

# GOVERNMENTAL AFFAIRS REPORT

## Highlights At-A-Glance

### FEDERAL – Legislative

**H.R. 1 – Lower Energy Costs Act.** (*Update to 3/20/23 Report*) The House passed the Republican's energy package bill, [H.R. 1](#), on March 30, and it now heads to the Senate where Senate Majority Leader Chuck Schumer (D-NY) says the bill is "dead-on-arrival." [Read more.](#) Known as the Lower Energy Costs Act, the nearly 900-page bill is a comprehensive package of separate energy bills House Speaker House McCarthy (R-CA) has been touting since the Republicans took majority control of the House in January. [Read more.](#) The legislation "focuses on two main priorities: increasing the production and export of American energy and reducing the regulatory burdens that make it harder to build American infrastructure and grow our economy." [Read more.](#) According to Speaker McCarthy, "Policies that will be included in the energy package can be broken down into several broad categories: Increasing American Energy Production; Increasing the Production and Processing of Critical Minerals; Streamlining Energy Infrastructure and Exports; Broad Permitting Reform; and Government Accountability." Key provisions include: reducing the royalty rate companies that drill offshore need to pay to the government from at least 16.67 percent down to 12.5 percent; limit the president's authority to block cross-border energy projects like the Keystone XL pipeline; make it easier to sell U.S. liquified natural gas abroad by getting rid of the need for Energy Department approval for export applications for countries where the U.S. doesn't have a free trade agreement; Regarding permitting, set two-year time limits for conducting a more-stringent type of environmental review known as an environmental impact statement for major projects. These reviews would also be limited to 150 pages, except for extraordinarily complex projects, where the reviews would have a 300-page maximum. Regarding

repealing Inflation Reduction Act programs, the package would eliminate a program that aims to reduce planet-warming methane emissions from the oil and gas sector by both providing grants and loans to help companies cut emissions and also issuing fines on excess emissions; and eliminate funds given to the Environmental Protection Agency that would seek to spur funding for climate-friendly projects. [Read a summary of key provisions here.](#) The White House has also voiced their opposition to the bill and communicated that President Biden would veto the measure if it passed Congress. [Read more.](#)

**H.R. 1362 – Saving America's Energy Future Act.** On March 22, official bill text was made available for H.R. 1362, known as the Saving America's Energy Future Act. Sponsored by Rep. August Pfluger (R-TX), the bill would "prohibit the Secretary of the Interior and the Secretary of Agriculture from issuing a moratorium on issuing new oil and gas leases and drill permits on certain Federal lands." [Read more.](#)

**S. 782 – Furthering Resource Exploration and Empowering American Energy Act.** On March 30, official bill text was made available for [S. 782](#), known as the Furthering Resource Exploration and Empowering American Energy Act or the FREE American Energy Act. Sponsored by Sen. Rick Scott (R-FL), the bill would "require applicable Federal agencies to take action on applications for Federal energy authorizations." Specifically, the bill would remove barriers for approvals and authorizations for energy infrastructure projects, pipelines, oil and gas lease sales, and alternative energy production. [Read more.](#)

**S. 678 – No Oil Producing and Exporting Cartels Act of 2023.** On March 22, official bill text was made available for [S. 678](#), known as the No Oil Producing

and Exporting Cartels Act of 2023 or NOPEC. This bipartisan bill, led by Sen. Chuck Grassley (R-IA), “would explicitly authorize the Justice Department to bring lawsuits against oil cartel members for antitrust violations. It would clarify that neither sovereign immunity nor the ‘Act of State’ doctrine prevents a court from ruling on antitrust charges brought against foreign governments for engaging in illegal pricing, production and distribution of petroleum products.” According to Sen. Grassley, “We’ve seen time and again how OPEC has colluded to set global oil prices, bringing uncertainty and high prices to consumers around the globe. The oil cartel and its member countries need to know that we are committed to stopping their anti-competitive behavior. We must continue working to develop domestic clean, renewable and alternative energy resources in the United States. We also must remain committed to meeting American energy demands while reducing our reliance on foreign oil, especially when it’s artificially and illegally priced. Our bill shows the OPEC members we will not tolerate their flagrant antitrust violations.” [Read more.](#)

**S. 617 – Clean Ocean and Safe Tourism Anti-Drilling Act.** On March 22, official bill text was made available for [S. 617](#), known as the Clean Ocean and Safe Tourism Anti-Drilling Act or COAST Anti-Drilling Act. Sponsored by Sen. Bob Menendez (D-NJ), the bill would “amend the Outer Continental Shelf Lands Act to permanently prohibit the conduct of offshore drilling on the outer Continental Shelf in the Mid-Atlantic, South Atlantic, North Atlantic, and Straits of Florida planning areas.” According to Sen. Menendez, “The COAST Anti-Drilling Act draws a line in the sand — a line that we must never let Big Oil cross — by permanently banning drilling throughout the Atlantic.” [Read more.](#)

