

GOVERNMENTAL AFFAIRS REPORT



AAPL MIDTERM ELECTION RESULTS ROUNDUP

Following are key midterm election results called as of this report. In particular, party control of Congress remains unknown as a number of states have yet to call election results although it appears Republicans will take control of the House with a narrow majority. Party control in the Senate is still uncertain and may hinge upon a runoff election in Georgia next month. For a deeper dive, please see the links provided in this special section for access to multiple election reports available only to AAPL members.

KEY GOVERNOR RACES

Arizona: The tight governor's race between Democrat Katie Hobbs and Republican Kari Lake is too close to call as is the Senate race between incumbent Democrat Mark Kelly and Republican challenger Blake Masters. The governor's race is an open seat due to the term limit of Republican Gov. Doug Ducey. On November 10, Arizona election officials announced they will continue counting votes into the week of November 14.

California: Incumbent Democrat Gavin Newsom won reelection against Republican challenger California State Sen. Brian Dahle.

Maryland: Democrat Wes Moore defeated Republican challenger Dan Cox to become the state's first Black governor. Moore succeeds outgoing Republican Gov. Larry Hogan who was term limited.

Michigan: Incumbent Democrat Gov. Gretchen Whitmer defeated Republican challenger, Tudor Dixon, who supported pipeline approvals opposed by Whitmer as well as traditional oil and gas development in the state.

New Mexico: Incumbent Democrat Gov. Michelle Lujan Grisham won reelection against her Republican challenger, Mark Ronchetti. According to the Albuquerque Journal, "This year's contest was much closer than four years ago, when Lujan Grisham easily beat Republican Steve Pearce to win election as governor."

New York: Republican challenger Rep. Lee Zeldin was unable to unseat sitting Democrat Governor Kathy Hochul. This was Gov. Hochul's first race as she previously held the office by way of Gov. Andrew Cuomo's resignation amid multiple scandals. Zeldin vowed to open New York to oil and gas development and lift the moratorium on hydraulic fracturing had he won the election.

Oklahoma: Incumbent Republican Gov. Kevin Stitt won reelection against Democrat challenger Joy Hofmeister by double digits.

Pennsylvania: Republicans failed to flip the governor's seat, with Democrat Doug Shapiro defeating his Republican challenger, Doug Mastriano. The seat was an open race due to Gov. Tom Wolf's (D) term limit.

Texas: Incumbent Republican Gov. Greg Abbott handily won reelection by double digits, holding back a challenge from Democrat Beto O'Rourke.

For more governor's race information, see the AAPL Executive Election Results Report: [click here](#).

CONGRESSIONAL RACES

U.S. Senate

As noted above, party control of the Senate is still undetermined as of this report.

Alaska: This race has not yet been called. Incumbent Republican Sen. Lisa Murkowski, an influential member of the Senate Energy Committee, and Republican opponent Kelly Tshibaka both failed to win 50% of the vote so the count will continue under the state's new ranked choice voting system. Regardless of the next count, the seat will remain in GOP hands.

Arizona: Not called. Please see the note above regarding this race.

Georgia: There will be a runoff election as neither candidate, incumbent Democrat Sen. Raphael Warnock nor Republican challenger, Herschel Walker, was able to secure the 50% threshold needed to avoid a runoff election which will take place on December 6.

Nevada: In a potential seat flip, incumbent Democrat Catherine Cortez Masto is trailing her Republican challenger, former Nevada State Attorney General Adam Laxalt.

North Carolina: In an open race, Republican Rep. Ted Budd defeated former North Carolina Supreme Court Justice Cheri Beasley. The seat was previously held by retiring three-term Republican Sen. Richard Burr.

Ohio: In the open Ohio race, Republican J.D. Vance was able to hold the GOP seat previously held by retiring Sen. Rob Portman (R) to defeat Democrat Rep. Tim Ryan.

Oklahoma: Republicans retained the seat held by six-term Sen. James Inhofe who retired this year. Republican Markwayne Mullin defeated his Democrat challenger Kendra Horn by more than 25 points.

Pennsylvania: Democrat Lieutenant Governor John Fetterman defeated Republican challenger Dr. Mehmet Oz to flip a seat previously held by retiring three-term Republican Sen. Pat Toomey.

