

# 2008-2009



# LEGISLATIVE PRIORITIES

*Adopted By:*

*NMML Board of Directors  
October 18, 2008  
Santa Fe, NM*

# NEW MEXICO MUNICIPAL LEAGUE

## 2008-2009 LEGISLATIVE ACTION STATEMENT

The Board of Directors adopted their legislative priorities for the upcoming 2009 Legislative Session at the October 18, 2008 meeting. They approved a number of resolutions outlining proposed legislation for the League's Action Program.

In recognition of the downturn in the economy and its effect on state and local finances the Board focused attention on the protection of municipal revenues. The Board also highlighted the issue of preemption of local authority.

**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. Preemption deprives local governments of the ability to regulate activities 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. (*Section 1.1.06 – Statement of Municipal Policy and Section 3.2.12*)

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

**FINANCE AND TAXATION.** The Board of directors adopted a wide variety of priority finance and tax issues. These priorities range from Capital Outlay to Telecommunications as follows:

- Remove the restrictive requirement of enacting all GRT increments before enacting the Capital Outlay Gross Receipts Tax (*Policy Statement – Section 3.2.02*).
- Support legislation for a per capita increase in library aid. Also support the GO Bond issue for Libraries (*Resolutions 13 and 14*).
- Seek legislation to amend the local DWI Grant Program to provide funding for municipalities (*Resolution 33*).
- Seek legislation to establish a uniform tax to assure competitively neutral treatment of telecommunications providers (*Resolution 38*).
- Support funding for Regional Transit Districts (*Resolution 42*).
- Seek legislation to increase funding for the Law Enforcement Protection Fund (*Resolution 56*).
- Seek legislation to establish Municipal Emergency Services Gross Receipts Tax authority (*Resolution 68*).

**PUBLIC SAFETY.** The League will support legislation dealing with gangs, methamphetamine issues, and law enforcement officer definitions.

- Support legislation that will help reduce or eliminate the furtherance of criminal gang activity (*Resolution 51*).
- Support additional legislation to attack the growing methamphetamine problem in municipalities (*Resolution 53*).
- Support legislation to amend the definition of police officer to include part-time certified officers (*Resolution 62*).

**GENERAL OPERATIONS.** A number of the Board priorities are centered on the general operations of municipal government.

- Seek clarification on the role of certified building inspectors and the interpretation of the International Building Code on public ways at airports (*Resolutions 3, 8 and 17*).
- Seek legislation to add a municipal judge to the Judicial Standards Commission (*Resolution 5*).
- Seek legislation to amend the organizational meeting requirements (*Resolution 6*).
- Seek legislation to standardize procedures in the election code (*Resolution 10*).

In addition to the above proposals, the League supports the following issues:

- Proper adoption of Regulations versus use of Guidelines (*Resolution 20*).
- Utility Operator Certification Requirements (*Resolution 22*).
- Expansion of the Forty Year Water Plan (*Resolutions 23 and 24*).
- Reporting Collections and Gross Receipts Distributions to Municipalities (*Resolutions 26 and 32*).
- Federal Payments in Lieu of Taxes to Municipalities (*Resolution 29*).
- Expansion of state Production Tax Credits and Renewal of the Federal Production Tax Credits for Wind and Solar Energy Projects (*Resolution 36*).
- Adoption of appropriate Physical Fitness Standards for Law Enforcement (*Resolution 50*).
- Dedicated Capital Outlay Reversion Fund for Local Governments (*Discussion between NMML/NMAC*).

## RESOLUTION NO. 2008-13

### CONCERNING 2008 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, school and college libraries to coordinate the use of scarce library funds within the community and statewide; and

**Whereas**, the New Mexico Legislature placed a general obligation bond issue on the November ballot to raise \$11 million; and

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

**Now, Therefore, Be It Resolved That** the New Mexico Municipal League endorses State Bond Issue B for \$11 million for libraries in the November 2008 general election.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-14

### CONCERNING STATE GRANTS 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, school and college libraries to coordinate the use of scarce library funds within the community and statewide; and

**Whereas**, a proposal will be presented to the 2008 New Mexico Legislature to increase the appropriation from the general fund to the library division of the cultural affairs department to provide grants-in-aid for local library services and operations; and

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

**Whereas**, the current state grants-in-aid distribution is \$.14 per capita; and

**Whereas**, state grants-in-aid for other similarly sized states averages \$1.67; and

**Now, Therefore, Be It Resolved That** the New Mexico Municipal League endorses the passage of legislation to increase the appropriation to the library division of the cultural affairs to provide grants-in-aid for local library services and operations.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

