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To: IPANM membership
 From Karin Foster
 Re: weekly update
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Week three update including 2/4/13

HOUSE bills:

Bill Numbers		Bill Names	Committee Assignments	Sponsors
House	Senate			
HB 5		Dept. of Game & Fish Appropriation Act	HHGIC/HAFC	Stewart
Provides additional funding to the NMGFD but amendments in House Ag may have changed the statutory responsibilities of the NMGD to "manage and conserve NM's public wildlife resources and associated habitats for the benefit of the wildlife and for hunters, anglers and other wildlife users. Actions include... providing technical assistance to both public and private landowners and other affected interests" passed HHGIC 10-0				
HB 19		Status of Water Rights under Lease	HAGC/HJC	Gonzales
	SB 188		SCONC/SJC	Griego
After significant discussion with several water attorneys, this bill might assist in leasing water rights for temporary oil and gas development. HB 19 passed HAGC 10-0; SB 188				
HB 108		Rules Development Requirements	HHGAC/HJC	Gentry
A regulatory reform effort; this is a good bill that will require state agency to have more public participation in drafting of regulations; hearings and will extend the public comment period to a set 30 days after initial publication of the rule; this last provision is in support of the Governor's efforts for industry in the GHG cases were in the NM Supreme Court held that there is no final public comment provision allowed after the rule is delivered to the State records center. Scheduled for hearing 2/5				
HB 124		Modify Vehicle Gross Weight Limits	HTPWC/HJC	White
This is a bill that may impact vehicle transport of oil field waste				
HB 136		Disclosure of Fracturing	HENRC/HAGC/HJC	Egolf

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		Fluid Composition		
<p>Hearing held Jan 30 and Feb 1st; an amendment to require notification to surface owners and the public 30 days prior of the constituents used was added to the bill on a 7-5 partyline vote. The bill passed the committee on a 7-5 votes as well We will next be on in House Agriculture. Adds a new section to the Oil and Gas Act to require that operators disclose the composition of HF fluids to the IOGCC or GWPC of all ingredients used regardless if required on an MSDS sheet; require service companies to provide operator with the information; allows for land owner and adjacent landowners, any agency of the state or the federal government to overcome a trade secrets exemption</p>				
HB 189		No false statements to environment department	HENRC/HJC	Egolf
<p>IPANM worked with the NMED to amend this Governor's bill; The bil was substituted on 2/4 - now it applies only to liquid waste systems owned by a public entity; This bill seeks to criminalize mistatements made to the department; a fourth degree felony for a knowing misrepresentation (18 months jail); a third degree felony if the misrepresentation caused an 'adverse impact to the environment' (three years jail) and a second degree felony if the misrepresentation caused serious bodily injury (15 years jail). There is also a \$10,000 per day penalty from the date of the misrepresentation to the date the penalty is imposed. This bill covers any reporting required under the Environmental improvement Act, the air Quality Control Act; Ground WATer Protection Act or the Environmental Compliance Act.</p>				
HB 214		Oversized Oilfield Vehicle Hours of operation	HTPWC/HJC	Roch
<p>Amends Section 66-7-413.6 to allow for 24 hour operations of oilfield equipment transport vehicles with special permits.</p>				
HB 259		Recover Damages for Natural Resource Injuries	HENRC/HJC	Kane
<p>This bill is a power grab by the appointed Natural Resources Trustee to significantly expand her authority; she has recently added the Oil Pollution Act 33 USC §§2701 et seq. to her list of responsibilities; HB 259 expands the definition of 'facility' beyond the scope of CERCLA (42 USC §§9601 et seq) to protect any resource impacted by 'injurious' substances. The bill defines an injurious substance as any hydrocarbon or anything that poses a 'potential hazard to human health or the environment when improperly treated, transported or disposed of; it expands the list of natural resources to protect to include minerals, soils, sediments geologic resources, ground water and all surface water; the bill requires damages paid for any intentional or unintentional release of an injurious substance imposing joint and several liability on the current owner, any past owners, anyone who arranged for</p>				

