

# GOVERNMENTAL AFFAIRS REPORT

## Weekly Highlights At-A-Glance

### FEDERAL – Legislative

**S. Res. 553 – Domestic Energy Production.** On March 17, Sen. Bill Hagerty (R-TN) introduced S. Res. 553, “expressing the sense of the Senate that, since January 20, 2021, President Biden has implemented policies impeding domestic energy production and gas prices have steadily increased.” According to Sen. Hagerty, “While President Biden is blaming the Russian invasion for high gas prices, the truth is that gas prices have been steadily increasing since day one of his presidency because of the Biden Administration’s anti-American-energy policies.” The senator further notes, “The solution is obvious: instead of making excuses, the Biden Administration must end its war on American energy production.” [Read more.](#)

**S. 3762 – Energy Freedom Act.** On March 14, official bill text was made available for [S. 3762](#), known as the *Energy Freedom Act*. Sponsored by Sen. Ted Cruz (R-TX), the bill would “provide greater output, price stability, and regulatory certainty with respect to domestic energy production in the United States and exports.” According to Sen. Cruz, the legislation would “make America energy independent again by accelerating federal permitting for energy projects and pipelines, mandating new onshore and offshore oil and gas lease sales, approving pending LNG export licenses, and generally speeding up solar, wind, and geothermal development.” [Read more.](#)

**S. 3798 – Preempting Misguided Appeasement and Financing of Destabilizing Regimes Act of 2022.** On March 10, Sen. Marco Rubio (R-FL), joined by 10 cosponsors, introduced [S. 3798](#), known as the *Preempting Misguided Appeasement and Financing of Destabilizing Regimes Act of 2022* to “prohibit the importation of crude oil, petroleum, petroleum products, and liquefied natural gas from Venezuela

and Iran.” Of the bill, Sen. Rubio said, “The United States is blessed to have a plentiful supply of oil and natural gas — we should be using it. American-produced energy is cleaner and provides good jobs for American workers, yet the Biden Administration would rather appease dictatorships in Iran and Venezuela in return for bad deals and false promises. Under no circumstance should we be funneling money into the hands of dictators and narco-terrorists who are also allies of Vladimir Putin. Enough is enough — it’s time to bring energy production back home.” [Read more.](#)

**S. 3822 – Energy Regulations Certainty Act.** On March 10, Sen. James Lankford (R-OK) introduced [S. 3822](#), known as the *Energy Regulations Certainty Act*. The bill would “prohibit the President from promulgating new oil and gas regulations until after Russian troops have withdrawn from Ukraine.” According to Sen. Lankford, his “bill would put a moratorium on new regulations that could negatively impact domestic energy production until 180 days after Russian troops are withdrawn from Ukraine, which includes regulatory schemes like the Waters of the US rule, the new Federal Energy Regulatory Commission (FERC) policy statements of essentially refusing to permit new oil and gas projects, and the social cost of carbon pall that continues to loom over US energy production. To undue the negative impacts on US energy independence of the first year of the Biden Administration, Lankford’s bill would revert the energy regulatory frameworks back to what they were on January 19, 2021, and would reinstate approval for the Keystone XL pipeline from Canada.” [Read more.](#)

**S. 3802/H.R. 7061 – Big Oil Windfall Profits Tax Act.** On March 10, Sen. Sheldon Whitehouse (D-RI) introduced [S. 3802](#), known as the *Big Oil Windfall Profits Tax Act*. The bill would “amend the Internal Revenue Code of 1986 to impose a windfall profits

excise tax on crude oil and to rebate the tax collected back to individual taxpayers.” According to Sen. Whitehouse, “large oil companies that produce or import at least 300,000 barrels of oil per day (or did so in 2019) will owe a per-barrel tax equal to 50 percent of the difference between the current price of a barrel of oil and the pre-pandemic average price per barrel between 2015 and 2019, a period when big oil companies were already earning large profits. The quarterly tax will apply to both domestically produced and imported barrels of oil to ensure a level playing field.” The House companion version, [H.R. 7061](#), was introduced by Rep. Ro Khanna (D-CA) on March 11. [Read more.](#)

## **FEDERAL – Regulatory**

**Plan to Increase LNG Exports to Europe.** On March 25, during a joint press conference in Brussels, Belgium, with European Commission President Ursula von der Leyen, President Biden announced “a joint Task Force to reduce Europe’s dependence on Russian fossil fuels and strengthen European energy security as President Putin wages his war of choice against Ukraine.” According to The White House, “The Task Force will organize its efforts around two primary goals: (1) Diversifying liquefied natural gas (LNG) supplies in alignment with climate objectives; (2) Reducing demand for natural gas.” [Read more.](#) Under the plan, “the United States will work with international partners to supply more liquefied natural gas (LNG). The U.S. and partners will supply at least 15 billion cubic meters of LNG in 2022. The European Commission also committed to working with European Union member states to ensure demand of roughly 50 billion cubic meters of LNG from the U.S. until at least 2030.” However, at present, the Biden administration has not indicated how the demand will be met by the United States and if any policies would allow for greater natural gas production domestically to meet the needs expressed on March 25. [Read more.](#)

