

GOVERNMENTAL AFFAIRS REPORT

Highlights At-A-Glance

FEDERAL – Legislative

S. 5205 – Abandoned Well Remediation Research and Development Act. On December 7, 2022, Sen. Ben Ray Lujan (D-NM) introduced [S. 5205](#), known as the Abandoned Well Remediation Research and Development Act. This bipartisan bill, cosponsored by Sen. Kevin Cramer (R-ND), would “amend the Infrastructure Investment and Jobs Act to require the Secretary of Energy to establish an abandoned wells research, development, and demonstration program.” Specifically, the legislation “will support the Department of Energy’s efforts to develop: Technology to detect and catalog abandoned wells more rapidly and efficiently, such as remote sensors and optical gas imaging; Methods to more accurately quantify methane emissions and how they are affected by well age, geology and other factors; Processes to plug and remediate abandoned wells more efficiently, economically, and sustainably; Innovative alternative uses for abandoned wells, including geothermal power production or carbon dioxide storage, which will create entirely new economic sectors that leverage abandoned and hazardous infrastructure; [and] An improved understanding of abandoned well impacts on groundwater quality.” [Read more.](#)

S. 5214 – Methane Emissions Research Act of 2022. On December 15, 2022, official bill text was made available for [S. 5214](#), known as the Methane Emissions Research Act of 2022. Sponsored by Sen. Jeff Merkley (D-OR), the bill would “direct the Administrator of the Environmental Protection Agency to conduct a measurement-based national methane research pilot study to quantify methane emissions from certain oil and gas infrastructure.” According to Sen. Merkley, the bill “would create a pilot study as an initial one-time program, while requiring the agency to consider how the lessons of the pilot could be used to

inform a recurring program on a national scale.” House companion bill, [H.R. 8991](#), was introduced by Rep. Eddie Bernice Johnson (D-TX) in September 2022. [Read more.](#)

S. 5216 – Close Big Oil Tax Loopholes Act.

On December 16, 2022, official bill text was made available for [S. 5216](#), known as the Close Big Oil Tax Loopholes Act. Sponsored by Sen. Bob Menendez (D-NJ), the bill “aims to eliminate tax incentives for large oil companies” and “includes any oil and gas company with gross receipts over \$50 million, and includes new provisions to eliminate the enhanced oil recovery credit for companies with gross receipts over \$50 million, and eliminate access to the 45Q credit for all enhanced oil recovery operations.” [Read more.](#)

S. 5217 – Use It or Lose It Act. On December 16, 2022, official bill text was made available for [S. 5217](#), known as the Use It or Lose It Act. Sponsored by Sen. Bob Menendez (D-NJ), the bill would “incentivize oil and gas companies to develop their federal oil and gas leases.” Specifically, the bill “requires the Secretary of the Interior to establish development benchmarks and requirements for lease-holders to hit after securing a federal oil and gas lease, and implements a \$10/acre annual fee on federal oil and gas leases that don’t produce oil or gas in a given year. The Secretary would be required to adjust the fee at least once every 5 years to ensure that it adequately incentivizes the diligent development of leases.” [Read more.](#)

H.R. 9456 – Promoting Local Management of the Lesser Prairie Chicken Act. On December 7, 2022, Rep. Ron Estes (R-KS) introduced [H.R. 9456](#), known as the Promoting Local Management of the Lesser Prairie Chicken Act. The bill “upholds Kansas energy producers and ranchers’ rights to preserve their land”

by putting the lesser prairie-chicken's habitat and protection under local control." [Read more.](#)

