

# GOVERNMENTAL AFFAIRS WEEKLY REPORT

☀ Wishing AAPL members a happy, safe, and enjoyable Memorial Day holiday! ☀

## Weekly Highlights At-A-Glance

### FEDERAL – Legislative

#### **H.R. 2570 – Climate Risk Disclosure Act of 2021.**

On May 18, official bill text was made available for [H.R. 2570](#), known as the *Climate Risk Disclosure Act of 2021*. Sponsored by Rep. Sean Casten (D-IL), the bill “would reduce the chances of environmental and financial catastrophe by requiring public companies to disclose more information about their exposure to climate-related risks. By increasing market transparency, this bill will empower investors to appropriately assess climate-related risks and accelerate the market transition from fossil fuels to cleaner and more sustainable energy sources that mitigate climate change.” For publicly traded companies, the bill specifically directs the Securities and Exchange Commission, “in consultation with climate experts at other federal agencies, to issue rules within two years that require every public company to disclose: Its direct and indirect greenhouse gas emissions; The total amount of fossil-fuel related assets that it owns or manages; How its valuation would be affected if climate change continues at its current pace or if policymakers successfully restrict greenhouse gas emissions to meet the 1.5 degrees Celsius goal; and Its risk management strategies related to the physical risks and transition risks posed by the climate crisis.” [Read more.](#)

**H.R. 2081 – Local Opportunities, Conservation, and American Lands Act.** On May 27, official bill text was made available for [H.R. 2081](#), known as the *Local Opportunities, Conservation, and American Lands Act* or *LOCAL Act*. Sponsored by Rep. Lauren Boebert (R-CO), the bill would keep the Bureau of Land Management’s (BLM) headquarters in Grand

Junction, Colorado. “Westerners deserve a voice in the land-use decisions that affect their lives daily. I am proud to introduce the LOCAL Act to ensure that our local communities have access to the decision-makers at the Bureau of Land Management headquarters,” said Rep. Boebert. “Since 99% of the lands that the Bureau manages are West of the Mississippi, it only makes sense to have the agency located close to the communities it serves.” BLM headquarters were moved out west from Washington, DC under the Trump administration. [Read more.](#)

**S. 1276 – Northern Rockies Ecosystem Protection Act.** (Update to 5/17/21 Weekly Report) On May 27, official bill text was made available for [S. 1276](#), sponsored by Sen. Sheldon Whitehouse (D-RI). We previously reported on the House companion version, [H.R. 1755](#), introduced by Rep. Carolyn Maloney (D-NY) in March. Known as the *Northern Rockies Ecosystem Protection Act*, the bill would designate certain National Forest System lands and certain public lands under the jurisdiction of the Secretary of the Interior in the States of Idaho, Montana, Oregon, Washington, and Wyoming as wilderness, wild and scenic rivers, wildland recovery areas, and biological connecting corridors, and prohibit oil and gas resource development and use in those areas. [Read more.](#)

**S. 1167 – End Polluter Welfare Act of 2021.** On May 18, official bill text was made available for [S. 1167](#), known as the *End Polluter Welfare Act of 2021*. Sponsored by Sen. Bernie Sanders (I-VT), the bill would eliminate certain subsidies for fossil fuel production. Specifically, the legislation would “prohibit taxpayer-funded fossil fuel research and

development; update below-market royalty rates for oil and gas production on federal lands; recoup royalties from offshore drilling in public waters; and ensure competitive bidding and leasing practices for coal development on federal lands.” According to Sen. Sanders, “In addition to ending domestic polluter welfare, this bill would end federal support for international oil, gas, and coal projects as a step toward fulfilling our responsibility to help the international community move away from dirty fossil fuels to clean sources of power.” [Read more.](#)

**Oil and Gas Industry Hearing.** On May 19, the House Natural Resources Committee Oversight and Investigations Subcommittee held a hearing, [Misuse of Taxpayer Dollars and Corporate Welfare in the Oil and Gas Industry](#), which focused “on taxpayer benefits given to the oil and gas industry, what economic gains the public does or does not get in exchange for those benefits, and the accuracy of industry claims about job creation and job retention.” The hearing was led by Rep. Katie Porter (D-CA), a staunch opponent of the oil and gas industry, and seemed little more than an opportunity to chastise domestic energy producers. The subcommittee listed various oil and gas industry names who were invited to testify, but declined to appear, at what amounted to little more than a show hearing aimed at attacking the domestic fossil fuel industry. “I’ve willingly participated in many hearings over the years, and am always happy to engage in a rational dialogue with Congress on important energy issues,” said Kathleen Sgamma, President of the Western Energy Alliance and one of those invited to testify. “But this hearing has no clear goals with a Chair who’s more interested in scoring messaging points than discussing issues, so I didn’t feel inclined to rearrange my schedule.” A full archive of the hearing as well as witness testimony is available on the subcommittee hearing website. [Read more.](#)

