

# GOVERNMENTAL AFFAIRS WEEKLY REPORT

## Weekly Highlights At-A-Glance

### FEDERAL – Legislative

**H.R. 684 – Keystone XL Pipeline Construction and Jobs Preservation Act.** On February 25, official bill text was made available for [H.R. 684](#), known as the *Keystone XL Pipeline Construction and Jobs Preservation Act*. Sponsored by Rep. Kelly Armstrong (R-ND), the bill would authorize construction and operation of the Keystone XL pipeline by an Act of Congress and override any attempt by President Biden to stop it through executive action. “President Biden’s decision to revoke the Keystone XL Pipeline permit is an attack on the way of life for thousands of people who rely on energy production to feed their families,” said Rep. Armstrong. “The Keystone XL Pipeline would transport safe and reliable energy across our Nation, providing thousands of American jobs in the process and increasing our national security. We must do everything we can to see this terrible decision reversed and fight for energy policies that help move North Dakota and our Nation forward.” [Read more.](#)

**H.R. 803 – Protecting America’s Wilderness and Public Lands Act.** On February 26, [H.R. 803](#), originally known as the *Colorado Wilderness Act* but now referred to as the *Protecting America’s Wilderness and Public Lands Act* after the consolidation of a number of separate bills into one bill package, [passed the House](#). The bill, sponsored by Rep. Diana DeGette (D-CO), combined eight bills that had previously been introduced and aims to provide extra protection to about 1.5 million acres of public lands by designating them as wilderness. The measure would also prevent new oil, gas, and mineral extraction on more than 1.2 million acres of public land and preserve 1,000 river miles by adding them to the National Wild and Scenic Rivers System. Although the bill is backed by the White

House, it could face an uphill battle in the Senate, where it would need 60 votes to avoid a filibuster. [House Republicans opposed the comprehensive bill package](#) and argued that it would, among other things, “inhibit firefighting abilities in areas close to or surrounded by wilderness in California and Colorado, and create additional burdens for land managers.” Rep. Bruce Westerman (R-AR), the highest-ranking Republican member on the House Natural Resources Committee, said, “This bill won’t help the environment but will instead kill jobs and imperil our national security and American energy dependence.” [Read more.](#)

**H.R. 757 – Protecting New Mexico’s Jobs and Public Education System Act.** On March 1, official bill text was made available for [H.R. 757](#), known as the *Protecting New Mexico’s Jobs and Public Education System Act*. Sponsored by Rep. Yvette Herrell (R-NM), the bill would exclude executive orders by President Biden and Interior Department orders regarding a pause on oil and gas leasing, permitting, and related oil and gas activities from having effect in New Mexico. Stressing the importance of the legislation, Rep. Herrell says, “New Mexico stands to lose more than any other state under Biden’s ban. The loss of jobs and the loss of funding for public education would be absolutely devastating. Even optimistic estimates for land-lease payments and taxes on proposed wind and solar projects fail to fill the hole the loss of oil and gas revenue will leave in our state budget.” [Read more.](#)

**H.R. 794 – National Climate Emergency Act.** On March 1, official bill text was made available for [H.R. 794](#), known as the *National Climate Emergency Act*. Sponsored by Rep. Earl Blumenauer (D-OR), the bill would direct President Biden to declare a national climate emergency and mobilize every resource at

the country's disposal to halt, reverse, mitigate, and prepare for the consequences of this climate crisis. The bill also calls for environmental justice policies, which includes "upholding the fundamental rights of all Americans from the perils of climate change." [Read more.](#)

**H.R. 815 – Arctic Refuge Protection Act.** On March 4, official bill text was made available for [H.R. 815](#), known as the *Arctic Refuge Protection Act*. The bill, sponsored by Rep. Jared Huffman (D-CA), would end the Arctic National Wildlife Refuge oil and gas program authorized under the Trump administration. Senate companion bill, [S. 282](#), sponsored by Sen. Ed Markey (D-MA), was also made available on March 4. [Read more.](#)

