



PROPOSED
2021-2022
ANNUAL
RESOLUTIONS

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RESOLUTION 2021-1

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 by requiring confirmation of appointees by the local governing body at the “organizational meeting”; 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-2

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. The disclosure of personal identifying and financial information of job 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 define 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-3

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~~ sets forth 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 recently 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-4

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.

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 “discriminatory or adverse employment action against a public employee in the terms and conditions of public employment”; 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-5

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; and

Whereas, the current state grants-in-aid distribution is ~~[\$0.57]~~ \$0.47 per capita; and

Whereas, the national average for public library state grants in aid is ~~[\$3.55]~~ \$3.47 per capita.

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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-6

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-~~12~~-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, municipalities 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-7

CONCERNING THE RE-SUBMISSION OF LEGISLATION TO MAKE UNIFORM
[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]~~ unify the Municipal Court Automation Fee ~~[from \$6 to \$10, matching]~~ with 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]~~ bring parity to the Municipal Court Automation Fee with the Magistrate and Metropolitan Courts, from \$6 to \$10 during the ~~[2021]~~ 2022 Legislature.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-8

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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-9

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, libraries continued to provide critical services throughout the COVID - 19 pandemic including reference and curbside service, access to digital materials, and virtual programming; 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 \$19 million for libraries ~~the~~ Library Acquisition GO Bond "B" on the November ~~[3]8~~, 202~~[0]2~~ ~~[general]~~ election ballot.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-10

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.

Now, Therefore Be It Resolved that the New Mexico Municipal League supports 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; and

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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-11

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 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-12

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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-13

CONCERNING AN AMENDMENT TO ARTICLE 10 LOCAL ECONOMIC DEVELOPMENT 5-10-3 DEFINITIONS M. “RETAIL BUSINESS (1) AND (2) TO SUPPORT RETAIL BUSINESS; SETTING A PERCENTAGE OF MUNICIPAL ECONOMIC DEVELOPMENT ACT FUNDS FOR MUNICIPALITIES WITH POPULATIONS OVER 35,000; SETTING A SUNSET DATE

Whereas, since 2002, more than 83 communities throughout the State of New Mexico have implemented a Local Economic Development Act (LEDA) tax increment to assist in incentivizing economic development in their communities; and

Whereas, throughout the nation, the retail industry is a significant economic driver in municipalities regardless of their size; and

Whereas, many municipalities throughout the State of New Mexico have experienced a negative economic impact due to the COVID-19 pandemic, which has also had a significant impact on the retail industry and, subsequently, municipal gross receipts tax; and

Whereas, in the State of New Mexico, municipalities with populations less than 35,000 have the ability to support retail for economic development purposes in their communities, while municipalities with populations larger than 35,000 are not currently able to utilize the Local Economic Development Act (LEDA) for retail industry in their community, thereby placing them at a competitive disadvantage; and

Whereas, for larger municipalities, retail business is a major economic driver, where the municipality is a retail hub for the surrounding area, attracts shoppers from throughout the area, including other states and counties when the municipality is located on the periphery of the state. For hub municipalities, retail business greatly positively impacts the gross receipts tax potential; and

Whereas, to allow municipalities the ability to adapt to the current economic climate, greater latitude in the expenditure of LEDA funds is needed to allow municipalities the ability to self-determine how to expend their LEDA funds to better reflect the economic development needs of their community. Current state legislation impedes that ability; and

Whereas, in order to address the economic development needs of New Mexico’s municipalities, an amendment to the current language of the Local Economic Development Act (LEDA) funding Article 10 Local Economic Development 5-10-3 Definitions M “retail business” (1) and (2) is recommended as follows:

▪ **Current Language** - M. “retail business” means a business that is primarily engaged in the sale of goods or commodities at retail and that is located in a municipality with a population, according to the most recent federal decennial census, of:

