

# 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’ Klemin (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.](#)

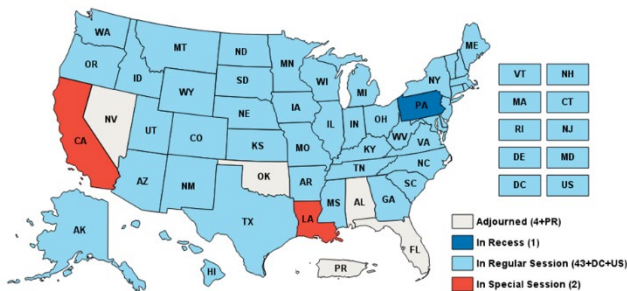
► **TXOGA releases annual Energy & Economic Impact Report.** On January 23, the Texas Oil & Gas Association (TXOGA) released its annual [Energy & Economic Impact Report](#) “highlighting the industry’s continued and unmatched economic impact, the Lone Star State’s global energy leadership, and what is 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](#). ■

This report is provided exclusively for AAPL members. If you have received this report as a non-member, please contact AAPL member services to learn more about joining AAPL. For more information, email [membership@landman.org](mailto:membership@landman.org) or call us at: 817-847-7700.

CONTENT DISCLAIMER: Information and/or website sources provided in this report may be among the many resources available to you. This report does not endorse nor advocate for any particular attorney or law firm, nor other private entity, unless expressly stated. Any legal, financial, and/or tax information contained herein is provided solely for informational purposes and does not represent legal, financial, or tax advice on behalf of AAPL and/or its affiliates. Links to outside sources are provided for reference only and any cited outside source is derived solely from material published by its author for public use. Any copyrighted material remains the property of its respective owner and no use or distribution authorization is granted herein.

© 2023 AAPL