



2017

**LEGISLATIVE
PRIORITIES**

**Adopted By:
NMML Board of Directors
October 1, 2016
Santa Fe, NM**

The New Mexico Municipal League Board of Directors has prioritized the following 2016-2017 Resolutions and Statement of Municipal Policy for the 2017 Legislative Session beginning in January.

1. **Protect Municipal Tax Base and Revenues**

- **State and Local Tax Reform** – supports creation of a Study Group to develop a tax reform plan for the State of New Mexico and have representation from the New Mexico Municipal League and the New Mexico Association of Counties in order to give input on state and local tax reform. ***(Resolution 2016-18)***
- **Business Registration Fee** – strengthen the Business Registrations for the purpose of protecting the state and local tax base by insuring that businesses in a municipality have a Combined Reporting System Identification Number. ***(Resolution 2016-20)***
- **Impairment of Bonds** - the Legislature should not take any action to impair municipal bonds. ***(Statement of Municipal Policy – Section 3.4.04)***
- **Municipal Libraries** - 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. ***(Statement of Municipal Policy – Section 1.3.04 and Resolution 2016-34)***

2. **Whistleblower Protection Act** – amend the Whistleblower Protection Act to limit violations and limit the applicability of the Act. ***(Resolution 2016-8)***

3. **Law Enforcement** – support the following issues affecting Law Enforcement: the Sex Offender Registration and Notification Act ***(Resolution 2016-25)***; Mental Health legislation to provide funding and statutory support for mental health resources ***(Resolution 2016-28)***; and, Domestic Violence Offenses ***(Resolution 2016-32)***

4. **Jurisdiction of Police Officers** – seek legislation to extend territorial jurisdiction of municipal police officers. ***(Resolution 2016-31)***

RESOLUTION 2016-18

CONCERNING STATE AND LOCAL TAX REFORM

Whereas, the advent of the internet has dramatically changed the way people shop and pay for goods and services; and

Whereas, the growth of the use of the internet for shopping and paying for goods and services has outpaced the growth of shopping and paying for goods and services in brick and mortar local businesses; and

Whereas, use of the internet for shopping and paying for goods and services has resulted in decreasing state and local tax revenues because Gross Receipts Tax Laws need to be updated to provide a mechanism for collection of the Gross Receipts Tax on internet sales and payments; and

Whereas, the New Mexico Municipal League is aware of various proposals for tax reform in the state; and

Whereas, the New Mexico Municipal League is generally supportive of state and local tax reform that will result in increased revenues for both state and local governments.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports creation of a Study Group to develop a tax reform plan for the State of New Mexico; and

Be It Further Resolved that the study group have representation from the New Mexico Municipal League and the New Mexico Association of Counties in order to give input on state and local tax reform.

Passed, Approved and Adopted this 1st day of September at the City of Hobbs, New Mexico.

RESOLUTION 2016-20

CONCERNING THE BUSINESS REGISTRATION FEE AS AUTHORIZED BY SECTION 3-38-3, NMSA, 1978

Whereas, Section 3-38-3, NMSA, 1978 authorizes a municipality, by ordinance, to impose a Business Registration Fee of up to \$35.00 annually on each place of business within the municipality; and

Whereas, Section 3-38-4, NMSA, 1978 provides for the business registration by ordinance and allows such fee to be prorated for the remainder of the calendar year the business is to be operated and to renew such business registration annually; and

Whereas, Section 3-38-5, NMSA, 1978 provides that a municipality may charge \$10 annually for a late fee which does not incentivize some businesses to comply by registering annually; and

Whereas, municipalities welcome the opportunity to support new and renewed business activity and to ensure that services are available and provided at the business location; and

Whereas, municipalities desire to prevent improper conduct, zoning and occupancy that may occur at the designated location that would negatively impact the health and welfare of surrounding businesses and property owners; and

Whereas, municipalities also issue Business Registrations for the purpose of protecting the state and local tax base by insuring that businesses in a municipality have a Combined Reporting System Identification Number; and

Whereas, some business owners choose not to register their businesses and operate out of compliance with State Law and local ordinances causing the municipality to take appropriate action through enforcement activities as provided for in 3-38-5 NMSA, 1978; and

