

GOVERNMENTAL AFFAIRS REPORT

Highlights At-A-Glance

FEDERAL – Legislative

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

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

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

S. 5216 – Close Big Oil Tax Loopholes Act.

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

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

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

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

FEDERAL – Regulatory

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

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

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

FEDERAL – Judicial

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

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

[Read more.](#)

STATE – Legislative

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

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

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

[Read more.](#)

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

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

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

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

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

STATE – Regulatory

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

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

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

Orphan Wells Mitigation Program – Colorado.

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

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

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

INDUSTRY NEWS FLASH

► Donald Trump announces 2024 presidential run.

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

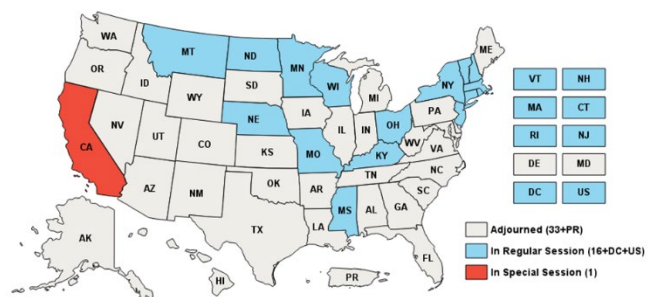
► **Louisiana to gain 3,500 oil and gas jobs by mid-2023.** A new report from Louisiana State University's Center for Energy Studies "predicts Louisiana will regain thousands of jobs in the oil and gas industry by the middle of 2023. Research professor Greg Upton says, "this year Louisiana has already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

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

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

LEGISLATIVE SESSION OVERVIEW

States in Session



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

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

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

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

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

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

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

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

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Highlights At-A-Glance

FEDERAL – Legislative

H.R. 21 – Strategic Production Response Act.

On January 9, [H.R. 21](#), known as the Strategic Production Response Act, was introduced by Rep. Cathy McMorris Rodgers (R-WA). The bill would “provide for the development of a plan to increase oil and gas production under oil and gas leases of Federal lands under the jurisdiction of the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Interior, and the Secretary of Defense in conjunction with a drawdown of petroleum reserves from the Strategic Petroleum Reserve.” In short, the bill “would prevent the Department of Energy from releasing oil from the country’s Strategic Petroleum Reserve (SPR) until the administration develops a plan to increase the percentage of federal lands that are leased for new oil and gas production.” [Read more](#). While Energy Secretary Jennifer Granholm expressed concerns about the bill [in a letter to Congressional members](#) – particularly the need for emergency SPR drawdowns – Rep. McMorris Rodgers pushed back saying the measure would have “absolutely no effect” on the department’s emergency authorities regarding the oil reserve. [Read more](#).

H.R. 22 – Protecting America’s Strategic Petroleum Reserve from China Act.

On January 12, the first bill to pass the now Republican-led House telegraphed the new majority’s intentions to support the traditional oil and gas industry, domestic energy security, and develop abundant American natural resources. [H.R. 22](#), known as the Protecting America’s Strategic Petroleum Reserve from China Act, “prohibits the sale and export of crude oil from the Strategic Petroleum Reserve (SPR) to China. Specifically, the bill prohibits the Department of Energy (DOE) from selling petroleum products (e.g., crude oil) from the SPR to any entity that is under the ownership, control, or

influence of the Chinese Communist Party. Further, DOE must require as a condition of any sale of crude oil from the SPR that the oil not be exported to China.” According to bill sponsor, Cathy McMorris Rodgers (R-WA), “To date, President Biden has released more from the SPR than all U.S. presidents in history combined. Millions of barrels of that oil have gone to China, which now has the world’s largest government-controlled stockpile of oil. Draining our strategic reserves for political purposes and selling it to China is a significant threat to our national and energy security. This must be stopped, which is why I’m proud to join my Republican colleagues in passing H.R. 22, one of the most bipartisan votes on an energy bill in many years and multiple congresses.” [Read more](#).

H.R. 98 – Federal Land Freedom Act. On January 9, Rep. Andy Biggs (R-AZ) introduced [H.R. 98](#), known as the Federal Land Freedom Act. According to Rep. Biggs, “This legislation would empower states to control the development and production of all forms of energy on all available federal land within their state boundaries. It would also cut red tape that hinders a state’s ability to develop energy resources on federal land.” [Read more](#).

Permian Basin Congressman Appointed to House Energy and Commerce Committee.

Rep. August Pfluger (R), whose district includes Midland and Odessa, has been appointed to the House Energy and Commerce Committee for the 118th Congress. As reported, “With the appointment, Pfluger becomes the first West Texan to serve on the committee in nearly 50 years and the first member of Congress to represent Midland and Odessa on the committee.” Pfluger has been a vocal supporter of the oil and gas industry, domestic energy independence, and continued development of our natural resources. AAPL Governmental Affairs has already developed

a relationship with Rep. Pfluger's legislative staff, so this appointment is welcome news for our members. [Read more](#). In related news, Rep. Cathy McMorris Rodgers (R-WA) was chosen to serve as Chair of that influential committee, and Rep. Bruce Westerman (R-AR) will serve as Chair of the Natural Resources Committee. [Read more](#).

Federal Windfall Profits Tax Off the Table. In positive news for AAPL and its members, the much talked Biden administration call to impose a federal windfall profits tax on oil and gas producers is off the table for now. Speaking to an audience at a United Arab Emirates energy summit last week, Amos Hochstein, the White House's special envoy for energy security, said that the tax proposal is not supported by the Biden administration and is "off the table" at this moment. [Read more](#).

FEDERAL – Regulatory

Federal Greenhouse Gas Emissions Policy. On January 9, the White House Council on Environmental Quality (CEQ) issued guidance for federal agencies "to consider mitigation measures for greenhouse gases to the greatest extent possible when permitting new projects." [Read more](#). While the guidance, pursuant to the National Environmental Policy Act review process, is not a rulemaking, its purpose, according to the White House is "to help Federal agencies better assess and disclose climate impacts as they conduct environmental reviews, delivering more certainty and efficiency in the permitting process for clean energy and other infrastructure projects." [Read more](#). The notice of interim guidance, *National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions and Climate Change* (88 Fed. Reg. 1196), is open for public comment, and according to the CEQ, they intend "to either revise the guidance in response to public comments or finalize the interim guidance." The public comment period is open through March 10, 2023. [Read more here to submit a comment](#). As reported by the *Oil & Gas Journal*, the "Biden administration is reversing a Trump administration decision that withdrew a 2016 guidance on greenhouse gases (GHGs) issued under

President Obama. The Biden CEQ couches its new guidance in the rhetoric of crisis that activists used on global warming." [Read more](#). You may also access a detailed analysis of the CEQ guidance from law firm Vinson & Elkins [here](#).

Federal Trade Commission Proposed Rulemaking on Worker Non-Compete Agreements. On January 19, the Federal Trade Commission (FTC) published a proposed rulemaking, *Non-Compete Clause Rule* (88 Fed. Reg. 3482), that "would, among other things, provide that it is an unfair method of competition for an employer to enter into or attempt to enter into a non-compete clause with a worker; to maintain with a worker a non-compete clause; or, under certain circumstances, to represent to a worker that the worker is subject to a non-compete clause." The term "worker" would also apply to an independent contractor or sole proprietor who provides a service to a client or customer. The rule, if implemented, "would bar employers from entering into noncompete agreements with their workers, and require employers to rescind existing noncompete restrictions with current and former workers. The proposed rule supersedes state laws that are less protective of employees, but keeps the state law that provides employees greater protection. The proposed rule excludes franchisees from the definition of 'worker' and has a single, limited exception that applies to the sale of a business." [Read the FTC Press Release here](#). Employment law firm Troutman Pepper adds that, "the proposed rule does not apply to customer or employee nonsolicitation provisions or generally to confidentiality or nondisclosure agreements. The proposed rule applies a functional test for determining whether a clause is covered by the rule." The public comment period is open through March 20, 2023. [Read more](#). As reported by the American Society of Association Executives (ASAE), "Approximately one in five American workers – roughly 30 million people – are bound by a non-compete clause that prevents the employee from working for a competing employer or starting a competing business, typically within a certain geographic area and period of time after the employee's employment ends." And the ASAE further notes, that the FTC "estimates that the proposed rule

would increase American workers' earnings between \$250 billion and \$296 billion per year." [Read more.](#)

Office of Natural Resources Revenue; Federal Oil and Gas Valuation Information Collection. On January 9, the Interior Department's Office of Natural Resources Revenue (ONRR) published a notice of information collection, *Agency Information Collection Activities: Federal Oil and Gas Valuation; OMB Control Number 1012-0005* ([88 Fed. Reg. 1290](#)). With this notice, the ONRR "is proposing to renew an information collection." The "ONRR seeks renewed authority to collect information necessary to (1) verify proper reporting and payment of royalties and other amounts due pursuant to Federal oil and gas leases; (2) determine requests for prepayment or accounting and auditing relief for certain marginal properties; and (3) determine requests to exceed transportation and processing allowance limits. ONRR uses form ONRR-4393 (Request to Exceed Regulatory Allowance Limitation) as part of these information collection requirements." The public comment period is open through February 8, 2023. [Read more.](#)

BLM Lease Sale – Montana; Dakotas. On January 6, the Bureau of Land Management (BLM) announced that "the Montana-Dakotas State Office is initiating a 30-day scoping period to receive public input on 52 parcels in Montana and North Dakota totaling 20,951 acres that may be included in an upcoming lease sale." Per the BLM, the "lease sales that may be offered from these parcels would include updated fiscal provisions authorized in the Inflation Reduction Act: Minimum bids for all offered parcels will be \$10 per acre, an increase from the \$2 per acre minimum bid set in 1987; Royalty rates will be 16.67 percent, up from the previous minimum of 12.5 percent; and Rental rates will be \$3 per acre for the first two years, \$5 per acre for years three through eight, and \$15 per acre in years nine and ten. Prior to the Inflation Reduction Act, rental rates were \$1.50 per acre for the first five years and \$2 per acre for each year thereafter, rates originally set in 1987." The public comment period is open through February 9, 2023. [Read more.](#)

BLM Lease Sale – New Mexico. On January 6, the BLM announced that the "New Mexico State Office released an environmental assessment analyzing 45 parcels (10,123.91 acres) for the proposed May 2023 Competitive Oil and Gas Lease Sale. These include 26 parcels located within Cheyenne County, Kansas (6,844.42 acres) and 19 parcels located within Eddy, Lea, and Chaves Counties, New Mexico (3,279.49 acres)." The release of the BLM environmental assessment starts a 30-day public comment period, that will end on February 6, 2023. [Read more.](#)

BLM Draft Resource Management Plan and Environmental Impact Statement – North Dakota. On January 20, the BLM published a *Notice of Availability of the Draft Resource Management Plan and Draft Environmental Impact Statement for the North Dakota Field Office* ([88 Fed. Reg. 3757](#)). The notice states that the BLM "has prepared a draft resource management plan (RMP) and draft environmental impact statement (EIS) for the North Dakota Field Office and by this notice announces the opening of the comment period on the Draft RMP/EIS. This notice also announces the comment period on the BLM's proposed area of critical environmental concern (ACEC) within the RMP area." According to the BLM, "The planning area includes the entire state of North Dakota and encompasses approximately 58,500 acres of BLM-managed public land and 4.1 million acres of BLM-managed mineral estate." The notice also opens up a comment period as noted. [Read more.](#)

BLM Solar Energy Development and Programs. The BLM has announced that it "is developing an updated plan to guide responsible solar energy development on public lands through an [updated Solar Programmatic Environmental Impact Statement](#), which will help accelerate and continue momentum for the clean energy economy. As part of its ongoing effort to support responsible development of renewable energy on public lands, the Bureau of Land Management is holding a series of public scoping meetings to solicit feedback on the recently [announced](#) programmatic environmental impact statement for the BLM's utility-scale solar energy planning. The BLM is considering

updates to its 2012 [Western Solar Plan](#) that included six southwestern states—Arizona, California, Colorado, Nevada, New Mexico, and Utah—and is seeking comment regarding expanding its solar planning to include five additional states: Idaho, Montana, Oregon, Washington, and Wyoming.” The BLM has provided information for the virtual meetings and scheduled in-person meetings in multiple states. [Read more.](#)

BLM Resource Advisory Council Meetings – Colorado. On January 10, the BLM published a notice, *Northwest Resource Advisory Council Schedule of Quarterly Public Meetings, Colorado* ([88 Fed. Reg. 1402](#)). According to the notice, the Northwest Colorado Resource Advisory Council (RAC) will meet in 2023 as follows: “The RAC will host a field tour on January 25 and a meeting on January 26. The RAC will host a field tour on June 21 and a meeting on June 22. The RAC will host a field tour on October 4 and a meeting on October 5. All field tours will be held from 10 a.m. to 4 p.m. but may conclude earlier depending on the needs of the group. All meetings will be held from 8 a.m. to 3 p.m. All field tours and meetings are open to the public.” [Read more.](#)

BLM Information Collection to Cross Private Lands. On January 12, the BLM published a notice of information collection, *Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Information Required To Cross Private Land for Access to BLM Lands* ([88 Fed. Reg. 2117](#)). According to the BLM, this “form will gather information from the public that is required by private landowners in order to cross private lands in order to access BLM lands. The information is necessary to help ensure the accountability of those seeking to cross private lands in order to access BLM public lands.” The public comment period is open through February 13, 2023. [Read more.](#)

Interior Department Orphan Wells Program. (*Update to 11/28/22 Report*) On January 10, the Interior Department announced that Sec. Deb Haaland “issued a Secretary’s Order to establish an Orphaned

Wells Program Office to ensure effective, accountable and efficient implementation of President Biden’s Bipartisan Infrastructure Law’s historic investment in orphaned well clean up.” The new office will “ensure timely and transparent implementation of the new program and to enable better communication with states, Tribes and other partners.” For background, last year’s infrastructure bill allocated a \$4.7 billion investment in plugging and capping orphaned wells. As noted by the Interior Department, those funds are “divided into three programs: \$4.3 billion to be used to plug orphaned wells on state and private lands; \$250 million to cap orphaned wells on public lands, including in national parks, national forests, and wildlife refuges; and \$150 million to cap orphaned wells on Tribal lands.” [Read more.](#)

Lesser Prairie-Chicken Interior Department Rulemaking. (*Update to 12/12/22 Report*) On January 12, House and Senate Republicans sent a letter to Interior Secretary Deb Haaland asking the Interior Department to extend the effective date for a final rule listing the Lesser Prairie-Chicken under the Endangered Species Act. The lawmakers write, “There is no question that this listing will hurt our nation’s agricultural economy, hinder our oil and gas independence, increase utility costs, and prevent the development of renewable energy. If the goal of the rule is to conserve the habitat of the LPC, the Service should delay the effective date. The current plan to allow the final rule to become effective in less than 60 days after its publication severely limits the choices of those who can actually promote and protect the bird. We strongly urge you to delay the effective date to April 1, 2023.” [Read the letter here.](#) For background on our prior reporting and resource availability for public comment, on November 25, 2022, the Interior Department’s U.S. Fish and Wildlife Service (FWS) issued a final rule “listing two Distinct Population Segments (DPS) of the lesser prairie-chicken under the Endangered Species Act (ESA).” According to the FWS rule, *Endangered and Threatened Wildlife and Plants; Lesser Prairie-Chicken; Threatened Status With Section 4(d) Rule for the Northern Distinct Population Segment and Endangered Status for the Southern Distinct Population Segment* ([87 Fed. Reg.](#)

[72674](#)), “We determine threatened status for the Northern DPS and endangered status for the Southern DPS. This rule adds the DPSs to the List of Endangered and Threatened Wildlife. We also finalize a rule under the authority of section 4(d) of the Act that provides measures that are necessary and advisable to provide for the conservation of the Northern DPS.” As reported by the *Carlsbad Current Argus*, “The lesser prairie chicken was to be listed under the highest class of protections ‘endangered’ in a southern population segment covering southeast New Mexico and West Texas, the announcement read, and ‘threatened’ in the northern segment covering parts of northern Texas, Colorado, Oklahoma and Kansas. Industrial development like oil and gas extraction in the Permian Basin region, an area known as the U.S.’ busiest oilfield, along with agricultural land uses were known as primary threats to the bird and led to the listing.” *Natural Gas Intelligence* quoted an FWS official who said, the Southern DPS, which includes eastern New Mexico and the southwestern Texas Panhandle, “is in danger of extinction.” And the Northern DPS, which encompasses southeastern Colorado, south-central to western Kansas, western Oklahoma and the northeastern Texas Panhandle “is likely to become endangered in the foreseeable future.” Further, “A rule also is being finalized by USFWS to conserve the Northern DPS habitat for lesser prairie-chicken ‘while allowing greater flexibility for landowners and land managers.’” [Read more](#). The FWS also said it “continues to work with stakeholders to develop voluntary conservation agreements that will protect the lesser prairie-chicken and the native grasslands on which it depends while assuring that oil and gas and renewable energy development, ranching, agriculture and other activities continue.” The rule is effective January 24, 2023, unless the Interior Department agrees to extend the implementation date. [Read more](#).

Interior Department Office of Natural Resources Revenue. On January 17, the Interior Department’s Office of Natural Resources Revenue (ONRR) released its annual penalty inflation adjustment for royalty reporting and other violations. The final rule, *2023 Civil Monetary Penalty Inflation Adjustments*

([88 Fed. Reg. 2520](#)), increases the maximum civil monetary penalty dollar amounts for each of the violation categories as noted in the rule, which is effective as of January 13, 2023. [Read more](#).

Interior Department Offshore Renewable Energy Regulatory Authority. On January 17, the Interior Department announced, “the transfer of regulations governing offshore renewable energy activities – including workplace safety and environmental compliance – from the Bureau of Ocean Energy Management (BOEM) to the Bureau of Safety and Environmental Enforcement (BSEE).” According to Principal Deputy Assistant Secretary for Land and Minerals Management Laura Daniel-Davis, “This rule advances regulatory clarity and transparency for the offshore wind industry. It allows the bureaus to focus on ensuring that future clean energy development and operations continue to occur in a safe and environmentally responsible manner.” The Interior Department noted that this action “does not make substantive changes to current regulatory requirements, nor does it impose additional regulatory burdens.” [Read more](#).

U.S. Geological Survey New Web Portal for Borehole Data. On January 18, the U.S. Geological Survey (USGS) announced the creation of a new web portal for access to critical borehole data. Per the USGS, “This application, named the National Index of Borehole Information (NIBI), will allow natural-resource managers, industry and researchers to discover and access borehole - and core sample holdings from the USGS and state geological surveys through a single portal.” Lindsay Powers, program coordinator for the USGS National Geological and Geophysical Data Preservation Program, said, “The National Index of Borehole Information is a natural complement to the data- and sample preservation work with the state geological surveys. Whether you’re looking for critical-mineral potential, studying climate conditions, or tracking groundwater quality, you won’t have to go to a dozen different sites to find what you’re looking for. You’ll be able to discover these resources in one place.” As the USGS notes, “The drilling process is very expensive and may not be repeatable, so

preserving and providing access to these data and materials is vital to provide opportunities for reuse in the future. Cores provide a wealth of information about natural resources like oil, gas, critical minerals, water, past climate conditions or even the potential for storing carbon dioxide.” [Read more.](#)

STATE – Legislative

Administrative Decisions – Alaska. On January 19, HB 32 was introduced by Rep. Thomas “Tom” McKay (R). The bill relates to “appeals of administrative decisions related to oil or gas; [and] establishing an oil and gas production working group.” [Read more.](#)

Discharge Penalties – Alaska. On January 19, HB 33 was introduced by Rep. Andy Josephson (D). The bill relates to “penalties for discharges of oil and other pollution violations.”

Well Plugging – Colorado. On January 19, HB23-1069 was introduced by Rep. Karen McCormick (D). The bill would create the biochar in oil and gas well plugging working advisory group in the Oil and Gas Conservation Commission. “The work group's purpose is to make recommendations for the development of a pilot program to study the use of biochar in the plugging of oil and gas wells.” [Read more.](#)

Carbon Sequestration – Indiana. On January 19, SB 451 was introduced by Sen. Jon Ford (R). The bill provides provisions regarding the carbon sequestration pilot project. [Read more.](#)

Severance Tax – Mississippi. On January 10, HB 383 was introduced by Rep. Brent Powell (R). The bill would “extend the date of the repealers on those provisions that establish a temporarily reduced rate for the levy and assessment of severance taxes on the initial oil and natural gas produced from certain horizontally drilled wells and horizontally drilled recompletion wells.” [Read more.](#)

Severed Estates – Mississippi. On January 16, HB 742 was introduced by Rep. Bob Evans (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. [Read more.](#)

Notarial Services – Mississippi. On January 16, HB 821 was introduced by Rep. Shane Aguirre (R). The bill provides for instances where a notary public may charge for services and sets forth requirements for the commission of a notary public. [Read more.](#)

County-Owned Property – Mississippi. On January 16, SB 2312 was introduced by Sen. Chris Johnson (R). The bill establishes a competitive bidding process with right of first refusal for the lease or sale of county-owned property. [Read more.](#)

Orphaned Wells – Mississippi. On January 16, SB 2435 was introduced by Sen. Josh Harkins (R). The bill would create the Orphaned Well Partnership Program and provided related provisions and requirements under the program. [Read more.](#)

Pooling Notification Requirements – Montana. On January 19, LC1372 was introduced by Rep. Greg Oblander (R). Regarding pooling of interests, the bill would revise the existing notification section of the statute. [Read more.](#)

State Oil and Gas Conservation Commission – Nebraska. On January 12, LB 395 was introduced by Sen. Steve Erdman. The bill would change the compensation of members of the Nebraska Oil and Gas Conservation Commission. [Read more.](#)

Taxpayer Dividend Income Tax Rebate Fund; Federal Mineral Leasing Act – New Mexico. On January 13, HB 89 was introduced by Rep. James Townsend (R). The bill establishes the Taxpayer Dividend Income Tax Rebate Fund and provides that when the net receipts for that fiscal year of the money received by the state pursuant to the federal Mineral Leasing Act exceed the annual average amount, the excess shall be distributed to the Taxpayer Dividend Income Tax Rebate Fund. [Read more.](#)

State Renewable Energy Office – New Mexico. On January 13, HB 95 was introduced by Rep. Tara

Lujan (D). The bill provides that the state commissioner of public lands establish a renewable energy office. [Read more.](#)

Excess Oil & Gas Funds to Severance Tax Fund – New Mexico. On January 17, SB 26 was introduced by Sen. Roberto "Bobby" J. Gonzales (D). The bill would provide for the distribution of certain excess oil and gas tax revenues and federal mineral leasing act payments to the severance tax permanent fund. [Read more.](#)

Oil and Gas Regulation – North Dakota. On January 13, HB 1062 was introduced by the House Energy and Natural Resources Committee (R). The bill amends existing law "relating to regulation of oil and gas wells, service requirements, modernization of the notice requirement, updating position titles, clarification for mortgage insurance requirements, an exemption for specialized mill equipment, and flare mitigation." [Read more.](#)

Water Permit Hearings – North Dakota. On January 3, HB 1074 was introduced by the House Energy and Natural Resources Committee (R) and unanimously passed the House on January 17. The bill provides for public hearings related to water permits. [Read more.](#)

Oil Extraction Tax Exemption on Production from a Restimulation Well – North Dakota. On January 17, HB 1427 was introduced by Rep. Jason Dockter (R). The bill would create an oil extraction tax exemption on production from a restimulation well as provided. [Read more.](#)

Royalty Payment Information; Statements; Notifications; Payment Obligations; Inspection of Records – North Dakota. On January 18, HB 1520 was introduced by Rep. Bert Anderson (R). The bill updates existing law by providing requirements for royalty payment information and statements, ownership interest information statements, updated provisions related to the obligation to pay royalties, inspection of production and royalty payment records, and the resolution of spacing unit ownership interest disputes. [Read more.](#)

Permit Hearing Notices – North Dakota. On January 3, SB 2057 was introduced by the Senate Energy and Natural Resources Committee (R) and passed the Senate unanimously on January 13. The bill relates to changes made to the delivery of permit hearing notices. [Read more.](#)

Oil or Gas Well Sites – North Dakota. On January 3, SB 2058 was introduced by the Senate Energy and Natural Resources Committee (R) and unanimously passed the Senate on January 16. The bill relates to the jurisdiction of the regulatory authority and adding wellhead and equipment located at or on oil or gas well sites. [Read more.](#)

Well Plugging – North Dakota. On January 3, SB 2059 was introduced by the Senate Energy and Natural Resources Committee (R) and unanimously passed the Senate on January 17. The bill relates to the balance in the abandoned oil and gas well plugging and site reclamation fund. [Read more.](#)

Clean Natural Gas Capture and Emissions Reduction Program – North Dakota. On January 18, SB 2089, sponsored by the Senate Committee on Finance and Taxation (R), passed the Senate. The bill would create the Clean Natural Gas Capture and Emissions Reduction Program and provides governing provisions and appropriations. [Read more.](#)

