

WEEKLY HIGHLIGHTS AT-A-GLANCE**STATE – Legislative**

- **Forced Pooling – Colorado.** On March 8, HB18-1289 was introduced by Rep. Mike Foote (D). The bill would exempt local governments, including school districts, from forced pooling. According to the sponsoring statement, “Current law authorizes 'forced' or 'statutory' pooling, a process by which any interested person – typically an oil and gas operator – may apply to the Colorado Oil and Gas Conservation Commission for an order to pool and develop oil and gas resources located within a particularly identified drilling unit absent consent from the mineral owner. The bill exempts local governments and school districts that own mineral rights from being forced pooled but maintains their ability to engage in voluntary pooling.” [Read more.](#)
- **Administrative Hearings – Kentucky.** On March 12, SB 249 was sent to the House after passing the Senate. The bill, introduced by Sen. Jared Carpenter (R), would require that formal complaints relating to improper drilling near coal-bearing strata be held by the Energy and Environment Cabinet’s Office of Administrative Hearings. [Read more.](#)
- **Franchise Taxes – Louisiana.** On March 15, HB 341 passed the House and was sent to the Senate. The bill changes the filing deadline for corporate franchise tax returns from “on or before the 15th day of the third month after the month in which the tax is due to on or before the 15th day of the fourth month after the month in which the tax is due.” The measure would be applicable to all corporate franchise tax years beginning on and after January 1, 2019. [Read more.](#)
- **Mineral Production Payments – Louisiana.** On March 12, HB 444 was introduced in the House by Rep. Stuart Bishop (R). Present law requires that if the owner of a mineral production payment or royalty owner other than a mineral lessor seeks relief for the failure of a mineral lessee to make timely or proper payment of royalties or production payments, he must give written notice prior to a judicial demand for damages. The bill would define a mineral production payment as an obligation owed to the purchaser to make a payment from the proceeds of production and is not a payment owed on production to an unleased mineral owner. [Read more.](#)
- **Oilfield Site Restoration Fund Fee – Louisiana.** On March 12, HB 331 was introduced in the House by Rep. Jim Morris (R). Present law imposes a set fee on the production of oil, condensate, and gas that is in addition to any severance taxes imposed on such production and specifies that the proceeds of the fee are to be used for the oilfield site restoration program in the Department of Natural Resources. The bill would retain

present law and provides that the fee is payable upon the initial disposition of each barrel of oil and condensate by the producer. The measure also provides that the proposed law is remedial and curative and will be applied retroactively to July 1, 2017, as well as prospectively. [Read more.](#)

- **Royalties – Louisiana.** On March 12, SB 328 was introduced in the Senate by Sen. R.L. Bret Allain (R). Present law provides that royalties paid to the state on production are rent. The bill would retain present law but exempts the state’s in-kind royalty portion or monetary equivalent from what is rent. [Read more.](#)
- **Well Sites – Louisiana.** On March 12, SB 377 was introduced in the Senate by Sen. R.L. Bret Allain (R). The bill provides that if an inactive well has been designated as being inactive with future utility by the operator for a period of 10 years or more and that well is neither scheduled to be plugged and abandoned on a plan approved by the commissioner nor covered under a site specific trust account in accordance with present law, then the owner may request in writing that the office of conservation determine whether the inactive well has future utility. The bill also provides certain procedures to determine whether the inactive well should be plugged and notes criteria for delay of responsibilities regarding the measure. [Read more.](#)
- **Oil Well Lien Act – Louisiana.** On March 12, SB 456 was introduced in the Senate by Sen. Ronnie Johns (R). Present law defines what is and is not operations for purposes of the Louisiana Oil Well Lien Act, and includes salt water or another waste substance after placed in a means of transportation for disposal, as an activity that is not included in operations. The bill would remove the disposal of salt water or another waste substance from the list of activities that is not included in the definition of operations. [Read more.](#)
- **Severance Tax – Mississippi.** *(Update to 3/12/18 Weekly Report)* On March 15, HB 1350 was sent to Gov. Phil Bryant (R) for signature after passing the legislature. The Governor has until March 21 to sign the measure into law. The bill extends the repeal of existing law which established a reduced 1.3 percent severance tax rate on the value of oil and gas produced from horizontally drilled wells and horizontally drilled recompletion wells until July 1, 2023. The provisions were originally set to expire on July 1, 2018. The bill would take effect immediately. [Read more.](#)
- **Marketable Title; Leasing; Interest Rates – Oklahoma.** *(Update to 3/12/18 Weekly Report)* On March 12, HB 2775 passed the House and has been transmitted to the Senate. The bill would set the interest rate for proceeds from an oil and gas lease not paid due to unmarketable title at the prime interest rate reported in the Wall Street Journal, beginning on November 1, 2018. The measure would also provide that when the lease holder has not been provided an affidavit of death and heirship, the holder of the proceeds may

elect to interplead the proceeds and all accrued interest into court for a determination as to whom is entitled to them. The bill would take effect November 1. [Read more.](#)

