

1 **CITY OF SANTA FE, NEW MEXICO**

2 **RESOLUTION NO. 2016-92**

3 **INTRODUCED BY:**

4  
5 Mayor Javier M. Gonzales

6 Councilor Signe I. Lindell

Councilor Renee D. Villarreal

7 Councilor Peter N. Ives

Councilor Joseph M. Maestas

8 Councilor Carmichael A. Dominguez

Councilor Christopher M. Rivera

9 Councilor Ronald S. Trujillo

Councilor Mike Harris

10 **A RESOLUTION**

11 **ESTABLISHING CITY OF SANTA FE LEGISLATIVE PRIORITIES FOR**  
12 **CONSIDERATION BY THE NEW MEXICO STATE LEGISLATURE DURING THE 53<sup>RD</sup>**  
13 **LEGISLATURE - STATE OF NEW MEXICO – FIRST SESSION, 2017.**

14  
15 **WHEREAS**, the 60-day session of the 2017 Legislative Session begins on January 17, 2017;

16 and

17 **WHEREAS**, the Governing Body approved the submission of an ICIP plan for 2018 through  
18 2022 to the state; and

19 **WHEREAS**, the Governing Body desires to establish City of Santa Fe legislative priorities to  
20 be considered by the State Legislature based on the 2016-2020 ICIP approved on August 13, 2014;

21 and

22 **WHEREAS**, the Governing Body has other legislative priorities to be considered by the  
23 State Legislature.

24 **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
25 **CITY OF SANTA FE** that the Governing Body hereby establishes the following legislative funding

1 priorities for consideration by the New Mexico Legislature, during the 2017 Legislative Session.

2 **Funding is requested, in the total amount of \$1,000,000 for the following citywide**  
3 **improvements, as identified in the City's 2016-2020 ICIP:**

4 1. **Project: Airport Expansion**

5 **Amount Requested: \$1,000,000**

6 **Project Description: To design and construct an expansion of the Santa Fe**  
7 **Municipal Airport Passenger Parking Facilities and Exterior Improvements**  
8 **within the City of Santa Fe, Santa Fe County.**

9 **BE IT FURTHER RESOLVED** that the Governing Body hereby establishes the following  
10 legislative funding priorities by district for consideration by the New Mexico Legislature, during the  
11 2017 Legislative Session.

12 **Section 1. Funding is requested, in the total amount of \$390,000, for the following**  
13 **City Council District 1 ICIP projects, as identified in the City's 2016-2020 ICIP list:**

14 A. **Project: Fort Marcy Complex**

15 **Amount Requested: \$390,000**

16 **Project Description: To plan, design, construct, furnish and equip the**  
17 **Fort Marcy Complex for the City of Santa Fe.**

18 **Section 2. Funding is requested, in the total amount of \$100,000, for the following**  
19 **City Council District 2, ICIP projects, as identified in the City's 2016-2020 ICIP list.**

20 A. **Project: Sandoval/Montezuma Intersection**

21 **Amount Requested: \$100,000**

22 **Project Description: To plan, design and construct intersection**  
23 **improvements with in the City of Santa Fe, serving the judicial complex**  
24 **for Santa Fe, Los Alamos and Rio Arriba Counties.**

25 **Section 3. Funding is requested, in the total amount of \$625,000, for the following**

1 City Council District 3, ICIP projects, as identified in the City's 2016-2020 ICIP list.

2 A. Project: SWAN Park Cameras

3 Amount Requested: \$250,000

4 Project Description: To continue to plan, design and construct the  
5 Southwest Activity Node park for the City of Santa Fe.

6 B. Project: Agua Fria/South Meadows Intersection Improvements

7 Amount Requested: \$375,000

8 Project Description: To plan, design, and construct right-of-way  
9 improvements to Agua Fria and South Meadows within the City of  
10 Santa Fe.

11 Section 4. Funding is requested, in the total amount of \$170,000, for the following  
12 City Council District 4, ICIP projects, as identified in the City's 2016-  
13 2020 ICIP list.

14 A. Project: Southwest Booster Station

15 Amount Requested: \$170,000

16 Project Description: To design and construct a new 2500 square foot  
17 open booster pump station and 4000 linear feet of 16" diameter water  
18 transmission pipeline within the City of Santa Fe.

19 **BE IT FURTHER RESOLVED** that the Governing Body hereby establishes the following  
20 priority water projects for consideration by the New Mexico Legislature, during the 2016 Legislative  
21 Session and subsequently by the New Mexico Water Trust Board:

22 1. Project: FY 2017 Water Trust Board Application

23 Amount Requested: \$895,843

24 Project Description: To design and construct a 4 million gallon finished water  
25 storage tank for the purpose of storing treated water diverted from the Rio

1 Grande and intended for municipal use within the service area of the City of  
2 Santa Fe and Santa Fe County.

3 **BE IT FURTHER RESOLVED** that the Governing Body requests that the Legislature,  
4 during the 2017 Legislative Session, enact legislation pursuant to the following City of Santa Fe  
5 resolutions of the Governing Body:

6 **Section 1. City of Santa Fe Resolution No. 2016-70, attached hereto as Exhibit A:**

7 Calling on the New Mexico legislature to reduce gun violence by enacting  
8 legislation requiring comprehensive background checks for firearm sales, and  
9 strengthening the criminal background check system.

10 **Section 2. City of Santa Fe Resolution No. 2015-75, attached hereto as Exhibit B:**

11 Supporting legislation amending NMSA 1978, § 72-1-9 preservation of  
12 municipal, county, and state university water supplies.

