

2018 Greater Albuquerque Chamber Legislative Agenda: Boosting the Economy, Strengthening Education and Busting Crime

Preface

It Starts with Money

As the 2nd session of the 53rd Legislature convened, the State's fiscal position has significantly improved over last year. The rebound in oil and gas prices and production, as well as continued economic growth in other sectors, led budget forecasters in December to estimate the State will have roughly \$200 million in "new money" to spend (or save). New money is defined as expected revenue above and beyond the current expenditures needed to fund the ongoing operations of state government. According to Governor Susana Martinez in her "State of the State" address, the Consensus Revenue Estimating Group (CREG), comprised of economists from executive agencies and the Legislative Finance Committee, is expected to announce that this projected state budget surplus has risen even further - to approximately \$330 million. The CREG will formally provide its updated revenue forecast to lawmakers later this month.

The Cold Hard Fact...

A community with a bad reputation for public safety is a community that businesses looking to expand or relocate will avoid. Albuquerque and other areas in New Mexico get exactly this kind of bad rap and, unfortunately, we've earned it. Citizens don't want to live and work in areas that cause them concern about their own personal safety and that of their families. It's high time that busting crime receives broad bipartisan support. More funding is needed for the judiciary, district attorneys and law enforcement agencies in order to achieve proper levels of staffing and professional resources needed to successfully defeat criminals.

Creating a Crime Strategies Unit (CSU) in the Second Judicial District Attorney's office is a cutting edge plan of action with proven success in other communities. A CSU coordinates effort among law enforcement officials utilizing the latest technology to track, apprehend and prosecute the worst criminals. Lesser offenses can then be channeled into programs that will help people get back on the right track.

Got to have the ABC's

We all know the problems associated with public education. Way too many of our children fail later in life because they didn't learn the basic "ABC's", especially reading. Recent educational reforms are pointing in the right direction but, sadly, the educational establishment itself often opposes them. Rewarding outstanding teachers, focusing on reading to learn, reducing school district administrative overhead and fighting truancy are among the key steps deserving support. A well-educated workforce is a key building block in economic development and the path to reducing poverty in our state. A poor education results in little chance of landing a well paying job. Failure to demand and receive measureable results from our schools dooms too many children to a future they don't deserve.

Lots of Sunshine but save for a rainy day too

While the improved state budget revenue picture brings beams of welcomed sunshine, there are always clouds on the horizon over which to be concerned. Some day it will rain again. The reality is that New Mexico's economic base is still too narrow, depending excessively on the oil and gas industry and federal spending. Good strides have been made to diversify the economy but the state must not waver in supporting critical programs that have proven key to the long-term effort needed to grow businesses, such as job training and the closing fund. Consistency is critical – businesses are only willing to invest capital if they can count on the delivery of promised programs. Pulling the rug out from under companies that have expanded or located in our state would throw a huge wet blanket over future development.

FY19 BUDGET/CAPITAL FY19 BUDGET

SUPPORT

Projection of \$330 million of "new money" prioritized to fund programs that boost the economy, strengthen education and bust crime.

In December, the Consensus Revenue Estimating Group's (CREG) revenue projection of state revenues were estimated to be approximately \$6.281 billion in the next fiscal year, FY 19, which would yield an estimated \$199 million of "surplus" or "new money," i.e. revenue above the current cost of government operations. Since December, CREG has been meeting and there is general agreement, though no formal announcement has been made, that the revenue forecast increased significantly due to higher oil prices (now around \$60 per barrel) and substantially increased production levels. As noted above, the Governor announced this expected revision in her state of the state message, which places the amount of "new money" at approximately \$330 million. Of course, this is welcomed news as it demonstrates a much improved economy in New Mexico.

The new estimate means that total revenue is projected to be something over \$6.3 billion. It's important to note, however, that this amount is still lower than FY 17, which was \$6.461 billion, reflecting New Mexico's long road to economic recovery and the volatility of energy prices. Thus, there is a continued need to spend prudently and restore a substantial general fund reserve. At the same time, there appears to be ample revenue to fund some much needed initiatives focused on Crime, Education and the Economy.

