

# AGENDA ITEM SUMMARY

## FORT COLLINS CITY COUNCIL

ITEM NUMBER: 25

DATE: December 2, 2003

STAFF: Mark Radtke  
Diane Jones

### SUBJECT

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Resolution 2003-141 Adopting the City's 2004 Legislative Policy Agenda.

### RECOMMENDATION

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Staff and the Legislative Review Committee recommend adoption of the Resolution.

### EXECUTIVE SUMMARY

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Each year the Legislative Review Committee (LRC) develops a legislative agenda to assist in the analysis of pending legislation. The proposed 2004 Legislative Policy Agenda, which is attached to the Resolution as Exhibit "A", has been updated from the 2003 document and was reviewed and approved by the LRC on November 13, 2003. Changes are highlighted. This document will be used as a guide for the upcoming 2004 General Assembly and the second session of the 108<sup>th</sup> Congress. The purpose of the Legislative Policy Agenda is to articulate the city's position on common legislative topics. It will be used by Council members and staff to determine positions on pending legislation and as a general reference for state legislators and the Colorado congressional delegation. Attachment B is a summary description and rationale for the policy statement deletions and additions.

Policy statement additions and deletions in the 2004 Legislative Policy Agenda:

Page 5, AIR QUALITY, delete statement:

5. Support developing statewide tobacco smoking restrictions to protect citizens from the effects of second hand smoke.

Page 5, AIR QUALITY, add statement

6. Support legislation that is more effective than the Fort Collins tobacco smoking ordinance but does not infringe on home rule authority.

Page 14, FEDERAL BUDGET, delete second paragraph:

Fort Collins supports the National League of Cities' "Statement of Principles." These principles recognize the need to keep the federal budget in balance and make government more effective and accountable.

Page 15, FEDERAL BUDGET, add statement:

5. Oppose legislation that increases the administrative burdens and costs to local government for implementing federal grants and programs.

Page 16, FINANCE, add statement:

6. Support federal legislation that recognizes the importance of sales and use tax to local, self-collecting municipalities and appropriately distributes sales tax collections on e-commerce transactions.

Page 17, SALES AND USE TAX, add statement:

4. Support state legislation that recognizes the local sales tax base when distributing sales tax collected on e-commerce transactions.

Page 20, AFFORDABLE HOUSING, add statement:

7. Oppose legislation that increases administrative burdens and costs associated with affordable housing without increasing provision of services at the local level.

Page 21, NATURAL AREAS AND OPEN LANDS, delete statement:

5. Support federal adoption of the technical corrections bill for the Cache la Poudre River Corridor Act.

Page 21, NATURAL AREAS AND OPEN LANDS, add statement:

6. Support federal legislation necessary to fully implement the Cache la Poudre River Corridor Act.

Page 25, POLICE SERVICES, delete statement:

10. Support legislation that empowers the State POST Board to increase training in outlying areas for the first responders and state funding of the program.

Page 25, POLICE SERVICES, add statement:

11. Support legislation that increases the penalty for impersonating a police officer from a misdemeanor to a felony.

Page 32, TRANSPORTATION, add statement:

9. In the interest of promoting highway safety, support adequate funding for the Colorado State Patrol from the state general fund or other non-HUTF sources.

Page 32, TRANSPORTATION, add statement:

10. Support legislation that increases highway maintenance funding, including shareback with cities and counties.

Page 32, TRANSPORTATION, add statement:

11. Seek legislation that allows cities, counties and regional transportation authorities to extend local sales tax to the price of motor vehicle fuels without jeopardizing the HUTF shareback.

Page 32, TRANSPORTATION, add statement:

12. Support adoption of the Surface Transportation Act Reauthorization in the 108<sup>th</sup> Congress.

RESOLUTION 2003-141  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
ADOPTING THE CITY'S 2004 LEGISLATIVE POLICY AGENDA

WHEREAS, state and federal legislation may impact the citizens of Fort Collins, affecting their quality of life; and

WHEREAS, such state and federal legislation may influence the operations of municipal governments, including the City of Fort Collins; and

WHEREAS, the City of Fort Collins has an interest in providing input on proposed legislation; and

WHEREAS, Councilmembers and staff are asked to state the City's policy position on legislation; and

WHEREAS, members of the Legislative Review Committee desire to be more effective in their reaction to state and federal legislation.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the policy statements contained in the attached 2004 Legislative Policy Agenda accurately reflect the City's policy on these issues.