**H.J. Res. 30 - Climate Change and Other Environmental, Social, and Governance Factors in Retirement Plans.** (*Update to 3/6/23 Report*) On March 23, Congress failed to override President Biden’s veto of Republican-backed H.J. Res. 30. [Read more.](#) This joint resolution of disapproval under the Congressional Review Act would have nullified

“a Department of Labor rule concerning the fiduciary duties with respect to employee benefit plans. Under the rule issued on December 1, 2022, plan fiduciaries may consider climate change and other environmental, social, and governance factors when they make investment decisions and when they exercise shareholder rights, including voting on shareholder resolutions and board nominations.” Both the House and Senate approved the measure but President Biden vetoed it earlier this month. [Read more.](#)

## **FEDERAL – Regulatory**

**BLM Solar Energy Development – Colorado.** On March 24, the Bureau of Land Management (BLM) announced it “will accept competitive bids to lease public lands for solar energy projects on approximately 1,064 acres in Saguache County, Colorado” for a competitive live auction on April 27, 2023. According to the BLM, the project area “consists of approximately 1,064 contiguous acres of public land, identified in the 2012 Final Programmatic Environmental Impact Statement for Solar Energy Development in Six Southwestern States (Solar Programmatic EIS) and subsequent Approved Resource Management Plan (Solar RMP) Amendments/Record of Decision (ROD) as suitable for utility-scale solar energy development.” [Read more.](#)

**BLM Solar and Wind Energy Development Information Collection.** On March 31, the BLM published a notice of information collection, *Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development* ([88 Fed. Reg. 19324](#)), which proposes to renew an information collection that “enables the BLM to collect the necessary information to authorize the use of public lands for solar and wind energy, pipelines, and electric transmission lines with a capacity of 100 Kilovolts (kV) or more.” The public comment period is open through May 1, 2023. [Read more.](#)

### **BLM Resource Advisory Councils Nominations.**

On March 29, the BLM announced that the Missouri Basin and Western Montana Resource Advisory Councils (RACs) are seeking to fill existing vacancies, as well as for member terms that are scheduled to expire. "The RACs provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within their geographic areas." Categories for members include those "who represent energy and mineral development." All nominations must be received no later than April 28, 2023. [Read more.](#)

**BOEM Offshore Oil and Gas Lease Sale – Gulf of Mexico.** (*Update to 3/6/23 Report*) On March 29, the Bureau of Ocean Energy Management (BOEM) held its scheduled offshore oil and gas lease sale with bids on more than 2,600 square miles for the Gulf of Mexico Regionwide Outer Continental Shelf Oil and Gas Lease Sale 259, although a total of 114,000 square miles were up for bid. [Read more.](#) The sale "generated \$263,801,783 in high bids for 313 tracts covering 1.6 million acres in federal waters of the Gulf of Mexico." The BOEM lease sale was required under the Inflation Reduction Act of 2022. [Read more.](#)

### **Castner Range National Monument – Texas.**

On March 21, President Biden signed a proclamation designating Castner Range in El Paso, Texas as a national monument. [Read more.](#) According to the White House, "This action will protect the cultural, scientific and historic objects found within the monument's boundaries, honor our veterans, servicemembers, and Tribal Nations, and expand access to outdoor recreation on our public lands." [Read more.](#)

### **U.S. Fish and Wildlife Service Endangered and Threatened Wildlife and Plants 5-Year Review.**

On March 23, the U.S. Fish and Wildlife Service (FWS) published a notice of initiation of reviews, *Endangered and Threatened Wildlife and Plants; Initiation of 5-Year Status Reviews for 133 Species in Oregon, Washington, Idaho, Montana, California, Nevada, Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands* ([88 Fed. Reg. 17611](#)).

The notice initiates "5-year status reviews for 133 species in Oregon, Washington, Idaho, Montana, California, Nevada, Hawaii, Guam, and the Commonwealth of the Northern Mariana Islands under the Endangered Species Act of 1973. Two of these species also occur outside of United States jurisdiction in Canada and Palau. A 5-year status review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any new information on these species that has become available since the last reviews." The notice announces the "active review of 133 species, including 4 mammals, 13 birds, 3 fishes, 2 snails, 4 insects, 2 crustaceans, and 105 plants," as listed in the provided table and indicated by state. The FWS will accept information submissions through May 22, 2023. [Read more.](#)

## **FEDERAL – Judicial**

**Climate Change Lawsuit – Minnesota.** On March 23, the U.S. Court of Appeals for the Eighth Circuit, on appeal from the U.S. District Court for the District of Minnesota, ruled that a climate change lawsuit brought against oil and gas companies could remain in state court. In [Minnesota v. American Petroleum Institute](#) (Case No. 21-1752), the three-judge panel rejected the defendants' argument that the case should be in a federal forum, writing, "Minnesota is not the first state or local government to file this type of climate change litigation. Nor is this the first time that the Energy Companies [...] have made these jurisdictional arguments. But our sister circuits rejected them in each case [...] Today, we join them." In a concurring opinion, one of the judges wrote that although he agreed the case did not belong in federal court, he also implied that a different outcome might be available but for the limitation on the court, writing, "But only Congress or the Supreme Court gets to make that call. And we have our marching orders: even the strongest arguments for removal don't work here." [Read more.](#)

