

GOVERNMENTAL AFFAIRS WEEKLY REPORT

Weekly Highlights At-A-Glance

FEDERAL – Legislative

S. 76 – Protecting Our Wealth of Energy

Resources Act of 2021. On February 17, official bill text was made available for [S. 76](#), known as the *Protecting Our Wealth of Energy Resources Act of 2021* or *POWER Act of 2021*. Sponsored by Sen. Cynthia Lummis (R-WY), the bill would “prohibit the President from issuing moratoria on leasing and permitting energy and minerals on certain Federal land.” The bill introduction came on the heels of President Biden’s executive order pausing oil and gas leasing on federal lands for an indeterminate period of review. According to Sen. Lummis, the executive order was “just a nod to placate people who don’t live in those western states” and “we want to make sure that he cannot do that without an act of Congress.” [The bill is cosponsored by Sen. John Kennedy \(R-LA\), who added](#), “The Biden Ban on new oil and gas leasing will cost America tens of thousands of jobs, many of them in Louisiana. The energy industry is the lifeblood of our state, and we can’t afford to sacrifice jobs at a time when Louisianians are still recovering from the pandemic. Since the energy industry funds Louisiana’s conservation efforts, our storm-battered coasts can’t afford the Biden Ban either. We must protect both our jobs and our coasts from Washington’s overreach, and that’s just what the POWER Act will do.” House companion bill, [H.R. 543](#), has also been introduced by Rep. Yvette Herrell (R-NM). [Read more](#). “More than half the oil and more than two-thirds of the natural gas produced in New Mexico is on federal lands,” said Herrell. “A moratorium on new leases will devastate our state’s economy, destroying more than 60,000 jobs by 2022, and decimate our state’s budget.” [Read more](#).

S. 69 – Conservation Funding Protection Act.

On February 11, official bill text was made available for [S. 69](#), known as the *Conservation Funding Protection Act*. The bill, sponsored by Sen. John Kennedy (R-LA), would require annual lease sales in the Gulf of Mexico region of the outer Continental Shelf. [Read more](#).

H.R. 519 – Safeguarding Oil and Gas Leasing and Permitting Act of 2021.

On February 18, official bill text was made available for [H.R. 519](#), known as the *Safeguarding Oil and Gas Leasing and Permitting Act of 2021*. Sponsored by Rep. Liz Cheney (R-WY), the bill would prohibit President Biden or any of his agencies from imposing a moratorium on federal oil and gas leasing or permitting unless approved by a joint resolution of Congress. [Read more](#).

H.R. 455 – California Clean Coast Act of 2021.

On February 17, official bill text was made available for [H.R. 455](#), known as the *California Clean Coast Act of 2021*. The bill, introduced by Rep. Salud Carbajal (D-CA) and 23 other Democratic cosponsors, would permanently ban oil and gas leasing in the Outer Continental Shelf off the coast of California. [Read more](#).

H.R. 479 – California Central Coast Conservation Act.

On February 17, official bill text was made available for [H.R. 479](#), known as the *California Central Coast Conservation Act*. The bill “establishes a moratorium on all new oil and gas leasing on federal public land on the central coast of California.” According to the bill sponsor, Rep. Jimmy Panetta (D-CA), the legislation “prohibits the Bureau of Land Management (BLM) from implementing the decision until it completes and publishes a supplemental environmental impact statement assessing the impacts of oil and gas drilling on the Central

Coast. Specifically, the [BLM] review must consider potential impacts on air quality, greenhouse gas emissions, climate change, groundwater, surface water, seismicity, wildlife and plant species, low-income communities, communities of color, and indigenous communities. If the assessment identifies adverse environmental impacts, the Administration's decision cannot proceed." [Read more.](#)

H.R. 488 – Saving America's Mines Act. On February 17, official bill text was made available for [H.R. 488](#), known as the *Saving America's Mines Act*. The bill, sponsored by Rep. Pete Stauber (R-MN), would "prohibit a moratorium on mineral development on Bureau of Land Management and National Forest System land." According to the bill sponsor, the legislation "will specifically require an Act of Congress to withdraw any public land from mining, ensuring an Administration cannot make this decision alone." [Read more.](#)

H.R. 218 – Saving America's Energy Future Act. On February 9, official bill text was made available for [H.R. 218](#), known as the *Saving America's Energy Future Act*. The bill, sponsored by first-term Rep. August Pfluger (R-TX) representing Midland and the Permian Basin, would prohibit the Interior Department or Department of Agriculture (regarding National Forests System lands), from exercising any moratorium on issuing new oil and gas leases and drill permits, nor renewals of such permits, on federal lands under their jurisdiction. [Read more.](#)

FEDERAL – Regulatory

Keystone XL Pipeline. Joining the many lawmakers who have recently criticized President Biden's decision to shut down the Keystone XL pipeline, on February 9, Sen. Joe Manchin (D-WV) [delivered a letter to the President](#) asking him to reconsider his decision "to revoke the cross-border permit for the Keystone XL and take into account the potential impacts of any further action to safety, jobs, and energy security." Sen. Manchin is a key Democrat since he now chairs the Senate's Energy and Natural Resources Committee and could be a powerful ally

to centrists and Republicans seeking to blunt Biden's war on fossil fuel resources. [Read more.](#) On that same day, [14 state attorneys general also delivered a letter](#) to President Biden noting they write with "alarm regarding your unilateral and rushed decision to revoke the 2019 Presidential Permit for the Keystone XL pipeline. Your decision will result in devastating damage to many of our states and local communities. Even those states outside the path of the Keystone XL pipeline—indeed all Americans—will suffer serious, detrimental consequences." The letter was spearheaded by Montana Attorney General Austin Knudsen (R) who led the coalition of attorneys general in sending Biden the letter, which includes Louisiana, Mississippi, Texas, and South Dakota, among others. [Read more.](#) And on February 10, Texas Land Commissioner George P. Bush (R) said that President Biden's immediate moves against the oil and gas industry produced a "chilling effect" against energy workers around the country. "With this flurry of executive order activity, it sends a chilling effect, not only to the industry, but hard-working individuals throughout our country that rely on these jobs to put food on the table, and it's a meaningful issue for them and is sometimes lost by coastal elites," said Bush. This comes as "Republicans have blasted Biden for what they view as pandering to the left on environmental causes and reducing U.S. energy independence." [Read more.](#)

