

Relieve, Recover, and Rebuild: Policymaking in the Midst of a Pandemic

Post-Session Review: Introduction

Prior to each session, the Chamber’s Board of Directors approves a policy agenda that is consistent with our organization’s mission and work. During each session, our team of lobbyists and policy experts works on behalf of the business community to advocate for this agenda, and the Chamber produces a nightly newsletter – the “Legislative Roundup” – to keep our investors and partners up to speed on the latest activity in the Roundhouse.

Once the session has concluded, the Chamber provides its Board with a review of how the organization’s agenda fared, briefly describing the action (or inaction, in some cases) taken by the Legislature on the various items in the agenda. This document presents the **2021 Legislative Session Review**. A label is presented next to each agenda item (see legend at right), which denotes whether the Chamber was fully/mostly successful in its support or opposition to the measure, partially successful, or largely unsuccessful.

-  **Fully/most successful in our support or opposition**
-  **Partially successful in our support or opposition**
-  **Largely unsuccessful in our support or opposition**

Session Highlights

The 2021 session occurred during the COVID-19 pandemic. Unemployment in New Mexico was persistently high, and businesses had suffered a year of great disruption and financial strain due to unprecedented public health orders that curtailed economic activity in order to reduce virus transmission. Many small businesses closed their doors for good. The Legislature chose to hold a largely virtual session, which reduced the transparency of the legislative process, reduced collaboration among lawmakers and stakeholders, and limited the number of bills considered and passed. One bright spot: state revenue projections continued to climb, due in large part to an unexpected rebound in energy prices and production during the pandemic. Projected “new money” was sufficient to grow government spending for FY 22 by about 4.8% and finance over \$900 million in one-time expenditures on things like economic development incentives, broadband expansion projects, unemployment insurance assistance, and highway construction.

The Chamber’s top priority was to help businesses secure financial and regulatory relief, in order to help them fully recover and grow post-pandemic. The Legislature delivered in providing various forms of short-term assistance to struggling small businesses and families. A package of pandemic relief bills will: (a) provide small businesses with grants to make mortgage/lease/rent payments and access to re-worked low-interest recovery loans, (b) waive liquor license fees and allow alcohol delivery, (c) create a three-month gross receipts tax holiday for restaurants, (d) provide a \$600 tax rebate for low-income workers, and (e) spend \$900 million in federal and state money to rescue the unemployment compensation fund and avoid unemployment insurance rate increases on businesses.

Despite the short-term help, the Legislature proposed a shocking number of bills that would saddle businesses with long-term burdens, costs, and exposure to lawsuits. With its partners and on behalf of its members, the Chamber worked hard to defeat nearly all of the measures, which would have raised personal and corporate income tax rates, the gas tax, workers compensation costs, the minimum wage, family/medical leave costs, and the capital gains tax rate. Others would have created a public bank, set the stage for government healthcare, allowed wide-ranging private action lawsuits on environmental matters, and halted oil and gas production.

The Legislature did pass one of the most onerous mandatory sick leave measures in the country, despite efforts by the Chamber and others to protect small businesses and negotiate a more reasonable statewide leave policy. A health insurance surtax was also passed.

In other policy areas, the State funded an extension of the school year to help combat learning loss and expanded “opportunity scholarships” to produce more degreed and certified workers. Efforts to protect crime victims and reform pre-trial detention procedures failed, though capital funding was secured for police technology, equipment, and crime-fighting tools in Albuquerque. The high-profile effort to legalize the sale and use of recreational cannabis faltered, and capital funding was secured to help construct Albuquerque’s planned 24/7 “Gateway Center” for the homeless and a new multi-use arena/soccer stadium.

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Pandemic Relief and Recovery Assistance for NM Businesses and Families



Small Business Grants: Allocate \$100M in additional funding for small business grants to fund applicants who weren't able to be funded during the first round of grants (passed and distributed in Winter 2020), subject to federal funds being made available for this purpose or the Legislature crafting a new credit to ensure compliance with anti-donation provisions. Additionally, set aside at least \$30M in funding to provide a second round of grants for hospitality/tourism/recreation/leisure businesses in the Spring of 2021, in anticipation of the continued hardship this sector is expected to experience.

House Bill 11 provides up to \$200 million in small business grants, financed by a one-time withdrawal from the Severance Tax Permanent Fund. Businesses with 75 or fewer employees are eligible, tourism/hospitality sector companies are prioritized, and the grants of up to \$100K per business are allowed to be used for rent, lease, or mortgage payments. Recipients must show job creation over the life of the grant in order to satisfy anti-donation concerns.



Unemployment Insurance Fund: Replenish New Mexico's unemployment insurance fund, using a mixture of state funding (add at least \$300 million) and federal COVID-19 pandemic relief funding.