**RESOLUTION NO. 2008-33**

**CONCERNING THE LOCAL DWI GRANT PROGRAM  
FUNDING FOR MUNICIPALITIES**

**Whereas**, the Legislature has created the Local DWI Grant Program for the purpose of funding new, innovative or model programs, services or activities to prevent or reduce the incidence of DWI, alcoholism, alcohol abuse, drug addiction or drug abuse as well as programs, services or activities to prevent or reduce the incidence of domestic abuse related to DWI, alcoholism, alcohol abuse, drug addiction or drug abuse; and

**Whereas**, the Local DWI Grant Program provides for a fund that is created by distribution of a portion of the liquor excise taxes to be administered by the Local Government Division of the Department of Finance; and

**Whereas**, the Local Government Division may make DWI program distributions to counties in accordance with the provisions of the Local DWI Grant Program Act; and

**Whereas**, many of the programs funded by the DWI Grant Program are provided for and administered at the municipal level; and

**Whereas**, local review, oversight and approval of DWI programs that receive Local DWI Grant Program funds ensures the delivery of quality, relevant and meaningful programming; and

**Whereas**, municipal governments are capable of conducting the oversight and review necessary to ensure that providers of DWI programs meet the requirements provided for in the Local DWI Grant Program; and

**Whereas**, the requirement for municipalities or municipally offered programs to obtain funding from the county is a duplication of efforts;

**Now Therefore, Be It Resolved** that the New Mexico Municipal League seeks legislation to amend the Local DWI Grant Program NMSA 1978 §§11-6A-1 to 11-6A-6 to provide for distributions to municipalities; and

**Be It Further Resolved** that the Legislature allocate funding for these municipalities from the existing liquor excise tax.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

**RESOLUTION NO. 2008-38**

**CONCERNING TELECOMMUNICATIONS FRANCHISING,  
ESTABLISHING A UNIFORM TAX TO ASSURE COMPETITIVELY  
NEUTRAL TREATMENT OF TELECOMMUNICATIONS PROVIDERS**

**Whereas**, there has been a profound transformation of the telecommunications industry in recent years; and

**Whereas**, the transformation of the telecommunications industry away from dial tone service to offerings that include cable, wireless, and broadband services has fundamentally changed the relationship between providers and the municipalities that afford them the rights-of-way, infrastructure and services that enable their businesses to operate; and

**Whereas**, wire line, wireless, cable, and satellite companies now provide voice, video, internet access, and data services and each are regulated under different programs with different fees ranging from 0 to 5%; and

**Whereas**, technology has added to the mix of telecommunications, such as cell phones, satellite and broadband services, voice over the Internet protocol (VoIP), fiber to premises (FTTP), wireless attachments to poles and even telecommunications services over electricity lines all make our current system of franchising and regulating telecommunications services ineffective.

**Now, Therefore Be It Resolved** that the New Mexico Municipal League seek legislation that would streamline the management and regulation of telecommunications services; and

**Be It Further Resolved** that such legislation establishes a tax or fee structure that would ensure the industry a competitively neutral environment.

**Passed, Approved and Adopted** this 14<sup>th</sup> day of August, 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-42

### CONCERNING FUNDING FOR THE OPERATION OF REGIONAL TRANSIT DISTRICTS

**Whereas**, the New Mexico Municipal League is committed to encouraging alternative modes of transportation; and

**Whereas**, public transportation is key to the quality of life and economic opportunities for New Mexicans; and

**Whereas**, multi-jurisdictional public transit systems work to reduce the congestion of motor vehicle traffic by providing transportation options for residents; and

**Whereas**, reducing traffic congestion decreases automobile accidents on freeways and streets; and

**Whereas**, regional public transit would reduce noise and air pollution; and

**Whereas**, regional public transit would extend the life of New Mexico's existing roadways by easing the traffic burden; and

**Whereas**, there is an increasing need to coordinate public transit services and systems of different jurisdictions and levels of government; and

**Whereas**, the Municipal League has supported the creation and implementation of regional transit districts; and

**Whereas**, the first regional transit district was formed and certified as the North Central RTD; and

**Whereas**, in total, four Regional Transit Districts have been formed and certified by the Transportation Commission and at least two others have begun the certification process; and

**Whereas**, other metropolitan and smaller municipalities are beginning to plan for an RTD in their areas; and

**Whereas**, the NMDOT has identified some start-up funding for RTD development; and

**Whereas**, the New Mexico State Legislature has passed legislation allowing municipalities and counties to hold a referendum for up to ½% gross receipts tax increase to fund the operation of RTDs; and

**Whereas**, this increase in gross receipts tax initiative will not sustain adequate RTD funding for small municipalities or rural communities.