Section 2. That the Council hereby adopts the 2004 Legislative Policy Agenda attached hereto as Exhibit "A", and incorporated herein by this reference.

Passed and adopted at the regular meeting of the Council of the City of Fort Collins this 2nd day of December, A.D. 2003.

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Mayor

ATTEST:

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Chief Deputy City Clerk

Fort Collins  
City Council  
2004  
Legislative Policy Agenda

(DRAFT NOTES: additions: double underline; deletions: ~~strikethrough~~;  
document will be properly formatted following final action)

ADOPTED December 2, 2003

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## INTRODUCTION

Fort Collins is a community of more than 127,000 residents, located at the foot of the Rocky Mountains along Colorado's Front Range. Incorporated in 1873, the City has grown to become the commercial, educational and cultural hub of northern Colorado. The City adopted a home rule charter in 1954 and operates under a Council-Manager form of government.

The 2004 City of Fort Collins Legislative Policy Agenda identifies issues of importance to the City of Fort Collins. The Agenda expresses policies and positions on issues that affect the quality of life and the governance of our community. We offer this Agenda to our Legislators as a guideline when considering legislation that impacts Fort Collins.

We encourage Legislators to contact Fort Collins City Council Members and our Legislative Affairs Coordinator should they have any questions regarding our policy positions.

### **FORT COLLINS LEGISLATIVE REVIEW COMMITTEE**

The Legislative Review Committee is a representative group of Council members that review proposed legislation and express City policy in reaction to legislation. Legislation that cannot be compared to City policy, as identified in the Legislative Policy Agenda, is referred back to the full Council for consideration before a position is taken.

Council Members presently serving on the Legislative Review Committee are:

- ◆ Mayor Ray Martinez, Chair (970) 416-2154
- ◆ Marty Tharp (970) 484-7033
- ◆ Eric Hamrick (970) 221-6509

Staff contact: Mark Radtke, Legislative Affairs (970) 221-6796

Staff liaisons support the Legislative Review Committee by contributing expertise in various areas of municipal service. The City works closely with the Colorado Municipal League on all legislative items.

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## LEGISLATIVE POLICY STATEMENTS

### AIR QUALITY

The City's adopted Air Quality Policy Plan establishes a strong overall air quality goal to "continually improve Fort Collins air quality as the City grows" and defines a policy framework for continuing actions to improve air quality. Several of these policies support taking a position on air quality matters that may impact the city.

The City supports adoption of state and federal standards that provide for improved public health protection and improved air quality. The City supports adoption of standards that are stringent enough to protect regional air quality, because air sheds do not follow urban boundaries. The City opposes adoption of standards that constitute a weakening of current air quality standards.

Therefore, the City supports the following policy statements:

1. Oppose any action of the State Legislature that restricts local government authority to improve air quality beyond minimum State or Federal requirements.
2. Support legislation that encourages regional planning efforts for regional issues that cannot be solved through City action in isolation, e.g. the brown cloud.
3. Support the position of using Federal grant dollars to educate citizens about how they can help protect local air quality.
4. Support increasing the stringency of statewide visibility standards.
5. ~~Support developing statewide tobacco smoking restrictions to protect citizens from the effects of secondhand smoke.~~
6. Support legislation that is more effective than the Fort Collins tobacco smoking ordinance, but does not infringe on home rule authority.
7. Oppose the adoption of standards that constitute a weakening of current air quality standards.

The City's adopted objective for commercial and industrial sources are to reduce total emissions from such sources. The City does not, however, enforce State regulations on stationary air pollution sources, but rather continues to rely upon the Colorado and Larimer County Health Departments to assure that local sources comply with Colorado Air Quality Control Commission regulations. Therefore, the City supports the following policy statements:

1. Support legislation to assure that the State and County Health Departments have adequate responsibility, authority, and resources (funding and personnel) to enforce regulations adopted by the Colorado Air Quality Control Commission.
2. Support legislation that assures the enforcement of Federal, State, and County air quality regulations including air toxins.
3. Support legislation that provides incentives for commercial and industrial sources to reduce pollution.