13 **Section 3. City of Santa Fe Resolution No. 2015-76, attached hereto as Exhibit C:**

14 Supporting legislation amending NMSA 1978, § 72-6-4 Lessee's application,  
15 use before approval.

16 **Section 4. City of Santa Fe Resolution No. 2015-77, attached hereto as Exhibit D:**

17 Supporting legislation amending the OSE's hearing procedures, NMSA  
18 1978, § 72-7-1 and NMSA 1978, § 72-2-16.

19 **Section 5. City of Santa Fe Resolution No. 2015-78, attached hereto as Exhibit E:**

20 Supporting legislation amending NMSA 1978, § 72-12-3(D) and 72-5-5(B),  
21 to define the standing of protestants.

22 **Section 6. City of Santa Fe Resolution No. 2015-79, attached hereto as Exhibit F:**

23 Supporting legislation amending NMSA 1978, § 72-12-24 supplemental  
24 well, and § 72-12-22, replacement wells.

25 **Section 7. City of Santa Fe Resolution No. 2015-109, attached hereto as Exhibit G:**

1 For action beyond prayers, a call for gun purchase reform and support for  
2 gun purchase reform from the state legislature during the 2016 legislative  
3 session; and in support of Santa Fe public school's resolution 2015/16-11.

4 **Section 8. City of Santa Fe Resolution No. 2016-89, attached hereto as Exhibit H:**

5 Calling on the legislature to take immediate action to enact a municipal  
6 telecommunications tax act that would authorize municipalities to collect  
7 from telecommunications providers a municipal telecommunications tax on  
8 the telecommunications provider's gross receipts from the  
9 telecommunications service.

10 **BE IT FURTHER RESOLVED** that the Governing Body requests that the Legislature,  
11 during the 2016 Legislative Session, enact legislation in accordance with the following resolutions of  
12 the New Mexico Municipal League:

13 **Section 1. New Mexico Municipal League Resolution No. 2016-18** – Concerning  
14 State and Local Tax Reform and the formation of a working group to study  
15 tax reform.

16 **Section 2. New Mexico Municipal League Resolution No. 2016-32** – Concerning an  
17 Offender's Possession of Firearms while Subject to an order of Protection or  
18 Following Conviction for a Domestic Violence Offense

19 **Section 3. New Mexico Municipal League Resolution No. 2016-34** – Concerning  
20 State Grants for Libraries

21 **BE IT FURTHER RESOLVED** that the Governing Body requests that the following items  
22 be monitored by the City's lobbyist during the 2017 Legislative Session:

23 **Section 1.**

24 **Measures that pertain to alcohol tax that increase revenue for prevention and**  
25 **treatment, such as:**

1 A. Creating an alcohol excise tax that will fund the prevention of and the  
2 treatment for alcohol abuse and addiction.

3 B. Changing the percent of the liquor tax dedicated to the L-DWI fund.

4 **Section 2.**

5 **Measures comprising women’s reproductive rights.** Rights such as late term  
6 abortion bans, and requirements for parental notifications of minors.

7 **Section 3.**

8 **Matters concerning immigrant rights such as sanctuary status efforts.** To  
9 regulate smaller cities and counties and require them to collaborate with Immigration  
10 and Customs Enforcement (ICE); and the Real ID and immigration driver’s license  
11 implementation changes with the New Mexico Motor Vehicle Division.

12 **Section 4.**

13 **Matters concerning the lesbian, gay, bisexual, transgender, and queer (LGBTQ)**  
14 **community.** Issues such as “religious freedom” legislation that affords protection to  
15 business owners who refuse business services to the LGBTQ community; and  
16 legislation that relates to “conversion therapy” directed at the LGBTQ community.

17 **Section 5.**

18 **Matters pertaining to enhanced funding and program development for early**  
19 **childhood learning.**

20 **BE IT FURTHER RESOLVED** that the Governing Body requests that the Legislature,  
21 during the 2017 Legislative Session, enact an Amendment to HB 641 that would:

- 22 1. Prohibit the acceleration of declining hold harmless payments to any  
23 Municipality that has not enacted an increment of the Hold Harmless Gross  
24 receipts tax; and
- 25 2. In order to keep tax rates competitive and local government revenues

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equitable, reduce the amount a County can collect to the  
unincorporated areas of the County in the event a municipality enacts an  
increment of the Hold Harmless GRT, to the extent that revenue bonds are  
not impacted

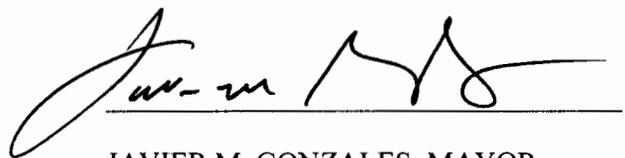
**BE IT FURTHER RESOLVED** that through the Santa Fe City Council Committee and City  
Council process, general operating fund and other statutory changes may be established for  
consideration by the State Legislature.

**BE IT FURTHER RESOLVED** that the City of Santa Fe lobbying team is directed to work  
with the Santa Fe Legislative Delegation on any unencumbered capital outlay funds to be used  
towards identified City of Santa Fe projects.

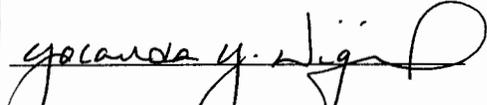
**BE IT FURTHER RESOLVED** that while this resolution represents a majority of the intent  
of the Governing Body as to 2017 New Mexico legislative priorities, other timely priorities that that  
may be approved by the Governing Body, incorporated into the City's 2017 state legislative agenda,  
and forwarded to the City's lobbying team for action.