Wisconsin: In a tight race, Wisconsin incumbent Republican Sen. Ron Johnson won reelection against Democrat challenger, Wisconsin Lt. Governor Mandela Barnes.

U.S. House of Representatives

As noted above, party control of the House has not yet been called but it appears that Republicans will take the majority once all votes are tallied.

Alaska: A historically Republican seat may flip Democrat as former Alaska governor and 2008 vice-presidential running mate Sarah Palin is trailing her Democrat challenger Mary Peltola by nearly 20 points as of this report. Because neither candidate reached the 50% threshold, that race will be subject to the same ranked choice count as the Senate race. The seat was previously held for 49 years by GOP Rep. Don Young – Alaska's longest-serving congressman – who died earlier this year at age 88. According to Alaska Public Radio, "The outcome of both Alaska congressional races won't be certain until second- and third-choice rankings are applied on Nov. 23. The Division of Elections is only counting first place votes this week. On Nov. 23, once all the mailed ballots are in, the division will eliminate the third- and fourth-place finishers and reallocate those ballots according to their voters' rankings."

Colorado: Although not yet called, incumbent Republican Rep. Lauren Boebert, a member of the House Natural Resources Committee, is slightly ahead of her Democrat challenger, Adam Frisch.

New Mexico: Incumbent Republican Rep. Yvette Herrell is trailing Democratic opponent Gabriel Vasquez. Rep. Herrell is currently the Vice Ranking Member of the House Energy and Mineral

Resources Subcommittee and a strong oil and gas advocate serving a district covering a large part of the state's section of the Permian Basin.

Montana: Former Trump Interior Secretary Ryan Zinke defeated his Democrat challenger Monica Tranel in Montana's newly created congressional seat.

For more state election information, see the AAPL Legislative Election Results Report: [click here](#).

Other State Issues

Texas Railroad Commission: Wayne Christian, Chairman of the Texas Railroad Commission, has been reelected, defeating Democratic challenger Luke Warford. "Christian, who has served on the Texas Railroad Commission since 2016 and is the chair of the three-member board, said his top three priorities during this term are to increase domestic production of oil and natural gas, fight back against what he calls 'the Biden administration's overreach' and secure U.S. energy independence." [Read more](#).

California Proposition 30: "California voters on Tuesday rejected a measure that would have imposed an additional tax on the rich in order to fund electric vehicle subsidies and charging stations. Funds from the ballot initiative, known as Proposition 30, also would have gone to support wildfire response in the Golden State. Under the proposal, residents who make more than \$2 million each year would pay an additional 1.75 percent personal income tax on earnings above \$2 million. The Associated Press called the ballot initiative race just before 2:30 a.m. With 41 percent of the votes counted, votes for the measure trailed those against it, standing at 59 percent to 41 percent as of Wednesday morning." [Read more](#).

For a deeper state-by-state look at all ballot initiatives, see the AAPL Ballot Measures Report: [click here](#).

FEDERAL – Legislative

H.R. 9025 - Determination of NEPA Adequacy Streamlining Act. On October 31, official bill text was made available for [H.R. 9025](#), known as the Determination of NEPA Adequacy Streamlining Act. Sponsored by Rep. David Valadao (R-CA), the bill "would streamline the approval process for energy production by allowing the Secretaries of the Interior and Agriculture to use previously conducted Environmental Assessments or Environmental Impact Statements under the National Environmental Policy Act (NEPA) for the approval of projects with similar environmental impacts." According to Rep. Valadao, "Streamlining the slow, bureaucratic approval process by allowing Secretaries to use previously conducted and scientifically sound environmental reviews under NEPA will help move these unnecessarily tied up projects across the finish line. At a time when energy prices are soaring for Central Valley families, this commonsense reform will allow us to increase our supply of safe, clean, and affordable energy." [Read more](#).

H.R. 9024 - Directing Responsibility to Interior for Leases and Licenses Act. On November 1, official bill text was made available for [H.R. 9024](#), known as the Directing Responsibility to Interior for Leases and Licenses Act or the DRILL Act. The bill would "require the Department of Interior (DOI) to publish information online and report to Congress regarding the processing of onshore and offshore drilling and exploration permits, the status of federal leases, and usage of applications for permits to drill (APD) fees." The bill would also "require the DOI and the Department of Agriculture (USDA) to submit a yearly report to Congress detailing staffing capacity and planning to ensure the timely processing of permits and planning for lease sales." [Read more](#).