- **Pooling – Utah.** On March 15, HB 419 was sent to Gov. Gary Herbert (R) for signature after passing the legislature. The bill modifies provisions relating to the pooling of oil and gas interests, specifically authorizing the Board of Oil, Gas, and Mining to make a pooling order retroactive under certain circumstances and allowing existing pooling orders to apply to additional wells drilled in the same drilling unit under certain circumstances. [Read more.](#)
- **Probate – Utah.** On March 14, HB 402 was sent to Gov. Gary Herbert (R) for signature after passing the legislature. The bill would modify the Utah Uniform Probate Code by excluding specific claims in intestacy cases under certain circumstances; addressing when a person refuses to accept the authority of a guardian; provide for a court to rescind or modify an order or issue a temporary order; address when a conservator may use the assets of the estate; and modifies the provision regarding creation of power of appointment. [Read more.](#)

STATE – Regulatory

- **Joint Operating Agreements – Texas.** (*Baker Botts LLP, March 2, 2018*) According to the law firm, Baker Botts LLP, the Texas Comptroller’s Tax Policy Division recently issued a private letter ruling (PLR No. 201712002L) taking the position that an oil and gas joint venture, treated as a partnership for federal tax purposes only, created a separate taxable entity for Texas franchise tax purposes. However, the “PLR fails to address important arguments that might be made against treating the joint venture as a taxable entity for Texas franchise tax purposes.” Under [Texas tax regulations](#), a “private letter ruling can be relied on by the person who receives it, prospectively from the date of its issuance, with respect only to the particular issue and the person identified in the request for the ruling.” [Read more.](#)
- **Oil & Gas Conservation Rules – Oklahoma.** (*Update to 1/29/18 Weekly Report*) The Oklahoma Corporation Commission (OCC) has announced the continuation of a hearing on a January 23, 2018 proposed rule to amend regulations under OAC 165:10-1 through -11 regarding oil and gas conservation. The rule would revise requirements for well drilling permits, hydraulic fracturing operations, well logs, and well site and surface facilities. The rule also would revise testing, monitoring, and reporting requirements for enhanced recovery injection wells and disposal wells and address provisions concerning informal complaints, noncommercial pits, surface discharge of fluids, and requirements for county commissioners. In addition, the rule would revise requirements for applications of waste oil, waste oil residue or crude oil contaminated soil, pipeline service and tank farm roads, well locations, and production sites. Finally, the rule would update requirements for commercial disposal well surface facilities and

commercial recycling facilities and specify plugging and plugging back procedures for wells. The hearing is scheduled for March 20, 2018 in Oklahoma City. For more information, contact Susan Conrad at the OCC at: 405-521-3939; or by email at s.conrad@occemail.com. [Read more](#).

STATE – Judicial

- **Permitting – Texas.** On March 2, plaintiff mineral owners filed a petition for judicial review challenging the issuance of a drilling permit. In [Monroe Properties, Inc. et al. v. Railroad Commission of Texas](#) (Cause No. D-1-GN-18-001111) the plaintiffs argue that “Devon [Energy] had no contractual right to drill the proposed well” and “that no Commission rule recognized the validity of the type of well Devon proposed to drill”. It is alleged that the permitted allocation well would cross two existing gas pooled units that were held by production from old vertical gas wells. The Monroes argue that the Railroad Commission not only lacks the authority to issue the permit but the Monroes’ lease does not authorize drilling of a horizontal lease that crosses lease boundaries. We will monitor this case as it moves forward. [Read more](#).

INDUSTRY NEWS FLASH:

◆ **New Mexico hits record for oil production.** According to the U.S. Energy Information Administration, oil producers have set a record for the number of barrels pumped in New Mexico last year, and industry experts say output from the Permian Basin is expected to double over the next several years. [Read more](#).

State-by-State Legislative Session Overview

Alabama, Alaska, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee and Vermont are in regular session. The **District of Columbia** Council, **Puerto Rico** and the **United States** Congress are also in regular session.

The **Wisconsin** Assembly is in recess to the call of the chair. The Senate is in recess until March 20.

The following states adjourned on the dates provided: **Utah** and **Washington** (March 8); **Virginia** and **West Virginia** (March 10); **Florida** (March 11); **Arkansas** (March 13) and **Indiana** and **Wyoming** (March 15).

The following states are expected to adjourn on the dates provided: **South Dakota** (March 26); **Idaho** (March 27) and **Georgia** (March 29).

Oklahoma convened its second special session to address budget issues on December 18, [Public Radio Tulsa](#) reports. **Wisconsin** convened a special session related to school safety on March 15. The session will run concurrently with the regular session.

