

Oil And Gas Drive Governor's Vision

By Dan Larson
Special Correspondent

SANTA FE, N.M.—Buoyed by a billion-dollar budget surplus for the second consecutive year, New Mexico leaders are working to assure their state is a land of opportunity while recognizing that it is made possible by the oil and gas industry.

During this year's biennial budget session, legislators approved the governor's package of funding mechanisms to provide childhood care and education, free college tuition and to raise public worker salaries while dismissing tax increases.

Meanwhile, anti-oil-and-gas proposals found little traction. Right out of the starting gate, SB 104, legislation to impose a moratorium on hydraulic fracturing; was declared dead on arrival by state leaders, reports NMOGA Director of Government Relations Aimee Barabe. Nevertheless, she notes, the bill's sponsor, Senator Antoinette Sedillo Lopez, D-Albuquerque, has pledged to revive the proposal every year.

SB 104 grabbed headlines early in the session, but went nowhere, maintains Independent Petroleum Association of New Mexico President Jim Winchester. "To our good fortune, there really was not much of impact to the industry this year," he affirms.

In the meantime, oil and gas industry representatives supported a half-dozen bills aimed at funneling money to build and maintain the state's infrastructure. "Roads and employee safety remained NMOGA's top priority again this session," Barabe reports. "While we wish more money was appropriated in the budget to maintain/build roads in our areas of operation, the state still made significant progress."

NMOGA Executive Director Ryan Flynn agrees that 2020 constitutes a very successful session for the state's oil and gas industry. Furthermore, he adds, the industry's contribution to the state's fiscal vitality was on display the entire session. "Oil and gas revenue was a constant source of conversation in the Capitol," he relates. "In nearly every debate on bill after bill, day after day, there was bipartisan recognition of the central role of the industry in our state."

Industry Contribution

NMOGA cites Tax Research Institute analysis showing that state income from oil and gas hit an unprecedented \$3.1 billion in fiscal 2019, a new high that re-

fects an increase of \$910 million from the previous year and fully 39% of general fund revenues. The fact that Governor Michelle Lujan Grisham's state of the state address outlined extensive plans for those funds without highlighting their origin riled some Republican lawmakers, published reports note.

"Not even a hat tip to the major industry in New Mexico that pays for education, pays for health care, pays for the ability to create new expenditures like free college tuition," Republican House Minority Whip, Rod Montoya, R-Farmington, is quoted.

From Flynn's perspective, the governor did not shy away from crediting oil and gas industry revenues with helping New Mexico. "Ever since her candidacy, the governor has recognized the important role we play in this state," he says. "And it is not only the governor. Everyone in a policy position that is tied to the budget has a clear understanding of the critical role of our industry."

The state's fiscal health has made a complete turnaround in only five years, Flynn observes.

"During the downturn, our conversations in state government were about how to respond to deficits of \$100 million-\$300 million, but we managed. That's why whenever there is a proposal to clamp down on an industry that provides 39% of our revenue, it is not going to get much support," he said.

According to NMOGA, the final budget allots \$7.6 billion to the general fund, a 7.6% increase over fiscal 2020. It allocates:

- 25% (\$1.9 billion) to reserves;
- \$320 million to an endowment fund for early education;
- \$179.2 million for raises to state workers, teachers, state police officers and judges; and
- \$180 million for roads.

According to numerous media accounts, collegiality between the parties dissipated as the session progressed. House Speaker Brian Egolf, D-Santa Fe, accused Republicans of purposely extending floor debate over bipartisan legislation in order to forestall debate for more controversial legislation.

Press accounts quote House Minority Leader Representative Jim Townsend, R-Artesia, responding with a vow to "use every rule and every position that I can in order to represent my caucus. If that includes slowing the process down, that's exactly what I'll do."

"It is unfortunate because we had been getting along really well this session up until now," Townsend said, "but when you start being a bully and forcing things through like that, you're going to cause division."