**BLM Lease Sales – North Dakota.** On March 27, North Dakota won an initial victory regarding federal oil and gas leasing when a federal judge ruled that the

“Biden administration likely acted unlawfully when it canceled lease sales in North Dakota [...] in granting a preliminary injunction to prevent federal agencies from stopping the leasing process. The judge stopped short of granting North Dakota’s request to compel the lease sales to occur. The court also rejected the state’s request to compel federal agencies to hold the previously canceled quarterly lease sales for available lands.” In [\*State of North Dakota v. U.S. Department of the Interior\*](#) (Case No. 1:21-cv-00148-DMT-CRH), the U.S. District Court for the District of North Dakota rendered an 82-page preliminary injunction that orders the Interior Department and Bureau of Land Management (BLM) to: “1. Analyze individual parcels nominated for lease sales in North Dakota according to their statutory requirements; 2. Make lawful determinations regarding the nominated parcels’ availability and eligibility; 3. Complete those determinations in time for quarterly lease sales, as set forth in statute and regulations; and 4. When there are ‘available’ and ‘eligible’ lands, hold a lease sale in that quarter.” According to North Dakota Attorney General Drew H. Wrigley, “The Court’s order directs BLM to comply with federal law and do what Congress commanded BLM to do.” Wrigley said it was “unfortunate that North Dakota had to take BLM to court twice to finally get it to do its duty.” Wrigley also praised the court’s decision as a “victory for the rule of law,” and noting that “BLM’s illegal cancellations were costing North Dakota’s citizens over \$100 million in revenue a year and depriving the Nation of much needed access to oil and gas during these difficult times of high inflation and threats to our energy security.” [Read more.](#)

**Mountain Valley Pipeline – Virginia.** (*Update to 3/20/23 Report*) In a victory for the Mountain Valley pipeline project, on March 29, the U.S. Court of Appeals for the Fourth Circuit (Virginia) “unanimously denied environmentalists’ challenge to a Virginia water permit for the planned natural gas project.” In [\*Sierra Club v. State Water Control Board\*](#) (Case No. 21-2425), the court held that “Because it is clear from the record that DEQ considered a variety of factors in determining that the construction and operation of the Pipeline would comply with Virginia’s narrative water

quality standard, we conclude that the Agencies did not act arbitrarily and capriciously by determining that the Pipeline will comply with Virginia’s narrative water quality standard.” [Read more.](#) The decision brings the Equitrans Midstream Corporation’s 303-mile Mountain Valley natural gas pipeline – to run through Virginia and West Virginia – closer to construction resumption. [Read more.](#)

## **STATE – Legislative**

**Estate Proceedings – Arkansas.** On March 21, HB 1448 was signed into law by Gov. Sarah Huckabee Sanders (R). The bill amends existing law regarding bonds and sureties relating to decedent estate administration. The bill also amends the procedure for disposing of real property under the Wills, Estates, and Fiduciary Relationships code. As no effective date was provided, under Arkansas law the legislation takes effect 90 days after adjournment on March 15, 2023. [Read more.](#)

**Corporate Franchise Tax – Arkansas.** As of March 16, SB 207 passed both chambers of the legislature. Sponsored by Sen. Blake Johnson (R), the bill amends the existing corporate franchise tax to create the Secretary of State business and commercial services electronic filing system special fund; provides for certain processing fees; updates the definition of corporation to include a limited liability company; updates information available in a franchise tax report; and amends additional definitions. [Read more.](#)

**Carbon Capture – Arkansas.** On March 28, SB 407 passed the Senate and has been transmitted to the House. Sponsored by Sen. Matt McKee (R), regarding bioenergy and carbon capture technology, the bill would require energy produced from certain sources be considered carbon neutral and require energy produced from certain sources in conjunction with carbon capture technologies be considered carbon negative. [Read more.](#)

