

GOVERNMENTAL AFFAIRS WEEKLY REPORT

Weekly Highlights At-A-Glance

FEDERAL – Legislative

H.R. 6259 – Continuing Robust and Uninhibited Drilling and Exporting Act. On January 12, official bill text was made available for [H.R. 6259](#), known as the “Continuing Robust and Uninhibited Drilling and Exporting Act” or “CRUDE Act.” Sponsored by Rep. Jodey Arrington (R-TX), the bill would “restrict President Biden’s ability to impose an export ban on crude oil without first proving a credible national security risk.” According to Rep. Arrington, who was joined by 23 of his colleagues cosponsoring the bill, “the Biden Administration’s rhetoric surrounding an oil export ban is completely misguided and will result in higher energy costs for American consumers, hurt our domestic producers, and weaken our energy independence. I am proud to introduce the CRUDE Act to prevent the Biden Administration from weaponizing trade policies to destroy the oil and gas industry and America’s global energy dominance.” [Read more.](#)

H.R. 6297 – Strategically Lowering Gas Prices Act. On January 12, official bill text was made available for [H.R. 6297](#), known as the “Strategically Lowering Gas Prices Act.” Sponsored by Rep. Ted Budd (R-TN), the bill would “would prohibit President Biden from releasing oil from the Strategic Petroleum Reserve (SPR) until the executive orders blocking energy development on federal land are revoked.” According to Rep. Budd, “President Biden has caused this energy crisis by blocking development of American fuel sources. That makes his recent use of the SPR nothing more than a band aid solution to a self-created problem. The best way to solve high fuel prices is for President Biden to reverse his radical environmentalist agenda and pursue an ‘all of the above’ strategy that gets us back to American energy independence.” [Read more.](#)

H.R. 6235 – Strategic Production Response Act. (*Update to 12/20/21 Report*) On December 18, official bill text was made available for [H.R. 6235](#), known as the “Strategic Production Response Act.” Sponsored by Rep. Cathy McMorris Rodgers (R-WA), the bill is a companion version of previously reported [S. 3287](#), sponsored by Sen. John Barrasso (R-WY), and joined by 10 Republican cosponsors. The legislation would “provide for the development and issuance of a plan to increase oil and gas production on Federal land in conjunction with a drawdown of petroleum reserves from the Strategic Petroleum Reserve.” The bill seeks to “prioritize American energy production” and “prohibits the Secretary of Energy from tapping the Strategic Petroleum Reserve (SPR) for reasons other than a severe energy supply interruption unless the Secretary of the Interior issues a plan to increase oil and gas production on federal lands and waters.” Additional House companion bill, [H.R. 6176](#), was also introduced by Rep. Steven Palazzo (R-MS) in December and contains detailed planning regarding the Strategic Production Response Act. [Read more.](#)

FEDERAL – Regulatory

BLM Resource Advisory Council – Idaho. On December 22, the Bureau of Land Management (BLM) issued a notice for Resource Advisory Council (RAC) nominations for Idaho. For background, the Federal Land Policy and Management Act “directs the Secretary of the Interior to involve the public in management planning for lands administered by the BLM through the establishment of citizen-based advisory councils that are consistent with the Federal Advisory Committee Act.” RACs are open to industry group representatives and other stakeholders, and according to the BLM, “RAC membership is balanced and representative of the various interests concerned with the management of the public lands.” The *Call for*

Nominations to the Idaho Resource Advisory Council (86 FR 72614) is [available here](#). All nominations are due by January 21, 2022.

BLM Resource Advisory Council – Missouri; Montana. On January 12, the BLM issued a notice to request public nominations for the BLM's "Missouri Basin and Western Montana Resource Advisory Councils (RACs) 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." The nomination period is open through February 11, 2022. [Read more](#).

BLM Resource Advisory Council Public Meetings – Alaska. On December 22, the BLM announced that the Alaska Resource Advisory Council (RAC) will hold virtual meetings on February 8, 2022, and May 17, 2022. (See [86 Fed. Reg. 72615](#)) According to the BLM, the "15-member Alaska RAC serves in an advisory capacity concerning issues relating to land use planning and the management of the public land resources located within the State of Alaska. Meetings are open to the public in their entirety and public comment periods will be held near the end of the day for each meeting. Both the February and May meeting agendas include discussions on lands and cadastral survey, land use planning projects, and recreation; Federal Subsistence Board activity updates; and potential for recommendations to the State Director or his designee." [Read more](#).

BLM Solar Leasing – Colorado; Nevada; and New Mexico. On December 21, the BLM issued a *Call for Nominations or Expressions of Interest for Solar Leasing Areas on Public Lands in the States of Colorado, New Mexico, and Nevada* ([86 Fed. Reg. 72272](#)) that provides the BLM is soliciting written "expressions of interest or nominations identifying tracts of land (parcels) for solar project development within the following solar energy zones (SEZs) on public lands: Antonito Southeast SEZ, DeTilla Gulch SEZ, and Los Mogotes East SEZ within Colorado; Dry Lake Valley North SEZ, Gold Point SEZ, and Millers

SEZ within Nevada; and Afton SEZ within New Mexico. These SEZs have a combined total land size of approximately 89,589 acres." The BLM will accept written expressions of interest or nominations through January 20, 2022. [Read more](#).

BLM National Petroleum Reserve – Alaska. On January 10, the BLM announced "it will seek to revert to an Obama-era plan that leaves just 52 percent of the National Petroleum Reserve in Alaska (NPR-A) available for oil and gas drilling. The prior Trump administration plan left 82 percent of the NPR-A open for such purposes. But the BLM said part of the Trump plan will remain, including "certain more protective lease stipulations and operating procedures for threatened and endangered species implemented by its predecessor." The BLM has yet to formally issue its plan but "it hopes to publish a new 'record of decision' which formally establishes its policy following some endangered species consultations." [Read more](#).

Chaco Canyon Withdrawal – New Mexico. (*Update to 11/22/21 Report*) On January 6, the BLM published its *Notice of Proposed Withdrawal and Public Meetings; San Juan County, NM* ([87 Fed. Reg. 785](#)), which officially begins the process of removing Chaco Canyon lands from oil and gas drilling. The notice also opens up the public comment and meetings period beginning in February. [Read more](#). For background, on November 15, 2021, the [Biden administration announced](#) that "the Department of the Interior is taking steps to protect the Chaco Canyon and the greater connected landscape with a rich Tribal and cultural legacy in northwest New Mexico." This "will begin a 2-year moratorium on new oil and gas leasing in a 10-mile buffer around the Chaco Canyon area in northwestern New Mexico." The BLM then followed the Biden administration's announcement with its own statement in which it noted it "will initiate consideration of a 20-year withdrawal of federal lands within a 10-mile radius around Chaco Culture National Historical Park, which would bar new federal oil and gas leasing on those lands." According to the BLM announcement, "In the coming weeks, the BLM intends to publish a notice in the Federal Register that will commence a two-year segregation of

the federal lands while the bureau conducts an environmental analysis and seeks public comment on the proposed administrative withdrawal. BLM will also initiate formal Tribal consultation. The segregation and potential withdrawal would not affect existing valid leases or rights and would not apply to minerals owned by private, State, or Tribal entities.”

