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To: IPANM membership

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WEEK Four UPDATE – NEW MEXICO LEGISLATIVE SESSION

Dear IPANM members –

As of this morning, bills directly negatively impacting industry have been killed or are left on the vine to die by the clock at noon this Thursday. The Hydraulic Fracturing bill was killed on a 3-2 vote in the House Consumer and Public Affairs Committee. Representatives Maestas, Kintigh and Anderson agreed with industry that the HF rule recently passed by the OCC needed to be tested before the legislature got involved in an issue it knew nothing about. Unfortunately, Attorney General King strongly opposed industry on this bill; his testimony was based on a lack of understanding of the fracking process.

The Senate Finance Committee substituted the Combined Reporting bill, SB 9, this morning with a bill that will only require big box stores to file combined tax reports. Of interest to our tax and accounting departments is SB 212 which will lessen the requirements for withholding taxes on royalty payments to in-state residents.

I will be having a conference call for IPANM membership tomorrow at 11:30 pm, if you want to discuss any bills, please call in!

Thank you.

Karin

HOUSE BILLS

Bill Numbers		Bill Names	Committee Assignments	Sponsors
House	Senate			
HB 34		Rulemaking requirements	passed House 69-1	Gentry
				Keller
This bill is a comprehensive overhaul of the rulemaking process in NM. It will require: preliminary rulemaking agendas; a rule drafting committee; hearing, public participation and comment with a complete record available to the public at no charge. The AG to set default rulemaking procedures. A rule is neither valid nor enforceable until it has been filed and published in the NM register				
HB 35		Public meetings agendas 72 hours prior	passed House 57-9	Smith
			SPAC-SJC	
Amends the Open Meetings Act to require that agendas for any meetings subject to the Act must be made available to the public 72 hours prior to the meeting.				

Bill Numbers		Bill Names	Committee Assignments	Sponsors
House	Senate			
HB 84		Appeals of State Engineer Decisions	HRC	Gentry
If the State Engineer renders a decision on an application without holding a hearing, the applicant may appeal directly to District Court or ask for a hearing within 30 days of receipt to the decision or order.				
HB 114		No corporation influence on elections	HRC	Egolf
Any entity organized under the NM Business Corporation Act shall not have the power to expend money to influence the outcome of any state, county or local election. Any foreign seeking to operate in NM shall obtain a certificate of authority only after agreement not to expend money to influence the outcome of any state, county or local election.				
HB 118		Second Hand Metal Dealer Requirements	Passed House 67-0	Rodella
	SB 67		passed Senate 39-0	Neville
Increases regulatory burdens on second hand metal dealers; expands definition of copper or brass materials to include catalytic converters that are not part of a vehicle; Both bills passed each Chamber unanimously and since they are identical, both versions will be sent to the Governor for signature into law.				
HB 130		Reduce Corporate Income Tax rates	tabled in HTRC	Strickler
Eliminates different corporate tax brackets for incomes over 1m after 1.1.13; retains tax rate at 4.8% of net income from less than 500K; over 500K after 1.1.13 the rate increases to 6.7% of excess over 500K plus 24,000; after 1.1.14 over 500K rate drops to 5.8% of excess over 500K plus 24,000; after 1.1.15 over all tax rate is a flat 4.8%;				
HB142		Tax Deductions, Rates and Exemptions	tabled in HBIC	Egolf
The sponsor of this bill stripped out all provisions other than the increase in tax on oil from 3.15% to 4% in the hopes of passage; the bill was tabled on a 10-2 vote; the sponsor who is the Chair of House Energy claimed that substantial increases in taxes on oil producers would not impact production.				
HB 160		Vehicle Seizure for DWI arrests	HGAC/HCPAC/HJC	James
				Munoz
This bill is another extension of the DWI laws, but might impact use of company vehicles if the employee is driving with a revoked license or driving while intoxicated;				
HB174		Oil, Gas & Mineral Tax changes	tabled in HENRC	E. Chavez
Similar to Chairman Egolf's HB 142 although less onerous; Limits deductions for royalties to US and indian tribes when calculating taxes from 100% to 90%; increases severance tax on oil from 3.15% to 3.46%; decreases intergovernmental production equipment tax credit from 75% to 67.05%				
HB 187		Disclose Fracturing Fluid Composition	tabled in HCPAC	Egolf
Requires the OCC to promulgate rules by 1.1.13 to require operators on any well that hydraulic fracing occurs to complete and post on web site of GWPC or IOGCC all information regardless of whether subject to MSDS regs; operator must also submit form to OCD; OCC to promulgate reg on whether entity may claim trade secrets and a land owner, adjacent landowner or any department or agency of the state may challenge entitlement to trade secret protection within 2 years of filing well completion report with OCD; the OCC must also prescribe a process to provide information including that defined as a trade secret under MSDS to a health professional or emergency responder needing the information; DO Pass House Rules as Germane on a 8-3 vote; Rs walked out after.				
HB 220		Pipeline Safety Violation Civil Penalties	HRC	Vigil
Increases the amount of civil penalties from 25K to 100K each day for each violation of the Pipeline Safety Ac with a cap				

