



2019-2020 ANNUAL RESOLUTIONS

**Adopted By:
NMML Membership
August 29, 2019
Las Cruces, NM**

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RESOLUTION 2019-1

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 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-2

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. Last year there were 16.7 million victims of identity fraud; the amount stolen approached \$17 billion dollars. Thirty percent of U.S. customers were notified of a data breach last year. 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 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-3

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 which is an undesirable approach; and

Whereas, that has driven the price for existing licenses as high as \$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 placing New Mexico at a competitive disadvantage; 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, non-commodity based and competitive environment in dealing with the sale, transfer and ownership of Retailer and Dispenser licenses in the state.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-4

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 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-5

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 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-6

CONCERNING STATE GRANTS FOR LIBRARIES

Whereas, New Mexico public libraries provide books and other materials and services 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, 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, the national average for public library state grants in aid is \$3.50 per capita; 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 Department to provide grants-in-aid for local library services and operations.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-7

CONCERNING THE ELIGIBILITY OF FUNDS PURSUANT TO THE STATE EMERGENCY SERVICES FUND ACT FOR MUNICIPALITIES IMPLEMENTING AN EMS PROGRAM FOR SAFE DISPOSAL OF PRESCRIPTION DRUGS

Whereas, the safe disposal of prescription medicine reduces the access of surplus drugs and protects the safety of ground and surface water by limiting flushing and dumping of meds; and

Whereas, the State Local EMS Funding Program allows for an implementation of prevention programs and the training and licensing of local emergency services personnel; and

Whereas, the eligibility for funding allows for programs that benefit the public health and safety; and

Whereas, the public is benefited by safe disposal of prescription drugs; and

Whereas, EMS units are experienced in safe conduct and handling of prescription drugs and the safe disposal thereof.

Now, Therefore, Be It Resolved, that the New Mexico Municipal League seek legislation for eligible funding pursuant to the State Emergency Services Fund Act for municipalities implementing an EMS program for safe disposal of prescription drugs.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-8

CONCERNING SUPPORT FOR THE SIMPLIFICATION OF PURCHASING TO REDUCE PROCESS COSTS AND DELAYS FOR MUNICIPALITIES BY MAKING IMPLEMENTATION OF PRODUCT CODES OPTIONAL FOR SMALL PURCHASES

Whereas, section 13-2-30.1 NMSA 1978 effective July 1, 2016, states that the “Standardized Classification Code” requires that each state agency and local public body shall use the standardized classification codes developed by the state purchasing agent; and

Whereas, this requirement is intended to allow vendors to identify products on different municipal web sites for ease of proposing all services, professional services, construction and items of tangible personal property; and

Whereas, the public is not benefited by burdensome regulation and procedure requirements for everyday small purchases by municipalities; and

Whereas, municipalities in order to preserve resources should be allowed the option to forego use of standardized classification codes for purchases that meet the state Small Purchase Definition; and

Whereas, municipal Procurement Offices may be benefited by use of standardized classification codes for purchases outside the Small Purchase Definition and shall continue to use the codes for these formal purchase processes.

Now, Therefore, Be it Resolved that the use of Standardized Classification Codes shall be optional for local Central Purchasing Offices.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-9

CONCERNING THE RE-SUBMISSION OF LEGISLATION TO INCREASE THE MUNICIPAL COURT AUTOMATION FEE

Whereas, House Bill 235 was introduced in the 2018 Legislature by Representative Stephanie Garcia Richard; and

Whereas, House Bill 235 would make parallel the Municipal Court Automation Fee from \$6 to \$10, matching the \$10 fee currently collected in Magistrate and Metropolitan Courts; and

Whereas, House Bill 235 passed both the House and Senate; and

Whereas, Governor Susana Martinez pocket vetoed House Bill 235 without explanation.

Now, Therefore Be It Resolved that the New Mexico Municipal League requests the re-submission of the same type of bill to make parallel the Municipal Court Automation Fee from \$6 to \$10 during the 2019 Legislature.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-10

**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, facility 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 adjust the monetary thresholds in the Municipal Sale or Lease of Property Section to reflect the rate of inflation since the last statutory change.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-11

**CONCERNING AMENDING NMSA PROVIDING FOR A STREETS
RECAPTURE AGREEMENT**

Whereas, NMSA 3-26-2 provides for developer sewage collection system construction Costs Recapture Agreements; and

Whereas, NMSA 3-27-4 provides for developer water distribution system construction Costs Recapture Agreements; and

Whereas, the state of New Mexico did not specifically articulate any provision for a recapture method for street paving as provided for sewer and water; and

Whereas, developers are consistently required to construct roadways which also benefit other adjacent non-contributing land owners.