**Maximum Gasoline Refining Margin; Oil Producer Reporting; Price Gouging – California.** On March 27, [SBX1-2](#) passed both chambers of the legislature

and was transmitted to Gov. Gavin Newsom (D) who quickly signed the measure into law on March 28. [Read more](#). Introduced in the special session by Sen. Nancy Skinner (D) and hurriedly moved through committee referral to enrollment in just one week, “This bill proposes several policies to address gasoline supply and pricing, including authorizing the California Energy Commission (CEC) to establish a maximum gross gasoline refining margin (maximum margin) and penalty on gasoline sold by refiners in the state. This bill also establishes a new independent division at the CEC, the Division of Petroleum Market Oversight (Division), to provide independent oversight and analysis of the transportation fuels markets. Additionally, this bill establishes the Independent Consumer Fuels Advisory Committee (Committee) for the Division; expands and recasts the existing reporting requirements on refiners; and requires the CEC, by January 1, 2024, and every three years thereafter, to submit an assessment to the Legislature and Governor that identifies methods to ensure a reliable supply of affordable and safe transportation fuels in California.” As reported, the bill passage “was an unusually fast process for a controversial issue, especially one opposed by the powerful oil industry that has spent millions of dollars to stop it.” [Read more](#). In short, “The bill would authorize the State Energy Resources Conservation and Development Commission to set a maximum gross gasoline refining margin — and then establish a penalty for any California-based refineries that exceed that margin. The Commission would be required, however, to consider a refiner’s request for an exemption from that maximum margin. In addition to setting these restrictions, the legislation would require that all penalties collected be deposited into a ‘Price Gouging Penalty Fund’ in the State Treasury. The bill would also establish the Division of Petroleum Market Oversight within the Commission — operating independently of the Commission authority and providing guidance to the governor on issues related to transportation fuel pricing and decarbonization. The bill also sets certain reporting requirements, providing that “Each major oil producer, refiner, marketer, oil transporter, oil storer, pipeline operator, or port through which refined gasoline is imported

or exported, shall annually submit information to the commission in such form and extent as the commission prescribes pursuant to this section.” Although Newsom initially called for legislation imposing a “penalty tax” on oil and gas companies, “Legislative leaders rejected his initial call for a new tax because they feared it could discourage supply and lead to higher prices. Instead, Newsom and lawmakers agreed to let the California Energy Commission decide whether to penalize oil companies for price gouging. But the crux of the bill isn’t a potential penalty. Instead, it’s the reams of new information oil companies would be required to disclose to state regulators about their pricing. The companies would report this information, most of it to be kept confidential, to a new state agency empowered to monitor and investigate the petroleum market and subpoena oil company executives. The commission will rely on the work of this agency, plus a panel of experts, to decide whether to impose a penalty on oil company profits and how much that penalty should be.” The Act has multiple effective dates. [Read more](#).

**Oil Sources – California.** On March 29, [SB 15](#) passed committee following its introduction by Sen. Shannon Grove (R). The bill “would express the intent of the Legislature that the California Energy Commission (CEC, formerly the State Energy Resources Conservation and Development Commission) monitor countries that export oil to California and identify human rights abuses and lower environmental standards for oil production than California. It would require the California Air Resources Board (CARB) to report greenhouse gas (GHG) emissions data associated with oil transported in California and the Geologic Energy Management Division (CalGEM) to make available air quality emissions data associated with the transportation of imported oil.” According to the bill sponsor, the bill would prioritize California oil production. “Why would we import millions of barrels of oil from countries hostile to our values when we can produce the most climate compliant oil right here, by Californians for Californians?” said Sen. Grove. [Read more](#).



**Repeal Of Infrequently Used Tax Expenditures – Colorado.** (*Update to 2/20/23 Report*) On March 23, Gov. Jared Polis (D) signed HB23-1121 into law. Sponsored by Rep. Shannon Bird (D), the bill repeals “infrequently used tax expenditures” which includes: The in-state investment pre-1959 insurance premium tax deduction; The corporate condemnation capital gains income tax deduction; The oil shale excess percentage depletion income tax deduction; The mining and milling impact assistance corporate income tax credit; The oil shale equipment and machinery severance tax deduction; The oil shale processing severance tax deduction; The oil shale severance tax rate reductions; The oil shale noncommercial production severance tax exemption; and The mineral and mineral fuels impact assistance severance tax credit. The Act has multiple effective dates. [Read more.](#)

**Forced Pooling – Colorado.** On March 20, SB23-201 was introduced by Sen. Sonya Jaquez Lewis (D). Concerning protections for property owners in the pooling of oil and gas minerals on multiple separately owned tracts, the bill would change “the commission’s process for entering a forced pooling order” and details that process. “Additionally, the bill requires that the commission issue a pooling order before any minerals that are subject to the pooling order are extracted or any well is drilled to access the minerals. The bill also authorizes a nonconsenting owner to audit or cause to be audited certain records of the oil and gas operator no more frequently than every 3 years but before any costs are recovered from the drilling unit.” [Read more.](#)

**County Recorders – Illinois.** On March 28, SB 2227 passed the Senate and has been transmitted to the House. Sponsored by Sen. Sally Turner (R), the bill amends multiple provisions of the Recorder Division of the Counties Code, including allowing storage of certain information or documents in databases rather than only in books; Removes provisions repealing a Section concerning a mechanics lien demand and referral pilot program that would have otherwise repealed on January 1, 2024; Provides that the recorder may accept facsimile or other photographic

or photostatic copies of the signatures of parties executing documents without labeling those signatures as copies if they are digital signatures offered in compliance with federal or State law; In provisions relating to documents received stating that a mortgage or lien is to be filed but not recorded, provides that the document will be marked filed only upon payment of a fee equal to what would be charged if the document were to be recorded; Provides that a recorder may waive the fee for additional copies of certificates of discharge or release from active duty if the recorder deems collecting the fee to be a burden to the county and the fee is waived for all requesting copies of these documents; Removes and repeals provisions relating to the time for opening and closing the recorder’s office; and Increases the fee for violations relating to recording a map, plat, or subdivision of land to \$1,000 (rather than \$200). [Read more.](#)

