



**Massachusetts
Municipal
Association**

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NORTHEAST MUNICIPAL ASSOCIATIONS





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Introduction

As the United States heads into another election cycle, effective federal partnerships with local governments to deliver essential services to the communities that comprise this nation are more crucial than ever. Producing drinking water and managing wastewater – while maintaining ground and surface water quality – have largely become the responsibility of local governments. Transportation infrastructure, the backbone of livable communities, is in need of constant attention, particularly in the Northeast where winters are harsh and unpredictable. Our law enforcement communities are under tremendous pressure to protect all citizens with empathy, transparency, and accountability at the same time that they have become targets themselves. The telecommunications revolution is launching some of our constituents headlong into the 21st Century while leaving others, generally in more rural areas, far behind. Government agencies impose substantial obligations on municipalities to comply with program requirements but simultaneously preempt local authority to address problems in innovative manners. Our neighbor to the north presents market opportunities for our businesses – as well as a history of shared environmental quality, culture, and family – that continues to evolve on both sides of the Canada–U.S. border.

In this paper, the municipal associations of the northeastern states – Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont – have joined in common purpose to provide a perspective on the most significant issues facing the cities, towns, and villages in this corner of the United States. We urge you to address the needs of local governments as they execute their responsibilities to deliver services to the residents of this beautiful and historic region of the country.

Investing in Northeast Transportation and Infrastructure.

The Northeast Municipal Associations appreciate very much the enactment of the FAST (Fixing America’s Surface Transportation) Act. Transportation and infrastructure investments are vitally important to the Northeast, especially in light of the deterioration that accompanies our harsh winters and spring thaws. With current construction costs and interest rates low, infrastructure improvements are an attractive investment option. However, this option is contingent on the availability of capital.

According to a 2015 CNBC poll, the northeast states rank at the bottom quarter in quality of transportation and infrastructure.¹

Ranking out of 50 States	
Connecticut	46
Maine	41
Massachusetts	47
New Hampshire	43
New York	39
Rhode Island	50
Vermont	44

The recent passage of the five-year FAST Act ensures that the northeast states will receive the federal financial assistance needed to maintain and improve our region’s 232,000 miles of federal, state, and

¹ CNBC, “America’s Top States for Business, Infrastructure & Transportation,” 2015.

local roads and nearly 35,000 bridges. Equally important, however, is that the federal funding plan provides state transportation officials with the financial certainty necessary to develop, fund and implement multi-year road and bridge improvement projects. Movement away from Congress’s “continuing resolution” approach to a multi-year funding plan will enable our states to engage in more cost-effective and long-term planning efforts.

This vital legislation restores a national Surface Transportation Program (now the Surface Transportation Block Grant). As enacted, the legislation provides local communities with greater access to federal transportation funds and greater flexibility over how those dollars are spent. It will help undo some of the negative consequences of Moving Ahead for Progress in the 21st Century Act (MAP-21), the prior two-year transportation bill that reduced local control over the Surface Transportation Program.

As shown in the table below, the states of Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont will collectively receive nine percent, or \$18.9 billion, of the FAST Act’s \$207.4 billion. The allocation to these seven states will increase by about five percent from \$3.4 billion to \$3.6 billion in the first year, followed by an additional annual increase, yielding an average annual apportionment of \$3.8 billion from fiscal years 2016 through 2020.

FY 2016 – FY 2020 Total Appropriations Under the FAST Act			
Highway and Bridge Improvements			
	Total State Appropriation	% of Northeast Total	% of FAST Act Total
Connecticut	\$2,660,154,553	14.11%	1.28%
Maine	\$977,671,541	5.19%	0.47%
Massachusetts	\$3,216,704,034	17.06%	1.55%
New Hampshire	\$875,080,579	4.64%	0.42%
New York	\$8,890,175,084	47.16%	4.29%
Rhode Island	\$1,158,296,855	6.14%	0.56%
Vermont	\$1,074,916,129	5.70%	0.52%
Northeast Total	\$18,852,998,775	100%	9%

Source: American Road and Transportation Builders Association, <http://www.artba.org/newsline/wp-content/uploads/2015/12/ANALYSIS-FINAL.pdf>.