[Read more.](#)

Federal Reserve Fossil Fuel Financing. On January 13, Federal Reserve board member Lael Brainard (D) “sought to assure Republican senators” during her Senate confirmation hearing as President Biden’s nominee for Vice Chairman of the Federal Reserve “that the central bank would not cut off financing to the fossil fuel industry or penalize banks who serve it if she becomes the bank’s No. 2 official.” Brainard insisted “the Fed would not attempt to craft climate policy as it studies the potential financial risks of climate change despite intense GOP blowback to those plans.” Brainard told lawmakers, “We would not tell banks which sectors to lend to or which sectors to not lend to, but we do want to make sure that they are measuring, monitoring and managing their material risks in many large financial institutions.”

[Read more.](#)

Interior Department “30 by 30” Information and Comments. On January 4, the Interior Department published a *Request for Information To Inform Interagency Efforts To Develop the American Conservation and Stewardship Atlas* ([87 Fed. Reg. 235](#)) to begin the process of effectuating President Biden’s [Executive Order 14008](#) (January 27, 2021) which “established the first-ever national conservation goal, calling for the conservation of ‘at least 30 percent of U.S. lands and waters by 2030.’” According to the Biden administration, “The Atlas will be a critical tool to measure the progress of conservation and restoration efforts across the country. The President’s goal of conserving 30 percent of America’s lands and waters by 2030 is more than a number—it is a challenge to build on the nation’s best conservation traditions, to be faithful to principles that reflect the country’s values, and to improve the quality of Americans’ lives—now and for decades to come.” [Read more.](#) In accordance

with the executive order, “the Department, USDA, DOC, and CEQ previously released the [Conserving and Restoring America the Beautiful](#) report on May 6, 2021. The report calls for a decade-long national initiative to advance locally led conservation and restoration on public, private, and Tribal lands and waters. It acknowledges—and celebrates—the wide-ranging contributions that diverse conservation efforts can make to the initiative and its goals of tackling climate change, sustaining biodiversity, and increasing equitable access to nature.” The January 4, 2022, notice opens up information sessions and requests for public comment. The public comment period is open through March 7, 2022. [Read more.](#)

EPA Emissions Reduction Rulemaking. (*Update to 11/22/21 Report*) UPDATE: The EPA has extended the comment period from January 14, 2022, to January 31, 2022. [Read more.](#) ([Instructions for submitting comments](#)) For background, on November 15, 2021, the U.S. Environmental Protection Agency (EPA) published its 577-page proposed rule, “Standards of Performance for New, Reconstructed, and Modified Sources and Emissions Guidelines for Existing Sources: Oil and Natural Gas Sector Climate Review” ([86 Fed. Reg. 63110](#)), which “would sharply reduce methane and other harmful air pollution from both new and existing sources in the oil and natural gas industry.” According to the EPA, the proposed rule would “require states to reduce methane emissions from hundreds of thousands of existing sources nationwide for the first time; expand and strengthen emissions reduction requirements that are currently on the books for new, modified and reconstructed sources in the oil and natural gas industry; and encourage the use of innovative methane detection technologies and other cutting-edge solutions, many of which are being developed and deployed by small businesses providing good-paying jobs across the United States.” ([Read Proposed Rule Fact Sheet here](#)) The EPA states that the rulemaking would significantly reduce methane emissions through 2035 and “increase recovery of natural gas, valued at \$690 million in 2030 alone, that otherwise would go to waste.” Specifically, the proposed rule would find and repair methane leaks from well sites and compressor stations through “a

comprehensive monitoring program to require companies to find and fix leaks (known as ‘fugitive emissions’) at new and existing well sites and compressor stations. The program is designed to focus monitoring efforts on sites and equipment that are most likely to have large emissions. It encourages innovation by giving owners and operators the flexibility to use advanced technologies.” The rulemaking would also “require all new and existing pneumatic controllers at production, processing, and transmission and storage facilities, to have zero methane and [volatile organic compounds] VOC emissions, with the exception of sites in Alaska that do not have power. The proposal also would regulate emissions from intermittent vent pneumatic controllers for the first time.” Additionally, the rule would “eliminate venting of associated gas from oil wells and require owners and operators to route the gas to a sales line where available; strengthen requirements for storage tanks by adding tank batteries;” establish “nationwide requirements to minimize methane and VOC emissions from liquids unloading for the first time;” strengthen “current leak detection and repair requirements for new natural gas processing facilities, and including those requirements as presumptive standards for existing sources;” strengthen “standards for methane emissions from new reciprocating compressors, and including those requirements as presumptive standards for existing sources;” and proposes “presumptive standards for existing centrifugal compressors that require 95 percent control of emissions from wet seal degassing, consistent with current standards for new sources.” Late last year, during his trip to the COP26 climate change summit in Glasgow, Scotland, [President Biden laid out plans for the United States to reduce methane emissions](#) as part of a global effort supported by other nations in attendance. As a first step in that broad policymaking agenda, the EPA announced the above proposed rulemaking “in fighting the climate crisis and protecting public health through a proposed rule that would sharply reduce methane and other harmful air pollution from both new and existing sources in the oil and natural gas industry. The proposal would expand and strengthen emissions reduction requirements that are currently on the books for new, modified and

reconstructed oil and natural gas sources, and would require states to reduce methane emissions from hundreds of thousands of existing sources nationwide for the first time.” [Read more](#). As reported by *Bloomberg Government*, the “EPA proposed rule stops short of imposing an outright ban on routine, intentional flaring, when that excess natural gas is burned instead. That omission is set to disappoint activists who lobbied the EPA to bar flaring, following the lead of some states.” The EPA requirements would focus “surveillance efforts on the sites and equipment the agency says are most likely to have large emissions. Under the proposal, well sites with estimated emissions of at least 3 tons per year would have to be monitored quarterly for leaks, with prompt repairs of any that are discovered, according to an EPA official. By contrast, well sites estimated to emit fewer than 3 tons per year could undertake just one survey to demonstrate they are free of leaks or malfunctions. Although the EPA predicts its approach would focus efforts on the wells responsible for the vast majority of leaks and reduce 41 million tons (37 million metric tons) of methane releases from 2023 to 2035, the determination is based on agency estimates that scientists and activists have widely said underestimate emissions.” This proposed rule is the beginning of a longer rulemaking process related to emissions reductions, and as noted by the Independent Petroleum Association of America, the “EPA is taking a layered approach over the next six months to a year to implement their framework.” [Read more](#). A general overview of EPA regulatory planning and implementation activities titled, “Controlling Air Pollution from the Oil and Natural Gas Industry” [can be accessed here](#).

ONRR Civil Monetary Penalty Inflation Adjustment.