**Natural Resources and Environmental Protection Act Amendments – Michigan.** On March 21, SB 220 was introduced by Sen. Jeff Irwin (D). The bill would amend the Natural Resources and Environmental Protection Act increasing the fee imposed on oil and gas produced in the state for monitoring, surveillance, enforcement, and administration. [Read more.](#)

**Excess Oil & Gas Funds to Severance Tax Fund – New Mexico.** (*Update to 1/23/23 Report*) On March 17, [SB 26](#) was signed into law by Gov. Michelle Lujan Grisham (D). Sponsored by Sen. Roberto “Bobby” J. Gonzales (D), the bill provides for the distribution of certain excess oil and gas tax revenues and federal mineral leasing act payments to the severance tax permanent fund. As reported, SB 26 will “automatically take some of the state’s excess oil and gas revenue — income above a certain baseline — and transfer it into the severance tax permanent fund, starting in July 2024.” [Read more.](#)

**Nuclear Waste Storage – New Mexico.** (*Update to 2/20/23 Report*) On March 17, [SB 53](#) was signed into law by Gov. Michelle Lujan Grisham (D). Sponsored by Sen. Jeff Steinborn (D), regarding nuclear waste storage within the state, the bill “would expand the scope of an existing task force to negotiate with the

federal government over disposal facilities. It would also prohibit the disposal of nuclear waste in New Mexico without the state's consent." The Act takes immediate effect. [Read more.](#)

**Enhanced Oil Recovery; Surface Owners – North Dakota.** *(Update to 1/23/23 Report)* On March 28, Gov. Doug Burgum (R) signed HB 1272 into law. Sponsored by Rep. Mike Lefor (R), the bill amends existing law relating to the jurisdiction of the industrial commission and reviewing the enhanced oil recovery potential status of a well and rights of surface owners. The Act takes effect on August 1, 2023. [Read more.](#)

**Triggered Oil Extraction Tax Rate – North Dakota.** *(Update to 3/6/23 Report)* On March 29, Gov. Doug Burgum (R) signed HB 1286 into law. Sponsored by Rep. Craig Headland (R), the bill removes the triggered oil extraction tax rate changes for wells located outside the exterior boundaries of a reservation. This Act is effective for taxable events occurring after June 30, 2023. [Read more.](#)

**Oil Refining Capacity – North Dakota.** *(Update to 1/23/23 Report)* On March 22, HCR 3006 was adopted. Sponsored by Rep. Vicky Steiner (R), the concurrent resolution urges "Congress to support policies to increase oil refining capacity in the United States." [Read more.](#)

**Oil and Gas Production Tax County Allocations – North Dakota.** *(Update to 1/23/23 Report)* On March 20, SB 2162 was signed into law by Gov. Doug Burgum (R). Sponsored by Sen. Dale Patten (R), the bill provides for oil and gas gross production tax allocations to counties. As the bill provides no effective date, under North Dakota law it becomes effective on August 1, 2023. [Read more.](#)

**Lake Erie Oil and Gas – Ohio.** HB 43, sponsored by Rep. Michael Skindell (D), was subject to a committee hearing on March 24. The bill would "ban the taking or removal of oil or natural gas from and under the bed of Lake Erie." [Read more.](#)

### **Plain Language in Oil and Gas Property Contracts**

**– Pennsylvania.** On March 24, HB 698 was introduced by Rep. Joe Webster (D). The bill would require the use of plain language in "oil and gas property contracts." According to Rep. Webster, "Since oil and gas lease contracts are often lengthy and filled with many industry-specific and legal terms, constituents are frequently confused or misled when entering into lease agreements. As elected officials, I believe it is our responsibility to ensure that our constituents are provided with a simplified process that could assist them in making the best decisions possible for their families. Therefore, I will be introducing legislation that would provide for plain language in oil and gas property contracts. Under this legislation, oil and gas contracts would have to pass a readability test to ensure that contracts are easy to read and understand. The legislation would also require that industry-specific terms be defined so that landowners may better understand what each term means and how it may affect their contracts. In addition, this legislation would require that contracts be signed in the presence of a notary public." A similar bill failed to advance in last year's legislative session. [Read more.](#)

**Remote Notarial Acts – North Dakota.** *(Update to 2/6/23 Report)* On March 17, HB 1083 was signed into law by Gov. Doug Burgum (R). Sponsored by the House Judiciary Committee (R), relating to the Revised Uniform Law on Notarial Acts, the bill updates existing notarial law by providing for remote notarial acts. As the bill provides no effective date, under North Dakota law it becomes effective on August 1, 2023. [Read more.](#)