Yet, it is not only about the money. In addition to funding, access to other tools can accelerate transportation and infrastructure initiatives. Red tape and production delays associated with intrusive oversight adversely affect the efficient execution of federally funded projects. The administration, permitting, design, and engineering regulations required when federal funding is used continue to be a concern. From a municipal perspective, the various hurdles often unnecessarily increase the costs of projects and place constraints on the use of federal funds.

The Surface Transportation Block Grant Program will also encompass the Transportation Alternatives Program (TAP), which helps to fund pedestrian and bicycling transportation infrastructure. With TAP rolled into the new block grant, funding will increase from \$835 million to \$850 million nationwide.

The FAST Act also amends the language of Complete Streets, a nationwide coalition that encourages states to adopt standards for the safe and adequate accommodation of all transportation network users

– motorized and non-motorized – in all phases of planning, development, and operation of transportation facilities.

Increasing opportunities for design-build projects is an alternative to the traditional design-bid-build project delivery method. A single entity – the design-build team – works under one contract with the “project owner” to provide design and construction services. For bridge projects, design-build is a method of project delivery that uses accelerated bridge construction (ABC) techniques and innovative planning and design to reduce the duration of construction, which lessens the project’s impact on the traveling public, local businesses, and property abutters. Utilizing ABC techniques often reduces project development from two years to one year.

In summary, the enactment of the FAST Act will enhance funding predictability and sustainability over the next five years. Knowing that the northeast states can expect to receive \$4 billion of federal funding on an annual basis will allow for both immediate investment in needed road and bridge improvements and implementation of programs designed to encourage the use of alternative modes of transportation.

Preserving the Tax-Exempt Status of Municipal Bonds.

The Northeast Municipal Associations request that Congress take no action to eliminate or cap the tax-exempt status of municipal bonds. While we recognize the fiscal challenges facing the federal government, we urge our Congressional delegation to reject any proposal that would seek to balance the federal budget at the expense of state and local governments. A proposal that would have a profoundly negative impact on municipal infrastructure development is the effort to repeal or cap the tax-exempt status of interest on bonds issued by state and local governments.

Tax-exempt bonds are the primary source of public financing used to pay for roads, bridges, drinking and wastewater facilities, schools, parks and recreation areas, airports, transit systems, correctional facilities, affordable housing, and more. This tax exemption, in effect for over 100 years, was negotiated as part of the adoption of the 16th Amendment to the Constitution, which authorized enactment of a federal income tax. Through this exemption, the federal government has for more than a century provided indirect financial support to states and local governments for the development and maintenance of essential public facilities and services, which cannot be practically financed by other means.

Should Congress repeal or cap this exemption, there would be an immediate increase of up to two percent in interest costs on all new issuances of municipal bonds due to investors demanding higher interest rates to compensate for the federal tax on that interest income. Since tax-exempt municipal bonds are issued primarily for necessary infrastructure and capital projects, repealing this exemption would result in either a reduction of infrastructure/capital improvement spending by our cities, towns, schools, and utility districts, or significant increases in the costs of these projects – increases that will be borne by our citizens through higher state and local taxes, higher utility rates, and higher user fees.

For example, in June 2012, the New Hampshire Municipal Bond Bank issued \$17.6 million in tax-exempt bonds on behalf of seven local government entities across the state. The interest cost on these bonds is approximately \$4.6 million. If they had been issued as taxable bonds, a two-percent increase on the interest charge would result in interest costs of approximately \$8 million rather than \$4.6 million, – a \$3.3 million, or 71 percent – increase in interest costs. This is a significant amount of

money for those seven communities, which would then need to fund those increased costs through higher property taxes.

While the dollar amount of that example may seem inconsequential at the federal level, it is important to recognize the magnitude of projected infrastructure needs across the country over the next several years. According to a 2013 analysis by the American Society of Civil Engineers² cumulative infrastructure investment needs will be approximately \$2.7 trillion by the year 2020. Seventy-five percent of all public infrastructure projects are built by states and local governments, with tax-exempt municipal bonds used as the primary financing tool. Any proposal to repeal or cap this exemption will raise the costs of these needed infrastructure improvements and should be rejected.