On January 12, the Interior Department’s Office of Natural Resources Revenue (ONRR) published its *2022 Civil Monetary Penalty Inflation Adjustments* ([87 Fed. Reg. 1671](#)) which reflects the ONRR annual inflation adjustments for civil monetary penalties for royalty reporting and other violations and which are issued every year. [Read more](#).

FEDERAL – Judicial

Multistate Keystone XL Pipeline Suit. (*Update to 3/21/21 Report*) On January 6, [a federal judge dismissed a multistate lawsuit against the Biden administration for its revocation of the Keystone XL pipeline](#), but not on substantive grounds. The case was dismissed because TC Energy, the pipeline's owner-operator, had permanently abandoned the project after the permit revocation, making the case moot. In his memorandum order from the U.S. District Court for the Southern District of Texas, the judge wrote, "Because the plaintiffs seek to revive a project that its owner has permanently abandoned, they 'lack a legally cognizable interest in the outcome,' [...] and the court is not 'capable of providing [them] meaningful relief [...] [b]ecause the court cannot grant any relief that would not be purely advisory, the case is moot.'" In granting the dismissal, Judge Jeffrey Brown, a Trump appointee, "cited a brief from pipeline owner TC Energy confirming that it was starting to remove the pipeline's border-crossing segment and was expected to have done so by November [2021]. The court takes TC Energy at its word that Keystone XL is dead." [Read more.](#) Dissatisfied with the decision, Montana Attorney General Austin Knudsen (R) stated, "It's unfortunate that the important constitutional question in this case – if the president can revoke a congressionally approved cross-border permit – will go unanswered because TC Energy inserted itself into the court proceedings unprompted." For background, on March 17, 2021, attorneys general from 23 states, led by Texas and Montana, sued the Biden administration over its cancellation of the Keystone XL pipeline permit. The complaint argued that revoking the permit is a "regulation of interstate and international commerce" that should be left to Congress and that Biden's unilateral move through executive order was an overreach and "arbitrary and capricious." In [Texas v. Biden](#) (Case No. 3:21-cv-00065), the states were asking the court to rule that Biden lacked the legal authority to prohibit TC Energy from constructing and operating the Keystone XL cross-border facilities other than through the lawful exercise of statutory authority and stop the administration from taking any action to enforce, implement, or otherwise put into

effect the decision revoking TC Energy's permit to construct and operate Keystone XL cross-border facilities, among other relief sought. Unlike the current administration, President Trump "championed the pipeline, issuing a permit allowing it to cross the border during the first months of his presidency." [Read more.](#)

STATE – Legislative

Online Notarial Acts – California. On January 3, AB 1093 was submitted to committee for the 2022 legislative session. The bill was originally introduced in 2021 but had not advanced. Sponsored by Asm. Reginald Jones-Sawyer (D), the bill would provide for online notarial acts and "would authorize a notary public to apply for registration with the secretary to be a remote online notary public." [Read more.](#)

Oil and Gas Operator Property Tax Procedures – Colorado. On January 12, SB22-26 was introduced by Sen. Joann Ginal (D). "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." [Read more.](#)

Employee Misclassification – Indiana. On January 6, SB 203 was introduced by Sen. David Niezgodski (D). The bill amends the Indiana code to provide that relevant state agencies "report before November 1 of each year for three years, beginning November 1, 2022, to the Interim Study Committee on Employment and Labor for the immediately preceding state fiscal year: (1) the number of employers that each department or the board determined during the immediately preceding state fiscal year improperly

classified at least one worker as an independent contractor; (2) the total number of improperly classified workers employed by those employers; (3) the department's or board's calculation of actual revenue not collected or the additional costs to the state that the department or board attributes to the improperly classified workers; (4) the amount of the penalties and interest assessed against those employers by each department or the board, and the amount of the penalties and interest assessed that has been collected; and (5) the classification criteria used by the department or board to classify workers." Companion House bill, [HB 1336](#), was introduced by Rep. Pat Boy (D) on January 11, 2022. [Read more.](#)

Unauthorized Practice of Law – Kentucky. On January 12, Rep. Daniel Elliott (R) introduced HB 256. The bill would amend existing law "to increase the class of the crime of the unauthorized practice of law from a Class B misdemeanor for the first offense to a Class A misdemeanor, and establish each subsequent offense as a Class D felony." [Read more.](#)

Wills and Trusts – Maryland. On January 12, SB 36 was introduced by Sen. Christopher West (R). The bill would "authorize a person to execute an electronic will or remotely witnessed will without a notary public if the supervising attorney creates a certified will that contains a certain form attached or annexed to the will; prohibiting a supervising attorney from being a witness to an electronic will or remotely witnessed will if the will is executed without a notary public; and authorizing a notary public located in the State to perform a notarial act using communication technology for a remotely located individual for a trust instrument." [Read more.](#)

Severance Taxes – Mississippi. On January 6, HB 500 was introduced by Rep. Randy Boyd (R). The bill amends existing law to provide that interest owners are responsible for payment of severance taxes; provides for exemption from ad valorem taxes as noted; and provides that the "tax collector shall also transmit to the clerk of the chancery court of the county separate lists of any nonproducing oil, gas or other mineral interests in real estate which are sold to persons for nonpayment of taxes or which are offered

for sale and, because no person bids the whole amount of taxes and costs incident to the sale of such interest, revert to the owners of the surface estate under which such mineral interests are located," among other related tax provisions. Similar House bill, [HB 401](#), was introduced by Rep. Donnie Bell (R) on January 5, 2022. [Read more.](#)

Mineral Estates Reversion – Mississippi. On January 6, HB 501 was introduced by Rep. Randy Boyd (R). The bill provides that "mineral estates separated from the surface estate shall revert to the owner of the surface estate after twenty years of nonproduction" and defines nonproduction. [Read more.](#)

Notaries Public – Mississippi. On January 6, SB 2035 was introduced by Sen. Tyler McCaughn (R). The bill amends existing law to revise the maximum fee permitted to be charged for notarial services and also revises the residency requirements to permit a nonresident who works or practices in the state to apply to be commissioned as a notary public. [Read more.](#)

Worker Misclassification – Virginia. On January 11, HB 529 was introduced by Del. Amanda Batten (R). The bill would establish "criteria for classifying the difference between employees and independent contractors based on either (i) the common law 20-factor test established in [Internal Revenue Service Ruling 87-41](#), (ii) an applicable determination of the Internal Revenue Service, or (iii) satisfaction of specific criteria for classifying a person as an independent contractor as described in the bill." [Read more.](#)

Royalty Payment Withholding Tax – West Virginia. On January 12, HB 2081 was introduced by Del. Lisa Zukoff (D). "The purpose of this bill is to require lessees of West Virginia real estate who make natural resources royalty payments for in-state property to any nonresident lessor, to withhold West Virginia personal income tax on natural resources royalty payments. The bill provides exceptions, penalties, defines terms and grants rule-making authority." [Read more.](#)