## **FEDERAL – Regulatory**

### **Climate Change Financial Risks Executive Order.**

On May 20, President Biden issued an [Executive Order](#) directing several federal departments and

agencies to analyze the risks climate change poses to the country’s financial system and the federal government. According to The Hill, “The order from Biden mandates a range of studies meant to expose the ways climate change, the severe weather it spurs, and the measures taken to fight it could threaten the financial stability of both the U.S. and the federal government.” [Read more.](#)

### **BLM Royalty-Free Well Operations Information**

**Collection.** On May 25, the Bureau of Land Management (BLM) published a notice, *Agency Information Collection Activities; Production Subject to Royalties, and Resource Conservation* ([86 Fed. Reg. 28142](#)), seeking public comment on BLM information collection activities related to circumstances under which oil or gas produced from onshore wells may be used royalty-free in operations. The public comment period is open through July 26, 2021. [Read more.](#)

### **BLM Color-of-Title Information Collection.**

On May 18, the BLM published a notice, *Agency Information Collection Activities; Color-of-Title Application* ([86 Fed. Reg. 26939](#)), which seeks public comment on BLM information collection activities related to “the validity of a claim under the Color-of-Title Act.” The public comment period is open through July 19, 2021. [Read more.](#)

### **BLM Onshore Geophysical Exploration Information**

**Collection.** On May 18, the BLM published a notice, *Agency Information Collection Activities; Onshore Geophysical Exploration* ([86 Fed. Reg. 26938](#)), which seeks public comment on BLM information collection pertaining to onshore geophysical exploration on Federal lands. Per the BLM notice, “Federal land-management agencies are responsible for regulating geophysical exploration on the Federal surface estate. The BLM regulates exploration for oil and gas on lands it manages, and on occasion regulates such exploration on lands managed by other Federal land-management agencies. The U.S. Forest Service (USFS) regulates exploration for various types of minerals, including oil and gas, on lands it manages. The BLM and the USFS propose to revise the

accuracy and usefulness of the forms they use for this collection of information.” The public comment period is open through July 19, 2021. [Read more.](#)

#### **Endangered Species Information Collection.**

On May 20, the U.S. Fish and Wildlife Service (FWS) published a notice, *Agency Information Collection Activities; Policy for Evaluation of Conservation Efforts When Making Listing Decisions (PECE)*, ([86 Fed. Reg. 27461](#)), which requests public input on FWS information collection activities related to the listing of threatened or endangered species. The public comment period is open through July 19, 2021. [Read more.](#)

#### **Chaco Culture Heritage Withdrawal Area – New Mexico.**

On May 7, Sen. Martin Heinrich (D-NM) [sent a letter to Interior Secretary Deb Haaland](#) requesting the Biden administration withdraw federal minerals within the Chaco Culture Heritage Withdrawal Area from future mineral development, including new oil and gas leasing. Sen. Heinrich writes in the letter, “I support permanent protection of the Greater Chaco Landscape and intend to reintroduce legislation soon with my colleagues from the New Mexico delegation to permanently withdraw this area from new federal mineral leases. As that legislation moves through the process on Capitol Hill, an administrative withdrawal would provide interim protection until permanent protection can be secured legislatively.” [Read more.](#)

**BLM Resource Advisory Councils – Colorado.** On May 21, the BLM published a notice, *Statewide Call for Nominations for Colorado Resource Advisory Councils* ([86 Fed. Reg. 27648](#)), for the Northwest, Southwest, and Rocky Mountain Resource Advisory Councils (RACs) to fill existing vacancies, as well as member terms that are scheduled to expire. According to the BLM, “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.” The nomination period is open through June 21, 2021. [Read more.](#)

## **FEDERAL – Judicial**

### **Climate Change Lawsuits – U.S. Supreme Court.**

On May 24, the U.S. Supreme Court sent back a trio of climate change cases to their respective federal courts to weigh broader oil and gas industry arguments in favor of federal jurisdiction for climate litigation. This came on the heels of the Supreme Court’s similar decision on May 17 regarding a climate change case (*See below*). These remand orders are considered a procedural victory for the oil and gas industry defendants. These cases involving Rhode Island and local governments in California and Colorado have been sent to federal appeals courts for the First, Ninth, and Tenth circuits, respectively. According to Bloomberg Law, the “remands give Exxon Mobil Corp. and other companies a fresh chance to steer the litigation toward federal courts, which are considered more favorable for industry defendants.” The cases are [Rhode Island v. Shell Oil Products Co., L.L.C.](#) (Case No. 20-900), [Board of County Commissioners of Boulder County v. Suncor Energy \(U.S.A.\) Inc.](#) (Case No. 19-1330), and [County of San Mateo v. Chevron Corp.](#) (Case No. 20-884). We will continue to monitor these cases as they proceed further. [Read more.](#)