Oil and Gas Production Tax County Allocations – North Dakota. On January 17, SB 2162, sponsored by Sen. Dale Patten (R), passed the Senate. The bill provides for oil and gas gross production tax allocations to counties. [Read more.](#)

Post-Production Royalty Oversight Program – North Dakota. On January 10, SB 2194 was introduced by Sen. Brad Bekkedahl (R). The bill would create a post-production royalty oversight program, and specifically that the program provides "technical assistance and support to landowners and mineral companies relating to royalty payment issues," among other related provisions. [Read more.](#)

Liens – North Dakota. On January 16, SB 2311 was introduced by Sen. Brad Bekkedahl (R). The bill amends existing law regarding well or pipeline construction liens and construction liens. [Read more.](#)

Oil and Gas Underground Storage – North Dakota. On January 16, SB 2317 was introduced by Sen. Jeffery Magrum (R). The bill amends existing law regarding provisions related to storage in an oil and gas reservoir, saline reservoir or aquifer, and storage in a salt cavern. [Read more.](#)

Enhanced Oil Recovery; Surface Owners – North Dakota. On January 11, HB 1272 was introduced by Rep. Mike Lefor (R). The bill amends existing law relating to the jurisdiction of the industrial commission and reviewing the enhanced oil recovery potential status of a well and rights of surface owners. [Read more.](#)

Oil Extraction Tax Rate Change – North Dakota. On January 11, HB 1286 was introduced by Rep. Craig Headland (R). The bill amends existing law to retain the oil extraction tax rate at 5 percent. [Read more.](#)

Oil Refining Capacity – North Dakota. On January 11, HCR 3006 was introduced by Rep. Vicky Steiner (R). The concurrent resolution urges “Congress to support policies to increase oil refining capacity in the United States.” [Read more.](#)

State Oil and Gas Leasing – Ohio. *(Update to 1/9/23 Report)* On January 6, Gov. Mike DeWine signed [HB 507](#) into law. “The bill requires, rather than authorizes, every state agency to lease agency-owned or controlled resources for development until the date on which the nomination procedure rules are adopted by the Commission. The state agency must enter the lease in good faith. The bill specifies the person seeking to lease the resources must submit proof of both of the following to the state agency: 1. Insurance and financial assurance; and 2. Registration with the Division of Oil and Gas Resources.” The bill “also includes, as ‘green energy,’ energy generated by using natural gas as a resource.” [Read the complete bill summary here.](#) As reported by state news outlets,

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

Keystone XL Pipeline – Pennsylvania. On January 9, Senate Resolution (SR) 9 was introduced by Sen. Wayne Langerholc (R). The resolution urges “the President of the United States to restart and expedite the completion of the Keystone XL pipeline.” [Read more.](#)

Railroad Commission – Texas. On January 12, HB 1296 was introduced by Rep. Vikki Goodwin (D). The bill relates to the recusal of a member of the Railroad Commission of Texas in certain matters. [Read more.](#)

Railroad Commission – Texas. On January 12, HB 1302 was introduced by Rep. Charlie Geren (R). The bill relates to inspections and examinations by the Railroad Commission of Texas of certain sites and facilities conducted using unmanned aircraft. [Read more.](#)

Federal Regulation of State Oil and Gas

Operations – Texas. On January 13, SB 470 was introduced by Sen. Drew Springer (R). The bill would limit federal regulation of oil and gas operations within the state. [Read more.](#)

Modifies Oil and Gas Severance Tax Provisions –

Utah. On January 18, SB 107 was introduced by Sen. Ronald Winterton (R). The bill modifies provisions related to oil and gas severance tax, specifically, the bill creates the Impact Projects Restricted Account (restricted account) to fund loans and grants to local governments impacted by mineral resource development; funds the restricted account with above-trend revenue from the oil and gas severance tax; directs the Permanent Community Impact Fund Board to award loans and grants from the restricted account for infrastructure projects intended to address the impacts of mineral resource development; and provides appropriations. [Read more.](#)

Office of Oil and Gas of the Department of Environmental Protection Funding – West Virginia.

On January 11, HB 2021 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 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.](#)

Well Locations – West Virginia. On January 11, HB 2022 was introduced by Del. Evan Hansen (D). “The purpose of this bill is to provide that the limit of disturbance of a well site may not be closer to an occupied building than 2,500 feet.” [Read more.](#)

Standardized Oil and Gas Contracts – West Virginia. On January 11, HB 2174 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.](#)

Entry On Private Lands – West Virginia. On January 16, HB 2574 was introduced by Del. Chuck Horst (R). As to the authority of the Director of the Division of Natural Resources, “The purpose of this bill is to set forth limitations of entry onto private lands; clarify the process for law enforcement entry onto posted private lands; and clarify the use of surveillance cameras on or near posted private lands.” [Read more.](#)

Royalty Payment Tax Withholding – West Virginia.

On January 16, HB 2623 was introduced by Del. Kayla Young (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 also “provides exceptions, penalties, defines terms and grants rule-making authority.” [Read more.](#)

Orphan Oil and Gas Well Prevention Act – West

Virginia. On January 11, SB 109 was introduced by Sen. Randy Smith (R). “The purpose of this bill is to create the Orphan Oil and Gas Well Prevention Act” including “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; and providing for rule-making authority.” [Read more.](#)

Well Oversight Fee – West Virginia. On January 11, SB 13 was introduced by Sen. Randy Smith (R). Regarding well plugging, the bill establishes an annual

oversight fee for wells producing more than 10,000 cubic feet of gas per day. [Read more.](#)

Royalty Payment Tax Withholding – West Virginia.

On January 11, SB 60 was introduced by Sen. Charles Trump (R). The bill provides for the withholding of personal income tax on income from natural resources royalty payments for nonresidents. [Read more.](#)

Division of Natural Resources Management and Disposal of Property – West Virginia. On January 12, SB 161 was introduced by Sen. Craig Blair (R) and has passed both chambers as of January 20. The bill would amend the existing natural resources code property management section to provide that “The division shall have the authority, with the approval in writing of the Secretary of the Department of Commerce, to sell, lease, or otherwise dispose of property that is under the jurisdiction and control of the director. The director may convey property in exchange for money, security or property, both real and personal, and any interest in such property, including lands and waters, which he or she deems suitable for the purposes of the division.” [Read more.](#)

Carbon Sequestration – West Virginia. On January 12, SB 162 was introduced by Sen. Craig Blair (R) and has passed both chambers as of January 20. The bill would authorize “the director of the Division of Natural Resources to lease state-owned pore spaces underlying state forests, natural and scenic areas, and management areas, and other lands under the jurisdiction and control of the director for carbon sequestration; prohibiting the leasing of pore spaces underlying state parks; establishing competitive bidding process; providing for procedures and requirements; and authorizing the director to directly award a pore space under certain circumstances when necessary for an economic development project.” [Read more.](#)

Natural Resources Anti-Commandeering Act – West Virginia. On January 13, SB 183 was introduced by Sen. Patrick Martin (R). The bill would create the Natural Resources Anti-Commandeering Act with the purpose to protect employees of the State of West

Virginia and its political subdivisions from being commandeered by a federal agency or other agent to enforce federal regulations and other actions related to extractive resources or related downstream industries, which do not exist in state law. [Read more.](#)

Foreign Ownership of Property – Wyoming.

On January 17, HB 116 was introduced by Rep. Bill Allemand (R). The bill amends existing law to provide for provisions prohibiting foreign property ownership in Wyoming. [Read more.](#)

Severance Tax Refunds – Wyoming. On January 18, HB 163 was introduced by the Select Federal Natural Resource Management Committee (R). This bill establishes severance tax refunds for specified oil, natural gas and coal severance taxes based on increased federal mineral royalty (FMR) rates. [Read more.](#)

State Land Leases – Wyoming. On January 18, HB 171 was introduced by Rep. Andrew Byron (R). Relating to state lands, the bill provides for 30-day notice to be given before the lease of school lands; allowing county residents to match the highest bid for leases of school lands as specified; allowing the board of land commissioners to lease the school land to the highest bidder as specified; and providing for related provisions. [Read more.](#)

Ad Valorem Tax on Gross Product of Mineral Production – Wyoming. On January 10, SF 81 was introduced by Sen. Ogden Driskill (R). The bill updates existing law regarding ad valorem taxation on gross product of mineral production, and regarding the monthly payment of ad valorem tax on gross product of mineral production, provides that the tax year shall be the calendar year when mineral production occurs. The bill also updates the applicable calculation of the mill levy rate. [Read more.](#)

State Lands Exchange – Wyoming. On January 18, SF 128 was introduced by Sen. Larry Hicks (R). Relating to state lands, the bill would remove the requirement that state and federal lands be equal in size when exchanged by the state and the federal

government; and requires that federal and state land exchanges be subject to the orders, rules and regulations related to the exchange of lands.

[Read more.](#)

Phasing out Electric Vehicle Sales – Wyoming.

On January 10, [Senate Joint Resolution \(SJR\) 4](#) was introduced by Sen. Jim Anderson (R). The measure details the state's ongoing support of the Wyoming oil and gas industry and "encourages and expresses as a goal that the sale of new electric vehicles in the state of Wyoming be phased out by 2035." While some commentators have called the resolution a stunt, it serves the purpose of drawing attention to other states' misguided policies that seek to shut down domestic oil and gas production and harm the American people and our energy independence. As Sen. Anderson noted, "We just wanted to make a statement that there is a counter to stopping selling gas vehicles in other states." [Read more.](#)

STATE – Regulatory

CalGEM Supervisor Resigns – California.

On January 18, it was reported that the California Geologic Energy Management Division (CalGEM) supervisor, Uduak-Joe Ntuk, has resigned. A former Chevron engineer and first African-American to serve as state oil and gas supervisor, Ntuk "said by email he was not asked to resign and did so only to focus on his family while moving forward to the next phase of his career." He has been succeeded on an interim basis by Gabe Tiffany, chief deputy director of the state Department of Conservation. As reported, Ntuk had a "controversial tenure reflective of the high-stakes war playing out between the industry and environmental activists pushing the Newsom administration to do more to rein in petroleum production." [Read more.](#)

COGCC Stakeholder Meetings for Cumulative Impacts Permitting Process – Colorado.

On January 20, the Colorado Oil & Gas Conservation Commission (COGCC) "announced a series of stakeholder meetings to solicit initial input on the COGCC's approach to further address Cumulative Impacts in the permitting process. COGCC will use

this input to formulate next steps in the stakeholder process to help develop recommendations for the Commission." COGCC Commissioner Brett Ackerman said, "We want to encourage anyone who would like a voice on this issue to provide input on how the COGCC should continue to evaluate and address Cumulative Impacts. We view these first four meetings as a scoping process during which stakeholders can identify any relevant issues that are within COGCC's purview and mission, consistent with [SB 19-181](#)." All meetings will be virtual and the first will be held on January 27, 2023. The COGCC has also provided a comment form for public input. To access the announcement, meeting dates, and public comment information, [visit the COGCC website here](#). The COGCC has also provided a separate document with meeting dates and access information, [available here](#).

Oil and Gas Association Appointment – Ohio.

On January 16, it was announced that "Amanda Finn, director of external affairs at Ascent Resources in Cambridge, was elected the 38th chairman of the Ohio Oil and Gas Association. She is the youngest individual to serve in this role, as well as the first female and first shale operator." As reported by *USA Today*, "Finn previously served as vice chairman and treasurer of OOGA and chaired of the association's government affairs committee. In 2019, she earned OOGA's Oilfield Patriot Award, which recognizes an individual who has made significant contributions to protect, promote and advance the common interests of Ohio's crude oil and natural gas industry."

[Read more.](#)

State Regulatory Agenda – Pennsylvania.

Throughout last year, AAPL Governmental Affairs has provided members with regulatory tracking and analysis for multiple measures in Pennsylvania, including the Regional Greenhouse Gas Initiative and methane emissions reduction policies. On January 18, the environmental and energy practice at law firm Manko, Gold, Katcher & Fox LLP provided a comprehensive recap of the Pennsylvania regulatory agenda and what can be expected in 2023. To access this detailed resource, [Read more.](#)

STATE – Judicial

Los Angeles Oil and Gas Drilling Ban – California.

On January 10, Warren Resources, which operates an oil-extraction site in the city of Los Angeles, filed a complaint against the city challenging the recently adopted ordinance that bans new wells and phases out existing wells over the next 20 years, a measure that AAPL has been reporting on for members throughout last year. According to the complaint in *Warren E&P Inc. v. City of Los Angeles* (Case No. 23STCP0060A), “the new ordinance violates due process and amounts to a seizure of its property without just compensation.” The lawsuit also “contends the city’s actions are a violation of the California Environmental Quality Act, the city’s General Plan and the state and federal constitutions.” [Read more.](#) The company seeks a court order “directing the city to vacate the ordinance, as well as a preliminary injunction blocking any implementation or enforcement of the law while the suit proceeds.” According to the complaint, not only does the ban “effect a taking for which no just compensation has been paid, but a shutdown of the industry will eliminate good-paying jobs, leaving many jobless with no plausible equivalent replacement.” No publicly available copy of the complaint is yet available, but we will continue to track and report on the case as it proceeds. [Read more.](#)

INDUSTRY NEWS FLASH

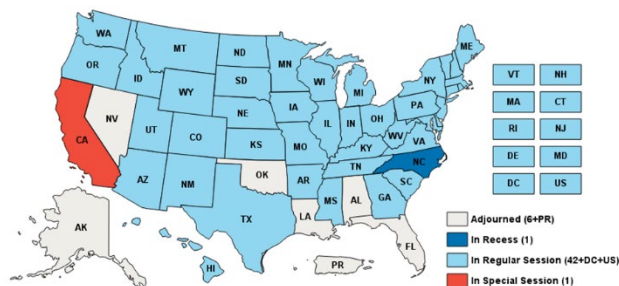
► **Appalachian Basin’s operators launch new coalition to monitor and reduce methane emissions.** On January 11, as reported by *Natural Gas Intelligence*, “Three of the Appalachian Basin’s leading upstream and midstream operators on Wednesday announced a new coalition aimed at better monitoring and reducing methane emissions throughout the Marcellus and Utica shales.” The new group, the Appalachian Methane Initiative, “said it would work to identify and fix fugitive methane emissions in the basin through coordinated satellite and aerial surveys that take into account advanced methane monitoring and reporting frameworks.” [Read more.](#)

► **Federal Reserve will stay out of climate change policymaking, says Chairman Powell.** On January 10, Federal Reserve Chairman Jerome Powell said it would be “inappropriate” for “the central bank to plunge itself into the fight against climate change.” Speaking to an audience at a central banking symposium in Stockholm, Sweden, “Powell said while the Fed must make sure banks are prepared for climate-related financial risks, it must not take measures to steer money toward green energy or away from the fossil fuel sector.” Further, Powell said, “Without explicit congressional legislation, it would be inappropriate for us to use our monetary policy or supervisory tools to promote a greener economy or to achieve other climate-based goals. We are not, and will not be, a ‘climate policymaker.’” [Read more.](#)

► **API releases 2023 State of American Energy Report.** On January 11, the American Petroleum Institute (API) released its 2023 State of American Energy report, which according to API, outlines “the policies needed to make, move and improve American energy and prioritize U.S. natural gas and oil as a long-term strategic asset.” API CEO Mike Sommers said, that while the “state of American energy is strong and resilient” [...] “we need policies to enhance the American energy supply chain and not hinder it. The State of American Energy could be much stronger through bipartisan cooperation, a reversal of rhetoric from the Administration, and serious policies that encourage investment and enable development.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming are in regular session. The U.S. Congress is also in session.

North Carolina adopted a [joint resolution](#) on January 11 to recess until January 25.

Tennessee adopted a [joint resolution](#) on January 12 that schedules both chambers for recess on January 21. The Senate is scheduled to reconvene on January 24 and the House on January 30.

The following states are scheduled to convene their 2023 legislative sessions on the dates provided: **Alaska** (January 23) and **Nevada** and **Oklahoma** (February 6).

Signing Deadlines (by date): **Michigan** Democratic Gov. Gretchen Whitmer has 14 days from presentment to sign or veto legislation or it is pocket vetoed. **North Carolina** Democratic Gov. Roy Cooper has 10 days from presentment to act on legislation or it becomes law without signature.

The following states are currently holding interim committee hearings: [Alabama](#), [Alaska](#), [Florida House](#) and [Senate](#), [Louisiana](#), [Nevada](#), and [Oklahoma House](#) and [Senate](#).

The following states are currently posting 2023 bill drafts, pre-files and interim studies: [Alaska](#), [Florida](#), [Nevada](#) and [Oklahoma](#). ■

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GOVERNMENTAL AFFAIRS REPORT

Highlights At-A-Glance

FEDERAL – Legislative

H.R. 21 – Strategic Production Response Act.

(Update to 1/23/23 Report) On January 27, the House passed [H.R. 21](#), known as the Strategic Production Response Act. [Read more](#). However, its passage is unlikely in the Democrat controlled Senate and President Biden issued a formal veto threat on January 23, opposing the bill even if it passes both chambers of Congress. [Read the Statement of Administration Policy \(H.R. 21\) here](#). Introduced by Rep. Cathy McMorris Rodgers (R-WA) and supported by the House Republican caucus, the legislation would “provide for the development of a plan to increase oil and gas production under oil and gas leases of Federal lands under the jurisdiction of the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Interior, and the Secretary of Defense in conjunction with a drawdown of petroleum reserves from the Strategic Petroleum Reserve.” In short, the bill “would prevent the Department of Energy from releasing oil from the country’s Strategic Petroleum Reserve (SPR) until the administration develops a plan to increase the percentage of federal lands that are leased for new oil and gas production.” [Read more](#). While Energy Secretary Jennifer Granholm expressed concerns about the bill [in a letter to Congressional members](#) – particularly the need for emergency SPR drawdowns – Rep. McMorris Rodgers pushed back saying the measure would have “absolutely no effect” on the department’s emergency authorities regarding the oil reserve. [Read more](#).

H.R. 23 – Family and Small Business Taxpayer

Protection Act. On January 9, [H.R. 23](#), known as the Family and Small Business Taxpayer Protection Act, passed the House on the same day as its introduction by Rep. Adrian Smith (R-NE). The bill, which was cosponsored by 82 Republican House members,

would rescind the appropriation made under the prior Congress which funded the hiring of 87,000 new IRS agents under the Inflation Reduction Act. “The last thing the American people need right now are more audits from an out-of-control, bloated IRS,” said Rep. Smith. “The Inflation Act funding for IRS would lead to the hiring of 87,000 new IRS employees tasked with raising enough revenue to pay for Democrats’ Green New Deal priorities. This is unacceptable, which is why Rep. Steel and I are leading the House of Representatives in a bill to rescind this spending. Our bill leaves in place funding for customer service and IT improvements because IRS is in desperate need of reform, but it protects middle-class families from audits they cannot afford.” [Read more](#). President Biden issued a formal veto threat on January 9, opposing the bill even if it passes both chambers of Congress. [Read the Statement of Administration Policy \(H.R. 23\) here](#).

H.R. 150 – Protecting American Energy

Production Act. On January 9, Rep. Jeff Duncan (R-SC) introduced [H.R. 150](#), known as the Protecting American Energy Production Act. “This bill prohibits the President from declaring a moratorium on the use of hydraulic fracturing unless Congress authorizes the moratorium. The bill also expresses the sense of Congress that states should maintain primacy for the regulation of hydraulic fracturing for oil and natural gas production on state and private lands.” [Read more](#).

H.R. 356 – Federal Oil and Gas Leasing. On January 13, Rep. Jerry Carl (R-AL) introduced [H.R. 356](#).

The bill would “require the Secretary of the Interior to conduct a minimum number of oil and gas lease sales in certain areas, to prevent delays in oil and gas leasing.” [Read more](#).

House Energy & Commerce Committee Hearing.

On January 31, the House Energy & Commerce Committee held a full hearing, “American Energy Expansion: Strengthening Economic, Environmental, and National Security.” The agenda included testimony from a former Trump-era Energy Department official as well as private and public stakeholders and research analysts. You may access a [full video recording and witness testimony from the hearing here](#).

House Energy & Commerce Committee Roundtable on American Energy Security.

On January 26, the House Energy & Commerce Committee held a roundtable discussion on American Energy Security. The roundtable included lawmakers, energy representatives and academic scholars. You may [access a video recording of the event here](#).

S. 11 – Secure Auction For Energy Reserves Act of 2023. On January 23, Sen. John Barrasso (R-WY) introduced [S. 11](#), known as the Secure Auction For Energy Reserves Act of 2023, or SAFER Act of 2023. The bill would “amend the Energy Policy and Conservation Act to require the Secretary of Energy to stipulate, as a condition on the sale at auction of any petroleum products from the Strategic Petroleum Reserve, that the petroleum products not be exported to certain countries, [and] to prohibit such sales to certain state-owned entities.” Of the bill, Sen. Barrasso said, “China is profiting from President Biden’s political abuse of the Strategic Petroleum Reserve (SPR). Meanwhile, America has become more vulnerable to true energy and national security emergencies. Our legislation will ban SPR sales to China and other hostile nations. It will also ban SPR sales to state-owned companies which purchase oil from Russia, Iran, and other nations the U.S. has sanctioned. Adversaries cannot be allowed to benefit from America’s security reserve.” [Read more](#).

S. 19 – Fracturing Regulations are Effective in State Hands Act. On January 23, Sen. Markwayne Mullin (R-OK) introduced [S. 19](#), known as the Fracturing Regulations are Effective in State Hands Act, or the FRESH Act. The bill would clarify that

“a State has the sole authority to regulate hydraulic fracturing on Federal land within the boundaries of the State.” [Read more](#).

S. 20 – Federal Land Freedom Act of 2023. On January 23, Sen. Markwayne Mullin (R-OK) introduced [S. 20](#), known as the Federal Land Freedom Act of 2023. The bill serves to “achieve domestic energy independence by empowering States to control the development and production of all forms of energy on all available Federal land.” In short, the bill “provides an avenue for state governments to lease, permit and regulate oil and gas exploration and development on federal lands located within their borders.” [Read more](#).

S. 23 – Promoting Cross-Border Energy Infrastructure Act. On January 23, Sen. Markwayne Mullin (R-OK) introduced [S. 23](#), known as the Promoting Cross-Border Energy Infrastructure Act. The bill “would eliminate a requirement that gives the president sole permit authority over cross-border crude oil, petroleum products, natural gas and electric transmission infrastructure approvals. Instead, the Federal Energy Regulatory Commission, an independent government agency, and Department of Energy would approve cross-border permits for petroleum and transmission lines, respectively.” Of the need for the bill, Sen. Mullin noted, “As we saw with the Keystone pipeline, there was literally billions of dollars in investment that was invested in that — they went through all the proper channels to get it done, they went through two presidents, but on the third president, he canceled it for no reason.” [Read more](#).

S. 31 – Strategic Production Response Act. On January 24, Sen. John Barrasso (R-WY) introduced [S. 31](#), known as the Strategic Production Response (SPR) Act, “to prioritize American energy production.” The bill “[w]ould prohibit the Secretary of Energy from tapping the SPR for reasons other than a severe energy supply interruption until the secretary of the Interior issues a plan to increase oil and gas production on federal lands and waters.” [Read more](#).

S. 67 – Fair and Transparent Gas Prices Act of 2023. On January 25, Sen. Catherine Cortez Masto (D-NM) introduced [S. 67](#), known as the Fair and Transparent Gas Prices Act of 2023. The bill would “require the Federal Trade Commission to conduct a study on conduct related to oil and gas prices.” According to Sen. Cortez Masto, her legislation would “investigate unfair practices, provide market transparency, and prevent price gouging by Big Oil and gas companies.” The bill would provide authority and resources to the Federal Trade Commission “to investigate large petroleum companies that could be engaging in market manipulation or price gouging.” [Read more.](#)

FEDERAL – Regulatory

BLM Information Collection; Geothermal Resources.