**BE IT FURTHER RESOLVED** that the City Clerk is directed to forward a copy of this  
resolution to the City of Santa Fe lobbyist and the City of Santa Fe State Legislative Delegation.

PASSED, APPROVED, and ADOPTED this 14<sup>th</sup> day of December, 2016.

  
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JAVIER M. GONZALES, MAYOR

ATTEST:

  
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YOLANDA Y. VIGIL, CITY CLERK

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APPROVED AS TO FORM:



KELLEY A. BRENNAN, CITY ATTORNEY



**CITY OF SANTA FE, NEW MEXICO**

**RESOLUTION NO. 2016-70**

**INTRODUCED BY:**

Councilor Mike Harris

Mayor Javier M. Gonzales	Councilor Signe I. Lindell
Councilor Renee D. Villarreal	Councilor Christopher M. Rivera
Councilor Peter N. Ives	Councilor Carmichael A. Dominguez
Councilor Ronald S. Trujillo	Councilor Joseph M. Maestas

**A RESOLUTION**

**CALLING ON THE NEW MEXICO LEGISLATURE TO REDUCE GUN VIOLENCE BY ENACTING LEGISLATION REQUIRING COMPREHENSIVE BACKGROUND CHECKS FOR FIREARM SALES AND STRENGTHENING THE CRIMINAL BACKGROUND CHECK SYSTEM.**

**WHEREAS**, an average of 91 Americans are killed with guns every day. Our community and nation have been repeatedly devastated by mass shootings and the daily toll of gun violence that claims more than 30,000 lives each year; and

**WHEREAS**, in the last decade, 798 New Mexico residents were murdered with guns, a rate more than 50% higher than the national average; and

**WHEREAS**, in the last decade, 2,020 New Mexico residents committed suicide with a firearm, a rate almost double the national average; and

**WHEREAS**, the City Council supports common-sense policies that promote public safety in Santa Fe and keep guns out of dangerous hands while respecting the Second Amendment rights of law-abiding gun owners; and

1           **WHEREAS**, under federal law convicted felons, the seriously mentally ill, domestic  
2 violence abusers, and other dangerous people are prohibited from possessing guns, and  
3 licensed gun dealers are required to conduct background checks on would-be buyers to  
4 enforce these prohibitions; and

5           **WHEREAS**, background checks have blocked more than 2.4 million gun sales to  
6 criminals and other prohibited purchasers since the federal criminal background check system  
7 took effect in 1998; and

8           **WHEREAS**, in New Mexico alone in the last three years for which data is available, the  
9 background check system has blocked 5,739 gun sales to prohibited people, including 2,360  
10 felons, 1,661 fugitives, and 962 to people convicted of domestic violence misdemeanors or  
11 subject to domestic violence protection orders; and

12           **WHEREAS**, a dangerous loophole in the federal background check law undermines  
13 public safety by allowing unlicensed, private sellers to sell guns to strangers without  
14 background checks and with no questions asked; and

15           **WHEREAS**, unlicensed sellers sell millions of guns without background checks every  
16 year in the United States at gun shows, online, through classified advertisements or by other  
17 means; and

18           **WHEREAS**, too many of the 30,000 lives lost each year to gun deaths are caused by  
19 individuals who are barred from purchasing or possessing guns under federal law but who  
20 manage to obtain guns without passing background checks; and

21           **WHEREAS**, over the last decade, New Mexico had the highest national statewide  
22 rate of law enforcement officers killed with a handgun that was not their own – a rate over  
23 300% higher than the national average; and

24           **WHEREAS**, in states that require background checks for all handgun sales, 46%  
25 fewer women are shot to death by intimate partners, 48% fewer law enforcement are shot to

1 death with handguns, and there is 48% less gun trafficking; and

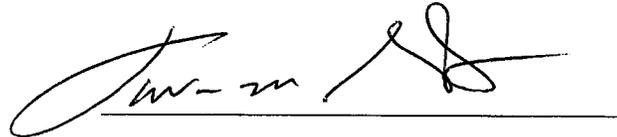
2       **WHEREAS**, 92% of Americans and 82% of gun owners support background checks  
3 for all gun sales; and

4       **WHEREAS**, countless law enforcement, gun violence prevention, civil rights, and  
5 domestic violence organizations, as well as faith communities, support background checks for all  
6 gun sales.

7       **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF**  
8 **THE CITY OF SANTA FE** that the Governing Body hereby supports the New Mexico State  
9 Legislature enacting legislation which requires comprehensive background checks for firearm  
10 sales and which strengthens the criminal background check system.

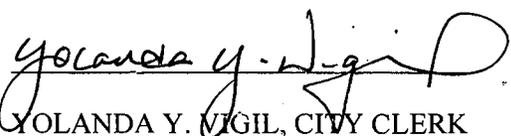
11       **BE IT FURTHER RESOLVED** that the City Clerk is directed to forward a copy of  
12 this resolution to the Governor of New Mexico, the President Pro Tempore of the New  
13 Mexico Senate, the Speaker of the House of the New Mexico House of Representatives, and  
14 the City of Santa Fe State Legislative Delegation.