**Under Pressure, Federal Reserve Nominee Opposed to Oil and Gas Withdraws Nomination.** (*Update to 2/14/22 Report*) On March 15, Sarah Bloom Raskin, President Biden’s pick for Vice Chairwoman of

Supervision at the Federal Reserve, withdrew from consideration after a contentious nomination process. [Read more.](#) Just a day earlier, Sen. Joe Manchin (D-WV) announced he would not vote in favor of Raskin. Manchin was later joined by other senators, which all but doomed Raskin’s confirmation. [Read more.](#) Raskin, a former Obama Treasury Department Deputy Secretary, had previously made public comments calling for “debanking” the fossil fuel industry and if nominated could have played a hand in limiting banks from financing oil and gas production. For background, on February 3, Raskin appeared before a Senate panel where she was grilled for her past statements. “You support driving the oil and gas industry into bankruptcy. Do you think that would be a proper role for the Federal Reserve?” asked Sen. John Kennedy (R-LA). AAPL also lent its support to opposing Raskin’s nomination, recently joining 21 other trade associations – including the Independent Petroleum Association of America, the Texas Independent Producers and Royalty Owners Association, the U.S. Oil & Gas Association as well as numerous state groups delivering a letter to key lawmakers to make our voices heard. [Read the letter here.](#) As AAPL and the other letter writers noted, “Ms. Bloom Raskin’s favored policies would wreak havoc with the economy, as financial systems would be reoriented around subjective, political factors rather than firm principles of maximizing returns and capitalizing productive human endeavors that create value in the marketplace.” [Read more.](#)

**BLM Onshore Oil and Gas Civil Penalties.** On March 14, the Bureau of Land Management (BLM) published a final rule, *Onshore Oil and Gas Operations and Coal Trespass-Annual Civil Penalties Inflation Adjustments* (87 Fed. Reg. 14177). According to the BLM, “This final rule adjusts the level of civil monetary penalties contained in the Bureau of Land Management’s (BLM) regulations governing onshore oil and gas operations and coal trespass as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and consistent with applicable Office of Management and Budget (OMB) guidance. The penalty adjustments made by this final rule constitute the 2022 annual inflation adjustments, accounting for

one year of inflation spanning the period from October 2020 through October 2021.” [Read more.](#)

**BLM Mineral & Land Records System.** On March 21, the BLM announced they released the [Mineral & Land Records System](#) (MLRS) Fluid Minerals & Geothermal module on March 14. According to the BLM, “This addition enables oil & gas and geothermal operators and lessees to access information on their cases – including conducting map-based research, reviewing cases, viewing uploaded files, and managing their MLRS profile – all in a secure online environment. Check out our latest [Feature Video](#) which provides a short overview of what the MLRS Fluid Minerals & Geothermal module can do for you.” The BLM also provided information on creating an MLRS account: “You will benefit from creating an MLRS account if you have any business with the BLM involving oil & gas and/or geothermal cases. Businesses with existing cases: Be on the lookout for a hard copy letter from the BLM arriving soon (likely the week of March 21) with instructions for creating an MLRS account, including your unique Customer ID number. You will need this number to get started. If you need assistance before then, please contact the BLM’s Help Desk at <https://phd.blm.gov>.” [Read more.](#)

## **FEDERAL – Judicial**

**Federal Leasing; Greater Sage-Grouse – Montana.** On March 11, the U.S. District Court for the District of Montana (Great Falls) in [Montana Wildlife Federation v. Bernhardt](#) (Case No. 4:18-cv-00069) addressed a case involving the BLM and Greater Sage-Grouse Resource Management Plans dating back more than seven years. Here, the court found that the BLM “failed to prioritize oil and gas leasing in Wyoming and Nevada on non sage-grouse habitat” thus “blocking development or production on the leases pending the Ninth Circuit’s review.” As reported by *Bloomberg Law*, “Environmental groups challenged multiple lease sales in Wyoming and Nevada alleging a violation of the Federal Land Policy and Management Act. The lease sales came after BLM issued a 2018 instruction memorandum that said the agency doesn’t need to lease and develop outside of sage grouse habitat

before doing so within the bird’s habitat. The U.S. District Court for the District of Montana tossed the instruction memorandum in May 2020 because it failed to encourage development in areas that wouldn’t conflict with sage grouse habitat. The court said three lease sales in Wyoming violated the FLPMA because they failed to implement the agency’s 2015 requirement to focus leasing outside of priority and general habitat management areas. BLM argued the remaining lease sales at issue were different because the agency followed the 2015 priority requirements. The agency also placed additional stipulations on the sales to reduce harm to sage grouse, it told the court. However, the five lease sales in Wyoming and Nevada suffer from similar problems as the first few sales in Wyoming, the court said.” According to the ruling, “the leases are suspended for now pending an appeal of the court’s May decision and any further appeals stemming from its recent decision.” [Read more.](#)