On January 27, the Bureau of Land Management (BLM) published a notice of information collection, *Agency Information Collection Activities; Geothermal Resource Leases and Unit Agreements* ([88 Fed. Reg. 5373](#)). The “BLM uses this information to issue geothermal leases in BLM-managed lands, and in national forests and other lands managed by the U.S. Forest Service (USFS).” The public comment period is open through March 28, 2023. [Read more.](#)

BLM Plats of Survey – Nebraska; Wyoming. On January 23, the BLM published a *Filing of Plats of Survey, Wyoming and Nebraska* ([88 Fed. Reg. 4017](#)). According to the BLM, “These surveys, which were executed at the request of the U.S. Forest Service and the BLM are necessary for the management of these lands.” The public protest period for these surveys runs through February 22, 2023. [Read more.](#)

Interior Department Orphaned Well Draft Guidance for Grants. On January 30, the Interior Department announced that it has “released [draft guidance](#) to states on how to apply for \$500 million in formula grant funding available under President Biden’s Bipartisan Infrastructure Law to create jobs cleaning up polluted and unsafe orphaned oil and gas wells across the country. The Bipartisan Infrastructure Law provides \$2 billion for state formula grants, part of a total \$4.7

billion to address orphaned wells across the country. An initial \$560 million in grant funding was allocated to states in August 2022.” According to the Interior Department, “The historic investments to clean up these hazardous sites will create good-paying union jobs, catalyze economic growth and revitalization, and reduce harmful methane leaks.” The Interior Department will be accepting comments on the draft guidance through February 24, 2023. [Read more.](#)

Lesser Prairie-Chicken Interior Department

Rulemaking. (*Update to 12/12/22 Report*) On January 24, the U.S. Fish and Wildlife Service (FWS) delayed the effective date of their Lesser Prairie-Chicken rule, *Endangered and Threatened Wildlife and Plants; Lesser Prairie-Chicken; Threatened Status With Section 4(d) Rule for the Northern Distinct Population Segment and Endangered Status for the Southern Distinct Population Segment* ([87 Fed. Reg. 72674](#)), which was set to go into effect on January 24, 2023, and will now be effective on March 27, 2023. For background on our prior reporting, on November 25, 2022, the FWS published a final rule listing two Distinct Population Segments (DPSs) of the Lesser Prairie-Chicken under the Endangered Species Act. Per the FWS, “We determined threatened status for the Northern DPS and endangered status for the Southern DPS. This rule will add the DPSs to the List of Endangered and Threatened Wildlife. We also finalized a rule under the authority of section 4(d) of the Act that provides measures that are necessary and advisable to provide for the conservation of the Northern DPS.” According to the FWS, “This delay will allow us to finalize conservation tools and guidance documents and prevent confusion and disruption with other Federal agencies under section 7 of the Act.” The implementation of the rule, however, may be challenged by Congressional Republicans through the [Congressional Review Act](#) which can nullify a rule, and certain states are also preparing their own disapproval resolutions. For example, Kansas [SCR 1062](#) (Disapproving the designation of the lesser prairie-chicken as a threatened species in Kansas by the United States Fish and Wildlife Service) was introduced on January 23 and passed the state Senate the same day. It now moves to the state

House for consideration. We will keep members informed as these actions develop. [Read more.](#)

Interior Department Office of Restoration and Damage Assessment Advanced Notice of Proposed Rulemaking.

On January 18, the Interior Department Office of Restoration and Damage Assessment (ORDA) published an advanced notice of proposed rulemaking, *Natural Resource Damages for Hazardous Substances* ([88 Fed. Reg. 3373](#)). According to the ORDA, they are “seeking comments and suggestions from state, tribal, and federal natural resource co-trustees, other affected parties, and the interested public on revising the simplified Type A procedures in the regulations for conducting natural resource damage assessments and restoration (NRDAR) for hazardous substance releases.” With the proposed rule, the Interior Department “is proposing to re-formulate the Type A Rule as a procedural structure for negotiated settlements by utilizing tools tailored to incidents of smaller scale and scope.” The public comment period is open through March 20, 2023. [Read more.](#)

Office of Natural Resources Revenue Offshore Leasing Information Collection. On January 26, the Office of Natural Resources Revenue (ONRR) published a notice of information collection, *Agency Information Collection Activities: OCS Net Profit Share Payment* ([88 Fed. Reg. 5038](#)). Per the ONRR, this information collection request “seeks renewed authority to collect information necessary to determine net profit share payments due the United States pursuant to Outer Continental Shelf (‘OCS’) oil and gas leases.” The public comment period is open through March 27, 2023. [Read more.](#)

Office of Natural Resources Revenue Information Collection; Osage Mineral Estate – Oklahoma. On January 30, the Office of Natural Resources Revenue (ONRR) published a notice of information collection (ICR), *Agency Information Collection Activities: Royalty and Production Reporting* ([88 Fed. Reg. 5916](#)), that is “proposing to revise a currently approved information collection to expand its scope to include the mineral estate underlying Osage County,

Oklahoma (‘Osage Mineral Estate’).” According to the ONRR, “this ICR revision adds information collections specific to oil and gas royalty and production reporting for the Osage Mineral Estate.” The public comment period is open through March 31, 2023. [Read more.](#)

U.S. Department of Agriculture Forest Service Rulemaking – Alaska. On January 27, the U.S. Department of Agriculture Forest Service published a final rule and record of decision, *Special Areas; Roadless Area Conservation; National Forest System Lands in Alaska* ([88 Fed. Reg. 5252](#)), which repeals “an October 2020 rule (the 2020 Alaska Roadless Rule) that exempted the Tongass National Forest (the Tongass) from the 2001 Roadless Area Conservation Rule (2001 Roadless Rule). Repealing the 2020 Alaska Roadless Rule will reinstate the pre-existing management regime, which prohibited timber harvest and road construction/reconstruction with limited exceptions within designated Inventoried Roadless Areas (IRAs).” The rule overturns a Trump-era policy that was more permissive and now prohibits “road construction, reconstruction and timber harvest in the rainforest’s roadless areas.” [Read more.](#)

FEDERAL – Judicial

EPA Air Plan Approval – Colorado. On January 23, environmental group, the Center for Biological Diversity, challenged the Environmental Protection Agency’s (EPA) approval of the Colorado Air Plan covering pollution and emissions by filing a Petition for Review of the adopted final rule approval in federal court. In *Center for Biological Diversity v. U.S. Environmental Protection Agency* (Petition No. not yet docketed), the group is seeking “to limit pollution from drilling and hydraulic fracturing for oil and methane gas in Colorado.” The group says, “The plan submitted to the EPA by Colorado’s Air Pollution Control Division to clean up the smog includes loopholes that allow unlimited air pollution from drilling and fracking.” The EPA has not yet responded to the petition. [Read more.](#)

BLM Chaco Canyon Leasing – New Mexico. On February 1, the U.S. Court of Appeals for the Tenth Circuit, on appeal from the U.S. District Court for the

District of New Mexico, in [*Diné Citizens Against Ruining our Environment v. Haaland*](#) (Case No. 21-2116), “suspended nearly 200 permits to drill oil and gas in the Chaco Canyon area, ruling the Bureau of Land Management failed to sufficiently analyze the cumulative environmental impacts.” In the opinion, the court held that while “the BLM adequately gauged water impacts” the agency did not “go far enough in assessing climate-warming greenhouse gases and air pollutants that could harm nearby communities.” Further, “The court’s three-judge panel also ordered a freeze on new permits in the Chaco area until the lower court finds a remedy for the permits’ faulty assessments.” [Read more.](#)

BLM Leasing – New Mexico. On January 23, environmentalist groups filed a lawsuit against the Interior Department and Bureau of Land Management seeking to invalidate federal leases arguing the “authorization and issuance of 32 oil and gas leases covering 5,942.36 acres of land in New Mexico administered by the Bureau’s Carlsbad Field Office” was done so in violation of the National Environmental Policy Act and the Federal Land Policy and Management Act. In *Citizens Caring for the Future v. Haaland* (Case No. 2:23-cv-60), the plaintiffs claim the “BLM hurried its environmental review process and ignored significant environmental impacts from development of the challenged oil and gas leases.” In short, the complaint alleges that in “authorizing and issuing the 32 lease parcels, BLM (1) failed to take a hard look at the direct and cumulative impacts of oil and gas leasing and development on the lease parcels, including impacts from greenhouse gas emissions and climate, from air pollutant emissions and human health, and to water resources; and (2) failed to provide a convincing statement of reasons to justify their decisions to forego an environmental impact statement.” Neither the Interior Department nor the BLM has yet responded to the complaint. [Read more.](#)

Cross-Unit Drilling – Pennsylvania. On January 24, in [*Warner Valley Farm, LLC v. SWN Production Company, LLC*](#) (Case No. 4:21-CV-01079), the U.S. District Court for the Middle District of Pennsylvania

upheld the constitutionality of state Act 85 which “authorized oil and gas lease operators to engage in cross-unit drilling if permitted under the relevant lease by removing other regulatory obstacles.” In the case, the lessor, Warner Valley Farm, argued there was a “breach of the oil and gas lease between them (the ‘2006 Lease’) because Defendants operated a cross-unit well, or a well with wellbores that extend beyond unit boundaries. Warner Valley contends that the 2006 Lease does not allow Defendants to drill cross-unit wells.” This ruling upholds drilling horizontal oil and gas wells across existing drilling units pursuant to Act 85, and the court noted in the opinion that the Act “replaces a restriction that prevented cross-unit drilling in the past—the 330-foot setback limit—with less burdensome restrictions, which only require a lessee to have the right to drill on both units and reasonably allocate the royalties among the respective lessors. Therefore, although Act 85 eases regulatory barrier to cross-unit drilling, it leaves the issue of whether cross-unit drilling is permissible to the parties. That does not insert new terms into or otherwise impair the 2006 Lease. The parties were and are still free to include the 330-foot setback requirement in the 2006 Lease, which would prevent cross-unit drilling. The mere fact that laws change does not frustrate Warner Valley’s reasonable expectations, especially in Pennsylvania’s heavily regulated oil and gas industry.” And as noted by Steptoe & Johnson, “The District Court further held that even if Act 85 substantially impaired the 2006 lease, it was justified by its goals of reducing the economic costs and environmental impacts of oil and gas drilling. Finally, the District Court held that the 2006 lease did not forbid cross-unit drilling, citing the broad terms of the lease’s pooling and unitization clause.” [Read more.](#)

STATE – Legislative

Carbon Sequestration and Storage – Alaska.

On January 27, HB 50 was introduced by the House Committee on Rules (R). The bill would create the Carbon Capture, Utilization, and Storage Act and provide for carbon capture, storage and the related regulatory implementation. [Read more.](#)

Property Assessments – Alaska. On February 1, SB 50 was introduced by the Senate Resources Committee (R). The bill amends existing law regarding “the assessment of property for the purposes of the oil and gas exploration, production, and pipeline transportation property tax.” [Read more.](#)

State Pension Funds Fossil Fuel Divesture – California. On January 30, [SB 252](#) was introduced by a group of Democrat senators. The bill, that was introduced last year and failed to pass, would “force the state’s public pension funds to divest from fossil fuels.” [Read more.](#)

Climate Corporate Data Accountability Act – California. On January 30, [SB 253](#) was introduced by a group of Democrat senators. The bill, known as the Climate Corporate Data Accountability Act, that was introduced last year and failed to pass, “would require corporations with more than \$1 billion in revenue that operate in California to publicly disclose their greenhouse gas emissions.” [Read more.](#)

Climate-Related Financial Risk– California. On January 30, [SB 261](#) was introduced by a group of Democrat senators. The bill, that was introduced last year and failed to pass, “requires companies that earn more than \$500 million in revenue to prepare climate-related financial risk reports.” [Read more.](#)

Los Angeles County Oil and Gas Drilling Ban – California. (*Update to 12/12/22 Report*) Following the city of Los Angeles which has banned new oil and gas drilling and will phase out existing production in 20 years, Los Angeles County has followed suit by voting to block new oil and gas drilling and will phase out of existing operations. On January 24, the Los Angeles County Board of Supervisors voted unanimously in favor of the ordinance which takes effect in 30 days. [Read more.](#) According to the Board, “the strategy for shutting down existing wells will be informed by an analysis of the financial, employment and health impacts. The ban doesn’t include the Baldwin Hills area, which encompasses the Inglewood Oil Field, one of LA’s most productive.” The city of Los Angeles is

already facing lawsuits challenging their ordinance that went into effect in January. [Read more.](#)

Oil and Gas Industry Workforce Transitions Study – Colorado. On January 19, HB23-1074 was introduced by Rep. Judith “Judy” Amabile (D). The bill would create a study regarding workforce transitions to other industries, and includes evaluating “the skill transferability of workers in the oil and gas industry and in occupations in Colorado that are facing the most disruption due to automation.” [Read more.](#)

Greenhouse Gas Emissions – Colorado. On January 10, [SB23-016](#) was introduced by Sen. Chris Hansen (D). [Access a complete bill summary here.](#) The bill would establish greenhouse gas (GHG) “reduction goals of 65 percent by 2035, and 80 percent by 2040, 90 percent by 2045, and increases the 2050 goal to 100 percent; and authorizes the Colorado Oil and Gas Conservation Commission (COGCC) to regulate Class VI Injection Wells after publicly determining that the COGCC has the necessary resources to ensure the safe and effective regulation of these wells;” among other related GHG reduction provisions. [Read more.](#)

Carbon Sequestration – Indiana. On January 11, SB 247 was introduced by Sen. Rick Niemeyer (R). The bill provides “that a carbon sequestration project may not be undertaken unless the project is approved by the county legislative body (for a project located in the unincorporated area of a county) or the city or town legislative body (for a project located in a city or town).” [Read more.](#)

Injection Well Fees – Kansas. On January 24, HB 2159 was introduced by the House Committee on Agriculture and Natural Resources (R). The bill would amend existing law to create certain fees for the regulation of underground injection control wells. [Read more.](#)

Severance Tax – Mississippi. On January 16, SB 2697 was introduced by Sen. Joel Carter (R) and passed the Senate on February 2. The bill would “extend the repealers on those provisions that

establish a reduced rate for the levy and assessment of severance taxes on the initial oil and natural gas produced from certain horizontally drilled wells and horizontally drilled recompletion wells.” [Read more.](#)

Orphaned Wells Crypto Mining – Mississippi.

On January 16, HB 1290 was introduced by Rep. Brent Powell (R) and has died in committee. The bill would “create the orphaned well cryptocurrency mining partnership program for the purpose of authorizing cryptocurrency miners to assume liability of plugging, remediating, or reclaiming orphaned wells, in return for temporary control of the energy from the well” and provides for regulation and administration of the program. [Read more.](#)

Notice Requirements – Montana. On January 19, HB 289 was introduced by Rep. Greg Oblander (R). The bill would revise “notice requirements for an owner’s share of costs to develop an oil or gas well.” [Read more.](#)

Corrections to Real Estate Recordings; Landman Definition – New Mexico. On January 31, HB 250 was introduced by Rep. Greg Nibert (R). The bill amends existing law regarding corrections to real property recordings. The bill adds a definition of “landman” regarding scrivener’s errors in affidavits and changes the parties who may execute a scrivener’s error affidavit to add a landman. The bill also amends the conditions under which a licensed attorney can execute the affidavit. [Read more.](#)

State Land Leasing Royalties – New Mexico.

On January 19, SB 164 was introduced by Sen. Bill Tallman (D). Regarding state lands, the bill would set the royalty rate on future oil and gas development leases on state trust lands to enhance revenue for beneficiaries; and requires a royalty on vented or flared gas. [Read more.](#)

Geothermal Resources – New Mexico. On January 19, SB 8 was introduced by Sen. Gerald “Jerry” Ortiz y Pino (D). Regarding geothermal resources, the bill would add geothermal resources to the center of excellence at the New Mexico Institute of Mining

and Technology; amends the duties of the Energy Conservation and Management Division of the Energy, Minerals and Natural Resources Department; Creates the geothermal resources development fund; authorizes grants; creates the geothermal resources revolving loan fund; authorizes loans; and make[s] related appropriations. [Read more.](#)

Natural Resource Damage Claims – New Mexico.

On January 19, SB 112 was introduced by Sen. Antoinette Sedillo Lopez (D). The bill amends existing law “to add language permitting the natural resources trustee to pursue natural resource damage claims related to the release of contaminants under state law,” which includes the Air Quality Control Act, the Hazardous Waste Act, and the Water Quality Act. House companion bill, [HB 91](#), was also introduced by multiple Democrat sponsors. [Read more.](#)

Abandoned Property Notice – New Mexico.

On January 26, HB 26 was introduced by Rep. Christine “Chris” Chandler (D) and passed the House on February 2. The bill “reinstates certain provisions regarding notice of abandoned property lists, requiring the Taxation and Revenue Department (TRD) to publish a notice of abandoned property in each county of the last known address of a person on the notice, or the last known address of that person’s principal place of business, and clarifies that advertisements must be likely to attract the owner, not just the general public.” [Read more.](#)

Energy Storage Tax Credits – New Mexico.

On January 18, HB 32 was introduced by Rep. Debra M. Sariñana (D). The bill “proposes a personal income tax credit of 40 percent of the cost of equipment and installation for an energy storage system installed for taxable years up to January 1, 2028. The credit is for installation of an energy storage system on the claimant’s residential, agricultural, or commercial property.” [Read more.](#)

Conservation Land Acquisition – New Mexico.

On January 18, HB 45 was introduced by Rep. Matthew McQueen (D). The bill would amend the Natural Heritage Conservation Act to provide for land

acquisition for conservation purposes. [Read more.](#)

Energy Storage Facilities – New Mexico.

On January 10, HB 67 was introduced by Christine “Chris” Chandler (D). The bill adds “energy storage facilities” to “the authority granted municipalities and counties to negotiate an industrial revenue bond (IRB). This parallels the authority granted these jurisdictions to negotiate an IRB for solar and wind production projects and for renewable energy transmission facilities. The bill also provides a gross receipts tax deduction for sales to governments of energy storage equipment.” [Read more.](#)

Natural Gas as Renewable Energy Resource – New Mexico. On January 18, [HB 96](#) was introduced by Rep. Jim Townsend (R). However, the bill has been rejected by Democrat leadership and is currently tabled. The bill would amend the definition of “renewable energy resources” under existing law “to include natural gas generated from combined cycle technology.” Rep. Townsend said the goal to “reclassify a form of natural gas-driven power as renewable energy” was a means to help meet the state’s electricity needs. Rep. Townsend, who represents part of the Permian Basin, “said he did not believe combined cycle natural gas was renewable despite the language in his bill. He said the legislation was aimed at supporting natural gas production, which Townsend argued was necessary to meet power demands throughout the state and avoid blackouts as other New Mexico leaders, mostly Democrats, endeavor to shift the state toward less-pollutive forms of energy.” [Read more.](#)

Clean Energy Definition; Public Utilities – New Mexico. On January 17, Sen. William P. Soules (D) introduced SB 74, the bill would amend “the Public Utility Act, to include a definition for ‘clean energy’ as only energy generated from solar heat, solar light, wind, geothermal reservoirs, biomass, or hydropower. SB74 would prevent the Public Regulation Commission (PRC) from approving any certificates of public convenience and necessity (CPCN) as required in Section 62-13-2 NMSA 1978 and would also prevent PRC from approving any integrated resource

plans (IRP) as required in Section 17.7.3.8 NMAC for facilities that do not produce ‘clean energy’ as defined by the bill.” [Read more.](#)

Oil and Gas Industry Scholarships – North Dakota.

On January 10, SB 2197 was introduced by Sen. Karen Krebsbach (R). The bill creates the Re-energize North Dakota scholarship which provides that “The state board of higher education may award scholarships for the purpose of recruiting and retraining individuals to work in the North Dakota oil and gas industry.” [Read more.](#)

Pore Space – North Dakota. On January 12, SB 2228 was introduced by Sen. Jeffery Magrum (R). The bill amends existing law relating to permit requirements for pore space storage and nonconsenting pore space owners. [Read more.](#)

Production and Royalties – North Dakota. On January 23, SB 2374 was introduced by Sen. Merrill Piepkorn (D). The bill relates to jurisdiction of the industrial commission and payment for production from wells and provides new language stating that “The commission may not determine the legal relationship between a lessor and a lessee or enforce lease terms or division orders.” The bill also amends existing law regarding “Information statement to accompany payment to royalty owner; Ownership interest information statement; Obligation to pay royalties; Inspection of production and royalty payment records; [and] Resolution of spacing unit ownership interest disputes.” [Read more.](#)

Remote Notarial Acts – North Dakota. On January 3, HB 1083 was introduced by the House Judiciary Committee (R). The bill updates existing notarial law by providing for remote notarial acts. [Read more.](#)

Legal Fees and Costs Related to Mineral Development – North Dakota. On January 18, HB 1510 was introduced by Rep. Lawrence ‘Larry’ Klemm (R). The bill amends existing law “relating to legal fees and costs a surface owner or mineral developer may be awarded in cases relating to the development of minerals.” [Read more.](#)

Gross Receipts Tax and Use Tax – South Dakota.

On January 18, HB 1137 was introduced by Rep. Chris Karr (D). The bill's purpose is to "reduce certain gross receipts tax rates and a use tax rate, and to repeal a conditional reduction of certain gross receipts tax rates." [Read more.](#)

Railroad Commission; Flaring – Texas. On January 19, HB 1459 was introduced by Rep. Jon Rosenthal (D). The bill relates "to the establishment by the Railroad Commission of Texas of a policy to eliminate the routine flaring of natural gas from wells or other facilities regulated by the commission." [Read more.](#)

Washout; Leases – Texas. On January 19, SB 501 was introduced by Sen. Bryan Hughes (R). The bill relates to "a cause of action for the bad faith washout of an overriding royalty interest in an oil and gas lease." [Read more.](#)

Drill Cuttings – Texas. On January 19, SB 502 was introduced by Sen. Bryan Hughes (R). The bill relates to "the treatment, recycling for beneficial use, or disposal of drill cuttings." [Read more.](#)

State Trust Lands Administration; Leasing – Utah. On January 24, HB 273 was introduced by Rep. Phil Lyman (R). This state trust lands administration amendments bill "modifies the administration of state trust lands." Specifically, the bill "defines terms; creates rulemaking authority for the sale, exchange, lease, or other disposition or conveyance of trust lands; adds criteria for the sale, lease, exchange, or other disposition of trust lands; and makes technical changes." [Read more.](#)

Mineral Lease Application Procedures

Amendments – Utah. On January 24, HB 321 was introduced by Rep. Kay Christofferson (R). This mineral lease amendments bill "modifies mineral lease application procedures." Specifically, this bill "introduces an online option for the disclosure of a mineral lease application; and modifies the deadline for disclosing an application." [Read more.](#)

Orphan Well Prevention Act of 2023 – West

Virginia. On January 20, HB 2852 was introduced by Del. Evan Hansen (D). The bill would create the Orphan Well Prevention Act of 2023 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.](#)

Division of Natural Resources Management and Disposal of Property – West Virginia. (*Update to 1/23/23 Report*) On January 24, SB 161 was signed into law by Gov. Jim Justice (R). [Read more.](#) The Act amends the existing natural resources code property management section to provide that "The division shall have the authority, with the approval in writing of the Secretary of the Department of Commerce, to sell, lease, or otherwise dispose of property that is under the jurisdiction and control of the director. The director may convey property in exchange for money, security or property, both real and personal, and any interest in such property, including lands and waters, which he or she deems suitable for the purposes of the division." The Act takes immediate effect. [Read more.](#)

Carbon Sequestration – West Virginia. (*Update to 1/23/23 Report*) On January 24, SB 162 was signed into law by Gov. Jim Justice (R). [Read more.](#) The Act authorizes "the director of the Division of Natural Resources to lease state-owned pore spaces underlying state forests, natural and scenic areas, and management areas, and other lands under the jurisdiction and control of the director for carbon sequestration; prohibiting the leasing of pore spaces underlying state parks; establishing competitive bidding process; providing for procedures and requirements; and authorizing the director to directly award a pore space under certain circumstances when necessary for an economic development project." The Act takes immediate effect. [Read more.](#)

Oil and Gas Well Inspections – West Virginia. On January 24, SB 448 was introduced by Sen. Randy Smith (R). "The purpose of this bill is to ensure that the WVDEP Office of Oil and Gas has sufficient money to inspect the oil and gas wells of the State of

West Virginia in an efficacious and diligent manner that protects the people and environment of the State from degradation related to violations of the West Virginia oil and gas production laws.” [Read more.](#)

Oil and Gas Refinery Development – Wyoming.

On January 21, SF 154 was introduced by Sen. Edward Cooper (R) and passed the Senate on February 2. The bill supports “efforts to maintain and expand the oil and gas industry in Wyoming through constructing and facilitating the construction of oil and gas refineries and the expansion of existing oil and gas refineries in Wyoming.” The bill provides for revenue bonds to finance construction or expansion of oil and gas refineries in Wyoming. [Read more.](#)

Forced Pooling; Drilling Units – Wyoming.

On January 21, SF 156 was introduced by Brian Boner (R). Regarding oil and gas forced pooling/drilling units, the bill specifies “that oil and gas operators must negotiate with mineral owners in good faith.” [Read more.](#)

Solar Production Taxation – Wyoming. On January 25, [HB 124](#) advanced through committee following its introduction by Rep. Albert Sommers (R). The bill, which would amend existing law, would “tax utility-scale solar power at the same rate as wind, after several members of the House Appropriations Committee argued that it would be unfair for the state to impose a production tax on some sources but not others.” Of the bill, Rep. Sommers said, “My whole idea here is that if we’re going to tax wind, then solar ought to likewise be taxed at a similar rate. I don’t see the difference in the two.” [Read more.](#)

Wind Energy Eminent Domain – Wyoming. On January 27, HB 106 passed the House following its introduction. The bill, sponsored by Rep. Allen Slagle (R), would reimpose a moratorium on the exercise of the power of condemnation for wind energy collector systems for a period of time as amended. [Read more.](#)

State Lands Improvements – Wyoming. On January 17, HB 114 was introduced by Rep. Steve Harshman (R). Relating to state lands, the bill revises “provisions

related to improvements made by a lessee of state lands; extending the maximum length of certain leases of state lands; authorizing leases for residential purposes; [and] specifying that leases are required to comply with minimum state standards.” [Read more.](#)

State Lands Task Force – Wyoming. On January 17, HB 131 was introduced by Rep. Bill Henderson (R). Relating to state lands, the bill “establish[es] a legislative task force on state lands and investments; specifying membership, powers and duties of the task force; specifying termination of the task force; requiring reports; [and] providing appropriations.” [Read more.](#)

State Lands; Land Exchange Notice – Wyoming.