15       PASSED, APPROVED, and ADOPTED this 14<sup>th</sup> day of September, 2016.

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18 ATTEST:

JAVIER M. GONZALES, MAYOR

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21 YOLANDA Y. VIGIL, CITY CLERK

22 APPROVED AS TO FORM:

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25 KELLEY BRENNAN, CITY ATTORNEY

*M/Legislation/Resolutions 2016/2016-70 Gun Legislation Support*



1 after forty years, except by statutory forfeiture or judicial proceedings to prove abandonment.

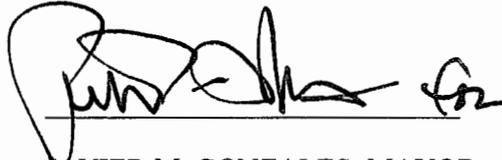
2 **WHEREAS**, in Resolution 2015-26, the City of Santa Fe supported the legislature's  
3 effort to protect municipalities' investment in water rights acquired for future growth; and

4 **WHEREAS**, the City continues to support legislation, which will protect a  
5 municipality's ability to perfect its unused water rights.

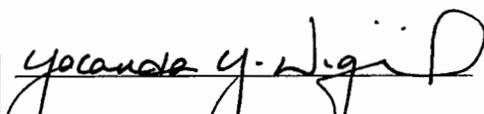
6 **NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
7 **CITY OF SANTA FE** that the Governing Body supports legislation relating to amending NMSA  
8 1978, § 72-1-9 regarding the preservation of municipal, county and state university water  
9 supplies.

10 **BE IT FURTHER RESOLVED** that a copy of this resolution be transmitted to the State  
11 legislative delegation serving the City of Santa Fe.

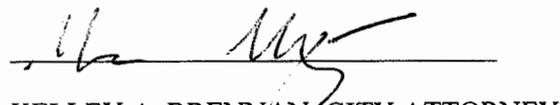
12 PASSED, APPROVED AND ADOPTED this 9<sup>th</sup> day of September, 2015.

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14 \_\_\_\_\_  
15 JAVIER M. GONZALES, MAYOR

16 ATTEST:

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19 YOLANDA Y. VIGIL, CITY CLERK

20 APPROVED AS TO FORM:

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23 KELLEY A. BRENNAN, CITY ATTORNEY

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25 *Legislation/Resolutions 2015/2015-75 40-Year Water Plans*

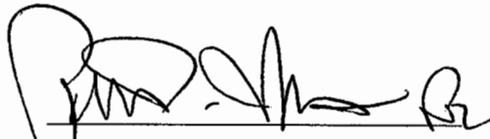


1           **WHEREAS**, in Resolution 2015-26, the City of Santa Fe supported the legislature's  
2 effort to revise the water right leasing statute; and

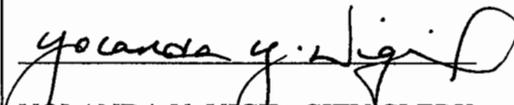
3           **NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
4 **CITY OF SANTA FE** that the Governing Body supports legislation relating to amending NMSA  
5 1978, § 72-6-4 regarding a lessee's use of water rights prior to approval.

6           **BE IT FURTHER RESOLVED** that a copy of this resolution be transmitted to the State  
7 legislative delegation serving the City of Santa Fe.

8           PASSED, APPROVED AND ADOPTED this 9<sup>th</sup> day of September, 2015.

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11 JAVIER M. GONZALES, MAYOR

12 ATTEST:

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15 YOLANDA Y. VIGIL, CITY CLERK

16 APPROVED AS TO FORM:

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19 KELLEY A. BRENNAN, CITY ATTORNEY



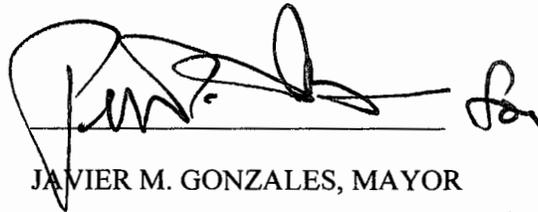
1           **WHEREAS**, previously proposed legislation gave an applicant a choice of pursuing  
2 contested applications either in the state administrative hearing process or in the district court  
3 amending NMSA 1978, § 72-2-16;and

4           **WHEREAS**, the City of Santa Fe supports both prompt decision making by the OSE as  
5 well as the ability to choose the forum in which the City's contested applications for water rights  
6 will be heard.

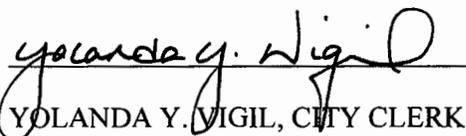
7           **NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
8 **CITY OF SANTA FE** that the Governing Body supports legislation to amend NMSA 1978,  
9 § 72-7-1 and § 72-2-16, regarding appeals to the district court and initial review of contested  
10 applications before the district court.

11           **BE IT FURTHER RESOLVED** that a copy of this resolution be transmitted to the State  
12 legislative delegation serving the City of Santa Fe.

13           PASSED, APPROVED AND ADOPTED this 9<sup>th</sup> day of September, 2015.

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15  
16 JAVIER M. GONZALES, MAYOR

17 ATTEST:

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20 YOLANDA Y. VIGIL, CITY CLERK

21 APPROVED AS TO FORM:

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24 KELLEY A. BRENNAN, CITY ATTORNEY

25 *M/Legislation/Resolutions 2015/2015-77 OSE Hearing Procedures*



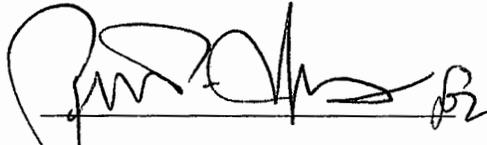
1 issues in Resolution 2015-26; and

2 **WHEREAS**, the City continues to support legislation, which reduces the administrative  
3 burden on water right applicants and imposes clearer standards on protestants objecting to water-  
4 right applications.