**Now, Therefore, Be It Resolved** that the New Mexico Municipal League supports the establishment of a state-dedicated public transportation fund for use by municipalities to operate RTD's; and

**Be It Further Resolved** that the State consider establishment of a state revolving public transportation loan fund for cities, towns and villages, and study the possibilities for multimodal user fees which could leverage funding for RTD's in small municipalities.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-56

### 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 14th day of August, 2008 at the City of Clovis, New Mexico.

**RESOLUTION NO. 2008-68**

**CONCERNING MUNICIPAL EMERGENCY SERVICES  
GROSS RECEIPTS TAX AUTHORITY**

**Whereas**, the majority of emergency services are provided by municipalities; and

**Whereas**, the cost continues to escalate in providing those emergency services;  
and

**Whereas**, the delivery of the actual emergency responses is not provided by a regional authority; and

**Whereas**, the State has provided the authority for county governments to enact an emergency services gross receipts tax to fund county emergency services.

**Now Therefore, Be It Resolved** that the New Mexico Municipal League seek legislation to grant municipal authority for an emergency services gross receipts tax;  
and

**Be It Further Resolved** that such tax be subject to a positive referendum.

**Passed, Approved and Adopted** this 14<sup>th</sup> day of August 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-51

### CONCERNING GANG RELATED CRIME AND ACTIVITY IN NEW MEXICO

**Whereas**, New Mexico has a serious and growing gang problem that arises primarily from its geography and demographics; and

**Whereas**, the state has seen an increase in the number of hate groups, street gangs, prison gangs, outlaw motorcycle gangs, and their associated members, from the West Coast, Midwest, Mexico, Cuba, and neighboring states; and

**Whereas**, gangs instill fear, threaten our schools, children and homes, affect public safety, community image and quality of life issues in communities of every size throughout our state; and

**Whereas**, 2008 statistics show there are 324 validated gangs and 9,550 documented gang members in our state, representing an increase in number of gang members of 11% per year since 2002; and

**Whereas**, this steady increase is consistent with results of a recent New Mexico Statewide Gang Threat Assessment in which over 73% of law enforcement agencies reported New Mexico's gang problem to be either serious or very serious; and

**Whereas**, according to Uniform Crime Reporting data from 2006, New Mexico ranked 9<sup>th</sup> among states in violent crime rates which, in large part, can be attributed to criminal gang activity; and

**Whereas**, there is a need for standardized definitions of a gang, gang member, and gang crime; and

**Whereas**, if criminal justice professionals are to effectively work together and share gang-related intelligence across jurisdictions, it is imperative that they employ the same standards to determine what constitutes a gang, gang member, and gang crime; and

**Whereas**, gang-related legislation has been enacted in every state that borders New Mexico.

**Now, Therefore, Be It Resolved** that the New Mexico Municipal League supports legislation to reduce gang activity.

**Be It Further Resolved** that the New Mexico Municipal League supports legislation that will help reduce or eliminate the furtherance of criminal gang activity.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-53

### CONCERNING SUPPORT OF ADDITIONAL LEGISLATION TO ATTACK THE GROWING METHAMPHETAMINE PROBLEM IN NEW MEXICO

**Whereas**, the dramatic increase in the manufacture and use of methamphetamine has been described by Senator Jim Talent of Missouri as “the single worst drug threat that any of us have confronted in our lifetime”; and

**Whereas**, the officials in the State of Minnesota report that 70-80% of the people in jail in that state are there for methamphetamine related crime; and

**Whereas**, in San Diego, tests reveal that over 35% of the men arrested in that city tested positive for methamphetamine in their system; and

**Whereas**, small children have been found at one-third of the methamphetamine labs raided by law enforcement officers; and

**Whereas**, forty-four (44) states have passed or are considering legislation relating to the manufacture and sale of methamphetamine; and

**Whereas**, Congress is currently considering the “Combat Meth Act” to provide a comprehensive federal response to the methamphetamine crisis; and

**Whereas**, in addition to legislation to control the sale, registration and distribution of pseudoephedrine and other methamphetamine precursors, additional legislation should be enacted to address other issues created by the methamphetamine epidemic.