**Greenhouse Gas Emissions; Federal Leasing – Louisiana.** (*Update to 3/14/22 Report*) The latest development in the ongoing litigation involving the Biden administration seeking to utilize the Social Cost of Greenhouse Gases in making regulatory and policy decisions occurred on March 16, when a federal appeals court granted the Biden administration’s request “to temporarily let federal agencies use Biden’s new cost-benefit analysis rules, which aim to slow climate change by making activities that emit greenhouse gases sharply more expensive.” A prior injunction stalled the use of these metrics, which was a win for the oil and gas producing state plaintiffs opposed to the policies for the harm and costs they will impose on domestic production. In the March 16 unanimous opinion, the U.S. Court of Appeals for the Fifth District wrote that “The interim estimates on their own do nothing to the plaintiff states.” [Read more.](#) Louisiana – one of the plaintiffs – already said it will appeal the order to a full panel of the appellate court. Following the decision, on March 18, *The Hill* reported that the Interior Department said “that it can move forward with planning for oil and gas leasing on federal lands after previous delays stemming from a court move blocking a climate accounting tool. Previously, the department had said there would be delays in

‘permitting and leasing for the oil and gas programs’ after a lower court barred the Biden administration from using a tool allowing it to calculate the climate costs of such actions.” According to reports, “Interior spokesperson Melissa Schwartz said in an emailed statement on Friday that the department now ‘continues its planning for responsible oil and gas development on America’s public lands and waters,’ in light of the new ruling. Schwartz declined further comment on leasing, but she clarified that permitting had never been halted, saying the court ruling has impacted fewer than 20 permits.” [Read more.](#) For background, on February 19, “the United States [appealed an injunction](#) prohibiting federal agencies from adopting and relying on the interim Social Cost of Greenhouse Gas estimates established by the Interagency Working Group.” The injunction issued by the U.S. District Court for the Western District of Louisiana on February 11, was issued in a case brought by Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, South Dakota, Texas, West Virginia, and Wyoming. Specifically, the preliminary injunction barred the Biden administration from using the social costs of greenhouse gas emissions in federal regulations. According to *The Hill*, the “Biden administration last year temporarily returned to Obama-era figures for calculating the costs of these planet-warming gases, and it was expected to soon issue its own findings. These ‘social costs’ have been used to help quantify the climate benefits of regulation, or conversely, the climate costs of deregulation, in agency rulemaking. Higher costs of greenhouse gases can be used to justify more stringent regulations.” In [Louisiana v. Biden](#) (Case No. 2:21-CV-01074), the court ruled that the plaintiff state attorneys general “have sufficiently identified the kinds of harms to support injunctive relief.” The court also found that a Biden executive order regarding the issue “didn’t follow government notice and comment requirements.” Louisiana Attorney General Jeff Landry hailed the ruling. “While our fight is far from over, I am pleased the Court granted preliminary relief against the President’s unacceptable and unauthorized executive overreach,” he said. The Biden administration told the court that “nearly 40 agency rules will have to be postponed or reworked after a

federal court restricted its ability to measure their climate impacts.” The February 19 injunction would delay Environmental Protection Agency emissions rulemaking as well as Interior Department lease sales while the administration reviewed the ruling. [Read more.](#)

**Independent Contractors; U.S. Department of Labor – Texas.** On March 14, the U.S. District Court for the Eastern District of Texas delivered a victory for independent contractors and those businesses that employ them by ruling that the U.S. Department of Labor’s 2021 “delay and ultimate withdrawal of regulations governing independent contractor status under the Fair Labor Standards Act (FLSA)” known as the [Independent Contractor \(IC Rule\)](#) was unlawful. In [Coalition for Workforce Innovation v. Walsh](#) (Case No. 1:21-cv-00130-MAC), the plaintiffs challenged the Biden administration’s delay and withdrawal rules aimed at rescinding Trump administration rulemaking that created a more permissible independent contractor status under U.S. Department of Labor (DOL) regulations, and which were more favorable to both businesses and independent contractors. The plaintiffs, although not landman-related, claimed both the delay and withdrawal rules issued by the Biden administration were invalid under the Administrative Procedure Act (APA). Specifically, Plaintiffs claimed that the Delay Rule failed to engage in notice and comment as required by the APA. Plaintiffs also contend that the DOL’s decision to implement both the Delay Rule and the Withdrawal Rule was arbitrary and capricious. The court held “that the DOL violated” the ADA “twice: first, in February 2021, when it delayed the effective date of the IC Rule, and later, in May 2021, when it withdrew the IC Rule in its entirety.” Accordingly, “the court vacated the delay and withdrawal of the IC Rule, and specifically held that the IC Rule [under the Trump administration] became effective on March 8, 2021 and remains in effect today. For background, the final rule (*Independent Contractor Status Under the Fair Labor Standards Act*; [86 Fed. Reg. 1168](#)) “issued by the Trump administration DOL on January 7, 2021, advocated for the adoption of the economic realities test: ‘The ultimate inquiry is whether, as a matter of economic reality, the worker is dependent on a particular