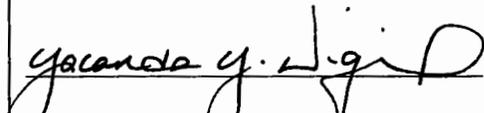
5 **NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
6 **CITY OF SANTA FE** that the Governing Body supports legislation relating to amending NMSA  
7 1978, § 72-12-3(D) and NMSA 1978, § 72-5-5(B) to reduce the administrative burdens on water  
8 right applicants who face persons who protest while suffering no harm.

9 **BE IT FURTHER RESOLVED** that a copy of this resolution be transmitted to the State  
10 legislative delegation serving the City of Santa Fe.

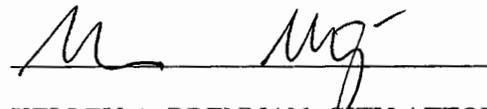
11 PASSED, APPROVED AND ADOPTED this 9<sup>th</sup> day of September, 2015.

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14 JAVIER M. GONZALES, MAYOR

15 ATTEST:

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18 YOLANDA Y. VIGIL, CITY CLERK

19 APPROVED AS TO FORM:

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22 KELLEY A. BRENNAN, CITY ATTORNEY

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25 *M/Legislation/Resolutions 2015/2015-78 Standing of Protestants*



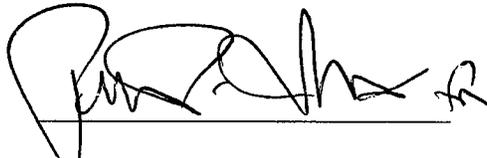
1           **WHEREAS**, in Resolution 2015-26, the City of Santa Fe supported the legislature's  
2 effort to protect municipalities' investment in and reliance upon the long-established policy of the  
3 OSE, which allowed a municipality to grow into a declared or permitted water right; and

4           **WHEREAS**, the City continues to support legislation, which will protect a  
5 municipality's ability to perfect its unused water rights.

6           **NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
7 **CITY OF SANTA FE** that the Governing Body supports legislation relating to amending NMSA  
8 1978, § 72-12-24 and § 72-12-22 to ensure that local governments that have invested in  
9 groundwater as part of a conjunctive use strategy with surface water, will continue to be able to  
10 develop their ground water rights as these municipalities grow.

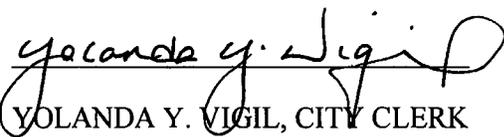
11           **BE IT FURTHER RESOLVED** that a copy of this resolution be transmitted to the State  
12 legislative delegation serving the City of Santa Fe.

13           PASSED, APPROVED AND ADOPTED this 9<sup>th</sup> day of September, 2015.

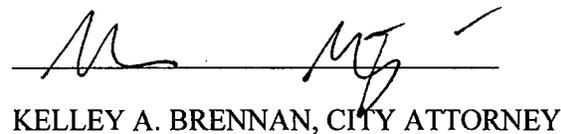
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16 JAVIER M. GONZALES, MAYOR

17 ATTEST:

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20 YOLANDA Y. VIGIL, CITY CLERK

21 APPROVED AS TO FORM:

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24 KELLEY A. BRENNAN, CITY ATTORNEY



1 CITY OF SANTA FE, NEW MEXICO

2 RESOLUTION NO. 2015-109

3 INTRODUCED BY:

4 Councilor Peter Ives

5 Councilor Carmichael A. Dominguez

6 Councilor Patti J. Bushee

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10 A RESOLUTION

11 FOR ACTION BEYOND PRAYERS, A CALL FOR GUN PURCHASE REFORM AND  
12 SUPPORT FOR GUN PURCHASE REFORM FROM THE STATE LEGISLATURE  
13 DURING THE 2016 LEGISLATIVE SESSION; AND IN SUPPORT OF SANTA FE  
14 PUBLIC SCHOOLS RESOLUTION 2015/16-11.

15  
16 WHEREAS, the attitude of “cash and carry” for purchase of guns, which is widespread  
17 in our country has potential for imminent bodily harm and death; and

18 WHEREAS, as a result of numerous recent gun related incidents, where individuals were  
19 killed or seriously injured, the time has come to advocate for better gun purchase control; and

20 WHEREAS, such reforms for purchase of guns from licensed gun retailers, gun shows,  
21 and internet sales should include criminal background checks that include incidents of domestic  
22 violence and abuse; and

23 WHEREAS, background checks should include, where legally permissible or publicly  
24 available, a history of mental illness or disease; and

25 WHEREAS, on October 6, 2015, the Santa Fe Public Schools passed Resolution

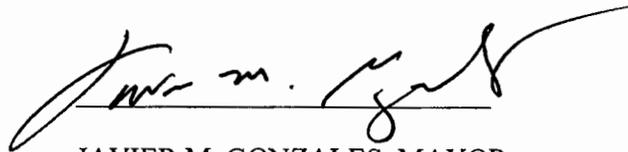
1 2015/16 calling for action beyond prayers, a call for gun purchase reform.

