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2004-2005

PUBLIC

SAFETY

RESOLUTIONS

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RESOLUTION NO. 2004-43

**CONCERNING FUNDING FOR EDUCATION AND TRAINING
OF EMERGENCY MEDICAL SERVICES PERSONNEL**

Whereas, emergency medical services personnel are first at the scene of illness or accident; and

Whereas, volunteers and paid emergency service providers are required to take classes and pass exams; and

Whereas, payment for these classes and for licensing/certification must be provided by individuals or by their Emergency Medical Services (EMS) departments; and

Whereas, volunteer EMS departments that do not transport patients, being unable to charge for patient care, are dependent on grants to pay for all education, training, equipment maintenance and supplies; and

Whereas, many individual volunteer emergency service providers must therefore assume much of the burden of paying "out of pocket" for the education and training that qualifies them to serve the public; and

Whereas, approximately 1,600 new students are trained statewide each year at a cost of \$400 per student; and

Whereas, it is in the interest of the public health that emergency service providers have the best possible training and education.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks an increase to the EMS Fund in the amount of \$800,000 that specifically targets services to support training, education and certification/licensing costs for all EMS personnel; and

Be It Further Resolved that 20% of the \$800,000 targeted to support training, education and certification/licensing costs be allocated for all volunteer departments.

Passed, Approved and Adopted this 2nd day of September, 2004 at the City of Tucumcari, New Mexico.

RESOLUTION NO. 2004-44

**CONCERNING AMENDMENT OF THE FIREWORKS
LICENSING AND SAFETY ACT**

Whereas, Section 60-2C-1 et seq. NMSA 1978, cited as the "Fireworks Licensing and Safety Act" ("Act") governs the sale and use of fireworks within New Mexico; and

Whereas, the Act authorizes and empowers the governing body of a municipality under certain circumstances to ban the sale and use of certain aerial and ground audible fireworks; and

Whereas, the Act authorizes and empowers the governing body of a municipality under certain circumstances to limit the use within its jurisdiction of other fireworks to only certain areas under certain conditions; and

Whereas, the Act authorizes and empowers the governing body of a municipality under certain circumstances to ban the use and sale of all fireworks within wildlands in its jurisdiction, under certain conditions; and

Whereas, the Act authorizes and empowers the governing body of a municipality under certain circumstances to ban or restrict the use or sale of display fireworks; and

Whereas, many areas of the State of New Mexico are experiencing extremely high fire danger due to long-term lack of rainfall, causing actual or threatened loss of life, property, and environment including in some cases watersheds for municipal water supplies; and

Whereas, all fireworks whether they are aerial, ground audible, or ground or hand-held sparkling and smoke devices, have the potential to cause life-, property-, and environment-threatening fire damage.

Now, Therefore Be It Resolved that the New Mexico Municipal League supports legislation to amend the Fireworks Licensing and Safety Act to allow local governments to impose restrictions on the sale and use of fireworks on all lands within their corporate boundaries and on lands owned by a municipality outside its boundaries up to and including an absolute ban on the sale and use of any type of fireworks any place within the corporate boundaries.

Passed, Approved and Adopted this 2nd day of September, 2004 at the City of Tucumcari, New Mexico.

RESOLUTION NO. 2004-45

CONCERNING SUPPORT OF LEGISLATION FOR THE USE OF PHOTO RADAR ENFORCEMENT AND RED LIGHT CAMERAS

Whereas, “photo radar” is a system that combines a photograph of a vehicle and its driver with a record of speed checked by radio microwaves or other electrical device staffed during operation by a police officer; and

Whereas, “ Red Light Cameras” is a system that combines a photograph of a vehicle and its driver with a record of signal violations checked by radio microwaves or other electrical device staffed during operation by a police officer; and

Whereas, the use of photo radar and red light cameras may enable local governments to enforce speed and signal violations and improve safety in local communities; and

Whereas, these photo radar and red light cameras will modify driver behavior; and

Whereas, the use of photo radar and red light cameras could reduce accident rates, deaths, pain, suffering, permanent disabilities, inconvenience of lost income and property damage and decrease insurance rates; and

Whereas, it would benefit law enforcement by increasing traffic law compliance, reducing call outs and reporting which would give officers more time to patrol neighborhoods; and

Whereas, one speed camera has the impact of 19 additional traffic officers; and

Whereas, placing photo radar and red light cameras in certain areas could increase public and officer safety by reducing pursuits, confrontations and exposure to traffic; and