(1) Fifteen thousand or less; or

(2) *More than fifteen thousand but less than thirty-five thousand if:*

(a) *the economic development project is not funded or financed with state government revenues; and*

(b) *the business created through the project will not directly compete with an existing business that is: 1) in the municipality; and 2) engaged in the sale of the same or similar goods or commodities at retail.*

▪ **Proposed Language** - M. “retail business” means a business that is primarily engaged in the sale of goods or commodities at retail and that is located in a municipality with a population, according to the most recent federal decennial census, of:

(1) *Fifteen thousand or less; or*

(2) *More than fifteen thousand but less than thirty-five thousand if:*

(a) *the economic development project is not funded or financed with state government revenues; and*

(b) *the business created through the project will not directly compete with an existing business that is: 1) in the municipality; and 2) engaged in the sale of the same or similar goods or commodities at retail.*

(3) *For a period with a sunset date of June 30, 2030, municipalities with more than thirty-five thousand but less than two-hundred thousand may use up to twenty-five percent (25%) of municipal LEDA funding for retail development if the economic development project is not funded or financed with state government revenues.*

Now, Therefore, Be It Resolved, that the New Mexico Municipal League seek legislation to amend the language contained in Article 10 Local Economic Development 5-10-3 Definitions M retail business” to allow municipalities, including municipalities over 35,000 the ability to address their individual and unique economic development needs; and

Be It Further Resolved, for municipalities larger than 35,000 but smaller than 200,000 that there be a sunset date of June 30, 2030.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-14

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 seeks 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-15

CONCERNING AMENDING NMSA PROVIDING FOR A STREETS RECAPTURE AGREEMENT

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

Whereas, NMSA 3-27-4 provides the statutory framework 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~~ often 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-16

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

Whereas, stormwater is not currently ~~listed as a utility under NMSA~~ included in the definition of “municipal utility” in New Mexico law; 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-17

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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-18

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, 2031; 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-19

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, EMS first responder, water and waste water and other public agencies wait a minimum of 12 months before they can return to work as a public employee or independent contractor; and

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

Whereas, law enforcement, fire service, EMS first responder, water and waste water and other municipal departments throughout rural and small town New Mexico have difficulties in finding eligible candidates who are qualified to serve in such vital positions as police officers, senior administrators such as municipal police chiefs, fire fighters, EMS first responders, water and waste water operators, municipal clerks and administrators and other municipal personnel; and

Whereas, law enforcement, fire service, EMS first responder, water and waste water and other public agencies throughout rural and small town New Mexico will lose invaluable knowledge, insight, professionalism and maturity by not being able to employ retired law enforcement personnel, fire service, EMS first responder, water and waste water and other municipal employees from jurisdictions within the state; and

Whereas, municipalities in rural areas and smaller communities in New Mexico depend on the ability to employ retired law enforcement, fire service, EMS first responders, water and waste water operators and other vital employees from other jurisdictions; and

Whereas, government entities and law enforcement, fire service, EMS first responder, water and waste water and other public 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 rural and small town population demands qualified, dedicated and professionally-trained personnel in all fields of law enforcement, fire service, emergency response, water and waste water operation and general municipal operations; and

Whereas, retired employees who return to work would be required to make contributions as if they were current employees; and

Whereas, retired employees who return to work would accrue no additional service credits or retirement benefits; and

Whereas, municipalities that hire retired employees who return to work would be required to make municipal contributions as if the returning employees were current employees, and any re-employment would be capped at 30 hours per week; and

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

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation that exempts part-time (less than 30 hours per week) law enforcement, fire service, EMS first responders, water and waste water and other municipal employees who return to work in municipalities with a population of fewer than 3,500 people, from the retiree return to work laws.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-20

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 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 United States is experiencing an outbreak of the COVID-19 coronavirus in pandemic proportions; and

Whereas, the COVID-19 coronavirus appears to spread easily, and millions of Americans have been infected, and hundreds of thousands have lost their lives to this pandemic; and

Whereas, expectations are high that a vaccine for the COVID-19 coronavirus will be effective against the disease, but this vaccine will protect the population only if a high rate of application is achieved; 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, several states 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.

