic scope, has a unique role in providing redistribution of service costs so that a national system of universal affordable access exists. These roles are critical in order to bridge gaps between universal service and what the private sector provides in response to the market.

B. Recommended Federal Actions

In order to carry out this central role in ensuring affordable access, the federal government should encourage the provision of universal availability through regulation, tax policies, incentives and other means. Such programs could include financial and technical assistance to local governments.

Among the specific actions and programs that the federal government should implement to promote universal access are the following:

- The e-rate program, providing communications assistance to schools (K-12, adult services) and libraries, operated by the Federal Communications Commission and funded by universal service fund contributions.
- Matching grants to provide additional sites for telecommunication services access by the public in municipal facilities, including, but not limited to, city buildings, community centers, housing authorities, parks and recreation sites and other community facilities.
- Technology grants for municipal governments without financial resources for technology acquisition. These modernization grants should be targeted to bring municipalities to a basic level of municipal service with eligibility based on a number of factors including size and per capita income. It should particularly address the needs of small municipalities with low-income populations.
- Tax credits to providers that deploy broadband services in underserved areas.
- Tax credits for donations of technology by individuals and other entities.
- Aid to entities that refurbish, distribute and provide technical support for donated technology equipment to underserved populations.
- Classification of a greater range of advanced telecommunications services as essential (basic) and thus eligible for subsidization.

- Classification of cable modem service as a “cable” service, thereby subjecting the service to municipal oversight in regard to many aspects of universal service.
- Technology-neutral eligibility for subsidies to advance universal service. Services provided with wires, cables, wireless or any other means, which can meet defined performance criteria, should be eligible for support programs.

While federal policies should be designed to maximize the availability of all services throughout the country, federal programs, to support affordable access to the following services, should be a priority:

- Capacity for all households and businesses to be connected to the Internet;
- All schools should have the capacity of high speed connection to the Internet;
- Every public library should have a connection to the Internet;
- All households should have a connection to 911 services; and
- A lifeline package of affordable telecommunications services should be available to all households.

C. Financing of Universal Availability

All providers of telecommunications services should contribute to programs of universal telecommunication services on an equitable and non-discriminatory basis. Programs to support universal service should be predictable and sufficient to meet documented and projected needs. Such programs should be accorded resources and a priority in federal policy consistent with their status as a basic, essential service.

D. Network Neutrality

The federal government should mandate compliance with the following principles by all companies owning networks or offering Internet access, regardless of technology they employ:

- Internet users and creators of services should have unrestricted access to and use of their choice of lawful Internet content, applications, and services;
- Internet users are entitled to connect their choice of legal devices to the network;
- While network owners define the cost and technical limits of their service, consumers must receive meaningful information regarding their service plans, including but not limited to information about anticipated upload and download speeds;
- Each of these principles should apply regardless of an Internet user’s income, race, geographic location, or disability; and
- Enforcement of these principles and similar principles are essential to ensure that the public receives the maximum diversity of information and the maximum competition among providers of services, equipment, content, and Internet access.

7.05 Spectrum

A. General

The electronic spectrum is the collective term for the categories of radiation ranging from very low frequency infra-sonics to very high frequency cosmic rays. While the electromagnetic spectrum also encompasses infrared, visible light, ultraviolet, x-rays, and gamma rays the portions of the spectrum primarily regulated by the federal government and the chief focus of this policy are those covering radio and microwave spectrum which are used for communications purposes. Spectrum is a finite non-renewable natural resource owned by the people and managed by the government.

The federal government must allocate sufficient telecommunications spectrum to municipalities for public safety use in order to enhance inter-operable communications among public safety and service agencies, and to ensure the ability of local governments to meet their responsibilities for public safety and emergency services. The federal government must also involve cities as it develops standards for the delivery of emergency information on cable systems.

If federal reallocation of radio spectrum forces a municipality to change frequencies, channels, or both to preserve their public safety and emergency communications services, there should be fair compensation made for transfer costs. Such compensation should include all costs reasonably incurred by the municipality, including, but not necessarily limited to, new equipment and infrastructure for broadcasting under a different frequency, and additional personnel and training.

B. Spectrum Fees

The federal government should discontinue its practice of selling the spectrum. The federal government should instead lease or rent the spectrum. This change will allow the federal government to assure users sufficient time to recover investments and at the same time provide the federal government the authority to reallocate this public resource, spectrum, as technologies and public needs evolve.