Offshore Oil and Gas Lease Sale Cancellation.

On February 18, the Biden administration cancelled the scheduled March 17, 2021 oil and gas lease sale of more than 78 million acres in the Gulf of Mexico. ([86 Fed. Reg. 10132](#)) According to the prior administration's [Bureau of Ocean Energy Management's announcement](#) in November 2020, Lease Sale 257 was scheduled to "be the eighth offshore sale under the 2017-2022 Outer Continental Shelf Oil and Gas Leasing Program" and included "approximately 14,594 unleased blocks – all of the available unleased areas in federal waters of the Gulf of Mexico." The Biden administration has provided no information regarding whether or when further offshore lease sales may resume. [Read more.](#)

U.S. Rejoins Paris Climate Accord. (*Update to 1/25/21 Weekly Report*) Last week, the United States [officially rejoined the Paris Agreement on climate change](#). As we reported previously, on his first day in office President Biden signed an executive order that put our country on track to rejoin the agreement, but the action required 30 days to finalize. For background, the President overturned his predecessor's actions by informing the United Nations in January that the U.S. would be rejoining the climate accord, which follows through on Biden's campaign pledge to recommit to the Obama-era agreement on his first day in office. "A cry of survival comes from the planet itself, a cry that can't be any more desperate or any more clear," said Biden in his inaugural address, listing "a climate in crisis" as one of the many challenges facing the country. Biden has called for putting the U.S. on a path to net-zero emissions by 2050. [The global initiative](#) seeks to lower emissions, reign in fossil fuels, and promote sustainable and renewable energy projects which each country is expected to do under its own regulatory and legislative regimes. [Read more](#).

Federal Royalty Rule Delay. (*Update to 1/25/21 Weekly Report*) On February 12, the Interior Department delayed the effective date of a Trump-era regulation governing the calculation of royalty payments to the U.S. government for oil, gas and coal extracted from federal lands. The action, *2020 Valuation Reform and Civil Penalty Rule: Delay of Effective Date* ([86 Fed. Reg. 9286](#)), delays the effective date for 60 days – until April 16, 2021 – pursuant to President Biden's recent executive orders reviewing Trump-era rulemaking. The final rule, *ONRR 2020 Valuation Reform and Civil Penalty Rule* ([86 Fed. Reg. 4612](#)), was set to be effective on February 16, 2021. The rule, finalized in President Trump's last week in office, amends certain regulations on how ONRR "values oil and gas produced from Federal leases for royalty purposes, values coal produced from Federal and Indian leases for royalty purposes, and assesses civil penalties for violations of certain statutes, regulations, leases, and orders associated with mineral leases." Considered a victory for the Trump administration, the rule

lessens "the amount of money oil and gas companies that drill on public lands and in public waters pay to the federal government. The rule will make changes to the way that these royalties are calculated and, according to the administration, is expected to result in an annual decrease of \$28.9 million in royalty collections." According to The Hill, "The industry has argued that a previous rule on how the royalties are calculated was burdensome and created uncertainties." [Read more](#).

Converse County Oil and Gas Project Public Meeting – Wyoming. On February 12, the Bureau of Land Management (BLM) announced it will hold a public virtual meeting "to begin development of the adaptive management plan for non-eagle raptor timing limitation stipulation (TLS) relief within the Converse County Oil and Gas Project area. The virtual meeting will be held with the BLM, U.S. Fish and Wildlife Service, and the Wyoming Game and Fish Department from 6-8 p.m. on March 25, 2021." According to the BLM, "[t]raditionally, oil and gas TLS are conditions of approval to avoid surface disturbance or occupancy within a half-mile buffer of non-eagle raptor nests between Feb. 1-July 31. During development of the Converse County final environmental impact statement, 98 incidents of TLS relief were approved for possible use over the 10-year construction phase of the project [and] prohibits surface use during specified time periods to protect identified resource values." To register for the meeting and for more information: [Read more](#).

FEDERAL – Judicial

Greater Sage-Grouse; Mining – Idaho. On February 11, the U.S. District Court for the District of Idaho struck down a Trump administration decision to allow hard rock mining on 10 million acres of western public land that includes Greater Sage-Grouse habitat. In [Western Watersheds Project v. Bernhardt](#) (Case No. 1:16-cv-00083-BLW), the Court held the 2017 decision was arbitrary and has ordered the U.S. Interior Department's Bureau of Land Management to reconsider whether mining should be allowed in the area. According to reporting, lifting the ban under

the Trump administration “allowed the potential for mining and other development, primarily in Idaho and Nevada but also in parts of Montana, Oregon, Utah and Wyoming. Officials at the time said an analysis showed mining or grazing would not pose a significant threat to the ground-dwelling birds.”