Whereas, the costs incurred by municipalities to process, verify and enforce business registrations greatly exceed \$35.00 annually and the business registration fee has not been increased since 1988; and

Whereas, municipalities desire to impose a fee of up to \$100 annually and to, by ordinance establish fee categories based on services provided by the municipality; and

Whereas, enforcement provisions in state statutes need to be strengthened to provide that a municipality not issue a business registration for conduct of commercial activity to any person whose records reflect any unresolved noncompliance with the businesses registration provisions or any other municipal ordinance or regulations; and

Whereas, a municipality should have the ability to take appropriate legal action against any business being conducted in violation of state law or local ordinance and to prevent the conduct of business or to restrain, correct or abate a violation, including for non-payment of the business registration fee for issuance or renewal by the deadline date; and

Whereas, a municipality should have the power to, by certified mail, order the appearance of the business owner before the Municipal Clerk within 30 days from date of notice, to show cause why the municipalities should not initiate legal proceedings.

Now, Therefore, Be It Resolved that the New Mexico Municipal League support legislation to provide for a Business Registration Fee of up to \$100.00 per year and to strengthen the enforcement penalties for those businesses in non-compliance including a late fee not to exceed \$100.00 annually.

Passed, Approved and Adopted this 1st day of September at the City of Hobbs, New Mexico.

RESOLUTION 2016-34

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 2017 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 \$.37 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 1st day of September at the City of Hobbs, New Mexico.

RESOLUTION 2016-8

CONCERNING THE WHISTLEBLOWER PROTECTION ACT

Whereas, the Whistleblower Protection Act (“Act”) was enacted by the New Mexico Legislature in 2010; and

Whereas, the Act was intended to prohibit public employers from retaliating against public employees who take action, object to, or refuse to participate in a matter the employee believes, in good faith, to be an unlawful or improper act.; and

Whereas, the Act provided for a 2 year statute of limitations for bringing a claim and authorized the claim to be filed in any court of competent jurisdiction; and

Whereas, the Act is a non-exclusive remedy, meaning that a claim under the Act may be brought independently of any other employment-related claim; and

Whereas, current state and federal law provided for legal remedies against employers for prohibited activities, including retaliation-based claims; and

Whereas, municipal governments have experienced a significant increase in the number of employment-related lawsuits that include a whistleblower claim; and

Whereas, portions of the Act are vague and subject to multiple interpretations; and

Now, Therefore, Be It Resolved, that the New Mexico Municipal League supports amending the Whistleblower Protection Act to better define the definition of “good faith” by requiring some minimal threshold of evidence for an employee to file a claim under the Act; and

Be It Further Resolved, that the Act be amended to narrow the definition of “retaliatory action” as the current definition encompasses any “adverse employment action against a public employee”; and

Be It Further Resolved, that the Act be amended to limit “unlawful or improper act(s)” to violations of state or federal law; and

Be It Further Resolved, that the Act be amended to narrow the universe of individuals to whom a complaint may be communicated as a precondition to filing a claim under the Act.

Passed, Approved and Adopted this 1st day of September at the City of Hobbs, New Mexico.

RESOLUTION 2016-25

CONCERNING AMENDING THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

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

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

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

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

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

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

Whereas, SORNA does not include provisions for sex offender risk assessment that could provide local law enforcement agencies with a scientifically based method for identifying those offenders who are most likely to reoffend; and

Whereas, the addition of support or legislative mandate for scientifically based risk assessment will allow law enforcement agencies to devote limited resources to monitoring the behaviors of those offenders who have proven to provide the most significant risk to the community.

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

Be It Further Resolved that the amendments to SORNA also address the subject of sex offender risk assessment.

Passed, Approved and Adopted this 1st day of September at the City of Hobbs, New Mexico.

