

NMBA LEGISLATIVE REPORT

NEW MEXICO BANKERS ASSOCIATION
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The 2020 Legislative Session opened on Tuesday, January 21, with Governor Michelle Lujan Grisham delivering her second “State of the State” speech.

In her speech, the Governor made the case for the litany of legislative priorities that have made the call-the list of nonbudget policy items the governor has deemed relevant to the 30-day session this year. That includes legalizing recreational cannabis; a bill to allow law enforcement to obtain a court order to remove guns from people who are considered dangerous; a proposal to offer a scholarship that would cover college tuition; a solar tax credit renewal and a host of other proposals. Lujan Grisham touched on her proposal to boost K-12 education funding by \$200.3 million. She also is proposing an additional \$320 million one-time appropriation for an Early Childhood Trust Fund.

The Governor touted New Mexico economic statistics over the past year. New Mexico was ranked number 8 nationally in job growth and has had its best year for job growth since 2005, with 15,000 in new jobs since the beginning of 2019. Many legislators questioned why she did not mention the oil industry in her speech, as the state’s current budgetary windfall is largely due to an oil boom in southeastern New Mexico that has created thousands of jobs.

The Governor provided a summation of what has been accomplished during her first year in office and where the state is headed.

Budget

The top priority for the 2020 Legislature and the Governor is preparing and approving a balanced budget. The Governor's budget proposal includes:

- An overall general fund recurring budget of \$7.68 billion, an 8.4 percent increase, with a 25 percent general fund reserve target;
- An expansion of the education moonshot to cover education from cradle to career, with more than 47 percent of all new recurring spending going toward the educational continuum, from early childhood to higher education;
- A \$74 million increase in early childhood services to establish a fully functioning Early Childhood Education and Care Department overseeing the coordination and expansion of critical services, including \$26 million to expand child care assistance by changing eligibility from 150% to 200% of the federal poverty level; \$15.6 million to provide raises for thousands of child care providers statewide; \$19.9 million to expand public and private pre-k slots for three- and four- year olds; \$3 million to expand home visiting services; \$3.5 million to expand Family, Infant, Toddler (FIT) early intervention program services; and \$2.4 million to continue to implement provider rate increases;
- \$320 million in non-recurring funds to create the new Early Childhood Trust Fund, which will provide a dedicated and self-sustaining revenue stream to fund early childhood programs into the future;
- A \$200.3 million increase in the Public Schools budget for a total recurring budget of approximately \$3.4 billion, including a second consecutive year of pay increases for educators and all school personnel; a \$17 million increase to support a thriving educator ecosystem, including professional development and retention; a \$12 million increase to support whole-child education and the bilingual and multicultural framework; \$182 million in continued funding for the K-5 Plus and Extended Learning Time programs; \$53 million to increase the at-risk index, building on the prior year's \$113.2 million increase; \$12 million to support the implementation of a community school framework in schools across New Mexico; and a \$12 million increase to support competency-based science, technology, engineering, arts and mathematics (STEAM) standards and build up career technical and vocational education and apprenticeships programs.
- \$35 million to fund the New Mexico Opportunity Scholarship, expected to benefit 55,000 New Mexico students by making college tuition-free for New Mexico residents, restoring the initial promise of the Lottery Scholarship and re-establishing essential career pathways for New Mexicans all across the state.
- A continuation of last year's critical investments in economic development and successes in diversifying and expanding the economy, including \$200 million for roads, bridges and rail projects throughout the state, building on last year's

appropriation of \$450 million for state and local road projects; \$40 million to continue funding the Local Economic Development Act, \$10 million of which specifically to be used for rural infrastructure projects; \$9 million for New Mexico's Job Training Incentive Program; nearly \$1 million to expand the Office of Outdoor Recreation; funding for expanded staffing at Spaceport America; funding for expanded staffing in the New Mexico Film Office to handle increased film credit activity; and \$5 million to expand the New Mexico True campaign and continue to attract tourism to New Mexico.