### **Climate Change Suit – U.S. Supreme Court.**

(*Update to 10/5/20 Weekly Report*) In a procedural victory for oil and gas company defendants, on May 17, the [U.S. Supreme Court ruled in their favor by holding in a 7-1 opinion](#) that the Fourth Circuit Court of Appeals “erred in its decision that it lacked jurisdiction to consider certain grounds from the companies for bringing the case into federal court” setting up a decision by the Fourth Circuit to consider whether the case should be heard in federal court, rather than state court as preferred by the plaintiffs. As reported by The Hill, “In the 2018 case, Baltimore alleged that production and misleading marketing of fossil fuels from defendants including Shell, BP, ExxonMobil and Chevron has exacerbated climate change. Monday’s decision did not delve into those issues, as the court instead looked at whether the case should be heard in federal or state court.” [Read more.](#) For background, on October 2, 2020, the

[U.S. Supreme Court granted review](#) “to hear an appeal by energy companies including BP PLC, Chevron Corp, Exxon Mobil Corp and Royal Dutch Shell PLC contesting a lawsuit by the city of Baltimore seeking damages for the impact of global climate change.” In the case, [Baltimore v. BP P.L.C. et al](#) (Case No. 19-1644), the U.S. Court of Appeals for the Fourth Circuit, on appeal from the United States District Court for the District of Maryland, affirmed that Baltimore’s pending lawsuit seeking to hold multiple oil and gas companies liable for climate change harms belongs in state court. The lawsuit, which seeks monetary damages to help pay for climate impacts, was originally filed in Maryland state court last year but the oil and gas company defendants successfully moved the case to federal court. [Read more.](#)

**Methane Emissions – California.** On May 26, environmentalists sued the U.S. Environmental Protection Agency (EPA) claiming the federal agency failed to act on plans to limit air pollution from oil and methane gas industries in New York, Pennsylvania, and Virginia. In the suit, [Center for Biological Diversity v. Regan](#) (Case No. 4:21-cv-02498-JST), the litigants argue that the EPA was required to find that the states missed their deadline within six months of when their ozone reduction plans were due, but it has failed to do so, which violates the Clean Air Act and this represents a “failure to protect people, ecosystems, and wildlife from ozone air pollution generated by the oil and natural gas industry.” [Read more.](#)

**Leasing; Post-Production Costs – Pennsylvania.** On May 11, the U.S. District Court for the Western District of Pennsylvania dismissed a complaint in favor of the oil and gas operator defendants. In [Coastal Forest Resources Company v. Chevron U.S.A., Inc.](#) (Case No. 2:20-cv-1119), the lessors challenged the use of the net-back method to recover post-production costs, claiming it violated the terms of their lease. The operators argued that Coastal Forest’s claims failed as a matter of law because the lease’s language governing royalties incorporates the “at the wellhead” term that the

Pennsylvania Supreme Court has held permits the recovery of the costs in question. Here, the Court stated that the disposition of this case revolves around whether the Pennsylvania Supreme Court’s interpretation of the term “at the wellhead” should be given broad construction, covering all instances where the term is used, or whether the decision was narrowly focused on whether leases using that term run afoul of the Guaranteed Minimum Royalty Act. In dismissing the action in favor of the defendants, the Court found that the lease at issue “unquestionably calls for the calculation of royalties ‘at the wellhead’” and that under Pennsylvania’s landmark royalty case “‘at the wellhead’ language means that the net-back method may be used for calculation.” [Read more.](#)

**Federal Oil and Gas Leasing Moratorium – Wyoming.** (Update to 3/22/21 Weekly Report)

On May 20, the U.S. District Court for the District of Wyoming consolidated the ongoing Western Energy Alliance lawsuit challenging President Biden’s oil and gas leasing moratorium with the State of Wyoming’s case. [Read more.](#) Wyoming had recently filed a motion for a preliminary injunction asking the court to order the Interior Department to immediately reinstate the canceled first and second quarter lease sales. To date, the court has yet to grant the injunctive relief requested. For background, the Western Energy Alliance (WEA) filed a federal lawsuit on January 27 in [Western Energy Alliance v. Biden](#) (Case No. 0:21-cv-00013) in the U.S. District Court for the District of Wyoming challenging the government action from the Acting Secretary of the Interior, acting at the President’s direction, to suspend “indefinitely the federal oil and gas leasing program. The suspension is an unsupported and unnecessary action that is inconsistent with the Secretary’s statutory obligations.” According to Western Energy Alliance President Kathleen Sgamma, “Presidents don’t have authority to ban leasing on public lands. Drying up new leasing puts future development as well as existing projects at risk,” adding that the move will cost tens of thousands and perhaps millions of jobs. According to Bloomberg Law, the administration’s moratorium “buys time for a broad review of whether fossil fuels