Localities must not be preempted from collecting revenue from consumers of services provided through use of the spectrum.

Municipalities do not have the financial resources to compete equally with the private sector for spectrum space, and since local government public safety communications are not revenue producing services, municipalities should be exempt from any fees imposed by the federal government for spectrum, or from any system of auctioning for spectrum space.

NLC opposes the sale of spectrum. Any federal receipts generated by access to spectrum should be set-aside in a federal trust fund, with protections equivalent to the highway trust fund. Such funds should be used to finance communications technology with priority given to:

- Payment to state and local government agencies to address and correct issues of interference between private spectrum users and public safety communication;
- Public safety and domestic security communications; and
- Creation of a Digital Opportunity Investment Trust charged with promoting and investing in educational and civic uses of digital technology.

C. Spectrum Management Issues

The federal government should establish a comprehensive spectrum management master plan that includes input from all stakeholders, including local government, which provides that:

- Any non-governmental user of spectrum should have a “use or lose” condition attached to its allocation which requires the user to return the allocation to the federal government if not put into use within three years;
- The federal government must establish as the highest priority for federal spectrum administration guaranteed, “interference-free”, interoperable domestic public safety and defense communications;
- Enforcement to eliminate “interference” is the province of the federal government. The federal government must staff, fund and operate its enforcement and complaint response functions to ensure prompt resolution of reported problems;
- In order to promote the preceding two objectives, the federal government should create a system of joint (collaborative) jurisdiction with state and local governments to enforce non-interference conditions within local jurisdictions;
- The federal government will initiate eminent domain or other procedures to reclaim spectrum which is determined necessary for public protection and security needs;
- A continuous dedicated stream of federal funding for public protection and safety communication is established;
- The federal government will work collaboratively with local governments to increase security of telecommunications infrastructure used to remotely control water and power facilities and other public utility systems which may be attractive potential targets for acts of terrorism;
- Within the Cabinet-level Department of Homeland Security a position of Coordinator for Public Protection and Safety Communications should be established by the federal government; and

- The federal government should vigorously encourage compliance with requirements for enhanced 911 location technology in personal communications systems, granting waivers to carrier compliance time schedules sparingly.

D. Spectrum Allocation for Low Power Over-the-Air Transmission

NLC urges the federal government to promote universal access by giving priority to municipalities for government access programming on low-power channels and radio bands when opportunities arise to re-allocate and license spectrum space. In addition, the federal government must provide adequate spectrum for translator facilities to promote the availability of “free broadcast” reception wherever feasible.

E. Instructional Televised Fixed Services

The federal government should require the licensee/applicant to provide a commitment of community public service as a prerequisite to any instructional televised fixed services licenses, leasing, resale or granting of broadcast spectrum space.

7.06 Wireline Telecommunications Providers

Within this section, the phrase “telecommunications providers” is intended to cover wireline telecommunication providers that historically provided telephony and/or television services. The phrase “municipalities” is intended to cover both municipalities and franchise authorities, other than municipalities, where applicable.

A. Federal/Local Jurisdiction over Wireline Telecommunications Providers

Federal jurisdiction should be limited to matters expressly and unambiguously designated by statute as federal matters. All other matters should be left to local and state control; municipalities should have primary authority over local and other related intrastate matters. Federal laws and regulations should recognize, respect, and not restrict local government authority.

Municipal regulation of wireline telecommunications systems is essential for several reasons:

- To manage use of the valuable and limited public rights-of-way;
- To protect consumer interests;
- To foster public, educational, and government (“PEG”) use of the system; and
- To protect the community’s needs and interests for which their rights-of-way are being occupied.

As authorities exercising police power to promote public health, safety and welfare, municipalities should be responsible for local matters such as:

- Management and control of the public rights-of-way;
- Consumer protection and enforcement of meaningful customer service standards, consumer choice, competitive consumer pricing;
- Continuity of service in cases of transfer, assignment, abandonment or termination;
- The use of municipally-owned/controlled facilities, including, but not limited to municipal services, poles, and conduits (and the fees for such use);
- Determining whether to require universal, nondiscriminatory service availability to subscribers; and
- Determining the use of franchise fees.

B. Wireline Telecommunications Provider Competition

Federal policies should encourage the development of multiple, competitive wireline telecommunications providers.

Municipalities must not be prevented from installing and operating municipally owned wireline telecommunications systems.