FEDERAL – Regulatory

BLM Waste Prevention Rulemaking. (*Update to 12/12/22 Report*) To follow up our prior reporting, the Bureau of Land Management (BLM) will be "hosting a virtual information session regarding proposed new regulations to reduce the waste of natural gas from venting, flaring, and leaks during oil and gas production activities on Federal and Indian leases." To register and attend the January 11 forum, [read more here](#). For background, on November 30, 2022, the BLM published a proposed rule, *Waste Prevention, Production Subject to Royalties, and Resource Conservation* ([87 Fed. Reg. 73588](#)), "to reduce the waste of natural gas from venting, flaring, and leaks during oil and gas production activities on Federal and Indian leases. The proposed regulations would be codified in the Code of Federal Regulations and would replace the BLM's current requirements governing venting and flaring, which are more than four decades old." [Read more](#). According to the BLM, this "gas is lost during oil and gas exploration and production activities through venting, flaring, and leaks. Although some losses of gas may be unavoidable, the law requires that operators take reasonable steps to prevent the waste of gas through venting, flaring and leakage. The proposed rule describes the reasonable steps that operators of Federal and Indian oil and gas leases must take to avoid the waste of natural gas. The proposed rule would also ensure that, when Federal or Indian gas is wasted, the public and Indian mineral owners are compensated through royalty payments." [Read the BLM Press Release here](#). *Natural Gas Intelligence* says of the proposed BLM rule, it would "require operators to strengthen methane mitigation efforts and would impose monthly limits on royalty-free flaring of natural gas." The public comment period is open through January 30, 2023. [Read more](#).

Interior Department Office of Natural Resources Revenue Notice. On December 12, 2022, the Interior Department's Office of Natural Resources Revenue (ONRR) published a notice, *States' Decisions on*

Participating in Accounting and Auditing Relief for Federal Oil and Gas Marginal Properties ([87 Fed. Reg. 76082](#)), regarding states relieving "the lessee of a marginal Federal oil and gas property from certain reporting, accounting, and auditing requirements." According to the notice, "the ONRR provides two types of accounting and auditing relief for Federal oil and gas production from marginal properties: (1) the cumulative royalty reports and payments relief option, which allows a lessee or designee to submit one royalty report and payment for the calendar year's production; and (2) other requested relief, which allows a lessee or designee to request any type of accounting and auditing relief that is appropriate for production from the marginal property and meets certain requirements. By October 1 of each calendar year, ONRR provides a list of qualifying marginal Federal oil and gas properties to the States receiving a portion of Federal royalties from those properties. Each State then decides whether to participate in neither, one, or both relief options. This Notice provides the public each State's decision on whether to participate in marginal property relief." This is applicable as of January 1, 2023. [Read more](#).

FEDERAL – Judicial

Leasing; Post-Production Costs – Fourth Circuit (West Virginia). On January 5, the U.S. Court of Appeals for the Fourth Circuit, on appeal from a West Virginia district court, addressed a dispute between Antero Resources Corporation and a group of lessor-landowners "over the payment of natural gas royalties under several oil and gas leases. The leases permit Antero to extract and sell natural gas owned by the Lessors in exchange for royalty payments. Antero appeals from the district court's summary judgment order, which held that Antero breached the terms of the leases by deducting certain 'post-production costs' from the royalties it paid Lessors and awarded damages." Here, in *Corder v. Antero Resources Corp.* (Case No. 21-1715), the appellate court disagreed with the landowners in certain instances, finding that Antero could deduct post-production costs in some of the leases, thus favoring Antero's argument. Thus, the court concluded "that some of the leases prohibit

Antero from deducting any post-production costs from Lessors' royalties, but other leases—namely, those that contain a 'Market Enhancement Clause'—do authorize deductions in certain circumstances."

[Read more.](#)

STATE – Legislative

Los Angeles Oil and Gas Drilling Ordinance – California. (*Update to 12/12/22 Report*) As covered throughout 2022, the Los Angeles City Council has now banned new oil and gas drilling within the city limits. [Read the final ordinance here.](#) The ordinance, which is effective January 18, imposes an immediate ban on all new oil and gas drilling and the city will also decommission existing oil wells and operations within 20 years. [Read more.](#) For background, on November 22, the Los Angeles City Council voted in favor of requesting that the city attorney prepare an ordinance amending the Los Angeles Municipal Code (LAMC) to prohibit new oil and gas extraction and phase out all oil drilling activities in the city. [Read the ordinance here.](#) The city attorney adopted the LAMC ordinance as written. The Los Angeles County Board of Supervisors also approved a similar ordinance earlier in October 2022. [Read more.](#)