**Carbon Capture – Oklahoma.** On March 20, SB 19 passed the Senate. Sponsored by Sen. George Burns (R), relating to carbon capture technologies, the bill requires "energy produced from certain sources be considered carbon neutral; [and] requiring energy produced from certain sources in conjunction with carbon capture technologies be considered carbon negative." [Read more.](#)

### **Gross Receipts Tax and Use Tax – South Dakota.**

*(Update to 2/6/23 Report)* On March 27, HB 1137 was signed into law by Gov. Doug Burgum (R). Sponsored by Rep. Chris Karr (D), the bill's purpose is to "reduce certain gross receipts tax rates and a use tax rate, and to repeal a conditional reduction of certain gross receipts tax rates." The Act is effective through June 30, 2027. [Read more.](#)

### **Eminent Domain Landowner Bill of Rights – Texas.**

On March 28, HB 376 was voted favorably out of committee without amendment. Sponsored by Rep. Glenn Rogers (R), the bill amends the landowner bill of rights related to eminent domain by providing for a required decreased value report. [Read more.](#)

**Landman Definitions – Texas.** On March 23 and 27, AAPL President Carl D. Campbell, CPL, testified before Texas Senate and House committee hearings in support of AAPL-sponsored bill, SB 604, and identical House companion bill, HB 1915. The bills would amend existing statutes to harmonize the AAPL definitions and descriptions of landman, landwork, and land professional within the state code to better reflect the full breadth, scope and types of work performed by landmen in Texas. These amendments would ensure AAPL members are provided with the same employment treatment, tax benefits, and unauthorized practice of law protections for work performed in renewables and other energy sources in addition to the existing oil and gas development and production protections. We will continue to keep AAPL members informed as the bills advance. [Read more.](#)

### **Political Subdivision Regulation of Energy**

**Sources and Engines – Texas.** On March 27, HB 2374 passed committee. Sponsored by Rep. Brooks Landgraf (R), the bill would restrict a political subdivision from the regulation of energy sources and engines based on their fuel source. [Read more.](#)

### **Severance Tax Revenue Amendments – Utah.**

On March 23, Gov. Spencer Cox (R) signed SB 256 into law. Sponsored by Sen. David Hinkins (R). This bill modifies provisions related to the deposit of severance tax revenue into state agency accounts,

and specifically clarifies the timing for the deposit of severance tax revenue. The Act is effective 60 days following session adjournment on March 3, 2023.

[Read more.](#)

### **County Recorders – Utah. (Update to 2/20/23**

*Report)* On March 20, Gov. Spencer Cox (R) signed HB 351 into law. Sponsored by Rep. Jordan Teuscher (R), the bill "modifies provisions related to county recorders." Specifically, the bill "defines terms; establishes the County Recorder Standards Board (board) for the purpose of making rules that establish statewide standards for county recorders; requires counties to establish an appeal authority to hear and decide appeals from a county recorder's application of rules made by the board; requires county recorders to comply with the board's rules and the county's appeal authority; describes the membership and appointment of board members; requires the Department of Commerce to provide staff support to the board; requires the board to report annually to the Legislature; and makes technical changes." The Act is effective 60 days following session adjournment on March 3, 2023. [Read more.](#)

**Disposition of Severance Taxes – Utah. (Update to 1/23/23 Report)** On March 20, Gov. Spencer Cox (R) signed SB 107 into law. Sponsored by Sen. Ronald Winterton (R), the bill "directs the Division of Finance to transfer portions of the oil and gas severance tax to the Transportation Investment Fund." The Act is effective 60 days following session adjournment on March 3, 2023. [Read more.](#)

### **State Lands Improvements – Wyoming.**

HB 114 died in the House upon session adjournment. Sponsored by Rep. Steve Harshman (R), relating to state lands, the bill would have revised "provisions related to improvements made by a lessee of state lands; extending the maximum length of certain leases of state lands; authorizing leases for residential purposes; [and] specifying that leases are required to comply with minimum state standards." [Read more.](#)

### **Foreign Ownership of Property – Wyoming.**

HB 116 died in the House upon session adjournment.