should be extracted from lands under the U.S. government's control. Environmentalists want President Joe Biden to make the suspension of leasing permanent. But even if he doesn't, future leasing could encompass far less terrain and come with higher costs and environmental limits." As previously reported, to support the WEA effort and make our voices heard, AAPL recently contributed \$5,000 to the Western Energy Alliance's Legal Defense Fund in support of this case and others that threaten the oil and gas industry and a landman's right to work. We will continue to keep members updated as the litigation progresses. [Read more.](#)

## **STATE – Legislative**

**Severance Taxes – Colorado.** On May 18, HB 1312 advanced out of committee following its introduction on May 10 by Rep. Dominick Moreno (D). The bill provides that **the severance tax on oil and gas requires the net-back deductions used to determine gross income be direct costs actually paid by the taxpayer and phases-out tax credits and exemptions for the severance tax on coal.** [Read more.](#)

**Income Taxes; Permanent Fund Dividend – Alaska.** On May 19, [HB 37](#) passed the House Ways & Means Committee and has been referred to the State Affairs Committee. Sponsored by Rep. Adam Wool (D), the bill "creates a new broad-based income tax that would apply to resident and nonresident individuals, trusts, and estates, including partners or shareholders of partnerships or S-Corporations, who derive income from, or where income is connected with, a source in Alaska. The Department of Revenue, Tax Division (Department) estimates that there will be approximately 468,000 resident taxpayers and approximately 70,000 non-resident taxpayers. These estimates are rough. The tax rate would be 2.5% of the taxpayer's federal adjusted gross income (AGI). Taxes paid to other states, based on income derived in those states, can be credited from this tax. The bill would exclude from the definition of Alaska taxable income a Permanent Fund Dividend (PFD) received by the taxpayer. The bill would also allow an

individual eligible for a PFD to direct the Department to hold all or a part of the amount of the PFD to pay the tax due under this bill. This tax will be effective January 1, 2022. Lastly, the bill would allow for another exception to the requirement that taxpayers file reports and returns electronically, which will cause an additional administrative burden on the Department." Senate companion bill, [SB 100](#), sponsored by Sen. Tom Begich (D), failed to move in favor of the House version. [Read more.](#)

### **Board of Oil and Gas Conservation – Montana.**

*(Update to 5/17/21 Weekly Report)* On May 14, Gov. Greg Gianforte (R) signed HB 498 into law. The Act, sponsored by Sen. Steve Gunderson (R), amends existing law to clarify the jurisdiction of the Board of Oil and Gas Conservation regarding the primacy of mineral estates and limitations on planning district effects on the primacy of the mineral estate, to limit access to the mineral estate, or to limit development of the mineral estate. The Act takes immediate effect. [Read more.](#)

**Stripper Oil Taxation – Montana.** *(Update to 4/19/21 Weekly Report)* On May 14, Gov. Greg Gianforte (R) signed HB 661 into law. The Act, sponsored by Rep. Joshua Kassmier (R), revises taxation of stripper oil and gas wells, and provides for definitions and lowers tax rates on stripper oil production. The Act has multiple effective dates. [Read more.](#)

### **Estates; Testamentary Instruments – Nevada.**

On May 20, AB 318 passed both chambers of the legislature. The bill, sponsored by Asm. Elaine Marzola (D), amends existing law regarding certain procedures and processes related to the administration of testamentary instruments and estates. [Read more.](#)

**Brine from Oil and Gas Operations – Ohio.** On May 4, HB 282 was referred to committee following its introduction by Rep. Don Jones. The bill amends existing law "to establish conditions and requirements for the sale of brine from oil or gas operations as a commodity and to exempt that

commodity from requirements otherwise applicable to brine.” [Read more.](#)

**Division Orders – Oklahoma.** (*Update to 1/25/21 Weekly Report*) On May 24, Gov. Kevin Stitt (R) signed HB 2029 into law. The Act, sponsored by Rep. Terry O'Donnell (R), amends existing law relating to ratification or approval of a unitization plan by lessees and owners; removing the exclusion of royalty interest owned by lessees, or subsidiaries of the lessee, from counting towards the requisite percentage of royalty ownership needed to ratify or approve a unitization plan. [Read more.](#)