H.R. 9006 – Environmental Reviews. On October 31, official bill text was made available for [H.R. 9006](#). Sponsored by Rep. Yvette Herrell (R-NM), the bill would "provide greater certainty to the federal permitting process for energy development, forest management, and building of critical infrastructure"

by setting a two-year time frame for “National Environmental Policy Act (NEPA) reviews on federal projects, which under current law can take over a decade.” According to Rep. Herrell, “By placing an explicit timeline for NEPA reviews, New Mexico businesses who must go through the NEPA process will have the certainty that they need to embark on projects that better the lives of New Mexicans.”

[Read more.](#)

H.R. 8966 - Simplify Timelines and Assure Regulatory Transparency Act. On October 31, official bill text was made available for H.R. 8966, known as the Simplify Timelines and Assure Regulatory Transparency Act or the START Act. Sponsored by Rep. Mike Kelly (R-PA), the bill would codify National Environmental Policy Act and Water Pollution Control Act regulations put in place during the Trump administration; prohibit the use of the social cost of greenhouse gas estimates that may raise gasoline prices; expedite permitting and review processes; provide states with regulatory authority over federal lands within their borders; provide for new source review permitting; prohibition of retroactive permit vetoes; and sets certain directives for environmental impact of proposed legislation.

[Read more.](#)

House Republican Report on Domestic Energy. On November 7, the Republicans on the House Committee on Oversight and Reform issued a report, [*Democrats' War on Domestic Energy Production and its Impact on the American People*](#), “outlining how the Biden Administration and Oversight Committee Democrats have demonized domestic oil and gas production, promoted anti-American energy policies, and failed to produce a comprehensive plan to address high energy prices and ongoing marketplace shortages impacting the American people.” According to the Committee Ranking Member Rep. James Comer (R-KY), “One-party Democrat rule in Washington has created an energy crisis for the American people. Democrats have weaponized their unchecked power to wage a war against American-made energy production and push radical, far-left Green New Deal policies that jeopardize Americans’

ability to power their homes. In the last two years, Democrats diverted substantial resources into a partisan investigation of America’s oil and gas industry. At the same time, President Biden shut down the Keystone XL pipeline, implemented a moratorium on oil and gas production on federal lands, drained U.S. oil reserves, and enacted energy policies that increased costs for Americans. Instead of demonizing an industry that provides good-paying jobs and affordable energy for all Americans, Republicans are committed to promoting policy solutions that unleash domestic energy production and put the interests of the American people first.” The report contains key findings and “ten measures Biden Administration officials could consider that would unleash U.S. domestic energy potential and protect American energy independence.” [Read more.](#)

FEDERAL – Regulatory

BLM Greenhouse Gas Leasing Analysis. On November 9, the Bureau of Land Management (BLM) published a notice “[t]o ensure consistency in responding to court challenges to greenhouse gas emissions analysis in its leasing program, the Bureau of Land Management has released an updated environmental assessment for public comment.” According to the BLM, “The additional review analyzes greenhouse gas emissions that may result from reasonably foreseeable development of 3,600 oil and gas leases that were sold in 74 lease sales between February 2015 and December 2020 that were the subject of litigation. The leases span approximately 3,433,615 acres in Colorado, Montana, New Mexico, Utah, Wyoming, North Dakota, and South Dakota. The environmental analysis looks at the development activity that would result in greenhouse gas emissions due to well development and production operations, as well as the end-use of the petroleum products produced from oil and gas leases.” The public comment period is open through December 27, 2022. [Read more.](#)

BLM Chaco Area Withdrawal – New Mexico. On November 10, the BLM announced that the “Farmington Field Office has released the proposed Chaco Area Withdrawal Environmental Assessment for a 30-day

public review and comment period. The environmental assessment analyzes impacts associated with withdrawing federal minerals from leasing in a ten-mile buffer surrounding Chaco Culture National Historical Park for 20 years. The proposed withdrawal is an important part of the Interior Department's efforts to protect the Chaco Canyon and the greater connected landscape, and to ensure that public land management better reflects the sacred sites, stories, and cultural resources in the region. The BLM is committed to continued engagement with diverse stakeholders and looks forward to ongoing collaborative discussions through the Honoring Chaco Initiative." The BLM will host in-person public meetings on Nov. 14 and 15 "that will include an open-house, presentation, a question-and-answer session, and opportunities for the public to provide oral comments." The public comment period is open through December 10, 2022. [Read more.](#)