- Major investments in caring for New Mexicans' health and wellbeing, including a \$28.7 million increase to build a new behavioral health network, including community based health services, effectively addressing substance use disorders, and addressing the behavioral needs of justice-involved individuals; an 8 percent increase in funding for the Department of Health, including to serve additional hundreds of New Mexicans on the Developmentally Disabled waiver waiting list and develop a new supports waiver service; \$350,000 to create a new Office of Wholesale Drug Importation within the Department of Health to develop, plan, apply for and negotiate with the federal government for approval of a Canadian wholesale drug importation plan to ensure drug safety and significantly reduce costs to New Mexicans across the state; \$55.8 million to increase the Medicaid budget; and a \$22 million increase for the Children, Youth and Families Department, including funding for 62 new positions, behavioral health services, and rate increases for guardians and care providers.
- \$25 million in non-recurring funds to create the Kiki Saavedra Senior Dignity Fund to address high-priority areas for seniors across New Mexico, including transportation, food insecurity, physical and behavioral health services, case management and caregiver services.
- Underscoring a commitment to protecting New Mexico families with \$163.9 million for public safety, including funding for 60 new State Police officers, new forensic lab staff, and a new data-sharing system to address gaps in inter-agency communication around the state.
- A 3 percent salary increase for all state employees; a 2 percent salary increase for all higher education employees; and funding to accompany the proposal to fix the state pension shortfall.

Governor's Agenda for 2020 Legislature

Education:

- **Early Childhood Trust Fund** (HB83, Representative Gallegos & Senator Smith): Providing a dedicated and self-sustaining revenue stream to fund early childhood programs into the future, delivering a permanent investment in our youngest children. Part of the governor's agenda to expand the education moonshot to begin from a child's earliest days, the Early Childhood Trust Fund (ECTF) will fulfill a promise to parents and the next generation of families of New Mexico, created with a \$320 million one-time initial appropriation. Centered on fiscal responsibility with financial safeguards built in, the ECTF will launch a positive and self-fulfilling cycle of investment and opportunity in our families and young children.
- **New Mexico Opportunity Scholarship** (Representative Salazar): Establishing tuition-free college for New Mexico residents, extending the education moonshot through greater access to higher education and careers. Estimated to benefit 55,000 New Mexico students, the New Mexico Opportunity Scholarship will cover tuition and fees at any of the state's 29 public institutions of higher education, providing up to four or two years of college for recent high school graduates and two years of college for returning adults. Funded with a \$35 million appropriation to the Higher Education Department, the Opportunity Scholarship will remove the barrier of tuition costs, restoring the original promise of the New Mexico Lottery Scholarship, enabling more New Mexicans to obtain college degrees and certificates, resulting in better employment opportunities, higher overall incomes and a stronger workforce for New Mexico's economy.

Economy:

- **Recreational Cannabis** (Representative J. Martinez): Legalizing the use of recreational cannabis in New Mexico and establishing a regulatory framework for its use, including public safety considerations, public health safeguards, and the protection of the state's existing medical cannabis program. Supported by 75 percent of New Mexicans in a recent poll, the legalization of recreational cannabis is projected to create 11,000 New Mexico jobs and generate hundreds of millions of dollars in revenue.
- **PERA Solvency** (SB72, Senator Munoz, Senator Smith, Senator Neville, Representative Lundstrom, Representative Roybal-Caballero): Delivering essential and equitable reform to the state pension system, setting the state on a course to eliminate the current \$6.6 billion unfunded liability and accommodating the concerns of current and future state of New Mexico retirees while establishing safeguards against the effects of future economic downturns. Requiring shared responsibility in order to ensure New Mexico's public pension system remains one of the best in the country, the fix for the Public Employees Retirement Association (PERA) ensures that the pension system is solvent within 25 years; strengthens recruitment and retention of public employees; ensures

that cost-of-living adjustments are sustainable; has been endorsed by the PERA board; and makes important accommodations for the most senior and most vulnerable retirees; in all, ensuring a sustainable future for PERA.