We cannot ignore the economic benefit of infrastructure improvements, particularly during a recessionary environment such as the one we all experienced several years ago. In a *Concord (N.H.) Monitor* article, David Woolpert, a local investment/financial planner, described his personal observations of the impact on the local economy from the \$53 million school building project undertaken by the Concord, New Hampshire School District. He concluded:

What more concrete way could we in Concord have taken to crawl out of the worst national recession in 70 years? People were hired, local businesses benefited, state and local tax revenue increased, and better schools were built for the coming generation of children in Concord.

Mr. Woolpert's conclusion underscores how infrastructure investments create jobs and stimulate the local economy. Without the tax exemption, financially strapped states and local governments would either (1) pay more to raise capital, a cost that would ultimately be borne by citizens through higher taxes or fees, or (2) reduce public works spending, resulting in decreased economic development and further deferred maintenance on already deteriorating infrastructure.

Tax-exempt municipal bonds are an essential financing tool needed to address the ongoing infrastructure improvements. They are important to the vitality of our municipalities and to the economic growth and fiscal well-being of our states as a whole and represent a long-standing partnership among the federal government, state and local governments, and private investors.

We urge you to support policies that will strengthen, not weaken, the tax-exempt municipal bond market, and to advocate for the continued tax-exempt status of municipal bonds.

Severe Ice Storm Events Still Unrecognized by FEMA.

In the 2015 edition of Maine's "Federal Issue Paper," Mark Robinson, Fayette Town Manager, wrote an article about the problems he experienced with the 2009 amendments to the Federal Emergency Management Agency's (FEMA) winter storm assistance rules (the Snow Policy). As currently implemented, federal financial assistance to help cover sand, salt, equipment, and operational costs incurred during severe storm events is only provided in cases where record or near-record snowfalls are experienced. Under FEMA's rules, ice storms by themselves – which do not also include physical

² "Failure to Act, The Impact of Current Infrastructure Investment on America's Economic Future." Page 7, Report, American Society of Civil Engineers, January 15, 2013. http://www.asce.org/uploadedFiles/Issues_and_Advocacy/Our_Initiatives/Infrastructure/Content_Pieces/failure-to-act-economic-impact-summary-report.pdf

damages or debris (such as collapsed buildings or downed trees) – cannot be identified as “severe storm events.” Yet, according to Lesley-Ann Dupigny-Giroux, University of Vermont Professor of Geography and Vermont State Climatologist, “Ice storms are an inherent feature of winter weather.”³

This limit is particularly troubling for the northern U.S. states accustomed to managing both heavy snow events and the equally resource-exhaustive ice events that produce very little snowfall. Under today’s Snow Policy, the Great Ice Storm of 1998 would qualify for federal assistance in only those regions of New England and New York that also experienced vast amounts of debris, sheltering, and public safety response costs incurred during those three weeks in January. The 2013 ice storm discussed in last year’s Federal issues Paper was not federally declared because the impact was primarily limited to sanding and salting of roadways to keep them passable. It didn’t have enough significant debris to clean up in order to reach threshold eligibility levels. In 2015, a January blizzard was declared in parts of Maine due to the record or near record snowfall in four counties, while in Washington County –the hardest hit area of the state – no declaration was made because the “snowfall of record” dating back to 1970 was not exceeded. And that’s to say nothing of the record-breaking accumulated snowfall over the next three weeks into February, which also could not be federally declared due to FEMA’s Snow Policy, ignoring the impact of cumulative events.

So what are state and municipal officials to do? It is clear that the current one-size-fits-all historic snowfall approach is not working and amendments to the existing rules are required. Municipal officials were pleased to learn that state emergency management agencies had been working with FEMA officials on ways to amend the Snow Policy to ensure assistance for both severe snow *and* ice events. Unfortunately, the movement toward rewriting FEMA’s rules in this area stalled out during the second half of 2015.

According to Bruce Fitzgerald, Director of the Maine Emergency Management Agency, FEMA and several states worked together on at least three draft concepts for new Snow Policy rules, but for various reasons, one side or the other could not fully endorse a solution. Both sides agreed that the new policy needed to move beyond “counting inches of precipitation from the sky” and focus on actual impacts of a storm and the efforts by state and municipal officials to respond to the event. All parties recognized the challenge of creating a national policy that addresses the impact of both snow and ice and accumulated amounts, while also accounting for the types of weather and level of snow/ice fighting capability that exists throughout the country. During 2015, the working group met by phone and at the National Emergency Management Association (NEMA) annual conference (in Miami) to discuss the next steps. State partners are now working with the American Public Works Association (APWA) and state departments of transportation officials to learn the best methods of preparing for and responding to winter weather of all types. The state partners, along with NEMA and APWA, are committed to developing a new draft policy that can be presented to FEMA for that agency’s consideration, with the goal of having a pilot program ready for the winter of 2016-17.