2 **NOW THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
3 **CITY OF SANTA FE** that the Governing Body hereby supports legislation relating to gun  
4 purchase reform.

5 **BE IT FURTHER RESOLVED** that the Governing Body hereby supports Santa Fe  
6 Public Schools Resolution 2015/16-11 calling on the Santa Fe legislative delegation to sponsor  
7 and support legislation relating to gun purchase reform.

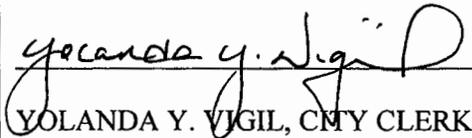
8 **BE IT FURTHER RESOLVED** that a copy of this resolution be transmitted to the State  
9 legislative delegation serving the City of Santa Fe.

10 PASSED, APPROVED AND ADOPTED this 9<sup>th</sup> day of December, 2015.

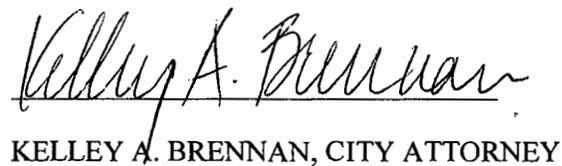
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JAVIER M. GONZALES, MAYOR

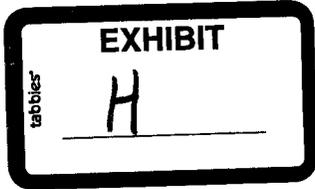
14 ATTEST:

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17 YOLANDA Y. VIGIL, CITY CLERK

18 APPROVED AS TO FORM:

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21 KELLEY A. BRENNAN, CITY ATTORNEY

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25 *M/Legislation/Resolutions 2015/2015-109 Gun Purchase Reform*



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**CITY OF SANTA FE, NEW MEXICO**

**RESOLUTION NO. 2016-89**

**INTRODUCED BY:**

Councilor Joseph M. Maestas

**A RESOLUTION**

**CALLING ON THE NEW MEXICO STATE LEGISLATURE TO TAKE IMMEDIATE ACTION DURING THE 2017 LEGISLATIVE SESSION TO ENACT A MUNICIPAL TELECOMMUNICATIONS TAX ACT THAT WOULD AUTHORIZE MUNICIPALITIES TO COLLECT FROM TELECOMMUNICATIONS PROVIDERS A MUNICIPAL TELECOMMUNICATIONS TAX ON THE TELECOMMUNICATIONS PROVIDER'S GROSS RECEIPTS FROM TELECOMMUNICATIONS SERVICE.**

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

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

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

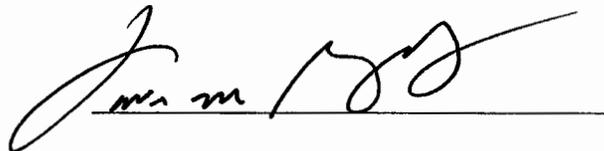
1           **WHEREAS**, NMSA 1978, §3-18-2 prohibits any municipality from imposing any excise  
2 tax, including but not limited to sales taxes, gross receipts and excise taxes on any incident  
3 relating to tobacco, liquor, motor fuels and motor vehicles; and

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

8           **NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE**  
9 **CITY OF SANTA FE** that the Governing Body hereby calls on the New Mexico State  
10 Legislature to take immediate action during the 2017 legislative session to enact a Municipal  
11 Telecommunications Tax Act that would authorize municipalities to collect from  
12 telecommunications providers a municipal telecommunications tax on the telecommunications  
13 provider's gross receipts from telecommunications service. The Municipal Telecommunications  
14 Tax Act is attached hereto as Exhibit "A".

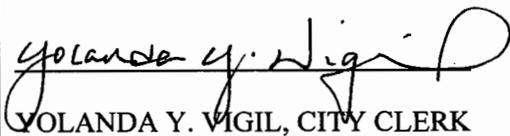
15           **BE IT FURTHER RESOLVED** that the City Clerk is directed to forward a copy of this  
16 resolution to the City's State legislative delegation, the New Mexico Municipal League and the  
17 City's lobbyist.

18           PASSED, APPROVED, and ADOPTED this 14<sup>th</sup> day of December, 2016.

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21 JAVIER M. GONZALES, MAYOR

22 ATTEST:

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25 YOLANDA Y. VIGIL, CITY CLERK

1 APPROVED AS TO FORM:

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4 KELLEY A. BRENNAN, CITY ATTORNEY

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25 *M/Legislation/Resolutions 2016/2016-89 State Telecommunications Tax Act*

**BILL**

**53ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

**INTRODUCED BY**

**AN ACT**

**RELATING TO TELECOMMUNICATIONS SERVICES; ENACTING A MUNICIPAL TELECOMMUNICATIONS TAX ACT.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

Section 1. SHORT TITLE. -- Sections \_\_\_\_\_ through \_\_\_\_\_ NMSA 1978 may be cited as the "Municipal Telecommunications Tax Act".

Section 2. DEFINITIONS. -- As used in the Municipal Telecommunications Tax Act, Sections \_\_\_\_\_ through \_\_\_\_\_ NMSA 1978:

A. "department" means the department of taxation and revenue.

B. "customer":

(1) Subject to Subsections (B)(2) and (3), "customer" means the person who is obligated under a contract with a telecommunications provider to pay for telecommunications service received under the contract.