On January 27, HB 20 passed the House following its introduction. The bill, sponsored by the House Agriculture Committee (R), and relating to land exchange notice and relating to state lands; “requiring notice and opportunity to comment before completing an exchange; and specifying applicability.” [Read more.](#)

State Land Lease Renewal; Compliance; Cure Process – Wyoming.

On January 27, HB 22 passed the House following its introduction. The bill, sponsored by the House Agriculture Committee, and relating to the state land lease deficiencies cure process, provides “for notification of noncompliance in a state land lease renewal; providing opportunities for compliance; [and] conforming time frames for lessee compliance.” [Read more.](#)

Conveyances to United States; Right of Refusal by State – Wyoming.

On January 26, HB 267 was introduced by Christopher “Chris” Knapp (R). The bill provides for “granting the state of Wyoming the right of first refusal for real property conveyances to the United States and federal agencies; specifying conditions for the purchase of property by exercising the right of first refusal; specifying duties for property owners and the board of land commissioners; providing a continuous appropriation; providing definitions; [and] making conforming amendments.” [Read more.](#)

State Lands – Wyoming. On January 26, SF 107 was introduced by Sen. Larry Hicks (R). Relating to state lands, the bill “provid[es] for the acquisition, exchange or sale of state trust lands as specified; [and] designating criteria for the sale and exchange of state trust lands.” The bill creates a definition of “isolated parcel” and provides for the disposal of such parcels that are 80 acres or less. [Read more.](#)

STATE – Regulatory

COGCC Carbon Sequestration Framework Proposal – Colorado. On January 25, the Colorado Oil and Gas Conservation Commission (COGCC) published a legislative proposal, [Creating Colorado's Carbon Sequestration Framework](#), as directed by the Governor's office. The proposal serves “to address the legal changes necessary to achieve a comprehensive regulatory regime for carbon capture, utilization, and storage (CCUS) in Colorado.” According to the Executive Summary in the 72-page report, “In preparation of this proposal, the COGCC solicited input from numerous stakeholders, conducted extensive legal and regulatory research, and incorporated recommendations from the Colorado CCUS Task Force and the Environmental Justice Advisory Board. This proposal intends to help enable legal and regulatory pathways for Colorado to drive and oversee CCUS deployment in a manner that encourages community involvement, up-front land use planning, protective growth and adaptation of infrastructure, improved coordination for permitting authorities, and adequate funding for state programs. Moreover, it positions the state of Colorado as a leader in emerging technologies that support the reduction of greenhouse gas (GHG) emissions.” [Read more.](#)

State Lease Form and Related Proposed Rulemaking – Ohio. On February 1, the state Oil & Gas Land Management Commission held a public hearing regarding the release of their draft standard lease form for those leases with the state and supporting proposed rulemaking. [Read more.](#) As noted in our prior reporting and news sources, “Frustrated with the commission's pace, [state](#)

[lawmakers passed House Bill 507](#) late last year ordering agencies to go forward with leases — bypassing the commission altogether until it adopts rules. That legislation takes effect April 7.” The next steps will be for the commission “to meet again in about a month.” Commissioner Ryan Richardson “plans to develop a draft of public notice procedures for the commission's review.” The provisions approved on February 1 “now head to Ohio's Common Sense Initiative and the Joint Commission on Agency Rule Review for consideration. It's possible a final rule will be in place by April 7, but it's not a certainty.” [Read more.](#)

Environment Department Infrastructure Development Report – New Mexico. On January 26, the New Mexico Environment Department announced the release of their 2022 Infrastructure Development Report from the Construction Programs Bureau. [Access the report here.](#) Per the report, “The Construction Programs Bureau (CPB) directly manages three funding sources, Capital Outlay Appropriations (CO), the Clean Water State Revolving Loan Fund Program (CWSRF), and the Rural Infrastructure Program (RIP). CPB engineering staff provide technical oversight for these funding programs as well as for programs funded by the New Mexico Finance Authority for water, wastewater, drainage, watershed restoration, and solid waste projects. Over \$40 million was disbursed from the directly managed programs and \$44 million was disbursed from the NMFA programs in the calendar year 2022.” [Read more.](#)

STATE – Judicial

Kern County Oil and Gas Permitting – California. (*Update to 11/28/22 Report*) On January 26, a California appellate court issued a stay which “ordered Kern County to again suspend oil and gas permitting pending a review of allegations filed by groups contending a local ordinance to streamline drilling approvals violates the California Environmental Quality Act.” Notably, the stay “does not affect more than 1,000 oilfield permits issued by the county since its permitting authority was restored Nov. 5 after a Kern

County Superior Court judge lifted a suspension in place for a little more than a year.” [Read more.](#) According to the California Independent Petroleum Association, “The suspension of issuing permits is anticipated to last several weeks until the full appeals court can hear the motion brought by the anti-oil groups. The likely impact on Kern will be a slowdown in drilling and other operations requiring Kern permits if the Court of Appeal does not hear the motion soon.” For background, on November 16, 2022, the California Geologic Energy Management Division issued a Notice to Operators (2022-06) addressing the lifting of a previous court order [on Nov. 5] that required Kern County to cease reviewing and approving oil and gas permits unless and until the court determines that the Ordinance complies with the California Environmental Quality Act (CEQA) requirements. As stated in the Notice, “Kern County may resume permitting of oil and gas operations as CEQA lead agency in unincorporated Kern County. With validity of Kern County’s Final Supplemental Recirculated Environmental Impact Report (SREIR) restored, the California Geologic Energy Management Division (CalGEM) will now be a responsible agency.” [Read more.](#)

Life Estates; Mineral Rights; Leasing – Wyoming.

On October 26, 2022, in *North Silo Resources, LLC v. Deselms* (Case No. 2022 WY 116A), the Wyoming Supreme Court addressed a case which “arises from a dispute over mineral ownership and the corresponding rights of a mineral lessee.” The mineral lessee sought a declaratory judgment and to quiet title in certain minerals underlying property in Laramie County, Wyoming, and also asserted a claim for breach of lease against the mineral owner. “The district court held that North Silo did not have standing to quiet title or to claim breach of its lease and that its mineral lease encumbers only 50% of the mineral estate.” North Silo Resources appealed. Here, the Supreme Court reversed the appellate court and held that “North Silo’s lease encumbers 100% of the mineral estate and had standing to quiet title and standing to assert a claim for breach of lease.” Further, the court held that life estate parties at issue “owned 100% of the mineral interests in the Property and the executive rights to

those minerals for their lives when they conveyed their interest to the Hutton Family Partnership.” Thus, accordingly, “North Silo’s mineral lease encumbers 100% of the minerals.” [Read more.](#)

INDUSTRY NEWS FLASH

► **Texas oil and gas upstream jobs continue to grow.** On January 23, it was reported that the Texas oil and gas industry “continues to add jobs, helping to fuel Texas’ record-breaking job growth.” The latest figures, from December 2022, show “the upstream industry added 1,300 jobs, bringing total new jobs added in 2022 to 36,100. This includes an additional 7,000 jobs in oil and natural gas extraction and 29,100 jobs in the services sector. The average monthly gain in Texas upstream employment last year was 3,127; total upstream employment in 2022 was 211,200.” [Read more.](#)

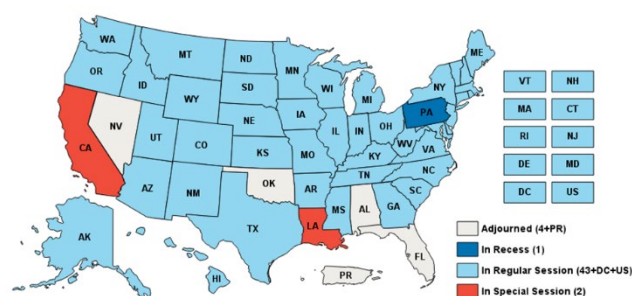
► **TXOGA releases annual Energy & Economic Impact Report.** On January 23, the Texas Oil & Gas Association (TXOGA) released its annual [Energy & Economic Impact Report](#) “highlighting the industry’s continued and unmatched economic impact, the Lone Star State’s global energy leadership, and what is needed to continue meeting our nation and the world’s energy needs.” Texas Gov. Greg Abbott (R) said of the report, “Energy is at the center of Texas’ booming economy, and the historic numbers in TXOGA’s report showcase the undeniable hard work of the 1.4 million Texans employed in our mighty oil and gas industry. Texas is—and always will be—a pro-energy state, and this report reflects our determination to protect energy jobs and bolster oil and gas production across our great state. Together, we are keeping Texas the energy capital of America and fostering a brighter economic future for generations of Texans.” [Read more.](#)

► **Texas oil and gas industry pays record taxes and royalties.** According to just-released data from the Texas Oil & Gas Association (TXOGA), the “Texas oil and natural gas industry has paid \$24.7 billion in

state and local taxes and state royalties – by far the highest total in Texas history.” The previous record of just over \$16 billion was set in 2019. According to the TXOGA data, this “translates to roughly \$67 million every day that pays for Texas’ public schools, universities, roads, first responders, and other essential services.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Hawaii, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming are in regular session. The U.S. Congress is also in session.

The following states are scheduled to convene their 2023 legislative sessions on the dates provided: **Nevada** and **Oklahoma** (February 6), **Alabama** and **Florida** (March 7) and **Louisiana** (April 10).

The following states are currently holding interim committee hearings: [Alabama](#), [Florida House](#) and [Senate](#), [Louisiana](#), [Nevada](#), and [Oklahoma House](#) and [Senate](#).

The following states are currently posting 2023 bill drafts, pre-files and interim studies: [Florida](#), [Nevada](#) and [Oklahoma](#). ■

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GOVERNMENTAL AFFAIRS REPORT

Highlights At-A-Glance

FEDERAL – Legislative

S. 64 – Water Rights Protection Act of 2023. On February 8, official bill text was made available for [S. 64](#), known as the Water Rights Protection Act of 2023. Introduced by Sen. John Barrasso (R-WY), the bill would “prohibit the conditioning of any permit, lease, or other use agreement on the transfer of any water right to the United States by the Secretary of the Interior and the Secretary of Agriculture.” Sen. Barrasso said, “Our bill will stop Washington from bullying our ranchers, farmers, tribal members, and other water users. It will make sure unaccountable agency bureaucrats can’t force them to give up their rights. States and local communities have the best knowledge and expertise to manage this critical resource. The Water Rights Protection Act will allow Wyoming to continue successful management by stopping Washington’s power grab.” [Read more.](#)

H.R. 647 – Unlocking our Domestic LNG Potential Act of 2023. On February 16, official bill text was made available for [H.R. 647](#), known as the Unlocking our Domestic LNG Potential Act of 2023. Introduced by Rep. Bill Johnson (R-OH), the bill would “repeal restrictions on the export and import of natural gas.” According to Rep. Johnson, “We have abundant energy resources right here in the Marcellus and Utica shale plays here in Ohio and across the country. We have the opportunity to lead on the world stage as a global provider of clean and abundant U.S. natural gas. If other countries can rely on America for their energy, they can rely less on cruel, energy-rich dictators like Vladimir Putin.” [Read more.](#)

H.R. 591 – Strategic Production Response and Implementation Act. On February 13, official bill text was made available for [H.R. 591](#), known as the Strategic Production Response and Implementation

Act. Introduced by Rep. Andy Biggs (R-AZ), the bill would “provide for the development of a plan to increase oil and gas production under oil and gas leases of Federal lands under the jurisdiction of the Secretary of Agriculture, the Secretary of Energy, the Secretary of the Interior, and the Secretary of Defense in conjunction with a drawdown of petroleum reserves from the Strategic Petroleum Reserve.” [Read more.](#)

H.R. 484 – Natural Gas Tax Repeal Act. On February 6, official bill text was made available for [H.R. 484](#), known as the Natural Gas Tax Repeal Act. Introduced by Rep. August Pfluger (R-TX), the bill would repeal the new section added to the Clean Air Act under last year’s Inflation Reduction Act relating to the methane emissions and waste reduction incentive program for petroleum and natural gas systems that imposed a methane tax. According to Rep. Pfluger, “New fees or taxes on energy companies will raise costs for customers, creating a burden that will fall most heavily on lower-income Americans.” [Read more.](#)

House Natural Resources Committee Hearing. On February 8, the House Committee on Natural Resources and Subcommittee on Energy and Mineral Resources held a hearing, *Unleashing America’s Energy and Mineral Potential*. [Access a full video recording of the hearing and witness testimony.](#) The “witnesses testified on numerous angles of an all-of-the-above energy approach, including oil, natural gas, renewables and hardrock minerals.” Among the witnesses was Kathleen Sgamma, President of the Western Energy Alliance. According to the hearing notice, the “hearing was the first step of many that Republican members will take to open up access to domestic energy and minerals, streamline permitting processes and engage with Americans from coast to coast on ways to conserve our resources for

generations to come.” [Read more.](#)

House Energy & Commerce Committee Hearing.

On February 7, the House Energy & Commerce Committee Joint Energy, Climate, & Grid Security Subcommittee and Environment, Manufacturing, & Critical Materials Subcommittee held a hearing, *Unleashing American Energy, Lowering Energy Costs, and Strengthening Supply Chains*. The hearing focused on a number of bills and proposed legislation on host of energy-related issues. [Read more.](#) The hearing presented witness testimony from numerous industry stakeholders, including Jeffrey Eshelman, President and Chief Executive Officer of the Independent Petroleum Association of America. You may [access a full video recording of the hearing and witness testimony here.](#)

House Natural Resources Committee Field Hearing and Site Visits – New Mexico; Texas.

On February 13, the House Committee on Natural Resources Chairman Bruce Westerman (R-AR) led “a group of Republican members to Texas and New Mexico for site visits and a field hearing on how federal energy production supports local communities.” The event, which included a tour of an oil and natural gas rig and hydraulic fracturing site and a hearing on how onshore leasing revenues bolster rural communities, also included Subcommittee on Energy and Mineral Resources Chairman Pete Stauber (R-MN), Subcommittee on Federal Lands Chairman Tom Tiffany (R-WI), and Rep. August Pfluger (R-TX), who represents part of the Permian Basin. You may [access a video recording of the hearing and press event here.](#)

House Energy & Commerce Subcommittee Field Hearing –Texas.

On February 16, the House Energy & Commerce Committee Subcommittee on Energy, Climate, and Grid Security held a field hearing in Midland, Texas, entitled *American Energy Expansion: Improving Local Economies and Communities’ Way of Life*. According to the notice, “The field hearing will examine the benefits, opportunities, and challenges to expanding American energy from the local energy community perspective.” Witnesses included Midland Mayor and President of Octane Energy Lori Blong,

Adrian Carrasco, Chairman of the Midland Hispanic Chamber of Commerce and President of Premier Energy Services, and Steven Pruett, President and CEO, Elevation Resources and Chairman of the Board for Independent Petroleum Association of America. You may [access a full video recording of the hearing and witness testimony here.](#)

FEDERAL – Regulatory

BLM Resource Advisory Council Meetings –

Colorado. On February 10, the Bureau of Land Management (BLM) announced a *Notice of Joint and Individual Colorado Resource Advisory Council Meetings (88 Fed. Reg. 8909)*. The BLM announcement provides the upcoming meeting dates for the Colorado Northwest Resource Advisory Council (RAC), Southwest RAC, and Rocky Mountain RAC. All of the meetings are open to the public and virtual participation options will be available. For background, the “Colorado RACs advise the Secretary of the Interior, through the BLM, on a variety of public land issues in Colorado.” Agenda items “may include recreation, land use planning, energy and minerals management, recreation, sage-grouse habitat management, and other issues as appropriate.” [Read more.](#)

BOEM Renewable Energy Modernization Proposed Rule.

On January 30, the Bureau of Ocean Energy Management (BOEM) published a notice of proposed rulemaking, *Renewable Energy Modernization Rule (88 Fed. Reg. 5968)*. According to the BOEM, “the Department has identified opportunities to modernize its regulations to facilitate the development of offshore wind energy resources to meet U.S. climate and renewable energy objectives. This proposed rule contains reforms identified by the Department and recommended by industry since 2010, including proposals for incremental funding of decommissioning accounts; more flexible geophysical and geotechnical survey submission requirements; streamlined approval of meteorological (met) buoys; revised project verification procedures; reform of BOEM's renewable energy auction process; and greater clarity regarding safety requirements. This proposed rule would

advance the Department of the Interior's (DOI) energy policies in a safe and environmentally sound manner that would provide a fair return to the U.S. taxpayer." According to law firm, Hunton Andrews Kurth LLP, "The proposed rule is intended to help jumpstart offshore wind development in the United States, supporting the Biden administration's goals of deploying 30 gigawatts of offshore wind energy by 2030 and 15 gigawatts of floating offshore wind energy by 2035." The public comment period is open through March 31, 2023. [Read more.](#)

EPA Greenhouse Gas Reduction Fund Guidance.

On February 14, the U.S. Environmental Protection Agency (EPA) "announced initial guidance on the design of the Greenhouse Gas Reduction Fund (GGRF) program, created by President Biden's Inflation Reduction Act. EPA published two Federal Assistance Listings outlining key parameters of the grant competitions that will ultimately award nearly \$27 billion to leverage private capital for clean energy and clean air investments across the country. Federal Assistance Listings are the first public notice requirement to implement a federal grant program." The EPA provided that they "will hold two competitions to distribute grant funding under the Greenhouse Gas Reduction Fund: [a \\$20 billion General and Low-Income Assistance Competition](#) and [a \\$7 billion Zero-Emissions Technology Fund Competition](#). EPA will implement these programs in alignment with President Biden's Justice40 Initiative, which directs that 40% of the overall benefits of certain Federal investments flow to disadvantaged communities, including those facing disproportionately high and adverse health and environmental impacts. EPA expects to open competitions for funding under the Greenhouse Gas Reduction Fund by summer 2023." [Read more.](#)

Federal Greenhouse Gas Emissions Policy. (*Update to 1/23/23 Report*) On February 16, the White House Council on Environmental Quality (CEQ) extended the public comment period on its greenhouse gas and climate change guidance for 30 days, now closing on April 10, 2023 (See [88 Fed. Reg. 10097](#)). For background, on January 9, the CEQ issued guidance for federal agencies "to consider mitigation measures

for greenhouse gases to the greatest extent possible when permitting new projects." [Read more.](#) While the guidance, pursuant to the National Environmental Policy Act review process, is not a rulemaking, its purpose, according to the White House is "to help Federal agencies better assess and disclose climate impacts as they conduct environmental reviews, delivering more certainty and efficiency in the permitting process for clean energy and other infrastructure projects." [Read more.](#) The notice of interim guidance, *National Environmental Policy Act Guidance on Consideration of Greenhouse Gas Emissions and Climate Change* ([88 Fed. Reg. 1196](#)), originally published in January, communicated that the CEQ intends "to either revise the guidance in response to public comments or finalize the interim guidance." The public comment period was originally open through March 10, 2023. [Read more here to submit a comment.](#) As reported by the *Oil & Gas Journal*, the "Biden administration is reversing a Trump administration decision that withdrew a 2016 guidance on greenhouse gases (GHGs) issued under President Obama. The Biden CEQ couches its new guidance in the rhetoric of crisis that activists used on global warming." [Read more.](#) You may also access a detailed analysis of the CEQ guidance from law firm Vinson & Elkins [here](#).

U.S. Fish and Wildlife Service Survival and

Incidental Take Permits. On February 9, the U.S. Fish and Wildlife Service (FWS) published a proposed rule, *Endangered and Threatened Wildlife and Plants; Enhancement of Survival and Incidental Take Permits* ([88 Fed. Reg. 8380](#)), which "propose to revise the regulations concerning the issuance of enhancement of survival and incidental take permits under the Endangered Species Act of 1973, as amended. The purposes of these revisions are to clarify the appropriate use of enhancement of survival permits and incidental take permits; clarify our authority to issue these permits for non-listed species without also including a listed species; simplify the requirements for enhancement of survival permits by combining safe harbor agreements and candidate conservation agreements with assurances into one agreement type; and include portions of our five-point policies

for safe harbor agreements, candidate conservation agreements with assurances, and habitat conservation plans in the regulations to reduce uncertainty. We also propose to make technical and administrative revisions to the regulations. The proposed regulatory changes are intended to reduce costs and time associated with negotiating and developing the required documents to support the applications. We anticipate that these improvements will encourage more individuals and companies to engage in these voluntary programs, thereby generating greater conservation results overall.” The public comment period is open through April 10, 2023. [Read more.](#)

U.S. Fish and Wildlife Service Petition Regulations Information Collection. On February 9, the U.S. Fish and Wildlife Service (FWS) published a notice of information collection, *Agency Information Collection Activities; Implementing Regulations for Petitions* (88 Fed. Reg. 8451), which seeks to renew an information collection regarding public “submissions of petitions to decisions on listing, delisting, or changing the status of a listed species, or revising critical habitat.” For background, “Any interested person may submit a written petition to the Services requesting to add a species to the Lists of Endangered and Threatened Wildlife and Plants (Lists), remove a species from the Lists, change the listed status of a species, or revise the boundary of an area designated as critical habitat.” The FWS invites the public to comment on the information collection used by the agency regarding this petition process. The public comment period is open through April 10, 2023. [Read more.](#)

FEDERAL – Judicial

BLM Leasing – North Dakota. On February 9, a group of environmental litigants filed a brief “responding to a federal lawsuit brought by North Dakota seeking to force the federal government to hold more oil and gas lease sales in the state.” In [State of North Dakota v. U.S. Dept. of Interior](#) (Case No. 1:21-cv-00148-DMT-CRH), the State of North Dakota sued the Interior Department for the BLM failing to hold quarterly oil and gas lease sales. The litigants argue that North Dakota

“seeks to compel BLM to hold oil and gas lease sales, and apparently to issue new leases, every three months while this litigation is ongoing. Courts have repeatedly ruled that they cannot order BLM to do so.” [Read more.](#)

BLM Leasing – Wyoming. On February 8, a number of environmental groups sought to intervene in a BLM leasing case in the U.S. District Court for the District of Wyoming “to defend the Biden administration’s 2021 postponement of several oil and gas lease sales.” In the case, [Wyoming v. U.S. Dept. of Interior](#) (Case No. 1:22-cv-00247-SWS), the State of Wyoming had challenged the Biden administration’s postponement of the leases. For background, in September 2022, the Wyoming court “affirmed the administration’s ability to postpone lease sales.” [Read more.](#) According to the intervenors, “The federal government holds broad authority over whether, when, and how to lease public lands for oil and gas development.” [Read more.](#)

Nuclear Waste Storage – New Mexico. On February 10, the U.S. Court of Appeals for the Tenth Circuit lost its challenge to the Nuclear Regulatory Commission’s decision to grant a license to store nuclear waste in the state. In *State of New Mexico v. U.S. Nuclear Regulatory Commission* (Case No. 21-9593), the State challenged the grant of the license to a private company to store spent nuclear fuel near the New Mexico border. The court held that New Mexico lacked jurisdiction for its petition “because New Mexico didn’t participate in the licensing proceeding or qualify as an aggrieved party. To the contrary, New Mexico just commented to the Commission about its draft environmental impact statement. Commenting on the environmental impact statement didn’t create status as an aggrieved party, so jurisdiction isn’t triggered under the combination of the Hobbs Act and Atomic Energy Act.” [Read more.](#)

STATE – Legislative

Carbon Offset Program – Alaska. On January 27, HB 49 was introduced by the House Rules Committee (R). “This bill establishes a statewide carbon offset

program within the Department of Natural Resources. The proposed offset program has the potential to generate an additional revenue stream for the State of Alaska through biologic carbon storage projects that can mitigate a portion of the carbon dioxide emitted by activities around the State, nation, and world. This offset program will allow private parties to lease state land in order to undertake carbon offset and management programs and would allow the Department of Natural Resources to implement its own carbon offset projects on State lands.”

[Read more.](#)

Oil and Gas Leasing and Development – Alaska.

On January 27, SJR 7 was introduced by the Senate Resources Committee (R). The purpose of this joint resolution is “Supporting oil and gas leasing and development within the National Petroleum Reserve in Alaska; and urging President Biden and the United States Department of the Interior to approve the Willow Master Development Plan.” [Read more.](#)

Solar and Wind Projects – Arizona. On February 7, HB 2702 was introduced by Rep. Quang Nguyen (R). Relating to solar or wind energy projects, the bill sets forth that “a business may not contract or subcontract with a resident of this state or a business in this state to construct a solar or wind energy project that reduces the size of a grazing lessee’s grazing operation unless the business compensates the grazing lessee” as provided. [Read more.](#)

Business Franchise Tax Repeal – Arkansas.