**Production Taxes – Oklahoma.** On May 21, Gov. Kevin Stitt (R) signed SB 1059 into law. The Act, sponsored by Sen. Roger Thompson (R), “extends to sunset dates for the current excise and gross production taxes on petroleum oil and natural gas and/or casinghead gas from 2021 to July 1, 2026. This will allow for current tax rates along with the current apportionment of those taxes to remain in place until 2026.” The Act is effective July 1, 2021. [Read more.](#)

**Oil and Gas Industry Boycotts – Oklahoma.** On May 26, HCR 1011 was enacted. This concurrent resolution, sponsored by Rep. Mark McBride (R), expresses that “the state should not enter into a contract with a company unless the company submits a written certification that the company is not currently engaged in a boycott, in any manner, of the oil and gas industry that constitutes an integral part of business conducted or sought to be conducted with the state.” The measure also expresses that “the state should not adopt a procurement, investment or other policy that has the effect of inducing or requiring a person to boycott the oil and gas industry or a person doing business with the oil and gas industry.” [Read more.](#)

**Conventional Oil & Gas Act – Pennsylvania.** On May 25, HB 1144 passed the House. The bill, sponsored by Rep. Marty Causer (R), is a reintroduction of the Conventional Oil & Gas Act that failed last year. According to the bill sponsor, “this legislation will

provide a legislative framework for regulations specific to conventional oil and gas producers in a way that protects the environment while preserving this valuable industry.” [Read more.](#)

**Pipeline Impact Fees – Pennsylvania.** On May 14, Rep. Chris Quinn (R) introduced HB 1400. The bill “rededicates a portion of the Commonwealth’s Impact Fee to be distributed to local governments dealing with impacts of active pipeline projects and expanded public safety needs. This proposal will create a grant program that drives funding out to local governments based on the length of pipelines traveling through a community and the population density of the impacted communities.” [Read more.](#)

**Quitclaim Deeds – Texas.** (*Update to 3/8/21 Weekly Report*) On May 24, Gov. Greg Abbott (R) signed SB 885 into law. The Act, sponsored by Sen. Bryan Hughes (R), amends existing law regarding the effect of recording a quitclaim deed. The Act is effective September 1, 2021. [Read more.](#)

**Royalty Payment Cause of Action – Texas.** (*Update to 3/22/21 Weekly Report*) On May 24, Gov. Greg Abbott (R) signed SB 1259 into law. The Act, sponsored by Sen. Brian Birdwell (R), states that a payee does not have a common law cause of action for breach of contract against a payor for withholding royalty payments under the Natural Resources Code unless, for a dispute concerning the title, the contract requiring payment specifies otherwise. The Act states that it only applies to a legal action filed on or after the effective date of the bill. It also explicitly states that it only applies to agreements entered into after the effective date. The Act takes immediate effect. [Read more.](#)

**Drill Cuttings – Texas.** (*Update to 1/11/21 Weekly Report*) On May 18, Gov. Greg Abbott (R) signed SB 1260 into law. The Act was sponsored by Sen. Brian Birdwell (R). According to the legislative summary, “The site remediation program administered by the Railroad Commission of Texas (RRC) works to clean up abandoned or foreclosed disposal facilities and sites where entities or

individuals have improperly disposed of oilfield wastes, such as drill cuttings. There have been calls to expand options available to the RRC for cleaning up and remediating these sites, given that the RRC is currently limited to managing the waste by excavating and hauling it to offsite disposal facilities, which is a very expensive process.” SB 1260 addresses this issue “by authorizing the RRC to contract for the treatment of drill cuttings on site and to sell the recycled waste materials for beneficial reuse.” The Act takes immediate effect. [Read more.](#)

**Eminent Domain – Texas.** (*Update to 3/8/21 Weekly Report*) On May 24, Gov. Greg Abbott (R) signed SB 726 into law. The Act, sponsored by Sen. Charles Schwertner (R), provides for establishing actual progress for the purposes of determining the right to repurchase real property from a condemning entity. According to the legislative summary, “In Texas, a private property owner is prohibited from repurchasing condemned land from a condemning entity if the entity has made ‘actual progress’ toward the public use of the land. Unfortunately, the definition of ‘actual progress’ has proven to be unnecessarily broad and can be too easily satisfied without establishing substantive progress. There have been calls to strengthen these requirements so that landowners may be assured that their property was actually used for the purpose for which it was condemned. S.B. 726 seeks to strengthen the definition of ‘actual progress’ in this regard.” The Act is effective September 1, 2021. [Read more.](#)

