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STATEMENT OF MUNICIPAL POLICY

*Adopted By:
NMML Membership
September 2nd
Taos, NM*

2010-2011 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.

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 **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.

2.1.05 **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.

2.1.06 **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.

- 2.1.07 **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.

- 2.1.08 **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.

- 2.1.09 **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.

2.1.10 **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.

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

2.1.12 **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.

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 is causing tremendous fiscal impact to municipalities. Additional burdens are placed on municipalities when state or federal government redirects local revenue sources to their use. 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.

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.** The audits of municipalities are conducted annually. The audits should be conducted by Certified Public Accountants selected exclusively by the local governing bodies. 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.

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 **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.

3.4.03 **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, 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.
- 4.4.03 **Utility Deregulation.** Local governments should retain their traditional authority over rights-of-way, zoning and land use controls, and usage or rental revenues after any type of utility deregulation.

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/or regional facilities which 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 compensate local governments 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 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 must also ensure that the state's funding mechanism guarantees the cooperation and mutual aid that are crucial components of any regional plan.
- 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.