- **Lift Cap on Economically Targeted Investments as Percentage of Severance Tax Permanent Fund** (Senator Campos): Raising the cap on economically targeted investments (ETIs) from the Severance Tax Permanent Fund (STPF) in order to ensure sufficient headroom between the investment cap and the investment target, enabling the State Investment Council to implement its recent policy decision to increase the target ETIs out of the STPF from five percent to nine percent. Unanimously approved by the SIC, increasing the target percentage of the fund to be invested in ETIs allows for an additional \$200 million to be invested in New Mexico businesses, building on the significant investments in small business Gov. Lujan Grisham and the Legislature delivered in 2019.
- **Electric Generating Facility Economic District Act** (Representative Lundstrom): Establishing guidance on the next steps for the surrounding communities affected by the potential closing of the Escalante Power Plant, allowing McKinley County to establish a new special district use and a new authority for the purpose of converting the existing power plant site into a new industrial site. Specifically crafted to have expertise in the area of redevelopment, the new district authority board and staff will work to repurpose the area for the attraction of best-fit industrial companies.

Public Safety:

- **Extreme-Risk Protection Order** (SB5, Senator Cervantes, Representative Ely, Representative Garratt): Giving law enforcement an additional tool to prevent gun violence by enabling the use of extreme-risk protection orders, allowing firearms and ammunition to be temporarily removed by court order from someone threatening themselves or others. Proactive, constitutional, and proven effective, extreme-risk protection orders will allow police and family to take direct action, while following due process, that enables law enforcement to protect New Mexico communities and those most at risk of harming themselves. In a state with the eighth-highest rate of gun deaths in the nation, with a suicide rate at least 50% higher than the national average when over 50% of suicides are caused by firearm, this common-sense measure, a version of which has already been enacted by 17 states and the District of Columbia, will enhance New Mexicans' public safety.
- **Increased Penalties for Use of a Firearm in a Non-Capital Felony** (Representative Rehm): Part of a coordinated effort to target cartels, gangs and violent criminals.
- **Increased Penalties for Violations of New Mexico State Racketeering Laws:** Increasing penalties for drug trafficking and adding a "kingpin provision" to the New Mexico Racketeering Act specifically directed at targeting organized crime and drug trafficking.
- **Threats and Acts of Mass Violence** (Representative Hochman-Vigil): Creating penalties for those who make threats disrupting public educational or

governmental institutions, including those who engage in cyberattacks against public institutions, and expanding the state's Anti-Terrorism Act to criminalize terroristic threats and conduct. The proposal originated at the bipartisan Domestic Terrorism Summit convened by the governor earlier this year.

- **Criminal Penalties for Operating a Vehicle Chop Shop** (Representative Akhil): Creating penalties for the destruction and resale of illegally-obtained vehicles and the operation of institutions conducting such practices, commonly referred to as “chop shops.”
- **Sex Offender Registration Requirements** (HB43, Representative McQueen): Broadening state sex offender registration requirements to require those who are registered as a sex offender in another state to register as such in New Mexico, in addition to requiring sex offender registration for those convicted of human trafficking and sexual exploitation of children by prostitution.
- **Increased Distribution From Law Enforcement Protection Fund for Acute Crime Interventions** (Representative Ruiloba): Increasing the annual distribution limit to New Mexico law enforcement departments from the Law Enforcement Protection Fund from \$20,000 to \$45,000 per department and from \$600 to \$1,000 for each individual officer, enabling additional available funding for law enforcement training and equipment across the state. Furthermore, it enables a distribution to State Police of up to \$2 million annually for special deployment use after all local law enforcement distributions have been made.
- **Increased Penalties for Human Trafficking:** Expanding the definition of human trafficking in New Mexico, increasing felony penalties, creating a minimum term of imprisonment of three years in circumstances in which the victim is under the age of sixteen, and precluding authorities from charging victims of human trafficking with prostitution.