Municipal officials are asking the members of New England’s Congressional delegation to encourage FEMA to continue working with their state level partners on developing an emergency assistance program that fairly and reasonably takes into consideration the impacts of both ice and snow events and to implement those changes in time for the winter season.

Marketplace Fairness by Any Other Name

³ “Impacts and consequences of the ice storm of 1998 for the North American northeast.” Lesley-Ann Dupigny-Giroux, University of Vermont USA. *Weather*, Volume 55, January 2000. www.onlinelibrary.wiley.com.

E-commerce Equity? Remote Transactions Parity? Online Sales Simplification? Since 1992 and the Supreme Court decision *Quill vs. North Dakota*, state and local governments have faced a sales tax base undermined by ever expanding online businesses. Pursuant to this ruling, the collection and remitting of sales tax revenue from retailers to states is driven by whether the retailer has “nexus” or a physical presence in the state in which a purchased product is delivered. Target, Walmart, and Best Buy (all with nexus in most states) transmit sales tax from online sales to the states. Amazon does in some states (if they have a warehouse) but not others. eBay, B&H Photo, and others resist any efforts to require the retailer to collect and remit the tax.

Online retailers argue that the administrative burden on them of determining whether or not a tax is due trumps arguments from states and retailers with brick and mortar stores about fairness, equity, and parity. Opponents argue that states have different tax rates and some cities and towns have authority to supplement the state sales tax. The definition of what is taxable may also vary significantly from state to state.

Proponents of remote sellers collecting sales tax, including the cities and towns of the northeastern states, point out that inexpensive but sophisticated software is now available to help retailers collect the tax. The Marketplace Fairness or Remote Transactions Parity Act would exempt small retailers and also provide a grace period of between six months and a year before remote sellers would be required to collect and transmit a sales tax, once enacted. Compliance would also be limited to those states that comply or commit to comply with the streamlined sales tax agreement. Twenty-four states currently comply with those requirements.

Financial Impact to States and Municipalities. Affected New England states and New York are estimated to be losing over \$1.1 billion in sales tax from e-commerce and \$2.4 billion in sales tax collections including non-electronic commerce. New Hampshire is not affected since there is no broad based sales tax in New Hampshire or in four other states (Alaska, Delaware, Montana, and Oregon).

Less talked about, but especially critical to cities and towns in the Northeast is erosion of the property tax base. As consumers gravitate to online commerce, the value of retail real estate is undermined. Whether the tax assessor uses a market approach or income approach to valuing brick and mortar retail stores, closures or failing business activity will affect the value of these properties. Tax levies will fall, services will be cut, and the tax burden will be transferred to residential and other types of commercial property. Declining construction activity will likely result. If the sales tax field was level, that decline, although unfortunate, would be driven by a neutral market. Our brick and mortar retailers, so vital to the health of our downtowns and livable communities, are severely discriminated against because of the online tax advantage.

Legislative Strategies. The National League of Cities hoped that the Marketplace Fairness Act, which passed the Senate in 2013, would secure passage in the House. That did not happen. More recently, in June 2015, Representative Jason Chaffetz of Utah introduced the Remote Transactions Parity Act of 2015. This act is similar to Marketplace Fairness except for the timeframes for execution and the exemption thresholds for smaller remote sellers. A very different proposal known as the Online Sales Simplification Act is currently being circulated. This proposal would require remote sellers to charge the sales tax applicable in their selling location and then remit those collections to the destination state. There would be no exemption for small sellers. An average sales tax rate would be charged for remote sellers in states with no sales tax.

State Strategies. States have recently focused on refining the definition of nexus and enforcing collections by agreement with remote sellers. This is an incremental approach that has met with some success. The states of New York, Connecticut and Massachusetts, for example, have reached agreement with Amazon to collect sales tax based upon the nexus of their distribution facilities. This is not the case in Maine, Vermont, or Rhode Island. (New Hampshire has no sales tax.) Some states have also enacted requirements that online retailers either collect the tax or disclose to the state what purchases were made by state residents, thereby leaving it to the state to collect the tax under use laws. Litigation on a Colorado law is currently before a federal district court.