On January 24, HB 1239 was introduced by Rep. Kendon Underwood (R). HB 1239 would repeal the Arkansas Corporate Franchise Tax Act of 1979. “Under current law, a business formed in the state or transacting business in the state must file an annual report and pay an annual franchise tax to the Secretary of State. The first \$8,000,000 of franchise tax and penalty collected is General Revenue and any amount exceeding \$8,000,000 is transferred to the Educational Adequacy Fund. HB1239 repeals the Act so that the franchise tax, including all payment and reporting requirements, would cease.” [Read more.](#)

Underground Gas Storage – Arkansas. On February 16, SB 210 passed both chambers of the legislature. Sponsored by Sen. Missy Irvin (R), the bill amends the underground storage of gas law to include certain other gases. [Read more.](#)

Repeal Of Infrequently Used Tax Expenditures – Colorado. HB23-1121 passed the House on February 13. Introduced by Rep. Shannon Bird (D), the bill would repeal “infrequently used tax expenditures” which includes The oil shale excess percentage depletion income tax deduction; the mining and milling impact assistance corporate income tax credit; the oil shale equipment and machinery severance tax deduction; the oil shale processing severance tax deduction; the oil shale severance tax rate reductions; the oil shale noncommercial production severance tax exemption; and the mineral and mineral fuels impact assistance severance tax credit. [Read more.](#)

Clean Energy Resources – Idaho. On February 7, HB 96 was introduced by the House Committee on Environment, Energy, and Technology (R). The bill would amend “existing law to provide for the promotion and development of clean energy resources for declared purposes, to revise provisions regarding powers of the Idaho Energy Resources Authority, and to provide for clean energy generation projects.” [Read more.](#)

Oil and Gas Amendments – Idaho. On February 10, HB 210 was introduced by the House Committee on Resources and Conservation (R). The bill “Amends and repeals existing law to revise provisions regarding the Oil and Gas Conservation Commission, spacing units, oil and gas wells, the integration of tracts, reporting requirements, public data, confidentiality of well and trade information, rules, and royalties and to provide for minimum surface use bonds.” [Read more.](#)

Trusts; Estates; Testamentary Documents –

Illinois. On February 14, HB 2269 was introduced by Rep. Margaret Croke (D). The bill amends the Electronic Wills and Remote Witnesses Act and changes the short title of the Act to the Electronic Wills, Electronic Estate Planning Documents, and

Remote Witnesses Act. The bill defines various estate, trust, and testamentary terms and provides for electronic estate-related documents and signatures.

[Read more.](#)

Carbon Sequestration – Illinois. On February 10, SB 2421 was introduced by Sen. Laura Fine (D). The bill creates the Carbon Dioxide Transport and Storage Protections Act and defines certain terms. The bill provides “that (i) title to pore space belongs to and is vested in the surface owner of the overlying surface estate, (ii) a conveyance of title to a surface estate conveys title to the pore space in all strata underlying the surface estate, and (iii) title to pore space may not be severed from title to the surface estate. Notwithstanding any other provision of law, prohibits the amalgamation of pore space under the Eminent Domain Act.” The bill also makes other amendments to the law related to carbon sequestration, including requirements and permits. [Read more.](#)

Lesser Prairie-Chicken – Kansas. *(Update to 2/6/23 Report)* On February 9, SCR 1602 was adopted by the Kansas legislature. This measure, while not a law, is a “concurrent resolution disapproving the designation of the lesser prairie chicken as a threatened species in Kansas by the United States Fish and Wildlife Service and supporting efforts to remove such designation.” [Read more.](#)

Foreign Citizen Property Ownership – Montana. On February 2, SB 256 was introduced by Sen. Carl Glimm (R). The bill would prohibit ownership of private property within the state by citizens of enemy states. [Read more.](#)

Revise Court Cost Related to Natural Resources – Montana. On February 3, SB 271 was introduced by Sen. Steve Fitzpatrick (R). The bill would revise court costs related to natural resources. [Read more.](#)

Carbon Emissions – Montana. On February 7, HB 431 was introduced by Rep. Ed Stafman (D). Relating to carbon emissions, the bill provides “for limitations on certain carbon emissions” and provides for related rulemaking authority. [Read more.](#)

Stripper Oil Production Taxation – Montana.

On February 10, HB 485 was introduced by Rep. Joshua Kassmier (R). The bill would revise tax rates for stripper oil production. [Read more.](#)

Electronic Notarizations – Montana. On February 14, SB 330 was introduced by Sen. Greg Hertz (R). The bill would require county clerks to accept electronic notarizations. [Read more.](#)

Independent Contractors – Montana. On February 16, SB 22 passed the Senate. Introduced by Sen. Shane Morigeau (D), the bill provides an independent contractor analysis and provides that a person who does not have an independent contractor exemption certificate but is required to have one is conclusively presumed to be an employee. The bill also amends the independent contractor penalty provision. [Read more.](#)

Regulatory Taking; Property – Montana. On February 8, SB 287 was introduced by Sen. Steve Fitzpatrick (R). The bill provides for instances considered a regulatory taking related to property, including real property interests. [Read more.](#)

Tax Reform Bill – New Mexico. On January 17, SB 38 was introduced by Sen. William “Bill” Sharer (R). According to the official bill fiscal note and summary, [SB 38](#) “is a comprehensive, sweeping tax reform bill that eliminates most gross receipts tax (GRT) exemptions, deductions, and credits, significantly broadening the gross receipts tax base, lowers the GRT rates for the state but allows local governments to retain all local option GRT and compensating tax rates and changes the rates and brackets for personal and corporate income taxes. The bill repeals a number of tax acts, including the insurance premium tax and the motor vehicle excise tax, instead taxing these items through the GRT. In short, it turns the state’s current hybrid of a pure GRT and a conventional sales tax into a true GRT or turnover tax.” [Read a complete bill provision summary here.](#)

Nuclear Waste Storage – New Mexico. On February 7, [SB 53](#) passed committee following its introduction by Sen. Jeff Steinborn (D). Regarding nuclear waste

storage within the state, the bill “would expand the scope of an existing task force to negotiate with the federal government over disposal facilities. It would also prohibit the disposal of nuclear waste in New Mexico without the state’s consent.” [Read more.](#)

Tax Code Amendments – New Mexico. On January 19, [SB 147](#) was introduced by Sen. Benny “Junior” Shendo (D). The bill “is a Taxation and Revenue Department (TRD) agency bill that makes several small but significant administrative changes to the tax code.” [Read a full bill summary here.](#)

Oil & Gas Permit Applications – New Mexico. On February 1, HB 276 was introduced by Rep. Andrea Romero (D). The bill would amend the Oil and Gas Act in “authorizing the oil conservation division of the energy, minerals and natural resources department to require proof of insurance and fiscal solvency when submitting a permit application; [and] providing that a permit application may be denied based on poor compliance history.” [Read more.](#)

Flat Corporate Tax Rate – New Mexico. On February 6, HB 322 was introduced by Rep. Jason Harper (R). The bill would create a flat corporate tax rate. [Read more.](#)

Operator Income Tax Credits – New Mexico. On February 8, [HB 350](#) was introduced by a group of Republican lawmakers. The bill would “establish an ‘oil and gas emission reduction corporate income tax credit.’ A taxpayer that, on or after January 1, 2023, installs a purchased or leased vapor recovery unit that reduces emissions from oil and gas activity may apply for, and the New Mexico Taxation and Revenue Department (TRD) may allow, a credit against the taxpayer’s tax liability imposed pursuant to the Corporate Income and Franchise Tax Act.” As reported by the *Carlsbad Current Argus*, “If applied to all the about 110,000 oil and gas wells in New Mexico, according to the Energy Information Administration, that could equate to an about \$1.3 billion credit to the industry.” [Read more.](#)

Economic Transition Division – New Mexico.

On February 6, [HB 188](#) was reported favorably out of committee following its introduction by Rep. Angelica Rubio (D). “The bill appropriates a total of \$13.385 million from the general fund to the Economic Development Department for the purpose of creating an Economic Transition Division. The new division would be tasked with providing programmatic, funding, administrative, and logistical support for communities and workers in economic transition. The Division’s support would be targeted to aid disproportionately impacted communities and workers transitioning from natural resource extraction industries. The division is also responsible for preparing and publishing an economic transition action plan with 15 components.” As reported, the bill is being described as creating a “new state agency to shift New Mexico away from its dependence on oil and gas.” [Read more.](#)

Electronic Execution of Testamentary Documents; Notaries Public – Ohio.

On February 7, SB 46 was introduced by Sen. Kristina Roegner (R). The bill makes various amendments to existing law regarding the electronic execution of wills and other instruments and provides additional requirements regarding notaries public. [Read more.](#)

Transfer-on-Death Deeds; Beneficiaries – Oklahoma. On February 6, SB 298 was introduced by Sen. Brent Howard (R). The bill relates to transfer-on-death deeds and amends existing law relating to “acceptance of property; clarifying ability of grantee beneficiary to accept certain property; [and] clarifying effect of beneficiary affidavit executed prior to certain date.” [Read more.](#)

Bitcoin Mining Program – Oklahoma. On February 6, [SB 443](#) was introduced by Sen. John “Jim” Montgomery. The bill establishes the Orphaned Well Bitcoin Mining Partnership Program under the Corporation Commission and provides for related provisions to implement the program as detailed. [Read a complete bill summary here.](#)

State Strategic Petroleum Reserve – Oklahoma.

On February 6, SB 205 was introduced by Sen.

Nathan Dahm (R). The bill “creates the State Strategic Petroleum Reserve and directs the Legislature to appropriate any surplus funds that are not constitutionally required to be deposited into the Constitutional Reserve Fund or otherwise encumbered to the maintenance of the newly created Reserve. The measure specifies that the Reserve must contain at least 15 million barrels of oil. The measure provides that oil may be released from the Reserve by executive order of the Governor or by direction of the Legislature if certain conditions outlined in the measure are met.” [Read more.](#)

Pipeline Siting – South Dakota. On January 31, HB 1188 was introduced by Rep. Karla Lems (R). The bill provides “for property owner inclusion in the pipeline siting application and condemnation process.” [Read more.](#)

Eminent Domain; Pipeline Landowner Consent – South Dakota. On February 1, HB 1224 was introduced by Rep. Liz May (R). Regarding eminent domain by a pipeline company, the bill amends existing law to require “written consent of at least ninety percent of the landowners whose property may be subject to an easement for the proposed pipeline, and shall file a verified statement of the required landowner consent with the application for a permit.” [Read more.](#)

Sunset Law; Oil and Gas Regulation – Tennessee. On February 13, SB 58 unanimously passed both chambers of the Tennessee General Assembly. Sponsored by Sen. Kerry Roberts (R), the bill extends the termination date of the Tennessee Board of Water Quality, Oil, and Gas to June 30, 2028. Otherwise, under the Tennessee Governmental Entity Review Law, the board would terminate on June 30, 2023. [Read more.](#)

County Recorders – Utah. On February 2, HB 351 was introduced by Rep. Jordan Teuscher (R). The bill “modifies provisions related to county recorders.” Specifically, the bill “defines terms; establishes the County Recorder Oversight Board for the purpose of: establishing statewide standards and requirements for

county recorders and hearing and deciding appeals from decisions of county recorders; requires a county recorder to comply with the standards and requirements established by the board; describes the membership and appointment of board members; requires the Department of Commerce to provide staff support to the board; allows the board to require certain county recorders to remit a portion of collected fees to offset the board's administrative expenses; requires the board to report annually to the Legislature; and makes technical changes.” [Read more.](#)

Carbon Sequestration; Carbon Offset Agreements; Taxation; Covenants – West Virginia. On February 3, HB 3294 was introduced by Del. Bill Anderson (R). “The purpose of this bill is to balance the interests of current landowners and future landowners to ensure surface, minerals, and forest land may be developed for future economic gain by limiting use restrictions for forest carbon capture and sequestration to a maximum term of 20 years.” The bill provides various taxation, reporting, agreement, and covenant provisions related to the purpose of the bill. [Read more.](#)

Office of Oil and Gas in the Department of Environmental Protection – West Virginia. On February 20, HB 3110 advanced to its final reading in the House following its introduction by Del. Bill Anderson (R). “The purpose of this bill is to ensure that the WVDEP Office of Oil and Gas has sufficient money to inspect the oil and gas wells of the State of West Virginia in an efficacious and diligent manner that protects the people and environment of the State from degradation related to violations of the West Virginia oil and gas production laws.” [Read more.](#)

Royalties; Leasing – West Virginia. On February 13, SB 611 was introduced by Sen. Randy Smith (R). Regarding penalties for nonpayment of royalties under the terms of oil and natural gas leases during production from conventional vertical wells, “The purpose of this bill is to provide for enhanced damages for nonpayment of royalties due from oil, natural gas, or natural gas liquids production under the terms of a lease or other agreement.” House companion bill [HB 3335](#) was introduced on February 8. [Read more.](#)

STATE – Regulatory

Setbacks and Health Protection Zones Ballot Measure – California. *(Update to 1/9/23 Report)*

In a positive development for the oil and gas industry, on February 5, California Secretary of State Shirley Weber announced “that opponents of Senate Bill 1137 gathered more than 623,000 valid voter signatures and met the threshold to put the measure on the ballot as a referendum for next year’s general election on November 5, 2024. Voters will then weigh in on whether to approve or reject the measure.” As a result, the “California law banning the installation of new oil and gas wells near homes, schools, and other community facilities has been put on hold as voters will get a chance to vote on the measure through a referendum next year.” [Read more.](#) For background, on December 13, 2022, industry proponents of a ballot referendum seeking to overturn [SB 1137](#), which banned drilling within 3,200 feet of homes and other sensitive sites known as “health protection zones” announced they gathered more than enough signatures to put the measure on the November 2024 ballot asking voters whether to uphold the recently enacted state law. According to reporting, “Even if county registrars across the state were to confirm only about 64 percent of the signatures gathered are valid, it would still be just enough to at least delay implementation of Senate Bill 1137 for almost two years — a win for the industry.” [Read more.](#) Opponents of SB 1137 began the process of challenging the law’s implementation in September 2022 ([See Initiative 22-0006 here.](#)) The ballot measure was initially filed just days after Gov. Newsom signed SB 1137 into law in late 2022. [Read more.](#)

South Coast AQMD Proposed Rulemaking – California. On February 3, the South Coast Air Quality Management District (SCAQMD) published Proposed Amended Rule (PAR) 1148.2 (2023 Amendment) regarding Notification and Reporting Requirements for Oil and Gas Wells and Chemical Suppliers. [Read more.](#) The purpose of this AQMD proposed rule amendment “is to gather air quality-related information on oil and gas, and injection wells for drilling, well completion, rework, and acidizing.” A staff report for

the proposed rule amendment was released in January and [may be accessed here](#). According to the California Independent Petroleum Association (CIPA), “It is estimated that the written notification requirement to residences within 1500’ of a well being treated with acid could cost up to \$10,000 per project. Costs of this magnitude would cause delays or even prohibit work on wells that would allow production or injection to occur in a more efficient and environmentally advantageous manner. SCAQMD Staff estimates that this requirement will cost operators almost half-million dollars annually in compliance costs.” CIPA also reports, “The [SCAQMD] Governing Board voted unanimously to adopt the PAR with the caveat that the written notification requirement will be studied further to determine if a more cost effective and efficient method is available. The amended Rule will become effective in July 2023.” [Read more.](#)

Pension Fund Divestment from Firms Boycotting Oil and Gas Industry – Texas. On February 7, the Texas Tribune reported that the “Teacher Retirement System of Texas has divested part of its massive pension fund from 10 financial firms that the state comptroller singled out for ‘boycotting’ the oil and gas industry.” The state teacher’s pension fund has almost 2 million Texas educators and retirees who participate in the fund, “which is worth about \$173 billion” and reportedly “the sixth-largest such pension fund in the U.S.” For background, “in 2021, Texas lawmakers [prohibited state funds](#) from contracting with or investing in companies that divest from oil, natural gas and coal companies. In August 2022, Comptroller Glenn Hegar released [a list of 10 investment firms](#) and several funds that would be blocked from doing business with the state due to their climate-change-conscious investment strategies.” [Read more.](#)

Disposal Well Monitoring – Texas. On February 6, the Texas Railroad Commission (RRC) issued an advanced operator notice regarding “Disposal Well Monitoring and Reporting Requirements in the Permian Basin.” [Read more.](#) According to the notice, the RRC “will begin adding additional requirements to new disposal well permits in the Permian Basin to assist the agency and industry in monitoring and

responding to injection and reservoir conditions that may be conducive to induced seismicity.” The new permit language “will require the operator of the well to report daily injection data monthly” according to the provided criteria. [Read more.](#)

STATE – Judicial

Marketable Title Act – Ohio. On January 23, in [Chartier v. Rice Drilling D., L.L.C.](#) (Case No. 2023-Ohio-272), the Ohio Court of Appeals (Seventh District) addressed a dispute over the quantum of oil and gas interests the various litigants held based upon the history of the conveyances at issue. Here, the court agreed with the trial court that the mineral severance in a 1944 deed was extinguished because references in 1951 and 1976 deeds were ambiguous, which made them “general references” and thus held “that if the reference to the interest is general, it is insufficient to preserve a mineral rights reservation.” As noted by law firm Frost Brown Todd LLP, “Chartier highlights that there are two types of references that will be considered specific (or not ‘general’): (1) those that are very detailed (deed book, page, grantor, grantee, and interest severed), and (2) those that are identical, or nearly identical, to the original language. If the reference is somewhere in between, all bets are off because a determination of ambiguity becomes possible.” [Read more.](#)

Mineral Interest Reservations; Deeds – Texas.

On February 17, the Texas Supreme Court reversed an appellate decision involving the interpretation of a deed mineral reservation. In *Van Dyke v. The Navigator Group* (Case No. 21-0146), the appellant-plaintiffs – various successors in interest to original grantors of a 1924 deed – argued that the deed language reserving in the grantors “one-half of one-eighth of all minerals and mineral rights” reserved a one-half mineral interest. The defendant-appellees argued that the deed instead reserved only one-sixteenth of the minerals, conveying the remaining fifteen-sixteenths. In other words, the plain language of the deed provides the clear reading that “one-half of one-eighth” is one-sixteenth. However, the Van Dyke group of litigants argued that the “legacy of the 1/8”

and “estate misconception” doctrines required the court to conclude that the use of a double fraction always creates an ambiguity and established that the grantors actually only reserved one-half of the minerals. Here, the Supreme Court held, “This is not our first case involving double fractions, and it is likely not our last. But building on our precedents, and focused on our duty to faithfully interpret any legal text, we anticipate at least substantially reducing the frequency of disputes about double fractions. We conclude that an accurate construction of the 1924 text requires us to accept that the equation ‘one-half of one-eighth’ equals one-half of the mineral estate. Even if this were not so, nearly a century of the parties’ unbroken understandings and representations would require us to recognize that allocation of present day ownership by applying the presumed-grant doctrine.” Accordingly, the court reversed the judgment of the Court of Appeals and remanded the case back to the trial court for further proceedings. [Read more.](#)

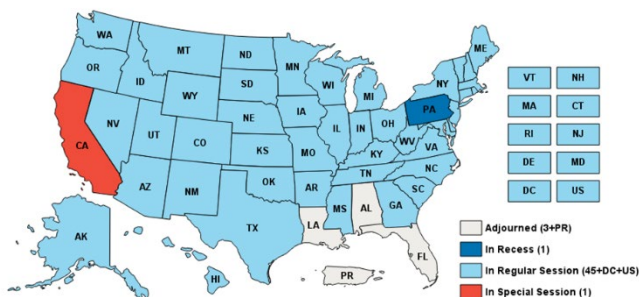
Assignments; Leasing – Texas. In *Mark S. Hogg, LLC v. Blackbeard Operating, LLC* (Case No. 08-20-00199-CV), the Texas Court of Appeals, Eighth District (El Paso), upheld a trial court judgment in favor of the operator in addressing a dispute involving a “broad assignment of numerous oil-and-gas-related property interests. Specifically, we decide whether the assignment conveyed—among other interests—the assignor’s interest in a 1998 oil-and-gas lease.” The party bringing the appeal argued certain interests were not included in the assignment. The court held that the assignment at issue “uses clear, plain language to convey broad interests in the properties described, including detailed definitions where necessary. At issue is simply the interpretation of the language used.” Here, the court determined that read together, “the eight subparagraphs under the granting clause make clear that the Assignors intended to transfer all of their interests in the Assets described.” In sum, the court agreed with prior precedent finding that “we interpret the Assignment ‘to confer upon the grantee the greatest estate that the terms of the instrument will permit.’” [Read more.](#)

INDUSTRY NEWS FLASH

► **Biden acknowledges oil and gas here to stay during State of the Union address.** During an unscripted moment in President Biden's State of the Union address on February 7, the president acknowledged, "We're still going to need oil and gas for a while." Discussing American energy policy, President Biden "said oil executives he'd pressed on the issue had told him bluntly: 'We're afraid you're going to shut down all of the oil wells and all the oil refineries anyway so why should we invest in them?' Biden offered his answer. "We're going to need oil for at least another decade," he said, quickly adding, "and beyond that." [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin and Wyoming are in regular session. The U.S. Congress is in recess from February 20 to February 26.

Pennsylvania lawmakers in both the House and Senate are in recess. The razor-thin partisan split in the House has brought the chamber to a complete halt. Currently, the House has no rules of procedure in place to operate this session, no legislative days scheduled to conduct business on the House floor and no committees or chairmanships assigned, reports [CNHI News](#). The next scheduled session day is February 27. Senate Majority Leader Joe Pittman, R-Armstrong, adjourned the Senate on January 18 citing the ongoing stalemate in the House and a [potential appeal](#) to the [court ruling](#) that delayed the planned impeachment trial of Philadelphia District Attorney Larry Krasner. The next scheduled session day for the Senate is also February 27.

Arkansas lawmakers are scheduled to recess on March 16 and reconvene on March 27 according to [SCR 2](#) which passed both chambers on February 6.

Virginia is scheduled to adjourn their legislative session on February 25 and their special session on February 28.

The following states are scheduled to convene their 2023 legislative sessions on the dates provided: **Alabama** and **Florida** (March 7) and **Louisiana** (April 10).