individual, business, or organization for work (and is thus an employee) or is in business for him- or herself (and is thus an independent contractor).’ Specifically, the proposed rule prioritized two ‘core factors’: (1) the nature and degree of the worker’s control over the work; and (2) the worker’s opportunity for profit or loss. [Read more](#). The proposed rule was scheduled to take effect on March 8, 2021; however, the DOL under President Biden extended the effective date to May 7, 2021, then withdrew it before it became effective.” [Read more](#).

## **STATE – Legislative**

**Oil and Gas Operator Property Tax Procedures – Colorado.** (*Update to 1/17/22 Report*) On March 16, SB22-26 passed the House. The bill passed the Senate on February 15, 2022. Sponsored by Sen. Joann Ginal (D) and per the official bill summary, the measure provides that “Current law requires a county property tax assessor (assessor) to send a notice of valuation of personal property to the operator of each wellsite, or if there is no operator, to the owner who has filed a statutorily required statement with the assessor. The bill states that oil and gas fractional interest owners are not entitled to separate valuation, notification, review, audit, protest, abatement, or appeal procedures by the assessor; and Designates the operator of each wellsite, or if there is no operator, the owner who filed the statement, as the representative of all fractional interest owners and as the exclusive point of contact for the assessor for all notification, review, audit, protest, abatement, and appeal procedures.” The amended version of the bill provided that “‘well or unit operator’ means the operator of each wellsite or, if there is no operator, the owner who filed the statement with the assessor pursuant to [section 39-7-101](#).” [Read more](#).

**Domestic Energy Production – Colorado.** On March 17, SJR22-8 was introduced by Sen. Jerry Sonnenberg (R) and Sen. John Cooke (R). The joint resolution proclaims that the Colorado General Assembly supports Colorado oil and gas production and development. [Read more](#).

**Injection Wells – California.** On March 2, SB 1314 was referred to committee following its introduction by Sen. Monique Limón (D). The bill provides that “An operator shall not inject a concentrated carbon dioxide fluid produced by a carbon dioxide capture project or carbon dioxide capture and sequestration project into a Class II well for purposes of enhanced oil recovery, including the facilitation of enhanced oil recovery from another well.” [Read more](#).

**Abandoned Oil and Gas Well Fund – Kansas.** On March 22, Gov. Laura Kelly (D) signed HB 2591 into law. Sponsored by the House Committee on Appropriations and requested by Rep. Troy Waymaster (R), the Act repeals the statute that authorizes quarterly \$100,000 State General Fund and \$200,000 Conservation Fee Fund transfers to the Abandoned Oil and Gas Well Fund in the Kansas Corporation Commission. “According to the fiscal note prepared by the Division of the Budget on the bill, the Kansas Corporation Commission indicates that although no State General Fund transfer has been made in more than a decade, the bill would repeal the quarterly transfer of \$200,000 from the Conservation Fee Fund to the Abandoned Oil and Gas Well Fund.” [Read more](#).

**Probate and Trust Matters – Indiana.** (*Update to 3/14/22 Report*) On March 18, Gov. Eric Holcomb (R) signed HB 1208 into law. The Act, sponsored by Rep. John Young (R), involves various probate and trust matters, specifically, “it resolves inconsistencies in two sections of the chapter on dispensing with administration so that those sections authorize a fiduciary to distribute and disburse the estate assets before filing a closing statement. It authorizes the appointment of a special administrator under certain circumstances and establishes a procedure for the appointment of a special administrator for the purpose of pursuing a claim for a decedent’s wrongful death. In a section concerning the filing of an electronic will, it replaces an incorrect reference with a reference to the Rules on Access to Court Records. It provides that a video or audio recording of a principal who executes a power of attorney may be admissible as evidence of matters relevant to the validity or enforceability of

the power of attorney. It provides that any objection to a final account and petition for distribution of a decedent's estate must be filed at least 14 days before the hearing date. It eliminates references to a trustee 'docketing' a trust and identifies permissible methods for the filing of a copy of a trust instrument with a court. It amends two definitions of 'electronic power of attorney' to provide that an electronic power of attorney may be signed in the presence of witnesses instead of being notarized." The Act is effective July 1, 2022. [Read more.](#)