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 2nd day of September at the City of Albuquerque, New Mexico.

2021 CEDGOPI&HR Committee

RESOLUTION 2021-21

CONCERNING NUTRIENT WATER QUALITY CRITERIA, PERMIT LIMITATIONS AND FUNDING SOURCES

Whereas, the New Mexico Municipal League (“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~~ NMML 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~~ NMML 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 2nd day of September at the City of Albuquerque, New Mexico.

2021 EENR Committee

RESOLUTION 2021-22

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

Whereas, the [New Mexico Municipal League \(“NMML”\)](#) 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~~ [NMML](#) 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; and

Be it further Resolved that the ~~New Mexico Municipal League~~ [NMML](#) 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-23

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

Whereas, New Mexico's renewable portfolio standard (RPS) set forth in the Energy Transition Act is a commitment to achieve 100% zero carbon electricity emissions 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~~ RPS.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

2021 EENR Committee

RESOLUTION 2021-24

CONCERNING THE WATER CONSERVATION FEE

Whereas, the Water Conservation Fee Act (the Act) was ~~adopted~~ enacted by the New Mexico Legislature in 1993, with further amendments adopted in 2013; and

Whereas, the Act created a water conservation fee imposed on every public water supply system in an amount equal to three cents (\$.03) per thousand gallons of water produced on which the fee imposed by some water systems has not been paid; and

Whereas, the Act created the "water conservation fund" in the state treasury to be administered by the Department of Environment. The fund shall consist of water conservation fees collected pursuant to this section. Balances in the fund at the end of any fiscal year shall not revert to the general fund but shall accrue to the credit of the fund. Earnings on the fund shall be credited to the fund; 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 tested pursuant to the provisions of the federal Safe Drinking Water Act (SDWA), and collect chemical compliance samples as required under the relevant provisions of the federal act;
- (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 [61-33-1 NMSA 1978] and provide training for all public water supply operators; and

Whereas, the Taxation and Revenue Department shall provide by regulation for the manner and form of collection of the water conservation fee. All water conservation fees collected by the Taxation and Revenue Department, less the administrative fee withheld pursuant to Section 1 [7-1-6.41 NMSA 1978] of this 1997 act, shall be deposited in the water conservation fund; and

Whereas, the fee imposed by this section shall be administered in accordance with the provisions of the Tax Administration Act [7-1-1 NMSA 1978] and shall be paid to the Taxation and Revenue Department; and

Whereas, current expenditures under the Water Conservation Fund exceed revenues due to increased analytical fees and personnel costs, as well as additional and more stringent sampling requirements; and

Whereas, there are systems that are not paying into the fund but still receiving sampling and analytical services from NMED using Water Conservation Fund monies, thus ~~helping to deplete available~~ depleting funding available to those systems paying into the fund.

Now, Therefore, Be It Resolved that the New Mexico Municipal League:

- Urges the Governor of New Mexico and the New Mexico Legislature to support NMED's sampling and analysis efforts through the appropriation of funds to ensure an adequate balance in the Water Conservation Fund;
- Urges the Legislature to modify the Act in a manner requiring the Tax and Revenue Department to collaborate with NMED on a regular basis to identify those systems on a regular basis which are, and are not, paying the required fees into the Water Conservation Fund;
- Urges the New Mexico Legislature to modify the Act to ~~enact~~ establish requirements that Water Conservation Fund revenues only be expended by NMED on those systems current with their required payments into the fund. Additionally, Water Conservation Fund revenues should not be used to pay for any increased sampling that may be required of systems as a result of their noncompliance with the SDWA;
- Requests that NMED should also provide an annual list of all sampling and analysis required under the provisions of the SDWA, which are covered by the Fund, as intended by the 2013 amendments to the Act;
- Any increase to the Water Conservation fees are justified to the public. If fees are increased, the increase should be scheduled with adequate time provided for water systems to prepare and raise their system fees and/or budgets as appropriate. If the Conservation Fee levels are increased, the increase should be implemented incrementally, and should be sufficient to cover all sampling and analytical requirements of the federal Safe Drinking Water Act; and