Arkansas adjourned a three-day special session on March 15. The session, which convened immediately following adjournment of the regular session, was related to pharmacy reimbursement rates, highway funding and other issues. Republican Gov. Asa Hutchinson's special session proclamation can be found [here](#).

Virginia is scheduled to convene a special session on April 11 to finish work on the budget.

North Carolina Democratic Gov. Roy Cooper has until March 15 to act on special session legislation or it becomes law without signature. **Utah** Republican Gov. Gary Herbert and **West Virginia** Republican Gov. Jim Justice have until March 28 to act on legislation or it becomes law without signature. **Washington** Democratic Gov. Jay Inslee has until March 31 to act on legislation or it becomes law without signature. **Virginia** Democratic Gov. Ralph Northam has until April 9 to act on legislation or it becomes law without signature. **Oregon** Democratic Gov. Kate Brown has until April 13 to act on legislation or it becomes law without signature. **Arkansas** Republican Gov. Asa Hutchinson has 20 days from presentment, Sundays excepted, to act on regular session legislation presented after March 8. **Florida** Republican Gov. Rick Scott has 15 days from presentment to act on legislation or it becomes law. **Illinois** Republican Gov. Bruce Rauner has 60 days from presentment to act on all legislation passed during the veto session or it becomes law. **Indiana** Republican Gov. Eric Holcomb has seven days from presentment to act on legislation or it becomes law without signature, and all bills must be presented by March 22. **Louisiana** Democratic Gov. John Bel Edwards has 20 days from presentment to act on special session legislation or it becomes law. **Oklahoma** Republican Gov. Mary Fallin has five days from presentment, Sundays excepted, to act on special session legislation or it becomes law. **Wisconsin** Republican Gov. Scott Walker has six days, Sundays excepted, to act on special session legislation or it becomes law. **Wyoming** Republican Gov. Matt Mead has 15 days to act on legislation presented after March 12 or it becomes law.

The following states are currently holding interim committee hearings: [Montana](#), [Nevada](#), [North Carolina](#), [North Dakota](#) and **Texas** [House](#) and [Senate](#).

The following states are currently posting bill drafts, prefiles and interim studies: [Montana](#) and [North Dakota](#).

Franchise Tax

California [AB 2131](#) has been scheduled for a hearing in the Assembly Revenue and Taxation Committee on March 19 at 2:30 PM. This bill would reduce the minimum franchise tax to \$400 for taxable years beginning on or after January 1, 2019. The bill would take effect immediately.

Tennessee [HB 1593](#) had been scheduled for a hearing in the House Finance Ways and Means Subcommittee on March 14; however, action was deferred until March 21. This bill would exempt entities that would otherwise have less than \$100 in combined franchise and excise tax liability from franchise and excise taxes for a tax year beginning on or after July 1, 2018, and prior to July 1, 2019. The bill would increase the liability threshold to less than \$250 for the tax year beginning July 1, 2019 and less than \$500 for the tax year beginning July 1, 2020. The bill would also repeal the \$100 minimum franchise tax and would specify that no entity would be relieved from filing a return and paying the franchise tax unless the entity qualifies for an exemption. The bill would take effect July 1. The companion bill, [SB 1744](#), was referred to the Senate Finance Ways and Means Committee with a negative recommendation from the Senate Finance Ways and Means Subcommittee on March 6.

General Oil and Gas

Pooling

Utah [HB 419](#) was delivered to Republican Gov. Gary Herbert on March 15; Governor Herbert will have until March 28 to sign or veto the bill or it becomes law. The bill would authorize the Board of Oil, Gas and Mining to make a pooling order retroactive if the board has received an objection, but the board finds that a party has engaged in inequitable conduct. The bill would also provide that the terms and conditions of the boards initial pooling orders would apply to subsequent wells drilled in the same drilling unit except as modified by:

- An accounting for actual costs incurred for each subsequently drilled well in the drilling unit.
- An account for the consenting or nonconsenting status of an owner of each subsequently drilled well in the drilling unit.
- The board after the filing of and hearing upon a petition filed by an affected owner desiring a modification.

The bill would take effect 60 days after adjournment, which took place on March 8.

General

Alaska [HB 330](#) passed the House Resources Committee with [amendments](#) on March 15 and is now pending in the House Rules Committee. As amended the bill would authorize the commissioner of the Department Natural Resources to disclose confidential information as part of investigations and proceedings including a lease royalty audit appeal or request for reconsideration. The bill would require the commissioner to provide notice to all parties including any third party whose information will be disclosed. The bill would allow the commissioner to limit the persons who have access to the information and limit the use of the information only to matters relating to royalty or net profit share audits or appeals. The bill would take effect 90 days after enactment.