**Domestic Energy Production – Illinois.** On March 22, HR 739 was introduced by Rep. Brad Halbrook (R). The House Resolution urges President Biden to set policies supporting domestic oil and gas production, exploration, and development. [Read more.](#)

**Carbon Sequestration – Indiana.** *(Update to 1/31/22 Report)* On March 18, Gov. Eric Holcomb (R) signed HB 1209 into law. Sponsored by Rep. Ed Soliday, the Act relates to carbon sequestration projects and provides for the mechanism for underground storage of carbon dioxide in Indiana. The Act is effective July 1, 2022. [Read more.](#)

**Wind Leases and Operations – Louisiana.** On March 23, HB 165 was reported favorably out of the House committee following its introduction Rep. Jerome "Zee" Zeringue (R). The bill establishes a maximum acreage for wind leases; provides for operating agreements for the production of wind energy; and would remove the requirement of a minimum dollar amount set and a minimum percentage of revenue to be produced by each wind turbine prior to the advertisement for bids for each lease and approval of these minimum amounts by the House Committee on Natural Resources and Environment and the Senate Committee on Natural Resources prior to advertisement and solely grants the State Mineral and Energy Board the authority to accept the bid it finds is most advantageous to the state. [Read more.](#)

**Risk Charge – Louisiana.** On March 14, SB 38 was introduced by Sen. Bob Hensgens (R). The bill

provides for the risk charge against nonparticipating owners in drilling units and notice requirements. Read a complete [digest of proposed provisions here.](#) [Read more.](#)

**Notarial Acts – Maryland.** On March 17, [HB 663](#), sponsored by Del. Anne Kaiser (D), advanced to a final reading in the House following its introduction. The Senate companion bill, SB 317, sponsored by Sen. Christopher West (R), passed the Senate on February 19. The bills would increase the maximum fees from \$4 to \$25 for an original notarial act and, subject to certain regulations, to \$50 for performance of a notarial act using communication technology; would repeal a certain prohibition on performing a notarial act using communication technology with respect to a will or a trust; would authorize a notary public to use communication technology to take an acknowledgement of a signature remotely under certain circumstances; and establishes certain requirements for a notary public to confirm a record remotely. [Read more](#)

**Carbon Sequestration – Mississippi.** *(Update to 1/31/22 Report)* On March 23, Gov. Tate Reeves signed HB 1214 into law. Sponsored by Rep. Brent Powell (R), the Act amends existing law "to revise the legislative findings regarding geologic sequestration of carbon dioxide"; revises the definition of reservoir; clarifies "the state oil and gas board's authority when entering an order approving a geologic sequestration facility; to provide for a method for the board to enter an order approving any proposed geologic sequestration of carbon dioxide when a majority interest has not consented;" and provides "a method for the board to enter an order approving any proposed geologic sequestration of carbon dioxide when a majority interest has not consented;" and revises "the definition of interested person regarding appeals to chancery court." The Act is effective July 1, 2022. [Read more.](#)

**Income Tax Deductions – Mississippi.** On March 17, Gov. Tate Reeves signed HB 1529 into law. The measure amends existing tax law to allow for expenses as income tax deductions if made pursuant

to a grant or loan program such as the Paycheck Protection Program and other COVID-19 related programs. As the bill contained no effective date, under Mississippi law the Act becomes effective 60 days after passage. [Read more.](#)

**Notarial Acts – Ohio.** On March 2, SB 300 was referred to committee following its introduction. Sponsored by Sen. Steve Wilson (R), the bill would make amendments to notary law by removing the requirement that a notary take an oath of office; redefines “acknowledgment” to mean an individual’s declaration before a notary that the individual has signed a record for the purpose stated in the record, and if the record is signed in a representative capacity, that the individual signed the record with proper authority and signed it as the act of the person identified in the record; requires notaries seeking to replace lost or destroyed commissions or to amend an existing commission to file an electronic form, as opposed to a paper form; imposes new requirements with regard to notaries verifying the identification of persons making an acknowledgment or a jurat; adds a new form of acknowledgment for limited liability companies; and expands the list of county government officials that are required to accept electronically notarized documents to include clerks of courts of record and deputy registrars. [Read more.](#)

**Domestic Energy Production – Ohio.** On March 16, Sen. Tim Schaffer (R) introduced Senate Resolution 259 (SR 259) which states its purpose is “To strongly urge the President of the United States and United States Congress to take specified actions to encourage the production of domestic crude oil, natural gas, and coal resources.” [Read more.](#)

**Production Revenue Standards and Royalty Standardization Act – Oklahoma.** On March 22, HB 3394 unanimously passed the House. Sponsored by Rep. Anthony Moore (R), the bill amends current law by renaming the Production Revenue Standards Act to the Production Revenue Standards and Royalty Standardization Act. The bill amends language to provide for transfer orders and provides that “any owner legally entitled to receive a distribution of

production proceeds may prepare and submit to the operator, the first purchaser of the production or holder of proceeds a substitute division order or transfer order which warrants in writing the division of interest and the name, address and tax identification number of each interest owner with a provision requiring notice of change of ownership.” [Read more.](#)