Whereas, speeding and signal violations by drivers of motor vehicles creates serious safety concerns in New Mexico’s local communities and is a frequently occurring driver error-related cause contributing to crashes; and

Whereas, this technology is used in over 70 countries; and

Whereas, after the deployment of photo radar and red light cameras in Mesa, Arizona accident rates were down 22%; in Portland, Oregon speed violations were down 30% after eight deployments; and in Tempe, Arizona school zone speed violations were down 50% in nine months; and

Whereas, current statutory language does not specifically enable the use of photo radar and red light cameras and such language is necessary for implementation; and

Whereas, program implementation would allow law enforcement agencies the opportunity to sell and re-energize traffic safety education to the public.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports the statutory revisions, which will enable implementation of photo radar and red light cameras within the state of New Mexico.

Passed, Approved and Adopted this 2nd day of September, 2004 at the City of Tucumcari, New Mexico.

RESOLUTION NO. 2004-46

CONCERNING OPPOSITION TO MINIMUM MANNING AND STAFFING STANDARDS FOR FIRE DEPARTMENTS

Whereas, the National Fire Protection Association (NFPA) is an international association of individuals and trade and professional organizations; and

Whereas, NFPA's mission is "to reduce the worldwide burden of fire and other hazards on the quality of life by providing and advocating scientifically-based consensus codes and standards, research and education;" and

Whereas, NFPA has produced over 275 codes and standards that deal with every aspect of fire and life safety; and

Whereas, NFPA is an internationally recognized authority in producing codes and standards dealing with fire and life safety; and

Whereas, the fire service has always been an active supporter of the NFPA and their standard making process; and

Whereas, NFPA is currently proposing two new standards, NFPA 1710, Organizational and deployment of fire suppression operation, emergency medical services, and special operations to the public by career fire departments, and NFPA 1720, Organizational and deployment of fire suppression, emergency medical operations, and special operations to the public by Volunteer fire departments; and

Whereas, standards 1710 and 1720 define minimum response times, minimum fire company staffing levels, initial full alarm response levels, and extra alarm response levels; and

Whereas, levels of service delivery for fire and emergency medical services (EMS) have always been determined by local jurisdictions; and

Whereas, the proposed NFPA 1710 and 1720 standards would impose onerous, unfunded mandates upon local governments to meet established response times, and staffing levels, if adopted by NFPA and further consideration is taken by federal agencies, such as the Occupational Safety and Health Administration (OSHA), and insurance companies; and

Whereas, the International Fire Chiefs Association has repeatedly been able to defeat similar proposed manning standards since 1987; and

Whereas, union affiliates of the NFPA have introduced the same concept several times without success; and

Whereas, the NFPA has clearly gone outside its authority in proposing these national minimum manning, response and staffing standards; and

Whereas, NFPA codes and standards are voluntary and need to be adopted by local jurisdictions, these standards will be held to be the norm because of the stature of the NFPA in other codes and standards; and

Whereas, these standards were passed at the NFPA annual conference in May of 2001 and are being appealed by numerous national groups including the National League of Cities.

Now, Therefore Be It Resolved that the New Mexico Municipal League opposes any attempt by the National Fire Protection Association to adopt standards for staffing or minimum manning levels of fire, specialized or emergency medical services vehicles controlled by units of local government; and

Be It Further Resolved that the New Mexico Municipal League opposes any attempt by the National Fire Protection Association to adopt a standard dictating or affecting the response times of any fire, specialized or emergency medical services vehicle; and

Be It Further Resolved that the New Mexico Municipal League urges its members to protest the National Fire Protection Association adoption of standards 1710 and 1720 which preempts local authority; and

Be It Further Resolved that the New Mexico Municipal League opposes any attempt by the State Fire Marshal to adopt NFPA 1710 and 1720 as statewide standards.

Passed, Approved and Adopted this 2nd day of September, 2004 at the City of Tucumcari, New Mexico.