C. Franchise Granting and Administration

Municipalities should be permitted to consider any issues affecting the local public interest – including, but not limited to, the ability and willingness to provide service, PEG access requirements and universal service – in determining whether it is “reasonable” to deny a franchise request. Moreover, municipalities should have the right to consider the following issues relating to franchise administration:

- Impact of a franchise decision on competition in the local marketplace, and deny a franchise requests to providers that would restrict competition
- Franchise awards, modifications, time extensions, transfers, renewals, revocations, enforcement and administration;
- Prior approval or disapproval of transfers;
- The inspection of books and accounts, the conduct of audits; and
- Enforcement of service quality standards.

1. Franchise Renewals

Franchise renewals should be handled in accordance with applicable local law.

Federal law should:

- Allow municipalities to consider competitive renewal proposals at the time of renewal and to grant the franchise to a competitor that will better

serve the community, provided that a locality is not required to grant an incumbent’s bid;

- Provide municipalities with authority to review all elements of the operators’ past performance without regard to transfers of ownership during the franchise term;
- Limit administrative and procedural complexities and establish an “arbitrary and capricious” standard for judicial review of a locality’s renewal decision;
- Provide adequate time periods for making a renewal decision; and
- Permit municipalities to deny renewal requests if a telecommunications system operator is not in substantial compliance with material franchise requirements or has provided inadequate service, regardless of whether a locality had notice of, or provided a telecommunications system operator notice of, franchise violations or inadequate service of notice of such violations.

2. Franchise Transfers

Federal law should not limit a municipality’s ability to disapprove a proposed transfer upon any reasonable grounds, including, but not limited to: (a) a finding of past failure to comply with the franchise; (b) a refusal by the transferee to agree to reasonable business terms or comply with the terms of the franchise in the future; or (c) a finding of economic non-viability (as reflected in the purchase price and the economic impact of these acquisition costs on the community). Federal law should not limit a municipality’s ability to collect all information necessary to fully review a buyer’s qualifications, and should not place unreasonably short time limits on such review.

D. Franchise Fees

Municipalities must be paid fair and reasonable compensation for use of their rights of way. Such amounts should not be limited to the cost of maintaining the rights of way. In addition, payments made for, or in support of the use of PEG facilities, equipment and services, or for institutional networks (I-Nets) should not be considered franchise fees.

With equity and competitive fairness as a framework, municipalities should continue to have the right to own, operate, manage or lease any other voice and data services without a franchise and in competition with franchised providers of such services.

E. Rate Regulation

All traditional cable video services (including charges for installation, equipment, and other related services), should be regulated except for programming offered on a per-channel or per-program basis that is not supported by revenues from advertisements.

1. Rate Structure and Service Options

Federal law should allow a municipality to require a uniform rate structure throughout a franchise area on a nondiscriminatory basis. Uniform rates help ensure the availability of a minimum level of service to low-income, disabled and elderly persons.

Federal law should allow a municipality to require video operators to provide lifeline service at regulated rates or to offer discounts on its services to low-income, disabled and elderly persons.

2. Defining “Effective Competition” for Rate Making

A telecommunications system should be considered subject to “effective competition” under federal law and thereby free from rate regulation if and only if it can prove that it faces direct and meaningful competition throughout the service area of the system, for all features of the telecommunications system.

F. Billing Practices

Federal laws should not permit telecommunications system operators to itemize franchise fees, PEG access and other franchise costs. Existing laws should be repealed or, at a minimum, amended to permit municipalities to require the complete itemization of all costs, including costs attributable to programming, operations and debt service. At a minimum, federal law should be clarified to prohibit telecommunications system operators from passing through as a line item on subscriber bills franchise revenues generated by non-subscriber revenue.

- Franchise fees, PEG access, and other franchise costs should be accurately itemized and classified by federal law as a charge upon the telecommunications system operator’s total gross revenues, and not as an additional charge upon subscribers.
- Telecommunications system operators should be prohibited by federal law from treating such fees or costs as a “pass-through” to subscribers and thus evading payment of franchise fees on 100 percent of their gross revenues.
- Telecommunications system operators should be required by federal law to quote rates inclusive of such fees and costs in all communications, including advertisements and other promotional materials.

G. Consumer Protection

1. Customer Service and Consumer Protection

Federal law should allow municipalities to enact and enforce more rigorous customer service standards than federal standards.

2. Rate Complaints

Federal requirements should not restrict the ability of any individual subscriber from filing complaints directly with the FCC about expanded basic tier rates.

