



**PROPOSED
2014-2015
STATEMENT
OF
MUNICIPAL
POLICY**

*Presented To:
NMML Membership
August 28, 2014
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2014-2015
GENERAL STATEMENT OF
MUNICIPAL POLICY

The General Statement of Municipal Policy of the New Mexico Municipal League is the method by which the municipalities of New Mexico make known their basic, common aims and purposes. This policy statement is the foundation upon which the League builds its legislative program at both the state and national levels. The statement generally does not set forth positions on specific legislation -- rather it attempts to set forth principles and guidelines as the basis for action by League officers, committees, individual municipal officials and League staff.

This statement recognizes that local and state officials are a team whose problems are largely mutual and whose close cooperation and understanding are essential in order to secure the best possible solutions for New Mexico municipalities.

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COMMUNITY, ECONOMIC DEVELOPMENT, GOVERNMENTAL OPERATIONS & HUMAN RESOURCES

Community Growth And Development

1.1.00 **General Statement.** New Mexico is one of the faster growing states in the country. The majority of the state's population reside within its incorporated municipalities. Municipal officials should anticipate, plan, control and evaluate the growth and development of their communities in order to provide necessary services, protect the safety and welfare of the people and preserve our environment.

1.1.01 **Incorporation of Municipalities.** The Municipal League strongly believes that qualifications for incorporation of communities should be consistent, equitable and impartial throughout the state. Such qualifications should be designed to ensure that any municipality which is incorporated will be fiscally viable.

Further, any new legislation should not be inconsistent with the provisions of § 3-2-3, NMSA 1978, limiting incorporation within the urbanized territory of existing municipalities and should avoid encouraging incorporation of suburban municipalities which impede the natural growth of existing full-service municipalities. Such new suburban municipalities usually cannot provide municipal services equivalent to those, which could be provided by annexation by the hub municipality, but inevitably duplicate some services at additional cost to public resources. Provisions should be made to provide a temporary revenue source for newly-incorporated municipalities until permanent sources of revenue are established and generating revenue.

1.1.02 **Municipal Growth Management.** Municipalities should be empowered to manage internal and adjacent land use and development. Expansion of boundaries should provide for orderly growth and avoid duplication of services and facilities. In order to provide orderly growth and manage resources within the municipalities, the federal and state government should not preempt traditional and local land use powers. The League opposes any effort to limit the use and flexibility of tax increment development districts. Annexation laws should be amended to allow the municipality to annex pockets of unincorporated territory. The statutes governing extraterritorial zoning, planning and platting should be amended to establish uniform limits and allow all municipalities regardless of size to exercise the same powers. Additionally, the extraterritorial zoning statute should be amended to allow municipalities to exercise zoning powers, if the county does not act on the joint zoning agreement, and to provide a mechanism for extraterritorial zoning for municipalities located in multiple counties. The League opposes any legislation that adversely affects municipalities' historic extraterritorial zoning authority and right to annex. Housing development near airport operations and the complaints that accompany such development are of increasing concern to municipalities. The League supports disclosure to potential buyers of real estate where the proposed purchase is in an area of municipal airport operations.

- 1.1.03 **Land Use By Other Jurisdictions.** Owners of federal, state, tribal, county, school and special district real property lying within a municipal zoning authority's boundaries should cooperate and be subject to land use approval by the municipal zoning authority. This will minimize problems in traffic control, police and fire protection, utility demands and other municipally-supplied services.
- 1.1.04 **The Metropolitan Redevelopment Code.** Municipal authority to designate slum or blight areas for redevelopment, to plan and execute such redevelopment under designated procedures should be protected.
- 1.1.05 **Municipal Regulatory Authority.** The League opposes any federal or state regulation, statute or constitutional amendment which would place restrictions on state and local government actions regulating private property or requiring additional compensation.
- 1.1.06 **Preemption of Local Authority.** At both the state and federal levels attempts have been and currently are being made to preempt local government authority in a variety of areas; telecommunications, utility franchising and the recent "takings" legislation are examples. Preemption deprives local governments of the ability to regulate activities occurring at the local level and affecting local inhabitants. Municipal governments should be empowered to regulate, to the greatest extent possible, local affairs and issues. The League opposes federal and state legislation that preempts local authority.
- 1.1.07 **Art in Public Places.** The Art in Public Places Act requires municipalities to expend a portion of the cost of public works projects to purchase art to place in, upon or around public buildings. The Art in Public Places Act should be amended to clarify its applicability and to provide that Local Public Bodies control the funds and the procurement process. Part of the procurement process should encourage artists from the local area to submit proposals.

Housing

- 1.2.00 **General Statement.** Municipal government should work toward the provision of safe, sanitary and affordable housing for all municipal residents. Municipalities should support existing and new programs that provide for substantial housing assistance, rehabilitation, and construction of housing units for low and moderate income households for both rental and home ownership programs. The League supports the efforts of the New Mexico Mortgage Finance Authority to acquire additional personnel that would be devoted to increasing the availability and quality of affordable housing in rural areas.

Governmental Operations And Services

- 1.3.00 **General Statement.** New Mexico State Statutes regulating municipal organization and operation should be broad enough to allow responsible exercise of authority by locally elected officials.
- 1.3.01 **Local Determination.** The State should avoid unwarranted intervention in local affairs and should act to assure municipal autonomy. The League opposes any direct or indirect attempts to restrict constitutional grants of authority to those municipalities that have adopted Home Rule Charters by vote of the citizens.

Existing statutes requiring state agency approval of intergovernmental arrangements, such as joint powers agreements and sales, transfers or exchanges of real or personal property between municipalities and other governmental entities, should be repealed.

- 1.3.02 **Public Records.** The Public Records Act must be amended to better define which records of public entities are subject to public inspection and which should be kept confidential. Privacy rights of individual citizens, public employees and applicants should be preserved if there is no compelling public "need to know." In the absence of a better definition of what constitutes a "public record," the municipality should not be held liable for court costs, fees and damages for not disclosing a particular record.
- 1.3.03 **Municipal Elections.** Conducting municipal elections is a function of municipal government. Municipal governments must work with the Secretary of State's Office and other local governments to initiate changes to the Municipal Election Code, which will result in more effective and efficient administration of municipal elections.
- 1.3.04 **Voter Registration Lists.** State statutes provide that voter registration lists and signature rosters furnished by the County Clerk for municipal elections shall contain only those individuals who are qualified municipal electors. In addition, if municipal officials must be elected by district, the County Clerk should provide to the Municipal Clerk voter registration lists and signature rosters separated into the districts established by the municipality. All such lists and rosters should be furnished to the Municipal Clerk without charge.
- 1.3.05 **Municipal Libraries.** Free access to timely, accurate information is vital to the economic development and educational advancement of our citizens and state. Municipal governments should support public libraries serving as a community information resource, enabling people of all ages and conditions to enhance their effectiveness as citizens, workers, business people, parents and students. Many New Mexico municipalities often serve rural patrons beyond municipal boundaries. Municipal governments believe that the State has the responsibility to provide library services to the municipalities of New Mexico. State aid to public libraries is one of the lowest levels of State support in the country. State aid to public libraries should be established and appropriated at an amount at least equal to the national average to ensure continued service to all New Mexico citizens.
- 1.3.06 **Compliance With Local Codes.** Municipalities should be empowered to inspect construction and use of federal, state, tribal, county and school facilities within their corporate limits and to enforce compliance with municipal codes governing construction and utilities, fire prevention, life, safety, health, zoning and land use and environmental protection. State laws and regulations should not interfere with or supersede local laws protecting the health, safety and welfare of citizens.
- 1.3.07 **Municipal Courts.** Municipal Courts in conjunction with local law enforcement are a vital function of municipal government, providing a sense of law and order and stability. The League opposes any attempt to merge this important service into a statewide court system.

Personnel

1.4.00 **General Statement.** Municipal government personnel determine the quality of its performance and its service to citizens. Municipalities should aggressively and continually improve all components of personnel management. Personnel administrative systems are a prerogative of management. Responsible personnel administration requires that municipal governments:

- A. Operate personnel systems in compliance with all applicable laws.
- B. Base all employment decisions and actions on individual merit, without regard to race, color, creed, national origin, ancestry, age or gender, and without regard to mental or physical disability of otherwise qualified individuals.
- C. Recruit, select and advance employees on the basis of their relative experience, ability, knowledge and skills.
- D. Provide training to assist employees to perform to their best abilities.
- E. Retain employees on the basis of the quality of their performance.
- F. Provide adequate compensation in order to attract and maintain high quality employees.
- G. Support maintenance of a drug-free work place.
- H. Support employee assistance programs.

The League advocates on-going training for municipal elected officials and employees to supply up-to-date knowledge and professionally acceptable methods and practices for performing their duties and to minimize municipal exposure to liability risk.

1.4.01 **Public Employee Collective Bargaining.** Elected municipal officials bear the responsibility of providing service in an efficient and economical manner and in establishing employee compensation and benefits that are equitable and economically feasible. Municipal employees should be given the opportunity to express their individual and collective views on conditions of employment and work. The League supports any state legislation concerning public employee collective bargaining allowing the free choice of municipal governing bodies to determine whether or not the municipality shall bargain collectively. The League opposes any state statute, regulation or regulatory interpretation, which would undermine management rights, the authority of local boards or that, would erode grandfathered rights. The prerogatives and obligations of locally elected officials to exercise fully their responsibilities to govern must be retained. The League opposes any legislation to require binding arbitration as a means of impasse resolution.

1.4.02 **National Legislation.** New Mexico municipal officials urge Congress to refrain from placing collective bargaining, special wage and hour conditions or mandatory employment benefits on local government. The League believes that states should retain their prerogative to regulate public retirement.

- 1.4.03 **Public Employee Retirement Association.** Municipalities of this State have a vital interest in the operation, benefits, costs and future of the PERA program. Prior to adoption of major PERA policy and to the submission of PERA sponsored legislation, the PERA Board should notify all member municipalities in sufficient time so they may consider the impact of such proposals and voice ideas and concerns about such matters.

The New Mexico Legislature should provide adequate safeguards for the soundness of retirement systems for New Mexico public employees. The New Mexico Legislature should also require an independent certified annual audit and an annual report to contributing members, employers and annuitants.

- 1.4.04 **Personnel Systems.** Over 50% of municipal operating funds go to pay salaries and benefits of employees. A sound, functional personnel management system is essential for successfully dealing with rising costs and increased demand for services as well as minimizing liability. Local governments should develop and implement written personnel systems and re-evaluate such systems periodically. Municipalities have personnel needs in essential areas of municipal operations including but not limited to public safety and public works. Retirement and relocation of personnel often make filling these critical positions exceedingly difficult. The League supports legislation permitting employees who are eligible to retire from a PERA affiliated employer to retire and be employed in the same or similar position by a PERA affiliated employer. The League opposes any increased requirement that a retired employee wait a period of time prior to being eligible for re-employment and opposes any cap on potential earnings of the worker returning to work.

- 1.4.05 **Regional Training.** Centralized training often creates a hardship for smaller municipalities and smaller departments in terms of travel and per diem expense and time away from the job. The League supports the concept of on-site or regional training, wherever practicable, including in-house training using programmed learning materials, in-service training by qualified staff, and the sharing of training, materials and qualified instructors among neighboring jurisdictions.

- 1.4.06 **Personnel Safety and Protection.** Municipal employees and volunteers should have adequate protection against self-injury and injury by others. Municipalities should provide ongoing training in safety and injury avoidance, provide modern protective equipment and apparel for the duties involved, and require, by proper disciplinary action, use of safe working procedures and protective clothing and equipment. Municipalities should keep abreast of possible environmental dangers and provide any necessary protective clothing and equipment to employees whose duties expose them to hazardous materials. Where duties subject personnel to possible exposure to contagion, municipalities should also provide current inoculations. The League will oppose any attempts to mandate the arbitrary imposition of any presumption of disease or disability based upon a person's employment with a municipality. Municipalities should provide training in conflict resolution to personnel whose duties may expose them to violence.

Public Health, Welfare And Social Services

- 1.5.00 **General Statement.** Direct involvement in areas such as public health, social services and education is among the growing number of responsibilities facing municipal governments. Municipalities should interact and cooperate with the agencies providing services related to these areas in order to assess their communities' needs and to insure that adequate services are provided to their citizens. Municipalities should create a community environment, which provides families with the support they need to foster healthy and productive futures for their children.
- 1.5.01 **Health Care.** The rural nature of New Mexico presents special problems regarding availability and access to health care. One of the principal problems relates to an inadequate health care delivery system and, in particular, a shortage of health care providers. New Mexico communities must work together to facilitate improvement of health care delivery and to find the solutions necessary to meet the health care needs of all New Mexicans.
- 1.5.02 **Detoxification/Substance Abuse Treatment and Facilities.** The abuse of alcohol, drugs and other substances is a problem statewide and is especially severe in certain areas of the state. The League specifically requests financial assistance for operation and maintenance, construction and/or improvement of detoxification and regional treatment facilities, including treatment services in local detention facilities.
- 1.5.03 **Prevention of Substance Abuse.** New Mexico has significant problems created by substance abuse. The causes of substance abuse are complex and cannot be solved by law enforcement alone. Joint efforts of federal, state and local governments are needed to assist in comprehensive strategies that include prevention, education, treatment, rehabilitation and law enforcement to help solve these serious problems. Local governments must have adequate resources and flexibility to address these problems and are in the best position to implement anti-substance abuse policies. Municipal officials should become directly involved and coordinate with Federal, state and community leaders who are trying to solve these problems.
- 1.5.04 **Education.** Many problems currently exist in the education system, including high dropout rates and lack of skills necessary to obtain and hold jobs. The quality of education systems is one of the major factors determining a municipality's ability to offer satisfactory quality of life for its residents as well as to attract and retain business and industry jobs which support its residents. Municipal leaders have a role to play in advocating that children, youth and adults have equal and appropriate educational opportunities to reach their potential to become responsible citizens and competent workers. Municipalities should cooperate and collaborate with their educational entities, the business community and social services agencies in areas of common community concerns that affect education.
- 1.5.05 **Green Jobs and Buildings.** Municipal governments can be instrumental in improving the quality of the environment while at the same time growing both the economy and green jobs at a local level. The League supports efforts to enhance and develop job training programs in the public and private sector that provide for economic development in environmentally sound ways. Municipalities are urged to

participate in the environmental and social opportunities offered by building an inclusive green economy of high quality jobs and a thriving green workforce.