2004 PS Committee Priority: **LOW**
2004 Resolutions Committee Priority: **HIGH**

RESOLUTION NO. 2004-47

**CONCERNING REIMBURSEMENT FOR LAW ENFORCEMENT
TRAINING AT SATELLITE ACADEMIES**

Whereas, New Mexico state law requires law enforcement officers to be trained and certified within one year of their hiring date and requires that the state provide its basic training at no cost to local public bodies; and

Whereas, in addition to the state Academy located in Santa Fe, eleven certified satellite academies are currently providing training in various regions of the state; and

Whereas, overcrowding at the state Academy in Santa Fe causes delays in the basic training schedule and impacts the quality of law enforcement training; and

Whereas, the regional locations of satellite academies enables them to provide convenient service in a more timely manner; and

Whereas, the state pays the basic training costs for municipal cadets who attend the Academy in Santa Fe but does not reimburse municipalities for basic training their officers receive at satellite academies; and

Whereas, this inequity causes financial hardship on those municipalities that train their officers at satellite academies.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports legislation to require the state to reimburse municipalities for the costs of basic training for officers attending satellite academies.

Passed, Approved and Adopted this 2nd day of September, 2004 at the City of Tucumcari, New Mexico.

RESOLUTION NO. 2004-48

**CONCERNING THE GOVERNOR'S EMERGENCY AUTHORITY
REGARDING FIREWORKS**

Whereas, New Mexico is in a period of severe drought; and

Whereas, as a result of this drought, fire danger has been high in all areas of the state; and

Whereas, municipalities and counties currently have authority to ban the use and sale of certain types of fireworks, but not the express authority to ban all fireworks within their boundaries; and

Whereas, in such extreme conditions, any spark can ignite a catastrophic fire; and

Whereas, fire does not respect governmental boundaries; and

Whereas, according to his legal advisors, the Governor does not have the authority to ban fireworks statewide; and

Whereas, in times of extreme drought of a statewide nature, the Governor should have emergency authority to declare a statewide ban on fireworks.

Now Therefore Be It Resolved that the New Mexico Municipal League meet with the Governor for the purpose of urging him to obtain, through appropriate avenues, the authority to declare an emergency and to ban fireworks statewide, including within municipal boundaries, during times of extreme drought of a statewide nature; and

Be It Further Resolved that any proposed law prescribes that the Governor base his drought proclamation on the 10-day Fire Danger Outlook Map which is based upon the Energy Release Component (ERC) of the National Fire Danger Rating System and that the Governor could utilize additional indices should the need arise.

Passed, Approved and Adopted this 2nd day of September, 2004 at the City of Tucumcari, New Mexico.

RESOLUTION NO. 2004-49

CONCERNING THE FIRE PROTECTION FUND

Whereas, the state legislative purpose of the Fire Protection Fund is to provide for distribution of funds "to incorporated cities, towns and villages, and to county fire districts, in proportion to their respective needs, for the use in operation, maintenance and betterment of local fire departments to the end that the hazards of loss by fire and fire insurance rates may be reduced and public safety thereby promoted;" and

Whereas, to many of the State-recognized fire departments, this funding represents their sole source of operating money; and

Whereas, because of financial limitations, a majority of the departments, especially small municipal and county departments, are unable to support any capital projects, including basic fire apparatus and equipment, apparatus repairs, fire station construction or expansion and hazardous materials response.

Now, Therefore, Be It Resolved that the New Mexico Municipal League seeks legislation to increase the Fire Fund distributions to fire departments and utilize a percentage from the Fund to allow departments with a demonstrated need an opportunity to apply for additional funding, specific to the departments' needs.

Passed, Approved and Adopted this 2nd day of September, 2004 at the City of Tucumcari, New Mexico.

RESOLUTION NO. 2004-50

CONCERNING SUPPORT FOR STRENGTHENING LEGISLATION PERTAINING TO REGISTRATION AND COMMUNITY NOTIFICATION OF SEX OFFENDERS

Whereas, all fifty states and many foreign countries have enacted laws concerning registration and community notification of sex offenders in response to the death of Megan Kanka in New Jersey (commonly known as “Megan’s Laws”); and

Whereas, sex offenders are known to seek out the jurisdictions that do have, or are perceived to have, the most lenient Megan’s Laws with loopholes that can easily be exploited by sex offenders who want to avoid registration or dissemination of accurate information about their whereabouts; and

Whereas, on March 5, 2003, the United States Supreme Court rendered two opinions clearing the way for stricter Megan’s Laws and disposing of previously existing legal challenges based on theories that Megan’s Laws were *ex post facto* laws that violated the concept of double jeopardy. See, Smith v. Doe, ___ U.S. ___, 123 S. Ct. 1140; 155 L. Ed. 2d 164; 2003 U.S. LEXIS 1949 (2003); Conn. Dep’t of Pub. Safety v. Doe ___ U.S. ___ 123 S. Ct. 1160; 155 L. Ed. 2d 98; 2003 U.S. LEXIS 1951 (2003); and