H. Public Access Channels

Federal law should require telecommunications providers offering channel-based programming, regardless of the means of distribution, to meet PEG access obligations as determined by municipalities.

Federal law should: (a) authorize municipalities to require telecommunications providers to provide both operating and capital support for access facilities, equipment, staffing, and maintenance at levels sufficient to ensure the viability of access without any limitations or credits against franchise fees; (b) not limit franchising authorities ability to designate entities to provide access services; and (c) provide liability protection wherever a municipality, access entity, or telecommunications provider does not exercise editorial control over content.

I. Technical and Signal Standards

1. Equipment Specification

NLC supports federal law that allows local municipalities to include facilities and equipment requirements in negotiated franchise agreements. Any federal law that prevents municipalities from prohibiting, conditioning, or restricting the use of any type of equipment used by a telecommunications provider should be repealed.

2. Minimum Standards

NLC supports minimum, national, signal quality technical standards established by the FCC and updated periodically to reflect improvements in technology. A municipality should be allowed to enforce the FCC’s standards or apply to the FCC for a waiver to impose more stringent standards. The FCC must establish standards to ensure compatibility between telecommunications services and consumer electronics equipment. The federal government should consult regularly with major associations of general-purpose local governments and industry representatives on revisions of the federal standards to keep them current as new technologies evolve.

3. Emergency Notices

The federal government must ensure that homes and businesses have access to the same emergency information as is offered by the Emergency Alert System, without regard to which telecommunications technology is used to serve a location.

J. Channel Control and Placement

1. Local Authority over Channels

Municipalities should be permitted under federal law to enforce programming and programming-related requirements contained in franchise agreements, including, for example, the number of channels that must be carried on any tier, requirements for PEG channel capacity, and a lifeline service tier requirement.

2. *Must-Carry Requirements*

NLC feels that federal “must-carry” requirements serve important goals, such as promoting the viewership of public broadcasting systems and preserving the nation’s system of free over-the-air broadcast service.

NLC supports federal law that prohibits broadcasters from using available PEG channels to transmit must-carry signals without a municipality’s approval. Such approval should be obtained in advance of the use of unused PEG channels and such use of PEG channels should be temporary.

3. *Channel Placement and Numbering for Cable*

Municipalities should not be precluded by federal law or regulation from regulating the placement and numbering of access channels to better protect consumers. Municipalities should also be authorized to prohibit any changes in channel assignments on tiers subject to rate regulation unless approved by the municipality.

Changes in alignment for services not subject to rate regulation (e.g., pay-per-view and premium programming) should be preceded by reasonable notice to the municipality and subscribers.

K. Market Share and Ownership Structure

NLC believes that a robust, open, diverse, and competitive market for information is essential to self-governance, and supports policies that ensure diverse ownership of media outlets.

1. *Market Share*

The federal government should limit the percentage of households nationwide served by a telecommunications provider and its affiliates to not more than 25 percent of the nation’s subscribers. The federal government should consider whether to impose limits on the number of subscribers served by a telecommunications provider and its affiliates.

2. *Subsidiary or “Common Carrier”*

As previously separate telecommunications technologies converge, NLC supports federal law that allows telephone companies, (“telcos”) to own and operate cable systems, “open video systems” services, and similar services. This promotes increased competition and facilitates innovation, subject to local cable franchising requirements and appropriate regulatory conditions and safeguards.

Through the franchising process, municipalities must be able to ensure, among other things, that a local exchange carrier providing cable service, or a local exchange carrier that permits others to transmit cable service via its telecommunications facilities or network, which crosses the public rights-of-way, is subject to those franchise-related requirements that the franchising authority deems appropriate, including, but not limited to: franchise fees; customer service standards; technical standards for signal

quality; procedures for reviewing requests for transfers of ownership or control; regulation of rates in areas not subject to “effective competition”; requirements for facilities, equipment and services; requirements for PEG access channel capacity, facilities and support; and universal service.

3. *Non-Integrated Ownership*

If any company provides video or other content services over its facilities, the system must be franchised and regulated in accordance with Title VI of the Communications Act. A telecommunications provider with a dominant market share of any service should be prohibited from cross-subsidizing its video or other content services with revenues received from rate-payers and should be required to set up a separate subsidiary for its content operations and vice versa. There should be a strict limit on the number of programming services carried on the system in which the telecommunications provider has a direct or indirect interest.