Now, Therefore, Be it Resolved that the New Mexico Municipal League supports providing specific authorization language with a separate statute for street construction recapture agreements as currently provided for sewer and water.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-12

**CONCERNING AMENDING NMSA 3-1-2(H) INCLUDING STORMWATER
AS UTILITY DEFINITION**

Whereas, stormwater is not currently listed as a utility under NMSA; and

Whereas, stormwater has numerous unfunded regulations as a utility which have become a requirement through Federal MS4 permitting with severe penalty for failure to comply; and

Whereas, non-home ruled cities cannot consider funding stormwater as a utility under New Mexico state law; and

Whereas, funding options are desperately needed to fund compliance activities required by the federal regulations.

Now, Therefore, Be it Resolved that the New Mexico Municipal League supports amending NMSA 3-1-2(H) by adding "Stormwater" to the existing definitions of a "Utility."

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-13

CONCERNING INTERNATIONAL BUILDING CODE ON AIRPORT HANGARS

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

Whereas, protected (covered) aircraft storage is accomplished in two types of structures, one in banks of enclosed “bays”, back to back, known as T-Hangars, and the second in standalone buildings that are capable of housing a single or multiple aircraft; and

Whereas, airports have a finite amount of useful space that has access to ramps, taxiways, fueling and runways and therefore requires buildings to be in closer proximity; and

Whereas, the 2015 International Building Code (IBC) requires that aircraft hangar exterior walls less than 30 feet from property lines, individuals 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 but it did not give relief to the interpretation by the Construction Industries Division (CID) of “public way” thereby allowing the more restrictive and costly enforcement for hangars over 2,000 square feet; and

Whereas, airport economic growth is dependent on hangar construction and aircraft inventory expansion which has slowed down or stopped in New Mexico due to the extreme construction costs and land use requirements; and

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

Whereas, this has been identified as 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 private, commercial and industrial development on their airports.

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

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-14

CONCERNING 2020 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, 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 legislative passage of a General Obligation bond bill for \$17 million for libraries on the November 2020 general election ballot.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-15

CONCERNING THE STATE AVIATION FUND; REMOVING THE SUNSET ON THE DISTRIBUTION OF A PORTION OF THE GROSS RECEIPTS TAX TO THE STATE AVIATION FUND

Whereas, Section 7-1-6.7 NMSA 1978 (being laws 1994, Chapter 5, Section 2, as amended) provides a distribution of a gross receipt tax percentage to the State Aviation Fund through June 30, 2021; and

Whereas, this funding stream is approximately 15-20 percent of the annual Aviation Division budget and 90 percent of this funding stream will go back to NM communities and 61 New Mexico public-use public owned aviation facilities projects (56 airports, 4 heliports, 1 seaplane base (Conchas Lake); and

Whereas, Funding will be utilized for infrastructure improvements, pavement maintenance and rehabilitation, fuel farms, general aviation terminals, and lighting projects at the sixty-one (61) public use, public owned aviation facilities throughout the State; and

Whereas, New Mexico's system of 61 public use aviation facilities serve as an integral connection between New Mexico's businesses and residents and the expanding global economy; and

Whereas, the Aviation Division mission includes maintaining and promoting a safe and effective air transportation system and utilizes this funding to leverage 90% Federal Aviation Administration grants for airports; and

Whereas, each fiscal year, New Mexico airports submit approximately \$40 million dollars in rational justifiable requests, the FAA funding only covers approximately ½ of this and NM Airports have estimated approximately \$500 million dollars in development costs over the next five years; and

Whereas, the aviation component of New Mexico's transportation infrastructure provides its citizens and businesses access to critical services such as air ambulance services, firefighting, agricultural spraying, law enforcement, military training, business travel, air cargo services, pilot training and tourism; and

Whereas, many of our General Aviation airports provide crucial emergency services such as:

- Medical air transport
- Firefighting services (Alamogordo, Silver City, Ruidoso)
- Other National/State Emergencies
- Homeland Security
- Customs/Border Patrol
- Law Enforcement
- Weather/Fuel Emergencies

Whereas, Airports in New Mexico account for over 18,000 jobs, have a payroll of \$715 million dollars and have an output of \$2.3 billion dollars.

Now, Therefore, Be it Resolved that the New Mexico Municipal League supports removal of the Sunset provision and making the State Aviation funding permanent.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-16

CONCERNING THE POWERS AND DUTIES OF THE NEW MEXICO MUNICIPAL BOUNDARY COMMISSION

Whereas, the New Mexico Municipal Boundary Commission is a State of New Mexico Agency, statutorily defined as an “independent commission”, whose primary duties and authorities are described in New Mexico Statutes Sections 3-7-1 *et. seq.*, concerning processes and procedures for the annexation of property contiguous to a municipality; and

Whereas, Section 3-7-1 NMSA describes the three methods of annexation, including a method of annexation described in Sections 3-7-11 through 3-7-16, which taken as a whole, permits the Commission to force annexation of property upon a municipality without consideration or deference to the wishes of the municipality; and

Whereas, Article X, Section 6 E. [Municipal Home Rule] of the New Mexico Constitution states: “The purpose of this section is to provide for maximum local self-government. A liberal construction shall be given to the powers of municipalities. (As added November 3, 1970.)”; and