\$900 million (!) was appropriated to the unemployment compensation fund (\$600 million in federal COVID relief funding and \$300 million in state funding). The money will be used to pay back federal loans and create a healthy reserve in the fund, in an effort to avoid rate spikes on businesses.



Low-Income Families w/ School-Aged Children Stimulus: Provide a \$250-\$400 one-time stimulus payment or tax rebate to low-income New Mexico families with school-aged children, in recognition of the costs and other burdens families have taken on during the COVID-19 pandemic and associated school closures.

Though not specifically targeted to low-income New Mexicans with school-aged children, Senate Bill 1 provides a \$600 payment for low-income workers across New Mexico (many of whom, of course, have kids in the home).



Commercial Real Estate Relief: Provide tax relief to commercial real estate owners to help cover the cost of temporary rent payment waivers.

Specific relief to the commercial real estate industry was not provided; however, the small business grants in House Bill 11 are to be used explicitly for mortgage, rent, or lease payments (conceivably, this should improve compliance with rent/lease agreements).

No Tax Increases: Enact no increases to taxes in New Mexico, recognizing the extraordinary challenges that business, workers, and families have faced during the COVID-19 pandemic.



This should include no increase to the corporate income tax rate, the preservation of single sales factor apportionment for manufacturers, and a preservation of the current capital gains tax deduction (which was recently reduced in a 2019 tax bill). There should also be no increase to personal income tax rates, which would make it harder to attract and retain professionals and skilled workers in key industries like health care, hurt the middle class, and specifically raise costs on small businesses during a tremendously difficult time.

Small businesses are already facing an ongoing escalation of the minimum wage rate; adding higher taxes and other regulatory burdens/costs simply makes it harder for businesses to start and grow in New Mexico.

House Bill 291 would have eliminated the capital gains tax deduction, created new personal income tax brackets and raised the top PIT rate to 6.5% (higher taxes for individuals making \$75,000/year or more), and increased the corporate income tax rate to 7.6%. The tax changes were sold as necessary to pay for enhancements to the working families tax credit and low-income tax rebate. Despite support across both chambers in committees and on the House floor, two days before session's end, the Senate Finance Committee stripped the bill of its tax increase provisions, thereby ensuring that no tax increases would be passed this session (the tax relief for low-income workers/families was passed).



Liquor License Fees and Takeout/Delivery: Suspend state liquor licensing fees for bars, entertainment venues, and other similar establishments; enact legislation allowing for liquor takeout and package delivery.

House Bill 255 allows liquor delivery and Senate Bill 1 provides a one-year waiver of the cost of a liquor license renewal (excludes big box stores).



Restoration of Particular Funding Cuts: Restore June funding cuts of roughly 6 percent that were made to the following agencies affiliated with the University of New Mexico, but which serve a statewide purpose and have faced significant new challenges and demands during the COVID-19 pandemic: Office of the Medical Investigator, NM Poison and Drug Information Center, and UNM Comprehensive Cancer Center.

Additional work will need to be done in future years to fully restore these funding cuts.

N/A

Remote Worker Incentive: Create an incentive to attract “remote workers,” providing any person who moves to New Mexico to live (while continuing to work for a business located in another state) a multi-year tax credit or other financial benefit. In addition, the State could also commit to paying for the remote worker’s high-speed Internet service during the incentive period. Consider doubling the value of the incentive if the new remote worker is a graduate of a New Mexico high school or higher education institution and is “returning home.”

Despite efforts to craft a remote worker incentive, no such policy was ever introduced.

N/A

Vaccinations and Liability Protections: Secure appropriations and any statutory changes necessary to allow for the swiftest possible distribution of COVID-19 vaccines, and enact basic liability protections for businesses that are following COVID-19 protocols as they re-open. Together, these will help hasten the recovery of businesses.

Legislation not needed regarding vaccine distribution; liability protections not proposed.

OTHER SIMILAR ITEMS PASSED DURING THE SESSION:



Gross Receipts Tax Holiday for Restaurants/Bars: Waive GRT payments for restaurants, bars, and other similar establishments for a period of time, in order to help this industry recover more quickly as the economy begins to re-open.

Senate Bill 1 provides a 3-month GRT holiday (March-June 2021) for these businesses.

New Mexico’s State Budget and Fiscal Future

Spending



Recurring Priorities: Restrain recurring spending growth and prioritize new projected recurring revenue on extending the school year for most K-12 students and replacing one-time federal funds that were used to help state agencies, higher education institutions, and other entities weather the fiscal challenges and uncertainties of the past year.

With the backdrop of continually improving revenue forecasts, the budget increases recurring spending by a reasonable level of 4.8% (\$373 million) - to a total of \$7.4 billion. House Bill 2 adequately replaces federal funds as described above and commits well over \$200 million to extending the school year for New Mexico students.