**Notice – Texas.** (*Update to 3/8/21 Weekly Report*) On May 18, Gov. Greg Abbott (R) signed SB 771 into law. The Act was sponsored by Sen. Charles Schwertner (R). According to the legislative summary, “Eminent domain is the power of a governmental entity to acquire private property for a public use by providing adequate compensation. The state may also grant the power to private entities. While eminent domain can serve the greater good, it is a power ripe for abuse and misuse. Currently, landowners are required to provide appraisals used at commissioner court hearings at least three business days before the hearing, but the

statute does not provide the same requirement for condemning entities. Appraisals are necessary documentation that both a landowner and condemning entity use to prepare for the commissioner court hearing. In an attempt to make information equally available to the landowner and the entity with the power of eminent domain, SB 721 requires “condemnors to provide appraisals used at commissioner court hearings at least three business days before the hearing by amending current law relating to the disclosure of appraisal reports in connection with the use of eminent domain authority.” [Read more.](#)

## SPECIAL LEGISLATIVE SECTION: SESSION ADJOURNMENT

### MISSISSIPPI SESSION ADJOURNMENT

**ROUNDUP.** The Mississippi legislative session adjourned on April 1, 2021 and the deadline for action by Gov. Tate Reeves (R) on any legislation has now passed, officially bringing the 2021 regular legislative session to a close. Following is the status of bills AAPL had been tracking for members this session that failed to advance and died upon adjournment.

**HB 145** – Republican bill; Would have reduced the Chancery clerk fee for recording each oil and gas assignment per assignee per each book and page listed.

**HB 194** – Republican bill; Would have extended the repeal date on the authority of the state oil and gas board to obtain funds from the capital expense fund for the emergency plugging of orphaned wells.

**HB 555** – Republican bill; Mineral estates separated from the surface estate would revert to the surface owner after 20 years of nonproduction.

**HB 664** – Republican bill; Would have required oil and gas taxes to be paid by the interest owner and provided ad valorem tax exemptions.

**HB 767** – Republican bill; Independent contractor bill

that would have excluded services of a petroleum landman from the state definition of employment.

**HB 906** – Democrat bill; Mineral estates separated from the surface estate would revert to the surface owner after 10 years of nonproduction.

**HB 1037** – Republican bill; Would have replaced the Mississippi Commission on Environmental Quality and the Mississippi Environmental Permit Board with the state Oil and Gas Board for jurisdiction and authority over sequestration of carbon dioxide.

**HB 1439** – Republican bill; Would have repealed the state personal income tax.

**SB 2372** – Republican bill; Would have extended the repeal date on the use of disbursements from the Oil and Gas Conservation Fund for the plugging of orphaned wells.

**SB 2725** – Republican bill; Would have removed the authority to use capital expense funds for the emergency plugging of orphaned wells.

All bills and history may be accessed directly at the Mississippi Legislature website:  
<http://www.legislature.ms.gov/>.

As always, these and all other bills AAPL tracks for members can be found in the Bill Tracking Summary spreadsheet available only to members on the AAPL website at:  
<https://www.landman.org/resources/advocacy-and-legal>.

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## **STATE – Regulatory**

**Hydraulic Fracturing – California.** In light of Gov. Gavin Newsom's (D) recent announcement that the state will begin phasing out hydraulic fracturing by ending new permitting by 2024, the California Geologic Management Division (CalGEM) has issued a [Notice of Public Comment Period](#) for this pre-rulemaking phase. Public comments must be

provided to CalGEM no later than July 4, 2021. According to CalGEM, "The public comment period is part of an informal, pre-rulemaking process to develop regulations. All interested parties are encouraged to participate. The [Discussion Draft](#) addresses the proposal to phase out the use of hydraulic fracturing, acid fracturing, acid-matrix stimulation, and other well-stimulation treatments that enhance oil and gas production by creating channels in rock formations for hydrocarbons to flow. The goals of this proposal are to protect life, health, property, and natural resources; public health and safety; and environmental quality, including reducing and mitigating greenhouse gas emissions associated with the development of hydrocarbon resources, pursuant to Public Resources Code sections 3011 and 3106." [Read more.](#)

**Oil and Gas Bonding Study – New Mexico.** On May 20, New Mexico State Land Office Commissioner Stephanie Garcia Richard announced that the Center for Applied Research has "released the results of an independent study aimed at pinpointing the existing gap in financial bonding in New Mexico's oil and gas industry." According to the State Land Office, "New Mexico's oil and gas industry is inadequately bonded to the tune of \$8.1 billion. The State Land Office is in the early stages of planning for statewide public engagement meetings to get the full picture of how our decisions related to increasing bonding amounts on state trust land oil and gas lessees will impact the public, our working families, and small businesses in our state. The State Land Office plans to hold a significant number of public meetings, not only in impacted communities, but across the state." The State Land Office expects to publish its public meeting schedule by June 2021. [Read more.](#)