Whereas, an independent commission forcing annexation upon an unwilling municipality asserting reasonable objections is a usurpation of local government authority to determine the health, welfare, and safety of its community; and

Whereas, the New Mexico Court of Appeals in *City of Albuquerque, et al. v. State of New Mexico Municipal Boundary Commission, et al.*, 131 N.M. 652, 41 P.3d 933 (NMCA 2002), the Court stated that the Commission must apply statutory standards under the umbrella of “reasonableness” and that while the Commission has the authority to annex property to a municipality over the objections of that municipality, the Commission should only do so based on a finding that those objections are unreasonable under the circumstances; and

Whereas, the current State Statutes are deficient in mandating required findings of the Commission when reasonable objections to annexation have been expressed to the Commission by an unwilling municipality; and

Now, Therefore Be It Resolved that the New Mexico support amendments to the New Mexico Boundary Commission annexation procedures to include deference to reasonable municipal objections to annexation, and to include within its findings proof that it considered the reasonable objections of the municipality to such annexation.

Be It Further Resolved that additional required considerations of the New Mexico Boundary Commission shall include: financial and other resource allocation factors raised by the municipality.

Passed, Approved and Adopted this 29th day of August, at the City of Las Cruces, New Mexico.

RESOLUTION 2019-17

CONCERNING JOB CREATION INCENTIVES IN RURAL LOW INCOME AREAS

Whereas, many rural New Mexico communities face significant economic sustainability challenges, and

Whereas, existing New Mexico incentives for economic development and job creation generally have little impact in New Mexico's smaller rural communities and these communities are underserved by existing programs, and

Whereas, many smaller rural New Mexico communities lack resources to implement effective economic development programs, promote private investment and incentivize job creation, and

Whereas, many smaller rural New Mexico communities experience lower median household income and median wage and salary than state-wide averages.

Now, Therefore, Be It Resolved, that the New Mexico Municipal League seeks legislation to provide funding and legislative support for a Rural Job Creation Incentive Program that would be established and administered under the New Mexico Economic Development Department to fund rural employment expansion grants to a business entities for creation of qualifying full time jobs created in a municipality of less than 15,000 population, where annual median household income is 85% or less than state-wide New Mexico annual median household income.

Passed, Approved and Adopted, this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-18

CONCERNING CREATION OF A PILOT PROGRAM TO ENHANCE REMOTE WORK OPPORTUNITIES IN RURAL NEW MEXICO LOW INCOME AREAS

Whereas, rural New Mexico communities commonly experience the relocation of talented young citizens to larger communities or out-of-state for educational or employment opportunities; and

Whereas, one of the most significant challenges faced by rural New Mexico communities in business recruitment and economic development is providing an adequate, competent, trained workforce; and

Whereas, rural New Mexico communities continue to struggle with the cycle of workforce development and employment opportunity; and

Whereas, New Mexico currently lacks effective programs to promote economic sustainability in rural communities; and

Whereas, emerging technology and connectivity infrastructure can create opportunities for online commerce, remote employment and freelance jobs; and

Whereas, online opportunities are not limited by geography and can build capacity in New Mexico's rural communities by opening new business recruitment and employment strategies; and

Whereas, implementation of a remote work opportunity strategy for rural New Mexico communities would be most effectively structured as a scalable pilot program provided through an established rural economic development/ educational provider to coordinate relationships with information technology entities that offer remote online opportunities and provide scholarships and coaching for individuals pursuing skill-based training and remote online opportunities.

Now, Therefore, Be It Resolved, that the New Mexico Municipal League seeks legislation to provide funding and legislative support for a Rural Remote Work Opportunities Program that would be established and administered under a cooperative partnership with a New Mexico University, to administer a pilot program in rural geographic areas defined as any county of less than 16,000 population, where annual median household income is 85% or less than state-wide New Mexico annual median household income.

Passed, Approved and Adopted, this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-19

CONCERNING NUTRIENT WATER QUALITY CRITERIA, PERMIT LIMITATIONS AND FUNDING SOURCES

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; 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 that do not exceed diversion point levels.

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 funding sources for such necessary projects; and

Be It Further 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 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-20

CONCERNING SUPPLEMENTAL AND REPLACEMENT WELLS TO UTILIZE EXISTING WATER RIGHTS

Whereas, the Office of the State Engineer (OSE) has indicated that it is changing its long established policy with respect to supplemental and replacement wells; and

Whereas, in reliance on the longstanding policy of the OSE, municipalities have invested millions of dollars in acquiring water rights and developing physical sources of supply to serve their citizenry; and

Whereas, a shift in policy would jeopardize the ability of municipalities to perfect the unused portion of a permitted or declared water right and undermine millions of dollars of investment in a diversified portfolio of water rights and physical sources of supply; and

Whereas, in the 2015 Regular Session of the Legislature, Senator Griggs introduced Senate Bill 665; and

Whereas, SB 665 proposed to amend NMSA 1978, § 72-12-24 regarding Supplemental Wells and § 72-12-22 regarding Replacement Wells; and