**Carbon Sequestration – Utah.** (*Update to 1/31/22 Report*) On March 21, HB 244 was signed into law by Gov. Spencer Cox (R). Sponsored by Rep. Steve Handy (R), the Act bill authorizes the Division of Oil, Gas, and Mining and the Board of Oil, Gas, and Mining to establish regulations for the geologic storage of carbon. Since the bill provided no effective date, under Utah law it becomes effective 60 days after session adjournment (March 4, 2022). [Read more.](#)

**Recordation – Utah.** (*Update to 3/14/22 Report*) On March 24, SB 80 was signed into law by Gov. Spencer Cox (R). Sponsored by Sen. Ronald Winterton (R), the Act amends existing law relating to real property recording to provide that regarding a document conveying title to real property presented for recording after July 1, 2022, certain new requirements for a legal description of real property in a document are necessary in order to be recorded with a county recorder. The Act is effective July 1, 2022. [Read more.](#)

**Oil Production – Utah.** (*Update to 3/14/22 Report*) On March 21, SB 146 was signed into law by Gov. Spencer Cox (R). Sponsored by Sen. Ronald Winterton (R), the Act amends definitions related to oil production, specifically the definitions of “crude oil” and “oil” to clarify regulatory authority over tar sands production; clarifies that tar sands are exempt from state severance tax; and makes technical and conforming changes with the amendments. Since the bill provided no effective date, under Utah law it becomes effective 60 days after session adjournment (March 4, 2022). [Read more.](#)

**Taxation – Wyoming.** (*Update to 2/28/22 Report*) On March 11, Gov. Mark Gordon (R) signed SF 38 into law. Sponsored by the Joint Revenue Interim Committee, the Act relates to ad valorem taxation

of mineral production and clarifies and modifies the reporting and payment of ad valorem taxes on mineral production and clarifies and modifies provisions for the payment of deferred taxes. The Act takes immediate effect. [Read more.](#)

**Carbon Sequestration – Wyoming.** On March 21, February 7, Gov. Mark Gordon (R) signed SF 47 into law. Sponsored by the Joint Committee on Minerals, Business and Economic Development, the Act relates “to geologic sequestration of carbon dioxide; clarifying ownership of carbon dioxide injected into geologic sequestration sites; specifying the transfer of title and liability of injected carbon dioxide; providing definitions; renumbering current statutes; making conforming amendments; specifying applicability; requiring rulemaking; and providing for effective dates.” The Act has multiple effective dates. [Read more.](#)

**State Lands – Wyoming.** *(Update to 2/28/22 Report)* On March 16, Gov. Mark Gordon (R) signed HB 3 into law. Sponsored by the Joint Committee on Agriculture, State and Public Lands and Water Resources, the “bill provides for preference to be given in the process of vacant land bidding to applicants who are the owners, lessees, or lawful occupants of adjoining lands in good standing with the Board of Land Commissioners. This allows applicants who have preference to elect to meet the highest bid of the applicants not eligible for the preference. The Office of State Lands and Investments indicates that this preference may reduce the number and amount for bids received in instances where one applicant is eligible for preference and a competing bidder is not.” The Act is effective July 1, 2022. [Read more.](#)

## **STATE – Regulatory**

**Domestic Oil Production – California.** As reported by the California Independent Petroleum Association (CIPA), on March 7, 21 California lawmakers [delivered a letter](#) to Gov. Gavin Newsom (D-CA), urging the governor “to increase California’s domestic energy production in response to the war in Ukraine.” As noted by CIPA, in their letter, “the legislators remind

Newsom that, due to lack of infrastructure and shipping costs, California is an ‘energy island’ that is ‘disconnected from the other lower-47 states.’” The letter writers “point out that 75% of California’s crude oil supplies are imported; out of that, 6% comes from Russia. The state’s increased reliance on foreign oil has only grown because of state and federal policies that have severely limited the production of affordable energy within California,” they write. “With the conflict in Ukraine, there is going to be increased demand on volatile energy supplies – making California more vulnerable to price swings.” The lawmakers ended their letter urging policy action by the governor. “To this end, we ask for your commitment in supporting a stable and affordable energy supply by adopting policies to allow Californians to take advantage of the abundant inland natural resources available in our state that will help ensure we are not dependent on foreign energy sources.” In a similar call to action, on March 8, U.S. House of Representatives Minority Leader and California Rep. Kevin McCarthy (R) also [delivered a letter to Gov. Newsom](#), asking “to rescind your anti-oil and natural gas policies to maximize the potential of California’s energy resources for Californians by Californians, rather than continuing to support Russia through importing its crude oil.” [Read more.](#)