**H.R. 859 – Protecting American Energy Jobs Act.** On March 1, official bill text was made available for [H.R. 859](#), known as the *Protecting American Energy Jobs Act*. Sponsored by Rep. Lauren Boebert (R-CO), the bill would prohibit President Biden "from issuing moratoria on leasing and permitting energy and minerals on certain Federal land." According to Rep. Boebert, "Blocking future oil and gas leases on 700 million acres is an unlawful attack on the livelihoods of the people in my district." [Read more.](#)

**S. 180 – Buffalo Tract Protection Act.** On February 25, official bill text was made available for [S. 180](#), known as the *Buffalo Tract Protection Act*. Sponsored by Sen. Martin Heinrich (D-NM), the bill would withdraw certain Bureau of Land Management lands from mineral development. Specifically, southern Sandoval County, including the Buffalo Tract and the Crest of Montezuma, would be withdrawn from any mineral development, including gravel mining. [Read more.](#)

## **[FEDERAL – Regulatory](#)**

**Independent Contractors; U.S. Department of Labor – Washington, DC.** (*Update to 1/11/21 Weekly Report*) The Biden administration has delayed implementation of the Trump administration's late-term rule which would make it easier for companies

to classify workers as independent contractors (See [Independent Contractor Status under the Fair Labor Standards Act Delay of Effective Date: 86 Fed. Reg. 12535](#)). Adhering to President Biden's inauguration day directive freezing all pending Trump-era regulations, the U.S. Department of Labor (DOL) will stall the independent contractor rule's effective date by 60 days until May 7, 2021. The DOL's Wage and Hour Administration said the delay is necessary to consider the legality of the independent contractor test and the agency could re-open the rulemaking process with a different standard, according to reports. According to Bloomberg Government, "the rule—which got strong backing from businesses and Republicans for embracing a shorter, simpler standard to determine when workers are exempt from minimum wage and overtime protections—originally was slated to take effect March 8 when it was released in Trump's final days in office." For background, on January 7, 2021 the Trump administration's DOL issued its long-awaited employer and independent contractor-friendly final rule, *Independent Contractor Status Under the Fair Labor Standards Act* ([86 Fed. Reg. 1168](#)), which, according to Bloomberg Law, "makes it easier for businesses to classify workers as independent contractors" and "adopt[s] a simpler, shorter test for when a worker may be legally classified as an independent contractor rather than an employee." ([Read a detailed analysis of the rule here](#)) According to the rule release, the DOL "is revising its interpretation of independent contractor status under the Fair Labor Standards Act (FLSA or the Act) to promote certainty for stakeholders, reduce litigation, and encourage innovation in the economy." The rule is expected to clarify how independent contractor status is determined and may allow employers greater protections in employee misclassification cases. "Once finalized, it will make it easier to identify employees covered by the Act, while respecting the decision other workers make to pursue the freedom and entrepreneurialism associated with being an independent contractor," said outgoing Labor Secretary Eugene Scalia. The rule had a March 8, 2021 effective date. [Read more.](#)

### **Interior Secretary Confirmation Hearing –**

**Washington, DC.** On February 23-24, the [Senate Committee on Energy & Natural Resources held a confirmation hearing for President Biden's nominee to head the U.S. Department of the Interior](#). Rep. Debra Haaland (D-NM). In advance of her Senate testimony, Haaland said oil and natural gas will continue to play a major role in America for years to come, even as she pledged to be a “fierce advocate” for public lands and address climate change. the New Mexico congresswoman said she is committed to “strike the right balance” as the agency manages energy development and seeks to restore and conserve federal lands. [Read more](#). In anticipation of the hearing and issues to be addressed, on February 19, the Independent Petroleum Association of America’s *Energy In Depth* research, education and public outreach campaign put together six key questions for Rep. Haaland that will put a “spotlight on the Biden Administration’s bans on oil and natural gas leasing and permitting on federal lands.” [Read more](#). During a tense confirmation hearing, on the first day of testimony, Rep. Haaland told lawmakers, “There’s no question that fossil energy does and will continue to play a major role in America for years to come,” Haaland testified. “I know how important oil and gas revenues are to fund critical services.” However, the congresswoman was somewhat evasive when it came to questions from Republicans on the Keystone XL and Dakota Access pipelines, reiterating that as Interior Secretary it will not be her agenda, but President Biden’s agenda. Sen. John Hoeven (R-ND) pressed Haaland to recuse herself from any Interior Department decisions over the Dakota Access oil pipeline, given the nominee’s past support of Standing Rock Sioux protesters. Although failing to give any commitments, Haaland sought to reassure senators from oil and gas producing states that she believes the federal government should continue permitting oil wells, pipelines, and coal mines. “The earth is here to provide for us,” said Haaland. And Haaland agreed with lawmakers from oil and gas producing states that blocking domestic oil and gas production will not accomplish anything for the climate if it merely shifts the sources of oil to other countries. [Read more](#). However, Sen. John