Whereas, municipalities supported the legislature's effort to protect municipalities' investment in and reliance upon the long-established policy of the OSE, which allowed a municipality to grow into a declared or permitted water right; and

Whereas, municipalities continue to support legislation which will protect a municipality's ability to perfect its unused water rights.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to ensure that local governments that have invested in groundwater as part of a conjunctive use strategy with surface water, will continue to be able to develop their ground water rights as these municipalities grow.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-21

CONCERNING PRESERVATION OF MUNICIPAL WATER SUPPLIES

Whereas, the purpose of NMSA 1978, § 72-1-9 is to preserve municipal water supplies to plan for growth over a forty year period; and

Whereas, in spite of the purpose of the statute, the Office of the State Engineer (OSE) has argued that § 72-1-9, the forty year planning statute, can be used to show that a municipality has abandoned a water right; and

Whereas, municipalities and other entities encompassed by the statute may need even longer planning periods, but in no event should these entities lose their water rights except through statutory forfeiture or judicial abandonment processes; and

Whereas, in the 2015 Regular Session of the Legislature, Senator Griggs introduced Senate Bill 665; and

Whereas, SB 665 proposed to amend NMSA 1978, § 72-1-9 to state that a water right acquired and held unused pursuant to the provisions of this section shall not be automatically lost after forty years, except by statutory forfeiture or judicial proceedings to prove abandonment; and

Whereas, municipalities' need to protect their investment in water rights acquired for future growth; and

Whereas, municipalities support legislation which will protect their ability to protect their unused water rights.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports the preservation of municipal water supplies.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-22

CONCERNING LESSEE'S APPLICATION USE BEFORE APPROVAL

Whereas, the Office of the State Engineer (OSE) has interpreted the application process for water rights leases to be the same as that used for emergency applications; and

Whereas, under the present practice, the OSE can approve these applications and the applicant can use the water prior to public notice, an opportunity to protest, and a hearing; and

Whereas, there are instances in which this administrative procedure is efficient and cost effective, but in other instances, this process is being abused to divert thousands of acre-feet of water for a longer period of time prior to public review and due process; and

Whereas, in the 2015 Regular Session of the Legislature, Senator Griggs introduced Senate Bill 665; and

Whereas, SB 665 proposed to amend NMSA 1978, § 72-6-4 to provide a balance between an efficient administrative process for short-term leases that do not involve significant quantities of water and longer-term leases that involve large quantities of water.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation regarding a lessee's use of water rights prior to approval.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-23

CONCERNING PROTEST PROCEDURES ON WATER RIGHT APPLICATIONS

Whereas, the Office of the State Engineer (OSE) applies inconsistent criteria to determine whether persons have standing to protest an application to change the purpose, place, or use of a water right; and

Whereas, some persons who protest a water right application will suffer no harm based on the proposed application; and

Whereas, a protested application to change the purpose, place, or use of a water right is far more costly and takes many more years to complete than an unopposed application; and

Whereas, in the 2015 Regular Session of the Legislature, Senator Griggs introduced Senate Bill 665; and

Whereas, SB 665 imposed clearer criteria on persons who seek to protest applications to change the purpose, place, or use of a water right; and

Whereas, municipalities support legislation, which reduces the administrative burden on water right applicants and imposes clearer standards on protestants objecting to water-right applications.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation relating to protest procedures to reduce the administrative burdens on water right applicants.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-24

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 general permit for small municipal separate storm sewer systems MS4s and has issued a 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 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-25

CONCERNING REMEDIATION AND CLEANUP OF CONTAMINATED AND ORPHANED SITES WITHIN OUR MUNICIPALITIES

Whereas, the NMML recognizes the importance of clean soil and water for all the residents of New Mexico; and

Whereas, the NMML acknowledges the existence of contaminated sites within our municipalities which threaten surface and ground water resources, public water supply systems, as well as results in the infiltration of harmful vapors into businesses and homes; and

Whereas, the State of New Mexico has identified the need to assess and remediate these sites; and

Whereas, the State of New Mexico Environment Department has no permanent fund for the assessment and cleanup of these sites and must rely on the federal Superfund Program to address such sites; and

Whereas, the Superfund Program is overburdened with sites across the nation and cannot be used to immediately address sites of concern in New Mexico; and

Whereas, the Superfund Program requires prioritization of New Mexico sites against sites nationwide, resulting in the lower listing of New Mexico sites and, thus, years if not decades for remediation.

Now, Therefore, Be it Resolved that the New Mexico Municipal League urges the Governor and the New Mexico Legislature to support municipalities and the New Mexico Environment Department to address orphaned contaminated sites across the State by establishing and funding a State Cleanup Fund, which will protect the water supplies, health and environment of the citizens of New Mexico.

