



2014-2015 ANNUAL RESOLUTIONS

***Adopted By:
NMML Membership
August 28, 2014
Albuquerque, NM***

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RESOLUTION 2014-1

CONCERNING INCREASING THE JURISDICTIONAL AMOUNT OF PETTY MISDEMEANOR OFFENSES

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

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

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

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

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

RESOLUTION 2014-2

CONCERNING CONFIRMATION OF APPOINTIVE OFFICIALS AT THE ORGANIZATIONAL MEETINGS

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

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

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

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

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

RESOLUTION 2014-3

CONCERNING INTERNATIONAL BUILDING CODE ON AIRPORTS

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

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-4

CONCERNING PERSONNEL RECORDS AND THE INSPECTION OF PUBLIC RECORDS ACT

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-5

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

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

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

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

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

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

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

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

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

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

Whereas, there is also a workforce shortage in the water and waste-water and electric utility fields; and

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

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

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

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

RESOLUTION 2014-6

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

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

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

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-7

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-8

CONCERNING AMENDING THE MUNICIPAL ELECTION CODE TO AUTHORIZE VOTING CONVENIENCE CENTERS

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

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

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

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

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation to amend the Municipal Election Code to authorize the use of voting convenience centers.

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

RESOLUTION 2014-9

CONCERNING GRANTING LOCAL GOVERNMENTS THE OPTION OF DECRIMINALIZING THEIR ZONING LAWS

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

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

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

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-10

CONCERNING THE ELECTION PROCESS WHERE ALL CANDIDATES ARE UNOPPOSED

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

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

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

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

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-11

CONCERNING 2014 BOND ISSUE FOR LIBRARIES

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

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

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

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

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

Whereas, the coming November 4, 2014 statewide election, GO Bond "B" will provide \$11 million for public, tribal, school and academic libraries; and

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

Now, Therefore, Be It Resolved that the New Mexico Municipal League endorses the Library Acquisition GO Bond "B" on the November 4, 2014 ballot.

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

RESOLUTION 2014-12

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

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

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

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

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

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

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

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

RESOLUTION 2014-13

CONCERNING ENFORCEMENT OF PCB CRITERIA AND ANALYTICAL METHODS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-14

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

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

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-15

CONCERNING ALTERNATIVE SOURCES OF WATER SUPPLY

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-16

CONCERNING THE DEVELOPMENT OF NUMERIC NUTRIENT WATER QUALITY CRITERIA

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-17

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-18

CONCERNING THE WATER CONSERVATION FEE

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-19

CONCERNING STATE TAX POLICY AND ITS EFFECT ON LOCAL GOVERNMENTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-20

CONCERNING TELECOMMUNICATIONS FRANCHISE ORDINANCES

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

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

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

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

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

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

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

RESOLUTION 2014-21

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

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

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

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

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

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

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

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

RESOLUTION 2014-22

CONCERNING THE LOCAL GROSS RECEIPTS TAXES ON FOOD

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

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

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

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

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

Whereas, those same 400,000 New Mexicans could face an additional 3/8 or even 6/8 percent gross receipts tax on non-food and non-medical purchases for a total tax burden of 7/8 to 1 & ¼ percent GRT. Prior to the repeal of the GRT on food and certain medical services these New Mexicans were not paying GRT on food or certain medical services and will now continue to pay additional GRT on other purchases in a greater amount than they would have had the tax remained on food and certain medical services.

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

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

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

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

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

RESOLUTION 2014-23

CONCERNING HOME RULE MUNICIPALITY TAXING AUTHORITY

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

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

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

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

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

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

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

RESOLUTION 2014-24

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

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

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

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

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

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

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

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

RESOLUTION 2014-25

CONCERNING IRREVOCABLE TRUSTS SET UP BY MUNICIPALITIES AND COUNTIES

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-26

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

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

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

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

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

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

RESOLUTION 2014-27

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

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-28

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-29

CONCERNING THE LAW ENFORCEMENT PROTECTION FUND

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

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

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

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

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

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

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

Whereas, LEPF distributions have not been increased since 2000.