Reserves of about 10%

Currently the Legislative Finance Committee (LFC) proposes an 8.4% reserve and the Administration suggests 10%. Since the amount of new money available is now estimated at \$330 million then, at minimum, a 10% reserve should be established, perhaps more. As we've learned from past, the fortunes of the state treasury can turn from feast to famine in a hurry.

Provide across the board salary increases for all state employees of at least 1% and additional salary increases for the staff in the judiciary, state police, correctional facilities and teachers.

The past two years have seen limited (if any) salary increases for state workers. This year the Administration is proposing a 1% increase for all employee and larger targeted increases for work groups facing attraction and retention issues such as those mentioned above. The LFC is recommending 1.5%. While targeting bigger increases for specific groups may be negotiated down the line, there will likely be strong disagreement on providing bonuses, as proposed by the Administration, for high performing teachers as there has been in the past. The Chamber will continue its support of the proposed targeted increases, including merit based pay to reward excellent teachers and incentivize other teachers to improve their classroom performance.

Focus capital spending on infrastructure (roads, water, buildings, etc.), i.e. large-scale projects locals cannot afford themselves. Projected available capital is \$142 million from severance tax bonds and \$165 million from GO (general obligation) bonds.

Large projects that have a significant economic impact for the state as a whole must receive top priority. The current system results in many small projects that do little to boost the state's economy. Economic growth depends on quality public infrastructure and the projects with the greatest statewide benefit must get top billing. The Administration and Legislature should come to agreement on these priorities and move these projects forward.

Capital Outlay Reform legislation driven by the Legislature and the Governor, which is transparent, objective and primarily focuses on large-scale infrastructure projects

The Chamber has, for years, supported reforming the capital outlay appropriation system so that the desired goal of funding the projects with the greatest economic impact is achieved. This is a tough sale in the Legislature because legislators want to control a significant portion of capital outlay for projects in their districts. While we understand the politics of all this, the reality is that too much money is spent on low impact projects. The system itself needs to be reformed so that the public can see what's being proposed and a rigorous vetting process can transpire.

OPPOSE

Any reduction of existing economic development incentives

The Local Economic Development Act (LEDA), the Job Training Incentive Program (JTIP) and certain other tax incentives have proven to make a difference in both attracting and retaining businesses in New Mexico. It's of vital importance that the momentum of the programs be sustained by providing consistent funding levels. We support the Administration's proposed appropriation of \$10 million for JTIP and \$12 million for LEDA.

Any use of the Permanent Fund or other fund dollars for purposes not intended

Each legislative session for several years now, there have been various proposals to increase the amount of money taken each year from the Permanent Fund (and other similar funds) to bankroll new programs, such as early childhood education. While such programs as childcare for low-income households are useful, they do not qualify as K-12 or higher education, the purposes for which the bulk of permanent fund money is supposed to be use.

Clearly, there is political appeal in advocating for early childhood programs, however, the very unfortunate long-term result will be to shrink the fund and decrease the amount of money available. In turn, this will take away needed resources from public and higher education. These kinds of proposals are truly a rob Peter to pay Paul scenario that are unsound economically and should be firmly opposed.

ECONOMY

SUPPORT

Comprehensive tax reform that lowers the GRT, broadens the tax base, eliminates some egregious pyramiding issues for business, stabilizes state revenue streams and encourages growth

The state's gross receipts tax system is badly broken and so full of exemptions and deductions that it has been likened to a block of Swiss cheese. The current system is acknowledged as an impediment to business expansion and location. Pyramiding hits small businesses especially hard since these businesses must often purchase outside services subject to GRT that are performed in-house by larger companies, which, consequently avoid paying GRT for the same services.