ENVIRONMENT, ENERGY & NATURAL RESOURCES

Environment

- 2.1.00 **General Statement.** A basic obligation of each municipality is to protect the health, welfare, and safety of its citizens, which includes not only protecting the environment from further degradation but preserving and improving the quality of the total environment.

Conservation of limited natural resources is a primary consideration guiding the actions of all levels of government. The effects of social, physical and technological change upon the environment must be recognized so that such change does not reduce environmental quality.

Municipalities are faced with an overwhelming array of environmental regulatory mandates, both state and federal, with little guidance as to priorities for implementation. The municipalities of New Mexico, on their own and through the Municipal League, must continue to work with state, tribal and federal regulators and legislators to develop priorities for implementation utilizing rigorous cost-benefit analyses and health risk assessments. Only by doing so can the scarce resources of the municipalities be best utilized to protect and enhance our environment and the quality of life. Additionally, state and federal governments must provide local government adequate time and funds to comply with federal and state environmental mandates in accordance with the 1995 Federal Unfunded Mandates Act and Article X, Section 8 of the New Mexico Constitution.

The municipal perspective should be well represented at the Congressional level whenever the reauthorization of environmental mandates, affecting local governments, are being considered. Every consideration should be given to the level of protection and at what cost.

- 2.1.01 **Tribal Water and Air Standards.** Tribal governments have been authorized by Congress to promulgate water quality and air quality standards under the Clean Water Act and the Clean Air Act that may be more stringent than those set by the US Environmental Protection Agency or the New Mexico Water Quality Control Commission. As a result, tribal governments may establish differing environmental standards from those approved by the state or federal government which have a direct consequence on municipalities that are upstream from, or within the air quality jurisdiction of tribal lands. More stringent standards passed by tribal governments could pose severe financial consequences for affected municipalities.

Tribal governments must be held accountable for any environmental standards they promulgate that are more stringent than those approved by the federal Environmental Protection Agency. Justification must be provided in setting differing environmental standards to include a comprehensive health-risk assessment and a cost-benefit analysis as is required of federal agencies. Affected municipalities and the State must be allowed to participate fully in the rule-making process.

The Municipal League fully supports Congressional action that subjects tribal governments to the same requirements as those provided the federal government under the Unfunded Mandates Act, and requiring that any standard promulgated by the tribal governments that are more stringent than those approved by the EPA be subjected to the requirements noted above. If tribal governments fail to meet the above requirements, then the standards they promulgate should apply only to discharges within their reservation boundaries.

- 2.1.02 **Hazardous and Toxic Wastes.** The improper disposal of hazardous, toxic and transuranic nuclear wastes, as well as hazardous material spills, are national problems which can endanger public health and pollute our nation's air, water and land resources. The municipalities of New Mexico are willing to work with the state and federal governments as well as with generators and transporters of hazardous waste to develop and implement a state and national hazardous wastes and materials management strategy. The strategy must recognize the varying capabilities of municipalities to manage these materials.
- 2.1.03 **Water and Wastewater Systems.** Municipalities experiencing significant growth and demands to expand their water and wastewater systems must retain municipal control over these facilities. Municipal autonomy is imperative in comprehensively managing water and wastewater utilities or the effects of these systems in relation to that growth.
- 2.1.04 **Water Planning Process.** Water planning by municipalities is imperative for the reasonable development and use of water resources and promotes the public welfare and conservation of water within the state. In order to make the most efficient use of state and local resources, there is a need to have a uniform template for the preparation of water plans and a uniform and timely process for the state review of such plans.
- 2.1.05 **Water Use Planning Period.** Municipalities subject to the forty year planning period must protect their ability to adequately plan and manage their water supply portfolio in a manner consistent with the protection of the public welfare. The current planning period should be assessed as to its adequacy. Municipalities support a reasonable extension of the water use planning period.
- 2.1.06 **National Pollutant Discharge Elimination Systems.** Municipalities are concerned that the waters of New Mexico are protected from polluted discharges in order to safeguard municipal water supplies. However, any amendments to the administration of such state or federal programs should be fully funded by the entity administering such programs on a state-wide basis and should not require payment of any fees by municipalities. Additionally, adequate definitions should be developed to protect the waters of New Mexico.
- 2.1.07 **Preservation of Water Supplies.** Municipalities, with state support, should adopt sustainable water management policies that encourage conjunctive use strategies, conservation, drought reserves and additional supplies for future development, in the supply and storage of the water.
- 2.1.08 **Water Adjudication.** The adjudication of water rights is a long drawn out process that could take years to accomplish. In order for the State Engineer to determine

the amount of unappropriated water available, the state should establish Water Courts to streamline the adjudication process.

Several municipalities are currently involved in water adjudication suits. The effects of these suits could seriously impair the ability of municipalities to provide water resources for municipal purposes. Where appropriate, the League should participate as amicus curiae on behalf of municipal interests.

2.1.09 **Environmental Protection of Water Supplies.** Recognizing that the state is required to adopt any federal regulations promulgated under the federal Safe Drinking Water Act, municipalities are faced with tremendous increases in monitoring and analytical costs for compliance. With state support, municipalities should adopt policies which assess potential contamination of water supplies and protect existing and future water sources from contamination. In developing monitoring requirements for municipalities, the state should assess the need and should not require excessive monetary monitoring requirements.

2.1.10 **Wastewater.** Federal and state governments must continue their partnership with municipalities in the funding of wastewater treatment facilities. Funds must be made available for adequate technical assistance in the transition from planning to actual implementation of plans.

Standards and regulations required by the State of New Mexico must be accompanied by adequate funds to cover their implementation. Communities must be included in the water quality standards development process with the State Environment Department. Municipalities should also be included in the approval process with the Water Quality Control Commission to insure reasonable stream standards that reflect the necessary level of protection. Likewise, municipalities, New Mexico Environment Department and the Water Quality Control Commission should be involved in any development and approval involving tribal governments Stream Standards and any related revisions to the State's Stream Standards.

The water standards for the operation of treatment facilities should be consistent with the geological, hydrological and climatic conditions in which they operate. Effluent standards for discharge must take into consideration usage by other municipalities and/or tribal governments. Regarding the management of municipal wastewater effluent, federal and state regulations should, by offering incentives, encourage beneficial reuse as determined by the municipality.

Any extensions of the deadline for compliance with the standards should allow adequate time for individual analysis of current discharge practices. The analysis should focus on all relevant environmental effects including air quality, land use and energy efficiency.

2.1.11 **Treatment of Biosolids.** Federal and state regulations on the management of municipal biosolids should encourage its beneficial use. Reasonably anticipated effects associated with potential biosolids exposure and local geographic and climate conditions must be considered in the beneficial use of biosolids. If site specific consideration can be shown by reasonable risk assessment analysis to be environmentally sound and economically prudent, then the use should be permitted.

2.1.12 **Solid Waste Management.** The management of solid waste must be addressed through aggressive programs of source and volume reduction, resource recovery and ultimate disposal, all of which must be compatible with the environment. The magnitude and complexity of funding solid waste management must be addressed by a committed partnership among the Federal, state and local governments. A national and state policy for solid waste management should take an integrated approach to allow local governments to effectively mix and match management options to best meet local needs and economics.

The State should adopt modifications to the New Mexico Solid Waste Management Regulations to provide for:

- A. a performance-based standard set by the state or the numerical standard set by the local jurisdiction that is not less than the performance base standard for siting of municipal solid waste facilities;
- B. temporary, short-term permits designed to allow and encourage small-scale experimentation with solid waste transformation and composting technologies; and
- C. a streamlined “registration” process for biosolids composting facilities that can demonstrate an existing permit through the federal NPDES program.

Municipal officials having jurisdiction over landfills must be equal partners with the Department of Environment in the development of solid waste management plans and regulations. Such regulations must reflect realistic cost-benefit assessments. Standards and regulations required by the State of New Mexico must be accompanied by adequate funds to cover their implementation.

A federal and state technical assistance program should be pursued to assist municipalities in complying with environmental mandates. Federal and state funding should support research and development and pilot programs to assist localities in demonstrating new recycling and resource/energy recovery techniques. In addition, federal and state governments should provide tax incentives to markets for recycled materials.

It is increasingly difficult for municipalities to acquire solid waste disposal sites that are environmentally safe and are economically feasible to develop. The state should identify all lands, which could comply with their siting criteria. In the event lands are available in federal or state jurisdictions, the state should take a lead role in assisting local governments in acquiring those lands.

2.1.13 **Air Quality Standards.** Good air quality is essential to the public health, safety and welfare. Municipalities, with state support, should adopt policies, which protect the quality of the air and, in areas in which air quality is not satisfactory, impose reasonable requirements for bringing the quality of the air in line with state and federal standards.

Standards and regulations required by the state of New Mexico must be accompanied by adequate funds to cover their implementation.

The Clean Air Act, as amended, recognizes the primary responsibility for achieving clean air is with state and local governments. The federal government should explicitly strengthen the direct role of municipalities in air pollution prevention and control. Authority to conduct air quality planning for compliance should be vested with local governments or regional policy making organizations.

2.1.14 **Storm Water.** Federal and state supported research, training and development strategies for storm water management planning should be initiated to assist local governments in complying with the EPA Storm water Regulations. Regional conditions should be taken into consideration in the development of storm water standards promulgated by the federal and state governments.

2.1.15 **Impact Analysis for State Environmental Standards and Regulations.** Compliance with environmental protection standards and regulations requires the commitment of significant municipal funds and human resources. Before proposing any action that may have a significant impact on the resources of New Mexico municipalities, state agencies should be required to perform or obtain an assessment of the technical validity of the proposed action; an environmental assessment and fiscal analysis to define the impact of the proposed action; and an evaluation of the impact if the proposed action is abandoned. This requirement should be applied by state agencies adopting environmental standards or regulations, which are more stringent than federal mandates.

Energy

2.2.00 **General Statement.** Energy production constitutes a major part of New Mexico's economy. The Municipal League supports the leasing, production and exploration for energy sources as long as adequate safeguards are maintained to protect the environment and the health and safety of the citizenry.

2.2.01 **Alternative Sources of Energy.** State supported research and development strategies for alternative sources of energy should be initiated which would benefit all regions of this state.

All levels of government should develop planning and decision-making processes, which relate energy to employment, environment, and other public priorities. At the same time, a concerted effort should be made to encourage private industry to fund research on increasing the use of clean, renewable forms of energy and to continue development of conventional energy resources in a careful, environmentally sound manner. Research should be pursued, with state and federal government support, in the areas of conversion of waste to energy, wind power, solar power, geothermal energy, methane gas, nuclear energy and other alternative sources of energy.

Natural Resources

2.3.00 **General Statement.** Conservation of limited natural resources must become a primary consideration guiding the actions of all individuals and governments. The effects of social, physical and technological change upon our environment must be recognized so that such change does not reduce the quality of our environment.

Development of our hard rock natural resources should be consistent with the protection of our environment.

Our forests and rangelands are natural resources, which are renewable. The state should develop policies that regulate the use and protection of our native forests and rangelands, while not adversely affecting economic development without adequate justification.

FINANCE, INTERGOVERNMENTAL RELATIONS & TAXATION

Intergovernmental Relations

- 3.1.00 **General Statement.** Municipal officials recognize the interdependent responsibilities of all levels of government in serving the public. We advocate that municipal, county, state, tribal, and federal officials and agencies cooperate as creative, fully participating partners in the establishment and implementation of policies and programs affecting all citizens. In particular, we urge that elected and appointed policy and decision-making officials of municipalities be included on any governmental body organized to administer cooperative programs among various levels of government. In addition, we encourage state government to appoint municipal officials to state rule and policy making bodies that make decisions directly affecting municipalities.
- 3.1.01 **Local Autonomy.** New Mexico municipalities are governed by locally elected officials with the duty and responsibility of protecting the health, safety and welfare of all citizens of their community. It is one of the foremost concerns of the League to insure that the local autonomy of New Mexico municipalities is protected from interference by other levels of government through legislative or regulatory mandates.
- 3.1.02 **Tribal/Municipal Government Relations.** Municipalities may be required to deal directly with tribes or the federal government because of the proximity of tribal lands to the municipality. The development or use of nearby tribal lands may raise issues pertaining to zoning, planning and platting, taxation, environmental health and law enforcement. If the lands are held in trust by the United States Government for the benefit of the tribe, the Secretary of the Interior must consider the impact of development or use of the lands on the municipality. However, the laws that control and influence the Secretary of the Interior are not always clear. To avoid uncertainty the municipality should consider a municipal/tribal agreement that is subject to the approval of the Secretary of the Interior. This would allow the municipality and the tribe to determine the status of their relationship to the greatest degree possible. The New Mexico Municipal League supports written agreements that contain arbitration or mediation provisions in lieu of litigation. These agreements should include provisions that make them enforceable in federal court if either party breaches the agreement.