Council on Environmental Quality Congressional Letter. On October 31, Rep. Bruce Westerman (R-AR), ranking member of the House Natural Resources Committee, sent a letter to Brenda Mallory, Chair of the Council on Environmental Quality (CEQ), "to underscore the implications of [West Virginia v. EPA](#) and to remind you of the limitations on your authority." Referring to that recent U.S. Supreme Court case, Rep. Westerman noted the court's finding on the "major questions doctrine" which rejected the U.S. Environmental Protection Agency's attempt to broaden the scope of its regulatory authority. Rep. Westerman stated that as a member of the Natural Resources Committee with oversight of the CEQ, he will "ensure the Biden administration does not continue to exceed Congressional authorizations." The letter also seeks responses regarding pending and expected CEQ rulemakings. [Read more.](#)

EPA Announces Draft Proposal for Methane Emissions Reductions. On November 11, the U.S. Environmental Protection Agency (EPA) "announced it is strengthening its proposed standards to cut methane and other harmful air pollution." The announcement came at the United Nations Climate Change Conference COP27 in Sharm el Sheikh, Egypt. [Read more.](#) According to the EPA, "If finalized, these critical,

commonsense standards will protect workers and communities, maintain and create high-quality, union-friendly jobs, and promote U.S. innovation and manufacturing of critical new technologies, all while delivering significant economic benefits through increased recovery of wasted gas. The updates, which supplement proposed standards EPA released in November 2021, reflect input and feedback from a broad range of stakeholders and nearly half a million public comments. The updates would provide more comprehensive requirements to reduce climate and health-harming air pollution, including from hundreds of thousands of existing oil and gas sources nationwide. It would promote the use of innovative methane detection technologies and other cutting-edge solutions, many of which are being developed and deployed by small businesses providing good-paying jobs across the United States. The new proposal also includes a ground-breaking 'Super-Emitter Response Program' that would require operators to respond to credible third-party reports of high-volume methane leaks. The agency estimates that in 2030, the proposal would reduce methane from covered sources by 87 percent below 2005 levels." And as a follow up to our prior reporting, the EPA will hold a training on November 30, 2022, "to provide an overview of the supplemental proposal for communities, Tribal Nations and small businesses, along with information about how to effectively engage in the regulatory process." [Learn more here.](#) As of this report, the EPA has not formally published any proposed rulemaking pursuant to their November 11 COP27 announcement. [Read more.](#)

STATE – Legislative

LNG Export Taskforce – Pennsylvania. (*Update to 4/11/22 Report*) On November 3, Gov. Tom Wolf (D) signed HB 2458 into law. Rep. Martina White (R), the bill sponsor, stated that Pennsylvania is a "state with both an abundant supply of natural gas and a port in Philadelphia, we are perfectly positioned to become a leader in exporting liquefied natural gas (LNG) to supply the energy needs of our allies around the world." The bill will "create a taskforce to study how to make this happen and what obstacles are currently preventing Philadelphia from becoming a leader in

exporting LNG. The taskforce will be charged with creating a report and recommendations to be presented to the General Assembly and the Administration including any actions that should be taken to facilitate this. The taskforce will be made up of people representing the General Assembly, natural gas industry, Philadelphia building trades, and PhilaPort.” The Act takes immediate effect. [Read more.](#)

Well Plugging – Pennsylvania. (*Update to 10/31/22 Report*) On November 3, Gov. Tom Wolf (D) signed HB 2528 into law. Sponsored by Rep. James Struzzi (R), the bill requires that regarding the plugging of oil and gas wells, the state ensure that well plugging contracts awarded are going to Pennsylvania companies as a first priority. The Act is effective 60 days after signing. [Read more.](#)

Leasing; Royalty Payment and Deductions Information – Pennsylvania. (*Update to 10/31/22 Report*) On November 3, Gov. Tom Wolf (D) signed SB 806 into law. Sponsored by Sen. Gene Yaw (R), the bill amends current law to provide for better transparency regarding royalty payments and deductions. [Read complete bill summary here.](#) According to the sponsoring memo, the “legislation would not impact lease agreements, but it would require entities making payments to landowners to provide more description, clarity and uniformity on their royalty check statements. This proposal is designed to help ensure all parties feel their lease agreements are executed as intended, and it will help mitigate concerns that have developed in recent years.” The Act is effective 120 days after signing. [Read more.](#)