Non-recurring Priorities: Prioritize available non-recurring state general fund money (a substantial total of between \$600 and \$800 million) on shoring up the unemployment insurance trust fund (protecting businesses and workers alike), road and highway projects across New Mexico, expanding broadband access, economic development incentives (LEDA and JTIP), and adding to the early childhood endowment fund.

In House Bill 2, over \$930 million in non-recurring general fund money was appropriately prioritized on significant investments in the unemployment compensation fund (\$300 million), road projects (\$170 million), broadband expansion (\$133 million total), and economic development incentives.



Salary Increases: Provide cost-of-living salary increases for teachers and state workers of roughly 1%; target more substantial pay raises to hard-to-recruit/retain positions, particularly in the public safety and health arenas.

House Bill 2 provides a 1.5% cost of living salary adjustment for all school, higher education and state agency employees.

Saving



Tax Stabilization Reserve: Preserve the structure of the tax stabilization reserve “rainy day” fund (collects excess oil/gas revenue).

Senate Bill 59 sought to increase the threshold of revenues in excess of appropriations that are transferred to the Tax Stabilization Reserve, in favor of keeping more cash in operating reserves for easy appropriating. The bill was narrowly voted down in the House Taxation and Revenue Committee, preserving the current structure of the Tax Stabilization Reserve and protecting the state’s fiscal health.



Reserves: Maintain total budget reserves at or near 25% of recurring spending.

House Bill 2 projects reserves at the end of Fiscal Year 2022 to be \$1.77 billion, or almost 24% of recurring spending.

Capital Projects



Large-Scale Infrastructure: Focus statewide capital spending (over \$400 million in STBs) on large-scale infrastructure projects (roads, water, buildings, etc.) that have a significant economic impact and that local governments often cannot afford themselves.

The capital outlay bill, House Bill 285, authorizes over half-a-billion dollars in spending for capital projects across the state, financed by severance tax bonds (\$477 million), general funds (\$19 million), and other state funds (\$22 million). The capital funding process continues to lack strategic planning and goal-setting, and dollars are not used to meet the state’s serious infrastructure needs or help solve large problems facing the state. Capital funds are often allocated in such small sums that projects aren’t able to be completed; as such, projects can take years to complete or never be finished at all. While several of the Chamber’s capital requests were met, many were only partially met and the overall process remains deficient.

Note: \$170 million for state and local road projects is also included in various appropriation bills.



Capital Outlay Reform: Reform the capital outlay process to make spending decisions more transparent and ensure that appropriated money is sufficient to complete at least a meaningful phase of a project.

House Bill 55 requires a list of capital projects, plus their amounts and how much each legislator or the Governor contributed to them, to be published within 10 days of the capital outlay bill’s passage.

Fiscal Sustainability



Permanent Fund Protection/Use: The Chamber remains concerned about the long-term fiscal implications of increasing the distribution from the state’s permanent funds. Drilling activity in the Permian Basin is strong today, but what it will look like in 15 years is anyone’s guess. The future of investment returns is also uncertain. Drawing additional money from the corpus of our permanent funds threatens the availability of future money for education

– period. Additionally, there remains no concrete plan for how an additional \$180 million annually for early childhood programs will be spent, or even if it can be spent. Since FY12, annual state spending on early childhood programs has increased by more than \$250 million (conservative estimate), and the new early childhood education endowment fund was created to help responsibly and steadily continue this expansion in the future. The Chamber has supported these efforts and was one of the first organizations to call for the creation of the new Early Childhood Education and Care Department. We support high-quality early childhood programs and believe in expanding them over time – delivered by a well-educated and trained workforce to families that need the services the most. If the Legislature goes forward with a plan to draw additional money from the permanent fund, we urge them to consider the following courses of action:

- Sunset the increased distribution after 10 years,
- Require the robust measurement of early childhood outcomes, **AND**
- During this 10-year time period, if any portion of the increased distribution goes unspent in a given year, the unspent money would go to the new early childhood education endowment fund, where it can be invested for a higher return than if it sits in the general fund and still contribute to early childhood programs in the future.

This approach would provide significant early childhood funding in the near-term, which the Chamber hopes would be used to professionalize and expand the early childhood workforce in order to meet what MUST be the highest expectations of quality for these programs. And, this approach would return the distribution rate out of the permanent fund to 5% at the end of ten years, where it should remain long-term.

House Joint Resolution 1 increases the annual distribution rate from the Land Grant Permanent Fund by 1.25% - higher than the originally proposed 1% increase. 60% of the additional money will go to early childhood services and 40% will go directly to the Public Education Department for K-12 school spending. The increased distribution stops in the unlikely event the Permanent Fund balance dips below \$17 billion. Unspent appropriations for early childhood services can be sent by the Legislature to the Early Childhood Endowment Fund. The measure now must go to Congress for approval, and then to the voters for their approval.