The federal government and municipalities have the authority to and should restrict the number of channels on a cable system that can be occupied by programmers affiliated with the telecommunications provider, and should restrict telecommunications providers from entering into exclusive programming contracts and discriminating among programmers.

4. *Integrated Ownership*

With respect to an integrated corporation that provides both content and the underlying telecommunications transport, a municipality should be authorized through the franchise process to regulate all matters affecting local community needs and interest, including, for example: consumer protection; customer service; PEG access; minimum requirements for video system facilities and equipment; rate regulation in areas not subject to effective competition; nondiscriminatory service throughout a franchise area; and compensation to the franchising authority through payment of a franchise fee.

L. Municipal Liability Exposure and Franchise Administration

1. *First Amendment*

NLC is opposed to challenges of government regulation on First Amendment or other constitutional grounds brought by cable operators, or other communications and information service providers. When municipal regulation is challenged on First Amendment grounds, NLC encourages recognition of the following principles:

- Current television distribution facilities are predominantly a natural monopoly;
- Wireline telecommunications service providers generally make permanent and extensive use of the public’s rights-of-way;
- Public, educational, and governmental (“PEG”) access promotes the First Amendment interests of the public;

- Universal service promotes the First Amendment interests of the public;
- The First Amendment interests of the public and municipalities, in assuring programming diversity and a vigorous marketplace of ideas, outweigh the telecommunications providers' First Amendment interest in providing cable service; and
- Television is a unique media of expression that requires a different First Amendment standard from that applied to the print medium, but similar to that applied to the broadcast medium. Further these unique media of expression are evolving and should be routinely monitored.

2. Damages Immunity

Some local governments have been threatened with extraordinary monetary judgments in lawsuits by telecommunications providers that challenge the fundamental right to exercise regulatory jurisdiction authorized by federal, state or local laws or regulations. NLC supports the damages immunity provisions in the federal cable act. To the extent that local government damages immunity provisions are not clearly set forth in other sections of the *Federal Telecommunications Act of 1996*, they should be clarified. For example, the legislation should preclude the award of attorney fees and costs against municipalities.

M. Institutional Networks

Telecommunications policies on the national levels should encourage and support municipalities in the development and operation of Institutional Networks ("I-Nets"). I-Nets are an integral part of the local telecommunications infrastructure, providing valuable alternative video, voice, and data services to local governments, schools, hospitals, other public institutions, and the public. Furthermore, they can serve as a critical gateway to other telecommunications networks. The creation of innovative services on I-Nets can be a catalyst for the broader deployment of advanced telecommunications services within the community.

I-Nets promote the full and effective use of local networks while at the same time permitting service providers to offer important benefits to the community in return for the use of public rights-of-way.

7.07 Broadcasting

A. Minority Opportunities in Communications

NLC generally opposes non-competitive broadcast ownership caps that may facilitate concentrated ownership by a limited number of individuals. NLC will work to protect diversity in broadcast ownership, which, in turn, will promote and protect universal access. More broadly, NLC urges the communications industry to develop tangible franchise or related ownership relationships, or otherwise establish genuine business relationships with minority and female-owned businesses.

B. Low Power Television and Low Power FM Radio

1. Support for Low Power Television (LPTV)

Federal LPTV policy must promote and give priority to local government and public service programming, encourage diversity in programming, and maximize opportunity for local competition among LPTV stations.

2. Ownership Opportunities

NLC also encourages LPTV ownership by women, local governments, small businesses and minorities. Federal restrictions on trafficking, the rapid resale of recently acquired broadcasting licenses, should be established to preserve minority, female, small business, and local ownership.

3. Low Power FM Radio

NLC encourages the development of low power FM radio broadcasting service to provide opportunities for new entrants, including those for women and minorities into broadcast ownership. Low power FM radio broadcast programming can address local problems, needs and interests.

4. Benefits to Consumers

Low-power television can increase audience access to programming in under-served areas, enhance competition, and expand media ownership opportunities for women, minorities, and small businesses.

Related, NLC urges the Federal Communications Commission (FCC) to uphold the concept of universal access by rescinding rules on FM translator services that limit (i) revenue-generation options available to translator stations, and (ii) allowable power output for translators, thereby limiting program choices available to small and rural communities.