Be It Further Resolved, that the New Mexico Municipal League is committed to continuing its recent collaboration and efforts with the New Mexico Environment Department to address the lack of adequate revenues in the Water Conservation Fund to fulfill the intent purposes of the Act.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-25

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 will continue to participate in the Tax Policy Advisory Committee (TPAC) to develop a tax reform plan for the State of New Mexico; and

Be It Further Resolved that the Tax Policy Advisory Committee (TPAC) has representation from the New Mexico Municipal League and the New Mexico Counties in order to give input on state and local tax reform.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-26

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 municipalities be assured that the revenues they are receiving are being accounted for and distributed properly; and

Whereas, New Mexico Municipalities pay the state 3% of Local Option Gross Receipts Taxes collected for administration and distribution of the tax; 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.

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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-27

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, 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-28

CONCERNING 1.225 LOCAL DISTRIBUTION

Whereas, the state and local distribution rate should be separated so they are correctly reported as the state's rate (3.9%), the local distribution rate (1.225%), plus local options; and

Whereas, the state and local distribution rate should be separated to accurately reflect the true state rate; and

Whereas, the local distribution rate should be separated from the state rate to continue the precedent set by House Bill 479 (2019); and

Whereas, the local distribution should be separated from the state rate in order to protect all local options.

Now, Therefore, Be it Resolved that the New Mexico Municipal League supports legislation that will separate the collection and distribution of local gross receipts tax and state gross receipts tax.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-29

CONCERNING LOCAL GOVERNMENT SAFETY NET ACT

Whereas, events related to COVID-19 community spread are expected to create a revenue shortfall, including projections of significantly-reduced gross receipts tax revenue; and

Whereas, seventy percent (70%) of municipal budgets are derived directly from gross receipts tax revenue; and

Whereas, significantly-reduced revenue tied to such a large percentage of municipal budgets will require similarly significant cuts to municipal spending absent robust, State-based relief efforts; and

Whereas, municipalities are already struggling to maintain basic services.

Now, Therefore, Be It Resolved that the New Mexico Municipal League will seek legislation to obtain revenue replacement for municipalities.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-30

CONCERNING GRT INCOME SWAP TAX

Whereas, the municipal revenue stream needs to be diversified in order create more consistent municipal budgets; and

Whereas, in creating a more stable revenue stream it will allow local governments to provide more consistent service to their citizens; and

Whereas, the municipal revenue stream needs to be diversified in order to create healthier revenue streams by allowing for the greater sum of income from tax to be chosen; and

Whereas, the municipal revenue stream needs to be diversified in order to create equitability within municipalities and state government.

Now, Therefore, Be it Resolved that the New Mexico Municipal League supports legislation that will diversify municipal taxing authority.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-31

CONCERNING OPPOSING AMENDMENTS TO THE GROSS RECEIPTS AND COMPENSATION TAX ACT

Whereas, New Mexico is amending sourcing rules, and location code reporting, from the place of business to the destination of business for gross receipts and compensating tax reporting; and

Whereas, this amendment will result in a significant loss of tax revenue to municipal communities across New Mexico, especially rural communities that are heavily dependent upon companies that are registered in the corporate limits of the municipality, yet provide service activities that take place just outside of the municipal limits; and

Whereas, municipalities will continue to incur costs associated with these local companies, including the costs for public safety, utilities, road maintenance, and other municipal services, yet will not receive a fair share of the tax base; and

Whereas, municipalities have been told that there could be an offset between lost revenues from service activities and increased revenues from internet sales, yet this data has not been provided to the municipalities; and

Whereas, rural communities impacted by the extractive industries will recognize a significant reduction in revenues related to service activities performed just outside the municipal limits, that likely will not be offset by internet sales; and

Whereas, an exemption should include “extractive service” companies, which would be similar to an exemption allowed for “professional service” companies; and

Whereas, municipalities deserve full access to historical and projected aggregate internet sales data to perform independent analyses.