Notarial Acts – Pennsylvania. (*Update to 11/22/21 Report*) On November 3, Gov. Tom Wolf (D) signed SB 807 into law. Sponsored by Sen. Judy Ward (R), regarding notarial acts, the bill amends current law by eliminating the 50-cent fee for the registration of an official signature of a notary public and would also provide greater flexibility for county officers to register the signature of a notary public to authorize the “Notary Register” to be located in either the

prothonotary’s office or the office of the recorder of deeds. The bill also authorizes the electronic transfer of the official signature to the prothonotary’s office. The Act is effective 60 days after signing. [Read more.](#)

STATE – Regulatory

Air Quality Standards Bulletin – New Mexico.

On November 14, the New Mexico Environment Department (NMED) announced the Air Quality Bureau “has completed a draft exceptional events demonstration for periods exceeding federal air quality standards for particulate matter in southern New Mexico during calendar year 2021. This document demonstrates to the U.S. Environmental Protection Agency that dust storms generated by high winds, rather than man-made sources, caused exceedances of the national standard for particulate matter in the air. Without this demonstration, certain areas of the state would be in violation of federal standards and subject to stricter air quality rules and requirements designed to meet and maintain the standard in the future. The level of the federal air standards for particulate matter is protective of public health.” The NMED is accepting [public comment](#) on the draft document through December 8, 2022. The document is available for review at the Environment Department’s field offices and on their [website](#) under the Luna and Doña Ana Counties tabs or by searching “2021 Draft Exceptional Events Demonstration Open Comment Period” on the webpage, or by contacting the NMED at 505-629-3242. [Read more.](#)

Railroad Commission Rulemaking – Texas.

(*Update to 9/6/22 Report*) On November 1, the Texas Railroad Commission (RRC) announced their adoption of amendments to 16 Texas Administrative Code (TAC) §3.65, relating to Critical Designation of Natural Gas Infrastructure. [Read the RRC notice here.](#) The rulemaking takes effect November 21, 2022. [Read more.](#) For background, the RRC announced the proposed amendments in August, noting that the “amendments simplify the rule language and process for designating certain natural gas facilities and entities critical during energy emergencies as specified in House Bill 3648 and Senate Bill 3 (87th Legislature,

Regular Session). Specifically, “16 TAC §3.65(a) — Provide more certainty regarding the definition of ‘energy emergency;’ 16 TAC §3.65(b)(1) — Amend the list of critical gas suppliers; and 16 TAC §3.65(c), (e) and (f) — Revise requirements triggered by a critical gas supplier’s inclusion on the electricity supply chain map produced by the Texas Electricity Supply Chain Security and Mapping Committee.” [Read more.](#)

Sunset Advisory Commission – Texas. The Texas Sunset Advisory Commission has released decision material for their November 10 meeting. [Read more.](#) Specifically, the Commission released decisions related to the Texas Commission on Environmental Quality and Texas Low-Level Radioactive Waste Disposal Compact Commission. The decision material contains various recommendations and management actions on each issue. [Read more.](#)

Texas Commission on Environmental Quality’s Public Participation Plan Requirements – Texas. “Requirements associated with the Texas Commission on Environmental Quality’s (TCEQ’s) new Public Participation Plan became effective on November 1, 2022.” [Read more.](#) As reported by Texas law firm Morgan Lewis, “The plan, which is intended to enhance TCEQ’s compliance with Title VI of the Civil Rights Act of 1964, requires applicants for certain new permits, registrations, or activities, as well as applicants seeking to make certain changes to existing permits, registrations, or activities, to complete a Public Involvement Plan Form and possibly develop a Public Involvement Plan.” [Read more.](#)

STATE – Judicial

Kern County Oil Permitting – California. (*Update to 3/22/21 Report*) On November 2, the Kern County Superior Court issued a ruling that “allows [the] Kern government to resume oilfield permitting — a big win for an industry that has seen a significant slowdown in local activity after a local judge identified problems with an extensive environmental assessment undergirding the county’s review process.” In the case, [Committee for a Better Arvin v. County of Kern](#) (Case No. BCV-15-101679), “Judge Gregory A. Pulskamp discharged

a writ that in October 2021 removed the county’s authority to approve projects and returned it to state officials who local oil producers complained were taking too long to issue permits.” The ruling ends a years-long battle between industry stakeholders and environmental groups. “After years of litigation, the court’s decision is an important milestone that allows production permitting to resume in Kern County in a manner that is fully protective of human health and the environment,” said Western States Petroleum Association President and CEO Catherine Reheis-Boyd. [Read more.](#)