**Kern County Oil Production – California.** On March 15, the Kern County Board of Supervisors “voted unanimously to ask the governor to suspend limitations that would allow local oil producers to help ease supply disruptions caused by geopolitical tensions in Europe.” [Read more.](#) According to the California Independent Petroleum Association (CIPA), “the resolution requests that Governor Newsom suspend all state permitting and extraction limitations on oil and gas producers.” As noted by CIPA and highlighted in the resolution, “California is eight times more dependent on foreign oil imports than three decades ago and uses roughly 3.3 times more oil than it produces, averaging 501,000 barrels produced per day yet consuming over 1.6 million barrels per day.” [Read more.](#)

**Hydrogen Hub – New Mexico.** On March 10,



Gov. Michelle Lujan Grisham (D) signed [Executive Order 2022-013](#), “Establishing the Clean Hydrogen Development Initiative and Implementing Various Measures to Foster a Hydrogen Economy for the Benefit of All New Mexicans.” As reported, “the executive order directs the Economic Development; Energy, Minerals and Natural Resources; Environment; Taxation and Revenue; and Indian Affairs departments to collaborate on pursuing funding and economic opportunities related to a robust and environmentally responsible clean hydrogen economy. The executive order directs the Council to assist the Western Inter-State Hydrogen Hub in developing the application to the Department of Energy and make recommendations to the governor on additional clean hydrogen initiatives and policies. The text of the executive order is attached.” This builds upon earlier actions by the governor in January, with New Mexico “developing a clean hydrogen economy” by “signing a memorandum of understanding with Los Alamos and Sandia National Laboratories that leverages their respective areas of expertise with hydrogen to deliver timely, material and efficient transformation of energy systems.” [Read more](#). Additionally, “in February, Gov. Lujan Grisham signed a memorandum of understanding with the governors of Colorado, Utah and Wyoming to compete jointly for a portion of the \$8 billion allocated in the federal Infrastructure Investment and Jobs Act for the development of regional clean hydrogen hubs.” [Read more](#).

## **STATE – Judicial**

**Post-Production Costs; Royalties – Texas.** On February 4, the Texas Supreme Court addressed a mineral dispute in [Nettye Engler Energy, LP v. BlueStone Natural Resources II, LLC](#) (Case No. 20-0639) involving “a frequently litigated issue: whether and to what extent a royalty interest bears a proportionate share of postproduction costs. Here, the deed conveying the mineral estate reserved a nonparticipating royalty interest ‘in kind,’ which means that, unlike a monetary royalty, the grantor retained ownership of a fractional share of all minerals in place. The deed required delivery of the grantor’s fractional share ‘free of cost in the pipeline, if any, otherwise free

of cost at the mouth of the well or mine[.]’ The parties agree that a gas pipeline exists and that the royalty is free of production costs and postproduction costs incurred before delivery into that pipeline, but they disagree about its location under the deed’s terms. The grantee’s successor maintains that delivery occurs in the gathering pipelines comprising the gas gathering system on the wellsite premises, which burdens the royalty interest with all post-production costs from that point until the gas is sold to the ultimate purchaser. The grantor’s successor contends that delivery is downstream of the wellsite at the transportation pipeline, if not farther.” At trial, the court “granted summary judgment that delivery occurs in the transportation pipeline, but the court of appeals reversed and rendered judgment that delivery occurs in the gathering pipeline.” Here, the Supreme Court affirmed the court of appeals, holding that a “gas gathering pipeline is a ‘pipeline’ in common, industry, and regulatory parlance, and the deed does not limit the delivery location to any specific pipeline nor prohibit delivery to a pipeline at or near the well, if any.” Additionally, the Supreme Court found the court of appeals misconstrued earlier holdings and reiterated that “all contracts, including mineral conveyances, are construed as a whole to ascertain the parties’ intent from the language they used to express their agreement.” Of the case, law firm Holland & Knight stated, “the Court further solidified what has been the definite trend in royalty litigation. Namely, that Texas courts will closely parse every single word of a royalty instrument to ascertain the parties’ intent with respect to the proper allocation of postproduction costs.” [Read more](#).