An enacted provision in Rhode Island's sales tax law reads "In recognition of the work being performed by the streamlined sales and use tax governing board, upon passage of any federal law that authorizes states to require remote sellers to collect and remit sales and use taxes, the rate imposed under this section shall be reduced from seven percent (7%) to six and one-half percent (6.5%)." This provision counters the naysayers' arguments that a remote seller's tax will merely increase the overall state tax burden.

Going Forward. The debate over internet sales transactions has gone on for far too long. This is a very important issue for both states and municipalities. We urge the Northeastern Municipal Associations' Congressional delegation to pass an internet fairness act.

Federal Investment in Broadband Access.

In response to a demand that outpaces the marketplace's slow-moving capacity, a number of towns and cities throughout the Northeast have become direct participants in the broadband expansion adventure. Although Maine's state government actively assists in those efforts with planning grants and coordination, lawmakers have thus far not elected to commit substantial financial investments to broadband expansion. In contrast, Maine's municipal officials appreciate the \$80 million, six-year federal grant awarded to FairPoint Communications for the purpose of expanding the reach of broadband in this rural state. Similarly proportioned grants under the second round of the Federal Communication Commission's Connect America Fund (CAF) program have been awarded throughout our region, including \$26.4 million in New Hampshire and \$52.8 million in Vermont. We are grateful that the federal government recognizes the need to push the capacity of this vital and technologically emerging utility beyond the confines of the marketplace to which the incumbent providers are accustomed.

While no one can say with certainty what the high-speed internet landscape will look like after the grant funds are implemented, the demand for expanded and higher speed capacity in unserved and underserved regions will only grow. Broadband is a transformative technology. The opportunities it creates redouble its own necessity. Economic development generally, stimulated rural entrepreneurial activities, telemedicine, and home-based access to full-menu educational opportunities are all driving forces today; what newly-created opportunities will join them tomorrow is anybody's guess.

With appreciation for what the CAF program has already provided, the Northeast Municipal Associations propose two additional federal efforts – not financial in nature – that would further assist the municipal effort to ensure the availability of adequate regionwide broadband. One involves an oversight function; the other involves a regulatory adjustment.

The Maine Experience. In Maine, the overarching municipal sentiment begins with appreciation for the "Three Ring Binder" infrastructure, which is the foundation of fiber installed in wide rings along

the spine of the state six years ago that was made possible by a generous infusion of federal resources. The lack of practical “last mile” connections to the binder is the remaining challenge. In attempting to expand these connections, there have been four common obstacles: implementation delays, unreliable service quality, variable and prohibitive costs for consumers, and lack of return on investment for providers. Similar challenges to last-mile deployment plague the rural parts of the other northeastern states. To address this last-mile challenge, the Maine Municipal Association’s Legislative Policy Committee adopted expanded access to reliable high-speed internet as part of its 2015-2016 legislative platform. The specific initiative is a proposed \$10 million bond issue, creating a pool of resources to be leveraged by and augment the municipal investments.

With the significant infusion of federal funding to install the binder six years ago, followed up by allocations such as the substantially increased Connect America Funds made available in New England in 2015, there is ample demonstration that the federal government recognizes the importance of a robust broadband utility and is actively engaged in making it a reality. As we continue to push for state-level contributions to this investment, our federal requests turn to issues of implementation rather than finance.

CAF Accountability. The accountability of entities receiving federal funds is vital, as many of the obstacles identified above are expected to persist even after the announcement of updated service standards and new CAF funding. Already, the 2015 CAF allocation only requires service at the previous, dated broadband standard rather than the modernized federal standard adopted half a year prior to awarding the grant. Furthermore, the grant allows over a half decade for completion and does not require the recipient to utilize so-called “future proof” fiber-optic cable for its infrastructure build-out, nor to create new connections in a sizable swath of unserved areas.

Maine’s recipient of the \$80 million grant, FairPoint Communications, has stated that even with this sizable grant it cannot afford to be the broadband solution for every community. To some extent, the CAF grant could even reshuffle progress in certain areas by causing internet service providers who were considering investing in a community to, instead, wait and see whether FairPoint will come in and offer reduced prices based on their lower build-out costs.