The City's adopted objective for motor vehicles is to prevent total vehicle emissions from rising, by reducing the growth rate of total vehicle-miles of travel, and by reducing tailpipe emissions per mile from motor vehicles.

Therefore, the City supports the following policy statements:

1. Support legislation that uses the price mechanisms of the free market to shift citizen and business travel behavior toward actions that reduce vehicle miles of travel, including removing hidden cost subsidies to motor vehicle users, employing economic incentives and disincentives, and other market approaches.
2. Support inspection/maintenance (I/M) legislation and regulations that will further reduce tailpipe emissions per mile and help prevent total vehicle emissions from rising, with provisions for local I/M programs to be established.
3. Support legislation and regulations that make tailpipe standards more stringent, that establish equal standards for cars, light trucks and sport utility vehicles, that set fuel neutral standards for gasoline and diesel that decrease sulfur content of fuels and that promote advanced low emission vehicle technology.
4. Support legislation and regulations that provide authority for local governments to implement vehicle emissions reduction programs.

5. Support federal and/or state legislation to promote greenhouse gas reduction.
6. Support legislation and regulations that increase the fuel efficiency of motor vehicles and support ongoing research to improve the safety of smaller vehicles.
7. Support legislation and regulations that increase energy efficiency, including a 'systems benefit charge' to promote demand-side management, and the use of renewable energy sources excluding residential wood-burning in order to reduce the impact by the Fort Collins community on global warming
8. Support legislation and regulations to promote pollution prevention.
9. Support the Colorado self-audit law.
10. Support legislation that promotes research on, or use of, hydrogen fuel and its methods of production, to reduce fossil fuel consumption in the transportation and building sector.

The City's adopted objectives for wood smoke are to reduce area-wide wood smoke emissions and to reduce the number of non-certified wood stoves and conventional fireplaces. The City supports the following policy statement:

1. Support legislation and regulations that reduce wood smoke emissions.

### **CULTURAL SERVICES**

The City recognizes that art and culture are vitally important to the quality of life in our community and is committed to providing the citizens of Fort Collins with excellent cultural services.

Therefore, the City supports the following policy statements:

1. Support funding for cultural services for the education, entertainment and enrichment of the community.
2. Support the creation, performance and presentation of the arts.
3. Support strengthening the role of culture and the arts in our educational system.
4. Support preserving our cultural heritage.

5. Support public access to and awareness and appreciation of the arts.

## **ELECTRIC UTILITY SERVICES**

### **Municipal Utility Service Territory**

Cities and towns provide a number of services to their citizens as directed by the local electorate. These services can include the provision of electricity through a municipally owned and operated utility. As new areas are annexed, the citizens should have the right to the same services as provided to other citizens.

Through local elections, those citizens have the ability to determine how and what type of service they receive. Federal or state preemption of this right deprives citizens of their ability to choose.

In Colorado, existing law provides compensation to a utility that may lose electric load through annexation. Additionally, the citizens of a city may determine that competing electric utilities are acceptable, or the citizens may have an election to grant a franchise to another utility.

Therefore, the City supports the following policy statements:

1. Support efforts that allow citizens to determine the level and extent of municipal services they will receive, thus preserving the home rule authority of local governments.
2. Oppose efforts that limit either a municipality's rights to annexation or to provide municipal utility services to its citizens.

### **Net Metering**

Net Energy Metering is a method of measuring the net amount of electricity a customer would use if they were to receive electricity from a utility and also from a generation source of their own (solar cells, natural gas generators, etc.). A single electric meter would measure the electric energy flowing into the customers' premises which would be reduced if the customer were adding their own generation to their supply. If the customer's generation produced more energy than they consumed, the excess power would flow into the utility system and the meter would run backwards reflecting a negative net energy flow.

Therefore the City supports net metering legislation as a way to promote renewable energy if the following items are addressed:

1. Safety – for the protection of utility employees and the public the facility must be in accordance with applicable codes and standards. They include the national Electrical Code and Utility requirements.
2. Cost recovery – reasonable fixed costs of transmission, distribution and generation backup are recovered from the customers on the program.
3. Energy Credit – generated energy from the customer would be credited at the appropriate cost reduction to the utility.