[Read more.](#)

Greater Sage-Grouse; Federal Leasing – Utah. On February 5, the U.S. District Court for the District of Utah dealt a blow to environmentalists when it dismissed their challenge to the federal approval of an oil and gas leasing and production plan. In *WildEarth Guardians v. U.S. Forest Service* (Case No. 2:14-cv-00349-DN), the court held the agency action was “not arbitrary, capricious, or contrary to law” and the Forest Service took a hard look at the impacts to air quality, water quality, and Greater Sage-Grouse habitats when it approved an oil and gas development plan on the lands. The federal approvals also complied with the National Environmental Policy Act and the National Forest Management Act, according to the court. The case involved a plan by Berry Petroleum to build up to 400 oil and gas wells within the Ashley National Forest in Duchesne County. The Bureau of Land Management had approved 79 permit-to-drill applications as of May 2014. This case was dismissed with prejudice, which means it cannot be resubmitted to this court by the environmentalist litigants. [Read more.](#)

STATE – Legislative

Online Notarial Acts – Arizona. On February 10, Rep. Jennifer Pawlik (D) introduced HB 2828. The bill provides that a fee of not more than \$25 may be charged for each remote online notarial act.

[Read more.](#)

Electronic Database for Oil and Gas – Arkansas. On February 8, Rep. Mary Bentley (R) introduced HB 1442. The bill amends existing law to provide for electronic acceptance of documents and related database infrastructure for oil and gas extraction processes and procedures. [Read more.](#)

Well Plugging – Arkansas. On February 8, HB 1076 passed both chambers of the legislature and has been transmitted to the governor. The bill, sponsored by the Joint Budget Committee, sets state Oil & Gas Commission appropriations, and allows the Commission to request the Chief Fiscal Officer “transfer \$10,000,000 in a one time, emergency transfer on his or her books and the books of the State Treasurer and the Auditor of the State from the Oil and Gas Commission Fund to the Abandoned and Orphaned Well Plugging Fund.” Once transmitted to the governor, he must sign or veto legislation within 5 days of transmittal (excluding Sunday), or it becomes law without his signature. [Read more.](#)

Hydraulic Fracturing Ban – California. On February 16, Sen. Scott Weiner (D) and Sen. Monique Limón (D) introduced [SB 467](#). “This bill would revise the definition of ‘well stimulation treatment’ to include steam flooding and water flooding. The bill would prohibit the issuance or renewal of a permit to conduct hydraulic fracturing, acid well stimulation treatment, steam flooding, water flooding, or cyclic steaming for the extraction of oil and gas beginning January 1, 2022, and would prohibit new or repeated hydraulic fracturing, acid well stimulation treatments, steam flooding, water flooding, or cyclic steaming, except as conducted pursuant to a permit lawfully issued before that date. The bill would prohibit all hydraulic fracturing, acid well stimulation treatments, steam flooding, water flooding, cyclic steaming, or other well stimulation treatments beginning January 1, 2027. Because a violation of the prohibition on conducting hydraulic fracturing, acid well stimulation treatments, steam flooding, water flooding, cyclic steaming, or other well stimulation treatments, except pursuant to a permit issued before January 1, 2022, would be a crime, the bill would impose a state-mandated local program by creating a new crime. This bill would, until January 1, 2027, authorize a local government to prohibit well stimulation treatments within its jurisdiction. This bill would require the division to develop and administer a program to identify workers in downstream, midstream, and upstream oil and gas

operations who have lost their jobs and to provide incentives to oil and gas well remediation companies to hire those identified workers.” The bill also would “prohibit the issuance of new or renewed permits for oil and gas extraction more generally within 2,500 feet of homes, schools, healthcare facilities, prisons and dormitories by the start of 2022.” [Read more.](#)

Critical Wells – California. On February 12, Sen. Henry Stern (D) introduced SB 406. “Existing law requires the operator of a well to file a written notice of intention to commence drilling with, and prohibits any drilling until approval is given by, the State Oil and Gas Supervisor or district deputy. Existing law requires the notice to contain the pertinent data the supervisor requires on printed forms supplied by the division or on other forms acceptable to the supervisor. This bill would require the form for the notice to clearly identify whether the well is a critical well, as defined.” [Read more.](#)

Oil and Gas Strategic Plan – California. On February 12, Sen. Henry Stern (D) introduced SB 419. The bill provides that the Geologic Energy Management Division in the Department of Conservation develop a strategic plan through a public process to incorporate the purposes of protecting public health and safety and environmental quality, including reduction and mitigation of greenhouse gas emissions associated with the development of hydrocarbon and geothermal resources in a manner that meets the energy needs of the state. [Read more.](#)

Remote Notarial Acts – Georgia. On February 9, Rep. Joseph Gullett (R) introduced HB 334. The bill provides for remote online notaries public and remote online notarizations, and related procedures. [Read more.](#)

Site Value Tax – Illinois. On February 3, Sen. Win Stoller (R) introduced SB 83, which creates the Site Value Tax Law. The bill provides that each taxing district may, by ordinance, levy a site value tax upon the assessed value of land within the taxing district and shall be levied uniformly by valuation within the taxing district. Assessed value means 33 1/3% of

the fair cash value of the land, without regard to buildings, structures, improvements, or other permanent fixtures on the land, except for the value of oil, gas, coal, and other minerals in the land and the right to remove such oil, gas, coal, and other minerals from the land. [Read more.](#)

Independent Contractors – Kansas. On February 9, the Senate Committee on Commerce (R) introduced SB 177. The bill would remove landmen performing work on a contractual basis from the definition of employee and provides a definition of services performed. This bill is a reintroduction of HB 2705 which failed in the 2020 legislative session. [Read more.](#)