(2) For purposes of this section and the following sections, "customer" means:

1 (a) the person who is obligated under a contract with a  
2 telecommunications provider to pay for telecommunications service received under the contract;

3 or

4 (b) if the end user is not the person described in Subsection (2)(b)(i),  
5 the end user of telecommunications service.

6 (3) "customer" does not include a reseller:

7 (a) of telecommunications service; or

8 (b) for mobile telecommunications service, of a serving carrier  
9 under an agreement to serve the customer outside the telecommunications provider's licensed  
10 service area.

11 C. "end user" means the person who uses a telecommunications service. For  
12 purposes of telecommunications service provided to a person who is not an individual, "end user"  
13 means the individual who uses the telecommunications service on behalf of the person who is  
14 provided the telecommunications service.

15 D. "gross receipts from telecommunications service" means the revenue that a  
16 telecommunications provider receives for telecommunications service rendered except for  
17 amounts collected or paid as:

18 (1) a tax, fee, or charge:

19 (a) imposed by a governmental entity;

20 (b) separately identified as a tax, fee, or charge in the transaction  
21 with the customer for the telecommunications service; and

22 (c) imposed only on a telecommunications provider;

23 (2) gross receipts taxes collected by the telecommunications provider from a  
24 customer under NMSA 7-9-1 et seq.; or

25 (3) interest, a fee, or a charge that is charged by a telecommunications

1 provider on a customer for failure to pay for telecommunications service when payment is due.

2 “gross receipts from telecommunications service” includes a charge necessary to  
3 complete a sale of a telecommunications service.

4 E. “mobile telecommunications service” is as defined in the Mobile  
5 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

6 F. “municipality” means a city or town.

7 G. “place of primary use”:

8 (1) For telecommunications service other than mobile telecommunications  
9 service, means the street address representative of where the customer's use of the  
10 telecommunications service primarily occurs, which shall be:

11 (a) the residential street address of the customer; or

12 (b) the primary business street address of the customer; or

13 (2) For mobile telecommunications service, is as defined in the Mobile  
14 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

15 H. Notwithstanding where a call is billed or paid, “service address” means:

16 (1) If the location described in this Subsection (H) (1) is known, the location  
17 of the telecommunications equipment:

18 (a) to which a call is charged; and

19 (b) from which the call originates or terminates;

20 (2) If the location described in Subsection (H)(1) is not known but the  
21 location described in this Subsection (H)(2) is known, the location of the origination point of the  
22 signal of the telecommunications service first identified by:

23 (a) the telecommunications system of the telecommunications  
24 provider; or

25 (b) if the system used to transport the signal is not a system of the

1 telecommunications provider, information received by the telecommunications provider from its  
2 service provider; or

3 (3) if the locations described in Subsection (H)(1) or (2) are not known, the  
4 location of a customer's place of primary use.

5 I. "telecommunications provider" means:

6 (1) Subject to Subsections (I)(2) and (I)(3), a person that:

7 (a) owns, controls, operates, or manages a telecommunications  
8 service; or

9 (b) engages in an activity described in Subsection (I)(1)(a) for the  
10 shared use with or resale to any person of the telecommunications service.

11 (2) A person described in Subsection (I)(1) is a telecommunications provider  
12 whether or not the public regulation commission of New Mexico regulates:

13 (a) that person; or

14 (b) the telecommunications service that the person owns, controls,  
15 operates, or manages.

16 J. "telecommunications service" means the electronic conveyance, routing, or  
17 transmission of audio, data, video, voice, or any other information or signal to a point, or among  
18 or between points, other than mobile telecommunications service, that originates and terminates  
19 within the boundaries of this state.

20 (1) "telecommunications service" includes:

21 (a) an electronic conveyance, routing, or transmission with respect  
22 to which a computer processing application is used to act:

23 (i) on the code, form, or protocol of the content;

24 (ii) for the purpose of electronic conveyance, routing, or  
25 transmission; and

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- (iii) regardless of whether the service:
  - (A) is referred to as voice over Internet protocol service; or
  - (B) is classified by the Federal Communications Commission as enhanced or value added;
    - (b) an 800 service;
    - (c) a 900 service;
    - (d) a fixed wireless service;
    - (e) a mobile wireless service;
    - (f) a postpaid calling service;
    - (g) a prepaid calling service;
    - (h) a prepaid wireless calling service; or
    - (i) a private communications service.
- (2) "telecommunications service" does not include:
  - (a) advertising, including directory advertising;
  - (b) an ancillary service;
  - (c) a billing and collection service provided to a third party;
  - (d) a data processing and information service if:
    - (i) the data processing and information service allows data to be:
      - (A) acquired;
      - (B) generated;
      - (C) processed;
      - (D) retrieved; or
      - (E) stored; and

1 (ii) delivered by an electronic transmission to a purchaser;

2 and

3 (iii) the purchaser's primary purpose for the underlying  
4 transaction is the processed data or information;

5 (e) installation or maintenance of the following on a customer's  
6 premises:

7 (i) equipment; or

8 (ii) wiring;

9 (f) Internet access service;

10 (g) a paging service;

11 (h) a product transferred electronically, including:

12 (i) music;

13 (ii) reading material;

14 (iii) a ring tone;

15 (iv) software; or

16 (v) video;

17 (i) a radio and television audio and video programming service:

18 (i) regardless of the medium; and

19 (ii) including:

20 (A) furnishing conveyance, routing, or transmission  
21 of a television audio and video programming service by a programming service provider;

22 (B) cable service as defined in 47 U.S.C. Sec.  
23 522(6); or

24 (C) audio and video programming services delivered  
25 by a commercial mobile radio service provider as defined in 47 C.F.R. Sec. 20.3;

1 (j) a value-added nonvoice data service; or

2 (k) tangible personal property.