## **Retail Wheeling**

The Colorado electric utility industry has consistently delivered high quality, reliable power at comparatively low rates. The 29 municipally-owned electric systems in Colorado, which supply electric service to more than 650,000 citizens, are concerned about the impact of retail restructuring and the affect it may have on our customers and the economy of the state.

While the City of Fort Collins favors the availability of low cost electric supply to all customers, there are several issues that must be resolved before retail restructuring can benefit all Colorado consumers. The electric utility industry is very unsettled with active debate being carried on about a number of serious issues. These include a looming deficit of generation capacity in Colorado; transmission constraints that limit the movement of power into the areas where a majority of Colorado residents live; the potential formation of regional transmission organizations; the future funding and operation of federal hydro power facilities; and the potentially anti-competitive effects of mergers and acquisitions.

In November of 1999, after studying the issue for more than 15 months, the majority of the Colorado Electricity Advisory Panel (EAP) determined in its final report that “restructuring is not in the best interests of all Colorado electricity consumers and the state as a whole.” Restructuring is premature unless it can be demonstrated that all consumers will benefit from a restructured market and specific restructuring legislation.

Therefore, the City supports the following policy statements:

1. Oppose any federal and/or state mandate requiring municipal utilities to implement retail restructuring. In order to preserve local decision making

and as supported in the EAP report, municipal utilities must be given the option to determine the extent and manner to which retail restructuring should be implemented in our communities and service areas.

2. Oppose any interference with local decision making ability. Rates, terms and conditions for regulated service offered by municipally owned utilities within their service territories should remain the regulatory responsibility of locally elected and appointed governing boards.
3. Support municipal systems retaining the flexibility to establish restructuring rules that pertain to them if they choose to opt into a restructured market. While preserving the maximum degree of local autonomy, the City, recognizes that certain statewide rules or standards of conduct pertaining to competitive supply service may apply to municipal electric systems that choose to participate in restructuring.
4. Oppose exercise of market (monopoly) power. Exercise of market power will hinder the establishment of truly competitive markets and increase costs to all but a limited number of customers. There must be a sufficient number of supporters to make sure there is a robust wholesale market in Colorado. Competitive advantages gained through existing market power in generation should be mitigated prior to retail restructuring moving forward in Colorado. Even higher prices could result from the lack of proper market composition.
5. Support furthering the development of competitively effective wholesale markets. Therefore, competitive wholesale markets should be encouraged by comprehensive reviews of market entry barriers such as siting approval and land use control processes. However, suppliers of electrical energy shall consider all environmental factors as an integral part of planning, design, construction and operating decisions, and shall utilize the best available environmental technology that meets current EPA clean air and water standards.
6. Support consumer safeguards, such as those recommended by the EAP. These should be an integral part of efforts to restructure Colorado's electric market. Customers that may be unable to take advantage of retail restructuring opportunities, including residential, low income, fixed income, small business and small agricultural customers, must be protected from adverse rate effects and the inability to fully participate in a restructured market.

7. Oppose unfair trade and marketing practices by power suppliers. Comprehensive enforcement mechanisms must be established and in place to ensure such practices are not allowed in Colorado.
8. Support adequate licensing requirements for all new entities wishing to provide retail electric supply service in Colorado.
9. Support municipal utilities being the provider of standard offer service (existing municipal supplier will be the default electric supplier) to their customers who do not choose an alternate power supplier. Rates shall be established on cost-based principles as determined by the local governing body.
10. Support aggregation programs so smaller customers can achieve effective buying power to participate in a restructured utility market.
11. Support the full recovery of the costs associated with the ownership of the distribution system that delivers the electric supply to the end-use retail customer. These costs may include operation and maintenance, depreciation, system upgrades, administrative costs, franchise fees, payments in lieu of franchise fees and taxes, return on investment, and the costs associated with government mandated programs, including for example, low-income energy assistance, demand side management, and environmental programs.
12. Support restructuring legislation that makes it absolutely clear that the sales transaction occurs where the electricity is used or consumed. Further, there should be an affirmative duty for all providers, regardless of where located, to collect applicable fees and sales and use taxes. Existing revenues to local and state governments should not be adversely affected by retail restructuring. Taxes and fees should apply whether services remain bundled or are unbundled, and apply regardless of whether the provider is in-state or out-of-state.
13. Support municipal utilities retaining the right to determine the nature and amount of any stranded costs or benefits they incur resulting from restructuring. Additionally, we support determining the manner in which any costs or benefits shall be assessed or returned to their customers.
14. Support the same requirements (for competitive electric rates) being applied to all industry sectors concerning open meetings and public records. Municipal utilities should not be disadvantaged by laws that prevent

municipalities from expressing views on matters presented to the local electorate.