Colorado [SB 192](#) has been scheduled for a hearing in the Senate Agriculture, Natural Resources and Energy Committee on March 22 at 1:30 PM. The bill would require local governments that place a moratorium on oil and gas development to compensate mineral owners for the costs,

damages or loss of fair market value that result from the moratorium. The bill would take effect 91 days following adjournment, which is currently scheduled for May 9.

Louisiana [SB 377](#), sponsored by Sen. Bret Allain, R-Adeline, was referred to the Senate Natural Resources Committee on March 12. The bill would provide that if an inactive well has been designated as being inactive with future utility by the operator for a period of 10 years or more and that well is neither scheduled to be plugged and abandoned on a plan approved by the commissioner nor covered under a site specific trust account in accordance with present law, then the owner may request in writing that the Office of Conservation determine whether the inactive well has future utility. The bill would also establish the following procedure to determine whether a bill should be plugged:

- That the commissioner notifies the operator of the request within 30 days of receipt.
- The operator submits written justification to the office to prove that the well has future utility within 90 days of receipt of the notice.
- The office reviews the written justification and determines whether or not the well has future utility.
- The operator submits a plan to the office to plug the well within 90 days of a final determination by the office that the well does not have future utility.
- The commissioner could approve the plan submitted by the operator along with any revisions the commissioner deems necessary.
- The operator plugs the well in accordance with the approved plan.

The bill would provide that the operator could appeal the office's determination in accordance with existing law. The bill would take effect August 1.

The **Mississippi** House concurred with Senate amendments to [HB 1350](#) on March 15 and was enrolled. The bill was then delivered to Republican Gov. Phil Bryant who has until March 21 to sign or veto the bill, or it becomes law. The bill would extend the repeal of existing law that established a reduced 1.3 percent severance tax rate on the value of oil and gas produced from horizontally drilled wells and horizontally drilled recompletion wells until July 1, 2023. The provisions were originally set to expire on July 1, 2018. The bill would take effect immediately.

Hydraulic Fracturing

California [SB 1370](#) has been scheduled for a hearing in the Senate Natural Resources and Water Committee on April 16 at 9:30 AM. The bill would remove a provision of existing law that exempted well stimulation treatments that are used for routine maintenance of wells from permitting requirements. The bill would take effect the January 1 following a 90-day period from the date of enactment.

Royalty Payments

Louisiana [HB 444](#), sponsored by Rep. Stuart Bishop, R-Lafayette, was referred to the House Civil Law and Procedure Committee on March 12. The bill would define a mineral production

payment as an obligation owed to the purchaser to make a payment from the proceeds of production and would not be a payment owed on production to an unleased mineral owner. The bill would take effect August 1.

Oklahoma [HB 2775](#) passed the House following a 62-25 vote on March 12. The bill is now awaiting committee referral in the Senate. The bill would set the interest rate for proceeds from an oil and gas lease not paid due to unmarketable title at the prime interest rate reported in the Wall Street Journal, beginning on November 1, 2018. The measure would also provide that when the lease holder has not been provided an affidavit of death and heirship, the holder of the proceeds may elect to interplead the proceeds and all accrued interest into court for a determination as to whom is entitled to them. The bill would take effect November 1.

West Virginia [HB 4270](#) passed the Senate on March 10 and the House concurred with Senate amendments on that same day. The bill is now pending delivery to Republican Gov. Jim Justice, who will have until March 28 to sign or veto the bill, or it will become law. The bill would require an operator, producer or their agents, contractors or assigns to provide the following information with each payment to all interest owners receiving payments:

- A name, number or combination of name and number and the state issued American Petroleum Institute number that identifies each lease, property unit, pad and well for which the payment is being made.
- Month and year of production.
- Total barrels of oil and volume of natural gas produced from each well sold.
- Price received per unit of oil, natural gas and natural gas liquids from each well produced.
- Gross value of the total proceeds from the sale of oil, natural gas and natural gas liquids from each well less taxes and deductions.
- Itemized amounts for all deductions which affect payment.
- Interest owner's interest in production from each well expressed as a decimal or a fraction.
- Interest owner's ratable share of the proceeds from the sale of oil, natural gas and natural gas liquids less the owner's ratable share of the taxes and other deductions.
- Contact information for the producer of the oil and natural gas well.

An interest owner who does not receive the information required would be able to send a written request for the information and the operator would be required to send the information within 60 days or the interest owner would be able to bring a civil action. The bill would also require payments to be made in a timely manner which could not exceed 120 days from the date that the sale of oil and natural gas is realized. The bill would take effect 90 days after adjournment.

Public Lands

Alaska [HB 272](#) was heard in the House Resources Committee on March 15; the committee took testimony but did not vote on the bill. The bill is up for further consideration in that committee on March 19 at 1:00 PM. The bill would establish the Tangled Lakes State Game Refuge on

specified state lands. The bill would close the refuge to mineral entry, except for currently existing mineral claims, beginning January 1, 2019.

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