**Now, Therefore, Be It Resolved** that the New Mexico Municipal League supports legislation that will:

1. Increase funding for regional drug task force agencies or local public agencies;
2. Increase requirements for bail alternatives for offenses including the manufacture, sale and distribution of methamphetamine;
3. Increase penalties for the manufacture, sale and distribution of methamphetamine;
4. Provide funding to reimburse state and local public safety agencies for the cost of dismantling and cleaning up methamphetamine labs; and
5. Establish a statewide “Meth Stopper” program patterned after the existing “Crime Stoppers” program.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

2008 PS Committee Priority: **HIGH**

**RESOLUTION NO. 2008-62**

**CONCERNING PART-TIME CERTIFIED POLICE OFFICERS  
PERFORMING LAW ENFORCEMENT DUTIES**

**Whereas**, the employment pool for full-time, salaried law enforcement officers has diminished to the point that many agencies in New Mexico have difficulty keeping their force fully staffed; and,

**Whereas**, agencies may have a greater chance to provide necessary law enforcement services to their citizens by utilizing the services of persons who wish to work part-time; and,

**Whereas**, the legislature has made some changes in the statutes to allow part-time personnel to handle traffic duties of a law enforcement officer (i.e. §66-8-124); and,

**Whereas**, the statutes still require, in some instances, that other duties are to be performed by full-time, salaried police officers; and,

**Whereas**, both the state and local agencies would be able to ensure that these duties are properly performed by requiring part-time officers to be certified and requiring the officers to maintain certification through training.

**Now, Therefore Be It Resolved** that the New Mexico Municipal League seeks legislation to amend any sections of the New Mexico statutes which require a duty to be performed by a full-time, salaried law enforcement officer to also allow that duty to be performed by a part-time, salaried, certified law enforcement officer.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

**RESOLUTION NO. 2008-3**

**CONCERNING INSPECTIONS BY STATE CERTIFIED  
MUNICIPAL BUILDING INSPECTORS**

**Whereas**, New Mexico law currently requires the State of New Mexico Construction Industries Division to conduct inspections on all public buildings, whether they lie within the boundaries of a municipality or outside the municipal boundaries; and

**Whereas**, municipalities employ building officials, certified by the State of New Mexico, who are not permitted to conduct inspections on municipally-owned properties; and

**Whereas**, municipalities find that such restriction is unreasonable and causes unnecessary delays; and

**Whereas**, municipalities are requesting New Mexico law be changed to allow certified building inspectors to conduct inspections on all properties within the municipal boundaries, including municipally-owned properties outside the municipal boundaries.

**Now, Therefore, Be It Resolved** that the New Mexico Municipal League propose legislation for the next New Mexico legislative session allowing state certified building officials, employed by a municipality or a county, to conduct inspections on all buildings, public and private within the jurisdiction of the municipality, provided a certified building inspector of another municipality or county shall inspect municipally-owned properties.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-8

### CONCERNING BUILDING INSPECTORS

**Whereas**, the enormous growth in the construction industry has placed a burden on municipalities to perform building inspections (general construction, plumbing, mechanical, and electrical) in a timely and more cost-effective manner; and

**Whereas**, the cities of Clovis, Rio Rancho, and others have immediate need for multiple certified residential and commercial, and ICC “Residential Combination” and “Commercial Combination” inspectors; and

**Whereas**, many municipalities across the United States utilize the ICC certification of “Combination Dwelling Inspector” for all of their residential construction inspectors and “Commercial Combination Inspectors” for all of their commercial construction inspectors; and

**Whereas**, ICC “Residential Combination” and “Commercial Combination” inspectors would allow small communities to gain efficiencies in building departments in rural areas of the state, and create career paths within municipal inspection departments; and

**Whereas**, SB 657 was introduced during the 2005 Legislative Session and was withdrawn on the promise by CID to allow the cities of Clovis and Rio Rancho to participate in pilot programs for multiple-certification of residential inspectors; and

**Whereas**, CID has restated its interpretations for qualifying multiple residential inspectors; and

**Whereas**, the cities of Rio Rancho and Clovis are still not able to fully implement the multiple certification of residential inspectors or ICC “Residential Combination” inspector options; and

**Whereas**, CID has allowed CID inspectors to acquire certification in multiple disciplines; and

**Whereas**, CID has interpreted NMSA 60-13-43 A “No person shall be employed by any municipality or county as an inspector unless he has first secured approval from the division of his competence as an inspector” as giving CID Trade Bureau Chiefs the authority to approve or reject a municipal inspector’s qualifications by denying testing opportunities for additional multiple disciplines; and

**Whereas**, CID has stated it is in favor of municipalities “sharing” inspection resources through Joint Powers Agreements with other local governments; and

**Whereas**, CID has stated Joint Powers Agreements between local governments for the “sharing” of code compliance resources must be approved by CID, when no statute or regulation has been found that gives CID this authority.