The plethora of deductions and exemptions has made the base of the GRT system so narrow that it is no longer a reliable and stable source of revenue for the state. A major overhaul is needed that eliminates most of the deductions and exemptions and places all taxpayer on a more equal footing. In doing so, the overall tax rate can be reduced. The Chamber believes that a comprehensive approach is best as there are tradeoffs that must be balanced. However, if incremental reform is most practical, then some progress is better than none.

Closing the loophole which would then subject remote sales to Gross Receipts Tax (GRT)

The Chamber believes that retail sales made via the Internet should be taxed the same as sales made in a local store. This is not imposing a new tax but rather is imposing the same tax on all sales regardless of origin. Not closing this loophole results in local retailers are being placed at a competitive disadvantage. Moreover, by closing this loophole the state will gain some much needed additional revenue and provide greater fairness.

Technology Research Collaborative - \$1 million

This collaborative, a combined effort of the national labs, New Mexico higher education institutions and other research facilities, is aimed at promoting advanced

technology, developing new intellectual property for the state, encouraging technology commercialization and developing the necessary workforce to support commercialization. A number of innovative startup efforts have received funding through the collaborative and progress has been made in commercializing these opportunities. The Chamber supports continued funding for this important effort.

Eliminate the lodger's tax exemption on rental properties such as Airbnb

Similar to the unintended GRT exemption given to online retail sales, rooms obtained through such services as Airbnb are not paying lodger's tax, thus foregoing revenue that, in part, is used to promote New Mexico as a place to visit. As a matter of equity, this tax should apply to all rental rooms across the board and the Chamber supports legislation to achieve that purpose.

Partial repeal of prevailing wage by changing thresholds for some projects

In general, the prevailing wage is determined currently by those wages established in collective bargaining agreements, i.e. union wages as opposed to establishing the amount by surveying all wages paid whether subject to a collective bargaining agreement or not. Only about 6% of wages are established in collective bargaining agreements and these wages are significantly higher than the labor market as a whole. The result is that many public works projects, such as constructing schools and roads, cost significantly more. Therefore, the Chamber supports legislation that would change the threshold for specified projects.

Amending the Worker's Compensation Act to reduce the quarterly workers' compensation assessment fee imposed on employees

The quarterly workers' compensation fee imposed on employees would be reduced from \$2 to \$1.50. The fee imposed on employers would remain at \$2.30 per employee per quarter. Currently, these fees generate excess revenues that are being diverted to purposes other than use by the Workers Compensation Administration, which was not the intended purpose. Cutting the fee charged to employees will reduce some of the excess.

Require the Worker's Compensation Administration Commission to conduct an independent study in 2018 and every 5 years thereafter to review other states workers' compensation trends and develop recommendations for New Mexico.

The costs of workers compensation are significant and highly variable depending on employer experience and the type of work being performed. It is important that trends and practices of other states be studied periodically in order to inform the Workers Compensation administration. Bringing best of class ideas forwards is very important to ensure that the system is optimized. The Chamber supports legislation that will ensure such studies are completed periodically.

Increase in Tourism Department's budget by \$3.5 million

Tourism is a significant portion of the state's economy and the Tourism Department has lead the way in growing visits to our state each year. One of the most successful efforts has been the "New Mexico True" advertising campaign that has targeted specific geographic markets. Adding new markets as research indicates is

appropriate and funding is available, increases the number of visits to our state. The next market to be tapped is the San Francisco bay area. Based on research, this market should respond favorably to invitations to visit, especially since airline service has recently been expanded. The Chamber supports increased funding for this purpose.

