

# GREENFIRE REPORT FROM THE NEW MEXICO ENVIRONMENTAL LAW CENTER

## Law Center Staff Will Work Remotely

Out of an abundance of caution, given the coronavirus pandemic, staff members will work from home as much as possible. We will evaluate this regularly as the situation evolves. If you need to reach anyone at the Law Center, you can email them directly, send an email to the Law Center main email ([nmelc@nmelc.org](mailto:nmelc@nmelc.org)), or call the main line (505.989.9022) and use the menu to get the appropriate staff person's extension. Staff can access voicemails and emails remotely.

We have also developed a general policy for our work with partners and clients. Once coronavirus is detected in the counties where we work, we will postpone any in-person meetings. We will also try to avoid non-vital travel in general and use web meetings and conference calls if possible.

The Department of Health has set up a coronavirus hotline. [The hotline number is 855-600-3453](tel:855-600-3453). You can also stay up to date on prevention and treatment protocols from the Centers for Disease Control: <https://www.cdc.gov/coronavirus/2019-ncov/about/prevention-treatment.html>

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## 2020 Legislative Review

### Overview

The 2020 legislative session was a short (30-day) budget session. This means that in order for the legislature to consider a bill, it has to have some impact on the budget (be ruled “germane”). The exception is legislation that the Governor puts forward, which can cover anything. Although there was a large amount of legislation this session - continuing the flood of legislation during the 2019 session - a cynical Republican strategy of filibustering every bill that made it to a floor vote ran the clock out on the session. Many bills that had passed committees or had made it to the floor either died or were pulled because there was too little time to hear everything. Following are the results for some of the legislation the Law Center was following during the session.

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### Highlights

The [Solar Market Development Income Tax Credit](#) (SB29 - Rep. McQueen & Sen. Stewart) was signed by Governor Lujan Grisham. It will provide a personal income tax credit of 10 percent of the cost of equipment and installation for residential, business or agricultural solar thermal systems or solar photovoltaic systems into 2028.

Another energy-related bill, the [Energy Grid Modernization Roadmap](#) (HB233 - Rep. Stansbury and 4 other representatives and senators), received almost unanimous support in both houses

and was signed by the Governor. It creates a fund and guidance to make the state's electricity transmission grid more secure and better able to support renewable and distributed energy. There is some concern among landowners, farmers, and environmental groups in the Middle Rio Grande that power lines crossing the river will harm birds migrating along this very important continental flyway; they urged that any such lines be placed underground, but the bill does not address this issue.

HB349, the [Capital Outlay bill](#), contained \$750,000 for the Strategic Water Reserve, which is administered by the Interstate Stream Commission. The Commission can acquire water or water rights for the reserve by purchase, lease, or donation. Water or water rights in the Reserve can be used to assist the State of New Mexico in complying with interstate river agreements, or compacts, and to benefit threatened or endangered species.

Although not explicitly an environmental bill, HB118: [Designation as a Benefit Corporation](#) (sponsored by Rep. Cook (R) and Rep. Figueroa (D) and signed by the Governor) enables businesses that consider the public good in making business decisions, rather than solely the profit interests of shareholders, to register as benefit corporations. Such positive public effects could include general artistic, charitable, educational, cultural, literary, medical, religious, social, ecological or scientific benefits.

We were concerned during the session with two bad bills. One was [Public Improvement District Act Changes](#) (SB246 - Sen. Ivey-Soto). Despite its name, the bill included significantly bad and identical amendments to both the Public Improvement District (PID) Act and the Tax Increment for Development (TID) Act. Notably, the bill would have allowed use of eminent domain by a PID or TID project and remove the requirement for an elected PID or TID board. The latter amendment would give the property owner seeking a PID or TID overwhelming influence on taxing decisions to pay for PIDs and TIDs. Fortunately, the bill, which passed the Senate, stalled in the House, but we expect continued efforts by developers to weaken controls over the use of these mechanisms to the detriment of the public and local governments.

The other problematic bill was [Local & Regional Economic Development Support](#) (SB118 - Sen. Munoz). The bill set up a state fund that could be used to support local or regional government partnerships with private entities. Language in the original bill included public and private partnerships for water and wastewater projects. However, the bill sponsor removed this language, which made the bill acceptable to us. The amended bill received almost unanimous support in the House and Senate and was signed by the Governor.

## Lowlights

The [General Appropriation Act of 2020](#) (HB2, which funds agency budgets) did increase the budgets for the New Mexico Environment Department (NMED) and the Energy, Minerals and Natural Resources Department (EMNRD), but neither agency is near the budgets they had during the Richardson administration, 10 years ago. A significant problem in getting higher funding was the Legislative Finance Committee (LFC). The LFC continued to overestimate federal revenues that would go to support NMED by nearly \$4 million, most of which would go to the Water Protection Division, despite the agency insisting that this amount will not be available. Using the LFC numbers allowed fiscal conservative Democrats to claim they are funding "most" of the agency's request, when in fact there is a very large shortfall. The general fund transfer for FY21 for NMED as a whole is less than 75% of the Richardson era average transfer in inflation-adjusted dollars. EMNRD did a

little better. The agency's general fund transfer is about 85% of the Richardson era average transfer in inflation-adjusted dollars.