In a November 17, 2015, letter to the FCC, U.S. Senator Angus King rightly asked the commission to hold recipients of CAF grants accountable. Specifically, federal regulators must ensure the recipients of any broadband grants allocated indicate (1) which areas they plan to serve well in advance of their actual build-out; (2) that completion targets are timely if not accelerated; and (3) that the final service costs to consumers will be affordable.

E-Rate Flexibility. Another meritorious federal grant program should also be noted. The Schools and Libraries Universal Service Fund Program, commonly known as E-rate, helps schools and libraries obtain affordable broadband. Under the direction of the FCC, this program provides up to \$3.9 billion annually (\$7.5 million in Maine alone) in an effort to further improve educational opportunities and boost local economies. In Maine, the ConnectME Authority has raised the question of whether the E-rate rules which limit access exclusively to schools and libraries might be modestly relaxed to allow for some sharing of surplus bandwidth. The timing does seem appropriate for these regulations to allow recipient municipalities and school systems to potentially share any excess school or library broadband capacity with residential or commercial constituencies in the access corridors within unserved regions of the state. Some Maine schools have attempted to allow their internet to serve as a resource during after-school hours by aiming their Wi-Fi into the parking lot. We see no reason to limit communities’

capacity to provide more consistent and reliable access to these few existing broadband sources if they so choose.

The federal efforts made over the past year represent significant and appreciated steps in the right direction. Through vigorous oversight of the providers' implementation of the CAF grants and by creating some regulatory flexibility for local government to administer E-rate, the potential of these federal investments can be maximized.

Renewable Energy.

The Consolidated Appropriations Act, signed in December 2015, extended business energy investment tax credits to 2022, with gradual reductions beginning in 2019. With that action, the federal government may have slowed a frenzy of construction of solar, fuel cells, small wind turbines (up to 100-kilowatt capacity) and large wind – all eligible for a 30 percent and declining tax credit – as well as geothermal, micro-turbines and Combined Heat and Power – eligible for a 10 percent tax credit through 2017. Likewise, the renewable energy production tax credit (PTC) was extended to December 31, 2019, for wind facilities commencing construction, with a phase down beginning for wind projects commencing construction after December 31, 2016. The PTC is an inflation-adjusted per kilowatt-hour (kW) tax credit for electricity generated by qualifying energy resources and sold by the taxpayer to an unrelated person during the taxable year. The credit lasts ten years after the date the facility is placed in service for all facilities placed in service after August 8, 2005.

The northeastern states, in moving toward a renewable energy future, have provided their own incentives to developers of renewable energy generation projects. For instance, Massachusetts has exempted solar and wind energy systems used as a primary or auxiliary power system for heating and other energy needs from property taxes for 20 years, if the owner agrees to make a payment in lieu of taxes of at least five percent of its gross income in the previous year.

New York's governor directed the establishment of a new clean energy standard mandating that 50 percent of electricity consumed in the state come from clean sources by 2030. Vermont's goal is to reach 90 percent renewable energy by 2050. New Hampshire allows cities and towns to offer an exemption from residential property taxes for the assessed value of a solar energy system, wind energy system, or wood-fired central heating system used on the property. Cities and towns may adopt an exemption provision separately for each energy source. As of November 2015, 110 New Hampshire cities and towns have adopted a property tax exemption for one or more of these energy sources. Vermont has a 100 percent property tax exemption for solar photovoltaic systems up to and including 50 kW. For systems greater than 50 kW, the state assesses a uniform \$4.00 per kW in place of an education property tax, which applies to equipment.

As a result, the renewable energy sector is flourishing and adding quality jobs in the Northeast. Facilities are being installed at a dizzying rate, changing the rural landscape significantly. As the federal government enhances opportunities to build renewable energy generation facilities, the Northeast Municipal Associations urge you to ensure that municipal planning priorities are addressed in the siting process.

We strongly support the position of the National League of Cities: "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.”⁴

Water Quality.