JTIP funding at \$12 million within the operating budget of the Economic Development Department

The Jobs Training Incentive Program is nationally recognized as a most successful effort to help expand existing and recruit new businesses. A highly qualified workforce is an essential ingredient in continuing to diversify the state’s economy and job training is at the forefront of that effort. The impact of investing in New Mexico’s work force is captured in the results achieved:

| Fiscal Year | Amount Awarded | Number of Companies | Employees Trained | Estimated Payroll |
|-------------|----------------|---------------------|-------------------|-------------------|
| FY 17 | \$12.75M | 57 | 2,009 | \$69.7M |
| FY 16 | \$13.38M | 60 | 2,238 | \$83.4M |
| FY 15 | \$11.64M | 59 | 2,212 | \$76.7M |

Since it’s introduction in 1972, JTIP has supported 45,000 jobs and 1,400 businesses. In each of the past three years, this in-demand program has run out of funds before the end of the fiscal year. Businesses counting on JTIP could modify their hiring and expansion plans if funding is inadequate. JTIP is ranked in the top 5 nationally for quality and value. The Chamber supports full funding the department’s funding request for JTIP.

Provide LEDA funding at \$10 million in order to maintain a \$50 million dollar fund within the operating budget of the Economic Development Department.

Like JTIP, the Local Economic Development Act (LEDA), often referred to as the “closing fund,” has been successful in the effort to increase business activity. Many states have closing funds and New Mexico must likewise have funds available to help build the infrastructure needed for business to expand or locate. This fund is used for construction of such things as roads, water and sewer systems all of which are under the control of the appropriate local government entity. In 2017, \$15.8M of LEDA’s funds were committed yielding 530 new jobs and private investment of \$346M. Taxpayers are protected by “claw back” provisions that requires companies to reimburse funds spent if they do not complete a project. The Chamber supports maintenance of a \$50 million fund, which requires a \$10 million appropriation.

Enhanced Enterprise Zones

The Chamber supports legislation that would allow local governments (including Indian nations, tribes and pueblos) to designate an area within their jurisdiction as an enhanced enterprise zone. These zones would allow participating businesses to receive property tax abatements for up to ten years. This creates a zero cost option for local governments to rebuild or revitalize economically underperforming areas and to bring in new jobs and investment.

Wireless Consumer Advanced Infrastructure Investment Act

In many places in the state, there is a critical need to expand the capacity of cell phone networks. According to some statistics, data usage has increased in the U.S. by 238% in the last two years. New broadband micro technology is available to meet the growing needs by placing small canisters on telephone poles or buildings. This new small cell equipment is only a few feet high and very unobtrusive to the aesthetics of an area. The Chamber supports legislation that will standardize how the permitting process will be conducted by local government throughout the state. Such standardization is needed to facilitate the deployment of this technology without lengthy hearings and procedures while ensuring the opportunity for public input and protection of important historic sites.

Support the Energy Redevelopment Bond Act as financing tool to reduce costs to customers affected by retirement of a coal plant.

The Chamber supports legislation that would authorize the Public Regulation Commission (PRC) to use this innovative finance tool in order to reduce the cost of closing a coal plant. The bonds are issued by the utility that owns the plant - no government credit is used. Utilizing AAA- rated corporate bonds could potentially save customers \$100 million over other methods of financing plant closure in San Juan County. 13 other states have successfully used this financing tool. Whether to do so is controlled entirely by the PRC and whether to shut down a coal plant is also a decision to be made by the PRC in a separate proceeding.

Funding request for Bioscience Authority

The Bioscience Authority was created by legislation last year. The Authority requires some additional funding to begin implementation and to execute on its mission.

Enhanced Nurse Licensure Compact

A new compact must be enacted to ensure that multistate licensure reciprocity for registered nurses, licensed practical nurses and vocational nurses continues. The deadline for joining the compact is midnight Friday, January 19, 2018. Without approval of the compact many nurses practicing in New Mexico would be precluded from doing so.

Support request for \$350,000 Main Street Program general fund appropriation and \$1 million in Capital Outlay.

The Main Street Program, under the Department of Economic Development, has a long successful track record in helping revitalize downtown areas in our rural communities. It also helps develop the economic capacity of communities which leads to more jobs and business opportunities.

OPPOSE

Increasing minimum wage with a constitutional amendment

The state's constitution should be reserved for providing high-level guidance and fundamental functions of government. It should not be used to legislate individual issues simply because there is an impasse between the executive and legislative branches. If this were done, soon the constitution would be so cluttered as to make it meaningless. Moreover, if conditions change, quick action could not be taken since the voters must approve constitutional amendments. It's simply bad public policy to use the constitution in this way.