Well Setbacks; Notice; Disturbance Claims – West Virginia. On January 12, HB 2132 was introduced by Del. Barbara Fleischauer (D). “The purpose of this bill is to change an elective obligation to a mandatory one. The bill requires notice in certain instances to the occupants of residential property. The bill prohibits the disturbance of a well site be no closer than 1,500 feet of an occupied dwelling. The bill provides notices include certain information. The bill establishes standards relating to air, noise, light and dust. The bill permits landowners be compensated for any decrease in the values of the land for its highest and best use. The bill requires the notice of a claim be also provided to an occupant of residential structure on the property. The bill establishes a statute of limitations for claims being filed.” [Read more.](#)

Abandoned Mineral Interests – West Virginia. On January 12, HB 2205 was introduced by Del. Pat McGeehan (R). “The purpose of this bill is to create a procedure to streamline the process to claim abandoned mineral interests.” [Read more.](#)

Well Fees; Agency Funding – West Virginia. On January 12, HB 2725 was introduced by Del. Evan Hansen (D). “The purpose of this bill is to provide stable and adequate funding to the Office of Oil and Gas of the Department of Environmental Protection in order to oversee oil and gas wells’ compliance with the law for the life of the wells. The Office of Oil and Gas currently only receives, and unlike other offices is only funded by, one-time fees generated by the applications for the permits for initial drilling of a well. It only has a reduced staff of 25 including only one inspector for every 5000 wells. The bill provides the funding by requiring an annual oversight fee of \$100 for each well that is to be used for the functions of the Office of Oil and Gas with any excess to be used to plug orphaned wells.” [Read more.](#)

Unitization – West Virginia. On January 12, HB 2853 was introduced by Del. Brandon Steele (R). “The purpose of this bill is to provide for the unitization of interests in drilling units in connection with shallow horizontal oil or gas wells. The bill sets forth

application requirements. The bill establishes the standard of review. The bill provides for unitization orders. The bill requires notice and timeliness. The bill provides for hearings. The bill addresses oil and gas produced from shallow horizontal wells. The bill adds new definitions. The bill modifies existing definitions.” [Read more.](#)

Independent Contractors – West Virginia. On January 12, HB 2879 was introduced by Del. Kayla Young (D). “The purpose of this bill is to modify the term ‘employee’ to include an individual who provides work for an employer under the terms of an independent contract with such employer.” [Read more.](#)

Well Locations – West Virginia. On January 12, HB 2975 was introduced by Del. Evan Hansen (D). The bill provides “that the limit of disturbance of a well site may not be closer to an occupied building than 2,500 feet.” [Read more.](#)

Tax Credits for Oil and Gas Use Facilities – West Virginia. On January 12, HB 2979 was introduced by Del. Guy Ward (R). “The purpose of this bill is to provide a tax credit to West Virginia power generators and manufacturers in the amount of the severance tax imposed on coal, oil and gas produced in West Virginia and sold to and used by the West Virginia power generators and manufacturers in West Virginia.” [Read more.](#)

Standardized Oil and Gas Contracts – West Virginia. On January 12, HB 3051 was introduced by Del. Phil Mallow (R). “The purpose of this bill is to require the secretary of the Department of Environmental Protection to adopt rules relating to the standardization of leases, deeds or contracts relating to oil and gas, consistent in format with the purpose of making the terms of these documents less confusing to the landowners.” [Read more.](#)

At-Will Employment – West Virginia. On January 12, HB 3098 was introduced by Del. Cody Thompson (D). Seeking to end at-will employment in the state, “The purpose of this bill is to mandate that employees may

only be dismissed from employment for just cause.” [Read more.](#)

Severance Taxes – West Virginia. On January 12, HB 3147 was introduced by Del. Robert Doyle (D). The bill seeks to double the current severance tax from instances where the tax is 2.5% to 5% and instances where the tax is 5% to 10%. [Read more.](#)

Notaries Public – West Virginia. On January 12, HB 3209 was introduced by Del. Jim Barach (D). The bill would except “persons previously commissioned as a notary public from requirement to have a high school diploma or its equivalent in order to be recommissioned as a notary public.” [Read more.](#)

Orphan Wells – West Virginia. On January 12, HB 4054 was introduced by Del. Evan Hansen (D). The bill would create the Orphan Well Prevention Act of 2022 and the “purpose of this bill is to prevent oil and gas wells from being orphaned on surface owner’s land with no responsible driller or operator with the resources to plug the well.” [Read more.](#)

Real Property Notice – West Virginia. On January 12, SB 36 was introduced by Sen. Patricia Rucker (R). The bill would require “notice be sent to owners of record before real property can be sold due to nonpayment of taxes.” [Read more.](#)

Orphan Oil and Gas Well Prevention Act – West Virginia. On January 12, SB 56 was introduced by Sen. Randy Smith (R). “The purpose of this bill is to create the Orphan Oil and Gas Well Prevention Act; providing for a short title; providing for legislative findings and declarations; providing for restrictions to permit oil and natural gas wells, certain prohibitions, and requiring plugging assurance requirements; providing for limitations on the transfer of wells; providing for responsibility of previous operators to plug transferred wells; providing for different methods for operators to provide plugging assurance of wells including for wells not producing in paying quantities; providing administrative and management responsibilities for the chief of the Office of Oil and Gas and the State Treasurer regarding plugging

assurance funds; providing clarifications regarding the duties of mineral and surface owners; providing for rule-making authority and severability; and providing an effective date.” [Read more.](#)

Business Taxation – West Virginia. On January 12, SB 185 was introduced by Sen. Glenn Jeffries (D). The bill relates to “clarifying municipal business and occupation taxation where business activity occurs in more than one location.” Specifically, “Whenever the business activity or occupation of the taxpayer is engaged in or carried on in this state and in another state or states, the amount of gross income, or gross proceeds of sales, taxable by a municipality in this state shall be determined by the location of the client or customer of the taxpayer for which the benefit is received, in accordance with such legislative regulations as the Tax Commissioner may prescribe. For the purpose of this section, ‘from which the activity was directed’ shall encompass the location of the client or customer of the taxpayer for which the benefit is received.” [Read more.](#)

STATE – Regulatory

State Land Office Revenues – New Mexico.