Setbacks and Health Protection Zones Ballot Measure – California. (*Update to 10/31/22 Report*) On December 13, 2022, oil and gas industry proponents of a ballot referendum seeking to overturn [SB 1137](#), which banned drilling within 3,200 feet of homes and other sensitive sites, announced they gathered more than enough signatures to put the measure on the November 2024 ballot asking voters whether to uphold the recently enacted state law. According to reporting, "Even if county registrars across the state were to confirm only about 64 percent of the signatures gathered are valid, it would still be just enough to at least delay implementation of Senate Bill 1137 for almost two years — a win for the industry." [Read more.](#) For background on our prior reporting, SB 1137 establishes a 3,200-foot setback for well permitting and new oil and gas production facilities within a "health protection zone" of sensitive receptors and strict engineering controls to be

implemented by existing operations within the health protection zone. Opponents of SB 1137 began the process of challenging the law's implementation in September 2022 ([See Initiative 22-0006 here.](#)) The ballot measure was initially filed just days after Gov. Newsom signed SB 1137 into law in late 2022.

[Read more.](#)

Employee Misclassification – Indiana. On January 9, SB 32 was introduced by Sen. David Niezgodski (D). The bill would require the Department of State Revenue, the State Department of Labor, the Worker's Compensation Board of Indiana, and the Department of Workforce Development to report certain data related to the misclassification of workers each year for three years to the Interim Study Committee on Employment and Labor. [Read more.](#)

Marketable Record Title Act – Michigan. (*Update to 10/3/22 Report*) On December 13, 2022, Gov. Gretchen Whitmer (D) signed HB 6370 into law. Sponsored by Rep. Roger Hauck (R), the Act amends the state "marketable record title act to provide that the act must not be applied to bar or extinguish certain kinds of easements or land and resource use restrictions." The Act takes immediate effect. [Read more.](#)

Independent Contractor Analysis – Montana. On January 2, SB 22 was introduced by Sen. Shane Morigeau (D). The bill adds a new provision to existing independent contractor law to provide an independent contractor analysis section. [Read more.](#)

Oil and Gas Leasing – Ohio. On December 13, 2022, the House concurred in Senate amendments to [HB 507](#). The Republican bill was sent to the governor on December 29, 2022. "The bill requires, rather than authorizes, every state agency to lease agency-owned or controlled resources for development until the date on which the nomination procedure rules are adopted by the Commission. The state agency must enter the lease in good faith. The bill specifies the person seeking to lease the resources must submit proof of both of the following to the state agency: 1. Insurance and financial assurance; and 2.

Registration with the Division of Oil and Gas Resources.” The bill “also includes, as ‘green energy,’ energy generated by using natural gas as a resource.” [Read the complete bill summary here.](#) As reported by state news outlets, “The legislation, brought by the Ohio Oil and Gas Association, seeks to push the Ohio Oil and Gas Land Management Commission to stop dragging its feet on approving rules for oil and gas drilling on state lands by requiring all state agencies to open up land they control to drilling until the commission puts such rules in place. In 2011, state lawmakers opened state parks to oil and natural gas drilling and set up the commission to handle drilling applications. However, the commission has been slow to approve projects and missed a deadline last January to put leasing rules in place.” [Read more.](#) According to the Independent Petroleum Association of America, “landowners are poised for a long-fought property rights win allowing for the safe development of oil and natural gas under the surface of state-owned lands through House Bill 507 [...] until the passing of this amendment, private landowners close to and adjacent to Ohio state lands and parks were unable to develop their adjacent private minerals. Once this legislation goes into effect, landowners will be able to safely lease and develop Ohio’s energy-rich natural resources – over ten years after fracking was enshrined in state law.” [Read more.](#)

STATE – Regulatory

Environmental Petition for Cumulative Impacts Rulemaking – Colorado. *(Update to 10/31/22 Report)*