Permitting; Public Hearings – Michigan. On February 9, HB 4169 was introduced by Rep. Bill Sowerby (D). The bill would amend existing law to require certain public hearings regarding hydraulically fractured wells prior to permitting. [Read more.](#)

Recording Fees – Mississippi. (*Update to 1/25/21 Weekly Report*) HB 145 has died in committee. The bill, introduced on January 8 by Rep. Charles Beckett (R), would have reduced “the Chancery clerk fee for recording each oil and gas assignment per assignee per each book and page listed.” [Read more.](#)

Orphaned Wells – Mississippi. (*Update to 1/25/21 Weekly Report*) HB 194 has died in committee. The bill, introduced on January 8 by Rep. Jerry Turner (R) would have extended “the date of the repealer on the authority of the state oil and gas board to obtain funds from the capital expense fund for the emergency plugging of orphaned wells.” [Read more.](#)

Mineral Estates – Mississippi. (*Update to 1/25/21 Weekly Report*) HB 555 has died in committee. The bill, introduced on January 18 by Rep. Randy Boyd (R), provided that mineral estates separated from the surface estate would revert to the surface owner after 20 years of nonproduction. [Read more.](#)

Oil and Gas Taxes – Mississippi. (*Update to 1/25/21 Weekly Report*) HB 664 has died in committee. The

bill, introduced on January 18 by Rep. Randy Boyd (R), provided that oil and gas taxes are to be paid by the interest owner and provides ad valorem tax exemptions, among other provisions. [Read more.](#)

Independent Contractors – Mississippi. (*Update to 1/25/21 Weekly Report*) HB 767 has died in committee. The bill, introduced on January 18 by Rep. Charles Beckett (R), would have exempted services performed by a “petroleum landman” on a contractual basis from the definition of employment. [Read more.](#)

Mineral Estates – Mississippi. (*Update to 1/25/21 Weekly Report*) HB 906 has died in committee. The bill, introduced on January 18 by Rep. Bob Evans (D), provided that mineral estates separated from the surface estate revert to the surface owner after 10 years of nonproduction. [Read more.](#)

Property Tax Exemptions – Montana. On February 10, Rep. Brandon Ler (R) introduced HB 372. The bill would amend current law “to exempt from personal property taxation oil and gas production machinery, fixtures, equipment, flow lines and gathering lines, pumping units, oil field storage tanks, water storage tanks, water disposal injection pumps, gas compressor and dehydrator units, communication towers, gas metering shacks, treaters, gas separators, water flood units, and gas boosters, together with equipment that is skidable, portable, or movable.” [Read more.](#)

Greater Sage-Grouse – Montana. On February 15, Sen. Mike Lang (R) introduced SB 249. The bill sets forth the agreement for payment of costs for implementation of the Montana Greater Sage-Grouse Stewardship Act to maintain, enhance, restore, expand, or benefit habitat and populations for the heritage of Montana and its people. Related Greater Sage-Grouse funding bill, [SB 230](#), was also introduced by Sen. Lang on February 11. [Read more.](#)

Mineral Taxation – Nevada. On February 1, the Senate Committee on Judiciary (D) introduced SJR 1. “This joint resolution proposes to amend

the Nevada Constitution to eliminate: (1) the requirement for the Legislature to impose a tax upon the net proceeds of minerals extracted at a rate not to exceed 5 percent of the net proceeds; and (2) the appropriation of a portion of those proceeds to each county in this State. Instead, this resolution would amend the Nevada Constitution to impose a tax on the gross proceeds of all minerals extracted in this State during a calendar year at a rate of 117.75 percent of the gross proceeds and authorize the Legislature to provide by law for the taxation of mines and mining claims and the proceeds of all minerals extracted in this State. Under this resolution, the tax on the gross proceeds of minerals extracted in this State would be imposed on minerals extracted during each calendar year beginning on or after January 1, 2023.”

[Read more.](#)

Land Conservation – New Mexico. On February 9, Rep. Kristina Ortez (D) introduced HB 265. The bill would amend the Natural Lands Protection Act and the Natural Heritage Conservation Act to allow the state to acquire and protect land for conservation purposes without a private partner; makes related agency appointments; provides that the Energy, Minerals and Natural Resources Department (EMNRD) collaborate with the Natural Lands Protection Committee and tasks the committee with creating a grant process and prioritizing funding for conservation projects; and allows the existing natural lands and heritage conservation fund to also be used by EMNRD to acquire unique and ecologically significant lands pursuant to the Natural Lands Protection Act, alongside conservation projects pursuant to the Natural Heritage Conservation Act. [Read more.](#)

Federal Leasing Moratorium – New Mexico. On February 9, Rep. Rod Montoya (R) introduced HJM 3. The House Joint Memorial measure would request that “a waiver be requested of President Joe Biden’s administration to the recent sixty-day suspension of new oil and gas leasing and drilling permits for federal lands in New Mexico.” Senate companion measure, [SJM 3](#), was introduced by Sen. Gregory

Baca (R) on February 10. [Read more.](#)

Hydraulic Fracturing – New Mexico. (*Update to 2/8/21 Weekly Report*) On February 13, SB 149 passed the Senate Conservation Committee and was sent to the Senate Judiciary Committee for further consideration. The bill, introduced on January 31 by Sen. Antoinette Sedillo Lopez (D), would prohibit the issuance of new hydraulic fracturing permits and sets certain reporting requirements. This bill is a reintroduction of failed legislation from both the 2019 and 2020 sessions. [Read more.](#)