The following states are currently holding interim committee hearings: [Alabama](#), [Florida House](#) and [Senate](#) and [Louisiana](#). ■

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GOVERNMENTAL AFFAIRS REPORT

Highlights At-A-Glance

FEDERAL – Legislative

S. 337 – Replenishing Our American Reserves Act.

On March 1, official bill text was made available for [S. 337](#), known as the Replenishing Our American Reserves Act or the ROAR Act. Sponsored by Sen. Dan Sullivan (R-AK), the bill amends “the Energy Policy and Conservation Act to require that the Strategic Petroleum Reserve contain petroleum products produced or refined in the United States.” According to Sen. Sullivan, “The ROAR Act requires the U.S. Department of Energy (DOE) to ensure that only petroleum products that have been produced or refined in the United States are acquired and injected into the SPR. It would establish limitations on importing petroleum products for the purpose of filling the SPR and prohibit the export of petroleum products from the SPR to a country that is designated as a country of particular concern for religious freedom, including China. Finally, it would require DOE to issue a study on the feasibility of establishing remote crude oil and natural gas reserves in Alaska and other regions of the country.” [Read more.](#)

S. 319 – Protecting Our Wealth of Energy

Resources (POWER) Act. On February 24, official bill text was made available for [S. 319](#), known as the Protecting Our Wealth of Energy Resources Act of 2023 or the POWER Act. Sponsored by Sen. Cynthia Lummis (R-WY), the bill would “prohibit the president or his secretaries of the Interior, Agriculture or Energy from blocking energy or mineral leasing and permitting on federal lands and waters without Congressional approval.” Sen. Lummis said, “President Biden’s executive orders and administrative actions taking aim at energy and mineral development on public lands hurt our economy, communities across the west and the environment by forcing our nation to rely on countries with lower environmental standards for

importing energy. We have borne witness to the negative impacts of these policies through record high gas prices and increased prices on goods and services we rely on every day. Not to mention, these efforts are illegal. It is time for Congress to take back its authority and to unleash American energy and mineral potential.” [Read more.](#)

S. 293 – Fair Access to Banking Act. On February 22, official bill text was made available for [S. 293](#), known as the Fair Access to Banking Act. Sponsored by Sen. Kevin Cramer (R-ND), the bill would “bar financial institutions from refusing or limiting services to constitutionally-protected industries” such as the oil and gas industry. According to Sen. Cramer, his “legislation is in response to United States banks and financial institutions increasingly using their economic standing to categorically discriminate against legal industries.” [Read more.](#)

S. 282 – Arctic Refuge Protection Act of 2023. On February 22, official bill text was made available for [S. 282](#), known as the Arctic Refuge Protection Act of 2023. Sponsored by Sen. Ed Markey (D-MA), the bill “will restore critical protections to the Arctic National Wildlife Refuge—home to the Gwich’in people and the nation’s largest national wildlife refuge—by designating the Coastal Plain ecosystem as wilderness under the National Wilderness Preservation System. This legislation would permanently halt any new oil and gas leasing, exploration, development, and drilling on the Coastal Plain, and would safeguard the subsistence rights of the Arctic Indigenous Peoples who depend upon the unique ecosystem within the Arctic Refuge.” Even if the bill passes the Senate, it is unlikely to advance in the Republican-controlled House. [Read more.](#)

S.J. Res. 9 – Lesser Prairie-Chicken Joint Resolution of Disapproval. On February 22, official text was made available for [S.J. Res. 9](#), a joint resolution of Congress that “would prevent the lesser prairie-chicken from receiving protected status under the Endangered Species Act (ESA).” The resolution would nullify the U.S. Fish and Wildlife Service rulemaking finalized on November 22, 2022, which determined threatened status for the Northern distinct population segments (DPS) and endangered status for the Southern DPS and “adds the DPSs to the List of Endangered and Threatened Wildlife.” (See [87 Fed. Reg. 72674](#)) According to the resolution sponsor, Sen. Roger Marshall (R-KS), “Placing the lesser prairie-chicken on the endangered species list should not be happening in the first place. Farmers, ranchers, and others in Kansas and the region have been instrumental in the recovery of the species to this point while the climate activists demanding this rule have no understanding of the threat it poses to Kansas’s economy, especially the energy and ag industries.” House companion resolution, [H.J. Res. 29](#) was introduced by Rep. Tracey Mann (R-KS). [Read more.](#)

H.R. 923 – Protecting Our Wealth of Energy Resources Act of 2023. On March 2, official bill text was made available for H.R. 923, known as the Protecting Our Wealth of Energy Resources Act of 2023 or the POWER Act of 2023. Sponsored by Rep. Harriet Hageman (R-WY), the bill would “prohibit the President from issuing moratoria on leasing and permitting energy and minerals on certain Federal land.” This is the companion bill to S. 319 noted above. [Read more.](#)

H.R. 781 – Guaranteeing Independent Growth Act. On March 1, official bill text was made available for [H.R. 781](#), known as the Guaranteeing Independent Growth Act or the GIG Act. Sponsored by Rep. Drew Ferguson (R), the bill provides for a favorable independent contractor test utilized under the Trump administration that sets a two “core” factor test: the nature and degree of the individual’s control over the work and the individual’s opportunity for profit or loss. [Read more.](#)

H.R. 518 – Endangered Species Transparency and Reasonableness Act of 2023. On February 21, H.R. 518, known as the Endangered Species Transparency and Reasonableness Act of 2023, was introduced by Rep. Tom McClintock (R-CA). The bill would “amend the Endangered Species Act of 1973 to require publication on the internet of the basis for determinations that species are endangered species or threatened species.” [Read more.](#)

H.R. 356 – Unleashing American Energy Act. On February 21, [H.R. 356](#), known as the Unleashing American Energy Act, was introduced by Rep. Jerry Carl (R-AL). The bill would “require the Secretary of the Interior to conduct a minimum number of oil and gas lease sales in certain areas, to prevent delays in oil and gas leasing.” According to Rep. Carl, his bill would “require a minimum of two oil and gas lease sales a year in the Gulf of Mexico and in the Alaska Region of the Outer Continental Shelf, and it prohibits future moratoriums or delays on oil and gas leasing.” [Read more.](#)

H.R. 248 – Promoting Local Management of the Lesser Prairie Chicken Act. On February 21, [H.R. 248](#), known as the Promoting Local Management of the Lesser Prairie Chicken Act was introduced by Rep. Ron Estes (R-KS). The bill would “amend the Endangered Species Act of 1973 to exclude certain populations of the lesser prairie chicken from the authority of such Act” to remove the species from the lists of threatened species and endangered species in Kansas, Oklahoma, Texas, Colorado, or New Mexico. [Read more.](#)

H.R. 99 – Less Imprecision in Species Treatment Act of 2023. On February 24, H.R. 99, known as the Less Imprecision in Species Treatment Act of 2023 or the LIST Act of 2023, was introduced by Rep. Andy Biggs (R-AZ). The bill “revises the process for removing a species from the endangered or threatened species lists. A species must be removed from the endangered or threatened species lists if the Department of the Interior produces or receives substantial scientific or commercial information demonstrating that the species is recovered or that

recovery goals set for the species have been met. The publication and notice of a proposed regulation to remove a species from the lists must consist solely of a notice of the removal. The bill establishes a process for removing species from the lists if they were erroneously or wrongfully listed. The bill prohibits a person from submitting a petition to list a species as a threatened or endangered species for 10 years if the person knowingly submitted a petition with information that was inaccurate beyond scientifically reasonable margins of error, fraudulent, or misrepresentative.”

[Read more.](#)

H.J. Res. 30 - Climate Change and Other Environmental, Social, and Governance Factors in Retirement Plans. On March 2, Congress passed Republican-backed H.J. Res. 30. This joint resolution of disapproval under the Congressional Review Act would nullify “a Department of Labor rule concerning the fiduciary duties with respect to employee benefit plans. Under the rule issued on December 1, 2022, plan fiduciaries may consider climate change and other environmental, social, and governance factors when they make investment decisions and when they exercise shareholder rights, including voting on shareholder resolutions and board nominations.” President Biden is expected to veto the measure.

[Read more.](#)

House Natural Resources Committee Hearings. On February 28, the House Natural Resources Committee held a hearing to consider a package of energy bills moving through committee which AAPL has been tracking for members. Among those testifying were Dan Naatz, Chief Operating Officer and Executive Vice President of the Independent Petroleum Association of America. You may [access a full video recording of the hearing and witness testimony here.](#) The committee also held an infrastructure-related hearing the same day, which focused on discussion draft legislation that would “reform and streamline permitting, reduce litigation, and focus environmental reviews” to improve the federal permitting process. You may [access a full video recording of the hearing and witness testimony here.](#)

FEDERAL – Regulatory

BLM Oil and Gas Lease Sale – New Mexico; Oklahoma. On February 17, the Bureau of Land Management (BLM) New Mexico State Office announce the start of “a 30-day scoping period to receive public input on 12 parcels totaling 915.59 acres that may be included in an upcoming lease sale. Scoping ends on March 20.” With this notice, the BLM is considering parcels for lease in New Mexico and Oklahoma. [Read more.](#)

BLM Resource Advisory Council Meeting – Idaho. On February 27, the BLM published a *Notice of Public Meeting of the Idaho Resource Advisory Council* ([88 Fed. Reg. 12404](#)) announcing the Idaho Resource Advisory Council (RAC) will host a meeting on March 17, 2023. The Idaho RAC meeting will be held virtually on the Zoom platform and is open to the public.

[Read more.](#)

BLM Resource Advisory Council Meeting – New Mexico. On February 27, the BLM published a *Notice of Public Meeting, Southern New Mexico Resource Advisory Council, New Mexico* ([88 Fed. Reg. 12403](#)) announcing the Southern New Mexico Resource Advisory Council (RAC) will host an in-person meeting, with a virtual participation option, on March 29, 2023. RAC meetings are open to the public.

[Read more.](#)

BLM Annual Oil and Gas Operations Civil Penalty Inflation Adjustments. On February 24, the Bureau of Land Management published its annual final rule, *Onshore Oil and Gas Operations and Coal Trespass-Annual Civil Penalties Inflation Adjustments* ([88 Fed. Reg. 11818](#)), which “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.” [Read more.](#)

BLM Information Collection for Oil and Gas Leasing in the National Petroleum Reserve – Alaska. On February 28, the BLM published a

notice of information collection, *Agency Information Collection Activities; Oil and Gas Leasing: National Petroleum Reserve-Alaska* ([88 Fed. Reg. 12697](#)) that “covers paperwork requirements for operators and operating rights owners in the National Petroleum Reserve—Alaska (NPRA).” The comment period is open through May 1, 2023. [Read more.](#)

BLM Oil and Gas Statistics. Last week, the BLM released its Fiscal Year 2022 oil and gas related statistics. As noted by the American Exploration & Production Council, “Notably, a figure long touted by the Administration that the industry was sitting on 9,000 approved permits was revised significantly down to about 6,600 permits. BLM’s statement referenced a reporting discrepancy that resulted from its transition to a new database in 2020 as the reason for the error.” [Read more.](#)

BOEM Offshore Oil and Gas Lease Sale – Gulf of Mexico. On February 27, the Bureau of Ocean Energy Management (BOEM) published its final notice of sale for the Gulf of Mexico (GOM) Regionwide Outer Continental Shelf (OCS) Oil and Gas Lease Sale 259 that will open and publicly announce bids on March 29, 2023. As noted by the BOEM, the “Inflation Reduction Act of 2022 requires BOEM to hold GOM Lease Sale 259 by March 31, 2023. The GOM Lease Sale 259 Final Notice of Sale (NOS) package contains information essential to potential bidders and comprises this notice, Information to Lessees, and Lease Stipulations.” [Read more.](#)

EPA Methane Emissions Proposed Rulemaking. (*Update to 12/12/22 Report*) On March 2, Texas Attorney General Ken Paxton announced he “sent a West Virginia-led comment letter to Environmental Protection Agency (EPA) Administrator Michael Regan, urging the agency to drop a new rule that directly targets the oil and natural gas industry with crippling regulations.” [Read the letter here.](#) The rulemaking, which is still in the proposed rulemaking stage, would, according to Paxton, “crack down on oil and gas facilities with unprecedented and drastic emission guidelines. To enforce these cumbersome new rules, EPA’s rule would cut out the states in certain instances and empower

third-party interest groups to identify large methane emitters and notify them, which would require substantial actions by the owner receiving the notice. The compliance costs of the supplemental rule and its enforcement, which have the potential to bankrupt thousands of energy producers, would be in the billions. The rule’s costs would inevitably fall on the shoulders of the American people, all while being implemented in the name of achieving ambiguous and unreasonable emissions goals.” [Read more.](#)

Oil and Gas Leasing Letter to Interior Secretary. (*Update to 12/12/23 Report*) On February 27, a group of environmental and conservation groups delivered a letter to the Interior Secretary urging the department “to finalize new regulations for the federal onshore oil and gas program.” [Read the letter here.](#) The letter writers list policy areas with recommendations for regulatory implementation, some based off Bureau of Land Management instruction memoranda issued in November 2022. [Access the instruction memoranda here.](#) In short, the groups are calling for multiple regulatory reforms as federal oil and gas leasing has resumed this year. [Read more.](#)

IRS Guidance for Eligible Qualifying Advanced Energy Projects. On February 22, the Internal Revenue Service (IRS) issued [Notice 2023-18, Initial Guidance Establishing Qualifying Advanced Energy Project Credit Allocation Program Under Section 48C\(e\)](#), to announce a program “to allocate \$10 billion of credits (\$4 billion of which may be allocated only to projects located in certain energy communities) for qualified investments in eligible qualifying advanced energy projects.” [Read more.](#) As noted by law firm Greenberg Traurig, LLP, “The goal of the program is to expand U.S. manufacturing capacity and quality jobs for clean energy technologies, to reduce greenhouse gas emissions in the United States, and to secure domestic supply chains for critical materials that serve as inputs for clean energy technology production.” [Read more.](#) The forthcoming process will begin with applicants submitting “concept papers to the Department of Energy (DOE) through the eXCHANGE portal between May 31 and July 31, 2023.” We will keep AAPL members informed once the application process is active. [Read more.](#)

Carbon Capture; Department of Energy. On February 23, the U.S. Department of Energy (DOE) announced “\$2.52 billion in funding for two carbon management programs to catalyze investments in transformative carbon capture systems and carbon transport and storage technologies. Funded by President Biden’s Bipartisan Infrastructure Law, the two programs—Carbon Capture Large-Scale Pilots and Carbon Capture Demonstration Projects Program—aim to significantly reduce carbon dioxide (CO₂) emissions from electricity generation and hard-to-abate industrial operations, an effort critical to addressing the climate crisis and meeting the President’s goal of a net-zero emissions economy by 2050.” To learn more about the DOE carbon capture, transport, and storage program funding opportunities, [Read more](#).

Offshore Wind Lease Sale – Gulf of Mexico. On February 22, the Interior Department and Bureau of Ocean Energy Management (BOEM) announced it “is proposing the first-ever offshore wind lease sale in the Gulf of Mexico. The announcement is part of the Administration’s latest actions to expand offshore wind opportunities to more regions of the country, building on investments in the President’s Inflation Reduction Act and Bipartisan Infrastructure Law to spur offshore wind deployment and create good-paying jobs for American workers.” According to the Interior Department, “The proposed sale is part of the leasing path announced by Secretary Haaland in 2021 to meet the Biden-Harris administration’s goal to deploy 30 gigawatts (GW) of offshore wind energy capacity by 2030 and follows the Department’s approval of the nation’s first two commercial scale offshore wind projects.” The Proposed Sale Notice announcement “includes a 102,480-acre area offshore Lake Charles, Louisiana, and two areas offshore Galveston, Texas, one comprising 102,480 acres and the other comprising 96,786 acres. BOEM is seeking public comments on which, if any, of the two lease areas offshore Galveston should be offered in the Final Sale Notice.” [Read more](#).

SEC Climate Disclosure Rulemaking. As a follow up to our ongoing reporting, on February 22, a group of Republican congressional lawmakers [delivered a](#)

[letter to the Chair of the U.S. Securities and Exchange Commission](#) requesting the SEC “turn over documents and answer questions about the agency’s ongoing effort to write a new regulation that would force public companies to disclose detailed climate-related information.” The letter asserts that, “This sweeping rule exceeds the SEC’s mission, expertise, and authority and, if finalized in any form, will unnecessarily harm consumers, workers, and the U.S. economy. Congress created the SEC to carry out the mission of protecting investors, maintaining fair, orderly, and efficient markets, and facilitating capital formation—not to advance progressive climate policies. Instead of pursuing its clear statutory mission, the SEC, under your leadership, has chosen to flout the democratic process and pursue its progressive social agenda through the promulgation of this extraordinarily expansive climate disclosure rule.” The lawmakers provided the SEC with a March 8, 2023 deadline to answer their questions. [Read more](#).

FEDERAL – Judicial

Wage and Hour; Day Rates; FLSA – U.S. Supreme Court (*Update to 3/22/21 Report*) On February 22, the U.S. Supreme Court delivered its long-awaited opinion in [Hewitt v. Helix Energy Solutions, Inc.](#) (Case No. 21–984) after granting the petition for review on appeal from the U.S. Court of Appeals for the Fifth Circuit (Texas). For background, in this case a worker engaged in offshore oil rig work sued for alleged unpaid overtime under the Fair Labor Standards Act (FLSA) against an oil and gas services company. According to Hewitt, this was a violation of the FLSA. The Fifth Circuit panel addressed the question of whether a daily rate employee could be regarded as being paid on a salary basis and therefore exempt from overtime pay under the FLSA. The trial court agreed “with Helix’s view that Hewitt was compensated on a salary basis and granted the company summary judgment. The Court of Appeals for the Fifth Circuit panel reversed, deciding that Hewitt was not paid on a salary basis and therefore could claim the FLSA’s protections.” Here, the Supreme Court affirmed that ruling, holding that “Hewitt was not an executive exempt from the FLSA’s

overtime pay guarantee; daily-rate workers, of whatever income level, qualify as paid on a salary basis only if the conditions are met” under the FLSA regulations which the Supreme Court found were not met in this case. In other words, “a highly compensated employee who is paid solely on a day-rate basis is not exempt from the overtime provisions of the Fair Labor Standards Act,” and thus could be eligible for overtime pay under such a pay arrangement even though Hewitt was a highly compensated employee who under conditions in which his compensation was considered a “salary” would normally be excluded from overtime pay under the FLSA. [Read more](#). National employment law firm Jackson Walker LLP said, the case determines “what constitutes a ‘salary.’ Specifically, the Court answered whether a ‘daily rate’ pay structure can be a ‘salary.’ The Supreme Court’s decision is one that could have a significant impact, particularly in the oil and gas industry where many workers are paid a ‘daily rate.’” Further, “as Justice Kagan mentioned in *Helix*, there is a way to satisfy the salary basis test for those employers wanting to pay an employee for days in addition to the normal workweek. They must pay the employee a defined weekly amount, along with a day rate for extra days, so long as there is a reasonable relationship between the weekly guarantee and the total amount actually paid. The remaining open question is what constitutes a reasonable relationship? There is no regulation on the issue, only Department of Labor guidance. The absence of a regulation means the assurance of litigation, so companies with a daily rate compensation system should consult with counsel regarding that practice.” [Read more](#). For further legal analysis of the case, [Read more here](#).

Employment Arbitration Agreements – California.

On February 15, the U.S. Court of Appeals for the Ninth Circuit, on appeal from the U.S. District Court for the Eastern District of California, ruled that the “Federal Arbitration Act preempts state laws that inhibit parties from entering into arbitration agreements.” The case, [Chamber of Commerce v. Bonta](#) (Case No. 20-15291), arose from a challenge to “California’s Assembly Bill 51 (AB 51), which was enacted to protect employees from ‘forced arbitration’

by making it a criminal offense for an employer to require an existing employee or an applicant for employment to consent to arbitrate specified claims as a condition of employment.” As reported by law firm Pillsbury Winthrop Shaw Pittman LLP, “In an effort to avoid preemption under the Federal Arbitration Act (FAA), an Act which bars states from treating arbitration agreements differently than other contracts, AB 51 included a provision stating that if the parties mutually entered into an arbitration agreement, it would be enforceable. Thus, an employer could be subject to criminal prosecution for *requiring* an employee to enter into an arbitration agreement, but if the employee signed the arbitration agreement, it would be enforced.” Here, the court held “that AB 51’s scheme of making it a criminal offense if an employer required an employee or applicant to consent to arbitrate claims as a condition of employment, discriminated against the formation of arbitration agreements.” The effect of this holding is that “Prior to this ruling, many employers continued to include arbitration agreements as part of their offers of employment but made the agreement to arbitrate voluntary. Now California employers can again require arbitration as a condition of employment for new hires.” [Read more](#).

Enforcement of Local Moratorium on Carbon

Sequestration Project – Louisiana. On December 22, 2022, the U.S. District Court for the Middle District of Louisiana granted a preliminary injunction in favor of a carbon sequestration company and rejected an attempt by a local parish to halt the project work under its year-long moratorium ordinance. In [Air Products Blue Energy, LLC v. Livingston Parish Government](#) (Case No. 22-809-SDD-RLB), the court “granted Air Products Blue Energy, LLC’s motion for a preliminary injunction prohibiting the enforcement of a moratorium on drilling Class V wells. Air Products, a hydrogen supplier, seeks to build a carbon sequestration facility beneath Lake Maurepas that will inject and store carbon dioxide underground. Without this injunction, the moratorium would have prohibited construction of the wells necessary for this carbon sequestration facility.” Air Products had entered into a Carbon Dioxide Storage Agreement with the State of

Louisiana and intended to build a carbon sequestration facility but the Parish challenged the action. Here, the court rejected the Parish's arguments that the plaintiff lacked standing to challenge the moratorium and that the claims were unripe. The court further found that Air Products had shown a likelihood of success on the merits because the Parish moratorium was preempted "due to its encroachment on the field of underground injection control, an area in which the Louisiana Legislature granted the State pervasive authority to regulate." The court also held that Air Products would face irreparable harm if their project work could not proceed and concluded that "because State law preempted the moratorium, a preliminary injunction to enjoin the moratorium's enforcement would serve the public interest and would not cause harm." [Read more.](#)

STATE – Legislative

Oil and Gas Leasing – Alaska. On February 10, HJR 6 was introduced by Rep. Josiah Patkotak (R). The joint resolution expresses, "Supporting oil and gas leasing and development within the National Petroleum Reserve in Alaska; and urging President Biden and the United States Department of the Interior to approve the Willow Master Development Plan." [Read more.](#)

Oil Imports – California. On February 17, California Special Session bill [ABX1-3](#) was introduced by Asm. Jasmeet Bains (D), whose district includes part of the Bakersfield region. The bill would require California refineries to increase the amount of oil from within the state that they buy and process rather than importing the majority from out of the country. As reported, "If passed, 50 percent of all oil refined in California would be required to originate within the Golden State by 2035." For background, "Over 30 years ago California was sourcing over 60 percent of its crude oil from within the state, with only about five percent originating internationally. But the state is now importing 56 percent from other countries, while supplying under 30 percent from within the state, according to the California Energy Commission." According to Asm. Bains, "California's policies are directly responsible for

financing human rights violations in the Middle East and the deforestation of the Amazon rainforest. My bill maintains all of California's strict environmental and labor protections, while also ensuring we buy American. Protecting California's premier oil industry is one of the most environmentally friendly things we can do." [Read more.](#)

Foreign Ownership – Idaho. On February 20, HB 173 was introduced by the House Committee on State Affairs (R). This "legislation prohibits a foreign government or foreign government controlled entity from purchasing, acquiring or holding a controlling interest in agricultural land, water rights, mining claims or mineral rights in the state of Idaho." [Read more.](#)

Independent Contractors – Illinois. On February 17, HB 3441 was introduced by Rep. Suzanne Ness (D). The bill would amend the Employee Classification Act and "Provides that in making a determination of a worker's classification under this Act, the Department of Labor shall consider any guidance provided by the Internal Revenue Service of the United States Department of the Treasury." [Read more.](#)

Carbon Sequestration and Storage – Illinois. On February 17, HB 3119 was introduced by Rep. Ann Williams (D). The bill would create the Carbon Dioxide Transport and Storage Protections Act and provides multiple provisions related to carbon sequestration and storage as provided. [Read more.](#)

Carbon Sequestration and Storage – Illinois. On February 8, HB 2202 was introduced by Rep. Jay Hoffman (D). The bill would create the Underground Carbon Dioxide Storage Act. The bill specifically provides "that the Act applies to the underground storage of carbon dioxide but does not apply to extractable mineral resources, and the rights and requirements of the Act are subordinate to the rights pertaining to oil, gas, and coal resources. Provides that a storage operator may not operate a storage facility without a storage facility permit issued by the Department of Natural Resources. Includes provisions regarding: pore space ownership; integration of

ownership interests; fees; requirements for drilling near a storage facility; the applicability of certain tort claims; certificate of project completion; and rulemaking.” [Read more.](#)

Independent Contractors – Illinois. On January 12, HB 1122 was introduced by Rep. Marcus Evans (D). The bill creates the Freelance Worker Protection Act and provides “that freelance workers must be compensated by hiring parties for their services in a timely manner. Provides that whenever a hiring party retains the services of a freelance worker, the contract between the hiring party and the freelance worker shall be reduced to writing,” among related provisions. [Read more.](#)

Enforcement Actions; Recording– Indiana. On February 27, SB 412 passed the Senate. Sponsored by Sen. Sue Glick (R), the “bill authorizes the Division of Water of the Department of Natural Resources (DNR) to file, in the deed records of a county recorder’s office, an affidavit stating that a violation or deficiency that is the subject of an enforcement action exists on a particular property in the county.” [Read more.](#)

Lessee Costs; Transport Expenses – Montana. On February 17, HB 634 was introduced by Rep. Josh Kassmier (D). The bill revises existing law related to oil and gas leases, specifically “clarifying that the lessee pays the costs of production from the working interest; [and] requiring the state to share the expense of transporting the oil to the nearest market based on the state’s proportional share of the royalty interest.” [Read more.](#)

Water Use – Montana. On February 16, HB 537 was introduced by Rep. John Fitzpatrick (R). The bill would provide “a water right permit exception for beneficial use of water produced by oil and gas operations.” [Read more.](#)

Well Taxation – Montana. On February 10, HB 469 was introduced by Rep. Larry Brewster (R). The bill would revise taxation of horizontally recompleted wells as provided. [Read more.](#)

Natural Gas Definition – Montana. On February 21, SB 426 was introduced by Sen. Jason Small (R). The bill would revise the definition of natural gas. [Read more.](#)

State Trust Lands – Montana. On February 21, SB 418 was introduced by Sen. Brad Molnar (R). The bill would provide “preference to lessees of state trust land who provide public access across private land.” [Read more.](#)

Eminent Domain; Regulatory Takings – Montana. On February 7, SB 287 was introduced by Sen. Steve Fitzpatrick (R). The bill amends existing law to include additional types of property that may exist regarding a regulatory taking. The additions would include mineral rights, real property and fixtures, and water rights, among others. [Read more.](#)

Severance Tax Exclusion New Mexico. On February 14, SB 443 was introduced by Sen. Ron Griggs (R). The bill provides “for an exclusion to the Oil and Gas Severance Tax for oil and natural gas severed from a stripper well and sold from a production compliance project during the first 10 years of production following the completion of the project, or until the date the total amount of tax that would have been imposed but for this exemption equals the cost of the production compliance project, whichever occurs first.” The bill also defines “production compliance project” and its applicability. [Read more.](#)

Land Purchase Approval – New Mexico. On February 14, SB 439 was introduced by Sen. William “Bill” Sharer (R). The bill would “require the State Game Commission to get approval from the Legislature for the purchase of any land appraised at over \$1 million.” [Read more.](#)