Now, Therefore, Be It Resolved that we, the governing body of the City of Carlsbad, do oppose the amended changes to the gross receipts and compensation tax act, and request an exemption for “extractive service.”

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

2021 FIRT Committee
Submitted By: City of Carlsbad

RESOLUTION NO. 2021-32

CONCERNING AMENDMENTS TO THE GROSS RECEIPTS AND COMPENSATION TAX ACT

Whereas, during the 2019 Regular Legislative Session, New Mexico amended NMSA 1978, § 7-1-14, titled “Business location instructions for purposes of reporting gross receipts and use; location-code database and location-rate database” via House Bill (HB) 6; and

Whereas, the 2019 amendments were intended to address the sales tax on “goods” delivered to various locations in New Mexico primarily from internet sales following the United States Supreme Court’s decision in *South Dakota v. Wayfair, Inc.* 138 S.Ct. 2080 (2018); and

Whereas, the 2019 amendments addressed both “goods” and “services” and a new subsection outlined in NMSA 1978, § 7-1-14(F)(5) was added that reads, “...for services other than those described in Paragraphs (1) through (4) of this subsection, the location where the product of the service is delivered.”

Whereas, the 2019 amendments went into effect on July 01, 2021, and thereafter will result in a significant loss of tax revenue by municipalities across New Mexico from service activities, originated by local companies, delivered outside of the municipal limits; and

Whereas, municipalities will continue to incur costs associated with these local companies, including the costs for public safety, utilities, road maintenance, and other municipal services, yet will not receive a fair share of the tax base; and

Whereas, municipalities have been told that there would be an offset between lost revenues from service activities and increased revenues from internet sales, yet this data has not been provided to the municipalities to date; and

Whereas, as a result of the 2019 amendments, not only do the municipalities stand to lose tax revenue from service activities delivered outside of their municipal boundaries, the State of New Mexico stands to lose tax revenue from service activities delivered outside of the State; and

Now, Therefore, Be It Resolved that the New Mexico Municipal League should seek an amendment to NMSA 1978, § 7-1-14(F)(5) to read, “...for services other than those described in Paragraphs (1) through (4) of this subsection, the location of the performer of the service or seller of the product of the service, as appropriate.”

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

2021 FIRT Committee
Submitted By: City of Hobbs

RESOLUTION 2021-33

CONCERNING SUPPORT OF AN ALL-INCLUSIVE 36% APR CAP ON STOREFRONT LOAN COMPANIES IN NEW MEXICO

Whereas, the Town of Bernalillo has at least 8 licensed storefront loan companies that routinely charge New Mexicans up to 175% APR on loan products; and

Whereas, storefront loan companies licensed to do business in New Mexico make a variety of high-cost loan products, including unsecured installment loans, loans secured by a car title, and tax-time refund anticipation loans; and

Whereas, studies completed by the Consumer Financial Protection Bureau, the Center for Responsible Lending, and the Pew Charitable Trusts have all shown that triple-digit interest rate lending traps borrowers and their families in cycles of debt; and

Whereas, studies conducted by the Consumer Financial Protection Bureau and other organizations show that triple-digit interest rate loans take money out of consumers' pockets, thus damaging local businesses and reducing jobs in local economies; and

Whereas, high-cost storefront lenders target low-income New Mexicans, particularly communities of color; and

Whereas, 64% of storefront lenders in New Mexico are located within 15 miles of Native American land; and

Whereas, data reported by the New Mexico Regulation and Licensing Department shows that in 2019, storefront lenders lent more than \$666 million in high cost loans and collected more than \$220 million in interest and fees from New Mexico borrowers; and