Barrasso (R-WY), the energy committee’s top Republican, said he believed Haaland’s positions are “squarely at odds with the mission of the Department of Interior,” including “managing the nation’s oil, gas and coal resources in a responsible manner, not eliminating access to them. If Representative Haaland intends to use the Department of Interior to crush the economy of Wyoming and other western states, then I’m going to oppose the nomination,” Barrasso warned. Sen. Steve Daines (R-MT) said he still had “concerns” about confirming Haaland, after asking her to account for past statements about fracking, wildlife protection and energy jobs – with select quotes highlighted on posters propped up behind him. “The track record and the ideology in the past I think will perpetuate more divisiveness,” said Daines. As of this report, the committee advanced Haaland’s nomination to a full Senate vote. [Read more](#).

### **Energy Secretary Confirmed – Washington, DC.**

On February 25, Jennifer Granholm was confirmed as the next Secretary of the U.S. Department of Energy, which according to Bloomberg Government, puts “the former Michigan governor at the head of the agency that will play a key role in implementing the Biden administration’s ambitious climate agenda.” The Senate voted 64-35, with 14 Republicans voting in favor of President Biden’s pick, to confirm Granholm to lead a department which has a yearly budget of \$35 billion and research laboratories spread across 17 states. It also has a wide-ranging mission, including building the nation’s nuclear arsenal and guarding oil supplies. However, some Republicans raised concerns on the impact of the Biden administration’s agenda on the fossil fuel industry and remained skeptical of Granholm’s appointment. “President Biden has declared war on American energy and American energy workers,” said Sen. John Barrasso (R-WY). “I cannot in good conscience vote to approve his nominee for Secretary of Energy.” [Read more](#).

### **Securities and Exchange Commission Disclosure Rules for Oil and Gas Companies – Washington, DC.**

On March 16, the Securities and Exchange



Commission (SEC) final rule, *Disclosure of Payments by Resource Extraction Issuers* ([86 Fed. Reg. 4662](#)), takes effect. The rule requires “resource extraction issuers to include in an annual report information relating to payments made to a foreign government or the Federal Government for the purpose of the commercial development of oil, natural gas, or minerals.” The rule has delayed reporting dates, however, with [the SEC directing](#) that “Following a two-year transition period, an issuer will be required annually to submit Form SD no later than 270 days following the end of its most recently completed fiscal year. For example, if the rules were to become effective on March 1, 2021, the compliance date for an issuer with a December 31 fiscal year-end would be Monday, September 30, 2024 (i.e., 270 days after its fiscal year end of December 31, 2023).” [Read more.](#)

## **FEDERAL – Judicial**

**Federal Oil and Gas Leasing; Permitting – North Dakota.** On February 23, Continental Resources sued the Biden Administration in federal court arguing the administration is taking too long to act on multiple applications for permit to drill. The suit claims the delays are improper and will interfere with the company’s construction schedule and that pursuant to the Mineral Leasing Act the permits would have already been approved in the normal course of business. The suit, [Continental Resources, Inc. v. de la Vega \(Case No. 1:21-cv-00034\)](#), filed in the U.S. District Court for the District of North Dakota, comes on the heels of the Biden administration’s temporary pause on federal oil and gas leasing ordered during his first week in office. Continental is asking the court to order that the administration issue all the permits at issue. We will continue to monitor and report on this case for members as it progresses. [Read more.](#)