**Now, Therefore, Be It Resolved** that the New Mexico Municipal League supports “multiple-disciplined”, ICC “Residential Combination”, and “Commercial Combination” inspectors to allow all New Mexico municipalities the same flexibility in building inspections that the rest of the nation enjoys; and

**Be It Further Resolved** that the New Mexico Municipal League should take the lead on behalf of all municipalities in the state to encourage CID to cooperate in the implementation of all New Mexico municipalities employing multiple disciplined residential, ICC “Residential Combination”, and “Commercial Combination” inspectors, and employing Joint Powers Agreements allowing “sharing” of code compliance resources between local governments; and

**Be It Further Resolved** that applicable statutes and all CID rules should be reviewed and revised to allow cooperation and implementation of Policies by which municipalities may utilize multiple disciplined residential, ICC “Residential Combination”, and “Commercial Combination” inspectors, and Joint Powers Agreements for the “sharing” of code compliance resources among local governments; and

**Be It Further Resolved** that CID rules should be amended to allow residential and/or commercial multiple disciplined or “ICC Combination” inspector candidates to qualify for additional inspection certifications with field experience in only one trade discipline as the rest of the nation allows; and

**Be It Further Resolved** that the Municipal League recommend to CID that it defer implementation of any policy or rule changes based on NMSA section 3-17-6 from July 1, 2009 to July 1, 2010 to permit further discussion leading to consensus.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-17

### 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 Constructions 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; and

**Now, Therefore, Be It Resolved** that the New Mexico Municipal League supports legislation or clarification from the International Code Council to exempt or clarify the language for airport hangars of this size from the IBC or reinstate the UBC.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

**RESOLUTION NO. 2008-5**

**CONCERNING LEGISLATION REQUIRING THE STATE OF NEW MEXICO TO ADD MUNICIPAL JUDGES TO THE LANGUAGE IN SECTION 34-10-1; PROVIDING FOR A MUNICIPAL JUDGE TO SIT ON THE JUDICIAL STANDARDS COMMISSION**

**Whereas**, there are 85 Municipal Judges in the State of New Mexico; and

**Whereas**, complaints are filed against Municipal Judges; and

**Whereas**, Judicial Standards Commission reviews those complaints; and

**Whereas**, the State Statute does not allow for a Municipal Judge to sit on the Commission.

**Now, Therefore, Be It Resolved** that the New Mexico Municipal League shall introduce legislation or a Constitutional Amendment to allow for a Municipal Judge to be appointed to the Judicial Standards Commission.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

**RESOLUTION NO. 2008-6**

**CONCERNING AMENDMENT TO SECTION 3-11-5, NMSA 1978 HAVING TO  
CONFIRM PERSONS WHO SHALL BE EMPLOYED BY THE MUNICIPALITY AT  
EVERY ORGANIZATIONAL MEETING**

**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 amend Section 3-11-5, NMSA 1978 as follows:

3-11-5. Mayor; appointment of officers after election.

- A. Any person holding an appointed office at the time of the municipal election shall continue in that office until his/her successor has been appointed and qualified.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

**RESOLUTION NO. 2008-10**

**CONCERNING STANDARDIZED PROCEDURES IN THE  
ELECTION CODE**

**Whereas**, there have been a number of changes over the past few years both on the state and federal levels concerning the conduct of elections; and

**Whereas**, municipal elections are governed by a separate election code; and

**Whereas**, there are sections of the Municipal Election Code that are no longer consistent with the conduct of other elections; and

**Whereas**, these inconsistencies between the State Election Code and the Municipal Election Code are confusing to the voter; and

**Whereas**, the municipal and county clerks have appointed a task force to study the feasibility of standardizing the Municipal Election Code.