**Mineral Interest Pooling Act – Texas.** In a case involving the Mineral Interest Pooling Act (MIPA) in [Ammonite Oil & Gas Corp. v. Railroad Commission of Texas](#) (Case No. 04-20-00465-CV), Ammonite filed a petition for review with the Texas Supreme Court on January 12, 2022 and the case is currently pending review. Respondents have until April 25, 2022, to submit their response. On appeal from the Fourth Court of Appeals (San Antonio), the case involves petitioner “Ammonite Oil & Gas Corporation’s applications for forced pooling of portions of its lease

of the Texas Permanent School Fund's mineral estate in the Frio River riverbed with Respondent EOG Resources, Inc.'s leasehold acreage on both sides of the Frio River." For background, on October 27, 2021, [the appeals court affirmed](#) the trial court ruling in which the Texas Railroad Commission (TRC) "denied and dismissed Ammonite's application under the Mineral Interest Pooling Act and the trial court affirmed the Commission's order." As noted by law firm Kiefaber & Oliva LLP, "Under MIPA, the owner of a mineral estate may ask the Texas Railroad Commission (TRC) to force other tracts owners within both the same proration unit and within a common reservoir to pool their interest with that of the applicant." Further, "[t]o invoke MIPA, an applicant must 1) 'make a fair and reasonable offer to the owner/operator(s) of the other well(s) to voluntarily create a pooled unit prior to filing an application under MIPA;' 2) file a MIPA application to force pooling; 3) make a showing that the forced pooling would prevent the drilling of unnecessary wells, protect correlative rights, or prevent waste. The Act does not define what constitutes a fair and reasonable offer, meaning that the TRC is charged with determining the nature of a fair offer. In other words, the TRC decides on a case-by-case basis whether an offer meets the definition of fair and reasonable. If the offer is not fair, then the TRC is said to lack jurisdiction over the issue and must dismiss the case." Here, the court found "the first requirement of MIPA, a fair and reasonable offer, was not met." The lower courts found "that the TRC's dismissal of Ammonite's MIPA application was proper based on some of the reasons noted above. These factors were more than enough to show the TRC had 'some reasonable basis' for their decision, which is all the deferential standard employed by the court requires." We will continue to keep members updated as the case progresses through the Texas Supreme Court. [Read more.](#)

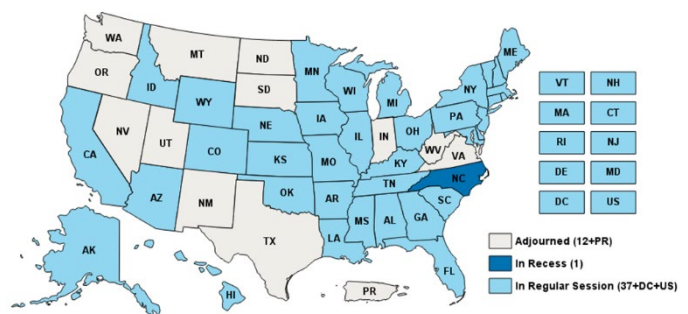
## INDUSTRY NEWS FLASH

► **Texas upstream employment continues to rise.** On March 14, *Rigzone* reported U.S. Bureau of Labor Statistics by the Texas Independent Producers and Royalty Owners Association (TIPRO) which showed

continuing "job creation for the Texas Upstream sector." According to TIPRO, "Texas upstream employment for January 2022 totaled 176,300, an increase of 1,200 jobs from revised December numbers. Texas upstream employment in January 2022 represented an increase of 16,000 positions compared to January 2021." [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** Alabama, Alaska, Arkansas, Arizona, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Wisconsin, and Wyoming are in regular session. The U.S. Congress is also in session.

**North Carolina** is in recess until April 4, according to [Senate Joint Resolution 748](#) passed on March 11 and adjourning the legislature. The passage of SJR 748 signals the end of the 2021 Long Session, which lasted 199 legislative days, reports [Ward and Smith](#). The General Assembly will meet again from April 4-6 and from May 4-6, with both regular sessions limited to specific itemized agendas outlined in the resolution. Most North Carolina leadership, however, does not anticipate any substantial action until the beginning of the Short Session on May 18.

The following states adjourned their 2022 legislative sessions on the dates provided: **South Dakota** and **Washington** (March 10), **Virginia** and **West Virginia** (March 12) and **Indiana** (March 14).

The following states are scheduled to adjourn their 2022 legislative sessions on the dates provided: **Arkansas** (March 30), **Kansas** (April 1), **Mississippi** (April 3), and **Georgia** (April 4).

**Signing Deadlines** (by date): **Utah** Republican Gov. Spencer Cox has until March 24 to sign or veto legislation or it becomes law without signature. **South Dakota** Republican Gov. Kristi Noem has until March 25 to sign or veto legislation or it becomes law without signature. **West Virginia** Republican Gov. Jim Justice has until March 30 to sign or veto legislation or it becomes law without signature. **Washington** Democratic Gov. Jay Inslee has until April 2 to sign or veto legislation or it becomes law without signature. **Virginia** Republican Gov. Glenn Youngkin has until April 11 to sign or veto legislation or it becomes law without signature. **Indiana** Republican Gov. Eric Holcomb has until April 13 to sign or veto legislation or it is pocket vetoed.

The following states are currently holding 2022 interim committee hearings: [Montana](#), [Nevada](#) and [North Dakota](#). ■

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