Oil and Gas Production: Oppose the imposition of onerous regulations (including a ban or moratorium on fracking), additional taxes, or significant new fees on oil and gas production, upon which New Mexico's budget and economic outlook are heavily dependent.

Senate Bill 149 sought to ban fracking, and Senate Bill 86 proposed to prohibit the use of fresh water in oil and gas production. Both passed the Senate Conservation Committee, but did not proceed further.

Note: Senate Bill 8 did pass, which allows Albuquerque and the State to adopt stricter environmental standards than the federal government. Its impact on the oil and gas industry (among other potentially impacted industries) is unknown.

Economic Growth and Job Creation

Incentives and Marketing



Job Training and Expansion: Increase Job Training Incentive Program (JTIP) funding to at least \$12 million (\$5 million in the base budget of the Economic Development Department, plus \$7 million in a special non-recurring appropriation).

House Bill 2 provides \$12 million in funding for JTIP.



Relocation, Growth, and Competitiveness: Maintain a closing fund for economic development projects (LEDA) of over \$50 million (a \$30 million non-recurring appropriation is needed in this year's session).



LEDA received \$30 M in appropriations (\$17.5 M general fund, \$12.5 M capital outlay).

“New Mexico True” Advertising: Add up to \$25 million to the State’s tourism advertising budget to attract visitors to New Mexico as soon as it is safe to travel again.

House Bill 2 contains \$7 million for marketing by the Tourism Department, with another \$10 million appropriated to tourism promotion efforts from federal relief funds.

Infrastructure



Broadband Expansion: Support broadband expansion legislation designed to create a new office to manage broadband growth in New Mexico (\$950,000), improve coordination and grant-writing, provide appropriations for the expansion of broadband service (at least \$20 million), and resolve right-of-way challenges.

House Bill 10 and Senate Bill 93 establish an office to lead statewide broadband expansion through the mapping of service availability and quality, technical and administrative assistance, and bulk pricing agreements. Approximately \$133 million is appropriated this year for broadband expansion projects, which will allow the state to access an additional \$955 million in federal funding for this purpose.



Utility Fiber: Allow dark fiber installed by utilities for transmission projects to be used to expand broadband access for public benefit purposes.

Senate Bill 360 passed its first Senate committee unanimously, but was never heard in the Senate Judiciary Committee.



Key Capital Projects: Secure appropriations for key economic development projects in the Albuquerque area.

- Additional Rail Yards renovations and improvements - \$10 million
- Facility upgrades for the Albuquerque International Balloon Fiesta (50th anniversary approaching) - \$7 million
- Construction of a soccer stadium and multi-use arena in or near the Downtown area - \$40 million
- Multi-use rail and trail projects to better connect the Downtown area and Sawmill District - \$5 million
- Multi-modal street improvements in the Old Town area and Sawmill District - \$7.9 million
- CNM Workforce Training Center and Applied Technology Center improvements and repairs - \$1 million

The capital outlay bill contains \$5 million in funding for the soccer arena, \$1.7 million for road/walkway improvements in the Sawmill/Old Town area, and \$2 million for a Paseo del Norte extension. CNM’s workforce training center and applied technology center also received funding. Importantly, very little money was appropriated to continue renovation of the Rail Yards or upgrade Balloon Fiesta Park.

N/A

P3: Create a Public-Private Partnership (P3) framework to help communities invest in necessary infrastructure – including highway, railroad, and broadband projects – to retain jobs and expand economic opportunities.

Likely due to the significant attention to broadband expansion this session, a P3 bill – though introduced – was never heard in a committee.

Taxes



GRT Reduction/Pyramiding: Support meaningful tax reform proposals intended to drive down the gross receipts tax rate and address tax pyramiding.

House Bill 278 excludes manufacturing services (construction, farming, electric power generation, etc.) from the gross receipts tax to mitigate tax pyramiding.

Note: Broad-based tax reform to bring down the GRT rate was not attempted this session.



Social Security Taxation: Discontinue the policy of taxing Social Security income in New Mexico.

House Bill 49 and Senate Bill 78 would have exempted Social Security benefits from being taxed as income. Each bill stalled in its originating chamber's tax committee.

N/A

SALT Deductions: Waive the recently-enacted \$10,000 federal income tax cap on state and local tax deductions for small business pass-through entities.

No legislation to accomplish this was introduced this session.



Audit and Adjustment: Align New Mexico's audit and adjustment procedure for partnerships with federal law to streamline the correction of over- or under-payment of income tax. Businesses and our state benefit from accurate tax collection – and a simplified means of correcting errors or adjusting to changes.