In a victory for the oil and gas industry, on December 14, 2022, the Colorado Oil and Gas Conservation Commission (COGCC) “rejected a petition proposing new rules to address the cumulative impacts of drilling and production, instead deciding to form a working group to bring more diverse perspectives to the issue. The rules proposed by some activist groups had the potential to bar oil and gas development in some cases to address cumulative impacts.” [Read more.](#) For background, on October 13, 2022, the COGCC announced a public comment and hearing on a petition from multiple environmental groups seeking the COGCC to issue rulemaking “to address and

evaluate cumulative impacts from oil and gas operations.” [Read the notice here.](#) This was not a rulemaking initiated by the COGCC but an outside petition. [Read the petition here.](#) In the petition, the groups say they “demand the COGCC make rules to address the regional and state cumulative impacts of ozone and climate change and to increase local protections against air pollutants, especially in disproportionately impacted communities.” Chelsie Miera, Executive Director of the West Slope Colorado Oil and Gas Association, “has previously said in response to the petition that Colorado environmental lobbyists ‘continue their crusade to ban oil and natural gas development by any means necessary’ even as families in the state continue to struggle with high gasoline prices, increasing utility costs and high inflation.” [Read more.](#)

Orphan Wells Mitigation Program – Colorado.

To follow up our 2022 reporting on this issue, on December 14, the Colorado Department of Natural Resources’ Orphan Wells Mitigation Enterprise Board announced results from their first hearing on December 13, 2022. “At the hearing, Orphan Wells Mitigation Enterprise Board Chair Jeff Robbins provided an overview of the duties assigned to the Board from the legislation.” The announcement provided that the “Enterprise Board is required to meet at least once a year and to determine if the fee amount collected from operators to fund the Enterprise should be adjusted. If the Board chooses to have a fee adjustment, it would then require a hearing to be conducted as Rulemaking under the Colorado Administrative Procedures Act.” At the hearing, “it was determined by the Board that no action would be taken this year and they will meet following the Sept. 1, 2023, release of the COGCC Orphaned Well Program (OWP) Annual Report. The Board will use the OWP’s Annual Report to inform possible next steps. The next hearing will be set in late September 2023, following the issuance of the OWP annual report.” [Read more.](#)

Oil and Gas Banking Boycott – Kentucky. On January 3, Kentucky State Treasurer Allison Ball warned that the state may divest from 11 banks that have boycotted oil and gas companies. [Read the](#)

[press release here](#). According to the Treasurer's office, "Energy company boycotts hurt Kentucky which is why the Kentucky General Assembly passed [SB 205](#) in 2022, directing the Treasurer to annually publish a list of financial companies engaged in such boycotts. All listed financial companies must stop engaging in the energy company boycott to avoid becoming subject to divestment." Ball added, "When companies boycott fossil fuels, they intentionally choke off the lifeblood of capital to Kentucky's signature industries. Traditional energy sources fuel our Kentucky economy, provide much needed jobs, and warm our homes. Kentucky must not allow our signature industries to be irreparably damaged based upon the ideological whims of a select few." [Read more](#).

INDUSTRY NEWS FLASH

► Donald Trump announces 2024 presidential run.

On November 15, 2022, former President Donald Trump announced that he is running for president in 2024. Focusing part of his speech on climate change and energy, Trump told a packed Mar-a-Lago audience, "The Green New Deal, and the environment, which they say may affect us in 300 years is all that is talked about." Trump also criticized President Biden for calling on adversarial foreign nations to pump more oil. "There are lots of nations that hate us gravely. And that's the problem when they look at us in disarray like we are right now when we go to them begging for oil and we have more liquid gold under our feet than they have. It's crazy what's happening." [Read more](#).