RESOLUTION 2016-28

CONCERNING LAW ENFORCEMENT AND MENTAL HEALTH PROFESSIONALS CRISIS INTERVENTION FOR THE MENTALLY ILL

Whereas, one of the greatest challenges first responders face in New Mexico and across the nation is how to effectively respond to people who have mental health disorders or who are in crisis; and

Whereas, HJM 17 (2011) made recommendations to reduce the number of individuals with mental health disorders who require law enforcement intervention; and

Whereas, New Mexico Law Enforcement agencies, Fire Personnel, EMS, and their supporting agencies are the first responders when dealing with a person who suffers from mental illness or is in crisis and such response requires adequate resources, knowledge, and equipment if such a response is to be compassionate, effective and in the best interests of the individual; and

Whereas, it is the responsibility of the State Legislature to provide adequate resources devoted to dealing with the issue of mental illness in New Mexico. This responsibility extends to all social service agencies and advocacy groups whose mission is to assist citizens suffering from mental illness, thereby reducing the need for Law Enforcement Personnel to respond to individuals in mental health crisis; and

Whereas, New Mexico Law Enforcement personnel are frequently drawn into numerous contacts with citizens suffering from mental illness or who are in crisis, and options for placement and treatment of these citizens are not readily available; and

Whereas, the risk of physical confrontation between the citizen suffering from mental illness or crisis and responding Law Enforcement personnel is high and such confrontations frequently result in serious injury or death to the citizen, bystanders or to the responding Law Enforcement personnel; and

Whereas, New Mexico Law Enforcement Personnel currently receive basic training on how to assess and handle those suffering from Mental illness as part of the New Mexico Law Enforcement Academy training curriculum pursuant to HB 93; and

Whereas, one of the paramount challenges facing New Mexico Law Enforcement agencies is the lack of adequate support resources for effectively handling and de-escalating potentially deadly situations involving a person or persons in crisis, the first responder and the general public. Having these support options readily available is critical when first responders arrive on-scene to prevent further tragedy. The critical missing link is the availability of Crisis Intervention Teams comprised of specifically trained Law Enforcement Personnel and Mental Health Professionals who will engage in the crisis intervention process on scene as a team; and

Whereas, New Mexico Law Enforcement recognizes and has identified the lack of available resources and professionals specifically trained in crisis intervention and dealing with the mentally ill, and has determined this to be a state wide issue which is not regionalized to a single urban, suburban or rural area. Law Enforcement agencies across the state face the same challenges in not having the readily available resource

of an available Crisis Intervention Team to assist in de-escalating potentially deadly situations and bring about a safe resolution; and

Whereas, New Mexico Law Enforcement seeks to establish a collaborative partnership with Mental Health professionals, and develop regionally based Crisis Intervention Teams throughout New Mexico that can offer immediate assistance either telephonically, or in person, thereby incorporating a level of expertise and intervention which would provide an additional resource for de-escalating a potentially deadly situation and obtaining the proper emergency assistance needed for the person or persons in crisis; and

Whereas, New Mexico Law Enforcement proposes to partner with Mental Health Professionals statewide in developing regionalized teams to effectively handle potentially volatile situations involving those who suffer from mental illness and are in crisis. This partnership in creating Regional Crisis Intervention Teams will serve as an essential tool for first responders in de-escalating potentially deadly situations, and would make sure those who are in crisis get the appropriate medical care, that especially in rural areas, is often not available pursuant to Section 43-1-10 NMSA 1978; and

Whereas, existing Crisis Intervention Teams that exist in New Mexico's larger law enforcement agencies are available to use as a model and resource for the proposed regional Crisis Intervention Teams.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seek legislation to provide funding and legislative statutory support for mental health resources, and mandated Regional Crisis Intervention Teams that would be established and utilized to further support the Law Enforcement and First Responder mission of protecting and assisting a person or persons in crisis, protecting the remainder of the New Mexico community from the potential negative effects of contacts with those in crisis, and furthering collaborative efforts that would mitigate the amount and severity of negative contacts with those in crisis, thus avoiding further tragic loss of life.

Passed, Approved and Adopted this 1st day of September at the City of Hobbs, New Mexico.