The federal Clean Water Act – the godfather of water law in this country – was adopted in 1972. It employs both regulatory and non-regulatory tools to reduce direct pollutant discharges into waterways (from point sources), finance municipal wastewater treatment facilities, and require management of polluted runoff. A broader goal is to restore and maintain the integrity of the nation’s waters so that they are fishable and swimmable. Point sources – such as wastewater treatment facilities – may not discharge to U.S. waters without a National Pollution Discharge Elimination System (NPDES) permit. State authority to adopt and implement water quality standards, total maximum daily loads (TMDLs), Municipal Separate Storm Sewer System (MS4) permits, and basin plans all derive ultimately from the Clean Water Act. The federal government delegated implementation of the act and the NPDES permitting system to Connecticut, Maine, New York, Rhode Island, and Vermont. The states of Massachusetts and New Hampshire are not delegated.

Cities and towns work hard to increase resiliency in the event of floods, to reduce discharges of stormwater and other pollutants from non-point sources to waters of the US, and increase the long term health of lakes, streams and coastal areas, which are so vital to our economies. It is at the local level that obligations to protect waters and to provide services such as safe transportation infrastructure to the public occur. Municipal governments accomplish these objectives through compliance with federal mandates that are implemented in the context of TMDLs, MS4 and NPDES permits, and compliance with the currently enforced Waters of the U.S. rule.

According to the National League of Cities, local governments construct, operate, and maintain the vast amount – 95 to 98 percent – of the country’s water infrastructure networks, which are essential for economic development and quality of life in our communities. Local governments also face a tremendous backlog of projects, which is especially true in the Northeast where the infrastructure is among the oldest in the nation. Federal options for grants and loans cannot address present and future needs. At the same time, the mandates to address water quality problems continue to roll out. In addition, climate change will have regionally different impacts on water supply, water quality, and water infrastructure, including increased flooding, an increase in frequency and intensity of heavy downpours and precipitation events, the rise of sea level, decreased snowpack, and drought. Climate change will exacerbate existing water challenges and pose new risks and challenges for communities.

The ability of municipalities to comply with any clean water and drinking water program is contingent upon adequate funds. Federal fund that target clean water must be made available to meet environmental mandates imposed on municipalities. In the interim, the Environmental Protection Agency (EPA) should provide all municipalities with the option to develop and implement an integrated permitting plan, allowing them to address the most pressing water quality problems first.

It is tremendously disruptive and expensive for a municipality to comply with state rules and then find that it may also need to comply with other rules from the EPA and the Army Corps of Engineers. This is the case with designations of waters of any particular state and alternative designations of waters of

⁴ National League of Cities, Energy, Environment, and Natural Resources (2016), 3. Infrastructure, p. 24.

the U.S. Where a state has a law or rule defining waters of the state that essentially encompasses the EPA or Army Corps of Engineers rule, that state law or rule should be the sole jurisdictional determination. We understand that the draft 2015 rule defining waters of the U.S. is under court review. The proposed jurisdiction over any ditch or waterway that is connected to jurisdictional waters is worrisome. If adopted, it would result in significant new costs to already overburdened cities and towns.

The Northeast Municipal Associations urge you to adequately fund water and wastewater infrastructure, to protect riparian buffers, floodways and waterways in our cities and towns, and to ensure that integrated planning is a management mechanism for achieving clean water that is available to all.

Climate Change.

The engagement of all levels of government is essential when tackling climate change. Local governments play an increasingly vital role in mitigating the effects of climate change and on adapting measures that are necessary to prepare local governments and residents for changes that are unavoidable. EPA estimates that about 150 New England communities are now engaged in some phase of assessing their vulnerabilities to climate change or putting adaptation plans in place. That being said, all of these efforts combined represent only 10 percent of the communities in New England, yet all communities in New England are being impacted by the changing climate conditions.

Threats of sea level rise and extreme weather events such as flooding, droughts, heavy precipitation, and heat waves can threaten human health, cause damage to local infrastructure, jeopardize water quality and availability, and lead to energy and food shortages. In addition, the northeastern states will likely see impacts on our brilliant fall foliage, as tree disease and insect infestations migrate north. Maple syrup production is jeopardized because sap flow depends on freezing nights and warm days. The ski industry faces the threat of less natural snowfall and the inability to produce artificial snow when temperatures stay above freezing. Marshes and coastal wetlands will be vulnerable to rising sea levels and severe weather events. The transmission of diseases such as West Nile virus and Lyme disease is expanding as habitats of disease-carrying insects expand northward. Warmer seas could contribute to increased intensity, duration, and the extent of harmful algal blooms, which will damage habitats, aquatic life, and humans. The breadth and severity of these threats require the assistance and resources of the federal government.