## **STATE – Judicial**

**Leasing; Royalties – New Mexico.** On May 27, Stephanie Garcia Richard, Commissioner of Public Lands, filed another lawsuit as part of its ongoing Accountability and Enforcement Program. In [Richard v. Northstar Operating Company](#) (Case No. not yet docketed), the State Land Office charges

the defendants with “their failure to clean up an abandoned lease site on almost 1,000 acres of state land in Chaves County. This lease is part of a much larger area of defunct oil and gas operations on state, federal, and private land called the Cato Unit.” According to the State Land Office, “The Accountability and Enforcement Program, launched in November 2020, is a historic, agency-wide programmatic effort being undertaken to ensure oil and gas companies, and other lease holders, honor their contractual promise to responsibly operate their leases and properly clean up the leased lands when they are finished.” [Read more.](#)

**Leasing; Royalties – North Dakota.** On May 20, in [Blasi v. Bruin E&P Partners LLC](#) (Case No. 2021 ND 86), the North Dakota Supreme Court halted class action royalty litigation by addressing the question at issue of whether a lease establishes a royalty valuation point at the well or whether the valuation point is at some other place downstream. The lessors argued the valuation point was at the pipeline. The lessees argued that the royalty from oil is valued at the well, which allows them to deduct post-production costs. Here, the Supreme Court agreed with the lessees and noted that Blasi’s interpretation “introduces considerable uncertainty” because the valuation point could change over time, and there’s a chance that oil may be transported by other means. In sum, the Court held “as a matter of law, that the royalty provision in this case establishes a valuation point that is at the well. The answer to the certified question is ‘yes.’” [Read more.](#)

**Leasing; Abandonment – Pennsylvania.** On April 29, in *SLT Holdings, LLC v. Mitch-Well Energy, Inc.* (Case No. 6 WAP 2020), the Pennsylvania Supreme Court addressed a case involving the claimed abandonment of leases. Litigants sought an equitable remedy under the abandonment doctrine but the Supreme Court found that the analysis must be made under breach of contract, interpreting the lease terms. In so doing, the Court reversed the trial court and returned the case back to that court for further proceedings under contract law, rather than equitable remedies. In sum, the Court held that

because SLT Holdings, LLC and the other appellees “had available to them a full and adequate remedy at law, through contract principles generally applicable to oil and gas leases, and through the specific provisions of the subject leases, we conclude it was error to provide recourse through application of the equitable doctrine of abandonment.” [Read more.](#)

**Top Leases; Statute of Frauds – Texas.** On April 23, in *Mei Camp Springs, LLC v. Clear Fork, Inc.* (Case No. 11-19-00048-CV), the Texas Court of Appeals, Eleventh District (Eastland), addressed a dispute over a top lease where litigants alleged the bottom lease was void under the statute of frauds for lack of a property description. The Court noted that “[a]n agreement conveying an oil and gas interest must contain a description of the property in order to satisfy the statute of frauds.” The Court found the top leases expressly recognized a valid bottom lease by virtue of the memorandum of lease rather than through the original oil and gas lease, and furthermore, the top leases provided that they did not take effect until the termination of the leasehold estate created by the memorandum of lease. The Court explained that these instruments were all executed and filed of record prior to the execution of the top leases, the memorandum of lease and the two amendments ratified the existence of the leasehold estate, and finally, these documents also remedied the absence of a property description in the original lease. [Read more.](#)

## **INDUSTRY NEWS FLASH**

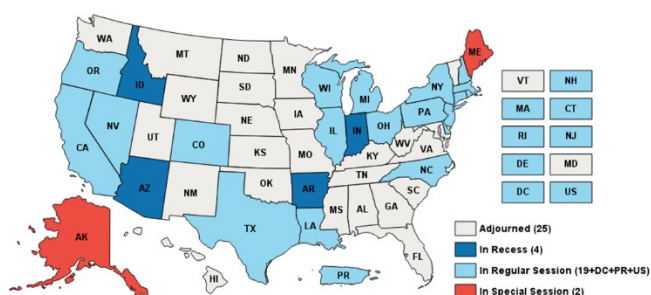
► **Dakota Access Pipeline to continue operations during environmental review says court.** On May 21, a federal judge denied a request by tribal groups to shut down the Dakota Access pipeline pending a court-ordered U.S. Army Corp of Engineers environmental review. U.S. District Court for the District of Columbia Judge James Boasberg said the plaintiffs, led by the Standing Rock Sioux, “did not prove the irreparable harm needed” to close the

pipeline. The environmental review is not expected to be completed before March 2022. [Read more.](#)

► **International Energy Agency calls for no new investment in fossil fuels in net-zero plan.** On May 18, the International Energy Agency (IEA) released its report, [Net Zero by 2050: A Roadmap for the Global Energy Sector](#), which calls for “no new investment in fossil fuel supply.” Although the IEA is not an American agency, it can influence domestic policy decisions if its recommendations are adopted by the Biden administration. [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes (by date):** California, Colorado, Connecticut, Delaware, Illinois, Louisiana, Massachusetts, Michigan, Nevada, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Rhode Island, Texas, and Wisconsin are in regular session. The U.S. Congress is also in session following its Memorial Day holiday.