Whereas, the State of New Mexico has a Megan’s Law at §29-11A-1 et seq. NMSA 1978 (Repl. Pamp. 2001) known as the Sex Offender Registration and Notification Act or “SORNA;” and

Whereas, SORNA was enacted in 1995 and has remained substantially unchanged since the date of enactment and has not evolved in any way to accommodate exploitation of loopholes, changes in other law, increased knowledge in the science of sex offender recidivism, new information about the overall ineffectiveness of treatment of sex offenders and the profound impact sex offenders have on their victims; and

Whereas, the State of New Mexico sex offender website contains information on sex offenders only if convicted or on probation after December 1, 1995 while other states such as Texas require registration of offenders all the way back to 1970; and

Whereas, many sex offenders misrepresent their address to conceal their actual whereabouts; and

Whereas, SORNA requires sex offenders to register only one residence address and allows sex offenders to wait until after they move to notify the state which means they can avoid accurate community notification by using a false address they rarely occupy or by claiming they recently moved if found residing at a non-registered address; and

Whereas, many sex offenders seek employment opportunities that allow them access to all children and sometimes to the specific age and sex of child victim they target; and

Whereas, SORNA does not require sex offenders to notify employers that they are a convicted sex offender even if the offender will be working with or near children; and

Whereas, local government counterparts to statewide Megan's Laws can effectively further public safety by applying uniquely tailored remedies to local problems; and

Whereas, SORNA should be immediately updated and amended, if necessary, pursuant to the Governor's request for legislative action via the Governor's call during a short session of the legislature.

Now, Therefore, Be It Resolved that the New Mexico Municipal League supports statutory revisions that strengthen SORNA, amendments to SORNA that expressly allow local government community registration and notification ordinances and urges the Governor to support and the legislature to enact such legislation at the 2005 legislative session; and

Be It Further Resolved that any proposed legislation contain provisions that comply with the Federal Jacob Wetterling Act.

Passed, Approved and Adopted this 2nd day of September, 2004 at the City of Tucumcari, New Mexico.

RESOLUTION NO. 2004-51

**CONCERNING CONTRACTING FOR MUNICIPAL
LAW ENFORCEMENT SERVICES**

Whereas, many smaller municipalities are having difficulty in recruiting police officers, especially in the more rural areas of the state; and

Whereas, those same municipalities are losing police officers to larger and more affluent municipalities; and

Whereas, smaller municipalities are facing constant turnover and the resulting increased cost of recruiting and training those officers; and

Whereas, contracting with the state police would be more cost effective; and

Whereas, small municipalities would have access to trained police officers and up-to-date law enforcement equipment.

Now Therefore Be It Resolved that New Mexico Municipal League proposes legislation to establish a system for the state police to acquire the necessary resources to contract with municipalities to provide police services.

Passed, Approved and Adopted this 2nd day of September, 2004 at the City of Tucumcari, New Mexico.

2004 PS Committee Priority: **MEDIUM**
2004 Resolutions Committee: **HIGH**

RESOLUTION NO. 2004-52

**CONCERNING DEVELOPMENT OF A STATE PLAN TO
DESIGNATE HAZARDOUS CARGO ROUTES**

Whereas, hazardous cargo is frequently transported via motor vehicles; and

Whereas, many highways in New Mexico run directly through our municipalities and communities; and

Whereas, the presence of hazardous cargo on the streets of a community presents a danger to its inhabitants; and

Whereas, emergency responders are better able to assess risks to the community and respond to dangers if they have an idea that hazardous cargo may be involved in an accident; and

Whereas, the United States has developed regulations that allow the states to designate the routes upon which hazardous cargo may travel; and

Whereas, the municipalities and communities in New Mexico are vitally interested in obtaining protections afforded by hazardous cargo routes; and

Whereas, the establishment of hazardous cargo routes would also benefit those who transport hazardous cargo by directing them toward roads most suited for their loads.

Now, Therefore, Be It Resolved that the New Mexico Municipal League urges the State to enact legislation authorizing establishment of hazardous cargo routes according to Federal regulations to increase the safety of the State's communities; and

Be It Further Resolved that municipalities and the State work together in the State's development and implementation of a plan to designate hazardous cargo routes.

Passed, Approved and Adopted this 2nd day of September, 2004 at the City of Tucumcari, New Mexico.