Senate Bill 410 provides for these changes.

Regulatory Issues



Space Flight: Broaden and make permanent the Space Flight Informed Consent Act to ensure New Mexico remains competitive in its efforts to attract various types of space-related economic activity.

House Bill 68 broadens the definition of spaceflight companies included in the Act and removes the automatic repeal date to make these liability protections permanent.

Mandatory Leave: Oppose the enactment of an onerous mandatory paid leave requirement on businesses in New Mexico, which would impose hard-to-bear costs on job creators during good economic times, let alone during a once-in-a-generation pandemic that has curtailed and shut down business activity. A majority of Albuquerque City Councilors have indicated they plan to soon pass a mandatory paid leave ordinance. The Chamber would prefer a statewide leave policy that is reasonable and accommodating to small businesses, as opposed to a differing patchwork of local regulations across New Mexico (and even within Bernalillo County). In its consideration of a statewide leave measure, the Chamber urges lawmakers to exempt small businesses, ensure the statewide policy preempts local ordinances (one standard statewide), recognize existing generous leave policies that a company may have as an adequate substitute for mandatory sick leave, and enact a fair process for resolving leave disputes.



House Bill 20 requires private sector employers to offer up to 64 hours of sick leave per year to each of their employees, far exceeding the standard number of hours provided in sick leave bills in other states. The legislation does not pre-empt more onerous local ordinances and does not exempt or otherwise compensate very small businesses. HB 20 does allow companies that already offer significant paid-time-off policies to substitute these existing policies for the sick leave provisions in this legislation, and the paid leave framework was delayed to start on July 1, 2022.



Minimum Wage: Oppose any further increase to New Mexico's minimum wage or attempt to index the wage rate to rise each year.

House Bill 110 would have raised the minimum wage to \$12.00/hour in 2022 and \$15.00/hour in 2024. After that, it would increase each year according to USDOL's consumer price index. The bill would have also scrapped the lower minimum wage rate for tipped workers.

N/A

Environmental Reviews: Oppose the imposition of new, burdensome environmental reviews of public and private construction projects.

Legislation was not introduced on this subject.

N/A

Regulatory Office: Create the Governor's Office of Regulatory Reform, requiring every state agency to review regulations every five years, with the intent of reducing unnecessary burden on businesses in New Mexico.

Legislation was not introduced on this subject.

Higher Education and Workforce Development



Student Aid: Increase funding for student financial aid, Lottery Scholarships, Opportunity Scholarships, and College Affordability grants.

Senate Bill 135 authorizes additional aid to help more New Mexicans earn degrees and certificates, such as recent high school graduates (who didn't immediately attend college) or Lottery Scholarship recipients who didn't finish college. Between the budget and this bill, \$22 million is appropriated to expand these "opportunity scholarships." The budget also spends \$10.5 million to allow Lottery Scholarships to pay for 90% of a student's tuition.



College Technology: Secure \$3.1 million in technology funding to pay for five colleges to adopt a new student, finance and human resources system and common student and business practices. The student information system will improve student experiences (with admissions, registration, financial aid, learning and tutoring, and more), improve data reporting and accountability, reduce operating expenses, and optimize the colleges' workforces. **Responsive Workforce Development:** Provide \$1 million in non-recurring funding to the "High Skills Program," which helps community colleges quickly start and increase enrollment in workforce training programs to meet various economic development or recovery demands.

The budget does not provide the two particular appropriations above.



Credit Transfer: Increase funding for – and collaboration around – the transfer of credits between higher education institutions, common course numbering, and more student counseling.

Senate Bill 77 allows six public colleges and universities in southeastern New Mexico to enter into agreements to create a simple, clear pathway to save students time and money as they work toward their four-year degrees. From here, this pilot project will enable the rest of the state's higher education institutions to benefit from lessons learned to improve students' experience and graduation time.

OTHER ECONOMIC DEVELOPMENT ITEMS PASSED DURING THE SESSION:



Expedited Professional Licensure for Military Families: Provide fee waivers and expedited licensing/certification for certain occupations and professions, school personnel, and construction industry licenses for military service members, their spouses, dependent children, and veterans. Require licenses to be issued, for example, no later than 30 days after application.

House Bill 120 successfully provides this expedited licensure.







Military Family Enrollment in Public Schools: Allow military families moving to New Mexico to enroll children in a traditional or charter school prior to their move.

Senate Bill 272 provides this benefit to military families, maximizing their education options and ensuring their upcoming move to New Mexico doesn't cause them to miss enrollment/choice deadlines.