Local Government Efforts. Within the northeast region, some local governments have stepped up to do their part to both mitigate climate change and also prepare for projected climate impacts that threaten them. For example, Boston developed the Boston Deep Green Loan Pool, an investment fund that pools and mitigates risks in order to obtain capital for energy efficiency and resilience upgrades of the city's buildings. The city also created Greenovate Boston, a sustainability messaging and branding campaign that uses digital media and monitoring systems to engage residents in achieving climate goals in the area. In New York City, community climate adaptation projects utilize community participation to plan for physical infrastructure and public improvements which enhance the resilience of two critical communities along the city coastline. New York has also created a comprehensive long-term plan for sustainable development known as One NYC, a city blueprint for future development that focuses on growth, sustainability, resilience, and equity to ensure that social justice and climate change are managed together.

Federal Programs, Policies and Partnerships. The federal government and the EPA in particular have a multitude of regulatory initiatives, voluntary programs, policies, and varied partnerships that address climate change. The EPA's Local Climate and Energy Program, for example, helps local governments with cost-effective climate change mitigation and clean energy strategies. EPA provides local governments with peer exchange training opportunities and competitive grant funding along with planning, policy, technical, and analytical information that support reduction of greenhouse gas emissions. EPA developed a step-by-step implementation guide for local governments to plan, implement, and evaluate climate, energy, and sustainability projects and programs (<http://www3.epa.gov/statelocalclimate/local/implementation/>). The EPA showcases local government pilot initiatives and cost-effective and replicable community-based greenhouse gas reduction projects as well.

The National Oceanic and Atmospheric Administration (NOAA) has taken the lead at the federal level in long-term climate monitoring, research, and modeling to deliver regionally relevant climate information to decision makers and works with them to develop and implement action plans for reducing risks and minimizing climate impacts. NOAA's National Climate Data Center manages regional climate centers, which includes the Northeast Regional Climate Center that provides New England with regionally specific climate data for decision makers at the national, state, regional, and local levels.

And while, the federal government has provided some tools and resources to better equip local governments to develop and implement climate change mitigation and adaptation strategies, much more needs to be done.

We believe that the federal government must continue to improve the quantity and quality of information, resources, and tools it provides to local governments to help them plan for the impact of a changing climate and create resilient communities. The federal government must comprehensively study the effects of climate change on local governments and larger geographic regions, identify solutions to address current and future threats, and continue collaborating with local authorities to share best practices and climate-resilient strategies. Federal policies, investments, and regulatory programs at every level must consider climate-related risks and vulnerabilities. Greater financial and technical assistance is necessary to support local governments' vulnerability assessments and climate change mitigation and adaptation implementation efforts. And finally, we believe that the federal government should establish a national climate service to provide critical time-sensitive and long-term climate change information to local governments, and fund a national public service campaign to inform the public about the impacts of climate change and the need for adaptation measures.

Health Care.

One provision of the Affordable Care Act (ACA), the so-called Cadillac Tax, presents a significant financial concern for municipalities. The 40 percent excise tax will be imposed upon health insurance plans that offer benefits greater than the thresholds allowed for in the law. The threshold is \$10,200 for individual plans and \$27,500 for family coverage. The tax is intended to both generate revenue to fund portions of the ACA and to provide a disincentive to employers to offer high-cost plans with extremely rich benefits. The tax is on the total cost of the health insurance plan, and does not distinguish between employer and employee portions of the premium contribution.

Municipal employers in the Northeast have reason to be concerned about the pending tax, currently set to be implemented in 2020. Our cost of health insurance is among the highest in the nation. Many municipal health insurance plans already exceed Cadillac Tax thresholds. The strong presence of labor

unions in the Northeast makes benefit plan design changes extremely difficult, as accomplishing many of those changes requires collective bargaining. Changes such as increased co-payments, higher deductibles, and the addition of limited and tiered provider networks mostly require concessions from employees, thus creating a financial hardship for cities, towns, and their staff. With few tools to manage this cost, cities and towns would be left with a significant financial burden they cannot afford.

The Northeast Municipal Associations look forward to the opportunity to work with our federal delegations to mitigate the potentially very significant cost of this excise tax.



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