## **STATE – Legislative**

**Royalties; Leasing – Alaska.** On February 18, the House Rules Committee (R) at the request of the governor introduced HB 81. Regarding net profit

share leases, the bill allows the Commissioner of the Department of Natural Resources to adjust the Net Profit Share rate through royalty modification. “This will incentivize additional resource development which may otherwise be expected to be uneconomic, potentially generating revenues to the State in the form of royalties, taxes, or net profit share payments that would not otherwise occur.” This legislation is limited to existing leases that are Net Profit Share Leases. Any changes from this legislation are presumed to only impact payments on a forward basis only, not retroactively. [Read more.](#)

**Leasing – Alaska.** On February 18, the House Rules Committee (R) at the request of the governor introduced HB 82. The bill would open a small portion of land in the southern Kenai Peninsula to non-surface leasing. [Read more.](#)

**Oil Discharges – Alaska.** On February 18, Rep. Andy Josephson (D) introduced HB 33. The bill provides for penalties for discharges of oil and other pollutants. [Read more.](#)

**ANWR Leasing – Alaska.** On February 18, Rep. George Rauscher (R) introduced HJR 12, which urges “the United States Department of the Interior, Bureau of Land Management, to honor the recent lease sales and proceed with permitting in the Arctic National Wildlife Refuge; urging the President of the United States to defend the 2020 Record of Decision approving the Coastal Plain Oil and Gas Leasing Program in the Arctic National Wildlife Refuge; opposing designation of the Arctic National Wildlife Refuge as a National Monument; and urging the Alaska delegation in Congress to uphold sec. 20001 of the Tax Cuts and Jobs Act of 2017.” [Read more.](#)

**Setbacks – Colorado.** On February 22, Sen. Barbara Kirkmeyer (R) introduced SB 114. The bill “requires that proposed public school building sites be set back from existing oil and gas facilities a distance that is no less than: the setback distance required by the local government having land use jurisdiction over the site for locating new oil and gas facilities from public school properties; or if there are no local

government setback requirements, the setback distance required by the oil and gas conservation commission for siting new oil and gas facilities from existing public school properties." [Read more.](#)

**Greater Sage-Grouse – Idaho.** On February 24, HB 237 was introduced by the House Resources and Conservation Committee (R). The bill would establish the Sage Grouse Preservation Program with "the goal of demonstrating that sage grouse can successfully be raised in captivity and as a result, populations can be increased, the state of Idaho hereby creates the sage grouse preservation program pursuant to the provisions of this section. For purposes of the sage grouse preservation program, no person or entity shall purchase sage grouse or sage grouse eggs or possess, propagate, breed, raise, sell, gather eggs of, take, or release greater sage grouse unless certified in compliance with the requirements of this section." [Read more.](#)

**Recorded Instruments – Kentucky.** On February 22, SB 243 was referred to committee after its introduction by Sen. Steve West (R). The bill defines "recorded instrument" and "portal"; requires county clerks to be open for reviewing and obtaining copies of recorded instruments for 40 hours a week unless they maintain a portal that allows the public to search for electronic copies of recorded instruments; establishes deadlines for county clerks to maintain portals for the filing and searching of recorded instruments; and creates a task force on issues regarding the implementation of electronic recording, fees or functions of the county clerk in the recording of documents, and closure of county clerk offices due to an emergency. [Read more.](#)

**Independent Contractors – Missouri.** On March 4, SB 549 was introduced by Sen. Denny Hoskins (R). The bill provides that in determining worker classification that those decisions defer to the guidance issued by the Internal Revenue Service when determining whether an individual or entity is an employee or independent contractor. [Read more.](#)

**Oil and Gas Production Tax Allocations – Montana.** On February 24, HB 404 passed out of committee following its introduction. The bill, sponsored by Rep. Jimmy Patelis (R), increases the maximum of oil and natural gas production tax revenue that a school district may retain. [Read more.](#)

**Instrument Acknowledgments – Tennessee.** On February 10, SB 1139 was introduced by Sen. Dawn White (R). Regarding the acknowledgments of instruments affecting real property, the bill would amend existing law to authorize an attorney licensed in this state to acknowledge the execution of an instrument affecting real property in this state. Companion House bill, [HB 1162](#), was also introduced on February 10 by Rep. Kirk Haston (R). [Read more.](#)

**Energy Company Boycotts – Texas.** On February 25, Rep. Phil King (R) introduced HB 2189. Relating to state contracts, the bill would prohibit investment in companies that boycott certain energy companies. [Read more.](#)