Health:

- **Drug Importation** (SB1, Senator Papen & Representative D. Armstrong): Creating the Office of Wholesale Drug Importation at the Department of Health and authorizing it to develop, plan, apply for, and negotiate with the federal government for approval of a Canadian wholesale drug importation plan, ensuring drug safety and significantly reducing drug costs for New Mexicans, who currently pay roughly twice as much for brand name drugs than Canadians.
- **Residency Requirements for Medical Cannabis Program Enrollment** (Senator Ortiz y Pino): Amending the 2019 legislation regarding residency requirements for the New Mexico Medical Cannabis Program to clarify that only residents of the state of New Mexico shall participate in the state's medical cannabis program in order to protect the program and its patients.
- **Increasing Access and Affordability in the New Mexico Health Insurance Exchange** (HB100, Representative D. Armstrong & Representative Cadena): Strengthening New Mexico's own health insurance coverage and health care laws and systems by giving the board of the New Mexico Health Insurance Exchange needed flexibility to increase access and affordability of health insurance plans for New Mexicans. Additionally, codifying into New Mexico state

law key provisions of the Affordable Care Act to ensure that New Mexico continues to maintain a strong health insurance exchange.

- **Tobacco Licensing and Tobacco and E-Cigarette Sales** (Senator Lopez & Representative Thomson): Creating a regulatory licensing system for the manufacturing, distribution and retail of tobacco products, to be administered by the Alcoholic Beverage Control Division at the Regulation and Licensing Department, and raising the legal age for purchases of e-cigarette and other tobacco products from 18 to 21, aligning New Mexico law with recently enacted federal law, in addition to creating criminal penalties for those who sell these products to purchasers under the age of 21.
- **Kiki Saavedra Senior Dignity Fund** (Representative D. Armstrong): Creating a \$25 million trust fund to address high-priority areas for seniors across New Mexico to include transportation, food insecurity, physical and behavioral health services, case management, and caregiver services. The funding will address increased access for seniors and adults with disabilities, including veterans, to receive specialty physical and behavioral health care most often only provided in urban areas; increased access to ADA vehicles for seniors and adults with disabilities not able to participate in senior center events, congregate meals and local appointments due to inadequate services; and care coordination through community health workers. Named for the late state Representative Henry “Kiki” Saavedra in honor of his many incredible years of service to New Mexicans, the fund will continue his legacy by specifically targeting expanded access to critical services for one of the state’s most vulnerable populations.

Environment:

- **Solar Tax Credit** (SB29, Senator Stewart): Renewing a prior tax credit for residential, commercial and agricultural solar, proven successful, that previously expired in 2016. Creating an income tax credit of 10% of the purchase and installation costs, with a maximum aggregate of \$10 million, to make solar more accessible for New Mexico residences and businesses and enable New Mexicans to take full advantage of the state’s plentiful solar energy.
- **Electric Vehicle Tax Credit** (Senator Woods & Representative J. Trujillo): Creating a \$2,500 tax credit for the purchase or lease of an electric vehicle and a \$300 tax credit for the installation of at-home charging infrastructure, enabling more New Mexicans to purchase electric vehicles and utilize the electric vehicle framework expanded across the state in last year’s session. The tax credit is doubled for low-income purchasers, enabling a \$5,000 tax credit.
- **PRC Reform** (Representative Small): Making structural changes to the Public Regulation Commission (PRC) to improve the agency’s functionality for the public, the regulated community, intervenors in dockets, and PRC commissioners and staff. This good-government initiative will result in an agency fully staffed with technical experts that produces timely docket processes and decisions, consistent regulatory outcomes grounded in the law, and fewer ethics complaints and allegations of misconduct, in addition to the possibility of greater investment

in the electricity, pipeline, and water infrastructure needed to keep New Mexico's economy growing.