15. Support that all competitive generation suppliers maintain sufficient energy capacity to meet peak demands and adequate reserves as required under current laws, regulations and reliability standards (Reliability and quality of service must not be degraded). Customers who choose alternative suppliers must secure back-up power to ensure the integrity of the system for the protection of all other customers.
16. Support the establishment of a cost-effective regional transmission organization before retail restructuring is implemented.
17. Support the distributing municipal utility must retain the right to meter and bill all customers, retain the right to investigate and claim recovery for energy diversion, and retain the right to disconnect service for non-payment.
18. Oppose legislation that does not maintain transmission and distribution functions for a regulated monopoly service. Customers must not be allowed to bypass the transmission and distribution facilities of the local utility. All customers shall have the right to receive reliable distribution and transmission service.
19. Support current Colorado laws, established by the General Assembly and interpreted and upheld by the Supreme Court, to compensate other utilities when service territory transfers occur as a result of annexations.
20. Support voluntary customer options to purchase renewable energy. Additionally, we support tax credits, portfolio standards, wire charges, and government-funded incentives to encourage investments and customer participation in renewable energy.
21. Support the General Assembly funding programs to assist low-income consumers, educating customers about participating in a restructured electric market, and providing utility employee retraining as part of any retail restructuring legislation.
22. Support all utilities having the opportunity to offer value-added products and services.



23. Support any legislation implementing retail restructuring containing an “effective date.” This “effective date” must be sufficient to afford utility providers with adequate time to prepare themselves for retail restructuring.
24. Support municipal utilities having the right to determine the following: costs to the customer, and the extent of the obligation to supply service to distribution customers, (who purchase power from other sources then request to return to the municipal utility for power supply services).

### **Tax Exempt Financing for Utilities**

Because the Fort Collins Electric Services department has been debt free, tax-exempt financing has not been an issue in the past. However, it may be an issue for Platte River Power Authority and could become an issue for the City if it moves into areas of natural gas supply, telecommunications, etc.

The City of Fort Collins supports tax-exempt financing for facilities owned by municipal utilities and political subdivisions of the states. The City is opposed to any change in the tax laws that would limit use of tax-exempt financing of facilities.

Therefore, the City supports the following policy positions:

1. Support public power systems being eligible to issue tax-exempt bonds. Because they are entities of state and local government, providing local choice and local control, just as private power companies are eligible to enjoy certain tax benefits afforded all private corporations.
2. Oppose the federal government taxing the revenue generators relied upon by state and local governments. The underlying principle behind public power’s ability to issue tax-exempt bonds lies in our federalist system. State and local governments are not allowed to tax the revenue raising instruments of the federal government; likewise, the federal government should not tax the revenue raising instruments relied upon by the state and local governments.
3. Oppose proposals that block municipal service in annexed areas. Annexation is an important public policy tool that allows local governments to meet their obligation to serve new residents and promote economic development on behalf of the community. Proposals that erect barriers to municipal service in annexed areas would be unfair to newly annexed residents and would severely undermine the ability of local governments to provide essential electric service to the public.

4. Oppose language restricting a community's public power entity the ability to sell power from existing facilities. This could lead to default of existing bonds. This not only jeopardizes the financial stability of the local government, but also presents substantial risk to bondholders. Because tax-exempt bonds have been considered to be safe investments, those affected will be people who can least sustain a financial loss.
5. Although private power companies call for "leveling the playing field," the field is already tilted enormously in the private companies' favor. Private power companies control 75% of the market nationwide, receive huge tax breaks, are not hindered by open meetings and public records legislation, have vast resources at their disposal, and exercise substantial political strength.
6. While private power companies complain about local government's federalist right to finance utilities with tax-exempt bonds, they are actively lobbying in some state legislatures to have stranded costs "securitized" with tax-exempt bonds.