Be it further Resolved that the New Mexico Municipal League strongly encourage NMED to develop a list of contaminated sites and projected costs and financial needs to address these sites for review by the State of New Mexico Legislature and the Governor's Office, as well as research other State Remediation (Cleanup) Funds which have been established to address similar needs in other States.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-26

CONCERNING STATE AND LOCAL TAX REFORM

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 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-27

CONCERNING THE RELATIONSHIP BETWEEN THE TAXATION AND REVENUE DEPARTMENT AND MUNICIPALITIES

Whereas, in order for municipalities to function efficiently and provide necessary services to citizens, it is imperative that the municipality be assured that the revenues they are receiving are being accounted for and distributed properly; and

Whereas, New Mexico Municipalities pay the state 3.25% of Local Option Gross Receipts Taxes collected for administration and distribution of the tax; and

Whereas, the relationship between the Taxation and Revenue Department and Municipalities has been strained from time to time over the years and that relationship is currently significantly strained; and

Whereas, municipalities desire to have a functioning and trusting relationship with the Taxation and Revenue Department that would result in cooperation between the Department and municipalities with the Department sharing as much information as possible with municipalities; and

Whereas, municipalities desire that the Department become consistent in the type of information it is willing and able to share with municipalities so municipalities can utilize the information for analysis purposes and to compare the Department's data against Municipal Business Registrations; and

Whereas, in order to have a functioning and trusting relationship with the Taxation and Revenue Department cooperation is critical.

Now, Therefore, Be It Resolved that the New Mexico Municipal League calls on the Taxation and Revenue Department to make every effort possible to improve the relationship between the Department and municipalities; and

Be It Further Resolved that New Mexico Municipal League members stand ready to discuss with the Taxation and Revenue Department ways in which the relationship between the department and municipalities can be improved.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-28

CONCERNING AMENDMENT OF SECTION 7-1-6.15 NMSA, 1978

Whereas, the legislature amended Section 7-1-6.15 during the 2015 Regular Session; and

Whereas, a House Committee substitute was introduced that erroneously amended the section to provide that the Taxation and Revenue Department would be required to notify a municipality or county of a take back of gross receipts tax if the take back exceeded 20% of the previous 3 years average of gross receipts tax distributions; and

Whereas, the Committee substitute was passed by the House and Senate and signed by the Governor; and

Whereas, due to the error the Taxation and Revenue Department would not be required to notify the City of Albuquerque until an adjustment exceeded seventy one million dollars; and

Whereas, during negotiations regarding the amendments to Section 7-1-6.15 NMSA, 1978 the Taxation and Revenue Department and the League agreed that notice would be required if the adjustment exceeded twenty percent of the average monthly distribution over the previous 36 months; and

Whereas, Senate Bill 236 was introduced during the 2017 Regular Session to amend Section 7-1-6.15 NMSA, 1978 to provide that notice would be based on a 36 month average; and

Whereas, Senate Bill 236 passed the Senate by a vote of 40 to 0 and passed the House by a vote of 66 to 0; and

Whereas, the Governor vetoed Senate Bill 236 and in her veto message stated in pertinent part: "In a time when the state is struggling to find the resources it needs to maintain its most basic services, like public safety and education, and when the legislature has failed to provide the necessary resources, I cannot sign a bill that would send more money to our local governments at the expense of the General Fund".

Now, Therefore, Be it Resolved that the New Mexico Municipal League supports legislation that amends Section 7-1-6.15 to provide for notification if an adjustment exceeds 20% of the annual monthly distribution over a 36 month period.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-29

**CONCERNING THE PUBLIC EMPLOYEE RETIREMENT ASSOCIATIONS
ESTIMATED \$6.0 BILLION UNFUNDED LIABILITY**

Whereas, the New Mexico Municipal League will be an active member in the Solvency Task Force per The Executive Order calling for the establishment of a nineteen member Solvency Task Force to provide recommendations to address PERA's \$6.0 billion unfunded liability; and

Whereas, municipalities would support legislation that will insure the Employer / Employee contribution increases need to be based on the funded status by Division; and

Whereas, municipality budgets should not be adversely affected by any automatic increases in contribution rates that will be based on the funded status of a Division; and

Whereas, the Task Force must consider these recommendations to be actuarially sound, preserve the defined benefit offered by PERA, and also ensure intergenerational equity for current, future PERA members, retirees and employers.

Now, Therefore, Be it Resolved that the New Mexico Municipal League supports legislation that will ensure that local governments will share proportionally in solvency solutions that increase the soundness of the municipal general, municipal police and municipal fire Divisions of the PERA Fund.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-30

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 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 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-31

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, particularly in rural communities; 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, 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; and

Whereas, the New Mexico Municipal League (NMML) and the New Mexico Fire Chiefs Association (NMFCA) participated in and are members of a committee established by the New Mexico Association of Counties (NMAC) to develop specific policy recommendations and study issues related to sustainable EMS Services; and

Whereas, the NMML and the NMAC endorsed priority legislation in 2014 and 2015 for the creation of a study to evaluate the needs of EMS and identify an appropriate state-level recurring revenue stream dedicated to EMS; similar to that used for the Fire Protection Fund without diminishing or impairing the existing Fire Protection Fund; and