The following legislatures are in recess until the dates provided: **Arizona** (June 10), **Arkansas** and **Indiana** (TBD) and **Idaho** House (call of the speaker).

**Alaska** convened for a special session on May 20 to address the state's operating budget. Republican Gov. Mike Dunleavy is scheduled to call the legislature into a second special session on August 2 to fix the yearlong fiscal conflict over the Permanent Fund dividend, reports the [Anchorage Daily News](#).

**Utah** adjourned their special session on May 19. The purpose of the special session was to tackle budgetary issues, namely how to spend \$1.65 billion in federal COVID-19 relief, prohibit schools from requiring masks this fall, and [22 other legislative issues](#), reports [KSL News Radio](#).

**Wisconsin** Democratic Gov. Tony Evers convened a special session on May 25. The purpose of the special session was to expand Medicaid in the state and accept \$1 billion in federal funds; however, the Republican controlled legislature took no action on these issues and the special session adjourned the same day, reports [Wisconsin Public Radio](#).

The following states adjourned their 2021 legislative sessions on the dates provided: **Vermont** (May 21), **Kansas** (May 26) and **Nebraska** and **Oklahoma** (May 27).

The following states are scheduled to adjourn their 2021 legislative sessions on the date provided: **Illinois** and **Texas** (May 31) and **Nevada** (June 1).

**Signing Deadlines (by date):** **Alabama** Republican Gov. Kay Ivey had until May 27 to sign or veto legislation or it was pocket vetoed. **Minnesota** Democratic Gov. Tim Waltz has until May 31 to sign or veto legislation or it is pocket vetoed. **Maryland** Republican Gov. Larry Hogan has until June 1 to sign or veto legislation or it becomes law without signature. **Oklahoma** Republican Gov. Kevin Stitt has until June 11 to sign or veto legislation or it is pocket vetoed. **Iowa** Republican Gov. Kim Reynolds has until June 18 to sign or veto legislation or it is pocket vetoed. **Missouri** Republican Gov. Mike Parson has until June 28 to sign or veto legislation or it becomes law without signature. **Hawaii** Democratic Gov. David Ige has until July 1 to sign or veto legislation or it becomes law without signature. **Alaska** Republican Gov. Mike Dunleavy has 20 days after delivery, Sundays excepted, to sign or veto legislation or it becomes law without signature. **Florida** Republican Gov. Ron DeSantis has 15 days from presentment to sign or veto legislation or it becomes law without signature. **Illinois** Democratic Gov. J.B. Pritzker has 60 days from presentment to

sign or veto legislation or it becomes law without signature. **Indiana** Republican Gov. Eric Holcomb has seven days from presentment to sign or veto legislation, or it becomes law without signature. **Kansas** Democratic Gov. Laura Kelly has 10 calendar days from presentment, not including the day it was presented, to sign or veto legislation or it becomes law without signature. **Kentucky** Democratic Gov. Andy Beshear has 10 days from presentment, except Sundays, to sign or veto legislation or it becomes law without signature. **Maine** Democratic Gov. Janet Mills must act on legislation presented within 10 days of adjournment or it becomes law unless returned within three days after the next meeting of the same legislature. **Mississippi** Republican Gov. Tate Reeves has 15 days from presentment, except Sundays, to sign or veto legislation or it becomes law without signature. **Montana** Republican Gov. Greg Gianforte has 10 days from presentment to act on legislation or it becomes law without signature. **Nebraska** Republican Gov. Pete Ricketts has five days from presentment to sign or veto legislation, Sundays excepted, or it becomes law without signature. **New Jersey** Democratic Gov. Phil Murphy has 45 days from presentment to act on legislation or it becomes law without signature. **North Dakota** Republican Gov. Doug Burgum has 15 days from presentment, Saturdays and Sundays excepted, to sign or veto legislation or it becomes law without signature. **South Carolina** Republican Gov. Henry McMaster has five days from presentment, excluding Sundays, to act on legislation or it becomes law without signature. **Tennessee** Republican Gov. Bill Lee has 10 days starting the day after presentment, Sundays excluded, to sign or veto legislation or it becomes law without signature. **Vermont** Republican Gov. Phil Scott has five days from presentment, excluding Sundays, to act on legislation or it will become law without signature. ■

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