Unemployment Employer Contribution Rates – New Mexico. On January 25, Rep. Chris Chandler (D) introduced HB 148. The bill would increase the employer unemployment contribution rate by two-tenths percent starting January 1, 2022. [Read more.](#)

Climate Solutions Act – New Mexico. On January 28, HB 9 was introduced by Rep. Melanie A. Stansbury (D). The bill would enact the Climate Solutions Act, which establishes a climate leadership council, deadlines for the state to achieve specific reductions in greenhouse gas emissions (GHGE), requirements for state agencies to achieve GHGE reductions, and a number of definitions related to climate, economic development, and socioeconomic equity. [Read more.](#)

Water Rights – New Mexico. On January 14, Rep. Andrea Romero (D) introduced HB 95. The bill would amend certain Water Code sections to impose new requirements on the Office of the State Engineer (OSE) when processing water rights permit applications. In particular, the bill requires OSE to publish the factual and legal rationale underpinning the decision to accept or reject a permit application. The bill stipulates that finalized application decisions, along with the published rationale supporting these decisions, should serve as “precedent” for subsequent permit determinations, unless the factual or legal basis for approval or denial of the subsequent application is “clearly distinguished.” In addition, for each permit application, HB 95 requires

OSE to provide analyses on the climate-change-related impacts on the water source, as well as the economic viability of the proposed water use, over a 40-year period. The bill also relaxes the requirement establishing standing for members of the public to object to a water rights permit application. [Read more.](#)

Public Health Emergency Rulemaking – New Mexico. On January 25, Rep. Randall T. Pettigrew (R) introduced HB 159. The bill would amend “provisions governing rulemaking under the Public Health Emergency Response Act (PHERA) to prohibit agencies from promulgating rules that add to or alter the New Mexico Administrative Code (NMAC) when a public health order is in effect, unless the proposed rule changes are authorized by the governor. The bill requires the governor, when authorizing additions or alterations to NMAC, to issue an executive order explaining the impact of proposed rule changes on the retail prices of goods and services; cost of business operations in industries affected by the changes; and overall regulatory climate for businesses seeking to grow or establish in or relocate to the state; and whether the changes are the least restrictive means to achieve their intended public health and safety objectives.” [Read more.](#)

Local Air Quality Regulations – New Mexico. On January 19, Sen. Peter Wirth (D) introduced SB 8. The bill would amend three sections of law to allow the state and local governments to adopt certain environmental regulations that are more stringent than federal regulations. First, the bill would remove provisions that currently prohibit the Environmental Improvement Board (EIB) and the local board, i.e. the Albuquerque/Bernalillo County Air Quality Control Board, from adopting certain types of state air quality regulations and standards that are more stringent than federal regulations and standards under the Clean Air Act. SB 8 also amends part of the Hazardous Waste Act to remove language that prohibits regulations for hazardous waste from being more stringent than regulations under the federal Resource Conservation and Recovery Act unless the EIB confirms that existing federal regulations are

insufficient to protect public health and the environment. SB 8 also repeals existing provisions regarding EIB duties and powers and local board for attainment and maintenance of national ambient air standards for ozone and replaces it “with new language requiring the EIB and local board to address ozone pollution when national ambient air quality standards are elevated, as the existing statute does, but with fewer items for the board to consider during rulemaking than in current law and with no restrictions to the types of sources from which the board or local board may seek emission reductions.” [Read more.](#)

Notarial Acts – New Mexico. On February 1, Sen. Daniel Ivey-Soto (D) introduced SB 12. The bill would enact the Revised Uniform Law on Notarial Acts, which among provisions allows for remote notarization, electronic signatures, sets fees, and provides for certain administrative processes. [Read more.](#)

Clean Energy Requirements – New Mexico. On January 19, Sen. William P. Soules (D) introduced SB 67. The bill would enact a new section of the Public Utility Act to require that new and replacement energy generation capacity constructed on or after July 1, 2021 only generate clean energy. [Read more.](#)

Sustainable Economy Task Force – New Mexico. On January 19, Sen. Mimi Stewart (D) introduced SB 112. The bill would appropriate funds “from the general fund to the Department of Finance and Administration (DFA) to create the sustainable economy task force, administratively attached to DFA, for the purpose of developing an annually updated strategic plan to transition the state economy away from reliance on natural resource extraction.” [Read more.](#)

Pocket Vetoes – New Mexico. On January 19, Sen. Jacob R. Candelaria (D) introduced Senate Joint Resolution (SJR) 2. The measure “proposes an amendment to the state constitution to eliminate the governor’s pocket veto. Under the current provision, the governor must approve bills presented during

the last three days of a session within 20 days after the legislature adjourns. If the governor does not approve a bill within the required 20 days, the bill does not become a law. SJR 2 amends the provision to require bills presented to the governor during the last three days of the session to be approved or vetoed within 20 days after adjournment. Unless vetoed within the required 20 days, the bill becomes a law. SJR 2 also requires the governor to provide an explanation for every veto. Currently, the constitution only requires the governor to explain her objections to bills that are vetoed while the legislature is in session.” [Read more.](#)

Environmental Rights – New Mexico. On January 19, Sen. Antoinette Sedillo Lopez (D) introduced Senate Joint Resolution (SJR) 3. The measure would amend the state constitution to include a right of the people of the state to “...a clean and healthy environment, including pure water, clean air, healthy ecosystems and a stable climate, and to the preservation of the natural, cultural, scenic and healthful qualities of the environment.” It also makes the state as a whole a trustee of the natural resources of the state, among them its waters, air, flora, fauna, climate, and public lands, and requires state entities to conserve, protect and maintain these resources, including for future generations. It also provides that these rights are inalienable, on par with other inalienable rights, and take effect immediately. SJR 3 also amends the constitution by repealing a section concerning the Legislature’s “duty to control pollution and despoilment of natural resources, consistent with the use and development of these resources for the maximum benefit of the people. If passed, SJR 3 will be submitted to the voters of New Mexico for their approval or rejection at the next general election or at any special election that may be called for this purpose.” [Read more.](#)

