

Failed climate bills disappoint conservationists

- By Scott Wyland swyland@sfnewmexican.com
- Mar 25, 2023 Updated 11 hrs ago

This year's legislative session showed that a blue majority isn't always green.

The session was a mixed bag overall for environmental bills, with some passing and others stalling, but conservationists said they were especially disappointed by the lack of significant climate legislation that made it through.

Virtually all efforts to impose new standards or regulations on the fossil fuel industry faltered, an outcome that worries climate advocates who contend curbing greenhouse emissions from the oil and gas sector is crucial in keeping the Earth from warming to catastrophic levels.

The fossil fuel industry remains the largest emitter of the state's methane, a gas climate scientists say has 80 times the warming effect of carbon dioxide in a 20-year period and accounts for about a quarter of global warming.

Derailed bills included codifying the governor's executive order to reduce carbon emissions, modernizing the state's Oil and Gas Act to consider climate change and public health, and cracking down on flagrant violators in the industry.

Other proposed measures that would've given citizens more legal power to hold polluters accountable — such as the Green Amendment and the right for them to take enforcement action — also fell by the wayside.

The failure rate speaks to the lobbying power the fossil fuel industry wields in a state where it generates a third of the tax revenue, creating pressures even Democratic

lawmakers find difficult to resist as they walk the challenging line between the economy and environment, activists say.

“The opposition from oil and gas was effective in a bipartisan way — in a way that I think is dangerous for the future of our state,” said Noah Long, an attorney with the Natural Resources Defense Council.

Although regulators tout rules their agencies enacted that compel oil operators to cut back on releasing methane and other pollutants, the state must adopt more measures to meet the governor’s goal of 45% less carbon emissions by 2030, Long said.

The oil and gas bills that fell through underscore how the strong Democratic majority in the Legislature is not monolithic but has a fairly wide and diverse spectrum — from green-minded progressives to more conservative leaders who are wary of imposing too much regulation on an economic mainstay, Long said.

“New Mexico has always had ... a pretty big tent in that majority party,” he said. “There’s a variety of views. And we definitely saw that in play this session.”

Jim Winchester, executive director of Independent Petroleum Association of New Mexico, applauded the failure of what he called legislation that disproportionately targets smaller oil producers in the state.

“We are grateful to the legislators who rejected these radical bill proposals and understand the benefits of our industry to education, public safety, and the human condition in New Mexico,” Winchester wrote in an email.

Bipartisan roadblock

The bills sputtered in a session that ended a few days before a United Nations intergovernmental panel released its [most dire report](#) yet on climate change.

The panel found the planet is moving toward 1.5 degrees Celsius — or 2.7 degrees Fahrenheit — of warming over the pre-industrial era faster than anticipated and could reach it by the mid-2030s. The world has already warmed by 1.1 degrees Celsius.

The effects will escalate, with more severe storms, droughts, flooding and species eradication after that threshold is crossed, the report said. Fossil fuel emissions are one of the main drivers of warming, and people in impoverished communities will suffer the worst effects, it said.

One of the more disheartening failures for conservationists was the shelved bill that would've updated the state's Oil and Gas Act, passed in 1935.

It would have required companies and the state to gauge the impacts of proposed oil wells on climate, the general environment and disadvantaged front-line communities.

Proponents said the bill would add the first significant updates to the law that anyone could remember.

It made it to the Senate Judiciary Committee, typically the final step before a floor vote, but Sen. Joe Cervantes, D-Las Cruces, the chairman, declined to give it a hearing.

“It was disappointing that it didn't get heard,” said Tannis Fox, attorney with the Western Environment Law Center, which spearheaded the bill. “We'd worked very carefully on all the language and all the provisions.”

Cervantes also was instrumental in sidelining the climate bill that would have embedded into law Gov. Michelle Lujan Grisham's 2019 executive order calling for carbon emissions to be reduced by 45% by 2030 and to be net zero by 2050.