Legalizing marijuana with a constitutional amendment

Similar to the arguments presented above, whether to legalize marijuana should not be done in the state's constitution. This is an especially complex issue that requires a great deal of thought. Taking away the ability of the Legislature and the Governor to manage this issue would be a bad mistake. If marijuana were to be legalized, there would undoubtedly be many follow up actions necessary that could be thwarted or complicated if the issue were to be embedded in the constitution.

EDUCATION

SUPPORT

Reading Success Act

There has been a long-standing legislative battle over how best to ensure that students learn to read in the early grades. It's well established that by the third grade students must be reading proficient if they are to succeed academically in subsequent grades, i.e. they must learn to read so they can read to learn. Teacher unions have consistently opposed what the Chamber believes to be a very sensible approach of evaluation and intervention to ensure reading success from kindergarten forward. A good deal of opposition surfaced in the past because similar legislation contained "mandatory retention" in the third grade. However, new legislation last year eliminated this provision and, instead, focused on evaluation and intervention to ensure that children get the help they need. We hope this approach can now achieve consensus and that the state can dedicate the necessary resources to reverse the dismal record of poor reading achievement

Adjunct instructors licensure

New Mexico, like many states, is in need of qualified teachers, especially when it comes to expertise in science and math. Our state is blessed with a high percentage of people with advanced degrees both at the national labs and in business who would be eager and willing to share their knowledge with students, especially when they retire. Legislation has been considered for several years to tap into this wonderful resource but so far has been blocked by teacher unions. The Chamber supports legislation that would provide an easy path for subject matter experts to be licensed as adjunct teachers and receive the basic training necessary for successful classroom presentation and management.

Support expansion of anti-truancy programs and establish intervention and suspension of driver’s license or permit for habitually truant high school students.

It’s self-evident that a student has to be at school if that student is going to get an education. Truancy is a rampant problem and is a leading indicator of a young person headed in the direction of dropping out of high school. Dropping out virtually consigns a person to a life of poverty and, potentially, crime. More can and should be done to curb this problem with an emphasis on early intervention, requiring students to be accountable for their attendance and, in the worst cases, suspension of drivers’ licenses or permits as an inducement to stay in school. The Chamber has consistently supported this kind of legislation and we hope it will succeed in passage this session.

Executive recommendation for “Below the Line” funding of \$100 million

“Below the Line” funding is money targeted at specific programs, such as support for reading initiatives, that doesn’t flow through the “equalization formula” as does the vast majority of funding for public education. Public education receives about 45% or nearly \$3 billion of the state’s \$6.2 billion general fund budget. This funding has proven to be instrumental in producing such successful programs as New Mexico Leads to Read, various early childhood programs (K-3 Plus and Pre-K), New Mexico Graduates Now, Advanced Placement programs, STEM initiatives and other intervention programs. The Chamber supports continuation of this funding as requested by the Executive.

Background checks for teachers, leaders and support staff

The Chamber continues its support for updating the law that requires all current and future public school employees, charter school employees and regional education cooperative employees who work unsupervised around children at school to satisfactorily pass finger print-based background checks. Under current law, there are some loopholes that need to be closed. In addition, there should be a requirement that any employee who knows that another employee has committed any felony or a misdemeanor involving moral turpitude should report that information.

Differentiated compensation for exemplary teachers

As any businessperson knows, it’s important to recognize and reward outstanding performance. Not only does this encourage the recipient to stay with the business but it also models what outstanding performance looks like for others. Currently, the public education system most rewards tenure, not performance. While retaining qualified teachers is certainly an important goal, so is boosting performance to higher levels. Therefore, the Chamber supports funding to reward exemplary teachers.

Establish minimum percentages that New Mexico school districts must commit to classroom spending by reducing administrative expenditures.