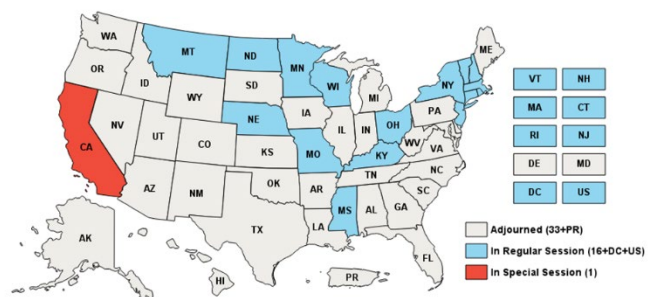
► **Louisiana to gain 3,500 oil and gas jobs by mid-2023.** A new report from Louisiana State University's Center for Energy Studies "predicts Louisiana will regain thousands of jobs in the oil and gas industry by the middle of 2023. Research professor Greg Upton says, "this year Louisiana has already gained 2,500 jobs that involve extracting oil and gas from the ground" and added that the Center

is forecasting that the state will regain an additional 3,500 jobs "within the upstream oil and gas extraction services sectors by about sometime mid next year before that levels off." [Read more](#).

► **In New Mexico, despite 1,400% increase in renewables, oil and gas still top earner on state lands.** As reported on November 14, 2022, "Despite recent efforts to expand income from renewable resources, the latest numbers from the state's Land Office show that the bulk of the state's income from land-owning comes from oil and gas." As noted by the state agency, "when it comes to income these renewables create for the state versus the income from oil and gas, there's still no comparison. In the fiscal year 2022, royalties from oil and gas totaled \$2.3 billion — that's 96% of the State Land Offices earnings that year, according to numbers presented to legislators." [Read more](#).

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Connecticut, Kentucky, Massachusetts, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New York, North Dakota, Ohio, Rhode Island, Vermont, and Wisconsin are in regular session. California is in special session. The U.S. Congress is also in session.

The following adjourned their 2022 legislative sessions on the dates provided: Michigan, North Carolina, and Ohio (December 31), the U.S. Congress and Wisconsin (January 3).

The following states are scheduled to convene their 2023 legislative sessions on the dates provided: **Arizona, Arkansas, Colorado, Georgia, Idaho, Indiana, Iowa, Kansas, and Washington** (January 9), **Delaware, South Carolina, South Dakota, Tennessee, Texas, and Wyoming** (January 10), **Illinois, Maryland, Michigan, New Jersey, North Carolina, Virginia, and West Virginia** (January 11).

California Democratic Gov. Gavin Newsom convened lawmakers into a special session on December 5, 2022, the same day set by the [Joint Rules of the California State Senate and Assembly](#) to convene the 2023 organizing session and for newly elected lawmakers to be sworn into office. Governor Newsom finally unveiled his controversial [proposed price gouging penalty](#) designed to deter excessive price increases in the state, but lawmakers did not take substantive action, deferring all proposals until January. The special session is set to run concurrent to the regular session.

Signing Deadlines (by date): **Pennsylvania**

Democratic Gov. Tom Wolf had until December 30, 2022, to act on legislation or it became law without signature. **Ohio** Republican Gov. Mike DeWine has until January 10 to act on legislation or it becomes law without signature. **Wisconsin** Democratic Gov. Tony Evers has until January 11 to act on legislation or it becomes law without signature. **Michigan** Democratic Gov. Gretchen Whitmer has 14 days from presentment to sign or veto legislation or it is pocket vetoed. **North Carolina** Democratic Gov. Roy Cooper has 10 days from presentment to act on legislation or it becomes law without signature.

The following states are currently holding interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Delaware](#), [Florida House](#) and [Senate](#), [Georgia](#), [Hawaii](#), [Idaho](#), [Illinois House](#) and [Senate](#), [Indiana](#), [Iowa](#), [Kansas](#), [Louisiana](#), [Maine](#), [Maryland](#), [Nevada](#), [New Mexico](#), [Oklahoma House](#) and [Senate](#), [Oregon](#), [Pennsylvania House](#) and [Senate](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas House](#) and [Senate](#), [Utah](#), [Virginia](#), [Washington](#) and [West Virginia](#).

The following states are currently posting 2023 bill drafts, pre-files and interim studies: [Arizona](#), [Arkansas](#), [Delaware](#), [Florida](#), [Georgia](#), [Indiana](#), [Iowa](#), [Kansas House](#), [Nevada](#), [Oklahoma](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Tennessee](#), [Texas](#), [Utah](#), [Virginia](#) and [Washington](#). ■

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