On January 6, the New Mexico State Land Office announced a record for the highest monthly earnings, with more than \$141 million in December 2021. “I’m proud to announce that despite the ongoing pandemic, the land office earned more in December 2021 than in any month in New Mexico history. This speaks to the growth and success across all revenue streams, including renewable energy, oil and gas, grazing, business leases, rights of way, and more,” said Commissioner of Public Lands Stephanie Garcia Richard. “This is a wonderful way to end 2021.” [Read more.](#)

STATE – Judicial

Marketable Title Act – Ohio. On December 13, in [Pernick v. Dallas](#) (2021-Ohio-4635), the Ohio Court of Appeals, Seventh District, once again addressed a case involving the Marketable Title Act (MTA) and ownership of minerals, oil, and gas underlying property

located in Jefferson County, Ohio. "As to the MTA, the first issue raised is whether a mineral lease by the surface owner (not the alleged mineral holder) within the 40-year period can act as a saving event for Appellant. The second MTA issue concerns the 1962 deed and whether the language contains reference to a prior oil and gas reservation and whether it is a 'proper' root of title." In *Pernick*, the surface owner "used the MTA to extinguish a severed fee oil and gas interest claimed by the appellant. The oil and gas was originally severed from the surface in a conveyance. Based upon the "root of title" deed legal description and surrounding facts, the court found that the "root of title" deed did "not contain any explicit reference to any prior oil, gas, or mineral reservation. Moreover, because the deed on its face purported to convey the entirety of the property, including oil and gas, subject only to specific coal reservations, the court held that the deed qualified as the surface owner's 'root of title.'" As to the second matter, the court "held that a recorded oil and gas lease that is not executed by the record holder of the mineral interest or the record holder's heirs and assigns does not qualify as a 'title transaction' and thus "the recording of the oil and gas lease did not preserve appellant's severed mineral interest from being extinguished under the MTA." [Read more.](#)

Lease Interpretation; Drainage – Texas. (*Update to 2/8/21 Report*) The Texas Supreme Court has set February 2, 2022, for oral argument in its grant of review in [Rosetta Resources Operating, L.P. v. Martin](#) (Case No. 20-0898). For background, this appeal involves the interpretation of an offset well clause in an oil and gas lease. According to the appellate court, "we are once again called on to interpret and apply 'opaquely worded' 'cryptic language' in an oil and gas lease." The Texas Court of Appeals, 13th District, (Corpus Christi), examined the lease terms and found that Rosetta's obligations to protect the undrilled acreage at issue from drainage and to spud an offset well or release the acreage were triggered. [According to the Texas Civil Justice League](#), who filed an amicus brief in the case, the "court of appeals' interpretation of the clause imposed a new, unprecedented, and expansive extracontractual

duty on the operator to protect undrilled land against *all* drainage whenever a well is drilling either on that land or any adjoining property, regardless of which well may be causing the drainage. There is also an important evidentiary question in the case involving whether drainage had actually occurred on the lease." We will continue to provide updates as the case progresses in the Texas Supreme Court. [Read more.](#)

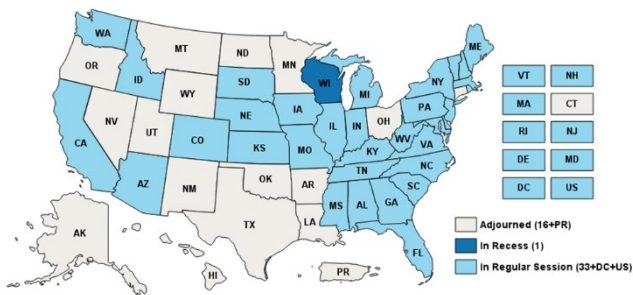
INDUSTRY NEWS FLASH

► **Texas oil and gas industry paid \$15.8 billion in state and local taxes and state royalties in fiscal year 2021.** On January 11, the Texas Oil & Gas Association (TXOGA) reported that for fiscal year 2021, the Texas oil and gas industry paid \$15.8 billion in state and local taxes and state royalties. According to TXOGA, that "translates to well over \$43 million every day. Both state royalties and production taxes increased by more than 20% in fiscal year 2021 and production taxes exceeded \$5 billion for only the third time in history." [Read more.](#)

► **OPEC+ agrees to continue increases in oil production.** As reported by *Rigzone*, on January 4, "OPEC and its allies agreed to revive more halted production as the outlook for global oil markets improved, with demand largely withstanding the new coronavirus variant. The 23-nation alliance led by Saudi Arabia and Russia approved the 400,000 barrel-a-day increase scheduled for February. The group is sticking to its plan to gradually restore output halted during the pandemic after its analysts predicted a smaller surplus this quarter than previously expected." [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Alabama, Arizona, California, Colorado, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, Virginia, Washington, and West Virginia are in regular session. The U.S. Congress is also in session.

Wisconsin is in recess until January 18.

Georgia is scheduled to recess from January 17 through January 21 to focus on budget deliberations.

The following states are scheduled to convene their 2022 legislative sessions on the dates provided: **New Mexico**, **Utah**, and **Wisconsin** (January 18), **Hawaii** and **Ohio** (January 19) and **Alaska** (January 24).

Special Session Notes: The **Louisiana** legislature is scheduled to convene for a special session on redistricting on February 1, reports the [Louisiana Illuminator](#). The special session is expected to last until February 20. **West Virginia** lawmakers adjourned their special session on January 12 after approving a six-bill package that would set up a \$2.7 billion steel recycling facility in Mason County, reports the [Charleston Gazette-Mail](#). Lawmakers expect the deal to create 800 jobs and spur up to \$25 billion in economic activity in the next 10 years.

Signing Deadlines (by date): **North Carolina** Democratic Gov. Roy Cooper had until January 9 to sign or veto legislation or it became law without signature. **Ohio** Republican Gov. Mike DeWine had until January 10 to sign or veto legislation or it became law without signature. **Wisconsin** Democratic Gov. Tony Evers has six days, Sundays excepted, to sign or veto legislation or it becomes law without signature.

The following states are currently holding 2022 interim committee hearings: [Alaska](#), [Arkansas](#), [Connecticut](#), [Hawaii](#), [Louisiana](#), [Minnesota](#), [Montana](#), [Nevada](#), [New Mexico](#), [North Dakota](#), [Oklahoma House](#) and [Senate](#), [Oregon](#) and [Wyoming](#).

The following states are currently posting 2022 bill drafts, pre-files, and interim studies: [Alaska](#), [Arkansas](#), [Louisiana](#), [New Mexico House](#) and [Senate](#), [Oklahoma](#), [Utah](#) and [Wyoming](#). ■

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GOVERNMENTAL AFFAIRS REPORT

Weekly Highlights At-A-Glance

FEDERAL – Legislative

S. 180 – Buffalo Tract Protection Act. On February 2, Sen. Martin Heinrich (D-NM) introduced S. 180, known as the “Buffalo Tract Protection Act.” The bill “withdraws specified Bureau of Land Management lands in Placitas, New Mexico, from (1) location, entry, and patent under the mining laws; and (2) disposition under the mineral leasing, mineral materials, and geothermal leasing laws.” Sen. Heinrich has “touted the conservation benefits of removing these Bureau of Land Management (BLM) parcels from mineral development” as they serve “as critical wildlife connections between the Sandia Mountains to the south and the Sangre de Cristo Mountains to the north.” [Read more.](#)

FEDERAL – Regulatory

BLM Willow Master Development Plan – Alaska. On February 7, the Bureau of Land Management (BLM) published a *Notice of Preparation of a Supplemental Environmental Impact Statement for the Willow Master Development Plan* ([87 Fed. Reg. 6890](#)). According to the notice, the BLM “is preparing a Supplemental Environmental Impact Statement (SEIS) to address deficiencies identified by the U.S. District Court for Alaska in the 2020 Willow Master Development Plan (MDP)/Final Environmental Impact Statement (EIS) and Record of Decision (ROD) issued in October 2020, and to ensure compliance with applicable law. The BLM will not be holding a formal scoping period but has begun outreach to stakeholders and will accept input and comments through informal scoping for up to 30 days following the date of publication.” The public comment period is open through March 9, 2022. [Read more.](#)

Resource Advisory Council Meetings – Colorado.