Whereas, data reported by the New Mexico Regulation and Licensing Department shows that in 2019, storefront lenders repossessed 2,293 vehicles from New Mexico borrowers; and

Whereas, as of November 30, 2020, there were 561 storefront loan companies licensed by the New Mexico Regulation and Licensing Department; and

Whereas, more than 85% of storefront lenders in New Mexico are subsidiaries of large, out of state corporations; and

Whereas, New Mexico has the highest interest rate cap in the nation for loans over \$2,000 and has one of the highest interest rate caps in the nation for loans up to \$500; and

Whereas, 17 states and the United States Department of Defense have interest rates of 36% APR or lower and have not reported any decrease in availability of credit; and

Whereas, more than two-thirds of New Mexicans surveyed supported an interest rate cap of 36% APR; and

Whereas, the New Mexico Legislature has the authority to determine and to cap the interest rate that storefront lenders doing business in New Mexico can charge consumers.

Now, Therefore, Be It Resolved by the governing body of the Town of Bernalillo:

- 1) That the Town of Bernalillo Council/Mayor urges the New Mexico Legislature and the Governor of New Mexico to enact an all-inclusive cap of 36% on the interest rate and fees that storefront lenders doing business in New Mexico can charge.
- 2) That the Town of Bernalillo Council/Mayor further urges the Director of the Financial Institutions Division of the Regulation and Licensing Department and the New Mexico Attorney General to exercise its full rulemaking powers under the Small Loan and Bank Installment Loan Acts and the Unfair Practices Act, respectively, to end high-cost storefront lending abuses.
- 3) That a copy of this resolution will be forwarded to the Governor of the State of New Mexico, the New Mexico Regulation and Licensing Department, the New Mexico Attorney General, the Sandoval County legislators, and other entities or persons as designated by the Town Manager and the Town of Bernalillo Council.
- 4) That the Town of Bernalillo staff is hereby authorized to do all deeds as necessary in the accomplishment of the herein above.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

2021 FIRT Committee
Submitted By: Town of Bernalillo

RESOLUTION 2021-34

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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-35
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~~ adequate 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 Counties (NMC) to develop specific policy recommendations and study issues related to sustainable EMS Services; and

Whereas, the NMML and the NMC 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.

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; and

Be It Further Resolved that recommendations from the EMS assessment will be used by the NMC 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-36

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~~ directed at reducing reduce the number of individuals with mental health disorders who require law enforcement intervention and reducing the number of people with mental health disorders in detention centers; 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 those who are 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-37

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 officer's presence outside of his Territorial Jurisdiction, that officer has no official legal police authority to intervene.

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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-38

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; and

Whereas, ~~current state statutes have~~under current law making a bomb threat is considered a Felony offense, but ~~currently state statues 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; and

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 even when experiencing an ~~in the~~ unstable, ~~crisis~~ condition or episode of immediate crisis ~~they are in~~; and

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.; and

Whereas, statues 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;
- 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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-39

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; and

Whereas, Senate Bill 8 from the First Special Session of the 54th Legislature created two new causes of action under the New Mexico Tort Claims Act, both of which require peace officers to collect and law enforcement agencies to store body-worn camera footage, and neither of which contemplated the public records implications of such a requirement.

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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-40
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.

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 2nd day of September at the City of Albuquerque, New Mexico.

RESOLUTION 2021-41

CONCERNING DEFINING RESERVE OFFICERS WITHIN NEW MEXICO

Whereas, numerous dedicated citizens currently serve as reserve officers within the State of New Mexico. Reserve officers are volunteers that are of great benefit to law enforcement agencies in the State of New Mexico. Reserve officers assist regular law enforcement officers in the performance of their duties by providing an additional officer on many critical calls for service. Reserve officers are supervised at all times during the performance of these duties by full time salaried peace officers. Reserve officers do not issue citations, complete criminal complaints, or sign warrants or affidavits. Reserve officers may write supplemental reports. The volunteer service of reserve officers is of critical importance to small agencies in rural areas that are budgetarily constrained from hiring additional full time officers. These dedicated volunteers provide a critical service as qualified back up to regular peace officers in these rural areas; and

Whereas, the State of New Mexico does not currently define the position of "Reserve Officer" within New Mexico State Statutes.