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

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

RESOLUTION 2014-30

CONCERNING AMENDING THE SEX OFFENDER REGISTRATION AND NOTIFICATION ACT

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

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

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-31

CONCERNING MUNICIPAL AUTHORITY TO REGULATE FIREWORKS

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

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

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

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

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

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

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

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

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

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

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

RESOLUTION 2014-32

CONCERNING EMS FUNDING

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

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

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

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

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

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

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

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

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

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

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

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

2014 PS Committee Priority: **HIGH #5**

RESOLUTION 2014-33

CONCERNING DWI AND TRAFFIC ENFORCEMENT ON PUBLICLY ACCESSIBLE PRIVATE PROPERTY

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

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

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

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

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

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

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

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

RESOLUTION 2014-34

CONCERNING THE ENDORSEMENT OF EFFORTS TO MAINTAIN THE AMTRAK SOUTHWEST CHIEF PASSENGER SERVICE BETWEEN LAMY/SANTA FE, NEW MEXICO AND NEWTON, KANSAS

Whereas, the Southwest Chief, one of Amtrak's premier passenger trains, serves southwestern Colorado, western Kansas and northern New Mexico as it lays between Chicago and Los Angeles on the host railroad line of Burlington Northern Santa Fe Railway (BNSF); and

Whereas, eastbound and westbound trains stop at Las Vegas daily and have in past years served over 636,350 passengers (63,630 local travelers and 572,510 out-of-state travelers); and

Whereas, the Chief and its famous predecessors (such as the Santa Fe Railroad's fabled "Super Chief") have served this route since the late 1880's and

Whereas, the train has consistently held the best on-time record for Amtrak's long distance trains and the train is ranked among the best Amtrak earners; and

Whereas, Amtrak has added an additional coach to the train in 2010 due to increased demand; and

Whereas, the train is a key economic contributor (New Mexico's past years' Financial Revenues: the Fiscal Impact has been approximately \$500 million...\$68.7 million in Lodging, \$85.9 million Food/Beverage, \$52 million Miscellaneous Retail and \$293 million in Direct/Indirect Impact of Visitors Spending) not only to Northern New Mexico, but also serves as a transportation link to New Mexico, the Southwestern states and the national route from Eastern to Western United States; and

Whereas, Amtrak provides a gateway to tourists from the west coast and Midwest, and most importantly Amtrak provides a transportation link to the citizens of Northern New Mexico that is of growing importance and will likely become critical as our citizens age and rising energy prices curtail the attractiveness of driving and flying; and

Whereas, the route of the Southwest Chief through Northern New Mexico, Colorado and Kansas is being threatened and the estimated cost to replace after abandonment would be in the Billions of dollars... track replacement alone is estimated at \$1 million per mile; and

Whereas, Burlington Northern Santa Fe wants Amtrak to pay the costs of improvement and the maintenance for the route that exceed its requirements for freight service; and

Whereas, Amtrak estimates the costs of improvement and the maintenance could amount to \$200 million over ten years including \$94 million in capital improvement costs to bring the line back up to standards across the three states; and

Whereas, Amtrak has indicated that it would like to undertake this improvement because the route is scenic and well-traveled, but current fiscal circumstances may impact its ability to do so; and

Whereas, in past years the Tax Impact has been approximately \$29 million... \$19.1 million in Gross Receipt Taxes, Hotel Taxes \$3.4 million, Property Tax: Santa Fe County \$2.3 million, San Miguel County \$.415 million, Mora County \$1.4 million and Colfax County \$2.2 million and there are other developments, (i.e. the Elk River Coal Mine) that will generate additional revenues in the next several years.

Therefore Be It Resolved, That:

- The New Mexico Municipal League calls upon all members of the Congressional Delegation for the State of New Mexico to support continuation of the Amtrak Southwest Chief route.
- The New Mexico Municipal League calls upon the members of the legislature of the State of New Mexico to support continuation of Amtrak Southwest Chief route.
- The New Mexico Municipal League calls upon the Governor of the State of New Mexico to support continuation of the Amtrak Southwest Chief route.
- The New Mexico Municipal League calls upon representatives of Amtrak to strongly endorse continuation of the Amtrak Southwest Chief route
- The New Mexico Municipal League endorses the continuation of the Amtrak Southwest Chief route.
- The New Mexico Municipal League recommends that all community and civic leaders along the route to connect with each other and their colleagues so that the three states can coordinate their efforts to protect the route of the Southwest Chief.