If a tribe or individual member has applied for trust acquisition that the municipality determines will adversely impact local interests, but the Secretary of the Interior has not yet approved the application, the municipality should submit comments to the Bureau of Indian Affairs under 25 C.F.R. 151.10. The New Mexico Municipal League encourages the Congress to add a requirement to 25 C.F.R. 151.10 that

encourages the Bureau of Indian Affairs to assist the parties in entering development agreements with arbitration or mediation provisions.

3.1.03 **Federal Payments in Lieu of Taxes to Municipalities.** Many municipalities in New Mexico have federal property located within the municipal limits, yet receive no Payments in Lieu of Taxes to offset the property tax revenues forgone as a result of the federal government owning the property. The New Mexico Municipal League supports federal legislation that would provide for Federal Payments in Lieu of Taxes to municipalities in the State of New Mexico where federal property is located within the municipal limits of the municipality.

3.1.04 **State Shared Gross Receipts Taxes.** The New Mexico Municipal League recognizes that many members of the legislative and executive branches of state government believe that the “State Shared Gross Receipts Tax” is a sharing of taxes imposed by the state. The League believes that the history of the “State Shared Gross Receipts Tax” is important to be clear to all citizens of New Mexico and especially to those serving in the executive and legislative branches of state government. The current 1.225% “State Shared Gross Receipts Tax” was originally locally imposed Gross Receipts Tax and an Occupancy Tax that were imposed and collected by municipalities in the 1950s and 1960s. During the 1970s the legislature determined that it would be in the interest of the state, municipalities and businesses in the state to have all taxes reported to the state. As a result the state incorporated those locally imposed taxes in the state rate and called that portion of the State Gross Receipts Tax Rate the “State Shared Gross Receipts Tax”.

Taxation And Revenue

3.2.00 **General Statement.** Municipalities are charged with the administration of government and delivery of basic services to their citizens. Elimination of federal and state funds and the shift of additional program responsibility to the local level are causing tremendous fiscal impact to municipalities. Additional burdens are placed on municipalities when state or federal government redirects local revenue sources to their use. Any such state redirection must comply with Article IV, Section 16 of the New Mexico State Constitution which states that the State General Appropriation Act shall not be used to repeal or amend existing statutes. Municipalities must have authority to generate adequate revenues to administer government and to provide basic services.

3.2.01 **State Tax Policy and Municipal Tax Sources.** Tax policy promulgated by the Legislature and Governor has a profound impact on New Mexico Municipalities. Because of these profound consequences, the New Mexico Municipal League should be included in discussions and decisions regarding state tax policy. Proposals that create exemptions from the Gross Receipts Tax change the use or level of taxes on gasoline, alcohol or other taxable goods and services have an effect on the level of revenues received by municipalities to provide services to the citizenry.

New Mexico municipalities are heavily dependent on the Gross Receipts Tax for support of general government services. In addition, the New Mexico Municipal League recognizes that other state shared taxes such as the gasoline tax are declining sources of revenue for support of services to the citizens of municipalities

and the state. Franchise fees that are generated as a result of agreements with public utilities may decline as deregulation of the utility industry progresses.

The New Mexico Municipal League supports legislation that will diversify the sources of revenue available to municipalities to support general government operations. Specifically, the New Mexico Municipal League supports state sharing of a portion of its income tax collections with municipalities. Also, the League supports a general sharing of the Compensating Tax with municipalities in proportion to the current sharing of the state Gross Receipts Taxes.

Any shifting of tax sharing between the state and municipalities must guarantee municipalities at least the same revenue levels they derive from current tax policy.

3.2.02 **Diversified Tax Authority.** Municipalities are not equal in their ability to raise revenues from taxes at the local level. Socio-economic factors influence the tax base. The League supports legislation that would allow a municipality to enact taxes at the local level that are appropriate to its tax base. The League supports legislative taxing authority to all municipalities in the following areas:

1. Gross Receipts Tax - Retain authority to enact at the local level.
2. Ad Valorem Tax - Retain authority to impose millage for municipal general purpose government.
3. Income Tax - Grant municipalities a share of the State income tax.
4. Miscellaneous User Taxes - Grant local authority to levy local option taxes on sales of gasoline, cigarettes and alcohol, or increase the municipal share of the current taxes.
5. Real Estate Transfer Tax – Retain authority to impose a local option Real Estate Transfer Tax as a diversified tax source.

Any restructuring of available revenue sources by the state or federal government should not result in the loss of actual revenue to any municipality.

State user fees directed at municipalities should be kept at a minimum. This type of fee should not be used as a substitute for funding through the Legislative appropriation process.

3.2.03 **Municipalities with Inadequate Revenue Bases.** Many municipalities do not have revenue bases sufficient to provide funding for basic public services. The League supports creation of new, permanent, assistance programs that address the need of municipalities in the areas of facilities, infrastructure and equipment.

3.2.04 **Home Rule Municipalities.** Some municipalities have chosen to adopt Home Rule Charters as authorized by Article X, Section 6 of the New Mexico Constitution. However, the effective implementation of local Home Rule has been substantially hampered by action of the 1972 Legislature when it severely restricted Home Rule actions in financial matters. The League supports removal of limitations on municipal revenue sources for home rule municipalities.

- 3.2.05 **State Shared Revenues**. At present, several state-levied taxes are shared with municipalities. Any change made in the rates of state shared taxes must maintain or improve upon present distribution ratios. Any changes in the base for taxes should reduce neither present nor future municipal revenues.
- 3.2.06 **Special State Formula Distributions**. At the present time funds are appropriated by the legislature from fees, licenses, penalties and taxes received from insurance businesses, distributed on a per unit basis to local fire and police agencies. Any balance remaining in those specifically created funds should be distributed to the Law Enforcement Protection Fund and the Fire Fund for further distribution to municipalities. Distributions should not be reduced.
- 3.2.07 **Revenues for State and Federal Mandates**. The state and federal government must provide added financial assistance or revenues each time their legislative, executive or judicial branches create new or expanded service requirements for municipalities, and must provide realistic funding levels for new and existing mandates.
- 3.2.08 **Existing State Financial Assistance**. Municipalities strongly support state financial assistance in grant programs and request that all such programs recognize the increased cost of operating municipal government, as well as the reduction and elimination of federal funds.
- 3.2.09 **Occupancy Tax**. Municipalities have been granted the authority to impose the Occupancy Tax to a maximum of 5%. The League opposes any changes in the Occupancy Tax Statute, which would negatively impact municipal authority to utilize the tax as they choose.
- 3.2.10 **Gaming Revenues**. The expansion of legalized gaming has created additional service demands on and economic losses for municipalities, especially in the delivery of public safety services. All municipalities are impacted by expansion of legalized gaming and should receive the portion of the gross revenues generated by gaming necessary to defray the cost of increased service demands and loss of revenues.
- 3.2.11 **Dual Taxation**. Situations exist where Native American tribal governments own lands within municipalities and claim the right to tax commercial activities conducted on those lands. In such cases, the municipality should be allowed to continue to levy locally imposed taxes and receive state shared revenues to defray the cost of providing municipal services to land owned by Native American tribal governments. The decision to share municipal tax receipts should be made at the local level.
- 3.2.12 **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. The New Mexico Municipal League opposes continuation of the moratorium on taxation contained in the Internet Tax Freedom Act.

- 3.2.13 **Local Government and State Road Funds.** Preservation of both the Local Government and State Road Funds is extremely important to the transportation system of the state. The League opposes any legislation, which would impair the integrity of the Funds or appropriate their resource to other uses.
- 3.2.14 **Impact Fees.** Growth in municipalities creates increased demands for public services. As these demands increase, there is a need to fund capital improvements to provide these services. The League supports the use of Development fees as an effective means of having growth pay for itself. The Development Fees Act should be amended to streamline and simplify its application and expand the universe of projects including a municipal option for public schools and public libraries, for which development fees may be assessed and expended.
- 3.2.15 **Unclaimed Property.** Municipalities routinely receive money and other property of value that are held on behalf of other people and entities in order to secure certain rights, privileges and immunities from the municipality. Occasionally the owner or depositor cannot be located when the time comes to return the property. Because of the time and effort involved in protecting, preserving and searching for the rightful owner, municipalities should be entitled to keep the property for its own use upon making a determination that the property has been abandoned and the owner cannot be found.
- 3.2.16 **Federal and State Financial Assistance.** Federal and state financial assistance for municipal operations and capital outlay construction has frequently been the only way such programs and facilities could be funded, especially for smaller municipalities with severely restricted tax bases and bonding capacity. In particular:
- A. Municipalities strongly urge Congress to resist efforts to reduce or eliminate useful general funding programs such as the Community Development Block Grant Program;
 - B. Municipalities urge the New Mexico Legislature to provide a permanent source and adequate funding level for the Community Development Council and similar grant and loan programs;
 - C. Municipalities further urge the Legislature, together with local governments, to develop an effective funding system to supplement or replace federal funding in those program areas which they mutually recognize to be most essential to the well-being of New Mexico's citizens.
- 3.2.17 **User Fees.** All non-municipal suppliers of natural gas, electric, water, sewer, refuse and telecommunications utility services, including the incumbent and alternative suppliers, should be assessed a use and rental fee by municipalities in the form of user fees or a tax on telecommunication companies on a competitively neutral basis.

The New Mexico Municipal League opposes any federal or state action that would limit the ability of municipalities to assess fees against users of public rights of way.

3.2.18 **Corrections Fees.** Section 35-14-11 requires municipalities to enact an ordinance requiring assessment of a corrections fee to be collected from persons convicted of violating any ordinance relating to operation of a motor vehicle or any ordinance that may be enforced by the imposition of a term of imprisonment. All assessments are required to be deposited in a local government corrections fund and shall be used solely for the purpose of constructing, operating or maintaining the municipal jail or for the paying for the cost of housing municipal prisoners in the county jail or other detention facilities in the state. Municipalities are subsidizing the cost of housing prisoners from their General Funds to meet the substantial increase of prisoner populations and costs charged by counties. The New Mexico Municipal League seeks legislation that would allow a municipality to increase correction fees from persons convicted of violating City Traffic and Criminal ordinances.

3.2.19 **Public Transit Funding.** Local governments in New Mexico operate the majority of Public Transit Systems in the state. The New Mexico Municipal League recognizes that reliable long-term funding certainty is crucial to continued operation of public transit systems in New Mexico. The New Mexico Municipal League recognizes that local governments must contribute to the cost of providing Public Transit Systems to their citizens. The New Mexico Municipal League calls on the Federal and State Governments to enact long term significant funding streams to allow public transit systems in New Mexico to have certainty of funding into the future. Further, the New Mexico Municipal League calls on the Federal and State Governments to allow flexibility to Public Transit System Operators to provide for operation and capital funding for the systems' needs.

Finance

3.3.00 **General Statement.** Municipalities must allocate available resources among the various government functions. Accountability for revenue and expenditures is essential in the allocation process. The League supports legislation that provides for municipal accountability and at the same time gives municipal government adequate authority and resources to administer government.

3.3.01 **Fiscal Notes.** When legislation or regulation mandating new or expanded service requirements for municipalities is considered, it should be accompanied by a fiscal note that fully outlines the fiscal impact of such legislation or regulation. It should clearly designate the source of new state or federal revenue to implement these mandated requirements.

Where agencies promulgate more than one set of regulations, both federal and state agencies should provide an aggregate economic and fiscal impact report showing the costs for all mandates so that municipalities may develop and implement realistic compliance schedules.

3.3.02 **Audits.** Most municipalities are required to have an annual audit. In 2009, the legislature enacted amendments to the Audit Act that exempts certain municipalities from the requirement to have an annual audit but imposes reporting requirements on those municipalities. The audits should be conducted by Certified Public Accountants selected exclusively by the local governing bodies. Some small municipalities have experienced difficulty in attracting Certified Public Accountants to make proposals to perform an audit due to the remoteness of the municipality in relation to the Certified Public Accountant. When proposals are

received the cost of the Audit, in many cases, is disproportionately high and unaffordable to the municipality. The State Auditor, Local Government Division of DFA and the Municipal League should cooperate to develop a solution to this persistent and growing problem. A copy of the audit should be submitted to the Local Government Division of DFA and the State Auditor.