- **IRB Authority for Transmission Lines** (SB6, Senator Neville & Senator Candelaria): Establishing the authority for counties to issue Industrial Revenue Bonds (IRBs) with the purpose of funding transmission line projects, creating a funding mechanism to deploy more transmission lines across the state.
- **Community Energy Efficiency Block Grants** (Senator Ortiz y Pino): Creating an Energy Efficiency Block Grant Program, administered by the state Energy, Minerals and Natural Resources Department, to provide grants for energy efficiency improvements for low-income households. Established with a \$2.5 million appropriation in order to enable low-income households to reduce their utility bills, improve their comfort, and minimize their climate change footprint.

Pre-filed Legislation

There have been 185 bills pre-filed in the House and 145 in the Senate. Many of the pre-filed bills are unlikely to be considered in 2020 as many will need approval (call) by the Governor to be considered germane for a 30-day session. Many legislators are encouraged that Governor Lujan-Grisham is limiting the session agenda to a relatively small number of high-profile initiatives. While certain lawmakers indicate that some priority bills may move quickly to the Governor for consideration, the fate of most legislation is not likely to be decided until the final days of the session, which ends on February 20.

Senate Reorganization:

On Tuesday, the Senate announced that there would be changes in Senate Committee leadership. Senator Joseph Cervantes (D/Las Cruces) will chair the Senate Judiciary Committee. Senator Liz Stefanics (D/Cerillos) will chair the Senate Conservation Committee and Senator Gabriel Ramos (D/Silver City) will chair the Senate Indian and Cultural Affairs Committee. Senator George Munoz (D/Gallup) will serve as vice chairman of the Senate Finance Committee. That position had been held by the late Senator Carlos Cisneros (D/Questa).

Legislative Make-Up:

The 112-member Legislature has 70 members in the House of Representatives and 42 members in the Senate. Currently, Democrats outnumber Republicans 46-24 in the House and the Democrats hold a 26-16 advantage in the Senate.

Key Session Dates:

- December 16, 2019-January 17, 2020: Legislation may be pre-filed
- January 21: Opening day (noon)
- February 5: Deadline for introduction of legislation
- February 20: Session ends at noon

- March 11: Legislation not acted upon by governor is pocket vetoed.
- May 20: Effective date of legislation which is not a general appropriation bill or a bill carrying an emergency clause or other specified date

Bill Finder:

The New Mexico Bankers Association will prepare a weekly LEGISLATIVE REPORT throughout the 2020 Legislative Session. When a bill affecting our industry is first introduced, its pertinent provisions will be summarized. Thereafter, any further action taken on the bill will be reflected in subsequent reports. At any time you should desire a copy of a bill or additional information concerning any legislative matter, please direct your inquiry to the NMBA office at (505) 822-7900. To get copies of House and Senate bills online, go to <http://legis.state.nm.us> and then click on 'bill locator'. For a full text of the governor's "State of the State" address visit: <http://www.governor.state.nm.us>.



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Senate Bills and Resolutions:

SB 49: Public Funds Investments (Rodriguez). The bill proposes to make a technical amendment to NMSA 1978, Section 6-10-10(F) (3) by removing the phrase "registry service" and replacing it with the phrase "placement services." Counties and municipalities would be expressly authorized to invest funds in "certificate of deposit account placement services." As both the currently-permitted certificate of deposit account registry service and the proposed certificate of deposit account placement services allow depositors to invest with a participating FDIC-insured depository institution to avoid having funds above the Federal Deposit Insurance Corporation ("FDIC") deposit insurance limit in any one bank, this appears to be a technical correction that would have the effect of providing greater flexibility to county and municipal treasurers.

SB 68: Social Security Taxation (Padilla). The bill exempts not to exceed \$25,000 of Social Security income from state income taxation.

SB 81: Social Security Taxation (White). The bill exempts Social Security income from state income taxation.