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

RESOLUTION 2014-35

CONCERNING THE ESTABLISHMENT OF A STATE TRANSIT FUND TO SUPPORT MUNICIPAL AND REGIONAL TRANSIT CAPITAL AND OPERATIONAL NEEDS

Whereas, a key mission of governmental entities at all levels is the provision of adequate transportation facilities not only to enhance mobility options for constituents, but also to enhance commerce and promote safety; and

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

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

Whereas, public transit service has increased dramatically within the State of New Mexico in the past decade, with the number of passenger trips delivered growing from 9.7 million per year to 18.6 million per year; and

Whereas, this expansion has occurred, in large part, due to significant investments made by local governments throughout the State of New Mexico to provide transit services within their respective communities; and

Whereas, the level of federal funding for transit capital projects, including fleet replacement, has been significantly reduced for many communities in the current federal transportation act (MAP-21); and

Whereas, this reduction in federal capital funding results in more transit vehicles operating past their useful life, significantly higher maintenance costs, less reliable service to our customers and potentially, reduction in service levels when aging buses cannot be replaced; and

Whereas, the State of New Mexico is one of very few states that does not provide state transportation funds to public transportation providers that operate within its borders; and

Whereas, the New Mexico Legislature's Transportation Infrastructure Revenue Subcommittee recently completed a series of meetings held specifically to address the need to generate enhanced revenue for investment in transportation infrastructure statewide; and

Whereas, municipalities and regional transit districts that provide transit services throughout New Mexico would benefit greatly from the investment of state transportation funds, along with federal and local funds, in their systems.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports the efforts of the New Mexico legislature to enhance revenue for investment in transportation infrastructure across the state to include investment in public transportation fleets and associated public transportation infrastructure.

Be It Further Resolved that the New Mexico Municipal League requests the municipalities, the Governor and the Legislature to collaborate on the creation of a state public transit fund that provides a permanent, recurring source of critical funding for local and regional public transit operations and the creation of a state public transit capital fund that provides a dedicated source of recurring funding for vehicles and other public transportation capital projects.

Be It Further Resolved that the New Mexico Municipal League supports the efforts of the New Mexico Congressional delegation to restore adequate levels of capital funding to New Mexico transit providers in the reauthorization of MAP-21.

Be It Further Resolved that this resolution shall be delivered to respective members of New Mexico's Congressional delegation along with members of the New Mexico legislature serving on the House of Representatives Transportation and Public Works Committee and the Senate Corporations and Transportation Committee.

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

RESOLUTION 2014-36

CONCERNING MERGING THE NM MUNICIPAL ELECTION CODE WITH THE STATE ELECTION CODE

Whereas, the Municipal Election Code is separate from the state Election Code;
and

Whereas, the School Election Code was previously separate from the state Election Code; and

Whereas, in 1985 the School Election Code was merged into the state Election Code; and

Whereas, school elections continue to be held separate from other elections, but benefit from the modernizations taking place in the state Election Code; and

Whereas, school elections continue to be non-partisan; and

Whereas, the municipal election code does not contain a definition or requirement for voter identification, does not allow directly for voter convenience centers, and does not provide for provisional ballots, and often does not benefit when the state Election gets modernized; and

Whereas, merging the municipal election code into the state election code would allow municipalities to benefit from the definitions and procedures in the state Election Code while keeping municipal elections non-partisan and under the control of municipalities; and

Whereas, this difference between the two codes causes continuing confusion for the public and the poll workers.

Now, Therefore, Be It Further Resolved, that the New Mexico Municipal League urge the New Mexico Legislature to merge the Municipal Election Code into the state Election Code; and

Be It Further Resolved, that the New Mexico Municipal League invite the Municipal Clerks, the County Clerks and the Secretary of State to work together to merge the two codes, maintaining municipal elections as a non-partisan and controlled by municipalities.

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

RESOLUTION 2014-37

CONCERNING THE SUPPORT OF INTEREST AND FEE CAPS ON NON-BANK LENDING INSTITUTIONS IN NEW MEXICO

Whereas, New Mexico had 656 licensed small loan companies many routinely charging 300% to 600% interest on loans lasting two weeks to unlimited duration at the end of 2013; and

Whereas, New Mexico small loan companies issued 396,000 loans with interest rates over 175% during 2012 according to New Mexico's Department of Regulation and Licensing; and

Whereas, New Mexicans were charged \$99 million in interest and fees on 175% APR and higher small loans in 2012, and it is unknown how much more was charged for loans under 175%; and

Whereas, the department of defense and 18 states have implemented interest rate caps ranging from 17% to 36%; and

Whereas, Consumer Financial Protection Bureau, Center for Responsible Lending and Pew Charitable Trust studies have all shown high interest lending traps borrowers and their families in crippling cycles of debt that lead to lost homes, vehicles, and chronic poverty; and

Whereas, studies conducted by the Insight Center for Economic Development and others show high cost loans reduce jobs by diverting consumer expenditures away from local businesses to pay exorbitant loans fees; and

Whereas, Pew Charitable Trust surveys indicate that two out of three borrowers who lose access to expensive credit as a result of interest rate caps report they are better off as a result; and

Whereas, regulations other than across the board interest rate caps have proven ineffective at limiting lending abuses because lenders modify their products to circumvent the law; and

Whereas, polling by the Public Policy Polling in January 2014 shows 86% of New Mexicans support interest rate caps of 36% or less.