C. Fairness Doctrine

The federal "fairness doctrine" and related doctrines such as the "equal time" media access requirement for candidates should be enacted into law and strengthened by requiring full and effective FCC enforcement. The "fairness doctrine" was established in 1949 through federal regulation to foster debate on public issues and ensure the public airing of different points of view on controversial issues, but it was revoked in 1987 by the FCC.

7.08 Satellite Services

A. Public Interest Requirements

Satellite companies should not be exempt from public interest requirements such as public, education and government (PEG) channels.

7.09 Miscellaneous

A. Slamming

NLC supports efforts to address the significant increase in the unauthorized change of consumer telephone service, a practice known as slamming. This unauthorized change can have a negative impact on consumers of telecommunications services who not only lose the right to subscribe to their carrier of choice, but also might be subject to lower quality service or higher rates.

NLC RESOLUTION #2012-36

LOCAL GOVERNMENT SUPPORT OF COMMUNITY / MUNICIPAL BROADBAND NETWORKS

WHEREAS, the universal availability of affordable high speed Internet broadband access for all citizens has been identified as a national priority; and

WHEREAS, community/municipal broadband networks provide an essential option for market competition, consumer choice, economic development, and universal, affordable Internet access nationwide; and

WHEREAS, historically, local governments have ensured access to essential services by banding together to provide those services that were not offered by the private sector at a reasonable and competitive cost. This involvement has included electrification, public libraries, and other important services; and

WHEREAS, in 2011, the Organization for Economic Cooperation and Development (OECD) reported that the United States is fifteenth among 30 developed and developing nations in deploying broadband services; and

WHEREAS, local government leaders recognize that their economic health and survival depend on connecting their communities, and they understand that it takes both private and public investment to bring this goal to fruition; and

WHEREAS, attempts have been made to limit or stop further local government deployment of municipal broadband services, which has the potential of reducing the ability of local government to provide important information and services to their citizens in a timely, efficient, and cost effective manner; and

WHEREAS, opponents of community and municipally provided broadband have proposed various administrative procedures that they claim are designed to protect citizens and consumers from unwieldy local governments; however, these safeguards really place over-burdensome requirements on municipalities and act as unnecessary barriers; and

WHEREAS, in the vast majority of community/ municipal broadband networks built to date, the private sector has been involved in helping design, build, and operate the network – creating new business opportunities and jobs in the process; and

WHEREAS, local governments should not be preempted by states from being able to offer broadband services, high speed Internet, and other communications services which could advance the deployment of broadband throughout our nation.

NOW, THEREFORE, BE IT RESOLVED that the National League of Cities (NLC) believes that the federal government should encourage deployment of broadband networks in a competitive manner via a variety of conduits (satellite, WiFi, WiMax, cable, LTE, etc.); and **BE IT FURTHER RESOLVED** that NLC opposes any actions that seek to burden cities through unnecessary procedural requirements and safeguards that duplicate the democratic process by which all cities govern themselves; and

BE IT FURTHER RESOLVED that NLC embraces local governments' ability to work cooperatively with the private sector to offer broadband services and does not believe such public/private partnerships are incompatible with private sector competition; and

BE IT FURTHER RESOLVED that NLC supports federal proposals that promote community/municipal broadband, that preserves the authority of local governments to act in the interest of their citizens by offering high speed Internet and other communications services, and preempts states from barring local governments from offering such services in their communities.

NLC RESOLUTION #2012-37**BROADBAND DEPLOYMENT: A CALL FOR UNIVERSAL AVAILABILITY
AND WORLD-CLASS QUALITY**

WHEREAS, in the early 1990s the United States was one of the world's leaders in broadband penetration to its citizens, but in 2011, the Organization for Economic Cooperation and Development reported that the United States has slipped to fifteenth in national broadband penetration among 30 developed and developing nations; this is a significant step backward; and

WHEREAS, the federal government has released a National Broadband Map, as directed by the National Broadband Plan, that provides data to support efforts to expand broadband access and adoption in communities at risk of being left behind in the 21st century economy and help businesses and consumers seeking information on their high-speed internet options; and

WHEREAS, to compete successfully in an increasingly global environment the United States needs to take advantage of all of the technological solutions that high speed broadband access offers; and

WHEREAS, universal broadband should be considered essential infrastructure that contributes to economic health and survival of communities across the United States; and

WHEREAS, the National League of Cities (NLC) believes that the current federal standard of 4 Megabits actual speed downstream and 1 Megabit upstream to measure broadband connections within the United States is insufficient; and