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release, disposal or treatment of the substance at the facility and anyone who transported to a disposal or treatment facility. The damages assessed include cost of restoration or replacement; value of the resource lost to the public and the full cost of investigating, assessing and collecting damages and enforcing the state's rights.				
HB 285		Pipeline Safety Act Violation Penalties	HBIC/HJC	McCamley
This bill changes the penalty provisions for violations of the Act from \$25,000 per violation per day with a max of \$500,000 to apply federal law 49 CFR 190.223(a) - \$100,000 per day per violation with a max of \$1,000,000 for any related series of violations. Attaching NM Statutes to Federal law is not good for business certainty as the federal rules could change with no NM input.				
HB 286		Oil and Gas Financial Assurance	HENRC/HJC	Chasey M. Sanchez
This bill makes changes to the Oil and Gas Act; increases financial assurance from \$50,000 blanket to \$100,000 minimum. At a financial assurance level of \$5000 per well, after the first 20 wells, the bond increases by \$5000 per well; requires the OCC to change rules to require assurance for each well that has been inactive for more than 2 years; allows the division through the AG to bring suit against the operator, the most recent owner of the minerals or the most recent lessee in Santa Fe district Court; provides for cumulative remedies and no bar to further suits for the same violation of the Oil and Gas Act. Increases penalties to \$10,000 per day per violation; if the penalty is not paid within 30 days it becomes final; if a knowing and willful violation of OG Act the penalty is \$15,000 per day per violation; knowing and willful violation is expanded to include procurement, counsel, aiding or abetting in the commission of any violation of a rule, order or provision of the OG Act. Note that the definition of 'inactive' for well plugging is a well that is not being used for 'beneficial purpose'.				
HB 293		Tax Net Operating Loss Carryover	HTRC/HAFC	Dodge
extends net operating loss carry over that occur after July 1, 2014 to 14 years. Any NOL's incurred prior to July 1, 2014 will still have the current 5 year limitation.				
HB 335		Water Resource Testing & Damage Remedies	HENRC/HJC	Egolf M. Sanchez

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<p>Adds a new section to the Oil and Gas Act for hydraulic fracturing; prior to conducting an HF operation, the owner (defined as the person who has the right to drill into and produce from a pool and appropriate production) must conduct a geologic and hydrologic assessment for each proposed well for all surface and ground water within 2000 meters of the well to a depth of 1000 feet below the well's target depth; he must conduct water testing from the surface to 1000 feet below the well's target depth; establishes a list of constituents required for water testing; water testing to be completed 1) before drilling; 2) during drilling; 3) one week after HF operations; 4) six month post well completion. All results of water sampling made available to the public and all samples kept at OCD for three years; any 'statistically significant increase' in any component is a presumed to have been caused by HF but that presumption may be rebutted by clear and convincing evidence in court; must make damages claim within 3 years of publication of last water test sample results; owners include owner, agent, employee, subcontractors, assigned, parents and joint ventures - all of whom are joint and severally liable.</p>				
HB 405		Public-private partnerships Act	HJC/HTRC/HAFC	Larranaga
				Keller
<p>See notes on SB 273. This bill has the same problems - it will allow counties and municipalities to force companies into legal agreements with no transparency or accountability for the moneys extorted out of businesses.</p>				
HM 21		Preserve Prairie Chicken to oppose listing	HAGC/HENRC	Ezzell
<p>This bill calls upon the Governor, NMGFD, BLM and the congressional delegation to support continuing state, local and private efforts to preserve and protect the lesser prairie chicken and oppose the USFWS listing the species as 'threatened'. Note that industry has registered over 2 million acres for conservation efforts thru candidate conservation agreements and candidate conservation agreements with assurances and the NMGFD is working with 4 other states in the species range to enlist companies in conservation agreements. County Governments are also engaging the federal government in 'coordination efforts' under 43 CFR 1712.</p>				