3 (3) Mobile “telecommunications service” is as defined in the Mobile  
4 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

5 (a) that originates and terminates within the boundaries of one state;  
6 and

7 (b) only to the extent permitted by the Mobile Telecommunications  
8 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

9 (4) an ancillary service, “ancillary service” means a service associated with,  
10 or incidental to, the provision of telecommunications service. “Ancillary service” includes:

11 (a) a conference bridging service;

12 (b) a detailed communications billing service;

13 (c) directory assistance;

14 (d) a vertical service; or

15 (e) a voice mail service.

16 (K) “telecommunications tax or fee”

17 (1) Except as provided in Subsection (K)(2), “telecommunications tax or  
18 fee” means any of the following imposed by a municipality on a telecommunications provider:

19 (a) a tax;

20 (b) a license;

21 (c) a fee;

22 (d) a license fee;

23 (e) a license tax;

24 (f) a franchise fee; or

25 (g) a charge similar to a tax, license, or fee described in Subsections

1 (K)(1)(a) through (g).

2 (2) "telecommunications tax or fee" does not include:

3 (a) the municipal telecommunications license tax authorized by this  
4 part; or

5 (b) a tax, fee, or charge that is imposed:

6 (i) on telecommunications providers; and

7 (ii) on persons who are not telecommunications providers.

8 Section 3. AUTHORITY OF MUNICIPALITY TO LEVY A  
9 TELECOMMUNICATI-ONS TAX. -- A municipality may levy on and provide that there is  
10 collected from a telecommunications provider a municipal telecommunications tax on the  
11 telecommunications provider's gross receipts from telecommunications service that are attributed  
12 to the municipality if the gross receipts are from a transaction for telecommunications service that  
13 is located within the municipality.

14 A. To levy and provide for the collection of a municipal telecommunications license  
15 tax under this part, the municipality shall adopt an ordinance that complies with the requirements  
16 of NMSA 1978, § 3-17-5.

17 B. A municipal telecommunications license tax imposed under this part shall be at a  
18 rate of up to 3.5% of the telecommunications provider's gross receipts from telecommunications  
19 service that are attributed to the municipality.

20 C. A telecommunications provider may recover the amounts paid in municipal  
21 telecommunications license taxes from the customers of the telecommunications provider within  
22 the municipality imposing the municipal telecommunications license tax through a charge that is  
23 separately identified in the statement of the transaction with the customer as the recovery of a tax.

24 C. A telecommunications tax or fee imposed under Subsection (3)(B) shall be  
25 imposed:

- 1 (a) by ordinance; and
- 2 (b) on a competitively neutral basis.

3 Section 4. ATTRIBUTING THE GROSS RECEIPTS FROM  
4 TELECOMMUNICATIONS SERVICE TO A MUNICIPALITY. --

5 A. The gross receipts from a telecommunications service are attributed to a  
6 municipality if the gross receipts are from a transaction for telecommunications service that is  
7 located within the municipality:

- 8 (1) for purposes of gross receipts under section 7-9-1 et seq.; and
- 9 (2) determined in accordance with Section 2.

10 B. The rate imposed on the gross receipts for telecommunications service shall be  
11 determined in accordance with Subsection (2)(b) if the location of a transaction for  
12 telecommunications service is determined under Subsection (1) to be a municipality other than  
13 the municipality in which is located:

14 (1) for telecommunications service other than mobile telecommunications  
15 service, the customer's service address; or

16 (2) for mobile telecommunications service, the customer's primary place of  
17 use.

18 C. The rate imposed on the gross receipts for telecommunications service described  
19 in Subsection (2)(a) shall be the lower of:

20 (1) the rate imposed by the taxing jurisdiction in which the transaction is  
21 located under Subsection (1); or

22 (2) the rate imposed by the municipality in which it is located:

23 (a) for telecommunications service other than mobile  
24 telecommunications service, the customer's service address; or

25 (b) for mobile telecommunications service, the customer's primary  
place of use.

1           Section 5.       PROHIBITED ACTIONS BY A MUNICIPALITY. --

2           A.       Subject to the other provisions of this section, a municipality may not levy or  
3 collect a telecommunications tax or fee on a person except for a telecommunications tax or fee  
4 imposed by the municipality:

5                   (1)       on a telecommunications provider to recover the management costs of  
6 the municipality caused by the activities of the telecommunications provider in the right-of-way  
7 of a municipality if the telecommunications tax or fee:

8                           (a)       is imposed in accordance with Section 3; and

9                           (b)       is not related to:

10                                   (i)       a municipality's loss of use of a highway as a result of  
11 the activities of the telecommunications provider in a right-of-way; or

12                                   (ii)       increased deterioration of a highway as a result of the  
13 activities of the telecommunications provider in a right-of-way; or

14                   (2)       on a person that:

15                           (a)       is not subject to a municipal telecommunications license tax  
16 under this part; and

17                           (b)       locates telecommunications facilities in the municipality.

18           B.       Subsection (A)(1), above, may not be interpreted as exempting a  
19 telecommunications provider from complying with any ordinance:

20                   (1)       related to excavation, construction, or installation of a  
21 telecommunications facility; and

22                   (2)       that addresses the safety and quality standards of the municipality for  
23 excavation, construction, or installation.

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