Oil and Gas Act Changes – New Mexico. On February 13, [SB 418](#) was introduced by Sen. Leo Jaramillo (D). Relating to the environment, the bill would amend the Oil and Gas Act, including “organizing and amending definitions; adding members to the oil conservation commission; changing the qualifications of the director of the oil

conservation division of the energy, minerals and natural resources department; authorizing the oil conservation division to promulgate rules to protect the environment and to promote health, safety and the involvement of environmental justice communities; changing the name of the 'state petroleum engineer' to the 'state oil conservation director'; authorizing the oil conservation division to establish minimum setbacks for the siting of new wells; changing the requirements for financial assurance; removing venue requirement for actions to compensate for costs of oil and gas well remediation; [and] removing the limit on civil penalties; establishing the environmental justice advisory council." According to the Fiscal Note Bill Summary, SB 418 "makes sweeping changes to the existing Oil and Gas Act Sections 70-2-1 through 70-2-39 NMSA 1978. That act is amended to require the oil conservation division's protection of health and the environment; promotion of the public interest, health, safety, general welfare; and the fair treatment and meaningful involvement of the public, including environmental justice communities." [Read a complete bill analysis summary here.](#)

Tax Assessment Affidavits – New Mexico. On February 3, SB 338 was introduced by Sen. Steven Neville (R). Governing tax assessment affidavits to be filed for real property transfers, the bill "requires that an affidavit be filed with the county assessor for a deed transferring all real property; including nonresidential property. It also amends Subsection D to state that an affidavit is not required for: A deed, patent or contract for sale or transfer of real property in which the property was valued pursuant to Section 7-36-20 NMSA 1978 in the prior tax year; or an instrument delivered to convey solely the mineral or subsurface estate of real property." [Read more.](#)

Geothermal Tax Credits – New Mexico. On January 23, SB 173 was introduced by Sen. Gerald "Jerry" Ortiz y Pino (D). The bill would "create deductions and tax credits to assist in developing the technology to generate electricity from deep geothermal formations." [Read more.](#)

Notarial Acts – New Mexico. On March 2, SB 246

passed the Senate and has been transmitted to the House. Sponsored by Sen. Daniel Ivey-Soto (D), the bill makes numerous amendments to existing notarial acts law. [Read more.](#)

Residential Home Solar Energy – New Mexico. On February 22, SB 77 passed the Senate following its introduction by Sen. William Soules (D). The bill provides for the installation of solar cells on residential homes for new residential construction. The original bill, prior to amendment, would have required, rather than "offered" in the amended version, "all new residential construction after July 1, 2023, to have photovoltaic systems installed that are designed to supply usable solar power to residences and be tied to the grid, a hybrid grid, or off-grid system." [Read more.](#)

Distributed Energy Facility Caps – New Mexico. On February 13, SB 56 passed the Senate following its introduction by Sen. William Soules (D). The bill "amends Section 62-13-13.1 NMSA 1978 to remove the cap on the size of a distributed energy facility, facilities that generate electricity at or near where it will be used, such as residential solar panels. The cap is currently set at 120 percent of the average annual consumption of electricity at the host site." [Read more.](#)

Severance Tax Exemption – New Mexico. On February 16, HB 450 was introduced by Rep. Joseph Sanchez (D). The bill would add a new section to the Oil and Gas Severance Tax Act to provide for an oil and gas severance tax exemption for re-stimulation wells. [Read more.](#)

Gross Receipts Tax – New Mexico. On February 15, HB 439 was introduced by Rep. Cathrynn Brown (R). The bill provides "an exception to the destination-based sourcing rules for reporting gross receipts tax (GRT) under Section 7-1-14 NMSA 1978 for oil and gas production services performed in New Mexico. This exception reverts those services to origin-based sourcing for gross receipts. In other words, the business location of the service provider will be used to determine gross receipts tax liability rather than the location of where the service is performed. The bill

also defines oil and gas production services as those services necessary for the production or severance of products, as that term is used in the Oil and Gas Emergency School House Tax Act, including services conducted in preparation for such severance, field operations, transfer of the products off a lease site, operation monitoring, operation maintenance, and workover drilling." [Read more.](#)

Geothermal Resources – New Mexico. On February 14, HB 365 passed committee following its introduction by Rep. Patricia Roybal Caballero (D). The bill would "create a new Center for Excellence at the New Mexico Institute of Mining and Technology focused on developing and promoting innovation in Geothermal Resources" and provides appropriations. [Read more.](#)

Local Bans on Natural Gas – North Carolina. On February 15, HB 130 was introduced by Rep. Charles Miller (R). The bill would forbid localities from adopting an ordinance that prohibits or has the effect of prohibiting "connection, reconnection, modification, or expansion of an energy service based upon the type or source of energy to be delivered to an individual or any other person as the end-user of the energy service." [Read more.](#)

Triggered Oil Extraction Tax Rate – North Dakota. (*Update to 1/23/23 Report*) On February 16, [HB 1286](#) passed the House and has been transmitted to the Senate. Sponsored by Rep. Craig Headland (R), the bill "will repeal the triggered 6% oil extraction tax rate that would be imposed during a time of sustained high oil prices for wells located outside the exterior boundaries of a reservation. Wells located within the exterior boundaries of a reservation, on trust properties outside reservation boundaries, or straddle wells located on reservation trust land may still be subject to the triggered 6% oil extraction tax rate. A tribe may opt-out of the increased rate of tax by providing written notice to the tax commissioner." As reported by *Prairie Public Broadcasting*, "The trigger was part of a compromise to lower oil taxes from 11 and a half percent to 10 percent. That mechanism was added so that if oil prices went above

a target price, the tax would go back to 11 percent. That happened in 2022 – and lasted for about four months." [Read more.](#)

Post-Production Royalty Oversight Program – North Dakota. On February 20, SB 2009 quickly passed the Senate by unanimous vote following its introduction by the Senate Committee on Appropriations (R). The bill would establish a post-production royalty oversight program that would provide "technical assistance and support to mineral owners, lease owners, and mineral companies relating to royalty payment issues" as detailed. [Read more.](#)

Franchise Tax – Oklahoma. On February 6, HB 2695 was introduced by Rep. Gerrid Kendrix (R). As introduced, the bill would end the assessment of franchise tax and any associated reporting beginning in tax year 2024. [Read more.](#)

Eminent Domain – Oklahoma. On February 20, a committee substitute version of HR 2191 was adopted. Sponsored by Rep. Rick West (R), the bill would limit the use of eminent domain. Specifically, the committee substitute version provides, "that government authorities may not take or damage private property unless it is necessary for public use and the property owner is justly compensated. Economic development, including an increase in tax base, tax revenues, employment, and general economic health do not constitute public use. The measure also requires courts to construe eminent domain statutes in favor of the property owner and against the condemning authority." [Read more.](#)

Carbon Sequestration – Oklahoma. On February 6, SB 852 was introduced by Sen. Dave Rader (R). The bill "provides that the Corporation Commission, not the Oklahoma Conservation Commission, shall oversee the provisions of the Oklahoma Carbon Sequestration Enhancement Act." [Read more.](#)

Oklahoma Energy Resources Board – Oklahoma. On March 2, SB 514 passed committee following its introduction by Sen. Julie Daniels (R). The bill "modifies the membership of the Oklahoma

Energy Resources Board. The measure increases membership on the board from 18 to 23 members and provides that each member shall serve a term of 3 years. The measure also provides that a majority of the 3 appointing authorities may vote to remove appointed members of the Board who are independent oil and/or gas producers. The remaining members of the Board may be removed by a majority vote of the then serving Board members. The Board is empowered to elect its own chair and vice-chair, who shall serve a term of 2 years. The Board is also directed to provide site reclamation services in addition to its other duties." [Read more.](#)

Corporate Tax – Oklahoma. On February 6, SB 210 was introduced by Sen. Nathan Dahm (R). The bill "exempts newly constructed establishments primarily engaged in the refining of crude petroleum into refined petroleum from the corporate income tax for the first 5 years of service beginning in tax year 2024 and ending in tax year 2034. Such establishments must employ at least 100 FTE and pay wages that equal or exceed wage requirements established in the Oklahoma Quality Jobs Program Act. Eligibility shall be determined by the Oklahoma Tax Commission." [Read more.](#)

Carbon Sequestration; Injection Wells – Oklahoma. On February 6, SB 200 was introduced by Sen. Dave Rader (R). The bill "requires any state environmental agency, the Corporation Commission, and Department of Environmental Quality, that is required to comply with the federal Safe Drinking Water Act to evaluate the regulatory and statutory framework that governs the agency and identify and report any areas in which modifications may be needed to the Secretary of Energy and Environment to provide for the development of Underground Injection Control Class VI wells. Agencies are directed to consult with the Secretary and work in conjunction with the Office of Energy and Environment to ensure timely analysis. Findings from the report shall be submitted in a report to the Governor, Secretary of Energy and Environment, President Pro Tempore of the Senate, and the Speaker of the House no later than August 1, 2023." [Read more.](#)

Oil and Gas Produced Water – Oklahoma.

On February 6, SB 18 was introduced by Sen. Dave Rader (R). The bill "expands the Oil and Gas Produced Water and Waste Recycling and Reuse Act to include hydrogen sulfide and carbon oxides emissions produced as a byproduct of natural gas production. The act also exempts a person from liability in tort for consequences or subsequent use of recycled water or treated constituents if that person captures or sequesters hydrogen sulfides and carbon oxides in connection with natural gas production for the purpose of protecting the environment." [Read more.](#)

Franchise Tax Exemption – Texas. On February 21, SB 1061 was introduced by Sen. Charles Schwertner (R). The bill amends existing law "relating to the computation of and total revenue exemption for the franchise tax." [Read more.](#)

Texas Produced Water Consortium – Texas. On February 21, SB 1047 was introduced by Sen. Charles Perry (R). The bill provides for funding and activities of the Texas Produced Water Consortium. [Read more.](#)

Energy Source Choices – Texas. On February 17, [SB 1017](#) was introduced by Sen. Brian Birdwell (R). As reported by the Texas Oil & Gas Association, "This legislation would protect energy choice by preventing political subdivisions from adopting or enforcing ordinances, orders, regulations, or similar measures which would limit access to specific fuel sources or prohibit the sale of engines based on their fuel source." House companion bill [HB 2374](#) was introduced on February 15 by Rep. Brooks Landgraf (R). [Read more.](#)

High-Cost Gas Tax Reduction – Texas. On February 17, SB 678 was introduced by Sen. Nathan Johnson (D). The bill relates "to phasing out the tax reduction for certain high-cost gas." [Read more.](#)

Severance Tax Revenue Amendments – Utah.

On February 17, SB 256 was introduced by Sen. David Hinkins (R). This bill modifies provisions related to the deposit of severance tax revenue into state

agency accounts. [Read more.](#)

Carbon Capture and Offset – West Virginia. On February 9, SB 595 was introduced by Sen. Eric Tarr (R). The bill provides multiple provisions including taxation related to carbon offset agreements and also provides for certain forest carbon capture and sequestration covenants and restrictions that are void and unenforceable. [Read more.](#)

State Lands Exchange – Wyoming. (*Update to 1/23/23 Report*) On February 27, SF 128 was signed into law by Gov. Mark Gordon (R). Sponsored by Sen. Larry Hicks (R), relating to state lands, the bill removes the requirement that state and federal lands be equal in size when exchanged by the state and the federal government; and requires that federal and state land exchanges be subject to the orders, rules and regulations related to the exchange of lands. The Act is effective on July 1, 2023. [Read more.](#)

State Lands; Land Exchange Notice – Wyoming. (*Update to 2/6/23 Report*) On February 21, HB 20 was signed into law by Gov. Mark Gordon (R). Sponsored by the House Agriculture Committee (R), the bill relates to land exchange notices regarding state lands and provides for “requiring notice and opportunity to comment before completing an exchange; and specifying applicability.” The Act takes immediate effect. [Read more.](#)

STATE – Regulatory

COGCC Rulemaking – Colorado. On March 1, the Colorado Oil & Gas Conservation Commission (COGCC) announced a notice of rulemaking regarding its “High Priority Habitat Map.” Per the COGCC, as part of a series of rulemakings in 2020 that implemented a 2019 law, “As part of those rulemakings, the Commission adopted a definition of High Priority Habitat. The Commission’s definition of High Priority Habitat includes those habitat areas identified by Colorado Parks and Wildlife on maps included as Appendix VII to the Commission’s Rules. The definition of High Priority Habitat also provides that ‘on a periodic but no more frequent than

annual basis and will be modified only through the Commission’s rulemaking process described in Rule 529. Notice of such rulemaking proceeding will be provided by February 28 of each year.’ The proposed High Priority Habitat map updates are a result of inventories and monitoring to determine the status and extent of high priority habitat areas. The following High Priority Habitat areas have been identified by CPW as needing maps modifications: raptor nests and roost sites, grouse and prairie chicken lek sites and occupied ranges, bat hibernacula, migration corridors, production areas, severe winter ranges, winter concentration areas, aquatic, and winter ranges. These updates also reflect changes to any CPW owned State Wildlife Areas and State Parks within the State of Colorado.” The COGCC will hold a hearing on June 14, 2023 regarding the above. [Access hearing information here.](#) To be a party to the rulemaking, the COGCC has set a deadline of March 24, 2023. To register, [access the COGCC party form here.](#) [Read more.](#)

STATE – Judicial

Oil and Gas Leasehold Taxation – Colorado. On February 21, the Colorado Supreme Court considered “whether nonoperating fractional interest owners in a unitized oil and gas operation have standing to independently challenge a county’s retroactive property tax increase.” In *Colorado Property Tax Administrator v. CO2 Committee, Inc.* (Case No. 2023 CO 8), the court held that under Colorado law a unique representative system is created “in which a unit operator is the sole entity with standing to protest a retroactive assessment on the unit it operates. Because a unit operator is the sole point of contact throughout the reporting, notice, and taxpaying process, the court holds that nonoperating fractional interest owners do not have a legally protected interest in the valuation and taxation of their oil and gas leaseholds and lands, and therefore, lack standing to challenge a retroactive assessment and property tax increase.” [Read more.](#)

INDUSTRY NEWS FLASH

► **IEA Global Methane Tracker.** On February 21, the International Energy Agency (IEA) released their Global Methane Tracker 2023 report. According to the IEA, the “Global Methane Tracker shows [how] the oil and gas sector could slash emissions of potent greenhouse gas using only a fraction of its bumper income from the energy crisis.” But according to the Independent Petroleum Association of America, “The IEA report’s United States data shows a success story. We’ve all but eliminated flaring from oil and natural gas production, while increasing production at the same time. The Permian basin is driving both of these trends.” [Read more.](#)

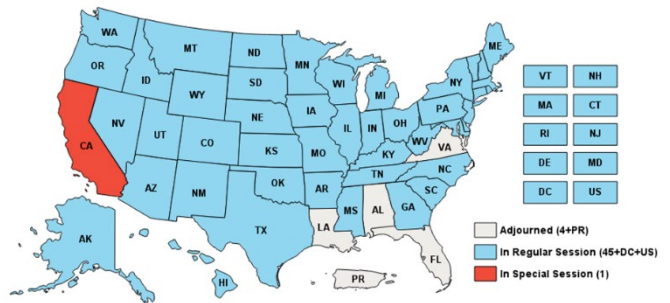
► **Permian Basin Water in Energy Conference.**

Last week, members of the oil and gas industry attended the Permian Basin Water in Energy Conference to discuss produced water. “Industry leaders gathered at the Midland County Horseshoe to bounce ideas off of each other and discuss new technology when it comes to produced water.” [Read more.](#)

► **Oil & Gas Day in West Virginia.** On February 22, “More than 20 companies and organizations across the state’s natural gas and oil sector, along with lawmakers and students, participated in Oil & Gas Day” at the state capitol building. “We constantly talk about the positive impacts our industry delivers that stretch far beyond the state’s core producing counties,” said Maribeth Anderson, board president of the Gas and Oil Association of West Virginia. “Today, our elected officials were able to see it firsthand and truly understand the work GO-WV and our members — as America’s 5th largest energy producing state — do to create long-term growth opportunities for West Virginia and all of us who live here.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin and Wyoming are in regular session. The U.S. Congress is also in session.

Arkansas lawmakers are scheduled to recess on March 16 and reconvene on March 27 according to [SCR 2](#) which passed both chambers on February 6.

The following states are scheduled to adjourn their 2023 legislative sessions on the dates provided: **Utah** and **Wyoming** (March 3), **West Virginia** (March 11) and **New Mexico** (March 18).

The following states are scheduled to convene their 2023 legislative sessions on the dates provided: **Alabama** and **Florida** (March 7) and **Louisiana** (April 10).

The **Pennsylvania** Democrat-controlled House passed [new rules](#) for the session that raise the threshold to amend a bill from a simple majority to two-thirds support

and limits speakers to five minutes, reports [Spotlight PA](#). On February 28, House Speaker Mark Rozzi (D) resigned saying he felt his work as speaker was done. Former Democratic Leader Joanna McCClinton (D) was immediately elected by a [vote](#) of 102-99, making her the first female African American House speaker. Speaker McCClinton was previously named by the Democratic Party to be House speaker before Rozzi was surprisingly backed by Republicans in January, reports [FOX 43](#). In her opening statement, McCClinton said she was “confident that we can replace our shortsighted political game with sincere and productive cooperation.”

Signing Deadlines: Virginia Republican Gov. Glenn Youngkin has until March 27 to act on legislation or it becomes law without signature.

The following states are currently holding interim committee hearings: [Alabama](#), [Florida House](#) and [Senate](#) and [Louisiana](#).

[Florida](#) is currently posting 2023 bill drafts, pre-files and interim studies. ■

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GOVERNMENTAL AFFAIRS REPORT

Highlights At-A-Glance

FEDERAL – Legislative

H.R. 1 – Energy Bill Package. On March 15, official bill text was made available for [H.R. 1](#). Originally announced by House Speaker Kevin McCarthy (R-CA) and sponsored by House Majority Leader Steve Scalise (R-LA), the Lower Energy Costs Act is a comprehensive package of separate energy bills rolled into a single 200+ page piece of legislation. The package of energy measures “focuses on two main priorities: increasing the production and export of American energy and reducing the regulatory burdens that make it harder to build American infrastructure and grow our economy.” [Read more.](#) According to Speaker McCarthy, “Policies that will be included in the energy package can be broken down into several broad categories: Increasing American Energy Production; Increasing the Production and Processing of Critical Minerals; Streamlining Energy Infrastructure and Exports; Broad Permitting Reform; and Government Accountability.” Key provisions include: reducing the royalty rate companies that drill offshore need to pay to the government from at least 16.67 percent down to 12.5 percent; limit the president’s authority to block cross-border energy projects like the Keystone XL pipeline; make it easier to sell U.S. liquefied natural gas abroad by getting rid of the need for Energy Department approval for export applications for countries where the U.S. doesn’t have a free trade agreement; Regarding permitting, set two-year time limits for conducting a more-stringent type of environmental review known as an environmental impact statement for major projects. These reviews would also be limited to 150 pages, except for extraordinarily complex projects, where the reviews would have a 300-page maximum. Regarding repealing Inflation Reduction Act programs, the package would eliminate a program that aims to reduce planet-warming methane emissions from the

oil and gas sector by both providing grants and loans to help companies cut emissions and also issuing fines on excess emissions; and eliminate funds given to the Environmental Protection Agency that would seek to spur funding for climate-friendly projects. [Read a summary of key provisions here.](#) However, on March 15, Senate Majority Leader Chuck Schumer (D-NY) said the House bill is “dead on arrival” in the Senate. We will continue to watch any developments which includes the House Committee on Rules announcing it may meet the week of March 27th to provide for floor consideration of the bill and any amendments to the legislation. [Read more.](#)

H.R. 1335 – Transparency, Accountability, Permitting, and Production of American Resources Act. On March 6, official bill text was made available for [H.R. 1335](#), known as the Transparency, Accountability, Permitting, and Production of American Resources Act or the TAPP American Resources Act. Sponsored by House Natural Resources Committee Chairman Rep. Bruce Westerman (R-AR), the bill would “restart onshore and offshore oil, gas, and coal leasing, streamline permitting for energy infrastructure, [and] ensure transparency in energy development on Federal lands.” According to Rep. Westerman, “The TAPP American Resources Act incentivizes a true all-of-the-above energy strategy that fixes broken systems and clears permitting logjams.” The legislation includes 14 key provisions. [Read more.](#)

H.R. 1483 – End Oil and Gas Tax Subsidies Act of 2023. On March 8, Rep. Earl Blumenauer (D-OR) introduced [H.R. 1483](#), known as the End Oil and Gas Tax Subsidies Act of 2023. The bill would amend the Internal Revenue Code regarding multiple oil and gas provisions, including: “Increasing the amortization period for geological and geophysical expenditures

from two years to seven years; Repealing the Section 45l tax credit for producing oil and gas from marginal wells and the Section 43 tax credit for enhanced oil recovery; Repealing the Section 263(c) tax deduction for the intangible drilling and development costs of oil and gas wells; Repealing percentage depletion in Section 613A; Repealing the Section 193 tax deduction for tertiary injectant expenses; Repealing the exception to passive loss limitations for working interests in oil and gas property; Disallowing the Section 199A tax deduction for income attributable to domestic production activities for oil and gas activities; Prohibiting the use of the last-in, first-out (LIFO) accounting method by major integrated oil companies; Limiting the foreign tax credit for dual capacity taxpayers who receive specific economic benefits from foreign countries or U.S. possessions;” and closing a tar sands tax loophole. The bill has a low likelihood of advancing in the Republican-led House. [Read a complete bill summary here.](#)

H.R. 1443 – Florida Coastal Protection Act. On March 8, Rep. Kathy Castor (D-FL) introduced [H.R. 1443](#), known as the Florida Coastal Protection Act. The bill would “make permanent the current drilling moratorium off the coast of Florida.” According to Rep. Castor, the measure “would protect all of Florida’s coastlines from future catastrophic oil spills by permanently banning oil and gas drilling approximately 235 miles off of Florida’s Gulf Coast, approximately 275 miles off Florida’s Atlantic Coast and in the Straits of Florida.” Former President Trump already issued an executive order preventing drilling off Florida through July 2032, but “it can be reversed by another executive order.” [Read more.](#)

H.R. 1172 – California Clean Coast Act of 2023. On March 14, official bill text was made available for [H.R. 1172](#), known as the California Clean Coast Act of 2023. Sponsored by Rep. Salud Carbajal (D-CA), the bill would “permanently prohibit oil and gas leasing off the coast of the State of California.” The bill has a low likelihood of advancing in the Republican-led House. [Read more.](#)

H.R. 1115 – Promoting Interagency Coordination

for Review of Natural Gas Pipelines Act. On March 15, official bill text was made available for H.R. 1115, known as the Promoting Interagency Coordination for Review of Natural Gas Pipelines Act. Sponsored by Rep. Michael Burgess (R-TX), the bill would “provide for Federal and State agency coordination in the approval of certain authorizations under the Natural Gas Act” to promote more efficient and streamlined reviews for natural gas pipeline infrastructure by strengthening the Federal Energy Regulatory Commission’s lead role as it relates to the National Environmental Policy Act review process. [Read more.](#)

H.R. 956 – No Drilling in the North Atlantic Act of 2023. On March 13, official bill text was made available for H.R. 956, known as the No Drilling in the North Atlantic Act of 2023. Sponsored by Rep. Christopher Smith (R-NJ), the bill would “prohibit oil and gas exploration, development, and production in the North Atlantic Planning Area of the Outer Continental Shelf.” [Read more.](#)

H.Con.Res. 17 – Petroleum Exports. On March 8, official bill text was made available for H.Con.Res. 17. Sponsored by Rep. Brett Guthrie (R-KY), the resolution expresses “the sense of Congress that the Federal Government should not impose any restrictions on the export of crude oil or other petroleum products.” [Read more.](#)

S. 38 – Natural Gas Export Expansion Act. On March 9, official bill text was made available for [S. 38](#), known as the Natural Gas Export Expansion Act. Sponsored by Sen. Ted Cruz (R-TX), the bill would “amend the Natural Gas Act to provide for expanded natural gas exports.” Specifically, the bill “would expedite the federal approval process for exporting liquefied natural gas (LNG) and increase free trade, particularly as European countries are rapidly seeking new sources of clean, reliable energy.” According to Sen. Cruz, “in addition to creating and supporting thousands of domestic jobs, this legislation would help to fortify our nation’s energy security, reduce emissions at home and abroad, and strengthen America’s strategic and economic relationship with our allies.” [Read more.](#)

S. 542 – CCU Parity Act of 2023. On March 10, official bill text was made available for [S. 542](#), known as the CCU Parity Act of 2023. This bipartisan bill, sponsored by Sen. Sheldon Whitehouse (D-RI) and Sen. Bill Cassidy (R-LA), would “amend the Internal Revenue Code of 1986 to increase the applicable dollar amount for qualified carbon oxide which is captured and utilized for purposes of the carbon oxide sequestration credit.” Specifically, the bill “would increase the tax credit for carbon capture and utilization to match the incentives for carbon capture and sequestration for both direct air capture and the power and industrial sectors.” According to Sen. Whitehouse, the bill is “intended to create parity between the credit value for utilization and sequestration in the 45Q carbon capture tax credit.” [Read more.](#)