**Now, Therefore, Be It Resolved** that the New Mexico Municipal League seeks legislation to standardize procedures for state, county and municipal elections.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-20

### 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 Above Ground Use of Reclaimed Domestic Wastewater” (August 7, 2003), including definitions, standards, conditions and monitoring requirements; and

**Whereas**, the NMED “Policy for Above Ground Use of Reclaimed Domestic Wastewater” has never been presented to the New Mexico Water Quality Control Commission (NMWQCC) for public hearing and formal adoption; and

**Whereas**, the NMED “Policy for Above Ground Use of Reclaimed Domestic Wastewater” is incorporated by reference into enforceable Ground Water Discharge Permits issued by NMED under the NMWQCC Regulations; and

**Whereas**, the NMED Drinking Water Bureau has drafted a “Policy for Wastewater Reuse for Potable Water” (May 27, 2005), including restrictions, standards and monitoring requirements; and

**Whereas**, the NMED “Policy for Wastewater Reuse for Potable Water” has never been presented to the NM Environmental Improvement Board (NMEIB) for public hearing and formal adoption; and

**Whereas**, the NMED “Policy for Wastewater Reuse for Potable Water” is intended to provide enforceable requirements for municipalities deciding to recycle purified wastewater for potable reuse; and

**Whereas**, the NMED practice of imposing enforceable requirements through 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 not subjected to public hearing and urges the NMED Cabinet Secretary, 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 adopting environmental protection requirements.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-22

### CONCERNING UTILITY OPERATOR CERTIFICATION REQUIREMENTS

**Whereas**, 61-33-1 NMSA 1978 requires the New Mexico Water Quality Control Commission (WQCC) adopt rules providing criteria for identification of the minimum number of certified operators needed to operate a public water or wastewater facility; and

**Whereas**, 61-33-1 NMSA 1978 requires the criteria be based on protection of public health and the environment; and

**Whereas**, 61-33-1 NMSA 1978 requires the criteria be based on classification of the public water or public wastewater facility; and

**Whereas**, 20.7.4 NMAC authorizes the WQCC to direct the Utility Operator Certification Board to propose the operator certification criteria.

**Now, Therefore, Be it Resolved** that the New Mexico Municipal League urge the Utility Operator Certification Board and the New Mexico Environment Department to:

- work with the certified operators throughout the State to develop the criteria;
- work with the regulated community to develop criteria that provides additional protection to the public health and the environment; and
- establish and provide justification to support criteria establishing a minimum number of certified operators.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

**RESOLUTION NO. 2008-23**

**CONCERNING AMENDMENT TO SECTION 72-1-9 NMSA 1978 (being Laws 1985, Chapter 198, Section 1, as amended) RELATING TO EXTENSION OF THE WATER USE PLANNING PERIOD**

**Whereas**, House Bill 1080 (HB 1080) was introduced in the 48<sup>th</sup> Legislature; and

**Whereas**, HB 1080 was supported by the Albuquerque-Bernalillo County Water Utility Authority, City of Alamogordo, City of Espanola and El Prado Water and Sanitation District;

**Whereas**, HB 1080 proposed an amendment to Section 72-1-9 NMSA 1978 (being Laws 1985, Chapter 198, Section 1, as amended) which would extend the current Water Use Planning Period to one hundred (100) years: and

**Whereas**, HB 1080 died in committee; and

**Whereas**, as a result of HB 1080, HM 42 and HJM 48 (duplicates) were introduced calling for the NM State Engineer to evaluate and make recommendations relating to the Water Use Planning Period (HM 42/a Passed as amended); and

**Whereas**, in relation to HM 42/a the State Engineer has organized stakeholder meetings to gather input and explore the advantages/disadvantages and discuss options for extending the current forty (40) year planning period; and

**Whereas**, municipalities and other qualifying water suppliers subject to the forty (40) 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; and

**Whereas**, the current planning period is inadequate to meet this need.

**Now, Therefore, Be It Resolved** that the New Mexico Municipal League supports a reasonable extension of the Water Use Planning Period as may be reached by consensus through the stake holder meetings being organized by the State Engineer.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-24

### CONCERNING FORTY YEAR WATER PLANNING PROCESS

**Whereas**, New Mexico statute 72-1-9 recognizes that planning by municipalities and other entities for the reasonable development and use of water resources promotes the public welfare and conservation of water within the state; and

**Whereas**, New Mexico statute 72-1-9 provides for a water use planning period of forty years for municipalities and other entities with water rights being based on a water development plan; and

**Whereas**, water development plans referred to in New Mexico statute 72-1-9 are commonly referred to as forty year water plans; and

**Whereas**, the New Mexico State Engineer has general supervision of waters of the state under New Mexico statute 72-2-1; and

**Whereas**, no formal guidance on the content of the forty year water plans prepared for application under New Mexico statute 72-1-9 or their review process has been issued by the State Engineer; and

**Whereas**, one or more entities recognized in New Mexico statute 72-1-9 have invested substantial resources in preparing forty year water plans, submitted them to the Office of the State Engineer in support of water rights filings and experienced lengthy delays and extensive comments on the content of the plans; and

**Whereas**, 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 the plans and uniform and timely process for the review of such plans.