- 3.3.03 **Investment of Funds.** Municipalities should be empowered to invest all their public funds. State statutes controlling local investment procedures should provide flexibility necessary to assure maximum return on municipal investments while assuring their safety. Municipalities should be empowered to pool funds with other public entities for the purpose of improving their investment capabilities.
- 3.3.04 **Deposit of Public Funds.** Equitable distribution of interest bearing deposits of public funds is mandated by New Mexico Law. This law should be amended to allow New Mexico local government to deposit public monies in institutions selected by the local government based upon security, yield and other factors.
- 3.3.05 **Cooperation with Taxation and Revenue Department.** The New Mexico Department of Taxation and Revenue is charged with the efficient collection and timely distribution of state shared and municipally imposed taxes. Municipalities in New Mexico depend on the ability of the department to meet these goals. Municipal officials could be of great assistance to the Department in its enforcement and collection responsibilities if the confidentiality provisions of the Tax Act were amended to allow certain municipal officials access to currently confidential information regarding taxpayers in a municipality. Municipal officials granted access to such confidential information should be held to the same standards as employees of the Department of Taxation and Revenue regarding the information. Requiring the Department of Taxation and Revenue to conduct a “tape match” with each municipality at least once every three years to identify businesses that are not in compliance with State of New Mexico or municipal business registration statutes and ordinances would further enhance the Department’s ability to enforce and collect taxes.
- 3.3.06 **Collection and Distribution of Gross Receipts Taxes.** Accurate and complete reporting by taxpayers is necessary to avoid the untimely distribution of the state shared and local option gross receipts tax to local governments. When taxes are remitted with erroneous information on the tax return or when taxes are remitted without a return the monies which should be distributed to the state and local governments are held in a “suspense” account until the taxpayer can be identified and the return is matched to the payment. The New Mexico Municipal League is committed to seeing that the Taxation and Revenue Department establish and comply with performance measures that are designed to minimize the impact of unmatched revenues on monthly distributions of the gross receipts tax and to minimize the balance in the suspense fund.

Municipal Bonds

- 3.4.00 **General Statement.** Tax-exempt status greatly increases the ability of municipalities, other political subdivisions and the state to find a ready money market to purchase their bonds, greatly enhancing their ability to construct needed public improvements.

- 3.4.01 **Municipal Bond Taxation.** The League continues to oppose any federal legislation or regulation which would directly or indirectly subject the interest earned on such municipal bonds to federal income tax. Such action would limit the bond market and thereby increase the cost of public works projects and facilities at a time when local governments are hard pressed to meet present financial requirements.
- 3.4.02 **Fidelity Bonds of Municipal Treasurers.** The maximum amount that a municipality can require a municipal treasurer to give bond for is set in state statute at 20 percent of the public monies received by them in the preceding fiscal year but not to exceed \$50,000. This level was last adjusted in 1967. The New Mexico Municipal League believes that in order to protect public money in the custody and control of the municipal treasurer it is prudent to allow New Mexico municipalities to set the amount of bond required to be given by the municipal treasurer. The League further believes that municipal treasurers should be allowed to comply with the bonding requirements by means of coverage through a blanket bond purchased by the municipality to cover all employees.
- 3.4.03 **State Action.** The League believes existing requirements of voter approval and constitutional debt limits provide adequate protection against improvident spending. The League opposes additional statutory or regulatory requirements, which add to the administrative burden without providing any additional protection for taxpayers.
- 3.4.04 **Impairment of Bonds.** The Legislature should not take any action to impair municipal bonds.

PUBLIC INFRASTRUCTURE & COMMUNICATIONS

Federal And State Financial Programs

- 4.1.00 **General Statement.** Infrastructure is vital to the functioning of New Mexico's municipalities. Those municipalities in greatest need of public works and infrastructure replacement or improvement are often those with the least resources. Although various financial assistance programs have already been established, such as Community Development Block Grants, Community Assistance Act and Rural Infrastructure Act, these programs are increasingly under-funded or unfunded. The League urges Congress and the State Legislature to invest in municipalities by providing a reliable, permanent means of financial assistance in the form of grants and low- or zero-interest loans for public works and infrastructure projects.

Transportation Systems And Facilities

- 4.2.00 **General Statement.** The health and welfare of New Mexico citizens and visitors, as well as the economy of the state, require dependable road, rail and air transportation. The League urges federal, state, tribal, local governments, and private sector cooperation in creating and implementing a transportation master plan to adequately serve all areas of the state and to foster economic growth.

- 4.2.01 **New and Existing Roads.** The location of new roads and the improvement of existing roads are important factors in attracting economic and industrial development to the state and its municipalities. New Mexico municipalities should develop a plan of funding for new and existing municipal roads. The Legislature should approve sufficient funding and commit these resources to new and existing roadways, streets and bridges.
- 4.2.02 **Transfer of State Roads to Municipalities.** The Department of Transportation should not consider transfer of existing state-designated roadways to municipalities. Initial and subsequent construction projects on nearly all of these roadways were funded with federal funds with a non-transferable agreement by the New Mexico Department of Transportation to maintain these roadways. Therefore, state-designated routes are and should continue to be the responsibility of the state.
- 4.2.03 **Airports.** As an essential part of the state's inter-modal transportation system, the League believes that the condition and viability of airports throughout New Mexico have a direct impact on the economic development of the state as a whole and generate diverse economic activity at the local level. Airports provide critical access to the community and have a direct effect on the health, security, fire protection and general welfare of all citizens within the region. The League recognizes the fundamental importance of communities being accessible by the new generation of business jets like those being developed in New Mexico. The League supports stabilized funding for the state Aviation Division to be used to leverage federal Airport Improvement Program grant funds, and to assist municipalities in the maintenance and continued improvement of their airport infrastructure.

Public Works/Infrastructure

- 4.3.00 **General Statement.** Responsiveness to infrastructure needs is basic to the survival of municipal government. The problem of maintaining existing systems and building new ones has reached gigantic proportions. It is a fundamental municipal responsibility to provide citizens with the services that preserve and improve the quality of life.
- 4.3.01 **Infrastructure Funding.** Municipalities are required to fund capital projects to provide essential services. The state should provide permanent, reliable and adequate financial assistance for municipal capital projects.
- 4.3.02 **Federal, State and Local Co-operative Effort.** Too many of our existing infrastructure facilities are inadequate and deteriorating. The Municipal League advocates that all segments of government jointly identify and address the problem areas, needs and solutions.
- 4.3.03 **Public Works.** The administration of the state Public Works Minimum Wage Act singles out public projects of political subdivisions and unjustifiably places economic burdens on public projects by mandating wage scales not applicable to similar work in the locality. This Act should be repealed or amended to raise the dollar amount of projects exempted from this Act.

4.3.04 **Public Works Maintenance Projects.** Current law requires a legal resident registered architect or a registered professional engineer to prepare the plans and specifications and have charge of certain public works construction projects. Routine public works asphalt, concrete or utilities maintenance projects, excluding bridges and other structural components if they follow standard architectural and engineering design, should be exempt from this requirement.

Public And Private Utilities

4.4.00 **General Statement.** All New Mexico municipalities are involved in the provision of utility services, either by municipally owned and operated utilities or through utility service contracts or utility franchises with cooperatives or investor-owned utilities. Municipalities should ensure that quality utility services are consistently available and are fairly priced to consumers.

4.4.01 **Municipal Utilities Relocation.** When the construction or reconstruction of Federal and State highways is mandated, the cost of necessary relocations and the replacement of existing utilities should be borne by federal and state funds.

4.4.02 **Telecommunications.** The League opposes any federal or state legislation or regulation that would preempt a local government's control over rights-of-way, zoning authority or right to receive usage and rental compensation from telecommunications providers. All telecommunications providers in New Mexico should offer their products and services to all consumers in their market area. Broadband telecommunications access has become a vital aspect of municipalities' daily operations. Broadband access is a vital component of economic development, education, law enforcement and health. The League urges the New Mexico Legislature to explore policy mechanisms to support development of universal municipal broadband telecommunications access.

4.4.03 **E-911 Funding.** The League supports having all technologies utilizing E-911 services contribute equally to the New Mexico 911 Fund.

4.4.04 **Rights-of-Way, Zoning and Land Use Controls.** Local governments should retain their traditional authority over rights-of-way, zoning and land use controls and usage or rental revenues.

PUBLIC SAFETY

Public Safety

5.1.00 **General Statement.** Prominent among the responsibilities vested in municipalities by state statute is the duty to "protect generally the property of its municipality and its inhabitants" and to "preserve peace and order within the municipality". Providing quality services to preserve and improve the safety of their citizens is a vital and ongoing concern of New Mexico municipal officials. Funding for such services constitutes a significant portion of the municipal budget.

- 5.1.01 **Law Enforcement/Community Relations.** As law enforcement agencies face the many changes occurring in their communities, they should strive for efficient and effective delivery of services and programs that seek input from the community. Law enforcement agencies must continue to develop relationships and trust within the community while being held accountable for their actions by the community. The establishment of citizen police review boards should remain a decision of the governing body of the municipality.
- 5.1.02 **Criminal Gang Activity.** New Mexico has a serious, growing gang problem and ranks high among states in violent crime rates that, in large part, can be attributed to criminal gang activity. The presence of gangs instills fear and impacts our children, public safety and the quality of life in our communities. State laws should provide uniform statutory standards regarding criminal gangs and gang activity in order to assist municipal law enforcement agencies in sharing intelligence and effectively reducing or eliminating the furtherance of criminal gang activity.
- 5.1.03 **Law Enforcement - Detention Facilities.** Local government facilities used in the detention of persons accused or convicted of crimes should be secure and sanitary and should provide for individual safety. Standards and funding for construction should encourage city-county and regional facilities; such jurisdictional cooperation for construction would provide better quality at lower cost. When an arrest for a violation of state law is made by a municipal police officer, the Legislature should require the state to assume the financial responsibility for housing the alleged violator.
- 5.1.04 **Fire Prevention/Protection.** The protection of lives and property from fire must remain a priority with communities. Providing appropriate fire protection facilities, equipment and trained personnel should be considered as the norm for communities regardless of whether a career or volunteer department serves the community. A viable fire prevention program and current fire codes should be adopted to encourage a fire safe community. Municipalities should have the authority to regulate fireworks, including the ability to impose a complete ban.
- 5.1.05 **Emergency Medical Services.** Each municipality is encouraged to provide emergency basic life support services. This may be done through public or private means. Standards and funding should assure quality service that meets the community need.
- 5.1.06 **Terrorism.** Terrorism may take many forms including the use of explosive devices, biological, nuclear or chemical materials or weapons, and the sabotage of critical infrastructures, either by physical means or through use of computers. No agency alone can prevent or respond to terrorist acts. Information and resource sharing among all levels of government, therefore, is critical. Municipalities should participate in regional coordination efforts to: reduce vulnerability to terrorism; deter acts before they occur; develop effective capabilities to address threats; and, respond to any terrorist acts that do occur. To these ends, municipalities need access to more resources for training and equipment for first responders, including training for handling of hazardous materials. Municipalities should identify resources to provide training for employees in recognizing unusual activities.

- 5.1.07 **Public Safety Communications.** It is imperative that municipalities ensure that all public safety entities within their jurisdictions have compatible incident management systems and collaborate on an ongoing basis to assure effective response to their citizens. The Municipal League strongly supports interoperability in local, regional and statewide public safety communication.
- 5.1.08 **Homeland Security.** It is incumbent upon municipalities and all levels of government to ensure, to the greatest degree possible, the safety and security of their citizens. Providing for homeland security raises many important issues, among them the ability to respond on a regional basis. Municipalities and the state must take an active role in assuring that the federal homeland security funds are allocated to local governments by the state in a manner consistent with the intent of the federal statute. Municipalities and the state must also ensure that the state's funding mechanism guarantees the cooperation and mutual aid that are crucial components of any regional plan. The League opposes any state or federal legislation that would compel local law enforcement to enforce federal civil immigration laws, and opposes any state or federal legislation that would prohibit local law enforcement from assisting federal agencies in the enforcement of federal immigration laws.
- 5.1.09 **Disaster Preparedness.** Municipalities should institute viable plans to quickly and efficiently respond to and mitigate man-made and natural disasters, including epidemics. Since local governments are the first responders to most disasters and emergencies, they must be consulted by state and federal emergency management officials for key-decision making affecting disaster preparedness and response at the local level. Ongoing cooperative relationships should be established among municipalities, counties and the federal and state governments to ensure that disaster response is accomplished in the most coordinated and effective way possible. The federal and state government should provide assistance to local governments in conducting annual hazard and risk assessments and assure they have the necessary funding for emergency planning, management, equipment and communications. Municipalities should implement public education programs to inform citizens of disaster plans and how they, as individuals, can best prepare for disasters.