### **ENVIRONMENTAL QUALITY**

The City of Fort Collins strongly endorses principles and applies practices to enhance the environmental quality of the City, including sustainability concepts that promote integrated planning, design, implementation and management of our natural resources. The city also promotes environmental stewardship by dealing with land use, transportation and air quality (LUTRAQ) issues in a coordinated approach.

Therefore, the City supports the following policy statements:

1. Support legislation that allows the flexible application of financial resources for environmental needs.
2. Support legislation that enables and reinforces local efforts to plan and regulate the interrelationships of land use, transportation, air quality and the regional determination of air quality attainment status.
3. Oppose legislation that allows state preemption of local government authority to adopt environmental and land use ordinances.
4. Oppose legislation that restricts local government environmental and land use regulatory authority as now authorized by the Colorado Constitution and Colorado case law.

## FEDERAL BUDGET

The City supports a balanced approach to federal spending that gives favorable consideration to local support programs. Federal and local governments have worked cooperatively to help meet basic needs such as transit operations and capital improvements, community development block grants, water quality monitoring and crime prevention. The City strongly supports the continuation of such programs. Moderate increases in funding will provide for similar levels of service in the future.

Fort Collins supports the National League of Cities "Statement of Principles." These principles recognize the need to keep the federal budget in balance and make government more effective and accountable.

It is essential to remember that federal dollars spent at the local level provide the taxpayer with the most direct and recognizable benefit from their federal taxes.

Therefore, the City supports the following federal budget policy statements:

1. Support the Administration and Congress partnering with state and local governments to address problems. Disproportionate burdens should not be placed on cities and towns by inordinately cutting discretionary programs.
2. Support preservation of the federal guaranteed levels of funding for transportation, and allocation of all federal motor fuel taxes and other federal transportation trust funds for their intended transportation purposes.
3. Support Congress achieving a balanced federal budget that sustains Social Security, Medicare and key state and local programs, prior to making tax cuts.
4. Oppose direct assistance to cities and towns being converted to state control.
5. Oppose legislation that increases the administrative burdens and costs to local government for implementing federal grants and programs.
6. Oppose discrimination or favoritism being shown toward any economic or demographic group.
7. Oppose modification of accounting, procedural or budget rules to continue to be used as a substitute for prudent financial management.
8. Oppose legislation that mandates collective bargaining rights for public safety officers employed by states or their political subdivisions.

## **FINANCE**

As a municipality, the City of Fort Collins faces many complex financial issues. The Fort Collins City Council has adopted Financial and Management Policies to establish guidelines for long-range financial planning and to help in preparing the City's budget.

Many of the provisions of Article X, Section 20 of the State constitution (TABOR) unnecessarily constrain local government. By a voter-approved measure, Fort Collins has opted out of the requirement to refund revenue collected over the limit. The measure earmarked the funds for specific purposes. However, many other aspects of Article X, Section 20, continue to place unnecessary hurdles in the way of efficient and effective city government.

Strong fiscal planning, prudent debt management and preservation of the City's revenue base are vital in maintaining and improving the City's financial health.

Therefore, the City supports the following policy statements:

1. Support the continuation of existing financing methods and the addition of new methods for local government to support provision of municipal services.
2. Support legislation that promotes public and private sector economic developments that are consistent with the City's economic policy. Benefits from economic growth should be shown to exceed costs
3. Support equitable policies among taxing jurisdictions when offering financial incentives to business.
4. Support legislation or ballot measure that would remove or modify **key** provisions of Article X, Section 20, that inhibit the ability of public entities to receive and retain user fees for services that residents and customers desire.
5. Support promoting the equitable treatment of sales and use taxes to residents and corporations residing or doing business in cities and towns whether the transaction is made on-site, electronically (e-commerce), or by mail. The City of Fort Collins recommends that taxes be as broad-based as possible and that exemptions be extremely limited.
6. Support federal legislation that recognizes the importance of sales and use tax to local, self-collecting municipalities and appropriately distributes sales tax collections on e-commerce transactions.