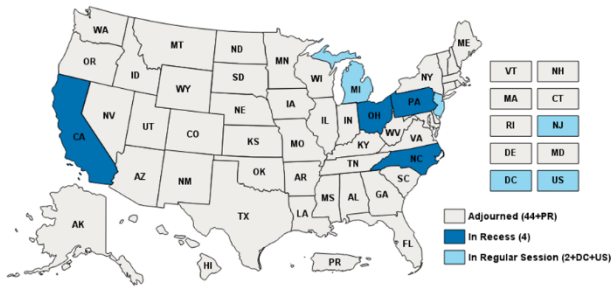
Anti-Washout Provisions; Overriding Royalties – Ohio. On October 19, in [Marquette ORRI Holdings, LLC v. Ascent Resources-Utica, LLC](#) (2022-Ohio-3786), the Ohio Court of Appeals, Seventh District, addressed the enforceability of “anti-washout” provisions in assignments of overriding royalty interests. The Court “held that an ‘anti-washout’ provision found in multiple assignments of overriding royalty interests covering leases that subsequently expired was not binding on the original lessee’s assignees, which had taken new leases to those same lands, as there was no privity of contract.” According to law firm Vorys, “This case marked the first time that an Ohio court considered whether an ‘anti-washout’ provision in an assignment of overriding royalty interests was binding on subsequent lessees.” [Read more.](#)

INDUSTRY NEWS FLASH

► **Domestic oil production forecast cut for 2023.** On November 8, the U.S. Energy Information Administration (EIA) released its monthly report which cut its oil production forecast for 2023. According to *Rigzone*, “The [EIA] projection suggests the pace of U.S. shale growth, one of the few sources of major new supply in recent year, is slowing despite oil prices hovering at around \$90 a barrel, about double most domestic producers’ breakeven costs.” [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: Michigan is in regular session. The U.S. Congress is also in session.

The following are in recess until the dates provided: the **Pennsylvania** House (November 14), the **Pennsylvania** Senate (November 15), **Ohio** (November 16) and **California** (November 30).

North Carolina was scheduled to adjourn on July 1; however, the [adjournment resolution](#) calls for the regular session to reconvene for monthly mini sessions through December. The legislature completed the last day of their October session on October 20. The next session is scheduled for November 15.

California Democratic Gov. Gavin Newsom may attempt to call the legislature into a special session on December 5 to seek passage of a new tax on oil and gas industry profits, reports [PBS](#).

Signing Deadlines (by date): **New York** Democratic Gov. Kathy Hochul has 10 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **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 2022 interim committee hearings: [Alabama](#), [Alaska](#), [Arizona](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Delaware](#), [Florida](#) House and Senate, [Georgia](#), [Hawaii](#), [Idaho](#), [Illinois](#) House and Senate, [Indiana](#), [Iowa](#), [Kansas](#), [Kentucky](#), [Louisiana](#), [Maine](#), [Maryland](#), [Massachusetts](#),

[Minnesota](#), [Mississippi](#) House and Senate, [Missouri](#) House and Senate, [Montana](#), [Nebraska](#), [Nevada](#), [New Hampshire](#) House and Senate, [New Mexico](#), [North Dakota](#), [Ohio](#), [Oklahoma](#) House and Senate, [Oregon](#), [Rhode Island](#), [South Carolina](#) House and Senate, [South Dakota](#), [Tennessee](#), [Texas](#) House and Senate, [Utah](#), [Vermont](#), [Virginia](#), [Washington](#), [West Virginia](#), [Wisconsin](#) and [Wyoming](#).

The following states are currently posting 2023 bill drafts, pre-files and interim studies: [Florida](#), [Kentucky](#), [Massachusetts](#), [Montana](#), [Nevada](#), [New Hampshire](#), [North Dakota](#), [Utah](#), [Virginia](#), [West Virginia](#) and [Wyoming](#). ■

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