HARMFUL ECONOMIC DEVELOPMENT ITEMS **PROPOSED AND DEFEATED** DURING THE SESSION:

(The following items are not mentioned elsewhere in this document):

-  **Establishment of a Public Bank (HB 236)**
-  **Increase of the Gasoline Tax (SB 168)**
-  **Mandatory Family and Medical Leave (HB 38)**
-  **Private Right of Action Lawsuits (HB 50)**

- ✓ Presumption of COVID Transmission in the Workplace for Workers Compensation Purposes (HB 268)
- ✓ Insurance Fee Increases (HB 248)

Public Safety and Behavioral Health

Criminal Justice Policies and Reforms



Pre-Trial Interviews: Amend state law to no longer allow defense attorneys to interview children or incapacitated adults prior to trial, ban the disclosure of victims' personal identifying information, and allow for the introduction of statements taken during Safehouse interviews and children and developmentally disabled individuals as evidence at trial.

House Bill 143, which would have accomplished all of the above objectives in support of victims, passed one House committee, but was never heard in the House Judiciary Committee.



Pre-Trial Detention: Adopt changes to current procedures around pre-trial detention, including (a) creating a rebuttable presumption that defendants who have been charged with serious crimes are deemed dangerous and should be detained in jail pre-trial, (b) establishing that a person's likelihood of being a flight risk or obstructing justice are also grounds for pre-trial detention, and (c) allowing judges to detain an individual pre-trial even in the absence of a motion to do so by a prosecutor.

House Joint Resolution 4 would have allowed magistrate court judges to detain serious defendants (in addition to district court judges) and allowed judges to detain a person deemed to be a flight risk, among other changes. It was tabled in its first committee hearing in the House.



Officer Recruitment and Retention: Oppose the enactment of policies that would make it more difficult to recruit and retain law enforcement officers in New Mexico, such as ending "qualified immunity" for those who serve in public safety positions.

House Bill 4, the "New Mexico Civil Rights Act," does away with the defense of qualified immunity in state civil rights cases involving the misconduct of police officers. However, the bill makes it clear that officers would not be personally liable in these suits.



Violence Intervention: Secure funding for the Violence Intervention Program (VIP) in Albuquerque, designed to use focused deterrence strategies to specifically reduce group-member involved homicides, shootings, and aggravated assaults.

House Bill 102 contained a \$10 million appropriation to award VIP grants to local governments. The bill was tabled in the House Appropriations and Finance Committee, its second hearing, because the funding was not included in the version of the state budget passed by the House.

Criminal Penalties



Chop Shops: Create penalties for the operation of stolen vehicle "chop shops" to help prevent auto theft.

House Bill 145 would have created a specific crime and penalty for illegally dismantling a stolen motor vehicle, in order to sell stolen vehicle parts or operate a business selling stolen parts. It passed the House unanimously but was never scheduled for a hearing in the Senate Judiciary Committee.

Capital Investments



Gun Shot Detection: Secure capital funding for gun shot detection technology, allowing this critical tool to be deployed in 4 additional locations across Albuquerque (\$340,000).

The capital outlay bill contains \$445,000 for gunshot detection technology for APD.

Note: the bill also contains \$825,000 for information technology upgrades at APD and \$515,000 for APD facilities, equipment, and vehicles. From a statewide standpoint, the bill includes \$5 million for construction of the state crime lab, over \$2 million for NM State Police facility improvements, and \$8 million for public safety radio communication system improvements across New Mexico.



Public Safety Center: Secure capital funding to merge the Real Time Crime Center and the Regional Traffic Management Center into a central location (\$4.5 million).

The capital outlay bill contains \$4.5 million for this project.

Homelessness and Behavioral Health



24-Hour Sheltering: Secure capital funding to expand 24-hour sheltering for people experiencing homelessness in the Albuquerque area, as well as provide a location – or locations – for first responders to take the homeless, where their needs can be triaged and they can be connected to services (\$10 million).

The capital outlay bill contains nearly \$4 million for this project, a large increase over the very small amount secured in last year’s capital outlay legislation.

N/A

Data Sharing and Integration: Pass legislation allowing for the greater integration of criminal justice and behavioral health data, while ensuring the protection of patient information.

No such legislation was introduced this session.

K-12 and Early Childhood Education

A Focus on Academic Growth and Success



School Year Extension: Given the learning loss that has occurred during the COVID-19 pandemic as a result of school closures, fund a lengthy statewide extension of the school year via K-5 Plus for most elementary school students (5 weeks) and a shorter extension of the school year for middle and high school students (2 weeks) for years to come. More “time on task” and in-person, in-classroom instruction will not only catch our students up, but improve literacy skills among young learners and help close persistent achievement gaps.