**PROPOSED
2014-2015
ANNUAL
RESOLUTIONS**

*Presented To:
NMML Membership
August 28, 2014
Albuquerque, NM*

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RESOLUTION 2014-1

**CONCERNING INCREASING THE JURISDICTIONAL
AMOUNT OF PETTY MISDEMEANOR OFFENSES**

Whereas, municipal courts currently have jurisdiction over violations of several petty misdemeanors involving monetary limits, including worthless checks; and

Whereas, the maximum monetary values associated with issuing worthless checks has not been evaluated in many years; and

Whereas, readjustment upward of the maximum monetary values associated with the offense of issuing worthless checks would give municipal courts more latitude in dealing with this offense.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to increase the dollar value of the crime of issuing worthless checks to \$100.00.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-2

CONCERNING CONFIRMATION OF APPOINTIVE OFFICIALS AT THE ORGANIZATIONAL MEETINGS

Whereas, Section 3-11-5, NMSA 1978, requires a municipality to in essence re-hire its employees after every election; and

Whereas, at every “organizational meeting” of the municipal governing body, having to confirm all employees is burdensome and impracticable; and

Whereas, municipalities have enacted ordinances that protect the rank and file employees and the requirement of having to re-hire and confirm each employee at every organizational meeting is not an economical use of resources.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to repeal Section 3-11-5, NMSA 1978.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-3

CONCERNING INTERNATIONAL BUILDING CODE ON AIRPORTS

Whereas, municipal airport infrastructure varies greatly with that of other private commercial buildings; and

Whereas, the storage of aircraft is done in two forms, one in banks of individual structures back to back known as T-Hangars, and the second in larger buildings that are able to house a number of aircraft in the same area; and

Whereas, airports are limited in the amount of space available with access to ramp and taxiways and therefore, requires buildings to be in closer proximity; and

Whereas, the 2003 International Building Code (IBC) requires that aircraft hangar exterior walls less than 30 feet from property lines, lot lines or public way shall have a fire-resistant rating of not less than two hours or a sprinkler system; and

Whereas, the 2006 IBC was amended to exempt T-Hangars banks but it did not give any relief to the interpretation by the Construction Industries Division (CID) of "public way" thereby allowing the more restrictive and costly enforcement for hangars over 2000 square feet; and

Whereas, the majority of economic growth on airports consists of hangars of this size and the enforcement has caused a slow down or stoppage of development due to the extreme construction costs and land use requirement; and

Whereas, previously adopted Uniform Building Code was less stringent requiring only 15 feet separation; and

Whereas, this is a national problem and other states have amended the code to exempt or clarify the definition of public ways on airports to continue to attract industrial development on airports.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the State Construction Industries Division to amend the 2009 or subsequent IBC to exempt internal airport properties from the definition of "public way" or to seek other appropriate legislation.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-4

CONCERNING PERSONNEL RECORDS AND THE INSPECTION OF PUBLIC RECORDS ACT

Whereas, the Inspection of Public Records Act, NMSA Section 14-2-1 et seq. (the "Act"), requires government agencies, including municipalities, to generally make their records available to the public for inspection and copying; and

Whereas, the Act also recognizes there are records that for good legal or public policy reasons should be kept confidential and provides exceptions exempting these records from public disclosure; and

Whereas, the Inspection of Public Records Act contains a specific section exempting from disclosure the identities and applications of persons applying for the position of president of a public institution of higher learning but is silent as to information about applicants for other government positions; and

Whereas, the same policy reasons that prompted the legislature to recognize an exception for university presidents also apply to key municipal positions such as city manager; and

Whereas, the Act is also silent on what personal identifying and financial information of employees and customers of municipalities should be considered confidential and which should be considered public and subject to disclosure; and

Whereas, identity theft is a growing epidemic in the United States and the disclosure of personal identifying and financial information of applicants, employees and customers may aid those committing this crime.

Now, Therefore, Be It Resolved that the New Mexico Municipal League should seek the introduction of legislation that would exempt from disclosure, the names of individuals applying for high-ranking appointive positions with municipal governments until those individuals become finalists in the recruitment process; and

Be It Further Resolved that the legislation should also address what personal information of employees and customers of municipalities should be confidential and not subject to disclosure under the Act and which information should be released.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-5 AS AMENDED

CONCERNING THE RETURN TO WORK PROVISIONS OF THE PUBLIC EMPLOYEES RETIREMENT ACT

Whereas, SB 207 was signed into law and became effective July 1, 2010; and

Whereas, SB 207 requires that public retirees, including retirees from all public law enforcement, fire service and [~~other~~] EMS first responders, correctional agencies and water and wastewater departments, wait a minimum of 12 months before they can return to work as a public employee or independent contractor; and

Whereas, [~~the legislation~~] current law forbids such employees from collecting their pensions when they do return to public employment; and

Whereas, law enforcement, fire service and [~~other~~] EMS first responders, correctional institution agencies, water and waste-water departments throughout New Mexico have difficulties in finding eligible candidates who are qualified to serve in such vital positions as police officers, detention and court security officers, investigators, senior administrators such as municipal police chiefs, fire fighters and water and waste-water operators; and

Whereas, law enforcement, fire service and [~~other~~] EMS first responder agencies and water and waste-water departments throughout New Mexico will lose invaluable knowledge, insight, professionalism and maturity by not being able to employ retired law enforcement personnel, fire service and water and waste-water operators from jurisdictions within the state; and

Whereas, cities and smaller communities in New Mexico depend on the ability to employ retired law enforcement, fire service and [~~other~~] EMS first responders, correctional personnel and water and waste-water operators from other jurisdictions; and

Whereas, government entities and law enforcement, fire service and [~~other~~] EMS first responder agencies invest thousands of dollars in specified training and cultivating personnel whose skills and professionalism are often invaluable to their organization at the time of retirement; and

Whereas, New Mexico's growing and maturing population demands qualified, dedicated and professionally-trained personnel in all fields of law enforcement, fire service and emergency response and water and waste-water; and

Whereas, New Mexico has a relatively small pool of applicants who are eligible, qualified and dedicated to serve behind the badge; and

Whereas, there is also a workforce shortage in the water and waste-water field; and

Whereas, there are varied levels of certification each with increasing levels of education that are required by federal and state mandates for water and waste-water operators.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the State of New Mexico to enact legislation that exempts law enforcement, fire service and ~~[other]~~ EMS first responders, water and waste water operators and correctional retirees from the new return to work law.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

2014 CEDGOHR Committee Priority: **HIGH**
2014 PS Committee Priority: **HIGH #3**

RESOLUTION 2014-6

CONCERNING THE SALE, TRANSFER AND ISSUANCE OF LIQUOR LICENSES IN NEW MEXICO

Whereas, there are approximately 1440 Retailer and Dispenser licenses in New Mexico, and

Whereas, this exceeds the number of licenses allowed by statute, being 1 license for every 2000 in population, and keeps the State from issuing new Retailer and Dispenser licenses, and

Whereas, many communities have far more licenses than are allowed by this formula creating inequities and unfair competition among communities for certain types of businesses, including restaurants, drug stores and grocery stores; and

Whereas, these are the only state licenses treated as commodities and sold on the open market; and

Whereas, that has driven the price for existing licenses as high a \$750,000.00; and

Whereas, due to the escalation in price paid for Retailer and Dispenser licenses, licenses in communities outside the metropolitan areas of the state are being transferred to the communities within the metropolitan areas of the state resulting in the loss of jobs and business opportunity for communities outside of the metropolitan areas of the state; and

Whereas, none of the states surrounding New Mexico have such a restrictive form of licensing, resulting in greater economic opportunities in those states, and

Whereas, the sale of these licenses could be a significant form of revenue for the State of New Mexico; and

Whereas, the existing system benefits existing license holders and is detrimental to the development of economic opportunities within the State of New Mexico with a profound and disparate impact in communities outside of the metropolitan areas of the state.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the New Mexico Legislature to study, review and make changes to the Liquor Control Act to provide a more fair, affordable, equitable and competitive environment in dealing with the sale, transfer and ownership of Retailer and Dispenser licenses in the state.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

2014 CEDGOHR Committee Priority: **HIGH**

RESOLUTION 2014-7

CONCERNING THE TIME LIMIT FOR MUNICIPALITIES IN A CLASS A COUNTY TO ACT ON ANNEXATION PETITIONS

Whereas, annexations to municipalities are authorized under the provisions of Sections 3-7-1 through 3-7-18, NMSA 1978, and annexation is a method by which municipalities provide areas for future growth, provide for orderly development, protect public health and safety, protect neighborhoods, protect and secure their tax base, create efficiencies in service delivery, and maximize the return on infrastructure investment and business incentives; and

Whereas, annexations are not to be entered into lightly as municipalities must carefully consider the impact of the proposed annexation on provision of services, including police and fire protection, solid waste collection, water and sewer service and other municipal services; and

Whereas, Section 3-7-17.1 NMSA 1978 provides the procedure for a municipality located in a Class A county to respond to a petition for annexation to the municipality, including a requirement that the municipality inform the board of county commissioners of the proposed annexation and give the county thirty (30) days in which to comment on the proposed annexation; and

Whereas, Section 3-7-17.1 NMSA 1978, also provides that the governing body must act by ordinance to approve or deny the petition in not less than thirty (30) days nor more than sixty (60) days after receiving the petition from petitioners; and

Whereas, in a recent opinion, the Court of Appeals ruled that the 60-day deadline to act continues to run during the time the county is reviewing and commenting on the proposed annexation; and

Whereas, the requirement for approval or disapproval of the annexation by the governing body within sixty (60) days after receiving the petition does not allow sufficient time for municipalities to notify the county, consider the county's comments, consider the projected costs of providing municipal services and other fiscal impacts on the municipality related to the proposed annexation, and to prepare, publish notice and adopt an ordinance.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation amending Section 3-7-17.1 NMSA 1978 to extend the time for a municipality in a Class A county to approve or disapprove an annexation petition from sixty (60) to one hundred eighty (180) days after receiving the petition.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-8 AS AMENDED

**CONCERNING AMENDING THE MUNICIPAL ELECTION CODE
TO CONFORM WITH VOTING CONVENIENCE CENTER PROCEDURES**

Whereas, the State Legislature amended the State Election Code in the 2011 Session in Senate Bill 337, Chapter 131 to authorize counties to consolidate precincts in order to allow for voting convenience centers; and

Whereas, the 2011 legislation also authorized municipalities to establish voting centers; and

Whereas, through the consolidation of precincts and districts and the use of ballot-on-demand systems, voting centers make the voting process more efficient, convenient and accessible to voters; and

Whereas, a few municipal clerks instituted voting centers for the 2012 municipal elections and found that some different election procedures were required related to the technology used for voting centers.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation to amend the Municipal Election Code to [~~add alternate procedures to be used when~~] authorize the use of voting convenience centers [~~are utilized~~].

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-9

CONCERNING GRANTING LOCAL GOVERNMENTS THE OPTION OF DECRIMINALIZING THEIR ZONING LAWS

Whereas, most zoning codes are enforced through criminal codes that may result in penalties and fines; and

Whereas, zoning codes are regulatory in nature and generally seek compliance rather than punishment like most criminal laws; and

Whereas, this option allows a local government to utilize a civil enforcement option for the resolution of a zoning violation; and

Whereas, most magistrate and municipal criminal courts currently have jurisdiction over infractions related to a zoning code but have limited resources; and

Whereas, most criminal court cases associated with zoning infractions are not considered in the same manner as other criminal charges; and

Whereas, cities and counties waste limited resources in prosecuting violations of zoning codes because the criminal procedure can be complex and strict with many technical pitfalls; and

Whereas, some criminal court cases related to zoning infractions are resolved by a paid fine, failure to remove the violation and causing the enforcement agency to start the process from the beginning; and

Whereas, allowing local governments to decriminalize their zoning laws will allow an independent hearing officer to adjudicate a zoning violation in a fair, impartial and efficient manner; and

Whereas, this option will ensure that a hearing will occur to adjudicate the violation in which both parties appear rather than have the violator to pay the fine and avoid a hearing; and

Whereas, the decriminalization of the zoning code will be available to all local governments, including county governments.

Now, Therefore, Be it Resolved that the New Mexico Municipal League supports legislation to grant local governments the option of decriminalizing their zoning laws.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-10 AS AMENDED

**CONCERNING THE ELECTION PROCESS WHERE ALL
CANDIDATES ARE UNOPPOSED**

Whereas, municipal government is led by officials who are required by the New Mexico Constitution, to be elected by the citizens of their respective communities; and

Whereas, the New Mexico Municipal Election Code provides that municipal officers be elected for four year terms on staggered cycles; and

Whereas, the New Mexico Municipal Election Code provides that in order to maintain the staggered terms of municipal officials, municipal election shall occur every two years; and

Whereas, the New Mexico Municipal Election Code provides that candidates that wish to appear on the ballot must declare their candidacy 56 days prior to the date set for the municipal election; and

Whereas, the New Mexico Municipal election Code provides that a write-in candidate for a municipal office must declare their candidacy 49 days prior to the election; and

Whereas, the New Mexico Municipal Election Code precludes running for office unless a candidate is either a declared candidate or a declared write-in candidate; and

Whereas, the officially recognized candidates for municipal officer are established 47 days prior to the election; and

Whereas, the New Mexico Municipal Election Code provides that no person may be elected as a write-in candidate unless that person has declared their candidacy and has been certified by the municipal clerk; and

Whereas, many New Mexico municipalities conduct elections where all the candidates for municipal offices are running unopposed; and

Whereas, the expense and procedure of conducting a municipal election must be completed, even if all the candidates for municipal office are running unopposed; and

Whereas, the cost of conducting municipal elections continues to rise.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports a change in the Constitutional and statutory requirements of holding municipal elections when all the candidates for municipal office are running without opposition and there are no questions on the ballot.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-11

CONCERNING 2014 BOND ISSUE FOR LIBRARIES

Whereas, New Mexico public libraries provide books and other materials to meet the informational, educational, cultural and recreational needs of all New Mexicans; and

Whereas, the effectiveness of a library is determined by its ability to deliver current, accurate information in a timely manner through books and materials answering community needs; and

Whereas, advances in technology have made information resources increasingly accessible electronically; and

Whereas, the demand for library resources continues to rise while the cost of providing the resources is beyond local funding capacity; and

Whereas, publicly funded libraries have increased their effectiveness by sharing their resources electronically, enabling public, tribal, school and college libraries to coordinate the use of scarce library funds within the community and statewide; and

Whereas, the coming November 4, 2014 statewide election, GO Bond "B" will provide \$11 million for public, tribal, school and academic libraries; and [a bill will be presented to the Legislature during the 2014 Legislative Session to place a general obligation bond issue on the November 2014 ballot to raise \$29 million for libraries statewide; and]

Whereas, public libraries have experienced a substantial growth in usage, yet many municipalities lack resources to support adequate funding for library collections.