On February 7, the BLM published a *Notice of Colorado's Southwest District Resource Advisory Council Schedule of Quarterly Public Meetings* ([87 Fed. Reg. 6891](#)) to announce Colorado's Southwest Resource Advisory Council (RAC) 2022 schedule of public meetings. As noted by the BLM, “The 15-member RAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues in the Southwest District, including the Uncompahgre, Tres Rios, and Gunnison Field Offices.” [Read more.](#)

Bears Ears and Grand Staircase-Escalante

National Monument Advisory Committees. On February 9, the BLM published a *National Call for Nominations for Site-Specific Advisory Committees* ([87 Fed. Reg. 7494](#)) which requests “public nominations for the Bureau of Land Management's (BLM) Bears Ears and Grand Staircase-Escalante National Monument Advisory Committees (MACs). The MACs provide advice and recommendations to the BLM on the development and implementation of management plans in accordance with the statutes under which the monuments were established.” Nominations must be received by March 11, 2022. [Read more.](#)

Interior Department Land and Mineral Management

Nominee. On February 8, the Senate Energy and Natural Resources Committee held a [second hearing](#) to consider President Biden's pick to be Assistant Secretary of the Interior, Land and Minerals Management. Nominee Laura Daniel-Davis previously answered questions from the panel in September 2021 and the “committee deadlocked on her nomination, voting 10-10 along party lines.” As in 2021, Republican lawmakers grilled Daniel-Davis on her past career opposing oil and gas and on the Biden administration's pause on new oil and gas leasing. During questioning, Daniel-Davis was non-committal in responding to

restarting stalled oil and gas leases on federal lands. [Read more.](#)

Federal Reserve Nomination. On February 3, President Biden's pick for Vice Chairwoman of Supervision at the Federal Reserve, Sarah Bloom Raskin, told Senate lawmakers it was "inappropriate" for "the central bank to steer business away from fossil fuel companies — despite previously calling on financial regulators to take stronger action to fight climate-related risks in the financial system." The nominee also told the Senate Banking Committee that the Federal Reserve should not "pick winners and losers" and "focus only on assessing climate-based risks facing banks." However, Ms. Raskin has made multiple public statements prior to the hearing that indicate her advocacy for "debanking" the fossil fuel industry, and she was pushed hard by Republican senators on her positions. "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). In fact, AAPL recently joined 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 – in opposing the nomination. [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.](#)

FEDERAL – Judicial

Overriding Royalties; Assignments; Leasing – Ohio. On January 28, in *Talmage v. Northwood Energy Corp.* (Case No. Case No. 2:17-cv-544), the U.S. District Court for the Southern District of Ohio (Eastern Division) addressed a dispute over the validity of overriding royalties arising from multiple assignments in the chain of title. The court first held that "The Bradley Override was not filed for record in

Noble County. Accordingly, it is not valid in Noble County unless one of the statutory exceptions—'actual and open possession' or enforcement 'between the parties thereto'—applies. The 'actual and open possession' exception does not apply. The question becomes whether, as to the Bradley Override, Northwood may be considered a 'party thereto.' It cannot." The court also addressed allegations that opposing parties tortiously interfered with their business relationships and contracts, but the court disagreed, and "is persuaded by the evidence presented at trial that both the Northwood Parties and the Bradley Parties acted with a good faith belief that their rightful interests were being ignored or impeded." The court also rejected allegations of conversion and unjust enrichment. In sum, the Bradley overriding royalty was deemed "not enforceable." [Read more.](#)

STATE – Legislative

Hydraulic Fracturing – Arizona. On February 7, HB 2829 was introduced by Rep. Myron Tsosie (D). The bill would prohibit hydraulic fracturing in the state. This piece of legislation is introduced every session and they always fail to advance in the Republican-led legislature. [Read more.](#)

Operator Monitoring; Seismic Activity – California. As an update to our 2021 reporting, on February 1, 2022, SB 25 died in committee. Sponsored by Sen. Melissa Hurtado (D), the bill would have required "the operator of a well, from the commencement of hydraulic fracturing until 30 days after the end of the hydraulic fracturing on the well, to monitor the California Integrated Seismic Network for indication of an earthquake of magnitude 2.7 or greater occurring within a radius of 5 times the axial dimensional stimulation area. If an earthquake of magnitude 2.7 or greater is identified, the bill would require the operator to immediately notify the division and inform the division when the earthquake occurred relative to the hydraulic fracturing operations, and would prohibit any further hydraulic fracturing to be done within the radius until the division has completed a certain evaluation and is satisfied that hydraulic fracturing within that radius does not create a heightened risk of seismic

activity. Within 72 hours of the occurrence of an unauthorized release of certain fluids, the bill would require the operator of the well to provide the division a written report containing certain information related to the release. Because a violation of these requirements would be a crime, the bill would impose a state-mandated local program." The bill had support from various business and industry groups but was opposed by certain environmental groups who believed the bill didn't go far enough. [Read more.](#)

Land Exchanges – Idaho. On February 1, SB 1251 was introduced by the Senate Resources and Environment Committee. "This legislation clarifies existing authority for Idaho's State Board of Land Commissioners (Land Board) to receive lands with pre-existing encumbrances in land exchanges. It further clarifies responsibilities of the Land Board when contemplating land exchanges with the federal government, and it provides for continuation of existing land uses subsequent to exchanges as approved by the Land Board." [Read more.](#)

Natural Gas Infrastructure – Illinois. On January 31, HB 5202 was introduced by Rep. Sonya Harper (D). The bill provides that "no land or personal property of any landowner shall be taken or infringed upon by eminent domain, easement, or other mechanism for the installation of any infrastructure for the distribution of natural gas that was approved without the express and written consent of the landowner or property owner. Provides that the Illinois Commerce Commission shall cancel any agreement or contract entered into in furtherance of any project if it determines that corrupt or fraudulent practices were engaged in by any individual in creation of the agreement, and the Commission has the authority to inspect and audit accounts and records of any entity relating to the execution and performance of any agreement entered into in furtherance of any project." [Read more.](#)

Income Taxes – Illinois. On January 31, HB 5228 was introduced by Rep. Natalie Manley (D). The bill provides that "when calculating the taxpayer's base

income, the taxpayer's federal adjusted gross income shall be modified to exclude the portion of the income or loss received from a trade or business conducted within and without Illinois or from a pass-through entity conducting business within and without Illinois that is not derived from or connected with Illinois sources." [Read more.](#)