2004 PS Committee Priority, as Amended: **MEDIUM**
2004 PIC Committee Priority: **HIGH**
2004 Resolutions Committee: **HIGH**

RESOLUTION NO. 2004-53

CONCERNING OPPOSITION TO PROPOSED FEDERAL LEGISLATION CALLING FOR STATE AND LOCAL POLICE TO ENFORCE FEDERAL CIVIL IMMIGRATION LAWS

Whereas, the New Mexico Municipal League (NMML) strongly denounces terrorism and acknowledges that federal, state and local governments should protect the public from terrorist attacks in a rational and deliberate manner to ensure that security measures enhance public safety without violating the constitutional rights and infringing upon the civil liberties of its residents; and

Whereas, the NMML considers police the real experts in ensuring public safety and recognizes that local and state police in New Mexico have diligently responded to new homeland security mandates; and

Whereas, on July 9, 2003, Representative Charles Norwood (R-GA) introduced the Clear Law Enforcement for Criminal Alien Removal Act of 2003 (CLEAR Act), H.R. 2671 and on November 20, 2003, Senator Jeff Sessions (R-AL) introduced a similar measure entitled the Homeland Security Enhancement Act of 2003 (HSEA); and

Whereas, the CLEAR Act and HSEA will require local and state police to add federal civil immigration law enforcement to their already long list of duties or risk the loss of federal funding; and

Whereas, the enforcement of federal civil immigration law will distract local and state law enforcement from their primary mission of ensuring public safety and preventing crime in our community by having them focus on the apprehension of illegal immigrants instead of criminals and by adding burdensome paperwork and reporting requirements; and

Whereas, local law enforcement already has the authority to arrest anyone, regardless of immigration status, who commits a crime and threatens the public safety of our community; and

Whereas, the enactment of the CLEAR Act and the HSEA would undermine community policing and create an atmosphere where immigrants begin to see local police as federal immigration enforcement agents with the power to deport them or their family members, making them less likely to approach local law enforcement with information on crimes or suspicious activity; and

Whereas, the CLEAR Act and HSEA will lead to the misapplication of complex and technical immigration laws because local police will not be guaranteed the seventeen weeks of immigration law training required of federal enforcement agents; and

Whereas, New Mexico has enacted legislation to increase public and road safety that allows qualified applicants, regardless of immigration status, to obtain a driver's license and the enactment of HSEA would penalize any state which issues such licenses by withholding federal highway safety funds; and

Whereas, the CLEAR ACT and HSEA will endanger the lives of immigrant victims of crime by undermining the Violence Against Women Act (VAWA) and the Victims of Trafficking and Violence Prevention Act, both enacted by the federal government to provide them with particular protections; and

Whereas, many immigrant victims of crime are unlikely to report the crime to law enforcement if they believe that seeking police protection will result in deportation and ultimately in losing custody of their children; and

Whereas, enforcement of the CLEAR Act and HSEA invites racial profiling and other infringements on civil rights and liberties guaranteed under the United States Constitution of those individuals who speak languages other than English, appear to be of certain ethnic background or speak English with an accent; and

Whereas, the CLEAR Act and HSEA set a dangerous precedent of enforcement of federal law by local and state law enforcement; and

Whereas, immigrant communities play a vital role in the economic and cultural landscape of New Mexico and precaution must be taken to ensure that our laws do not insinuate that all immigrants are suspected terrorists; and

Whereas, over 56 ordinances, police directives, resolutions, and policies nationwide protect immigrants' access to police protection; and

Whereas, locally and nationwide there is a broad spectrum in opposition to the CLEAR Act and HSEA including law enforcement, elected officials and government associations, domestic violence prevention advocates, service providers, conservative thinkers, faith-based groups, civil rights, civil liberties, and human rights organizations, immigrant/refugee rights groups, labor unions, businesses, and financial service providers in addition to community members; and

Whereas, while the NMML supports the fight against terrorism at home and abroad, this goal cannot be reached by placing the unmanageable burden of enforcing federal civil immigration law on local and state law enforcement.

Now, Therefore, Be It Resolved that the New Mexico Municipal League opposes the enactment of the CLEAR Act and HSEA and any other legislation encouraging or compelling local law enforcement to enforce federal civil immigration laws; and

Be It Further Resolved that the New Mexico Municipal League reaffirms its commitment to civil rights and equal access to all municipal services including police protection regardless of immigration status.

Passed, Approved and Adopted this 2nd day of September, 2004 at the City of Tucumcari, New Mexico.

2004 PS Committee Priority, as Amended: **LOW**
2004 GOHR Committee Priority: **HIGH**