Sponsored by Rep. Bill Allemand (R), the bill would have amended existing law to provide for provisions prohibiting foreign property ownership in Wyoming. [Read more.](#)

**State Lands Task Force – Wyoming.** HB 131 died in committee upon session adjournment. Sponsored by Rep. Bill Henderson (R), relating to state lands, the bill would have “establish[ed] a legislative task force on state lands and investments; specifying membership, powers and duties of the task force; specifying termination of the task force; requiring reports; [and] providing appropriations.” [Read more.](#)

**Severance Tax Refunds – Wyoming.** HB 163 died in the House upon session adjournment. Sponsored by the Select Federal Natural Resource Management Committee (R), the bill would have established severance tax refunds for specified oil, natural gas and coal severance taxes based on increased federal mineral royalty rates. [Read more.](#)

**State Lands – Wyoming.** SF 107 died in the House upon session adjournment, although it passed the Senate. Sponsored by Sen. Larry Hicks (R), relating to state lands, the bill would have provided “for the acquisition, exchange or sale of state trust lands as specified; [and] designating criteria for the sale and exchange of state trust lands.” The bill also provided a definition of “isolated parcel” and provided for the disposal of such parcels that are 80 acres or less. [Read more.](#)

## **STATE – Regulatory**

**Oil and Gas Regulation – Colorado.** On March 16, Gov. Jared Polis (D) delivered a letter to the Colorado Oil and Gas Conservation Commission (COGCC) and Department of Public Health and Environment (CDPHE), calling on the agencies to take certain regulatory actions to “produce demonstrable and meaningful reductions of ozone and other air pollution from the oil and gas sector.” [Read the letter here.](#) Gov. Polis said, “his initiative is the first comprehensive ozone emission reduction program for the oil and gas industry in the United States.” In the letter, Gov. Polis

provided three regulatory directives: “develop rules by 2025 requiring upstream oil and gas operators in the ozone nonattainment area to achieve at least a 30% reduction of nitrogen oxides and by at least 50% in 2030; develop rules to solidify environmental best management practices addressing ozone and consider regular updates; [and] incentivize and reward oil and gas operators who demonstrate industry-leading environmental performance and goal achievement in greenhouse gas and local air pollution mitigation.” [Read more.](#)

**Nevada’s New Governor Embracing Energy Development – Nevada.** Last Monday, Gov. Joe Lombardo (R) issued an executive order “outlining the state’s energy future, drawing a sharp contrast with the energy goals of his Democratic predecessor. Lombardo’s seventh executive order since taking office in January calls for a diverse energy portfolio that includes natural gas, which former Gov. Steve Sisolak had tried to move away from during his administration.” [Read more.](#) The first item in Lombardo’s Executive Order 2023-07 provides that “The state’s energy policy will be focused on developing and maintaining a robust, diverse energy supply portfolio and a balanced approach to electric and natural gas energy supply and transportation fuels that emphasizes affordability and reliability for consumers. This energy portfolio shall also advance sustainability and reliability by including solar, wind, geothermal, hydropower, natural gas (for both electric generation and direct use in homes and businesses), hydrogen, energy storage, and other resources needed to meet the vast energy demands in the state.” The order also “emphasizes affordable rates and reliability for consumers and increasing the state’s energy independence to ensure there’s enough power during peak summer months.” Additionally, “Lombardo also has directed the state to implement policies that streamline the permitting process for proposed energy projects and reduce regulations, while ensuring there are appropriate environmental and cultural reviews.” [Read the executive order here.](#)

**Pension Fund Divestment from Firms Boycotting Oil and Gas Industry – Texas.** (*Update to 2/20/23 Report*) On March 20, Texas Comptroller Glenn Hegar (R) “announced an updated list of companies that are boycotting the oil and gas industry and are subject to the divestment provisions outlined in Texas Government Code Chapter 809, which defines a financial company as a publicly traded financial services, banking or investment company.” [Read more](#). As previously reported, on February 7, the Texas Tribune reported that the “Teacher Retirement System of Texas had divested part of its massive pension fund from 10 financial firms that the state comptroller singled out for ‘boycotting’ the oil and gas industry.” The state teacher’s pension fund has almost 2 million Texas educators and retirees who participate in the fund, “which is worth about \$173 billion” and reportedly “the sixth-largest such pension fund in the U.S.” For background, “in 2021, Texas lawmakers [prohibited state funds](#) from contracting with or investing in companies that divest from oil, natural gas and coal companies. In August 2022, Hegar released [a list of 10 investment firms](#) and several funds that would be blocked from doing business with the state due to their climate-change-conscious investment strategies.” [Read more](#).

## **STATE – Judicial**

**Contract Interpretation – Colorado.** On March 27, the Colorado Supreme Court rendered its opinion in the long-running case, [Antero Resources Corporation v. Airport Land Partners, Ltd.](#) (Case No. 2023 CO 13), addressing the question, what is a “bona fide dispute over the interpretation of a contract” as it related to the jurisdiction of the Colorado Oil and Gas Conservation Commission over resolving such a dispute. The court held that it is “undisputed that the Colorado Oil and Gas Conservation Commission (‘COGCC’ or ‘the Commission’) lacks jurisdiction under section 34-60-118.5(5), C.R.S. (2022), to engage in contract interpretation to resolve a bona fide dispute between parties under an oil and gas lease. But this court has never been asked to consider this question.” The Court held that “Today we follow the longstanding statutory mandate that COGCC lacks jurisdiction to