Now, Therefore, Be It Resolved, the New Mexico Municipal League urges the New Mexico Legislature and the Governor to enact inflation indexed interest and fee caps of 36% or less across all loan products offered by small loan companies and non-chartered lenders.

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

RESOLUTION 2014-38

CONCERNING THE DEVELOPMENT OF STATE ENGINEER GUIDELINES OR POLICIES REGARDING MUNICIPAL BEST MANAGEMENT PRACTICES FOR PRECIPITATION CAPTURE AND USE

Whereas, adequate water resources are a prerequisite to the health and economic wellbeing of New Mexico's communities; and

Whereas, water is a fragile and finite resource in New Mexico; and

Whereas, under New Mexico water law, all ground and surface water belongs to the public, but is subject to appropriation; and

Whereas, precipitation can be both a significant water resource and a significant water quality concern when storm water or melting snow runs off into New Mexico streams, rivers and lakes; and

Whereas, the New Mexico Office of the State Engineer encourages water conservation in all water sectors; and

Whereas, in accordance with a Rainwater/Snowmelt Harvesting Policy adopted November 24, 2004 (http://www.ose.state.nm.us/wucp_policy.html), the New Mexico Office of the State Engineer supports the wise and efficient use of the state's water resources and encourages the harvesting, collection and use of rainwater from residential and commercial roof surfaces for on-site landscape irrigation and other on-site domestic uses; and

Whereas, in the same policy, the New Mexico Office of the State Engineer established that water harvested from roof tops may not reduce the amount of runoff that would have occurred from the site in its natural, pre-development state; and

Whereas, the NM Office of the State Engineer has stated that harvested water may not be appropriated for uses other than on-site landscape irrigation and domestic uses; and

Whereas, the USEPA has drafted a revised national storm water rule, and has drafted a municipal separate storm sewer system (MS4) permit for the middle Rio Grande watershed, both of which require MS4s to implement Best Management Practices (BMPs) to reduce pollutant discharges in urban runoff ; and

Whereas, storm water BMPs include the use of green infrastructure practices and low impact development approaches, which commonly utilize storm water detention, and storm water retention for on-site irrigation and/or infiltration; and

Whereas, the New Mexico Office of the State Engineer's Rainwater/Snowmelt Harvesting Policy, by restricting landscape irrigation and domestic uses to individual property sites, may impede the ability of municipalities to improve surface water quality and to encourage outdoor water conservation by managing storm water using green infrastructure BMPs; and

Whereas, the New Mexico Office of the State Engineer has met with the NMML Environmental Quality Association and has expressed a willingness to pursue resolution of any conflicts between the Rainwater/Snowmelt Harvesting Policy and USEPA BMP requirements for MS4s.

Now, Therefore, Be It Resolved that the New Mexico Municipal League, through its Environmental Quality Association, will work with the New Mexico Office of the State Engineer to develop storm water Best Management Practice guidance for New Mexico municipalities, defining municipal-scale BMPs that are consistent with NMOSE rules and policies. Based on this guidance, NMML will pursue the issuance of an NMOSE policy regarding municipal-scale precipitation capture through BMPs (provided that such BMPs do not reduce the volume of discharge that would have occurred from the natural, pre-development state), to allow for conservation of water resources, protection of water quality, and maintenance of adequate stream flow to meet downstream compact obligations.

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

RESOLUTION 2014-39

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

Whereas, one of the greatest challenges first responders in New Mexico and across the nation is how to respond to people who have mental health disorders 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. 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 and in crisis; 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 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 state wide 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 to mandate 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 28th day of August at the City of Albuquerque, New Mexico.

RESOLUTION 2014-40

CONCERNING LODGERS TAX AUDITS COMPLIANCE

Whereas, Counties and Municipalities have authority to impose a tax on lodging for the purpose of marketing their communities; and

Whereas, Counties and Municipalities have the authority to audit lodging establishments for tax compliance; and

Whereas, Counties and Municipalities have the right to lien and foreclose on properties for nonpayment of taxes; and

Whereas, Counties and Municipalities do not have the means to enforce these establishments to cooperate with the audit process.

Now, Therefore, Be it Resolved that the New Mexico Municipal League requests that the NM Legislature in its next session to find a means for Counties and Municipalities to penalize nonconformance with the required audit.

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