Taxation – New Mexico. On January 15, Rep. Javier Martinez (D) introduced the Omnibus Tax Bill, HB 98, which among many provisions amends existing law containing “the definitions for the oil and gas severance tax act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, and

the Oil and Gas Ad Valorem Production Tax Act. For each act, the bill defines 'volume' to ensure that oil producers report volumes in barrels, while natural gas tax remitters report volumes in a standard format of thousand cubic feet (MCF) for natural gas at a pressure base of 15.025 pounds per square inch." ([See complete bill summary here.](#)) [Read more.](#)

Trust Lands – North Dakota. On February 5, SB 2065, sponsored by the Senate Energy and Natural Resources Committee (R), passed committee review. The bill allows "for the board of university and school lands to lease lands under its control for the underground storage of hydrocarbons and the jurisdiction of the industrial commission to regulate the permitting and amalgamation of the underground storage of oil or gas." [Read more.](#)

Unclaimed Property; Recovery Fees – Oklahoma. On February 1, HB 2226 was introduced by Rep. Anthony Moore (R). The bill would amend existing law regarding unclaimed property to provide that "In the event that the claimant of such funds or property [including funds or property involving mineral proceeds] is deceased and did not personally agree to the fee in writing, a fee for recovery can only be collected from each identified heir, devisee or legatee that has affirmatively agreed to that fee in writing." [Read more.](#)

Review of Executive Orders – South Dakota. On February 1, Rep. Aaron Alyward (R) introduced HB 1194. The bill would provide for a review of Presidential executive orders to determine whether the state should seek an exemption from the application of the order or seek to have the order declared to be an unconstitutional exercise of legislative authority by the President. The bill specifically applies to natural resources and land related issues. [Read more.](#)

Keystone XL Pipeline – Tennessee. On February 13, HJR 90 was introduced by Rep. Dennis Powers (R). The measure "urges Congress to approve the Keystone XL pipeline." [Read more.](#)

Registration of Instruments – Tennessee. On February 10, Rep. Dave Wright (R) introduced HB 633. The bill would require either a licensed attorney or the custodian of the original version of an electronic document, instead of the custodian of the electronic version, to certify the electronic document for registration by a county register. Senate companion bill, [SB 1263](#), was introduced on February 11 by Sen. Shane Reeves (R). [Read more.](#)

Gas Capture Plan – Texas. On February 12, Rep. Gina Hinojosa (D) introduced HB 1913. The bill provides that the Railroad Commission "may not issue a permit to drill, deepen, plug back, or reenter an oil or gas well unless the applicant submits with the application a gas capture plan to minimize flaring from the well" and provides related procedures and requirements. [Read more.](#)

Eminent Domain – Texas. On February 11, Rep. Mike Schofield (R) introduced HJR 92 which proposes a constitutional amendment concerning the right to repurchase real property acquired by a governmental entity through eminent domain. [Read more.](#)

Eminent Domain – Texas. On February 11, Rep. Mike Schofield (R) introduced HJR 93 which proposes a constitutional amendment prohibiting the taking of property by eminent domain for the purpose of transferring the property to a private entity. [Read more.](#)

Mineral Liens – Texas. On February 11, Rep. Brooks Landgraf (R) introduced HB 1834. The bill amends existing law relating to a mineral contractor or subcontractor's lien to secure payment related to mineral activities to include "material, machinery, supplies." [Read more.](#)

Eminent Domain – Texas. On February 11, Rep. Mike Schofield (R) introduced HB 1879. The bill relates "to establishing actual progress for the purpose of determining the right to repurchase real property from a condemning entity." [Read more.](#)

Flaring Emissions – Texas. On February 8, Sen. Roland Gutierrez (D) introduced SB 622. The bill would add systems that reduce flaring emissions and other site emissions to the preference list for the new technology grant program. [Read more.](#)

Federal Preemption– Texas. On February 8, Rep. Brooks Landgraf (R) introduced HB 1683. The bill seeks to restrain federal law that inhibits oil and gas operations in the state and provides that an “agency of this state or a political subdivision of this state, and a law enforcement officer or other person employed by an agency of this state or a political subdivision of this state, may not contract with or in any other manner provide assistance to a federal agency or official with respect to the enforcement of a federal statute, order, rule, or regulation purporting to regulate oil and gas operations if the statute, order, rule, or regulation imposes a prohibition, restriction, or other regulation that does not exist under the laws of this state.” [Read more.](#)

Produced Water – Texas. On February 5, Sen. Charles Perry (R) introduced SB 601. The bill would create the Texas Produced Water Consortium “to bring together information resources to study the economics of and technology related to beneficial uses of produced water.” The consortium is comprised on various state agencies and also will solicit input from the oil and gas industry. [Read more.](#)

Mineral and Rock Definitions – Utah. *(Update to 1/11/21 Weekly Report)* On February 17, HB 79 passed both houses of the legislature. The bill, sponsored by Rep. Walt Brooks (R), modifies definitions related to mineral deposits and rocks. Under state law, the governor must sign or veto legislation within 20 days of session adjournment or it becomes law without his signature. The session adjourns on March 5, 2021. [Read more.](#)