Bill Numbers		Bill Names	Committee Assignments	Sponsors
House	Senate			
on the penalty of \$1 million.				
HB 223		Manufacturing Equipment Gross Receipts	Tabled	Gracia, T.
receipts from selling manufacturing equipment to a person engaged in the business of manufacturing may be deducted from GRT is sale is made to a person with a nontaxable transaction certificate. As defined here, manufacturing equipment means a machine or tool use directly in a taxpayers manufacturing operations and is subject to depreciation; it does not include any vehicle that leaves the site of the manufacturing operation for purpose of transporting persons or property.				
HB 243		Status of Water Rights under lease	HRC	Gonzalez
The bills adds language to 72-2-3 to clarify that in a fully appropriated system where a SEO permit has authorized a change in place or purpose of use of adjudicated ground water but where it has become infeasible to place water because of change in circumstance, the permittee may lease all or any part of the water for 10 years, subject to renewal for a maximum of one additional ten year term				
HB 301		Administrative Hearings Acts	HRC	Gentry
Consolidates all agency hearing officers to a "Administrative hearings Office" all hearing officers would be employees of the agency and can not practice privately				
HJR 1		Preserve Land Grant Permanent Fund, CA	HVEC/HTRC	Trujillo
Seeks a referendum to amend the NM Constitution to allow the State Investment Conclil to apply the duty of care standards in the Uniform Prudent Investors Act. Changes the limits on foreign investments from a maximum of 15% to no limits. For purposes of this Act, a foreign investment is anything outside of NM.				

SENATE BILLS:

Bill Numbers		Bill Names	Committee Assignments	Sponsors
House	Senate			
	SB 9	Corporate Rates and Combined Reporting	to Senate Floor	Wirth
A repeat from the past several sessions with a twist; 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 and payments would be based on formula; even if the NM entity operated at a loss, the formula could require payment and would incentivize laying off employees; effective date 1/13; 2/12 - Bill was substituted in SFC with a bill that would require only companies with 30,000 sq ft under roof selling retail to file combined returns.				
	SB 15	Capital Investments Tax Credit	tabled	Keller
A new bill that seeks to incentivize investment in manufacturing by allowing for a tax credit of the compensating tax on a capital investment or equipment purchase. As drafted, the bill exempts processing natural resources including fossil Fuels from the definition of manufacturing.				
	SB 21	Energy Technology Higher Ed Endowment Fund	SCC/SCONC/SFC	Keller
Senate Conservation amended the bill to expand definition of energy technology to include energy efficiency; researching new sources of energy or contributing to create efficiencies in generation, storage, transmission or consumption" The bill still tables \$835K from GRT. Bill passed without Recommendation				
HB 32		Neighboring State Citizen firearm purchases	HRC	Rehm