RESOLUTION 2016-32

CONCERNING AN OFFENDER'S POSSESSION OF FIREARMS WHILE SUBJECT TO AN ORDER OF PROTECTION OR FOLLOWING CONVICTION FOR A DOMESTIC VIOLENCE OFFENSE

Whereas, the Violence Policy Center ranked New Mexico as the third most dangerous state for women in 2013, the year in which twenty-one women were killed by their intimate partners, fourteen of which were committed with a firearm; and

Whereas, a woman is five times more likely to be killed by a domestic violence offender if the offender owns a gun; and

Whereas, a firearm was used in 64% of reviewed CY2012 homicides and 86% of reviewed suicides; and

Whereas, six reviewed CY2012 cases involved a prohibited person in possession of a firearm and three had convictions for misdemeanor domestic violence and all six had at least one felony conviction; and

Whereas, all 13 judicial district courts combined issued 3,523 domestic violence orders of protection during calendar year 2013 and the following year 3,512 orders were issued; and

Whereas, a law is needed that will reduce the threat women and children experience from domestic violence offenders; and

Whereas, New Mexico Intimate Partner Violence Death Review Team has urged for the creation and passage of such state legislation actively supported by New Mexicans to Prevent Gun Violence, Coalition to Stop Gun Violence, The Office of the Attorney General, District Attorney Jennifer Padgett and domestic violence awareness groups throughout the State of New Mexico; and

Whereas, twenty-eight states have enacted similar legislation that prohibits possession of, or sales to, any person subject to an order of protection under the Family Violence Protection Act; and

Whereas, such bill, called "Relating to Domestic Violence; Prohibiting Individuals Subject to Orders of Protection from Possessing or Purchasing Firearms," has been prepared by the New Mexico Legislative Council Services that mirrors Federal statute; and

Whereas, this legislation will aid law enforcement in keeping the peace in volatile domestic relationships, reinforce the importance of removing firearms from the hands of domestic violence offenders, may provide resources for retrieving and storing these weapons and create a comprehensive system for monitoring compliance.

Now, Therefore, Be it Resolved that the New Mexico Municipal League supports legislation relating to Domestic Violence; “Prohibiting Individuals Subject to Orders of Protection from Possessing or Purchasing Firearms.”

Passed, Approved and Adopted this 1st day of September at the City of Hobbs, New Mexico.

RESOLUTION 2016-31

CONCERNING EXTENDED JURISDICTION OF MUNICIPAL POLICE OFFICERS

Whereas, within the State of New Mexico, municipal police officers and county sheriffs are bound to “Territorial Jurisdiction,” regardless of the type and size of the law enforcement agency, and State legislative law enforcement authority exists only within those jurisdictions, with the exception of an agreement referred to as “Cross Commission”; and

Whereas, within the State of New Mexico the State Police, County Sheriffs, and Municipal Law Enforcement agencies are limited in authority based upon “Territorial Jurisdiction.” The State Police have state wide jurisdiction, the County Sheriffs have county wide jurisdiction, and Municipal Agencies have sole jurisdiction within the city boundaries, unless a “Cross Commission” agreement exists. The authority of a certified law enforcement officer to investigate crimes which have an absolute “Nexus” to their “Territorial Jurisdiction” is limited should the witnesses and or suspect(s) reside or have fled outside of the employing agency’s “Territorial Jurisdiction.” Based on the lack of authority, in such cases the investigating agency must seek assistance from the jurisdictional agency in which the investigation has led them to in the course of their duties. Based upon man power shortages and the unavailability of resources of that agency; they may not be able to accommodate the request, or the time frame for accommodation is unreasonable; and

Whereas, within the State of New Mexico there currently are an estimated 2000 vacant certified law enforcement positions statewide, with that number expected to increase in the future. Many law enforcement agencies statewide are experiencing a lack of personnel and limited resources; many do not have the availability to adequately accommodate requests from outside agencies to assist in their investigations; and

Whereas, the lack of law enforcement authority experienced by County Sheriffs, and Municipal Police Agencies have been the direct cause of solvable cases becoming inactive simply because law enforcement officers are limited in authority to “Territorial Jurisdiction.” Many cases never see the light of a courtroom and many victims are left without justice. Currently, should a law enforcement officer outside their “Territorial Jurisdiction” engage in any type of law enforcement activity excluding Mutual Aid or a Cross Commission agreement, they could potentially face criminal prosecution based on the lack of law enforcement authority; and