Now, Therefore, Be It Resolved that the New Mexico Municipal League endorses the Library Acquisition GO Bond "B" on the November 4, 2014 ballot. [legislative passage of a General Obligation bond bill for \$29 million for libraries on the November 2014 general election ballot.]

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-12

CONCERNING THE ADOPTION OF ENFORCEABLE WATER QUALITY PROTECTION REQUIREMENTS WITHOUT PUBLIC HEARING

Whereas, the New Mexico Environment Department (NMED) Ground Water Quality Bureau has developed: [~~a “Policy for”~~] “Guideline: Above Ground Use of Reclaimed Domestic Wastewater”, [~~(Developed August 7, 2003 and updated in~~] January 2007]; [~~];~~] (as a follow-on to two previously published guideline documents, i.e.: “NMED Policy for the Use of Domestic Wastewater Effluent for Irrigation, 1985” and “New Mexico Criteria for the Use of Domestic Wastewater for Surface Irrigation, 2003”) that includ[ing]es definitions, standards, [~~conditions~~] effluent limitations, [~~and~~] monitoring, and other requirements; and

Whereas, the NMED [~~“Policy for”~~] “Guideline: Above Ground Use of Reclaimed Domestic Wastewater” dated January 2007 has never been presented to the New Mexico Water Quality Control Commission (NMWQCC) for public hearing, promulgation, and [~~formal~~] adoption as a regulation or standard; and

Whereas, the NMED [~~“Policy for”~~] “Guideline: Above Ground Use of Reclaimed Domestic Wastewater” dated January 2007 is incorporated by reference, as well as incorporated as specific permit conditions, in [~~the~~] enforceable Ground Water Discharge Permits issued by NMED under [~~the~~] NMWQCC Regulations; and

Whereas, the NMED practice of imposing enforceable requirements through guidelines and policies that are not subjected to public hearing violates the New Mexico Water Quality Act [74-6-6(A) NMSA 1978] and the New Mexico Environmental Compliance Act [74-7-5(A) NMSA 1978].

Now, Therefore, Be It Resolved that the New Mexico Municipal League objects to the NMED practice of imposing enforceable requirements, through policies and guidelines, that have not been subjected to a NMWQCC public hearing for adoption as a regulation or standard, and urges the NMED Cabinet Secretary, the NMWQCC, the Governor of New Mexico, and the New Mexico Legislature to implement measures to halt the practice and ensure NMED compliance with New Mexico law (New Mexico Water Quality Act, [74-6-6(A) NMSA 1978]) [~~and New Mexico Environmental Compliance Act [74-7-5(A) NMSA 1978]~~] and New Mexico regulations (Rulemaking Procedures – Environmental Improvement Board [20.1.1 NMAC] and Surface and Groundwater Protection [20.6.2 NMAC]) when implementing permits and other [~~adopting~~] environmental protection requirements[.]; and

Be It Further Resolved that the New Mexico Municipal League urges the NMED Cabinet Secretary to convene a “Working Group” to develop proposed regulations for presentation to the NMWQCC for public hearing, promulgation, and adoption regarding the use(s) of reclaimed domestic wastewater, in order to protect public health and the environment in New Mexico.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

2014 EENR Committee Priority: **MEDIUM**

RESOLUTION 2014-13

CONCERNING ENFORCEMENT OF PCB CRITERIA AND ANALYTICAL METHODS

Whereas, local governments take a leading role in promoting environmental responsibility in New Mexico including protecting New Mexico's most precious resource, clean water; and

Whereas, local governments understand and support the New Mexico Environment Department's (NMED's) vital contributions to preserving New Mexico's natural resources; and

Whereas, the manufacture of polychlorinated biphenyls (PCBs) was stopped in the U.S. in 1977 because of evidence that they accumulate in the environment and can cause harmful health effects; and

Whereas, the extensive use of PCBs prior to 1977 has left a legacy of PCBs, often at trace levels, in every county and municipality throughout New Mexico wherever there has been any amount of industrial activity, the presence of asphalt paving and use of oil sprays for dust control; and

Whereas, no current technology results in complete removal of all PCB contamination from the environment; and

Whereas, the New Mexico water quality criteria for PCBs was adopted by the New Mexico Water Quality Control Commission (NMWQCC) in 2000 and is currently being applied by NMED; and

Whereas, the NM Water Quality Control Commission (NMWQCC) "Standards for Intrastate and Interstate Surface Waters" at 20.6.4.10(C) NMAC states that "It is also recognized that contributions of water contaminants by diffuse nonpoint sources of water pollution may make attainment of certain criteria difficult. Revision of these criteria may be necessary as new information is obtained on nonpoint sources and other problems unique to semi-arid regions"; and

Whereas, PCB nonpoint source background level studies have begun in limited parts of the state and remain incomplete; and

Whereas, a dichotomy of opinion exists among environmental scientists and regulators as to the appropriateness of testing for PCBs by analyzing Aroclors, commercial mixtures of PCB compounds, or by analyzing Congeners, individual PCB compounds; and

Whereas, at 40CFR136.3 Table IC the U.S. Environmental Protection Agency (EPA) has adopted Aroclor testing as the appropriate type of testing for PCB concentration in ambient waters; and

Whereas, EPA withdrew the Congener method of PCB analysis (EPA Test Method 1668C) from rulemaking on April 17, 2012; and

Whereas, NMED has issued enforcement actions against local governments under the New Mexico Water Quality Act and the NMWQCC “Standards for Intrastate and Interstate Surface Waters” based upon the results of Congener testing for PCBs; and

Whereas, local governments, while willing to be good stewards of the environment, are unable to expend vast sums of public money to achieve what may be scientifically unsupportable and technically infeasible storm water quality necessary to ensure compliance with New Mexico water quality criteria for PCBs; and

Whereas, the New Mexico Municipal League (NMML) Policy 2.1.12 requests that state agencies examine the technical validity and fiscal impacts of environmental standards and regulations before implementing them.

Now, therefore, Be It Resolved that the NMML requests that NMWQCC re-examine existing PCB water quality criteria to ensure that the criteria are based on credible scientific data, are technically achievable, and are reasonably cost-effective to allow for the maximum beneficial use of public money directed toward maintenance of a cleaner environment for all New Mexicans; and

Be It Further Resolved that NMML requests that NMWQCC re-examine PCB testing methods in the context of current PCB research; and

Be It Further Resolved that enforcement actions pertaining to violations of PCB criteria based on detections using the Congener Method should be held in abeyance until scientifically-based criteria and analytical methods for PCBs are established.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-14

CONCERNING A REQUEST TO THE GOVERNOR TO IMMEDIATELY ESTABLISH A GOVERNOR'S WATER TASK FORCE

Whereas, water is one of the most critical and far-reaching state issues affecting all of New Mexico's citizens and municipalities; and

Whereas, New Mexico's rich cultural heritage, its urban, rural and tribal ways of life, and its unique natural environment all depend on sound water stewardship; and

Whereas, most of New Mexico's residential water use depends on groundwater supplies that are being rapidly consumed in many areas; and

Whereas, ground water supplies are further limited due to water quality concerns; and

Whereas, surface water from lakes and streams in New Mexico have been allocated beyond actual supplies for specific uses; and

Whereas, the economy of the state is also fundamentally dependent on vulnerable surface and groundwater supplies in threats to both quality and quantity; and

Whereas, the on-going management of surface water for Interstate Compacts and Treaties requires New Mexico to comply with mandated downstream deliveries are at risk; and

Whereas, the Endangered Species Act requires the state to manage surface water in order to protect endangered species.

Now, Therefore, Be It Resolved, that the New Mexico Municipal League requests that Governor Martinez immediately establish an empowered Water Task Force consisting of Municipal, County and state Officials to include the State Engineer and Interstate Stream Commission, the State Environment Department, and other water stakeholders to examine and discuss New Mexico's water issues and challenges and to provide advice and multi sector cohesion in strategic water management policy recommendations to the Administration and the New Mexico Legislature.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-15

CONCERNING ALTERNATIVE SOURCES OF WATER SUPPLY

Whereas, drought conditions, contamination, watershed damage due to fire hazards and other potential causes of water supply shortages may endanger the health, safety and welfare of a significant number of New Mexico's citizens; and

Whereas, water supply shortages have created or threaten to create problems greater in scope than municipal governments alone may resolve; and

Whereas, it is important to ensure a dependable water supply during emergencies and to ensure present and future domestic and industrial use; and

Whereas, a lack of dependable water supply impacts on retaining and encouraging the expansion of the state's present businesses, the attraction of new business and the promotion of the desirable economic growth of the entire state; and

Whereas, municipalities recognize the importance of comprehensive water emergency planning and the value of effectively sharing our current water resources through well-considered redundancy and interconnection planning; and

Whereas, there is an interest in promoting the cost-effective conservation and efficient use of natural resources, including existing drinking water supplies and in developing cost-effective and environmentally responsible alternative sources of water supply; and

Whereas, there is an abundance of brackish water available in New Mexico that could be an option to address our water shortage by assessing the cost and environmental impact for consideration of inland desalination demonstration projects in the state; and

Whereas, the U.S. Bureau of Reclamation has established the Brackish Groundwater National Desalination Research Facility to bring together researchers from other federal agencies, universities, the private sector, research organizations, and state and local agencies to work collaboratively in a partnership to pursue research into supply-enhancing technologies for brackish groundwater; and

Whereas, the State of New Mexico should encourage the development of wastewater reclamation for a variety of beneficial uses by providing for the funding of various projects; and

Whereas, the use of reclaimed wastewater as a substitute for potable water in some industrial, sanitation and irrigation applications could increase regional water supply system reliability while helping to preserve and protect our high-quality drinking water supplies.

Now, Therefore, Be It Resolved, that the New Mexico Municipal League requests the New Mexico State Legislature to consider, under the guidance [offices] of the State Engineer and the Interstate Stream Commission Director, [develop] an appropriate funding mechanism that results in developing statewide and other viable alternatives that provide for the sustainability of water supplies; and

Be It Further Resolved, that consideration be given to alternative sources of water supply including the expeditious development of clear guidance by the State Engineer and the Interstate Stream Commission Director for demonstration projects that promote inland desalination and by further development of reclaimed wastewater as a substitute for potable water; and

Be It Further Resolved, that the State Engineer and the Interstate Stream Commission Director include recommendations from the State Department of Environment, the New Mexico Municipal League and the Association of Counties; and

Be It Further Resolved, that the State Engineer and the Interstate Stream Commission Director present their findings to the Water and Natural Resources Legislative Interim Committee.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-16

CONCERNING THE DEVELOPMENT OF NUMERIC NUTRIENT WATER QUALITY CRITERIA

Whereas, nutrients exist in all waters of the State but that excessive levels lead to impairment of designated uses; and

Whereas, the magnitude of nutrient concentration that constitutes an “excess” is difficult to determine and varies by location; and

Whereas, the water quality standard for nutrients is a narrative standard in New Mexico’s Standards for Interstate and Intrastate Surface Waters (20.6.4 NMAC) and this narrative criterion is challenging to assess because the relationships between nutrient levels and impairment of designated uses are not defined, and distinguishing nutrients resulting from “other than natural causes” is difficult; and

Whereas, in the *2012-2014 State of New Mexico Clean Water Act §303(d)/§305(b) Integrated Report*, the New Mexico Environment Department (NMED) has found that nutrient/eutrophication, temperature, and *E. coli* are the three most common causes of river and stream water quality impairments in New Mexico and that the vast majority of surface water quality impairments identified in New Mexico are due to nonpoint sources of water pollution; and

Whereas, as stated in a March 16, 2011 memo, the U.S. Environmental Protection Agency’s (EPA) position that numeric nutrient criteria are ultimately required for state water quality programs; and

Whereas, in the July 2012 Nutrient Reduction Strategy, NMED stated that they are not currently pursuing adoption of numeric nutrient water quality standards and will continue focusing nutrient reduction on points sources which are predominantly municipal wastewater treatment plant discharges; and

Whereas, the EPA issued the March 16 2011 memo from Nancy Stoner *Working in Partnership with States to Address Phosphorus and Nitrogen Pollution through Use of a Framework for State Nutrient Reductions* that includes eight recommended elements of a framework for nutrient reductions that address nutrient reduction holistically, without undue focus on the single point sources of nutrients.