resolve bona fide disputes of contract interpretation and hold that such a dispute exists where the parties disagree in good faith about the meaning or application of a relevant contract term. Examining the disputes here, we further conclude that each presents a bona fide dispute because the parties have a good faith disagreement over the meaning of contract terms.” As reported, the holding means that “the Colorado Oil and Gas Conservation Commission does not have the authority to resolve a contract dispute between a well operator in Garfield County and those who are owed royalties from the extraction operations, putting a stop to a half-decade of ping-ponging between venues.” The 4-3 decision was met with a strong dissent from the opposing justices, who “believed an unambiguous contract needs no interpretation, and the majority had simply offloaded unnecessary work onto the trial courts.” The justices wrote, “Rather than put its proverbial foot down to prevent the Commission from wrongly passing the buck to our overburdened and overworked district courts, the majority empowers the Commission to evade responsibility specifically delegated to it by the legislature.” [Read more](#).

**Lesser Prairie-Chicken – Texas.** On March 21, the State of Texas, the Texas General Land Office, the Texas Department of Agriculture, and the Railroad Commission of Texas filed a lawsuit against the Interior Department regarding the listing of the Lesser Prairie-Chicken as threatened and endangered. In [Texas v. U.S. Dept. of the Interior](#) (Case No. 7:23-cv-00047), the litigants claim that the Interior Department decision is “another example of the Biden administration’s ‘arbitrary policy changes’ that undermine state autonomy and energy development.” Of the lawsuit, Texas Attorney General Ken Paxton said, “The Lesser Prairie-Chicken’s change in classification puts many of Texas’s conservation efforts at risk, all while bringing immeasurable harm to Texans’ property rights.” The following day, industry groups, including the Permian Basin Petroleum Association, filed their own lawsuit against the Interior Department in [Permian Basin Petroleum Association v. Dept. of the Interior](#) (Case No. 7:23-cv-00049-DC-RCG). According to the

plaintiffs, the “final rule violated Interior’s own policies for application of the Endangered Species Act, and violated the Administrative Procedure Act with arbitrary and unsubstantiated conclusions arbitrary population segments.” [Read more.](#)

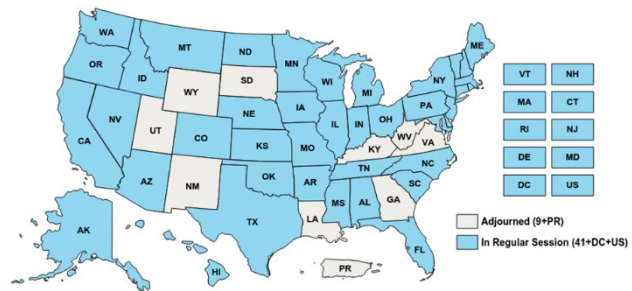
## INDUSTRY NEWS FLASH

► **U.S. to Remain a Net Exporter of Petroleum Products Through 2050.** As reported by the *Oil & Gas Journal* on March 23, according to the U.S. Energy Information Administration (EIA) 2023 Annual Energy Outlook, the U.S. “will remain a net exporter of petroleum products through 2050.” The EIA data finds that “Although domestic consumption of petroleum and other liquids does not increase through 2040 across most cases, U.S. petroleum and other liquids production remains high because of increased exports of finished products in response to growing international demand, according to EIA’s analysis.” [Read more.](#)

► **Louisiana gets \$156 million in Gulf of Mexico oil revenue.** Louisiana has received “more than \$156 million in revenue from offshore oil and gas production in the 2022 fiscal year in the Gulf of Mexico, the Interior Department announced Thursday, with most of that money slated for hurricane risk reduction projects. It is part of more than \$353 million being distributed to four Gulf Coast states under a federal law that governs the process.” [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes:** Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Washington and Wisconsin are in regular session.

The **U.S. Congress** is in its [two-week Spring Recess](#) from April 3 – April 17, 2023.

The following states adjourned their 2023 legislative sessions on the dates provided: **South Dakota** (March 27), **Georgia** (March 29), **Kentucky** (March 30) and **Idaho** (March 31).

The following states are scheduled to adjourn their 2023 legislative sessions on the dates provided: **Mississippi** (April 4), **Kansas** (April 6) and **Maryland** (April 10).

**Louisiana** is scheduled to convene their 2023 legislative sessions on April 10.

**Signing Deadlines** (by date): **Virginia** Republican Gov. Glenn Youngkin had until March 27 to act on legislation or it became law without signature. **West Virginia** Republican Gov. Jim Justice had until March 29 to act on legislation or it became law without signature. **New Mexico** Democratic Gov. Michelle Lujan

Grisham has until April 7 to act on legislation or it will be pocket vetoed. **South Dakota** Republican Gov. Kristi Noem has until April 11 to act on legislation or it becomes law without signature. **Kentucky** Democratic Gov. Andy Beshear has 10 days from presentment to act on legislation, Sundays excepted, or it becomes law without signature.

[Louisiana](#) is currently holding interim committee hearings. ■

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