Taxation – Indiana. On January 20, HB 1002 passed the House and has been introduced in the Senate. ([See a detailed provision summary in the Fiscal Note Statement](#)) Sponsored by Rep. Tim Brown (R), the bill contains various tax provisions including exemptions and credits related to the business personal property tax; sales tax exemption; and individual income tax, among other related provisions. [Read more.](#)

Probate and Trust Matters – Indiana. On January 20, HB 1208 passed the House and has been introduced in the Senate. Sponsored by Rep. John Young (R), the bill 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." [Read more.](#)

Land Management Procedures – Michigan. On February 1, Gov. Gretchen Whitmer (D) signed HB 4363 into law. Sponsored by Rep. Gary Howell (R), the bill amends the Exchange of State Lands statute to extend the time period for the Department of Natural Resources (DNR) to approve or deny an application for a proposed exchange of surplus state land for land owned by a private individual from 180 days to 210 days. The bill also amends the Land Exchange Facilitation Fund law to extend the time period for the DNR to approve or deny an application for a proposed negotiated sale of surplus state land from 180 days to 210 days. Finally, the bill requires the DNR to provide public notice at least 30 days before acquiring or making a decision to dispose of, lease, or develop land of more than 80 acres in size. [Read more.](#)

Recording Fees – Mississippi. *(Update to 1/31/22 Report)* On February 2, HB 719 passed the House. Introduced by Rep. Manly Barton (R), the bill amends certain filing fees charged by Chancery clerks for the recording of documents. [Read more.](#)

Independent Contractors – Mississippi. *(Update to 1/31/22 Report)* On February 2, HB 876 passed the House. Introduced by Rep. Charles Beckett (R), the bill would exempt from the definition of employee “Landwork performed by a petroleum landman on a contractual basis” and provides definitions of minerals, landwork and the conditions under which such landwork would be exempt. [Read more.](#)

Severance Taxes – Mississippi. *(Update to 1/17/22 Report)* On February 1, both HB 500 and HB 401 died in committee. For background, on January 6, HB 500 was introduced by Rep. Randy Boyd (R). The bill would amend current law to provide that interest owners are responsible for payment of severance taxes; provides for exemption from ad valorem taxes as noted; and provides that the “tax collector shall also transmit to the clerk of the chancery court of the county separate lists of any nonproducing oil, gas or other mineral interests in real estate which are sold to persons for nonpayment of taxes or which are offered for sale and, because no person bids the whole amount of taxes and costs incident to the sale of such

interest, revert to the owners of the surface estate under which such mineral interests are located,” among other related tax provisions. Similar House bill, [HB 401](#), was introduced by Rep. Donnie Bell (R) on January 5, 2022. [Read more.](#)

Mineral Estates Reversion – Mississippi. *(Update to 1/17/22 Report)* On February 1, HB 501 died in committee. For background, on January 6, HB 501 was introduced by Rep. Randy Boyd (R). The bill provides that “mineral estates separated from the surface estate shall revert to the owner of the surface estate after twenty years of nonproduction” and defines nonproduction. [Read more.](#)

Mineral Estates – Mississippi. *(Update to 1/17/22 Report)* On February 1, HB 721 and HB 973 died in committee. For background, on January 17, HB 721 was introduced by Rep. Donnie Bell (R). The bill provides “that mineral estates separated from the surface estate shall revert to the owner of the surface estate after ten years of nonproduction” and defines nonproduction. A Democrat version of the bill, [HB 973](#), was introduced by Rep. Bob Evans (D) on January 17. [Read more.](#)

Notaries Public – Mississippi. *(Update to 1/17/22 Report)* On February 1, SB 2035 died in committee. For background, on January 6, SB 2035 was introduced by Sen. Tyler McCaughn (R). The bill would amend existing law to revise the maximum fee permitted to be charged for notarial services and also revises the residency requirements to permit a nonresident who works or practices in the state to apply to be commissioned as a notary public. [Read more.](#)

Notarial Acts – Mississippi. *(Update to 1/31/22 Report)* On February 1, SB 2622 died in committee. For background, on January 17, SB 2622 was introduced by Sen. Jeremy England (R). The bill would’ve created the Remote Online Notarization Act, providing defined terms; provides for remote notarization using communication technology; provides certain restrictions; provides a procedure for a certificate of the notarial act; provides for the retention

of records; and authorizes the Secretary of State to promulgate rules. [Read more.](#)

Independent Contractor Status – Missouri. On January 27, SB 863 advanced to a second reading following its introduction by Sen. Bob Onder (R). The bill would provide for the recognition of independent contractor status based upon the provided criteria. [Read more.](#)

Clean Future Act – New Mexico. On January 13, HB 6, known as the Clean Future Act, was introduced by Rep. Siah Hemphill (D). The bill would impose certain emissions reductions and requirements as detailed. A [committee substitute](#) was filed on January 31 with further specific goals and benchmarks. [Read more.](#)

Oil and Gas Industry – New Mexico. On February 2, HB 200 was introduced by Rep. Larry Scott (R). The bill would require “certain state agencies to conduct a cost assessment for rules that impose new mandates on the oil and gas industry; requiring the development of recommendations to reduce costs to industry and a study of the impacts to consumers; [and] requiring reporting.” [Read more.](#)

Carbon Sequestration – New Mexico. On February 2, HB 205 was introduced by Rep. James Strickler (R). The bill would enact the Geologic Carbon Dioxide Sequestration Act, which provides “for the unitization of formations for subsurface sequestration of carbon dioxide; limiting liability of owners of sequestration facilities following transfer to state ownership; [and] establishing fees;” among other related provisions. [Read more.](#)

Gross Receipts Tax – New Mexico. On February 2, HB 207 was introduced by Rep. Jason Harper (R). The bill would provide “deductions to the gross receipts tax (GRT) for certain business-to-business transactions. HB207 allows for GRT deductions on accounting services, engineering services, financial management services, information technology services, human resources services, legal services, and temporary services, provided these sales are made to a sole proprietorship, a limited liability company, a

partnership, or a corporation; an entity with a New Mexico tax identification number or equivalent identification number from another state; or the purchaser presents to the seller a nontaxable transaction certificate or alternative evidence entitling a person to a deduction pursuant to [Section 7-9-43 NMSA 1978](#). Any such deduction must be reported as required by the taxation department.” [Read more.](#)

Oil Production – Utah. On January 31, SB 146 was introduced by Sen. Ronald Winterton (R). The bill 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. [Read more.](#)

Eminent Domain Modifications – Utah. On February 2, HB 304 was introduced by Rep. Casey Snider (R). The bill would modify eminent domain provisions to provide that “A county may not exercise eminent domain for the public use of a highway, street, or road on private property if the county has previously commenced any action in a court of competent jurisdiction to claim an [R.S. 2477](#) right-of-way, as that term is defined in Section [72-5-301](#), on the highway, street, or road, unless and until the county has prevailed and the court has granted the county an R.S. 2477 right-of-way for the highway, street, or road.” [Read more.](#)

Carbon Sequestration – Wyoming. On February 7, SF 47 was introduced by the Joint Committee on Minerals, Business and Economic Development. The bill 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.” [Read more.](#)

STATE – Regulatory

State Land Office – New Mexico. On February 10, the New Mexico State Land Office announced that the state Senate “confirmed all of Commissioner Stephanie Garcia Richard’s nominees to the New Mexico State Land Advisory Board and unanimously confirmed the State Land Office’s Director of Renewable Energy, Jeremy Lewis, to serve on the Renewable Energy Transmission Authority Board.” In December 2021, “three members’ terms expired, requiring Commissioner Garcia Richard to appoint three new members to the advisory board.”