WHEREAS, the availability and adoption of quality broadband service can vary dramatically from one neighborhood to another even in heavily populated urban areas; and

WHEREAS, NLC strongly believes that broadband access should be universal, affordable and competitively priced, as universal broadband access would promote economic development, enhance public health and safety and increase educational opportunities for millions of Americans across the country; towns and cities across the country are offering fast, affordable Internet, and states should be encouraging these initiatives, not hindering them; and

WHEREAS, such availability and adoption is insufficient to satisfy current and future needs and because the broadband capabilities of other countries accommodate much higher connection speeds and are more widely available and less expensive per megabit than in the United States; and

WHEREAS, municipalities have worked jointly with representatives from the private sector to develop municipal broadband networks to provide an essential option for market competition, consumer choice, economic development, universal and affordable range of competitively priced Internet access nationwide; and

WHEREAS, existing municipal broadband networks should be held harmless from any potential federal actions intended to ensure national broadband deployment; and

WHEREAS, NLC supports proposals that promote community/ municipal broadband services, and that preserve the authority of local governments to act in the interest of their citizens by offering high speed Internet and other communications services, and

WHEREAS, NLC opposes any attempt which bars local governments from offering community/municipal broadband services in their communities.

NOW, THEREFORE, BE IT RESOLVED that NLC asks the federal government to recognize and work to achieve the twin goals of broadband deployment:

- (1) affordable and competitively priced; and
- (2) an appropriate standard for broadband connection that allows America to compete in the global economy and opens more opportunities to deliver rich services more economically and universally; and

BE IT FURTHER RESOLVED that NLC urges the federal government to take an expeditious role in convening together all interested parties, including, but not limited to, all levels of government (local, state, tribal, and federal), consumer organizations, representatives of underserved communities (rural, urban and suburban), all segments of the communications industry interests, representatives of private sector, and not-for-profit sector organizations, to promote ubiquitous broadband deployment.

NLC RESOLUTION #2012-38

OPPOSING THE FEDERAL COMMUNICATIONS COMMISSION NOTICE OF INQUIRY RELATING TO ACCELERATION OF BROADBAND DEPLOYMENT

WHEREAS, on April 7, 2011, the Federal Communications Commission (FCC) issued a notice of inquiry (NOI) relating to the “Acceleration of Broadband Deployment: Expanding the Reach and Reducing the Cost of Broadband Deployment by Improving Policies Regarding Public Rights of Way and Wireless Facilities Siting, WC Docket No. 11-59;” and

WHEREAS, the NOI appears to be based on the premise that local right-of-way regulatory and compensation issues constitute “barriers to entry” for broadband service; and

WHEREAS, in the past, the FCC has used such NOIs to issue orders that would severely limit municipal authority through federal preemption; and

WHEREAS, in advance of publishing the NOI (WC Docket No. 11-59) the FCC had not appointed the *Intergovernmental Advisory Committee*, as announced by the FCC in the *National Broadband Plan* last year but to date has relied on an industry-dominated panel without any meaningful input from local governments; and

WHEREAS, right-of-way regulation and/or compensation does not present an urban broadband deployment issue in U.S. cities; and

WHEREAS, state right-of-way statutes typically allow full access to local rights-of-way by virtually all telecommunication providers; and

WHEREAS, state right-of-way statutes typically allow full access to local rights-of-way by video service providers; and

WHEREAS, many cities long ago adopted stand-alone right-of-way management ordinances that protect the health and safety of their residents, and that contain similar provisions that are readily available via the Internet; and

WHEREAS, many cities do not impose any fee on broadband services, either as a separate fee to use public rights-of-way or a separate right-of-way rental payment; and

WHEREAS, broadband services are already available to many Americans; and

WHEREAS, many state constitutions require cities receive fair market value for the use of public property by private corporations, and the fee for the use of public property may not be “cost-based” as suggested by the Chairperson of the FCC; and

WHEREAS, mandating or granting free use of a city’s rights of way amounts to a gratuity which is also prohibited in some states’ constitutions; and

WHEREAS, the FCC lacks the Constitutional authority to preempt local zoning rules or right-of-way regulations or to set right-of-way compensation.

NOW THEREFORE BE IT RESOLVED that the National League of Cities supports the continued deployment of broadband services throughout the nation; believes in the concept of local control; and strongly opposes further federal preemption of local right-of-way management authority and/or preemption of rental fees for the use of public property.