Now, Therefore, Be It Resolved that the New Mexico Municipal League strongly encourages NMED to develop a meaningful nutrient reduction strategy and numeric nutrient criteria based on the *Working in Partnership with States to Address Phosphorus and Nitrogen Pollution through Use of a Framework for State Nutrient Reductions*, which will involve the interaction and coordination of all sources of nutrients to the states waters without undue emphasis on municipal point source discharges.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

2014 EENR Committee Priority: **MEDIUM**

RESOLUTION 2014-17

CONCERNING THE SUPPORT OF MUNICIPALITIES IN MEETING NUTRIENT WATER QUALITY PERMIT LIMITATIONS

Whereas, the NMML acknowledges that nutrients exist in all waters of the State but that excessive levels lead to impairment of designated uses; and

Whereas, the New Mexico Environment Department (NMED) has developed Total Maximum Daily Load (TMDL) documents with target nutrient levels that are not technologically achievable; and

Whereas, the target nutrient thresholds in the TMDLs are based on water quality values from pristine streams in the region (eco-region values); and

Whereas, the target values in TMDL waste load allocations must be both technologically achievable and neither over-nor under-protective; and

Whereas, the NMED and NMML have formed a Work Group that has evaluated alternative approaches to the implementation of TMDL waste load allocations for municipal point-source discharges that are scientifically based, environmentally sound, and consider the existing facility design, facility age and local economic factors; and

Whereas, the Nutrient Work Group has developed a revision to the Water Quality Management Plan that will provide an additional 20 years for qualifying municipal point sources to meet the TMDL target values.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the Governor of New Mexico and the New Mexico Legislature to support municipalities in meeting nutrient target values in their point source discharges by [~~prioritizing~~] identifying and planning for funding such necessary projects.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-18

CONCERNING THE WATER CONSERVATION FEE

Whereas, 74-1-13 of the Environmental Improvement Act imposed a water conservation fee of three cents (\$.03) per thousand gallons of water produced on every public water supply system; and

Whereas, in 2013 the New Mexico Legislature passed and Governor Martinez signed House Bill (HB)415 amending Section 74-1-13 NMSA 1978 and removing the date and other restrictions determining which Safe Drinking Water Act monitoring and analyses could be funded by the Water Conservation Fee; and

Whereas, the three basic allowances for the use of the Water Conservation Fee remained the same under the amendment implemented through HB 415, which are compliance testing for public water systems, vulnerability assessments of drinking water sources, and certified operator training; and

Whereas, the water conservation fund is created in the state treasury; and

Whereas, money in the water conservation fund is appropriated to the department of environment for administration of a public water supply program to:

- (1) test public water supplies for the contaminants required to be monitored pursuant to the provisions of the federal Safe Drinking Water Act, as amended, and collect chemical compliance samples as required by those provisions of the federal act; and
- (2) perform vulnerability assessments which will be used to assess a public water supply's susceptibility to those contaminants; and
- (3) implement new requirements of the Utility Operators Certification Act [Chapter 61, Article 33 NMSA 1978] and provide training for all public water supply operators; and

Whereas, monitoring requirements of the federal Safe Drinking Water Act have been subsequently modified since July 1, 1992 so that annual and triennial monitoring for synthetic and volatile organic contaminants, inorganic contaminants, and radiological contaminants is no longer required at individual water sources, but rather at Entry Points to the Distribution System at which individual sources are blended to a single supply source to effectively reduce the number of monitoring events required; and

Whereas, the New Mexico Environment Department (NMED) has issued waivers to reduce or eliminate monitoring requirements for many contaminants; and

Whereas, the NMED has completed a source water vulnerability assessment for almost all public water systems, as required by U. S. Environment Protection Agency; and

Whereas, implementation of two key provisions of the water conservation fee statute; vulnerability assessments and utility operator certification and training, are no longer funded by the water conservation fee; and

Whereas, there is concern among New Mexico municipalities that while the water conservation fee fund appropriately provides services to the regulated community, demands on the water conservation fee have effectively been reduced since the inception of the fee.

Now, Therefore, Be It Resolved that the NM Municipal League requests that the water conservation fee remain unchanged from the original 1993 implementing legislation creating the fee; and

Be It Further Resolved that should NMED intend to further increase the fee, NMED should first evaluate the impacts of decreased monitoring, lack of full implementation of the current statute and increases in federal funding; and share the enabling legislation with the affected regulated community to reach a consensus prior to the legislation being introduced.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-19

CONCERNING STATE TAX POLICY AND ITS EFFECT ON LOCAL GOVERNMENTS

Whereas, both the state and local governments continue to be significantly impacted by the current economic downturn and that impact has resulted in significant declines in revenues available for the state and local governments to finance the services the citizens of New Mexico expect and need; and

Whereas, during the 2004 Legislative Session the Legislature passed and the Governor signed legislation to repeal the Gross Receipts Tax on food and certain medical services; and

Whereas, the Legislature recognized that its tax policy decision to repeal the Gross Receipts Tax on food and certain medical services would negatively impact the budgets of municipalities by causing a reduction in tax receipts to municipalities which resulted in the adoption of the "hold harmless" provision; and

Whereas, up to 75% of a municipality's general fund revenue is derived from the Gross Receipts Tax; and

Whereas, the New Mexico Municipal League recognizes that gross receipts taxes are an unstable funding source whose levels are dependent on the health of the economy; and

Whereas, state law was amended in 2013 to repeal the hold harmless distribution made by the State to municipalities that have a population of over 10,000 and granted those municipalities the ability to impose up to 3/8% gross receipts tax to compensate those municipalities for revenues lost as the result of the State's elimination of gross receipts taxes on food and certain medical services; and

Whereas, municipalities derived up to 30% of their Gross Receipts Tax revenues from imposition of the Gross Receipts Tax on food and certain medical services; and

~~[**Whereas**, New Mexico municipalities continue to be negatively impacted by the current economic situation in the United States; and]~~

Whereas, the State's elimination of this source of gross receipts tax revenue will potentially cause a major decrease in vital municipal services, jeopardize current and future infrastructure and seriously impact the municipal workforce and local economies; and

Whereas, municipalities continue to take steps to balance their budgets such as implementing hiring freezes, forced furlough days for employees, reduced services to the community, facility closures and expenditure reductions like travel freezes, reduced energy consumption or overall cuts in departmental budgets; and

Whereas, state law related to a municipality's authority over its financial affairs is severely restricted and there is a need to amend state law to remove such restrictions in order to mitigate the impacts of current state tax policy; and

Whereas, long standing municipal tax policy states that “any shifting of tax sharing between the state and municipalities must guarantee municipalities at least the same revenue levels they derive from current tax policy.”

Now, Therefore, Be it Resolved that the New Mexico Municipal League calls on the New Mexico State Legislature to enact legislation, consistent with the *NMML Policy Statement*, during the 2015 Legislative Session to bring balance, equity and financial stability to local municipal governments and the residents they serve. Such legislation shall:

- Grant municipalities the authority to generate the revenue necessary to administer government and provide basic services.
- Guarantee municipalities, when there is any shifting of tax sharing between the state and municipalities, at least the same revenue levels they derive from current state tax policy.
- Authorize municipalities to enact taxes at the local level that are appropriate to their tax bases in the following areas:
 1. Gross Receipts Tax - Retain authority to enact at the local level;
 2. Ad Valorem Tax - Retain authority to impose millage for municipal general purpose government;
 3. Income Tax - Grant municipalities a share of the State income tax;
 4. Miscellaneous User Taxes - Grant municipalities the authority to levy local option taxes on sales of gasoline, cigarettes and alcohol, or, in the alternative, increase the municipal share of such current taxes;
- ~~• Remove limitations on municipal revenue sources for home rule municipalities.~~
- Provide added financial assistance or revenues each time the legislative, executive or judicial branches create new or expanded service requirements for municipalities by providing realistic funding levels for new and existing mandates.
- Develop an effective funding system to supplement or replace federal funding in those program areas which are the most essential to the well-being of New Mexico's citizens.
- Amend the confidentiality provisions of the New Mexico Tax Act to allow certain municipal officials access to currently confidential information regarding taxpayers in a municipality so that at least once every three years municipalities would have the ability to identify businesses that are not in compliance with State of New Mexico or municipal business registration statutes and ordinances which would further enhance the Taxation and Revenue Department's ability to enforce and collect taxes.

Be It Further Resolved that the New Mexico Municipal League urges the legislature and governor to examine tax expenditures such as credits exemptions and deductions for tax purposes that do not affect general purpose local governments; and

Be it Further Resolved that the legislature and the governor examine other budget balancing measures that do not affect general purpose local governments.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-20

CONCERNING TELECOMMUNICATIONS FRANCHISE ORDINANCES

Whereas, telecommunications technology has advanced to the point that traditional land line phones are rapidly being replaced by Cellular or Voice Over Internet Protocol (VOIP); and

Whereas, traditionally, New Mexico Municipalities have granted franchises to telecommunication companies; and

Whereas, municipalities in the state of New Mexico are receiving revenues under expired franchise ordinances which they have been unable to renegotiate; and

Whereas, in order to allow all forms of telecommunication providers to compete for consumers it is desirable to not disadvantage any single provider through a franchise system; and

Whereas, New Mexico municipalities are dependent on the income generated by current Franchise agreements.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to allow imposition of a statewide "Telecommunications Fee" not to exceed 5% on all telecommunication providers operating within a municipality.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-21

**CONCERNING USE OF STATE GRANT MONIES TO DEFRAY THE
COST OF ADMINISTRATION**

Whereas, municipalities can, and do rely, on State of New Mexico grants to fulfill many municipal needs; and

Whereas, local governments may be better able to implement projects within their jurisdictions; and

Whereas, those local governments need set policies and procedures in the delivery and administration of state grants; and

Whereas, the New Mexico Department of Finance and Administrative Services has stated its intention to alter its reimbursement policy after expenditures of state grant monies by local governments.

Now, Therefore, Be it Resolved that the New Mexico Municipal League seek clarification through legislation that would allow state grant monies to help defray the cost of administration of grants; and

Be it Further Resolved that the New Mexico Municipal League seek legislation that would clarify the propriety of utilizing bond proceeds to defray the cost of grant administration for projects that are funded through the issuance of debt.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-22 AS AMENDED

CONCERNING THE LOCAL GROSS RECEIPTS TAXES ON FOOD

Whereas, the First Session of the 51st Legislature enacted legislation to phase out the Hold Harmless Provisions for the loss of local gross receipts taxes on food and medical services; and

Whereas, those revenues accounted for a substantial portion of municipalities' general fund budget, in some cases as much as an estimated 40%; and

Whereas, municipalities opposed the repeal of gross receipts taxes when introduced in the 2004 session of the Legislature; and

Whereas, over 400,000 New Mexicans on the Food Stamp Program did not pay gross receipt taxes on the purchase of food; and

Whereas, New Mexicans were required to pay an additional ½ percent gross receipt tax on all other taxable purchases to help pay for the repeal of food taxes; and

Whereas, those same 400,000 New Mexicans could face an additional 3/8 or even 6/8 percent gross receipts tax on non-food and non-medical purchases for a total tax burden of 7/8 to 1 & ¼ percent GRT [without receiving the benefit of not paying GRT on food]. Prior to the repeal of the GRT on food and certain medical services these New Mexicans were not paying GRT on food or certain medical services and will now continue to pay additional GRT on other purchases in a greater amount than they would have had the tax remained on food and certain medical services.

Now, Therefore, Be It Resolved that the New Mexico Municipal League support legislation to return food to the gross receipts tax base for only local gross receipts tax rates, including the 1.225 of the state rate, by shifting the 1.225 to the local GRT system; and

Be It Further Resolved that the legislation include a significant increase in the Low Income Tax Credit; and

Be It Further Resolved that such legislation would also repeal the Hold Harmless distribution whereby increasing the state general fund in one fiscal year rather than 17 years; and

Be It Further Resolved that the legislation would also repeal the new gross receipts authority of 3/8 percent for cities and counties.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

2014 FIRT Committee Priority: **HIGH**

RESOLUTION 2014-23

CONCERNING HOME RULE MUNICIPALITY TAXING AUTHORITY

Whereas, Article X, Section 6 of the New Mexico Constitution authorizes municipalities in the state of New Mexico to adopt Home Rule Charters; and

Whereas, Paragraph D. of Article X, Section 6 states that “No tax imposed by the governing body of a charter municipality, except a tax authorized by general law, shall become effective until approved by a majority vote in the charter municipality;” and

Whereas, §3-15-7 NMSA 1978 provides that a home rule charter “shall not authorize the levy of any tax not specifically authorized by the laws of the state;” and

Whereas, §3-18-2 NMSA 1978 prohibits any municipality from imposing an income tax, a tax on property measured on an ad valorem, per unit or other basis or any excise tax, including but not limited to sales taxes, gross receipts and excise taxes on any incident relating to tobacco, liquor, motor fuels and motor vehicles; and

Whereas, state law has severely restricted the ability of a home rule municipality to impose certain taxes, therefore, there is a need for the Legislature to take immediate action and amend state law to remove taxing limitations imposed on home rule municipalities and permit such municipalities to have the authority to benefit from such tax revenue sources.

Now, Therefore, Be It Resolved that the New Mexico Municipal League calls on the New Mexico State Legislature to take immediate action during the 2015 session to enact legislation that would remove the taxing limitations currently imposed on home rule municipalities in order to permit home rule municipalities to have increased taxing authority.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-24

CONCERNING THE ENACTMENT OF A MUNICIPAL TELECOMMUNICATIONS TAX ACT BY THE NEW MEXICO STATE LEGISLATURE

Whereas, up to 75% of a municipality's general fund revenue is derived from gross receipts taxes; and

Whereas, since the economic downturn of 2008, municipalities in the state of New Mexico continue to be negatively impacted, which has resulted in significant declines in revenue available for local governments; and

Whereas, the New Mexico Municipal League (NMML) recognizes that gross receipts taxes are an unstable funding source whose levels are dependent on the health of the economy; and

Whereas, NMSA 1978, §3-18-2 prohibits any municipality from imposing any excise tax, including but not limited to sales taxes, gross receipts and excise taxes on any incident relating to tobacco, liquor, motor fuels and motor vehicles; and

Whereas, the NMML recognizes that there is a need for the New Mexico State Legislature to enact legislation that would authorize municipalities to collect from telecommunications providers a municipal telecommunications tax on the telecommunications provider's gross receipts from telecommunications service.