Bill Numbers		Bill Names	Committee Assignments	Sponsors
House	Senate			
	SB 26		HCPAC/HJC	Payne
A new bill that repeals the section of the NM Criminal Code that prohibits NM citizens from purchasing firearms in contiguous states and will allow residents of those states of purchase firearms in NM. Found Germaine in SCC on 1/25; Do Pass SPAC 5-1; passed Floor 37-0; passed HCPAC 6-0; HJC				
-			combined with SB 99	
	SB 68	New Business Corporate Income Tax Credit		Keller
Adds a new section to the Corporate Income Tax Act that creates a new tax credit for new businesses established after 1/1/13 and before 1/1/23 that creates economic based jobs in NM. The NMTRD may allow a tax credit up to 50% of excess paid in NM in the base year of incorporation. The new business of expanded business may claim the credit for up to 10 years.				
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	SB 74	Tax credits, deductions and reporting	Tabled	Fischmann
Reduces capital gains deductions after 1/1/13 from 50% to 25% for a taxpayers net capital gains income (not to exceed \$1000); attempts to reduce the effects of pyramiding of GRT by creating another tax credit not to exceed \$13,000; similar to SB 9 requires unitary corporations to file with other unitary corporations as though the entire combined income were that of one corporation. Increases the Motor Vehicles Excise Tax from 3% to 4%. The bill was pulled by the sponsor in SCORC and will not be heard this Session				
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	SB 99	income tax credit for new businesses	SCC/SCORC/SFC	Eichenberg
Similar to SB 68 to encourage new businesses that create economic based jobs; gives tax credit against corporate income tax liability of 25% of excess above taxes paid in base year; may be claimed for 7 consecutive years;				
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	SB 109	Small Business Regulatory Commission	SCC/SCORC/SRC/SJC	Boitano
Amends the Small Business Regulatory Relief Act to require an agency to notify the SBRC of the intent to change a rule or a form if the change affects small businesses, The Commission shall provide agencies with input and it shall consider requests from small business owners to review rules; repeals section requiring periodic review of rules by an agency;				
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	SB 169	Oil & Gas Proceeds & Entity Withholding forms	tabled upon request of sponsor	Jennings
Introduced by the President Pro Tem as a fix to HB 122 from 2009 Session; to require withholding on each payment of oil and gas proceeds to a remittee unless the remittee is a NM Corporation or remittee shows a 1099-MISC form with a NM address				
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	SB 200	Land Conservation Tax Credit	SCC/SCONC/SFC	Griego
Adds a new section of the Income Tax Act to provide a tax credit for conveyances of land or interest in land for conservation purposes.				
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	SB 212	Oil and Gas proceeds & entity withholding forms	passed Senate 38-0	Jennings
Combines SB 169 with suggested amendments by the TRD; dropped this bill instead of a Committee substitute; the bill requires quarterly withholding of oil and gas proceeds and annual reporting for pass-thru entities except if the remitees have a NM address as shown on IRS form 1099-Misc; if the amount to be withheld from the owners share of distributed net income in any calendar year is less than \$30, no withholding is required; if the remittee is an insurance company and falls under provisions of 59A-6-6 NMSA, no withholding is required; every remitter shall file an electronic report of remitees who have certified the remittee is responsible for filing the remitees own oil and gas proceeds tax report				

Bill Numbers		Bill Names	Committee Assignments	Sponsors
House	Senate			
-	SB237	Commercial Driver's license disqualifications	SCC/SCORC/ SJC	Griego, P.
Changes one word to 66-5-68 such that if any driver may be disqualified from driving a commercial motor vehicle if the driver is convicted of using any motor vehicle in the commission of any felony involving the manufacture, dispensing or distribution of a controlled substance; the department may also disqualify a person from driving a commercial vehicle for 60 days if convicted from 2 serious vehicle traffic violations or 120 days for 3 serious violations if the violations were committed while driving any vehicle within a 3 year period.				
-	SB 241	Natural gas sale gross receipts	SCC/SCORC/ SFC	Gentry Munoz
A seller of natural gas to a power plant may deduct receipts from the sale of natural gas if plant uses natural gas as a fuel; gives a tax credit to power plants that use natural gas as a fuel against liability imposed under Corporate Income and Franchise Tax Act in amount equal to the taxpayers investment in constructing a new natural gas fired plant. maximum aggregate of 500million in natural gas fired plant tax credits. DO pass SCORC 6-0				
-	SB257	Rulemaking Procedures & Impact statements	SCC/SRC/ SCORC/ SJC	Boitano
Significantly expands the Small Business Regulatory relief act to require agencies to submit proposed rules to the public and the Legislature; eliminates the Small Business Advisory Council; adopts requirement of regulatory agenda submitted by June 30 each year to the public and the legislature; notice of proposed rulemakings and distribution of a concise statement of the outcome the administrative hearings; Amends language in the State records act to state that a rule is final upon publication of the rule, not delivery to the State Records Center as found recently by the NM Supreme Court.				
-	SJM 20	Energy Industry for State Economic Development	SRC/SCONC	Sanchez, B.
Sponsored by the Chair of the Senate Conservation Committee by consensus of the Economic and Rural Development Committee, the joint memorial recognizes the importance of the energy industry to the state and specifically addresses the importance of oil and natural gas, it resolves to promote New Mexico as an energy industry state and make the energy industry a central component of the state's economic development strategy.				
-	SM 11	UNM Law &Business Schools Oil & Gas Courses	PASSED/S (43-0)	Payne
Addresses the importance of the oil and gas industry to the economy of New Mexico; requests the UNM School of Law and Anderson school of management to study the feasibility of increasing their oil and gas courses offerings and programs to become an important source of leadership in the subject areas related to the oil and gas industry				