**Notaries Public – Texas.** On February 19, Rep. Valoree Swanson (R) introduced HB 1959. The bill amends existing notary law by updating provisions related to identification and fee adjustments. [Read more.](#)

**Flaring Information – Texas.** On February 22, Rep. Barbara Gervin-Hawkins (D) introduced HB 1975. The bill provides for the publication of flaring information. [Read more.](#)

**Flaring Study – Texas.** On February 22, Rep. Barbara Gervin-Hawkins (D) introduced HB 1976. The bill directs the Texas Railroad Commission to conduct a study on natural gas flaring. [Read more.](#)

**Notice – Texas.** On February 22, Rep. Trent Ashby (R) introduced HB 2006. Regarding the notice requirements for permits for the commercial surface disposal of oil and gas wastes, the bill requires notice to a river authority or groundwater conservation district under the conditions set forth. On February

23, Senate companion bill, [SB 771](#), was introduced by Sen. Robert Nichols (R). [Read more.](#)

**Eminent Domain – Texas.** On February 22, Rep. Ben Leman (R) introduced HB 2041. The bill sets certain disclosure requirements related to eminent domain regarding appraisal reports. Senate companion bill, [SB 721](#), was introduced on February 22 by Sen. Charles Schwertner (R). [Read more.](#)

**Eminent Domain – Texas.** On February 22, Rep. Ben Leman (R) introduced HB 2042. The bill provides certain requirements in connection with the acquisition of real property for public use by an entity with eminent domain authority. Senate companion bill, [SB 723](#), was introduced on February 22 by Sen. Charles Schwertner (R). [Read more.](#)

**Eminent Domain – Texas.** On February 22, Rep. Ben Leman (R) introduced HB 2044. The bill provides for establishing actual progress for the purposes of determining the right to repurchase real property from a condemning entity. Senate companion bill, [SB 726](#), was introduced on February 22 by Sen. Charles Schwertner (R). [Read more.](#)

**Recorded Instruments – Texas.** On February 23, Rep. Jake Ellzey (R) introduced HB 2131. Regarding the retention of instruments recorded in the property records of a county, the bill provides retention requirements. [Read more.](#)

**Ad Valorem Taxes – Texas.** On February 25, Rep. Brooks Landgraf (R) introduced HB 2292. The bill relates to the appraisal for ad valorem tax purposes of a real property interest in oil or gas in place. [Read more.](#)

**Active Wells; Application Fees – Texas.** On March 1, Rep. Ron Reynolds (D) introduced HB 2482. The bill would increase certain application fees, provide for active well status procedures, bond requirements, and sets plugging goals. The bill is unlikely to advance to a floor vote in the Republican led chamber. [Read more.](#)

## **Eminent Domain; Landowner's Bill of Rights**

– **Texas.** (Update to 1/25/21 Weekly Report) On March 3, Rep. Joe Deshotel (D) introduced HB 2730. Regarding eminent domain, the bill provides for a landowner's bill of rights. A similar bill, [HB 902](#), was already introduced in January by Rep. DeWayne Burns (R). [Read more.](#)

**Permitting – Texas.** On March 4, Rep. Chris Turner (D) introduced HB 2814. The bill provides for a requirement of a public hearing on certain applications for a permit to drill an oil or gas well. [Read more.](#)

**Wells – Texas.** On March 4, Rep. Oscar Longoria (D) introduced HB 2868. The bill provides for financial security requirements for well operators and determinations of plugging costs. [Read more.](#)

**Nonparticipating Royalty Owners – Texas.** On March 4, Rep. Ernest Bailes (R) introduced HB 2881. The bill provides for definitions and applicability related to nonparticipating royalty interest owners. Senate companion bill, [SB 1030](#), was also introduced on March 4 by Sen. Angela Paxton (R). [Read more.](#)

**Division Orders – Texas.** On March 4, Rep. Ernest Bailes (R) introduced HB 2882. The bill relates to information provided to a payee by a payor of proceeds of production from an oil or gas well that traverses multiple tracts. Senate companion bill, [SB 1031](#), was also introduced on March 4 by Sen. Angela Paxton (R). [Read more.](#)