Now, Therefore, Be It Resolved that the New Mexico Municipal League calls on the New Mexico State Legislature to enact a Municipal Telecommunications Tax Act using the Utah Act as a model.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-25

CONCERNING IRREVOCABLE TRUSTS SET UP BY MUNICIPALITIES AND COUNTIES

Whereas, GASB 45 requires all public sector employers offering post-employment benefits, other than pensions, to reflect the costs of the benefits in their financial statements and to disclose the amount of any unfunded liability; and

Whereas, the cost of the OPEB liabilities include the accrual of the costs of the OPEB benefits over the career of an employee; and

Whereas, bond ratings could be negatively affected by the results of the GASB valuations and the unfunded recorded liabilities; and

Whereas, GASB 45 allows for a separate irrevocable trust to be set up to fund the liability and to increase the discount rate at which the funds can be invested thus reducing the overall liability; and

Whereas, the New Mexico State statute, NMSA 1978, Section 6-10-10 limits investments for municipalities and counties to fixed income securities and specific debt instruments which reduces the expected amount of return the trust is able to earn; and

Whereas, irrevocable trusts set up by municipalities and counties should be regulated by the New Mexico State Statute, NMSA 1978 Fiduciaries and Trusts Article 9A – Uniform Prudent Management of Institutional Funds, Section 46-9A-3 Standard of conduct in managing and investing an institutional fund NM Stat § 46-9A-3 (2013) rather than NMSA 1978, Section 6-10-10; and

Whereas, municipalities and counties that have set up irrevocable trusts for OPEB benefits would be able to increase investment earnings using the NMSA 1978 Fiduciaries and Trusts rule as opposed to NMSA 6-10-10.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the legislature and governor to allow municipal and county trusts to be governed under NMSA 1978 Fiduciaries and Trusts Section 46-9A-3.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

2014 FIRT Committee Priority: **HIGH**

RESOLUTION 2014-26

CONCERNING REVISIONS TO THE SALE OR LEASE OF PUBLIC PROPERTY SECTION FOR MONETARY THRESHOLDS

Whereas, Section 3-54-1 NMSA 1978 contains monetary thresholds that are used to determine whether the sale and exchange of any municipal utility facilities or property in excess of the threshold shall be subject to referendum provisions; and

Whereas, reasonable and customary values for virtually all public real property assets have appreciated over the years, and said thresholds have not risen commensurately with appreciation levels; and

Whereas, raising the affected limits would result in a more efficient process.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to increase the monetary thresholds in the Municipal Sale or Lease of Property Section above the current rate of \$25,000.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

2014 PIC Committee Priority: **HIGH #2**

RESOLUTION 2014-27

CONCERNING FUNDING FOR MUNICIPAL STREETS, ROADS, BRIDGES, AIRPORTS, RAIL AND TRANSIT

Whereas, past investment plans have provided for more than one billion dollars for state highways; and

Whereas, other critical infrastructure projects still need to be addressed; and

Whereas, these projects are important for economic development within municipalities; and

Whereas, it is not enough to have an efficient state highway system, but rather it is essential that an effective, efficient transportation system be in place within municipalities in order to provide for the safe and efficient movement of people, goods and services; and

Whereas, transportation should be viewed not just as the state highway system, but as a complete network of state and municipal streets, roads, airports, bridges, rail and transit.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports continued funding for critical local projects where applicable, to follow, be guided by and adhere to current state transportation improvement plans established by Metropolitan Planning Organizations, DOT Aviation Division and Regional Planning Organizations; and

Be It Further Resolved that a comprehensive plan of investment for critical transportation projects be developed with municipal input and that such plan identify alternative funding resources necessary to finance such plan including matching funds and in-kind services in rural areas; and

Be It Further Resolved that municipalities, the Governor and the Legislature collaborate on the development of critical local transportation projects and a comprehensive investment plan.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-28

CONCERNING MUNICIPAL PARTICIPATION IN THE DEVELOPMENT OF A STATE FREIGHT PLAN WITH THE NEW MEXICO DEPARTMENT OF TRANSPORTATION

Whereas, freight is a vital component of the nation's and the state's transportation system; and

Whereas, the New Mexico Department of Transportation is (NMDOT) is developing a State Freight Plan as an element of the NMDOT Statewide Long Range Multimodal Transportation Plan; and

Whereas, State Freight Plans are encouraged under the new federal transportation law called the "Moving Ahead for Progress in the 21st Century Act" (MAP-21); and

Whereas, states that develop freight plans increase the potential for economic development and funding for identified freight projects; and

Whereas, municipalities statewide have many different interactions with freight movements and providers; and

Whereas, development of a State Freight Plan will require input from a wide range of stakeholders statewide.

Now, Therefore, Be it Resolved that the New Mexico Municipal League requests the New Mexico Department of Transportation to include the League and interested municipalities statewide as stakeholders, either directly or through Regional Transportation Planning Organizations, during the development of the State Freight Plan.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-29

CONCERNING THE LAW ENFORCEMENT PROTECTION FUND

Whereas, the Law Enforcement Protection Fund (LEPF) is a state dedicated fund from which annual distributions are made to municipal, county, tribal and university police departments; and

Whereas, two distributions are made to municipal departments, one on a rating using the population class of the municipality as the basis, and the second based on an amount per full-time certified officer; and

Whereas, the LEPF monies may be used for equipment, advanced training, matching funds for federal grants, and up to 50% of replacement salaries for officers attending basic training; and

Whereas, costs of equipment and training continue to increase and new technologies are necessary to continue to provide quality service and protection; and

Whereas, the number of demands and responsibilities placed on law enforcement continues to increase while most departments are functioning at less than their full quota of officers; and

Whereas, available federal monies and grants to police agencies have all but disappeared; and

Whereas, the current LEPF distributions from the State are \$20,000, \$30,000 and \$40,000 annually based on population and \$600 per officer; and

Whereas, LEPF distributions have not been increased since 2000.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation to increase the distributions from the Law Enforcement Protection Fund to a level that is sufficient for law enforcement needs.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-30

CONCERNING AMENDING THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

Whereas, the New Mexico Sex Offender Registration and Notification Act (SORNA), NMSA §29-11A-1 et seq., requires offenders convicted of certain sexual offenses in New Mexico to register with the sheriff of the county where the offender resides; and

Whereas, the New Mexico SORNA is not fully compliant with federal law (Title I of the Adam Walsh Child Protection and Safety Act of 2006, Public Law 109-248); and

Whereas, legislation to bring our state into federal compliance has been introduced over the past several years, including House Bill 179 (Rep. Herrell) in 2012, but has failed to pass; and

Whereas, the legislation needed for compliance includes the incorporation of a more comprehensive group of sex offenders and offenses for which registration is required, tighter and more extensive registration requirements, and expansion of the amount of information available to the public; and

Whereas, New Mexico has been losing critical federal funding because of its non-compliance with the federal law; and

Whereas, an additional consequence of our state's non-compliance is that New Mexico has become an attractive relocation destination for sex offenders from other states who wish to avoid registering as sex offenders in their new communities; and

Whereas, SORNA does not currently prevent sex offenders from living near elementary schools, neighborhood parks or other locations frequented by young children; and

Whereas, the continued presence of sex offenders near areas where children are found in large concentration poses an increased risk of harm to children.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports amendment of the Sex Offender Registration and Notification Act to bring New Mexico into full compliance with federal law; and

Be It Further Resolved that the amendments to SORNA also address the subject of registered offenders living or meeting in close proximity to schools, parks or other government owned facilities frequented by children.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

2014 PS Committee Priority: **HIGH #7**

RESOLUTION 2014-31

CONCERNING MUNICIPAL AUTHORITY TO REGULATE FIREWORKS

Whereas, Section 60-2C-1 et seq., NMSA 1978, the “Fireworks Licensing and Safety Act” comprises the State of New Mexico’s regulation of the sale and use of fireworks; and

Whereas, this Act, by requiring the State Fire Marshall to enforce its provisions, recognizes that fireworks and their associated dangers are matters directly relevant to fire control and public safety in general; and

Whereas, the current Act fails to adequately weigh the potential danger to citizens and financial costs of fires that may be caused by fireworks; and

Whereas, the extreme weather conditions experienced by our state have clearly shown that even one spark, no matter the cause, can result in catastrophic fires that have destroyed homes, threatened lives and tainted municipal watersheds; and

Whereas, the smoke generated from fires constitutes a known health threat for citizens, especially children and those with chronic respiratory and heart diseases, and has been linked to increased emergency department visits and hospitalizations; and

Whereas, the Fireworks Licensing and Safety Act grants certain limited powers to municipalities to restrict the sale and use of fireworks during extreme or severe drought conditions upon hearing and subsequent issuance of a proclamation; however, these powers are limited and do not cover all fireworks, and do not permit municipalities to ban the sale and use of all fireworks within their borders in the interest of public safety; and

Whereas, the state legislature has granted municipalities the power to define and abate nuisances, to pass ordinances providing for the health, safety and welfare of its inhabitants, and to take such actions as are necessary and proper to protect persons and property; thus recognizing that local government best knows of current and local conditions affecting public safety; and

Whereas, municipalities must be afforded the greatest latitude in the regulation of the sale and use of all types of fireworks and must be permitted the appropriate authority to take such actions as are necessary to protect the health, safety and welfare of its inhabitants and property.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation to grant municipalities the authority to enact ordinances at any time regulating the sale and use of any firework, up to and including a complete ban; and

Be It Further Resolved that the legislation also grant municipalities the option to issue an emergency proclamation at any time declaring extreme or severe drought conditions if the governing body determines such conditions exist; the proclamation shall describe the restrictions on the sale and use, up to and including a ban, of any firework deemed by the governing body as necessary for the protection of the health, welfare and safety of persons and property.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-32
CONCERNING EMS FUNDING

Whereas, Emergency Medical Services (EMS) is the only health care that is universally available to all of New Mexico's residents and visitors regardless of ability to pay; and

Whereas, pre-hospital treatment and transport by volunteer and paid emergency medical responders are the two most crucial components of emergency medical care; and

Whereas, the citizens demand and deserve an increasing level of care, however funding for training and necessary equipment is not available; and

~~[Whereas, emergency medical services that provide first response, such as fire departments, are not eligible to charge for response or treatment; and]~~

Whereas, the costs of providing healthcare, whether hospital, clinic, or pre-hospital based, continue to rise, while funding, including reimbursement from fees charged, continue to decline; and

Whereas, future access to this essential care will be dependent on adequate funding to ensure the best pre-hospital care is delivered through the providing of training, equipment, resources, medical direction, technical assistance, and quality improvement; and

Whereas, the current funding levels are inadequate and will prevent the future growth of EMS, and the decrease in providers and services will result in an increase in morbidity and mortality; and

Whereas, Fire and EMS services in New Mexico must have solid financial resources if they are to continue providing critical first response services in a consistent and reliable manner; and

Whereas, the majority of EMS first response services in New Mexico are provided by fire-based departments.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports an increase to the EMS Fund Act for use by local EMS providers in the state of New Mexico; and

Be it Further Resolved, that the New Mexico Municipal League supports utilizing a percentage of the Fire Protection Fund reversion money to supplement the EMS Fund Act so long as the funds are directly distributed to and utilized by the local EMS providers to enhance the level of EMS services provided and does not reduce the disbursement of Fire Fund monies to municipalities and counties; and

Be it Further Resolved, that the existing funding formula will continue to be used, but the funding base amount and maximum allowable fund award be raised to accommodate the increasing costs of providing pre-hospital services.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-33

CONCERNING DWI AND TRAFFIC ENFORCEMENT ON PUBLICLY ACCESSIBLE PRIVATE PROPERTY

Whereas, driving while intoxicated (“DWI”) and other traffic offenses can threaten the health, safety and welfare of every citizen of New Mexico; and

Whereas, DWI and traffic offenses can occur in a variety of means including alcohol intoxication and drug impairment; and

Whereas, DWI and traffic offenses can occur not only on public highways, roads, and streets but also in alleys and parking lots and other areas that are privately owned, but accessible to the general public; and

Whereas, the New Mexico Court of Appeals in the case of *Rio Rancho v. Young* imposed a requirement on local law enforcement officials to obtain the consent of the landowner prior to enforcing traffic laws, including DWI laws on private property; and

Whereas, the Court of Appeals based its decision on language contained in NMSA section 3-49-1(o) that states in relevant part: “A municipality may. . . ; with the written consent of the owner, regulate the speed and traffic conditions on private property”; and

Whereas, this limitation on the ability of local law enforcement officials to enforce DWI and other traffic laws on private property that is accessible to the public is a threat to public health, safety and welfare.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seek legislation to amend NMSA section 3-49-1(o) to remove the requirement that local law enforcement officials first secure the written permission of a landowner prior to enforcing DWI and traffic regulations on private property that is open to the public.

Passed, Approved and Adopted this 28th day of August at the City of Albuquerque, New Mexico.