**Now, Therefore, Be It Resolved** that the New Mexico Municipal League supports the development and use of a template for the preparation of water development plans or forty year water plans prepared for application to New Mexico statute 72-1-9 and a uniform and timely process for the review of such plans.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-26

### CONCERNING REPORTING COLLECTIONS AND GROSS RECEIPTS DISTRIBUTIONS TO MUNICIPALITIES BY THE TAXATION AND REVENUE DEPARTMENT

**Whereas**, state shared and local option gross receipts taxes are the main revenue component for the operation of municipalities, and municipalities are concerned with the accuracy and timeliness of the distribution of those taxes; and

**Whereas**, more detailed and timely information regarding distributions of various Gross Receipts Taxes will result in more accurate accounting for local revenues; and

**Whereas**, municipalities recognize the volatility of gross receipts tax reporting by taxpayers and that the Department faces a daunting challenge in verifying the accuracy of reporting by taxpayers; and

**Whereas**, inaccurate or incomplete reporting by taxpayers requires additional research by the Department, which leads to delays in the distribution of both state shared and local option gross receipts taxes while unidentified payments are held in a Suspense Fund; and

**Whereas**, the State of New Mexico Taxation and Revenue Department has continued to receive a qualified audit opinion since audit years ending June 30, 1995 based on the independent auditor's inability to obtain "sufficient evidence regarding the disposition of taxes to payees...due to the inadequacy of accounting records" regarding the balances in the Suspense Fund; and

**Whereas**, a portion of the funds that are held in the Suspense Fund should rightfully be distributed to municipalities.

**Now, Therefore, Be It Resolved** that the State of New Mexico Taxation and Revenue Department, working with the Department of Finance and Administration, establish one or more performance measures related to the identification and distribution of payments transferred to the suspense fund within a specified period of time (for example, 75% of funds transferred to suspense in any given month would be identified and distributed within 30 days, 85% within 60 days and 95% within 90 days) and that the Department publish to municipalities at least quarterly actual performance as compared to the performance measures; and

**Be it Further Resolved** that the New Mexico Municipal League, with the guidance and concurrence of the Office of the State Auditor, the Department of Finance and Administration, and the New Mexico Taxation and Revenue Department identify legislation that would permit distribution to the state and to municipalities of that portion of the Suspense Fund that cannot be reconciled to eliminate the basis for future qualified opinions by the independent auditors of the New Mexico Taxation and Revenue Department.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

2008 FIRT Committee Priority: **HIGH**

**RESOLUTION NO. 2008-32**

**CONCERNING MUTUAL EFFORTS TO INCREASE COMPLIANCE WITH GROSS RECEIPTS & COMPENSATING TAX ACT AND MUNICIPAL BUSINESS REGISTRATION ORDINANCES**

**Whereas**, Section 7-9-4 NMSA 1978 imposes an excise tax on any person engaging in business in New Mexico and Section 7-1-12 NMSA 1978 provides for establishing a system for the registration and identification of taxpayers, which system is referred to as the Combined Reporting System (CRS); and

**Whereas**, Section 3-38-3 NMSA 1978 requires municipalities to provide for the imposition of a Business Registration Fee by ordinance; and

**Whereas**, Section 3-38-4 NMSA 1978 provides that any person filing an application for issuance or renewal of any business registration as authorized in Section 3-38-3 NMSA 1978 shall include his current CRS identification number; and

**Whereas**, it would be to the mutual benefit of the State and municipalities if each was aware of those businesses that have registered under either or both provisions of law to do business in order to increase compliance with the Gross Receipts and Compensating Tax Act and municipal business registration ordinances.

**Now, Therefore, Be It Resolved** that the New Mexico Municipal League seek legislation that would require the State of New Mexico Taxation and Revenue Department to at least once every three years cooperate with each municipality to conduct a "tape match" to identify businesses that are not in compliance with State of New Mexico or municipal business registration statutes and ordinances.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-29

### CONCERNING FEDERAL PAYMENTS IN LIEU OF TAXES TO MUNICIPALITIES

**Whereas**, pursuant to the "Payments in Lieu of Taxes Act" (PILT), 31 U.S.C. Sections 6901-6907 (1982 and Supp. II 1984), the federal government compensates local government units for loss of tax revenues from certain tax-exempt federal lands ("entitlement lands") located within local government boundaries; and