Senate Bill 40 provides K-5 Plus and extended learning programming for students across New Mexico, with enhanced flexibility in implementation for districts and charter schools. Though a mandate to participate was removed from the legislation, the \$230 million in the budget for extended learning (and millions more in federal American Rescue Plan funding for the same purpose) will provide a strong incentive for districts and charter schools to take part. The budget also contains language requiring districts and charter schools that choose not to participate in these programs to detail their alternative plans for recovering lost instructional time for their students.



Public Charter School Facilities: Make it easier – and more equitable – for charter schools to access funding for school facility construction, leasing, and improvements; create a revolving loan fund to finance charter facilities.

Senate Bill 318 would have mandated that school districts make facilities and land not being used for education purposes available to charters for lease, lease purchase, or purchase. It also would have expanded facilities eligible for state lease assistance and would have created a “charter facility fund” to support lease purchases. The bill stalled in the Senate Finance Committee.



Charter Moratorium/Enrollment Cap: Oppose any attempt to impose a moratorium – of any length – on the opening of new charter schools in New Mexico or adopt a statewide cap on the number of students who can be enrolled in charter schools.

With a coalition of partners, the Chamber successfully worked to prevent charter school moratorium or enrollment cap legislation from being introduced this session.



Classroom Spending: Continue to limit the extent to which school districts can increase non-classroom administrative spending each year.

Budget language requiring specific classroom spending targets was replaced in this year's budget by language that still intends to prioritize funding on classroom activities, but is more general and less enforceable than last year's budget language.

N/A

Assessment Incentive: Support a special appropriation to schools that choose to provide an annual standardized assessment to students this school year. Given statewide school closures in New Mexico, the transition to mostly virtual instruction, and research indicating a strong likelihood of substantial learning loss, it is imperative that schools and teachers understand the extent to which individual students and sub-groups of students have fallen behind academically, in order to provide academic help in the coming months and years.

Note: The Public Education Department secured an annual testing waiver this year, which does not require annual assessments to be given, but still allows schools that want to provide an assessment to their students to do so. In addition to the above position, the Chamber also urges the PED Secretary to rescind his waiver request so that teachers, school leaders, parents, and state officials can learn where all students stand academically this year.

In the midst of the session, the federal Department of Education declared that all students must receive assessments in order to identify struggling students and understand the extent of learning loss among children as a result of the pandemic. The Department denied state waivers for assessments, and New Mexico's PED has submitted a different (partial) waiver request. It is unknown how the federal government will respond.

OTHER SIMILAR ITEMS PASSED DURING THE SESSION:



Enrollment Preference for Children of Charter School Teachers/Leaders: Allow the children of those who work at charter schools to be automatically admitted to the charter school, a policy that has historically been in place for those who work at traditional public schools.

Senate Bill 51 provides an enrollment preference for the children of charter school employees.

Early Childhood Education Growth and Quality

N/A

Workforce Development: Advance proposals and appropriations designed to further professionalize and expand the early childhood workforce in New Mexico.

The Governor's Administration chose not to pursue legislative proposals on this subject, preferring instead to make significant early childhood workforce changes via regulation and rule.



Public/Private Delivery System: Continue to use a differentiated delivery system for early childhood services that relies on public and private providers, and ensure early childhood programs grow in a responsible, incremental manner that allows the state to monitor outcomes and maintain rigor and high standards.

The state's public/private delivery system survived yet another legislative session.

Other Important Topics



Legalization of Recreational Cannabis: The business community remains deeply concerned that legalization proposals are unable to address serious questions relating to (a) the right of employers to have a drug-free workplace and enforce workplace safety, (b) the inability to reliably test for impairment or determine when the

drug was used, and (c) the challenge of enforcing laws against driving under the influence. No technology exists to reliably determine when cannabis was used or a person's level of impairment, which would make it hard to prosecute drugged driving and would lead to employees being reprimanded or fired for the use of a legal substance (under state law) on their personal time, simply because the drug remains in their system. A chaotic and litigious situation would likely result, and businesses are concerned that statutory language allowing companies to maintain a drug-free workplace could be challenged and nullified in the courts. The Chamber intends to work diligently with legislators to address these still-unresolved issues and will work to ensure the legalization bill is as business-friendly and conscious of business concerns as possible.

House Bill 12 would have legalized recreational cannabis and taxed it at a roughly 20% rate. Other legalization bills took different approaches to the issue and applied different tax rates to the product. While no bill was going to be able to fully satisfy the Chamber's concern about the litigious environment that is likely to result from an inability to reliably test for impairment in the workplace or behind the wheel of a car, all of the seriously-considered bills did provide explicit protections to businesses to establish and enforce a drug-free workplace and control whether cannabis can be present and/or consumed/used on their property. Some of them included strict advertising restrictions as well. HB 12 would have expunged criminal records relating to past cannabis offenses, alongside other so-called "social justice" initiatives. Ultimately, the Senate was simply unable to come to consensus on how to properly legalize and regulate the sale of cannabis, and despite a flurry of activity late in the session, no bill was brought for consideration on the Senate floor. The Governor intends to call a special session on or around March 31st to address the issue.