Now, Therefore, Be It Resolved that the NMML supports an appropriation by the New Mexico State Legislature to the State Fire Marshal to conduct a statewide EMS assessment, in coordination with Department of Health EMS Bureau, using monies currently reverted from the Fire Protection Fund, to the State General Fund;

Be It Further Resolved that recommendations from the EMS assessment will be used by the NMAC EMS Committee, to develop additional policy recommendations for the New Mexico State Legislature regarding appropriate funding levels and mechanisms for recurring funding for EMS services in New Mexico.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-32

CONCERNING DWI AND TRAFFIC ENFORCEMENT ON PRIVATE PROPERTY OPEN TO THE PUBLIC

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 open to the 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 open 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 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-33

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 may 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 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-34

CONCERNING CERTIFICATION OF POLICE OFFICERS

Whereas, all certified police officers in the State of New Mexico must meet State mandated levels of proficiency and all certified police officers receive the same basic training through an accredited New Mexico Law Enforcement Academy training program, and all Municipal Police Officers must receive certification through the New Mexico Law Enforcement Academy; and

Whereas, currently, if a criminal act occurs in a certified police officers presence outside of his Territorial Jurisdiction, that officer has no official legal police authority to intervene; and

Now, Therefore, Be It Resolved that the New Mexico Municipal League and the New Mexico Association of Chiefs of Police support legislation to clarify that any officer certified as a Police Officer by the State of New Mexico and is commissioned by an authorized appointing authority shall be recognized as a Police Officer within the State of New Mexico, and shall have the authority to enforce state statutes throughout the State.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-35

CONCERNING THE LAW ENFORCEMENT PROTECTION FUND

Whereas, the purposes of the Law Enforcement Protection Fund Act (LEPF) is to provide for the distribution of money to qualified departments, for use in the maintenance and improvement of those departments and to sustain, at a reasonable level, payments to the surviving eligible family members of peace officers killed in the line of duty; and

Whereas, the LEPF was intended to establish, in the state treasury, a dedicated fund for the purpose of law enforcement protection. Such distributions are made to municipal, county, tribal and university police departments; and

Whereas, the LEPF monies may be expended as outlined in NMSA, 1978, Section 29-13-7 Expenditure limitation; and

Whereas, the cost of law enforcement equipment continually increases and expenditures are on the rise. It is imperative that law enforcement improve services with implementation of innovative technology and other resources that are necessary to continue to provide quality service and protection of citizens and their communities; and

Whereas, the costs of mandatory or advanced training and the expenses associated with attending one of the several locally operated law enforcement academies continue to increase every year and an allocation of resources is crucial to public safety; and

Whereas, available federal funding and grants to police agencies have all but vanished and community policing and safety remain a top priority for every agency, however, with such sparse resources, the ability to serve communities is compromised.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation to distribute all remaining balances in the Law Enforcement Protection Fund, not otherwise obligated, to the appropriate Law Enforcement Agencies and any remaining balances shall not revert; and

Be It Further Resolved that a new state appropriation be created to be distributed to the satellite academies, including three regional academies, Southeastern New Mexico Law Enforcement Academy in Hobbs, San Juan County Criminal Justice Training Authority in Farmington, and Western New Mexico University Law Enforcement Academy in Silver City to provide for training that is legislatively mandated.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-36

CONCERNING ENHANCING SAFETY IN PUBLIC SCHOOLS

Whereas, the Public Employee's Retirement Act (PERA) requires retired police officers to suspend their retirement cost of living adjustments if they are employed by a school whose employees are included under the Educational Retiree's Act (ERA) making it difficult to hire retired law enforcement officers.

Whereas, current state statutes have making a bomb threat a Felony, but currently state statutes for making a school shooting threat, involving school campuses, or affecting students and school staff are classified as misdemeanors. This includes threats using social media.

Whereas, firearms possession is not regulated by state law for individuals with mental health issues, history of violence, or other demonstrated instability creating situations where currently individuals in crisis lawfully have access to firearms. Those individuals are not under any restriction from purchasing firearms in the unstable, crisis condition they are in.

Whereas, School districts have not been funded to upgrade and/or install any security measures they deem necessary to protect their students and staff including but not limited to technology to enhance school security with card access, surveillance cameras, perimeter fencing, staff/student/visitor ID systems, intrusion alarm systems, security/police on-site personnel, etc.

Whereas, statutes to mitigate bullying have not been effectively enforced.