Green New Deal Act – Virginia. On February 5, HB 1937 was referred to committee. The bill, sponsored by Del. Sam Rasoul (D), would create the Green New Deal Act which provides a moratorium on fossil fuel

infrastructure and industry usage in the state and promotes renewable energy. [Read more.](#)

Independent Contractors – Virginia. *(Update to 2/8/21 Weekly Report)* On February 5, HB 2296 was referred to committee. The bill, sponsored by Del. Roxann Robinson (R), is the companion bill to Senate bill, [SB 1323](#), introduced by Sen. Senator Siobhan Dunnivant (R) in January. The bill would support independent contractor status by providing that worker classification as an independent contractor would be based on the more permissible 20-factor test under [IRS Revenue Ruling 87-41](#) known as the common law right-of control test. [Read more.](#)

Independent Contractors – West Virginia. On February 10, Sen. Charles Trump (R) introduced SB 6. The “purpose of this bill is to simplify the criteria used to define independent contractors and to impose objective standards on the differentiation of independent contractors from employees.” [Read more.](#)

Independent Contractors – West Virginia. On February 15, House Speaker Robert Hanshaw (R) introduced HB 2020. The “purpose of this bill is to simplify criteria used to define independent contractors and to impose objective standards on the differentiation of independent contractors from employees.” Senate companion bill, [SB 272](#), was introduced on February 13 by Senate President Craig Blair (R). [Read more.](#)

Employee Classification – West Virginia. On February 15, Del. Geoff Foster (R) introduced HB 2530. The “purpose of this bill is to clarify the definition of an employee for the purposes of unemployment compensation and workers’ compensation to match conform with Internal Revenue Code provisions.” [Read more.](#)

Setbacks; Emissions – West Virginia. On February 10, Del. Terri Syplot (R) introduced HB 2074. The “purpose of this bill is to implement the recommendations arising out of the studies required by the Natural Gas Horizontal Well Control Act

passed by the Legislature December 14, 2011. The bill requires continuous monitoring of air, noise, dust and particulates. The bill requires the operator to undertake the best available control technology if standards for air, noise, dust or particulates are exceeded. The bill changes the set back from horizontal well work activity to a residence to 1,500 feet from the limit of well work disturbance.”

[Read more.](#)

Setbacks; Notice – West Virginia. On February 10, Del. Barbara Fleischauer (D) introduced HB 2132. The “purpose of this bill is to change an elective obligation to a mandatory one. The bill requires notice in certain instances to the occupants of residential property. The bill prohibits the disturbance of a well site be no closer than 1,500 feet of an occupied dwelling. The bill provides notices include certain information. The bill establishes standards relating to air, noise, light and dust. The bill permits landowners be compensated for any decrease in the values of the land for its highest and best use. The bill requires the notice of a claim be also provided to an occupant of residential structure on the property. The bill establishes a statute of limitations for claims being filed.” [Read more.](#)

Tax Valuation – West Virginia. On February 10, Sen. Eric Tarr (R) introduced SB 32. The purpose of this bill is “to clarify the types of operating expenses that must be used for purposes of valuing producing oil and natural gas wells, the methodology that shall be used by the Tax Commissioner in calculating operating expenses, the confidentiality of information submitted by natural resource producers to the Tax Commissioner, reports that must be submitted by the Tax Commissioner to the Joint Committee on Government and Finance, and to provide for alternate appeal of proposed valuation of natural resources property for ad valorem property tax purposes.” [Read more.](#)

Abandoned Mineral Interests – West Virginia. On February 10, Del. Pat McGeehan (R) introduced HB 2205. The “purpose of this bill is to create a procedure to streamline the process to claim

abandoned mineral interests.” [Read more.](#)

Surface Mine Blasting Distance – West Virginia. On February 10, Del. Barbara Fleischauer (D) introduced HB 2227. The “purpose of this bill is to extend the distance from occupied dwellings or certain other structures in which surface mine production blasting may not occur, from 300 feet to 625 feet, to be consistent with the distance a gas well drilling pad must be from an occupied dwelling.” [Read more.](#)

Production Tax – West Virginia. On February 10, Del. Mick Bates (D) introduced HB 2282. The “purpose of this bill is to provide for a new fee on each MFC of natural gas produced to fully fund [Public Employees Insurance Agency] benefits at current levels; allow a tax credit for value-added jobs in West Virginia for persons paying this fee; and creating a special reserve account to assume that sufficient moneys are collected to preserve the existing insurance program for a 5-year period, then allowing excess proceeds to be directed to general revenue.” [Read more.](#)

Royalty Payments – West Virginia. On February 10, Del. Lisa Zukoff (D) introduced HB 2081. The “purpose of this bill is to require lessees of West Virginia real estate who make natural resources royalty payments for in-state property to any nonresident lessor, to withhold West Virginia personal income tax on natural resources royalty payments. The bill provides exceptions, penalties, defines terms and grants rule-making authority.” [Read more.](#)

Tax Sales – West Virginia. On February 10, Sen. Patricia Rucker (R) introduced SB 72. The “purpose of this bill is to require the sheriff to send notices to the owners of record and to each resident or occupant of real property prior to selling the property for which property taxes have not been paid.” [Read more.](#)

