



# **IMPACT OF FOOD AND MEDICAL HOLD HARMLESS PROVISIONS ON MUNICIPALITIES**

***Presented To:  
Revenue Stabilization & Tax  
Policy Committee***

***Submitted By:***

**William F. Fulginiti, Executive Director  
October 24, 2011  
Santa Fe, NM**

## **NEW MEXICO MUNICIPAL LEAGUE 2011-2012 FINANCE AND TAX LEGISLATIVE ACTION STATEMENT**

The Board of Directors adopted their legislative priorities for the upcoming 2012 Legislative Session at the October 1, 2011 meeting. They approved a number of policies outlining proposed legislation for the League's Action Program.

In recognition of the continued downturn in the economy and its effect on state and local finances the Board focused attention on the protection of municipal revenues. The Board also rejected as a priority any resolution asking for new or increased funding for any program funded by state revenues. In addition, they highlighted the issue of preemption of local authority.

**PROTECTION OF MUNICIPAL REVENUES.** Any restructuring of available revenue sources by the state or federal government should not result in the loss of actual revenue to any municipality (***Sections 3.2.01 and 3.2.02 – Policy Statement***). At present, several state-levied taxes are shared with municipalities. Any change made in rates of state shared taxes must maintain or improve upon present distribution ratios. Any changes in the base for taxes should not reduce present or future revenues (***Section 3.2.05 – Policy Statement***). The state should not take any action to impair municipal bonds (***Section 3.4.03 – Policy Statement***).

**PREEMPTION OF TAXING AUTHORITY.** At both the state and federal level attempts are being made to preempt local government authority to tax certain transactions. Preemption of local taxing authority deprives local governments of the ability to raise revenue to provide service to their constituents. The League opposes federal and state legislation that preempts local taxing authority (***Section 3.2.12 – Policy Statement***).

Mr. Chairman, members of the committee, the economic forecast for municipalities is similar to the State's. Like the State's economic decline, municipalities have also experienced significant budget decreases within the last three years. Municipalities find themselves extremely vulnerable because they are so dependent on the gross receipts tax. This single source of revenue constitutes up to 75% of municipal general funds.

Granted, while some municipalities have weathered the economic downturn better than others, the vast majority have not. Municipalities began making significant adjustments to their budgets in 2008. Even though they have budgeted conservatively, the decrease in general fund revenues due to the decline in gross receipts tax have negatively impacted many of our municipalities.

Regarding municipal projections, FY 11 shows a range of general fund decreases up to a **negative 39%** in cities. Several municipalities have responded to these decreases by imposing gross receipts taxes. The cities of Rio Rancho, Carlsbad, Sunland Park and Las Vegas have enacted additional gross receipts taxes. In response to the decreases in operating revenues, municipalities have spent the last three budget cycles balancing their budgets.

Like the State, Municipalities continue to monitor the situation. Based on projections, they will have to take appropriate actions to adjust budgets as needed to continue to provide services at current levels, if possible.

There is a great deal of uncertainty and municipalities are evaluating alternative ways to reduce expenditures. The uncertainties include whether or not increases in gross receipts tax occur and potential shortfalls in the property tax revenue due to lower assessed values.

Municipalities are concerned that during the upcoming legislative session, the legislature may be looking at the hold harmless on food and medical (\$130 million impact for local government). If our hold harmless would be withdrawn by the state, the average negative impact to our municipal general funds would equal a 9.2% decrease in general fund expenditures and some municipalities would experience a loss of up to 38.85% in general fund expenditures.

Municipalities will face major challenges if their gross receipts revenues are not maintained. This would have a significant impact on the provision of public services and public safety. Gross receipts taxes to the state and local governments would be reduced. At a time when there is absolutely no slack in municipal budgets, any significant reductions in the gross receipts tax will have a negative impact, not only in our ability to provide basic services to all of our citizens, but with any outstanding bonds that have been pledged through payment of the gross receipts tax. To illustrate the importance of the gross receipts revenue bonds, in FY 09 municipalities had an outstanding gross receipts tax bond indebtedness of almost half a billion dollars. Any action that impairs this vital revenue stream would adversely affect the amount of interest paid on those projects. If the amount is significant enough, it could impair outstanding bonds. Such actions may violate New Mexico statutes that require pledged revenues to

be replaced by an equal source of revenue. Such actions could also violate the New Mexico Constitutional provision concerning impairment of contracts.

In closing, Mr. Chairman, you can see that a loss of the hold harmless on food and medical would necessitate serious reductions in municipal services and further layoffs in local government employment.