**Payee Information – Texas.** On March 4, Rep. Ernest Bailes (R) introduced HB 2883. The bill relates to the information a payor of the proceeds of production from an oil and gas well is required to provide a payee. Senate companion bill, [SB 1032](#), was also introduced on March 4 by Sen. Angela Paxton (R). [Read more.](#)

**Suspension of Payments – Texas.** On March 4, Rep. Ernest Bailes (R) introduced HB 2884. The bill provides for notification of suspension of payments. Senate companion bill, [SB 1033](#), was also introduced

on March 4 by Sen. Angela Paxton (R). [Read more.](#)

**Railroad Commission Notices – Texas.** On March 4, Sen. Juan Hinojosa (D) introduced SB 1006. The bill provides certain notice requirements for the Railroad Commission of Texas. [Read more.](#)

**Eminent Domain; Right-of-Way Agent Education – Texas.** (*Update to 1/25/21 Weekly Report*) On March 3, Sen. Lois Kolkhorst (R) introduced SB 986. Regarding eminent domain, the bill provides for an ombudsman, right-of-way agent education requirements, and required terms of conveyance for certain instruments, among other provisions. The House companion bill, [HB 902](#), was introduced in January by Rep. DeWayne Burns (R). [Read more.](#)

**Eminent Domain – Texas.** On February 22, Sen. Charles Schwertner (R) introduced SB 722. Regarding eminent domain appraisal reports, the bill provides that “an entity that fails to meet the requirements of this subsection is liable to the owner for reasonable attorney’s fees incurred by the owner in connection with the entity’s acquisition of the owner’s property.” [Read more.](#)

**Eminent Domain – Texas.** On February 22, Sen. Charles Schwertner (R) introduced SB 724. The bill provides for the award of attorney’s fees and other costs in an eminent domain proceeding. [Read more.](#)

**Pit Locations – Texas.** On February 23, Sen. Robert Nichols (R) introduced SB 772. Regarding the location of pits used in the production of oil and gas, the bill would require standards be established for their location. On February 24, House companion bill, [HB 2201](#), was introduced by Rep. Trent Ashby (R). [Read more.](#)

**Severance Tax Refunds – Texas.** On February 26, Sen. Donna Campbell (R) introduced SB 833. The bill provides sales tax refunds for tax overpayments by certain oil or gas severance taxpayers. [Read more.](#)

**Quitclaim Deeds – Texas.** On March 1, Sen. Bryan Hughes (R) introduced SB 885. The bill would amend

existing law regarding the effect of recording a quitclaim deed. [Read more.](#)

**Tax Reductions – Texas.** On March 3, Sen. Nathan Johnson (D) introduced SB 127. Relating to the tax reduction for certain high-cost gas, the bill amends existing law regarding application dates. [Read more.](#)

**Supporting Natural Resources and Energy Industries – Utah.** On March 2, SCR 8 passed the Senate and has been transmitted to the House. The Concurrent Resolution, sponsored by Sen. David Hinkins (R), “describes the benefits derived from the natural resources and energy resources in the state; reminds the federal government of the federal government’s legal obligation to hold lease sales; reminds the federal government of Bureau of Land Management requirement to manage public lands for multiple uses and values; implores the federal government to consult with state, tribal, and other stakeholders; implores the federal government for a fair and balanced consideration in future federal land management decisions impacting the state; and reminds the federal government that Utah is a sovereign state.” [Read more.](#)

**Tax Valuation – West Virginia.** On February 17, HB 2581 was introduced by Del. Dianna Graves (R). The bill provides, among other tax change provisions, revised methodology to value oil and natural gas properties by the Tax Commissioner. [Read more.](#)

**Orphaned Wells – West Virginia.** On February 17, HB 2589 was introduced by Del. Evan Hansen (D). “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.](#)

**Severance Tax – West Virginia.** On March 2, HB 2810 was introduced by Del. Bill Anderson (R). The purpose of this bill is to remove the severance tax on oil and gas produced from low producing wells. [Read more.](#)

**Unitization – West Virginia.** On March 2, 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, establishes the standard of review, provides for unitization orders, requires notice and timeliness, provides for hearings, addresses oil and gas produced from shallow horizontal wells, and adds or modifies definitions. Senate companion bill, [SB 538](#), was introduced on March 3 by Sen. Eric Nelson. [Read more.](#)