**Whereas**, PILT payments are made, generally to counties that provide services such as those related to public safety, environment, housing, social services and transportation; and

**Whereas**, the lands on which PILT payments are made are limited to National Forest Systems and the National Park System administered by the Bureau of Land Management, lands in federal water resource projects, dredged lands maintained by the U. S. Corps of Engineers, inactive or semi-active army installations, and some lands donated to the Federal government; and

**Whereas**, some New Mexico municipalities have significant federal and tribal lands and property within the municipal boundaries; and

**Whereas**, those lands are exempt from the property tax assessments of the municipality.

**Now, Therefore, Be it Resolved** that the New Mexico Municipal League support federal legislation that would expand the property subject to PILT payments to include those federal and tribal lands located within the municipal boundaries and to require payment to be made to the municipality.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

## RESOLUTION NO. 2008-36

### CONCERNING EXPANSION OF THE STATE PRODUCTION TAX CREDITS AND RENEWAL OF THE FEDERAL PRODUCTION TAX CREDITS FOR WIND AND SOLAR ENERGY PROJECTS

**Whereas**, according to the American Solar Energy Society, the wind industry contributed \$3 billion to the US economy, and added 16,000 jobs in 2006; and

**Whereas**, the solar photovoltaic industry contributed \$1 billion and added 6,800 jobs; and

**Whereas**, both industries are growing annually at over a 30% rate; and

**Whereas**, renewable energy and green industry are merely minor economic drivers in NM and are only beginning to emerge; and

**Whereas**, New Mexico is one of only a handful of states that provides a Production Tax Credit (PTC) for wind and biomass of .01/kWh, and an average of .027/kWh for Solar; and

**Whereas**, in conjunction with the federal PTC of 0.02/kWh for wind and the federal 30% Investment Tax Credit for solar, State Tax Credits are a significant incentive to locate in new Mexico; and

**Whereas**, the current wind PTC in New Mexico is completely allocated; and

**Whereas**, without an increase in the State PTC for wind and solar power projects, those projects will not be commercially viable; and

**Whereas**, without the renewal of the Federal PTC that is set to expire on December 31, 2008, wind energy production may come to a complete halt in New Mexico.

**Now, Therefore, Be it Resolved**, that the New Mexico Municipal League requests the New Mexico State Legislature, in partnership with the Governor, raise the current solar PTC, capped at 200,000 MWH per facility, to 400,000 MWH to enable concentrated solar projects (CSPs) to be commercially viable.

**Be it Further Resolved**, that the New Mexico Municipal League urge the New Mexico State Legislature, in partnership with the Governor, raise the current cap on the wind PTC of 2 million MWH to a minimum of 4 million MWH to enable more wind energy production.

**Be it Further Resolved**, that the New Mexico Municipal League urge the New Mexico Congressional Delegation to work to renew the Federal PTC prior to its expiration on December 31, 2008.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.

2008 FIRT Committee Priority: **HIGH**

## RESOLUTION NO. 2008-50

### CONCERNING THE ADOPTION OF APPROPRIATE PHYSICAL FITNESS STANDARDS FOR LAW ENFORCEMENT

**Whereas**, the New Mexico Law Enforcement Academy Board enforces the regulations and standards for qualifying law enforcement officers; and

**Whereas**, the current New Mexico standards, contained in the New Mexico Administrative Code, were taken from previous Cooper Institute “percentile” standards that are now outdated and pose problems if used as a mandatory standard for selection, training or maintenance; and

**Whereas**, the Cooper Institute has rejected its own “percentile” rankings since they do not predict the ability to do the job and do not demonstrate criterion validity; and

**Whereas**, with the required emphasis on job relatedness brought about by the Civil Rights Act of 1991 and the ADA, the age and gender based norms, as mandatory standards, are no longer recommended by the Cooper Institute; and

**Whereas**, according to Cooper, New Mexico’s fitness standards are age and gender adjusted thus conflicting with present law; and

**Whereas**, New Mexico Regulations are silent on any association between fitness standards and the jobs to which they must relate; and

**Whereas**, New Mexico makes no provision for certification reciprocity with other states in the matter of out-of-state peace officer hires; and

**Whereas**, forty-eight states have adopted new Standards – the ranges of which are found to be predictive of job performance.

**Now, Therefore, Be It Resolved** that the New Mexico Municipal League urge the State Law Enforcement Academy Board to adopt new Physical Fitness *Standards* for Law Enforcement.

**Passed, Approved and Adopted** this 14th day of August, 2008 at the City of Clovis, New Mexico.