UNM Comprehensive Cancer Center Funding: Extend – or do away with – the sunset on the cigarette excise tax that has been allocated annually to the UNM Health Sciences Center and the UNM Comprehensive Cancer Center since 2003, allowing the state to bond against this revenue and finance a cutting-edge radiation oncology and laboratory expansion project (\$22 million), bringing new cancer treatment programs to New Mexicans (stem cell/bone marrow transplantation, advanced cellular and immunotherapies, and therapeutic radioisotopes).

Senate Bill 223 extends the sunset on this tax to allow the UNM Comprehensive Cancer Center to complete its expansion with this revenue.



Health Plan Taxation: Oppose the imposition of a state-level health insurance premium surtax.

House Bill 122 would have imposed a health insurance premium surtax to replace a federal tax that was repealed; the 200% increase would have made New Mexico's tax the highest in the nation. The bill stalled in the Senate Finance Committee but was amended onto Senate Bill 317 and passed, a behavioral health services bill, in the final days of the session.



Environment Amendment: Oppose a proposed amendment to the Constitution relating to a person's right to clean air, water, and land; this has always been – and remains – an important policy priority, but enacting a new Constitutional right on this subject would likely lead to endless and costly lawsuits that would impact the state's fiscal and economic health and hamper wise policymaking on energy and environment matters.

Senate Joint Resolution 3 did not advance to the Senate floor.



Medical Malpractice: Support reasonable medical malpractice changes, including covering nurses and other clinicians under the Medical Malpractice Act (MMA); this would increase funds available to injured patients and provide these clinicians with professional liability protections. Oppose changes to the MMA that would make insurance costs unaffordable and make it harder to recruit and retain badly-needed health care practitioners in New Mexico. Specifically, oppose the removal of hospitals from the MMA, which would allow for unlimited damage awards and remove hospitals from the Patient Compensation Fund, which guarantees payment for ongoing care for patients harmed by medical malpractice. Removing hospitals from the MMA would erode and likely collapse this fund.

A compromise among interested parties was brokered during the session (House Bill 75) that transitions hospitals out of the MMA in five years and, over that time, raises the cap on medical malpractice claims

against hospitals to \$6 million, among other changes designed to make the Patient Compensation Fund solvent. The cap on claims against other providers will be raised from \$600,000 to \$750,000.



Health Care: Oppose attempts to push private health insurers out of the health care system, in favor of costly and additional government involvement and control at the state level.

House Bill 203 would have convened a taskforce to study and make recommendations for establishing a government-run health system in New Mexico. The \$600,000 cost of the taskforce stopped the bill in the House Appropriations and Finance Committee.

OTHER ITEMS PASSED DURING THE SESSION:



Community Solar Projects: Oppose community solar project programs whose costs are likely to be unfairly shouldered by non-subscribers.

Senate Bill 84 allows the establishment of community solar projects, small operations (less than 5 megawatts capacity) that are built by companies that then sell "subscriptions" to customers who receive a bill credit from their local utility. It's likely that these projects are more costly than their commercial counterparts, and House amendments added only minimal safeguards to ensure non-subscribers do not bear the burden of those costs. Amendments ensuring appropriate PRC oversight were also stripped. However, the bill was restricted to a two-year pilot program and limited to a maximum of 200 megawatts statewide. Also, large institutions like a university are prohibited from leaving the utility system to limit stranded assets and cost shifting to nonparticipating ratepayers.



New Mexico Civil Rights Act: Oppose the creation of a new right to sue government agencies in state court for alleged violations of a person's rights under the state constitution.

House Bill 4 allows private citizens to file lawsuits against government entities for violations of their rights under the state constitution. It also does away with the use of "qualified immunity" as a defense in police misconduct cases (though officers would not be held personally liable). Damages are capped at \$2 million per claim (not per occurrence) and attorney fees are able to be awarded by a judge. The Act will lead to an increase in lawsuits against cities, counties, schools, and other governments in New Mexico; strong concerns remain about the fiscal implications and insurability of local governments.



Restrict Medical Debt Collection: Oppose limitations on providers' ability to seek payment so that unpaid medical costs are not borne by other patients, insured or not.

Senate Bill 71 prohibits healthcare facilities from pursuing collection actions for unpaid medical costs and saddles providers with conducting screening to identify indigent patients and, once they are identified, helping them with accessing available state programs. Amendments made the bill less onerous, and individual practitioners and smaller clinics are not included.