Whereas, the term “Nexus” as referred to, is defined as having a direct connection to, or linked to a crime committed in the “Home Jurisdiction” of the investigating law enforcement agency; and

Whereas, the term “Policy & Procedure” is defined as an operational guideline, overall plan embracing the general goals and acceptable procedures, a definite course or method of action in light of given circumstances; and

Whereas, this resolution is the general model of legislative law enforcement authority for individual States within the United States of America. Nothing in this resolution is in contrast to or minimizes guaranteed individual rights which are protected under the State of New Mexico Constitution.

Now, Therefore, Be it Resolved that the New Mexico Municipal League and the New Mexico Association of Chiefs of Police seek legislation to extend the territorial jurisdiction of municipal police officers by providing that, any fulltime employed law enforcement officer within the State of New Mexico, who has met the State Legislative uniform requirements as outlined in 29-7-6 NMSA 1978 (Law Enforcement Training), and is certified as a peace officer through the State of New Mexico, shall have uniform law enforcement authority to conduct, within any extended jurisdiction adopted by the municipal governing body, any investigation and arrest which has a direct “Nexus” to the “Territorial Jurisdiction” of his/her employing agency, and the prosecution venue of such crimes is within their “Territorial Jurisdiction”; and

Be it Further Resolved within the State of New Mexico that each municipality may develop and implement policy and procedures to accommodate extended law enforcement authority, and place guidelines in which the primary goal is the focus of criminal investigations and prosecution for crimes that have a direct “Nexus” to their specific “Territorial Jurisdiction.” The “Policy and Procedures” should include, but not be limited to addressing each agency’s personnel are primarily responsible for enforcing laws within their own “Territorial Jurisdiction.” This includes notification to the appropriate jurisdictional agency when an investigation has led them to an outside jurisdiction. Every municipality has the ability to develop policy and procedure defining guidelines for their law enforcement personnel.

Be it Further Resolved that the New Mexico Municipal League and the New Mexico Association of Chiefs of Police seeks legislation to address general liability as the result of a New Mexico certified law enforcement officer exercising his/her authority, within the scope of his/her duties as being incurred by the employing agency, should the foundation for such liability take place in an outside jurisdiction. This shall be addressed in each municipality’s “Policy & Procedure Manual” for law enforcement personnel.

Be It Further Resolved that the New Mexico Municipal League and the New Mexico Association of Chiefs of Police supports legislation to amend NMSA 1978 Section 3-13-2 as follows:

3-13-2. Police officers.

A. The police officer of a municipality shall:

- (1) execute and return all writs and process as directed by the municipal judge of the municipality employing the police officer;
- (2) execute and return all criminal process as directed by the municipal judge of any incorporated municipality in the state if the criminal process arises out of a charge of violation of a municipal ordinance prohibiting driving while under the influence of intoxicating liquor or drugs;
- (3) serve criminal writs and process specified in Paragraphs (1) and (2) of this subsection in any part of the county wherein the municipality is situated; and

- (4) within the municipality:
 - (a) suppress all riots, disturbances and breaches of the peace;
 - (b) apprehend all disorderly persons;
 - (c) pursue and arrest any person fleeing from justice; and
 - (d) apprehend any person in the act of violating the laws of the state or the ordinances of the municipality and bring him before competent authority for examination and trial.

B. In the discharge of his proper duties, a police officer shall have the same powers and be subject to the same responsibilities as sheriffs in similar cases.

C. The jurisdiction of a municipal police officer provided for in subsection A may be extended beyond the municipal limits provided that the governing body of the municipality employing the police officer has adopted a policy, including rules and regulations that specify the geographical jurisdiction of its officers and the conditions and limitations of any extended jurisdiction. This authority shall only apply to the investigation and arrest of individuals accused of committing a criminal offense that was committed within the municipality seeking the extended jurisdiction.

Passed, Approved and Adopted this 1st day of September at the City of Hobbs, New Mexico.