Now, Therefore, Be it Resolved that the New Mexico Municipal League supports legislation to:

- amend the PERA conditions for retirement to allow retired law enforcement to be employed in public schools without penalty to their PERA benefits;
- fund technology to enhance school safety;
- amend statutes regulating possession of firearms to address **Extreme Risk Protection Orders (Red Flag Laws)** for individuals in crisis and to limit their access to firearms, and their ability to obtain them;
- further increase penalties regarding school shooting threats to a felony;
- support new bullying legislation to include monitoring and follow-up on threats made by social media; and
- provide training through a School Safety Omnibus bill to respond to Active Shooters.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-37

CONCERNING MOVING THE STATE FIRE MARSHAL'S OFFICE OUT OF THE PUBLIC REGULATION COMMISSION

Whereas, the State Fire Marshal's Office (SFMO) currently resides as a division of the Public Regulation Commission (PRC) and is statutorily tasked with providing support for New Mexico's fire services, code enforcement, fire investigations, and firefighter training; and

Whereas, there are 203 certified municipal main stations, 44 certified substations, and 28 certified administrative stations and 361 certified county fire districts, 91 certified substations, and 28 certified administrative stations in New Mexico serving a population of approximately 2.1 million citizens; and

Whereas, local government fire departments rely heavily on the SFMO for guidance, expertise, resources, and funding to provide critical services and equipment for fire protection and response; and

Whereas, one of the primary responsibilities of the SFMO is the administration and distribution of the Fire Protection Fund, created by a three percent premium tax collection on auto and fire insurance; and

Whereas, in FY2017, the Fire Protection Fund distributions included \$21,202,496.00 to 99 municipal fire districts, \$29,777,852.00 to 294 county fire districts, \$750,000.00 to the PERA Firefighter Retirement Fund, \$10,130,127.23 to the Fire Protection Grant Fund, \$558,000.00 to PRC Administrative Budget, \$488,100.00 for PRC Policy and Regulation, \$3,622,200.00 to the State Fire Marshal's Office, and \$15,069,194.23 to the State General Fund; \$250,000 Line of Duty Death Benefit, and;

Whereas, the position of State Fire Marshal was vacant from January through December 2017, along with two bureau chief positions (Fire Services and Code Enforcement), and approximately 1/3 of the remaining positions in the State Fire Marshal's Office are vacant even though sufficient funding is available; and

Whereas, during efforts to coordinate with multiple state agencies and local stakeholders on the transition to move the Fire Protection Fund distributions to an accrual accounting basis, based on HB4 during the 2017 Regular Legislative Session, it became evident that there was limited expertise or understanding of the Fire Protection Fund structure and fiscal needs of the local government fire services within the PRC; and

Whereas, the lack of stability and support of the SFMO within the PRC makes it impossible for fire services to function effectively and creates uncertainty for fire services statewide.

Now, Therefore, Be It Resolved the New Mexico Municipal League supports legislation to remove the State Fire Marshal's Office from the PRC establishing the State Fire Marshal's Office as an independent department of the State of New Mexico reporting to an approved oversight committee of subject matter experts.

Be It Further Resolved the New Mexico Municipal League request that the New Mexico State Legislature take immediate action to ensure stability of the fire services and fire protection for the health, safety, and welfare of the citizens of New Mexico.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-38

CONCERNING POLICE BODY CAMERAS AND PUBLIC RECORDS IMPLICATIONS

Whereas, trust between law-enforcement agencies and the public is vital for the delivery of high-quality public safety services; and

Whereas, the use of body-worn cameras can help law-enforcement agencies strengthen performance, accountability, and transparency; and

Whereas, in other jurisdictions, the use of body-worn cameras has improved the documentation of evidence for investigations and court proceedings and reduced the number of use of force incidents and complaints against officers; and

Whereas, Police Officers collect body-worn camera footage in a number of sensitive locations in performance of their duties, such as private residences, during sensitive non-criminal citizen encounters, at graphic crime scenes and in locations such as hospitals and emergency rooms; and

Whereas, the Inspection of Public Records Act was written well before the introduction of body-worn cameras and consequently did not contemplate the attendant privacy implications surrounding the use of body-worn cameras.

Now, Therefore Be It Resolved the New Mexico Municipal League and the New Mexico Association of Chiefs of Police, strongly encouraged the development and adoption of guidelines and restrictions regarding Inspection of Public Records Act requests and the release of certain body-worn camera footage that addresses the following:

- (1) Limit Public access to and release of data from body-worn camera footage in regards to privacy consideration concerning body-worn cameras.
- (2) Inspection, redaction, and production of footage including: reasonable time-line for production and reasonable cost recovery for production and redaction of footage.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-39

CONCERNING THE REMOVAL OF ALL BUT MEDICALLY REQUIRED EXEMPTIONS FROM STATE AND FEDERAL IMMUNIZATION REQUIREMENTS FOR CHILDREN ATTENDING PUBLIC, PRIVATE, HOME OR PAROCHIAL SCHOOLS

Whereas, the New Mexico Department of Health (“Department”) is the State agency responsible for the health of the citizens of New Mexico; and

Whereas, the Department preemptively regulates the requirements for immunizations of persons and residents within the State; and

Whereas, the Department reports that measles is still common in many parts of the world and that travelers may bring the disease with them when they travel to the United States; and

Whereas, the United States has experienced a serious outbreak of measles during the 2018-19 winter; and