The Chamber supports Think New Mexico’s legislation to require a minimum percentage of each school district’s budget be spent on classroom instruction as opposed to school district central office administrative costs. A report by Think New

Mexico concludes that on average only 57 cents of every school dollar is spent on classroom instruction. If administrative expenses were to be cut just 4%, \$100 million more would be available to help students learn. Moreover, there are practical paths to making this happen such as reducing the burdensome reporting requirements and eliminating unnecessary administrative positions and expenses.

Several school districts are already performing at a high level. For example, the Hobbs school district spends 81% of its dollars on classroom instruction and student achievement is among the highest in the state. Similarly, the Texico district, in which the median family income is \$10,000, spends relatively little on administration but produces a 95% graduation rate and ranks seventh in the state for reading proficiency and ninth for math proficiency.

Charter schools as an option for students

The Chamber supports school choice for families and many charter schools have proven to be very effective alternatives to traditional public schools. We encourage the Legislature to nurture the development of charter schools while insisting on high performance standards. Parents and students are consumers of education and the more they can choose the type of education that meets their needs, the more likely students will obtain a quality education and go on to success in life. We, likewise, oppose efforts to eliminate or place a moratorium on the expansion of charter schools.

OPPOSE

Cuts in "Below the Line" Funding

As stated above, "Below the Line" funding has been instrumental in the development and implementation of many successful programs. These programs need to be continued, as they are key to many of the improvements we have seen in education performance, for example, increased graduation rates.

Permanent Funds distribution for early childhood by statute or constitutional amendment

The permanent funds are, by Congressional action, established to support K-12 public and higher education. Distributions must be made at a level that will ensure the funds will continue to grow over time. Drawing down significant additional funds for new programs will deplete the funds over time and reduce the amount of money available to meet their primary missions. If early childhood program funding is to be increased, this should come from the general fund, not by raiding the permanent funds.

CRIME

SUPPORT

Second Judicial District Attorney's Office request for a \$5 million increase in its base budget and sufficient funding for a Crime Strategies Unit at an appropriate level.

Like it or not, the greater Albuquerque area is the center of crime in our state and the District Attorney's office needs increased funding if the escalating crime rate is to be reversed. The fact is that the entire state suffers from a poor reputation because of the problems in this area. It's in everyone's interest to see improvement. A Crime Strategies Unit, modeled after other successful programs, brings together crime analysts, investigators and prosecutors in the same office, armed with modern technology, to identify and pursue the really "bad guys", while diverting lesser criminals to appropriate treatment and other rehabilitation opportunities. Additional funding is also needed for the DA in order to fill vacant positions, provide needed salary increases, hire expert witnesses and other professional resources so that the current backlog of cases is reduced and prosecutions are successful.

Support the agency requests for the 13 District Attorneys in New Mexico which total approximately \$5.4 million

High crime rates are not unique to just Albuquerque. FBI statistics show high per capita crime rates in Belen, Taos, Gallup and Espanola. District Attorneys around the state need additional funding to successfully prosecute cases and the Chamber supports these requests. Clearly, DA's must have the tools and personnel needed to get criminals off the streets. It does no good for the police to make arrests if the DA's offices can't finish the job.

New Mexico Judicial Branch request for a 9.6% (\$17.5 million) increase in its base budget

Recent budget austerity decisions, though very necessary, have left the judicial branch unable to fund needed positions and provide salary levels necessary to attract and retain skilled personnel. Many judicial offices around the state have had to restrict hours of operations and case backlogs have grown. Training and acquisition of needed equipment have also lagged. With additional revenue available, addressing these funding needs is an important component of fighting crime in our state. Both the Administration and LFC propose increases: \$11.7 and \$7.5 million, respectively.

CYFD request of \$25 million increase for the state's child care assistance program that provides child care for low-income families

Providing safe childcare for low-income families is essential for child safety. In FY 17, the Administration reported that 1.2% of children receiving a child care subsidy experienced maltreatment as opposed to 11.1% for the general population. Childcare centers also provide activities and experiences that compliment pre-K programs. Current funding is inadequate to meet the need and should be addressed.