House Oversight and Accountability Committee Hearing. On March 8, the House Committee on Oversight and Accountability held a hearing, *Burning the Midnight Oil: Why Depleting the Strategic Petroleum Reserve is Not a Solution to America’s Energy Problem, Part I*. Witnesses included Alex Epstein, President of the Center for Industrial Progress. You may [access a full video recording of the hearing and witness testimony here.](#)

Senate Lawmakers Letter to U.S. Treasury Secretary Regarding Domestic Energy Production. On March 16, a group of Republican senators delivered a letter to U.S. Treasury Secretary Janet Yellen, writing “with grave concern regarding the administration’s continued hostility towards American energy production.” [Read the letter here.](#) The group challenges the Biden administration’s \$6.8 trillion budget proposal that seeks to increase taxes and costs on American energy producers. Although the budget is reportedly dead-on-arrival in the Republican-led House, the group stresses, “These crushing tax proposals, paired with the administration’s heavy handed regulations and mandates, would threaten American families’ access to affordable and reliable energy, while giving our adversaries the upper-hand in the global energy markets.” [Read more.](#)

FEDERAL – Regulatory

BLM Resource Advisory Council Meeting – Alaska. On March 15, the Bureau of Land Management (BLM) announced the Alaska Resource Advisory Council (RAC) will hold a hybrid public meeting, offering in-person and virtual attendance options, on May 24, 2023 and will also accept public comments. Per the BLM, “The Alaska RAC advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with BLM-managed public lands in Alaska.” RAC meetings are open to the public. [Read more.](#)

BLM Resource Advisory Council Meeting – Southern New Mexico. On March 14, the BLM announced the Southern New Mexico Resource Advisory Council (RAC) will host a meeting on March 29, 2023. The public is invited to attend and comment at the meeting. Both in-person and virtual participation options will be available. Per the BLM, “The 12-member Southern New Mexico RAC provides advice and recommendations to BLM on resource and land management issues within BLM Socorro Field Office and Pecos and Las Cruces District Offices. RAC members are citizens who represent varied public land interests.” [Read more.](#)

BLM Oil and Gas Lease Sale – Louisiana; Michigan. On March 10, the BLM Eastern States Office “released two environmental assessments analyzing an oil and gas parcel in Michigan totaling 40 acres and three parcels in Louisiana totaling 88.81 acres for proposed lease sales that would be held in June 2023. The BLM completed scoping on these parcels in January 2023 and is now initiating a 30-day public comment period on the environmental assessments, parcels, and potential deferrals. The public comment period closes April 9, 2023.” [Read more.](#)

BLM Oil and Gas Lease Sale – North Dakota. On March 10, the BLM Montana-Dakotas State Office “released an environmental assessment analyzing 51 parcels (20,722.22 acres) for the proposed June 2023 Competitive Oil and Gas Lease Sale. These include 12 parcels located within Billings County, North

Dakota (4,880.04 acres), one parcel located within Golden Valley County, North Dakota (636.96 acres), 22 parcels located within McKenzie County, North Dakota (6,482.44 acres), three parcels located within Mountrail County, North Dakota (945.12 acres), and 13 parcels located within Slope County, North Dakota (7,777.66 acres). The release of this environmental assessment starts a 30-day public comment period, which will end April 10, 2023." [Read more.](#)

BLM Oil and Gas Lease Sale – Wyoming. On March 10, the BLM “released an environmental assessment analyzing 115 oil and gas parcels totaling approximately 95,419 acres for a proposed lease sale that would be held in September 2023. The release of this environmental assessment starts a 30-day public comment period, which will end April 7, 2023.” Per the BLM, they “will use input from the public to help complete its review of each parcel and determine if leasing of these parcels conforms with all applicable laws, policies, and land use plans.” [Read more.](#)

BLM Greater Sage-Grouse – Nevada. On March 10, the BLM Wells Field Office invited “public review and comment of the Preliminary Environmental Assessment (PEA) for the proposed treatments and improvements to the greater sage-grouse habitat in Northeastern Nevada.” The announcement opens up a 30-day public comment period closing on April 11, 2023. “The need for the project is identified as conservation, enhancement, and protection of sagebrush ecosystems within the O’Neil PPA, and is vital to the protection and future success of our greater sage grouse populations,” said Melanie Mitchell, Wells Field Office Manager. [Read more.](#)

President Biden Approves Willow Project – Alaska. Last week, the Biden administration approved the ConocoPhillips oil development project on Alaska’s North Slope, although the administration “said it is adding new environmental protections to limit future oil development in several areas of the National Petroleum Reserve-Alaska.” [Read more.](#) While many environmental activist groups tried to stop the Willow Project, once completed it “is expected to be one of the largest oil fields developed in Alaska in decades.

It would produce oil for three decades, including 180,000 barrels of oil daily at its peak.” As reported, “The administration approved three drill sites, which ConocoPhillips has said is economically viable. The approval is a reduction of the five drill sites that ConocoPhillips had originally sought, though the company said Monday that it’s pleased with the approval.” [Read more.](#) With the announcement also came a memorandum from President Biden, “Withdrawal of Certain Areas off the United States Arctic Coast of the Outer Continental Shelf from Oil or Gas Leasing.” The withdrawal as “directed by this memorandum prevents consideration of withdrawn areas for any future oil or gas leasing for purposes of exploration, development, or production.” [Read the memorandum here.](#)

Department of Energy Clean Hydrogen Technologies Funding. On March 15, the Department of Energy (DOE) announced the availability of \$750 million for the advancement of clean hydrogen technologies funding. According to the DOE, “This funding—the first phase of the \$1.5 billion in President Biden’s Bipartisan Infrastructure Law dedicated to advancing electrolysis technologies and improving manufacturing and recycling capabilities — is a crucial component of the Administration’s comprehensive approach to accelerating the widespread use of clean hydrogen and will play a vital role in achieving commercial-scale hydrogen deployment this decade. Produced with net-zero carbon emissions, clean hydrogen is a key pillar in the emerging clean energy economy and will be essential for reaching the President’s goal of a 100% clean electrical grid by 2035 and net-zero carbon emissions by 2050.” [Read more.](#)

Department of Energy Decarbonization Funding Opportunities. *(Update to 3/6/23 Report)* On March 8, the “Department of Energy (DOE) announced approximately \$6 billion in funding to accelerate decarbonization projects in energy intensive industries and provide American manufacturers a competitive advantage. Funded by the Bipartisan Infrastructure Law (BIL) and Inflation Reduction Act (IRA), the Industrial Demonstrations Program will focus on

revolutionizing energy intensive industrial processes with the highest emissions, where decarbonization technologies will have the greatest impact.” For more information, [access the DOE Funding Opportunity Exchange here](#). Potential opportunities for decarbonization funding include “carbon capture and novel utilization for captured carbon.” [Read more](#).

EPA Carbon Capture and Sequestration

Approvals. On March 14, a group of industry representatives [sent a letter to U.S. Environmental Protection Agency \(EPA\) Administrator Michael Regan](#), calling for the expedition of applications from states to obtain primacy over Class VI injection wells. As noted, “With the vast majority of new carbon capture and storage (CCS) projects looking toward permanent injection rather than enhanced oil recovery, Class VI well permits are expected to get backed up going through the EPA.” The letter writers added that “We appreciate the Biden-Harris Administration’s public declarations and funding commitments to support the growing CCS industry. Now, it is time to put those words into action, beginning with the expeditious approval of state primacy applications for Class VI injection wells.” As reported, “States that gain primacy over Class VI wells will be able to have their own regulatory agencies take on permit applications. Currently, only North Dakota and Wyoming have state primacy over Class VI wells.” [Read more](#).

U.S. Fish and Wildlife Service Pipeline Approval – Virginia; West Virginia. As reported by the *Oil & Gas Journal*, the U.S. Fish and Wildlife Service has approved the construction and operation of the Equitrans Midstream Corporation’s 303-mile Mountain Valley natural gas pipeline running through Virginia and West Virginia. [Read more](#). The agency found it “is not likely to jeopardize the continued existence’ of five particular species.” As reported, following Federal Energy Regulatory Commission approval, and pending receipt of necessary permits, “Mountain Valley is targeting the resumption of construction on the 2-bcfd pipeline in second-quarter 2023 and completing construction, including final right-of-way restoration, by end [of] 2023.” [Read more](#).

FEDERAL – Judicial

Surface Damage; Pore Space – South Dakota. On January 27, in *Brown v. Continental Resources, Inc.* (Case No. 22-1230), the U.S. Court of Appeals, Eighth Circuit, on appeal from U.S. District Court for the District of South Dakota, ruled in favor of Continental regarding a suit for damages to the surface of the Browns’ land and Continental’s use of their pore space as it related to the operation of input wells. Regarding the surface damage claims, Continental argued that the Drilling and Pipeline Agreements released it from liability for the alleged harm. The Browns claimed that Continental’s trucking operation caused surface damage because the trucks used to move water to the well left a pasture unusable. While the agreements let Continental drive its trucks across the Browns’ land for oil and gas activities, “the Browns argue that the Agreements only contemplated oil extraction operations. Because the surface damage came from Continental’s input operations, the Browns insist that the Agreements did not release Continental from liability.” The court disagreed with that argument finding that the agreement terms were “plain and unambiguous” and provided for Continental to drive its trucks across the Browns’ land in connection with its input and oil recovery operations. Regarding the pore space claim, Continental argued “that the harm the Browns assert is not compensable under South Dakota law.” The court agreed, holding that “lost use” “is not one of the categories” contemplated by the applicable law. [Read more](#).

STATE – Legislative

Oil and Gas Amendments – Arkansas. On March 6, HB 1549 was introduced by Rep. Rick Beck (R). The bill amends existing law concerning the calculation and distribution of royalty gas sold from a drilling unit following an integration order and the procedure for distributions to royalty owners. The bill also defines “proceeds.” [Read more](#).

Oil and Gas Operations Water Use – Colorado. On March 11, HB23-1242 was introduced by Rep. Andrew Boesenecker (D). The bill requires an oil and

gas operator in the state on or before January 31, 2024, and at least annually thereafter, to report information to the Colorado Oil and Gas Conservation Commission regarding the operator's use of water entering, utilized at, or exiting each of the operator's oil and gas locations. The bill also requires the Commission to adopt related rules and requires the Commission to report certain related information. [Read more.](#)

Clean Energy Resources – Idaho. *(Update to 2/20/23 Report)* On March 13, HB 96 was signed into law by Gov. Brad Little (R). Sponsored by the House Committee on Environment, Energy, and Technology (R), the bill amends “existing law to provide for the promotion and development of clean energy resources for declared purposes, to revise provisions regarding powers of the Idaho Energy Resources Authority, and to provide for clean energy generation projects.” The Act is effective July 1, 2023. [Read more.](#)

Hydraulic Fracturing Tax Act – Illinois. On March 7, HB 1143 advanced through committee amendments. Sponsored by Rep. Charles “Charlie” Meier (R), the bill amends the Illinois Hydraulic Fracturing Tax Act to provide “that moneys received under the Act shall be paid into the State Pensions Fund and shall be used only for the funding of the unfunded liabilities of the designated State-funded retirement systems.” [Read more.](#)

County-Owned Property – Mississippi. *(Update to 1/23/23 Report)* On March 14, SB 2312 was signed into law by Gov. Tate Reeves (R). Sponsored by Sen. Chris Johnson (R), the bill establishes a competitive bidding process with a right of first refusal for the lease or sale of county-owned property. [Read more.](#)

Severance Tax – Mississippi. *(Update to 1/23/23 Report)* On March 13, HB 383 was signed into law by Gov. Tate Reeves (R). Sponsored by Rep. Brent Powell (R), the bill “extend[s] the date of the repealers on those provisions that establish a temporarily reduced rate for the levy and assessment of severance taxes on the initial oil and natural gas produced from certain horizontally drilled wells and

horizontally drilled recompletion wells.” The Act has multiple effective dates. [Read more.](#)

Business Equipment Tax Exemption – Montana.

On March 13, HB 212 was signed into law by Gov. Greg Gianforte (R). The bill increases the tax exemption for business equipment. The Act provides multiple effective dates. [Read more.](#)

State Renewable Energy Office – New Mexico.

(Update to 1/23/23 Report) On March 16, HB 95 was signed into law by Gov. Michelle Lujan Grisham (D). Sponsored by Rep. Tara Lujan (D), the bill provides that the New Mexico Commissioner of Public Lands “shall establish and maintain a renewable energy office to advance the production and development of renewable energy.” [Read more.](#)

Oil and Gas Regulation – North Dakota. On March 15, HB 1062 was signed into law by Gov. Doug Burgum (R). Sponsored by the House Energy and Natural Resources Committee (R), the bill amends existing law “relating to updating position titles, clarification for mortgage insurance requirements, execution of instruments, and industrial commission powers.” The final bill was significantly scaled back from its [introduced version](#) which contained numerous provisions regarding the “regulation of oil and gas wells, service requirements, modernization of the notice requirement, updating position titles, clarification for mortgage insurance requirements, an exemption for specialized mill equipment, and flare mitigation.” As the bill provides no effective date, under North Dakota law it becomes effective on August 1, 2023. [Read more.](#)

Water Permit Hearings – North Dakota. On March 15, HB 1062 was signed into law by Gov. Doug Burgum (R). Sponsored by the House Energy and Natural Resources Committee (R), the bill provides for public hearings related to water permits. As the bill provides no effective date, under North Dakota law it becomes effective on August 1, 2023. [Read more.](#)

Carbon Dioxide Underground Storage Permit Hearing Notices – North Dakota. *(Update*

to 1/23/23 Report) On March 13, SB 2057 was signed into law by Gov. Doug Burgum (R). Sponsored by the Senate Energy and Natural Resources Committee (R), the bill amends the Carbon Dioxide Underground Storage law to make changes to the delivery of permit hearing notices. As the bill provides no effective date, under North Dakota law it becomes effective on August 1, 2023. [Read more.](#)

Oil or Gas Well Site Regulatory Authority – North Dakota. (Update to 1/23/23 Report) On March 13, SB 2058 was signed into law by Gov. Doug Burgum (R). Sponsored by the Senate Energy and Natural Resources Committee (R), the bill relates to the jurisdiction of the regulatory authority regarding “The location and operation of wellhead and lease equipment, oil and gas separators, emulsion treaters, boilers, electric generators, flares, newly constructed underground gathering pipelines, flare mitigation systems, and all other equipment located at or on an oil or gas well site or underground gathering pipeline facility.” As the bill provides no effective date, under North Dakota law it becomes effective on August 1, 2023. [Read more.](#)

Well Plugging – North Dakota. (Update to 1/23/23 Report) On March 13, SB 2059 was signed into law by Gov. Doug Burgum (R). Sponsored by the Senate Energy and Natural Resources Committee (R), the bill relates to the balance in the abandoned oil and gas well plugging and site reclamation fund and raises the amount from 50 to 100 million dollars. The Act is effective through June 30, 2027. [Read more.](#)

State Leasing – Pennsylvania. On March 7, HB 55 was introduced by Rep. Clint Owlett (R). The bill would “require the Department of Conservation and Natural Resources to establish a program to lease the subsurface rights under state lands for oil and gas development.” [Read more.](#)

Sunset Law; Oil and Gas Regulation – Tennessee. (Update to 2/20/23 Report) On March 6, SB 58 was signed into law by Gov. Bill Lee (R). Sponsored by Sen. Kerry Roberts (R), the Act extends the termination date of the Tennessee Board of Water

Quality, Oil, and Gas to June 30, 2028. Otherwise, under the Tennessee Governmental Entity Review Law, the board would terminate on June 30, 2023. [Read more.](#)

Severance Tax Exemption – Texas. On March 13, HB 591 passed committee. Sponsored by Rep. Giovanni Capriglione (R), regarding a tax exemption for on-site use of natural gas that would be normally vented or flared from an oil well, gas produced from a qualifying well that is consumed on the well site and would otherwise have been lawfully vented or flared would not be subject to the severance tax. [Read more.](#)

Royalty Interest Taxation – Texas. On March 13, HB 456 passed committee. Sponsored by Rep. Tom Craddick (R), the bill would exempt the value of royalty interests owned by charitable organizations from ad valorem taxation of real property. [Read more.](#)

Mineral Lease Application Procedures

Amendments – Utah. (Update to 2/6/23 Report) On March 14, Gov. Spencer Cox (R) signed HB 321 into law. Sponsored by Rep. Kay Christofferson (R), this mineral lease amendments bill “modifies mineral lease application procedures.” Specifically, the bill “introduces an online option for the disclosure of a mineral lease application; and modifies the deadline for disclosing an application.” As the bill provides no effective date, under Utah law it is effective 60 days following session adjournment on March 3, 2023. [Read more.](#)

Great Salt Lake Amendments – Utah. On March 14, Gov. Spencer Cox (R) signed HB 513 into law. Sponsored by Rep. Casey Snider (R), this Great Salt Lake amendments bill addresses management of the Great Salt Lake and related activities, and specifically “modifies provisions related to severance taxes; clarifies minerals with royalties going to the Great Salt Lake Account; addresses mineral leases or royalty agreements related to the Great Salt Lake; provides for royalties for certain elements and minerals; requires a study and reporting; defines terms; codifies legislative findings; modifies the Division of Forestry, Fire, and State Lands’

management responsibilities for the Great Salt Lake, including addressing rulemaking; establishes emergency management responsibilities and powers; addresses force majeure; and makes technical and conforming changes.” The Act has multiple effective dates. [Read more.](#)

Office of Oil and Gas in the Department of Environmental Protection – West Virginia.

(Update to 2/20/23 Report) On March 11, HB 3110 passed the Senate after passing the House in February. Sponsored by Del. Bill Anderson (R), “The purpose of this bill is to ensure that the WVDEP Office of Oil and Gas has sufficient money to inspect the oil and gas wells of the State of West Virginia in an efficacious and diligent manner that protects the people and environment of the State from degradation related to violations of the West Virginia oil and gas production laws.” The Senate Finance Committee amended the House version to set a \$1.2 million cap on funding that could be allocated annually from the severance tax-derived funding source for the state Department of Environmental Protection’s Office of Oil and Gas for regulation of the gas and oil industry. [Read more.](#)

Oil and Gas Refinery Development – Wyoming.

(Update to 2/6/23 Report) On March 2, SF 154 was signed into law by Gov. Mark Gordon (R). Sponsored by Sen. Edward Cooper (R), the bill supports “efforts to maintain and expand the mineral industry and the oil and gas industry in Wyoming through the development, construction and operation of mineral processing and concentration facilities and through constructing and facilitating the construction of oil and gas refineries and the expansion of existing oil and gas refineries in Wyoming.” The bill also provides the “authority may issue and have outstanding bonds to finance the construction or expansion of oil and gas refineries in Wyoming.” The Act takes immediate effect. [Read more.](#)

State Land Lease Renewal; Compliance; Cure Process – Wyoming. *(Update to 2/6/23 Report)* On March 9, HB 22 was signed into law by Gov. Mark Gordon (R). Sponsored by the Joint Committee

on Agriculture, State and Public Lands and Water Resources (R), the bill relates to the state land lease deficiencies cure process, “providing for notification of noncompliance in a state land lease renewal; providing opportunities for compliance; [and] conforming time frames for lessee compliance.” The Act is effective July 1, 2023. [Read more.](#)

State Land Leases – Wyoming. *(Update to 1/23/23 Report)* On March 11, HB 171 was signed into law by Gov. Mark Gordon (R). Sponsored by Rep. Andrew Byron (R), relating to state lands, the bill provides “When the office of state lands and investments initiates a request for a proposed leasing of state lands, the office shall require not less than thirty (30) days notice be provided: (i) On the website of the office of state lands and investments; (ii) In a newspaper of general circulation in the county or counties where the state lands are to be leased; and (iii) To current lessees of the state lands and owners of adjoining lands by certified mail.” The Act has multiple effective dates. [Read more.](#)

STATE – Regulatory

Oil and Gas Worker Transition Funding –

California. In budget year 2023-2023 Gov. Gavin Newsom (D) included funding for displaced oil and gas workers, but his new 2023-2024 budget proposal has eliminated the program funding. As reported by the *Sacramento Bee*, “the oil and gas workforce displacement training and assistance programs established last year will not receive any funding under Newsom’s 2023-2024 budget proposal.” Although the budget is still in the proposal phase, it is unlikely that the funding will be added for the upcoming fiscal year even though the “governor has repeatedly pledged reassurance that impacted oil and gas workers would be supported throughout the energy transition.” [Read more.](#)

COGCC Cumulative Impacts Report – Colorado.

On March 3, the Colorado Oil & Gas Conservation Commission (COGCC) announced “the Director has delivered its ‘Report on the Evaluation of Cumulative Impacts,’ as required by SB 19-181 to regulate oil

and gas development in a manner that is protective of public health, safety, welfare, wildlife and environmental resources.” [Read more](#). According to the COGCC Director, “This report is intended to establish a baseline and inform the Commission of data, trends, and considerations in your ongoing evaluation and assessment of potential cumulative impacts consistent with SB 19-181.” [Access the complete report here](#).

Oil & Gas Land Management Commission Meeting – Ohio. (*Update to 2/6/23 Report*) On March 1, the Oil & Gas Land Management Commission of the Ohio Department of Natural Resources held their monthly meeting which included their ongoing agenda items related to Draft Commission Procedures, the Draft Land Nomination Form, and the Draft Notice of Nomination. To access the agenda items and draft documents, [Read more](#).

STATE – Judicial

Deed Interpretation; Mineral Interests – Texas. On January 23, the Texas Court of Appeals, Eighth District (El Paso), in *Devon Energy Prod. Co., LP v. Enplat II, LLC* (Case No. 08-21-00217-CV), was “asked to construe the terms of a 1940 deed to determine whether the grantors reserved a 1/16th fixed royalty interest or a 1/16th non-executive mineral interest when conveying a particular tract of property.” The appellant group argued “the trial court erred in finding that the grantors intended to reserve a royalty interest and that the grantors’ intent was to instead reserve a mineral interest.” In its opinion, the court held that “Given the reservation’s use of terms traditionally associated with a mineral interest, we conclude that the first clause of the reservation was more akin to a mineral interest than a royalty interest [and] this conclusion is consistent with the remaining provisions in the deed and is the best way to harmonize the deed in a manner that accords meaning to all of its provisions.” Thus, the court agreed with the appellant group and reversed the trial court’s order remanding the case back to the trial court for further proceedings. [Read more](#).

INDUSTRY NEWS FLASH

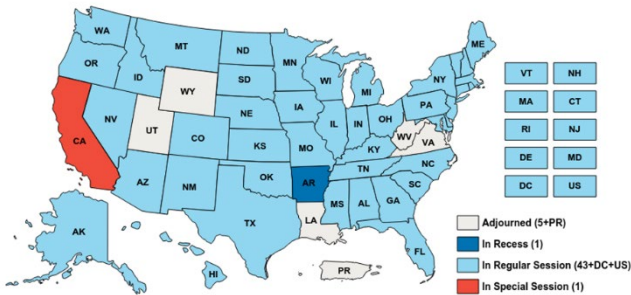
► **North Dakota Governor Touts Oil and Gas Importance.** On March 7, North Dakota Gov. Doug Burgum (R) “praised the oil and gas industry for being a ‘powerhouse’ and ‘game-changer’ for the state’s economy, and bashed the White House for trying to shift the country away from climate change-causing fossil fuels. Citing recent studies, the Republican governor said the industry contributed more than \$42 billion to the state’s economy in 2021, employed nearly 50,000 people and was responsible for more than half of the state’s tax revenue.” [Read more](#).

► **Are Enough Young Adults Entering the Oil and Gas Industry.** On March 8, *Rigzone* reported recent data showing that there “are simply not enough young people entering the oil and gas workforce in recent times.” For example, “Over the past five years, it is reported that the number of Petroleum Engineering graduates has dropped by 83 percent.” However, Brian Binke, a Michigan based oil and gas recruiter says, “there are ways that the oil and gas industry can attract the best talent like creating more flexible career paths, offer professional training and development or creating attractive benefits package.” [Read more](#).

► **U.S. Shale Crude Oil Production to Rise to Highest Level since 2019.** Last week, the U.S. Energy Information Administration (EIA) reported that domestic “shale crude oil production in the seven biggest shale basins is expected to rise in April to its highest since December 2019.” However, the EIA data also shows “production is expected to rise by 68,000 barrels per day - the slimmest rise since December 2022 - to 9.21 million bpd.” [Read more](#).

LEGISLATIVE SESSION OVERVIEW

States in Session



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

Arkansas lawmakers are in recess until March 27.

New Mexico adjourned their legislative session on March 18. **West Virginia** adjourned their legislative session on March 11.

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

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

Signing Deadlines (by date): **Wyoming** Republican Gov. Mark Gordon had until March 18 to act on legislation or it becomes law without signature. **Utah** Republican Gov. Spencer Cox has until March 23 to act on legislation or it becomes law without signature. **Virginia** Republican Gov. Glenn Youngkin has until

March 27 to act on legislation or it becomes law without signature. **West Virginia** Republican Gov. Jim Justice has until March 29 to act on legislation or it becomes law without signature. **New Mexico** Democrat Gov. Michelle Lujan Grisham has until April 7 to act on legislation or it is pocket vetoed.

Louisiana is currently holding interim committee hearings. ■

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