Whereas, New Mexico is among nearly half the States in the nation to have confirmed the disease in 2019, including at least three of our neighboring states; and

Whereas, the Department reports that measles is so contagious that it expects 9 out of 10 exposed persons who do not have measles immunity will contract the disease; and

Whereas, the safety of unimmunized infants in New Mexico and of others who cannot be vaccinated depends on the rate of vaccination in our community; and

Whereas, documented parental/guardian immunization refusals increased nearly 70 percent for children born in 2013 compared to children born in 2010 across the nation, while vaccine exemptions granted by the Department increased 194 percent between 1999 and 2011; and

Whereas, states such as West Virginia, Mississippi, and California, which permit only medical exemptions from immunization requirements to attend schools, have experienced increases in childhood immunization rates; and

Whereas, vaccine preventable illness and hospitalization places an avoidable yet costly burden on our public health care system in case of a disease outbreak; and

Whereas, those most at risk for serious complications from vaccine preventable illness are those with the least medical resources available to them and, so immunization requirements present a social equity as well as a medical policy concern; and

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports removing all but medically required exemptions from the immunization requirement for children attending public, private, home, and parochial schools in New Mexico.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-40

CONCERNING THE FIRE FUND

Whereas, the current practice of the New Mexico State Legislature is to use potentially unconstitutional notwithstanding language to divert funds from the Fire Protection Fund; and

Whereas, the current practice will be opposed by all beneficiaries of the Fire Protection Fund; and

Whereas, the Fire Protection Grant Fund shall only be used to support administrative services directly benefiting beneficiaries of the Fire Protection Fund; and

Whereas, the Fire Protection Fund shall only revert to the Fire Protection Fund; and

Whereas, the current statute ensures that increases to insurance excise tax goes in to the distribution to fire departments; and

Now, Therefore, Be it Resolved that the New Mexico Municipal League supports legislation that will ensure that funding is appropriated in the best interest of the Fire Protection Fund and it's beneficiaries.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

RESOLUTION 2019-41

CONCERNING SUPPORT FOR NUCLEAR ENERGY AS A COMPONENT OF NEW MEXICO'S RENEWABLE PORTFOLIO STANDARD

Whereas, New Mexico's renewable portfolio standard (RPS) is a commitment to achieve 100% zero carbon electricity by 2045 (2050 for rural co-ops); and

Whereas, 80% of this energy is required to come from renewable resources; and

Whereas, the cost of renewables has become low enough that municipal utilities, which are not obligated by the state RPS, may still wish to employ renewables; and

Whereas, many renewables, such as wind and solar, have intermittency that must be remedied; and

Whereas, cycling fossil fuel resources to compensate for the intermittency of renewables adds cost and counters the desired reduction from renewables of greenhouse gases and other pollutants; and

Whereas, nuclear energy is carbon-free energy; and

Whereas, newly developing nuclear energy technology, such as small modular reactors, shows great promise for increased safety and lower cost; and

Whereas, small modular reactors may be usable for baseload cycling to compensate for renewable intermittency; and

Whereas, municipal or rural electric utilities can participate in nuclear energy through associations such as UAMPS (Utah Associated Municipal Power Systems); and

Whereas, some New Mexico communities would welcome participation in nuclear energy development, particularly in areas impacted by previous mining and energy activity; and

Whereas, due diligence will require that nuclear energy, like all other options, must prove environmentally and financially acceptable in cradle-to-grave analysis, from materials and fuels mining, to manufacturing, operation, waste disposal and decommissioning; and

Whereas, due diligence will further require that nuclear energy waste disposal must be established as safe in both transportation to disposal sites and storage at these sites.

Now, Therefore, Be It Resolved, that all levels of government should give consideration to nuclear energy as an alternative carbon-free energy resource that can play a complementary role with renewables, such as wind and solar, in affordably and reliably achieving New Mexico's renewable portfolio standard.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

2019 Resolutions Committee

RESOLUTION 2019-42

CONCERNING MUNICIPAL HOLD HARMLESS GROSS RECEIPTS TAX DISTRIBUTIONS

Whereas, in 2004, the New Mexico Legislature exempted food and some medical services from Gross Receipt Taxes and provided payments to cities and counties to replace the lost revenue with a Hold Harmless Gross Receipts Tax; and

Whereas, in a last-minute action during the 2013 Legislative Session, lawmakers passed a bill to phase out the Hold Harmless payments over a 15 year period beginning in 2015; and

Whereas, the State of New Mexico has received an increase in revenue over \$1 billion and is projected to receive another \$1 billion surplus next year; and

Whereas, over a dozen of New Mexico's largest municipalities cannot replace the revenue lost from the State's exemption of the Food and Medical GRT from the tax base and the three-eighths hold harmless increment is insufficient to replace the loss in revenue.

Now, Therefore, Be it Resolved that the New Mexico Municipal League seeks legislation for a continuation of Hold Harmless GRT distributions.

Passed, Approved and Adopted this 29th day of August at the City of Las Cruces, New Mexico.