Ad Valorem Taxes – Wyoming. (*Update to 1/25/21 Weekly Report*) On February 9, Gov. Mark Gordon (R) signed [SF 60](#) into law and the Act is effective

immediately. The Act, sponsored by the Joint Revenue Interim Committee, adds a new section to the Ad Valorem Taxation law regarding the “Monthly payment of ad valorem tax on gross product of mineral production.” According to law firm Welborn Sullivan Meck & Tooley, Wyoming attempted “to change its ad valorem tax payment and reporting system for produced minerals. The goal was to make ad valorem filings and payments simultaneous with severance tax filings and payments.” Attempts in 2020 to lessen the payment burden on the mineral industry by providing for a graduated change in the ad valorem tax payments to a monthly payment system were “complex and the overall implementation of the changeover resulted in confusion for everyone – the responsible governmental agencies, local officials and, of course, taxpayers.” SF 60 addresses these issues with “new provisions in an attempt to reduce both the complexity of the conversion as well as the potential financial impacts on counties and taxpayers.” To effectuate these changes, the law repeals portions of the Wyoming Code “including the complex graduated payment system, and includes relief packages for counties as well as funding for the system change.” Wellborn has also provided a table of payment due dates and related percentage requirements. [Read more.](#)

Notarial Acts – Wyoming. (*Update to 1/25/21 Weekly Report*) On February 9, Gov. Mark Gordon (R) signed SF 29 into law. The Act has multiple effective dates. The legislation is sponsored by the Joint Corporations, Elections & Political Subdivisions Interim Committee which enacts the Wyoming Revised Uniform Law on Notarial Acts and includes provisions related to electronic notarial acts, the performance of and requirements of notarial acts, certificates of notarial acts, notary qualifications, and related fees. [Read more.](#)

Mineral and Tax Liens – Wyoming. (*Update to 1/25/21 Weekly Report*) On February 9, Gov. Mark Gordon (R) signed SF 41 into law. The Act is effective on July 1, 2021 but has effect on liens prior to, on, and after January 1, 2021. The legislation is

sponsored by the Joint Minerals, Business & Economic Development Interim Committee and amends existing law regarding liens on mineral production, lien priority, and tax lien foreclosure. [Read more.](#)

STATE – Regulatory

Protection of the Oil and Gas Industry – Texas.

On January 28, Gov. Greg Abbott (R) issued an [Executive Order Relating To Protection Of Texas’s Energy Industry From Federal Overreach](#) in light of President Biden’s attack on the oil and gas industry since taking office. The Order “direct[s] every state agency to use all lawful powers and tools to challenge any federal action that threatens the continued strength, vitality, and independence of the energy industry. Each state agency should work to identify potential litigation, notice-and-comment opportunities, and any other means of preventing federal overreach within the law.” [Read more.](#)

STATE – Judicial

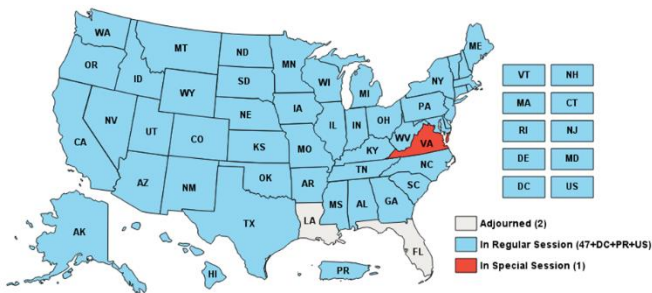
Leasing; Arbitration – Ohio. On December 22, 2020, the Ohio Court of Appeals, Seventh District, rejected a landowner’s attempt to circumvent mandatory arbitration in a lease dispute regarding whether leases had terminated for a lack of production. ([See the original appeal and case facts here.](#)) In the present appeal in *French v. Ascent Resources-Utica, L.L.C.* (Case No. 2020-Ohio-6828), the Court held that the exception to mandatory arbitration under state code ([R.C. 2711.01\(B\)\(1\)](#)) “did not apply to the oil and gas lease provisions and the matter was subject to arbitration.” The Court “determined that in this case even though oil and gas leases create an interest in real estate, they are not issues concerning title to or possession of real estate.” The lessors argued that “an oil and gas lease is more than a license because it creates a vested estate in the lands for the purposes named in the lease. They further argued that an oil and gas lease[s] creates an interest in real estate.” The Court rejected these arguments. [Read more.](#)

INDUSTRY NEWS FLASH

► **Texas oil and gas industry groups seeks to end routine flaring.** On February 10, the Texas Methane and Flaring Coalition, which includes more than 40 Texas operators, the Permian Basin Petroleum Association, the Texas Alliance of Energy Producers, the Texas Independent Producers and Royalty Owners Association, and the Texas Oil and Gas Association, among others, announced their intention to end routine natural gas flaring in the state by 2030. [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes (by date): Alabama, 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 District of Columbia Council, Puerto Rico and the U.S. Congress are also in session.

The following will convene their 2021 legislative sessions on the dates provided: **Florida** (March 2) and **Louisiana** (April 12).

Virginia convened for a special session on February 10. The purpose of the special session is to align the legislative calendar with the customary 46-day length for odd-numbered years, reports [WTKR 3](#).

Signing Deadlines (by date): District of Columbia Democratic Mayor Muriel Bowser has 10 days from presentment, not including weekends or holidays, to sign or veto legislation or it becomes law without signature. Illinois Democratic Gov. J.B. Pritzker has 60 days from presentment to sign or veto legislation or it becomes law without signature. Massachusetts Republican Gov. Charlie Baker has 10 days from presentment to sign or veto 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. New Jersey Democratic Gov. Phil Murphy has 45 days from presentment to act on legislation or it becomes law without signature.

Interim Committee Hearings: The following states are currently holding 2021 interim committee hearings: Florida [House](#) and [Louisiana](#).

Bill Pre-Files: Florida and Louisiana are currently posting 2021 bill drafts, pre-files and interim studies. ■

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