“Return to Work” for police officers

Throughout the state, there is a critical shortage of police officers. In Albuquerque alone, more than 200 positions are needed to bring the police force to what’s considered to be a full force. Finding qualified candidates to recruit and train is both difficult and expensive (over \$100,000 per trainee). Yet, many officers in their 40’s or 50’s are retiring after serving 20 years or more. If we would allow them to return to work and collect their well deserved and earned pensions, it would help close the gap on needed law enforcement officers. Many states do this and, in fact, so did New Mexico up until 2010. Some retired officers have left New Mexico and continued their careers in other states, thereby collecting their New Mexico pension and a new state’s salary. The Chamber supports passage of legislation that has been considered for several years now and believes the time has come to act.

“Stay at Work” for police officers

Another solution to addressing the shortage of police officers is to provide incentives to stay on the job. Legislation will be introduced to offer retention payments, the cost of which would be shared by the state and local governments. This would be a very cost effective way to retain well-trained and experienced personnel.

Video conferencing testimony in driver’s license revocation hearings

Requiring police officers, hearing officers and witnesses to often travel many miles to conduct an administrative hearing is costly and inefficient. Using readily available and affordable video conferencing equipment would not only save money but would minimize the amount of time police officers would have to spend away from the job to attend administrative hearings. The Chamber supports this idea and urges the Legislature to adopt it.

Increased penalty for repeat (4+) DWI offenders and DWI habitual offender sentencing

How many times have we heard the news reports of a horrific auto crash that has killed or seriously injured innocent victims? Clearly, it’s way too often and the fact is that our state is not punishing habitual repeat offenders and keeping them off the streets. For such offenders, it’s obvious that treatment programs have failed and a different approach is needed. The Chamber has and will continue to support increasing penalties for repeat offenders and requiring that previous crimes, DWI or otherwise, be taken into account when sentences are being imposed. The worst DWI criminals would have time added to their prison sentences.

Expand DWI laws to include “drugged driving”

The Chamber supports establishing statutory limits for certain controlled substances (“metabolites) in blood tests similar to the limits established for alcohol (.08 for non commercial drivers and .04 for commercial drivers). Currently, the law contains a rather vague standard that must be interpreted often requiring unnecessary but costly expert testimony and argumentation resulting in an excessive use of court time. Specific limits will aid in the prosecution of drugged driving crimes, clarify sentencing and improve judicial efficiency.

Increase the penalty for a felon in possession of a firearm

For several years, legislation like this has been introduced and had failed to pass the Legislature. Repeat offenders plague our state and represent the “really bad guys” who ought to be prosecuted to the full extent of the law. There is no reason for a convicted felon to be in possession of a firearm and, if discovered, should require a return to prison and/or an enhancement of prison sentence if the firearm was used in the commission of a crime.

Increase the penalty for battery on a CYFD employee

CYFD employees are charged with intervening in situations where a child may be endangered, abused or otherwise mistreated. This often puts them in the path of a violent reaction from the child’s parents or guardians. Because these employees are so vulnerable and perform such a vital service to our state, they deserve extra protection of the law if assault or battery is committed on them. The Chamber provided support for similar legislation in the past and urges the Legislature to increase penalties for those that commit such crimes.

Increased penalty for intentional child abuse resulting in death

There is a weird anomaly in current law that makes it a first-degree felony (life imprisonment) for abuse leading to the death of a child under 12 years of age. However, individuals who abuse and cause the death of children 12 to 18 years old can receive only a maximum of 18 years in prison. The Chamber continues to support legislation that would eliminate this anomaly, requiring life imprisonment for the death of a child regardless of age.

Increased penalty for criminal sexual penetration and contact involving a child

Nothing is more heinous than crimes against children, especially when they result in death, great bodily harm and/or are sexual in nature. Children are especially vulnerable to acts of sexual predation from people in positions of authority. The law needs to be changed to increase the penalties imposed against those that commit such crimes, including making it a first-degree felony when such crimes are committed against children younger than 13. The Chamber has supported and will continue to support adoption of this kind of legislation.