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

- 1) Define a "Reserve Officer" in the State of New Mexico as a person authorized by a city, city and county, town, county, or state institution of higher education within this state to act as a reserve police officer, reserve deputy sheriff, or reserve town marshal for certain specific and limited periods of time while the person is authorized to be on duty and acting at the express direction or under the direct supervision of a full time salaried law enforcement officer. A reserve officer is a peace officer while engaged in the performance of his or her duties whose authority shall be limited to the authority granted by his or her authorizing agency.
- 2) Define "Direct Supervision" as an assignment given by a full time salaried peace officer to a reserve officer, which assignment is carried out in the personal presence of, or in direct radio or telephone contact with, and under the immediate control of, the full time salaried peace officer.
- 3) Define "Express Direction" as a task-specific assignment given by a full time salaried peace officer to a reserve officer. The full time salaried peace officer need not be present while the reserve officer carries out the assignment.
- 4) A reserve officer shall be required to complete at least 40 hours of in-service training during each 24-month period of service with a political subdivision. The first training course shall commence no later than 12 months after appointment as a reserve officer with a New Mexico law enforcement agency.

- 5) A reserve officer may be compensated for his or her time during a declared emergency or during a time of special need. In all other circumstances, a reserve officer shall serve without compensation, but may be reimbursed at the discretion of the city, city and county, town, county, or state institution of higher education benefitting from the services of the reserve officer for any authorized out-of-pocket expenses incurred in the course of his or her duties. The city, city and county, town, county, or state institution of higher education shall pay the cost of workers' compensation benefits for injuries incurred by a reserve officer while on duty and while acting within the scope of his or her assigned duties. A reserve officer is an authorized volunteer.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.

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RESOLUTION 2021-42

CONCERNING THE CREATION OF A POLICE REFORM COMMITTEE

Whereas, police leaders, elected officials and community members should work together to develop and implement solutions regarding concerns over policing practices and operations. It is imperative that these efforts reflect a balanced strategic approach to combating crime and prioritizing community safety; and

Whereas, emotions are running high and politically expedient measures are being taken and ~~unfortunately implementation of~~ policy ~~or is being developed and implemented~~ ~~other short sided measures are being hastily implemented~~ without sufficient input ~~and do not accomplish community and police engagement from all stakeholders~~; and

Whereas, the Governor and the State of New Mexico should engage in a balanced approach so as not to negatively impact the quality of life for all citizens of our great State by soliciting input from all stakeholders, including Police Chiefs and Sheriffs, in all matters effecting implemented changes; and

Whereas, comprehensive police reform will be a challenge and all parties should be engaged, including law enforcement leadership, to collectively establish effective, transparent and lasting institutional change.

Now, Therefore, Be It Resolved that a request be made to the Governor to appoint and convene a committee of police executives, elected officials, community members, and other stakeholders to identify and set the goals for police reform. As another legislative session quickly approaches, many “reform” bills are already being drafted and presented, and there should be comprehensive discussions to accomplish well-reasoned approaches to achieve effective police reform. Currently, we see a series of disconnected ideas that have not been analyzed and discussed that may in fact, either not accomplish or work against, the goals of true police reform. Law enforcement is bound by public service duty to keep all communities safe. Because of that commitment, the ultimate outcome shall be to implement change together. With the Governor’s appointment, this committee will engage in future, ongoing discussions to ascertain ideas that shall result in effective, transparent and accountable police reform across New Mexico.

Passed, Approved and Adopted this 2nd day of September at the City of Albuquerque, New Mexico.