

# GOVERNMENTAL AFFAIRS WEEKLY REPORT

## Weekly Highlights At-A-Glance

### FEDERAL – Legislative

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

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

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

### FEDERAL – Regulatory

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

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

**BLM Resource Advisory Council – Missouri; Montana.** On January 12, the BLM issued a notice to request public nominations for the BLM’s “Missouri Basin and Western Montana Resource Advisory Councils (RACs) to fill existing vacancies, as well as for member terms that are scheduled to expire. The RACs provide advice and recommendations to the BLM on land use planning and management of the National System of Public Lands within their geographic areas.” The nomination period is open through February 11, 2022. [Read more](#).

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

**BLM Solar Leasing – Colorado; Nevada; and New Mexico.** On December 21, the BLM issued a *Call for Nominations or Expressions of Interest for Solar Leasing Areas on Public Lands in the States of Colorado, New Mexico, and Nevada* ([86 Fed. Reg. 72722](#)) that provides the BLM is soliciting written “expressions of interest or nominations identifying tracts of land (parcels) for solar project development within the following solar energy zones (SEZs) on public lands: Antonito Southeast SEZ, DeTilla Gulch SEZ, and Los Mogotes East SEZ within Colorado; Dry Lake Valley North SEZ, Gold Point SEZ, and Millers

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

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

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

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

[Read more.](#)

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

[Read more.](#)

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

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

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

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

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

#### **ONRR Civil Monetary Penalty Inflation Adjustment.**

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

## FEDERAL – Judicial

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

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

## STATE – Legislative

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

**Oil and Gas Operator Property Tax Procedures – Colorado.** On January 12, SB22-26 was introduced by Sen. Joann Ginal (D). "Current law requires a county property tax assessor (assessor) to send a notice of valuation of personal property to the operator of each wellsite, or if there is no operator, to the owner who has filed a statutorily required statement with the assessor. The bill states that oil and gas fractional interest owners are not entitled to separate valuation, notification, review, audit, protest, abatement, or appeal procedures by the assessor; and Designates the operator of each wellsite, or if there is no operator, the owner who filed the statement, as the representative of all fractional interest owners and as the exclusive point of contact for the assessor for all notification, review, audit, protest, abatement, and appeal procedures." [Read more](#).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## STATE – Regulatory

### **State Land Office Revenues – New Mexico.**

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

## STATE – Judicial

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

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

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

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

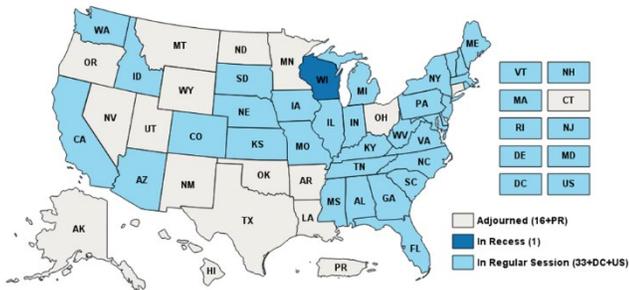
## INDUSTRY NEWS FLASH

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

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

## LEGISLATIVE SESSION OVERVIEW

### States in Session



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

**Wisconsin** is in recess until January 18.

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

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

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

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

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

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

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