[Read more.](#)

STATE – Judicial

Climate Change – Alaska. On February 28, the Alaska Supreme Court affirmed the dismissal of a lawsuit brought against the state Department of Natural Resources (DNR) by “young Alaskans” alleging that development of state natural resources contributed to climate change and is a “violation of the Alaska Constitution’s natural resources provisions as well as their individual constitutional rights.” In *Sagoonick v. State* (Case No. S-17297), the court first “found that the Superior Court had not erred by considering the requested relief as part of its political question analysis.” The court then followed its “sound precedent” to conclude that it could not make “the legislative policy judgments necessary to grant the requested injunctive relief.” The court also upheld the “Department of Environmental Conservation’s denial of the plaintiffs’ rulemaking petition, finding that the Department reasonably could conclude that the regulation sought ‘was inconsistent with the legislature’s statutory policies and thus outside its delegated authority.’” [Read more.](#)

Leasing – Texas. On January 26, the Texas Fourth Court of Appeals addressed a dispute regarding the most-favored-nations clause in three identical oil & gas leases in [EP Energy E&P Co. v. Storey Minerals, Ltd.](#) (Case No. 04-19-00534-CV). As reported by the Texas Civil Justice League, the appellate court “affirmed a \$41 million judgment against an operator for failing to

pay bonuses owed under a Most Favored Nation (MFN) clause. In a 2-1 decision, the court of appeals held that the plain meaning of the MFN clause required the operator to pay the bonus differential retroactively to the effective date of the primary lease, not prospectively from the effective date of the leases that triggered the MFN obligation.” Here, the court rejected the argument that EP “only had to make payments beginning on the acquired lease’s effective date *if* there were bonuses it decided were payable from that date from that date forward on acreage subject to the A leases.” As noted by the Texas Civil Justice League, “This decision should certainly be of interest to producers and land and royalty owners all over the Eagleford if their MFN clauses are similar to the one at issue here.” [Read more.](#)

Joint Operating Agreements – Texas. On December 29, 2021, in *1776 Energy Partners, LLC v. Freeport-McMoRan Oil & Gas LLC* (Case No. 04-20-00468-CV), the Texas Court of Appeals of Texas, Fourth District (San Antonio) addressed a case where 1776 Energy claimed the defendant “wrongfully withheld payments from oil and gas production and sought statutory interest on the withheld payments.” The trial court determined, as a matter of law, that the defendant “was entitled to withhold the payments under [subsection 91.402\(b\) of the Texas Natural Resources Code.](#)” While the case involved a complex procedural history, it essentially involved the alleged breach of joint operating agreements (JOAs). The court first found that the defendant failed to establish, as a matter of law, that a previous judgment “created a dispute concerning title that would affect distribution of payments subject to the JOAs.” The court then addressed statements that disputed the defendant’s assertion “that it had a reasonable doubt that 1776 Energy had clear title to the interests in the production proceeds. When viewing the evidence under the appropriate standard of review, we conclude 1776 Energy raised a genuine issue of material fact on whether” that “doubt was reasonable.” The court then held that because the defendant “failed to establish that it was entitled to judgment as a matter of law, and 1776 Energy presented evidence to the trial court that raised a genuine issue of material fact, we hold

summary judgment was improper.” As such, the court remanded the case back to the trial court on this issue. [Read more.](#)

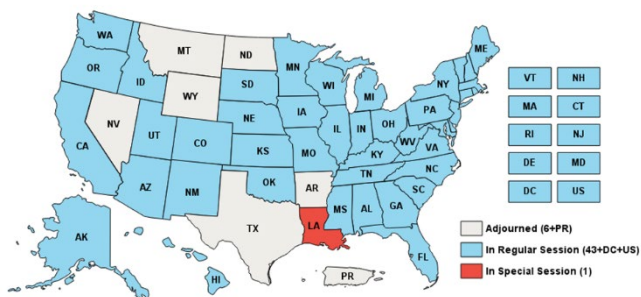
INDUSTRY NEWS FLASH

► **WTI Crude tops \$90 for the first time since 2014.** As reported by *Bloomberg News* on February 3, “oil shot across \$90 for the first time since 2014 as winter weather in the U.S. threatened to shut in some oil production while geopolitical tensions continued to keep investors on edge.” Crude oil “is heading for a seventh weekly gain, with banks including Goldman Sachs Group Inc. seeing oil moving toward \$100 a barrel.” [Read more.](#)

► **Chevron CEO to serve as Chairman of the American Petroleum Institute's Board of Directors.** According to reporting by the *Oil & Gas Journal* on February 3, "Mike Wirth, chairman and chief executive officer of Chevron Corp., will serve as chairman of American Petroleum Institute's (API) board of directors for a 2-year term. Wirth, who was elected chairman, effective Jan. 1, 2022, succeeds Greg Garland, chairman and chief executive officer of Phillips 66. Garland will remain a member of API's executive committee." [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



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Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin are in regular session. The **U.S.** Congress is also in session.

The following states are scheduled to convene their 2022 legislative sessions on the dates provided:
Arkansas and **Wyoming** (February 14) and **Louisiana** (March 14).

New Mexico is scheduled to adjourn on February 17.

Special Session Notes: The **Louisiana** legislature convened for a special session on redistricting on February 1, reports the [*Louisiana Illuminator*](#). The special session is expected to last until February 20.

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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.](#)

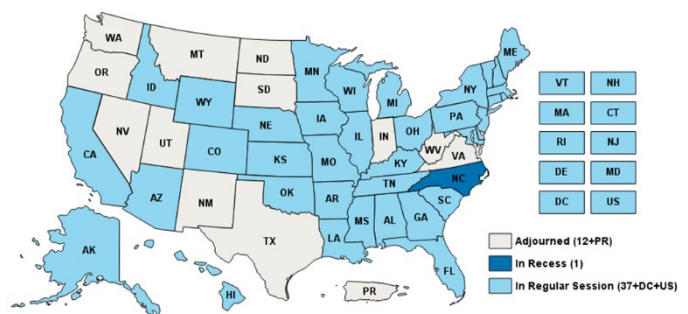
INDUSTRY NEWS FLASH

► **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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