SB 102: Natural Resources (Neville). The bill would enact the New Mexico Agricultural and Natural Resources Trust Act and direct a portion of the state's oil and gas revenue surplus to a permanent fund for habitat restoration and sustainable agriculture projects in the state. The bill appropriates \$150 million from the state general fund into the Agricultural and Natural Resources Trust Fund in fiscal year 2021. Interest from investments in the funds would pay for restoration projects. The legislation is modeled on the Wyoming Wildlife and Natural Resources Trust program, which has allocated millions since 2005 for river restoration and rangeland improvements. Money in the New Mexico fund could be used to reduce streambed erosion, improve water quality, and restore fire-impacted watersheds. Potential projects also include preserving open space, purchasing conservation easements, enhancing wildlife habitat in "areas impacted by residential, energy, mineral or industrial development," managing invasive plant species, and creating healthy soil and other sustainable agriculture projects on private land. The fund could provide state money as a match to qualify for federal conservation grants.

SB 104: Hydraulic Fracturing Permits (Sedillo Lopez). The bill directs the energy, minerals and natural resources department to halt the issuance of new permits allowing for hydraulic fracturing for the purpose of extracting oil or natural gas until June 1, 2024.

SB 115: Cannabis Regulation Act (Ortiz y Pino). The bill would enact the Cannabis Regulation Act. The same bill has been introduced in the House by Representative Javier Martinez (HB 160). Both bills are 175 pages long and prescribe how recreational cannabis should be taxed, age limits for possessing or consuming cannabis and which state government entities will be involved. The bill specifically provides:

- Adults over 21 can have up to 2 ounces of flower or 16 grams of extract.
- Medical cannabis patients would still have no possession limits, but they can only purchase up to 8 ounces of dried flower or bud within a rolling 3-month period.
- Only medical cannabis patients who hold a Personal Production License (PPL) can grow their own cannabis. Anyone found to be growing up to three plants without a PPL could face a \$50 fine. Anyone found to be growing more than three plants without a PPL could face a fourth degree felony, which comes with up to 18 months in jail.
- Recreational sales would include a nine percent state tax and would give counties and municipalities the option to add an additional four percent tax.

House Bills and Resolutions:

HB 29: Social Security Taxation (Brown). The bill would exempt Social Security payments from state income taxation.

HB 77: Social Security Taxation (Ely). The bill exempts not to exceed \$24,000 of Social Security income from state income taxation.

HB 82: Minimum Wage (Caballero). The bill increases the minimum wage beginning January 1, 2022 and prior to January 1, 2024 from \$11.50 per hour to \$12 per hour. Beginning January 1, 2024 and prior to January 1, 2025, the bill increases the minimum wage from \$12 per hour to \$15. The bill mandates an annual cost of living increase in the minimum wage rate beginning in 2025. The bill also repeals the section of law which provides for reduced minimum wage for persons with disabilities.

HB 120: Public Funds Investments (Cook). The bill provides that the state treasurer, with the advice and consent of the state board of finance may invest in federally insured obligations, including brokered certificates of deposit, certificate of deposit, account placement services and federally insured cash accounts.

The treasurer of any public body, irrigation, district, conservation district or education institution of the state, with the advice and consent of their respective boards of finance, may invest in federally insured obligations, including brokered certificated of deposit, certificate of deposit account placement services and federally insured cash accounts.

HB 123: Conservatorship Liability (Ely). The bill provide for a waiver or liability of conservator, an agent, an affiliate or a designee of a conservator or any third party acting on behalf of a conservator if the protected person or a person interested in the conservatorship estate is represented by independent legal counsel.

HB 130: Social Security Taxation (G. Armstrong). The bill exempts Social Security income from state income taxation.

HJR 1: Permanent Funds for Early Childhood Education (Maestas). The resolution seeks to amend Article XII, Section 7 of the New Mexico Constitution to provide an additional 1 percent annual distribution from the Land Grant Permanent Fund. The proposed amendment stipulates the amount of the additional distribution coming from the permanent school fund (which is the largest component of the land grant permanent fund allocated to support “common schools”), is to be earmarked for early childhood educational services. The amendment defines “early childhood educational services” as nonsectarian and nondenominational services for children until they are eligible for kindergarten. The Constitutional Amendment would only be effective if passed by voters

in the next general election (2020) or via a statewide special election held for this purpose. Subsequent to approval by the voters, the amendment would require the consent of the U.S. Congress before becoming effective.