There were two memorials, HM54 (Rep. Sanchez) and SM60 (Sen. Stefanics & Sen. Campos) called the [Importance of Pecos Canyon and Watershed](#). The memorials were aimed at trying to halt the proposed Tererro mine. They pointed to Pecos Canyon as the ancestral homeland of the Pecos Pueblo and that the people of the Pueblo of Cochiti, the Pueblo of Jemez, Kewa Pueblo, the Pueblo of Pojoaque and the Pueblo of San Felipe continue to exist as sovereign communities in and around the Jemez and Sangre de Cristo mountains. The memorials also noted the importance of the Pecos watershed for local businesses in the village of Pecos and the surrounding communities who rely on a wide variety of local outdoor recreation and for acequias that rely on the Pecos for irrigation. The memorials faced no opposition in their respective committees, but both failed because the Republican filibuster forced managers in both houses to prioritize bills over memorials and time ran out.

Although the Solar Credit bill passed and was signed by the Governor, three other renewable energy bills failed. The [Community Solar Act](#) (HB9 - Rep. Roybal-Caballero) failed in a vote on the House floor, and its companion in the Senate (SB80 - Senators Soules, Cedillo Lopez & Stefanics) failed to move in the more conservative Senate. The bills would have supported creation of small-scale community-based solar energy systems that would interconnect with larger utilities. The [Community Energy Efficiency Development](#) bill (S114 - Sen. Ortiz y Pino & Rep. Andrea Romero) did not move through committees. It would have provided support for energy efficient measures to low-income households in underserved communities within the state. Finally, the [Electric Vehicle Income Tax Credit](#) bills (HB217 - Rep. Trujillo and SB2 - Sen. Woods) each passed in their respective chambers, but the senate added amendments to the House bill and time ran out before the House could concur with the amended version.

An important bill related to diversions on the Gila failed to move through any committees. [Limit NM Unit Fund Uses](#) (HB357 - Rep. Small & Rep. Martinez) would have amended the New Mexico Unit Fund Act by adding two sections. The "New Mexico Unit" is a component of the Central Arizona Project (CAP) under the Arizona Water Settlement and focuses on diverting Gila River water for agricultural, municipal and industrial uses. Opponents have put together a package of non-Unit projects that could meet those needs without a diversion. One new section directed the Interstate Stream Commission (ISC) to use the unit fund for alternatives to a New Mexico Unit, and the other new section would disallow expenditures from the unit fund for administrative or operating expenses of the CAP Entity and some existing non-New Mexico unit projects.

A Senate bill and a House memorial each addressed radioactive waste management in the state with the proposed Holtec high-level waste storage facility in mind. [Radioactive Waste Task Force](#) (SB95 - Sen. Steinborn), which died on the senate floor, would have added the Homeland Security & Emergency Management department to the task force, expanded the scope of the task force to include review of federal licensing for private facilities, and required that the task force meet annually (it had not met under the Martinez administration). The [Transport & Storage of Radioactive Waste](#) bill (HM21 - Rep. McQueen) opposed transport of high-level radioactive waste into or through New Mexico because of the negative economic and environmental consequences of such transport in support of the Holtec facility. The memorial passed one House committee but failed to get past the Republican filibuster.

[Gas Taxes, New Funds & Distribution](#) (HB173 - Rep. McQueen) passed one committee. It would have created a new gasoline surtax of ten cents per gallon starting in FY2021, which would increase by five cents per gallon each year until 2026. The revenue would have been divided among three funds. One-third would have gone to the state road fund; one-third to the clean infrastructure fund (created in the bill and intended to help fund the Department of Transportation's clean infrastructure plan, due at the end of 2020); and one-third to the gasoline and special fuel excise surtax low-income rebate fund (also enacted in the bill).

Finally, the [Oil and Gas Bonding](#) memorial (HM29 - Rep. McQueen) requested that the New Mexico State Land Office (SLO), the Energy, Minerals and Natural Resources Department (EMNRD), and the New Mexico Environment Department (NMED) conduct a bond adequacy review for oil and gas operations. The goal was to ensure adequate bonding to fulfill the agencies' statutory obligations - such as remediation and reclamation or lease obligations - and avoid having excess expenses fall on taxpayers or state land trust beneficiaries. The bill passed committee but failed to advance any further because Republican filibustering forced legislators to stop working on memorials in order to try to get bills through as best they could.

## Thank You! to our 2020 Green Business Partners




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