

# SANTA FE NEW MEXICAN

## Egolf proposes civil rights bills for special session

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House Speaker Brian Egolf said he is proposing civil rights legislation for the special session that would make it easier to hold state officials and law enforcement officers accountable for misconduct.

One bill would prohibit New Mexico officials from claiming “qualified immunity” — a legal doctrine that can shield them from being held personally liable for actions that violate a person’s constitutional rights.

“This is a glaring hole,” Egolf said Thursday. “It is a big, big problem, and we can take a little step in New Mexico towards fixing it.”

A second bill would allow New Mexicans to file claims if their rights are violated under the state constitution, which Egolf, a lawyer, said they currently cannot do.

The proposals come as U.S. House and Senate Democrats have introduced a police reform bill calling for ending the qualified immunity doctrine that gives police officers protection from civil lawsuits, among other proposed changes.

A debate over qualified immunity has intensified across the country since George Floyd was killed by a Minneapolis police officer, fueling scores of nationwide protests against police brutality. On Wednesday, more than 1,400 current and retired professional athletes and coaches sent a letter to Congress supporting federal efforts to end the immunity doctrine.

The doctrine was created by the U.S. Supreme Court in the 1960s to protect public officials from frivolous lawsuits, but police officers have used it to avoid litigation when they’re accused of using excessive force.

Egolf said qualified immunity has prevented New Mexicans from pursuing claims if they’ve suffered civil rights abuses at the hands of officials or police officers in the state.

“There’s no remedy right now — because of qualified immunity and because there’s no state court claim that you can make,” the Santa Fe Democrat said.

In 2017, a court ruled a New Mexico State Police officer violated a man's constitutional rights after he shot and killed him at his home in Glorieta in 2011, but the court still granted the officer qualified immunity because "there was no prior case with sufficiently similar facts," according to the Cato Institute, a Washington, D.C.-based think tank.

The institute said in a 2018 report the doctrine lacks "legal basis, vitiates the power of individuals to vindicate their constitutional rights, and contributes to a culture of near-zero accountability for law enforcement and other public officials."

Egolf said he has talked to Gov. Michelle Lujan Grisham about his legislation and "she's considering it."

Such bills have never been formally introduced in the New Mexico Legislature, Egolf said.

House Minority Leader Jim Townsend said he couldn't comment specifically on Egolf's proposal because he hadn't read it. But he said he would have "some concerns" about a measure that might reduce protections for police officers.

"I think we have to be very careful in how we treat those policemen and allow them to protect us," said Townsend, R-Artesia. "I'm about protecting law and order, I'm about protecting police officers and I'm about calling out bad police officers at the same time. We have to do all three."

The governor said Wednesday she was considering putting criminal justice reform legislation on the agenda for the upcoming special session, due to start June 18, including a potential requirement for all law enforcement officers in the state to wear body cameras.

She said New Mexico needed to capitalize on the nationwide momentum pushing for criminal justice reform driven by the protests over Floyd's death.

"We should capture this moment. This is another civil rights movement in this country," Lujan Grisham said. "Not doing everything you have the power to do — and we have considerable power — is wrong."

Lujan Grisham spokeswoman Nora Meyers Sackett said Thursday the governor "is open to proposals that address the timely questions of excessive force in policing and of systemic racism and injustice."

She did say, however, that the main focus of the session would be addressing economic issues related to the COVID-19 pandemic, and that initiatives would need "broad support across the Legislature" in order to be included on the agenda.

The governor said she would likely include other bills on the special session agenda, including measures that would provide economic relief to small businesses, lower tax liabilities and streamline voting procedures for the November general election.

As for the main purpose of the special session — retooling the state’s budget amid a huge decline in projected revenues — Egolf said there is broad correlation between proposals released Wednesday by the governor and the Legislative Finance Committee.

He said the House will aim to keep \$17 million in funding intact for the Opportunity Scholarship program that has been one of the chief proposals of the Lujan Grisham administration. The LFC called for eliminating the program, which aims to provide free college tuition for New Mexicans.

Egolf also said he favored authorizing pay raises of between 1.5 percent and 2 percent for state employees and school workers.

The increases originally were approved at 4 percent for the next fiscal year’s budget. Yet the governor is recommending reducing the raises to 2 percent, while the LFC proposes increases of either 1 percent or eliminating the increases completely.

Meanwhile, nearly two dozen state legislators on Thursday filed a writ of mandamus at the state Supreme Court, aiming to halt a decision by the Legislative Council committee to close the state Capitol to members of the public during the special session.

The bipartisan committee of lawmakers voted Tuesday to prohibit the public from attending the session, citing public safety concerns amid the novel coronavirus pandemic.

Sen. Cliff Pirtle, R-Roswell, said the closing of the Roundhouse would jeopardize transparency and encourage “backroom deals.”

“Keeping the State Capitol open to the public epitomizes the importance of an open government, an open New Mexico, and how critical it is for the public to have rights and freedom,” Pirtle said in a statement.

While the majority of the lawmakers who filed the writ are Republicans, Democratic Sen. Gabriel Ramos of Silver City and Rep. Willie Madrid of Chaparral also are listed among the petitioners.