Bonding Boundaries

The adequacy of operator bonds was the subject of a House memorial backed by the State Land Office and introduced by Representative Matthew McQueen, D-Santa Fe. Referred to the House Energy, Environment and Natural Resources Committee, HM 29 was a statement of support for "establishment of bonding amounts that are sufficient to cover reasonably anticipated remediation and reclamation costs and lease obligations."

Although it lacked the force of law, the memorial asked the State Land Office to work with the state's Energy, Minerals and Natural Resources Department and the Environment Department to review bond levels and consider how to avoid using existing state land reclamation funds for abandoned well plugging.

The land commissioner's office did not contact NMOGA before the memorial was filed, Flynn acknowledges, however, he says the association remains willing to "roll up our sleeves and have a look at the issue to see if there needs to be an adjustment" in bonding requirements.

"We have a track record of working with OCD on financial assurance rules. We supported the increase in permit fees last year," Flynn adds. "As responsible operators, we do not want to see the state left on the hook for our operations."

Any formal review of bond amounts concerns independents, Winchester cautions. "We do see an appetite by some in the SLO for a bonding increase that will impact smaller operators disproportionately," he warns.

The memorial moved out of committee but failed to get a floor vote amid the dozens of items awaiting consideration in the session's final days. Nevertheless, a lack of support by House leadership apparently did not deter SLO Commissioner Stephanie Garcia Richard. In a Feb. 17 email to her supporters, she advised that "we have secured funding necessary to begin a bonding study and will officially begin the formal rule-making process this year to raise our bonding levels on state trust land."

That study could be the opening salvo of a push to raise operator bonds during the next session, Winchester advises. □

President Jim Winchester, industry groups have spent much of the past nine months focused on the state's plans to revise regulatory violations and methane emissions.

"These are the issues that were passed last year and then taken up by the departments to work out the details," he says.

Among them is a rule making and the finalization of a revised approach to operator violations.

With the signing of the final order earlier this year, inspectors with the Oil Conservation Division have regained the authority to issue violation notices directly to the operator without having to file a civil action in state court.

The revision was directed by the 2019 passage of HB 546. With the potential for fines as great as \$10,000 a day up to \$200,000, the impact on smaller independent operators can be significant, Winchester warns.

As last year's session waned, IPANM was unable to support the compromise bill, Winchester recalls, and IPANM's reservations remain. The final OCD rule on administrative penalties is vague and leaves too many questions unanswered, he describes.

"We were assured that if we participated in the stakeholder process, our concerns would be heard," Winchester relates. "Unfortunately, our arguments in favor of defining violations and a table of penalties were not adopted."

As written, the rules grant too much discretion to inspectors, leaving operators open to being singled out or falling victim to inconsistent application, Winchester warns. "Our view is that OCD will try and figure things out as it

goes along; we have some real concerns about that," he admits.

Meanwhile, industry groups also are responding to proposals from the Energy, Minerals and Natural Resources Department and the New Mexico Environment Department to respectively develop regulations to reduce and capture methane and emissions of volatile organic compounds from oil and gas operations.

Following a period of public comment last winter, a 27-member Methane Advisory Panel (MAP) was convened and met 14 times from August to November. The panel included 17 oil and gas company representatives and ten members representing environmental or conservation groups. The panel's 300-page draft technical report was issued Dec. 19 with a public comment period that concluded Feb. 20.

"The stakeholder process has been a useful exercise in methane rule making and not just a 'check the box' token for the administration," Winchester affirms. "For now, we are in a wait and see mode" while the departments produce draft documents.

New Mexico Oil & Gas Association Executive Director Ryan Flynn says the panel's report offers a summary of current emissions control technology and regulations but offers no recommendations. "The ball is in the agencies' court. They have to take that list of ideas and produce a draft of how to make it work," Flynn relates.

Both departments are expected to issue drafts of final rules for public comment before the end of the year, Winchester adds. □

Rule Makings Progress Under Watchful Eye Of N.M. Industry Groups

SANTA FE, N.M.—Even as they hail the 2020 New Mexico Legislature as a success, the state's oil and gas industry representatives also have been occupied with issues arising from the 2019 session. According to Independent Oil & Gas Association of New Mexico