Senate Bills: As of Monday Feb 4, 2013

Bill Numbers		Bill Names	Committee Assignments	Sponsors
House	Senate			
		Tax Expenditure & Revenue Budget & Reporting		Varela
	SB 7			SPAC/SFC
<p>The tax expenditures budget is one that will be fraught with mistakes since the TRD staff does not understand the nature of the Exemptions, Credits and Deductions the Oil and Gas industry receives. Two years ago, the TRD prepared a report claiming</p>				

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<p>that if all 'loopholes' were closed against industry, the State would have hundreds of millions in additional yearly revenue. These falsehoods are the basis for this bill. However, the concept is supported by LFC leadership. The bill has previously been vetoed by both Richardson and Martinez.</p>				
		Corporate Rates and Combined Reporting		
	SB 13		SCORC/SFC	Wirth
<p>A repeat from the last session; including elimination of discretionary opt out with approval from TRD; the bill last year passed the Senate (28-13) and the House (36-33) but was vetoed; This bill amends corporate income tax rates down and requires unitary corporations to file a combined return with their other unitary corporations as though the entire net income were that of one corporation in NM and then pays based on an apportionment formula; effective date 1/14; similar to SB 59</p>				
		Corp. Tax, Reporting, Single Sales & Repeals		
	SB 59		SCORC/SFC	Cisneros
<p>This bill is identical to Wirth's SB 13 except that it adds provisions changing the formula for apportionment of business income from manufacturing; processing natural resources including hydrocarbons is specifically exempt from the manufacturing definition; repeals several tax credits including the rural jobs tax credit and the high wage jobs tax credit.</p>				
		Energy Bonds		
	SB 101		SCONC/SFC	Wirth
<p>The American Recovery and Reinvestment Act of 2009 granted the State of NM \$20.6 million in bonding activity to finance clean energy projects, efficiency programs, renewable energy and public outreach. Senate Bill 101 requires the State Board of Finance (BOF) to determine the amount under the federal act to be allocated to each large local government. The bill passed Senate Conservation on a 10-0 vote this week.</p>				
		Real Property Sale Affidavits		
	SB 117		SCORC/SJC	Munoz
<p>This bill changes the reporting provisions in the property tax code to require reporting to all property transfers of real property by deed or real estate contract. Currently, only residential transfers are necessary.</p>				
		Clarify Fraud against Tax Payers Act		
	SB 153		SPAC/SJC	Cervantes
<p>This another qui tam bill (allows a private person, usually a whistleblower with knowledge of a fraudulent claim made against the government to assert a lawsuit and recover damages); the bill limits the government's authority to seek extensions when investigating without consent of the qui tam plaintiff; strengthens the plaintiffs damages rewards and fees recovered by contingency lawyers hired by the Attorney General's Office. I suspect this bill was brought by the NMTLA.</p>				
		Unfair Trade		

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	SB 270	Practices Attorney Fees	SPAC/SJC	Cervantes
<p>This bill is another bill probably brought by the NM Trial Lawyers in an attempt to increase their recovery fees under claims brought under the Unfair trade Practices Act. The Attorney General claims he does not have the resources to prosecute all cases and is unable to attract law firms to do his work without this change.</p>				
		Transportation Public-Private Partnerships		Cook
	SB 273		SCORC/SJC/SFC	Keller
<p>This bill creates a new Act in the Transportation code that will allow municipalities and counties to set up public-private partnerships to pay for any transportation facility within the local government's jurisdiction. This bill will also allow for distributions of the funds obtained from the private entities to be outside the RFP process.</p>				
		Single Sales & Reduce Corporate Sales Tax		
	SB 277		SCORC/SFC	Munoz
<p>Reduces the Corporate income tax, changes the factors used for apportionment that would help companies would be forced into unitary reporting in NM.</p>				
		Reform Tax Code		
	SB 368		SCONC/SCORC/SPAC/SFC	Sharrer
<p>SB 368 does a complete overhaul of the tax code, including deletion of exemptions to payment of gross receipts tax including the following under 7-9-13 thru 7-9-42. This list includes the exemptions to GRT for payment of OG mineral interests; for products subject to OG emergency School tax; to persons subject to natural resource processors tax. The number of referrals on this bill ensures it will not make it out of the Senate this session.</p>				