Cervantes joined Republicans on the Senate Conservation Committee to vote against the bill after he called it “toothless” with no provisions to penalize polluters or to give the state increased enforcement power.

Long said two previous versions in 2022 and 2021 required enforcement, but the language was missing from this bill. Still, he said he would've liked to see the bill enacted into law, and then enforcement authority given to regulators later. It's imperative to codify goals for reduced emissions so they aren't tossed out with the governor's executive order in a future administration, he added.

A longtime environmental attorney agreed that putting the reductions into law was important, even if it lacked enforcement.

Charles de Saillan, an attorney with the Coalition for Clean Affordable Energy, said it was disappointing to watch Democrats side with Republicans in shooting down worthy climate bills — but not entirely surprising, given how well-equipped the industry is to fight the legislation.

“When those bills come up for a hearing, the industry lobbyists are lined up out the door and around the corner,” de Saillan said.

Still, the industry got help from Democrats, de Saillan said. Two or three Democrats voted against both the bill to get tougher on bad actors in the industry and the measure to allow private citizens to initiate enforcement actions against polluters.

Winchester, the industry advocate, rejected the characterization of oil operators being anti-environment.

“IPANM supports environmental stewardship from our industry when proposed in balanced, reasonable, and practical legislation,” Winchester wrote. “However, there are groups who continue to push anti-oil-and-gas legislation without any thought to the consequences on everyday, hardworking people in our state.”

In an email, a political analyst wrote some Democratic lawmakers' reluctance to push through climate bills this session is in line with what can be seen at the federal level:

President Joe Biden drawing fire from progressive Democrats for not moving more aggressively toward the clean-energy transition.

“This to me is reflective of the political challenges in energy production policy,” wrote Gabriel Sanchez, a political science professor at the University of New Mexico. “The oil and gas industry is a very powerful industry, especially in New Mexico. And given how important oil and gas revenue has remained to our state’s economy, this makes more aggressive climate change policy a challenge for progressive Democrats.”

Fox said lawmakers’ accommodations to the industry are short-sighted because the current boom won’t last, and at the same time, climate change will worsen if fossil fuel emissions aren’t significantly reduced.

“We’re at a tipping point,” Fox said.

A few gains, but more needed

One bright spot for environmentalists was the passage of bills to increase funding and offer incentives for clean energy. The final tax package sent to the governor contains a suite of climate-protecting tax credits, including for geothermal energy, heat pumps, energy storage and for buying or leasing electric vehicles and home chargers.

“The tax credits are a pretty big deal that we worked hard for,” said Mona Blaber, spokeswoman for the Sierra Club’s Rio Grande Chapter.

Blaber said the Land of Enchantment Legacy Fund will help protect New Mexico’s landscape against wildfires and droughts caused by a changing climate.

Signed into law Thursday, the \$100 million fund will provide matching state dollars for federal money to cover everything from restoring watersheds and protecting imperiled species to helping ecosystems better withstand climate change.

Long said lawmakers also approved increased funding for the Environment Department and other regulatory agencies, which is vital in curtailing emissions.

The state also has made some strong regulatory strides, he said.

One rule restricts venting and flaring of natural gas to emergencies and requires operators to capture 98% of methane by the end of 2026. Another rule requires oil operators to curb nitrogen oxide and volatile organic compounds that form toxic ozone — which has the added benefit of reducing methane tied to the gases.

But the tax credits, funding boosts and current rules must be augmented by passing more comprehensive climate legislation, Long said.

“We need the leaders of our state to step up and do the hard work to figure out policy ... to address the climate crisis,” he said.

Blaber said lawmakers are under pressure to choose which bills to pass among hundreds presented in a short period every year. Many of the bills address important issues with more obvious and immediate impacts than climate change, she said.

Meanwhile, lobbyists make alluring arguments that the state can have both a robust fossil fuel economy and a healthy climate for future generations, Blaber said.

“We cannot protect both the oil and gas industry and our children,” she said. “Our leaders have to choose one or the other.”