Increased penalties that distinguish between negligent versus intentional child abuse; increased penalties for intentional abuse

CYFD has been promoting legislation that would toughen penalties against those who intentionally abuse a child as opposed to those acting in a negligent but unintentional manner. Clearly, there is a difference and life imprisonment should be the outcome for those who intentionally abuse a child resulting in great bodily harm or death. The Chamber continues to support this type of legislation.

Increased penalties for electronic communication of obscene images to a child

This is another case of an anomaly in the law that needs to be fixed. Currently, it is a crime to send images of one's intimate parts to a child, however, it is not a crime to send an image of anyone's intimate parts to a child. A conviction was overturned because it could not be proven that the image was of the perpetrator. The law clearly needs to provide that it is a crime to be sending an intimate image no matter whose parts are involved.

Require Auto recyclers to report electronically, the sales and purchases of motor vehicles within 48 hours.

New Mexico is an auto theft haven for many reasons including our proximity to the Mexican border. Breaking up auto theft rings requires innovative approaches. One such approach is to require auto recyclers to electronically report their purchase of cars within 48 hours. If enacted, a database will be constructed that law enforcement can use to detect patterns of thefts that can lead them to break up auto theft rings. This technique has been used successfully in other states and should be implemented here.

Add felony for crimes committed while on parole or probation

As we have too often seen, repeat offenders commit crimes when they are on parole or probation. When they abscond, i.e. violate the terms of their parole or probation, and commit a crime, they should be subject to an additional felony charge.

Allow dual sentencing of youthful offenders for violent crimes.

In an effort to offer a "carrot and stick" approach to youthful offenders between 14 and 18 years of age, past legislation has been proposed to allow the court to stay an adult conviction if the youth is amenable to treatment. The stay of the adult conviction is conditioned on the offender successfully completing treatment or other programs the court orders and not committing any additional offense. The Chamber supports this approach as one possible way to turn around the life of a young person and reduce further crimes.

DWI/DUID Blood Test Requirements

This bill would amend the Implied Consent Act to allow law enforcement officers to obtain warrants for blood tests in all instances of DWI or DUID arrests in which they determine the test is necessary. Under current law the officer must establish that (1) there is probable cause that the violation was the cause of death or great bodily injury, or (2) that there is probable cause to believe that the person committed a felony while under the influence of alcohol or a controlled substance, or (3) that chemical tests will produce material evidence in a felony prosecution.

Current practice is too restrictive for law enforcement to pursue suspected cases of driving under the influence of either alcohol or drugs but especially drugs, since this requires a blood test. The Chamber supports this legislation because we need to ensure that all possible options are used to require that an individual driving erratically who refuses a blood test can be tested.

OPPOSE

Repealing or replacing the constitutional amendment passed by New Mexico voters regarding pre-trial release and detention. Support the Supreme Court supervising the new rules, training judges on its use, creating appropriate administrative infrastructure and re-evaluation of it prior to the next 60-day legislative session. However, the Chamber will evaluate any legislation introduced which modifies the rules of the CA to ensure that dangerous criminals are not on our streets.

The Chamber supported and the voters overwhelming approved a constitutional amendment at the November 2016 general election aimed at allowing judges to keep violent criminals in jail pending trial rather than releasing them on bail. At the same time, the CA was designed to forego bail for nonviolent and lesser crimes. To date, some courts have not applied the CA in the manner intended, releasing violent offenders, prompting some to want to amend or repeal the CA. The Chamber thinks that doing so is premature and the Supreme Court should be given the opportunity to oversee proper implementation.

At the same time, an evaluation prior to the next legislative session should be made and specific proposals developed as a result. We will also review any legislation introduced in this session that proposes, by statute, to amend the rules to further strengthen the ability to keep violent offenders in jail pending trial.