**Independent Contractors – West Virginia.** On February 19, SB 272 passed the Senate and has been transmitted to the House. The measure is sponsored by Sen. Craig Blair (R). The “purpose of this bill is to simplify criteria used to define independent contractors and to impose objective standards on the differentiation of independent contractors from employees.” House companion bill, [HB 2590](#), was introduced on February 25 by Del. Ben Queen (R). [Read more.](#)

**Orphaned Wells – West Virginia.** On February 19, SB 362 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.” [Read more.](#)

**Well Compliance – West Virginia.** On February 24, Del. Evan Hansen (D) introduced HB 2725. “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.” [Read more.](#)

**Permitting – West Virginia.** On February 23, Sen. Randy Smith (R) introduced SB 404. “The purpose of this bill is to create a statutory fee for the modifications to permits issued by the Department of Environmental Protection’s Office of Oil and Gas.” [Read more.](#)

**Notarial Acts – West Virginia.** On February 26, SB 469 was introduced by Sen. Mark Maynard (R). For the purpose of notarial acts, the bill would permit personal appearance by video technology. [Read more.](#)

**State Land Leases – Wyoming.** On March 1, SF 114 was introduced by Sen. Brian Boner (R). Relating to state lands, the bill amends existing law to require auctions under certain circumstances and provides for preferred rights in rental offers. [Read more.](#)

**Federal Oil and Gas Suspension – Wyoming.** On March 1, SJ 3 was introduced by Sen. Edward Cooper (R). The Joint Resolution would request “Congress and the federal government to reverse federal orders and actions that inhibit the safe development of oil and gas in Wyoming and that negatively and disproportionately impact Wyoming citizens and industries.” [Read more.](#)

**Public Lands – Wyoming.** On March 1, HB 141 was introduced by Rep. Robert Wharff (R). The bill relates to public lands and sets forth provisions requiring transfer of public lands; specifying distribution of proceeds from sale of public lands; and creating a joint select committee on the transfer of public lands, among other provisions. [Read more.](#)

**Stripper Well Exemption – Wyoming.** On March 1, HB 145 was introduced by Rep. Bill Fortner (R). The bill creates an exemption from ad valorem taxes for oil production from stripper wells. [Read more.](#)



## **STATE – Regulatory**

**Colorado Oil and Gas Conservation Commission – Colorado.** On March 1, the Colorado Senate confirmed Gov. Jared Polis' (D) appointees to the Colorado Oil and Gas Conservation Commission (COGCC). According to Colorado Politics, "The Colorado General Assembly decided in 2019 to replace political appointees with experts on the state oil and gas regulatory board." Republican lawmakers voiced their opposition to the COGCC appointees, but were unable to stop their approval. *(Hat tip to DAPL for reporting this story.)* [Read more.](#)

**DRBC Hydraulic Fracturing Ban – Pennsylvania, New Jersey, New York, and Delaware.** On February 25, the Delaware River Basin Commission (DRBC) voted unanimously to enact a permanent ban on hydraulic fracturing of natural gas wells in the Delaware River Watershed. The commissioners said the ban would "control future pollution, protect the public health and preserve the waters" of the Delaware Basin. Environmentalists hailed the decision affecting the water supply for more than 13 million people in four states, while the oil and gas industry criticized it. The interstate agency approved the [final rule](#) (Resolution 2021-01) which affirms a de facto drilling moratorium that has been in place since 2010 and that affects residents of Pennsylvania, New Jersey, New York, and Delaware. The commission also voted unanimously in favor of a companion [resolution](#) starting a rule process to ban fracking wastewater imports and water exports for fracking. This vote comes about a month after a federal judge set an October trial date for a lawsuit filed against the moratorium by a landowner group in Pennsylvania. Environmental groups called the DRBC vote an "essential first step in stopping the devastating impacts of fracking in the Watershed." But Stephanie Catarino Wissman, American Petroleum Institute executive director in Pennsylvania, said the commission lacks the authority to ban fracking. The decision "ignores a robust regulatory system and strict industry standards that ensure the environment, public health and local communities are protected," she said. [Read more.](#)

## **STATE – Judicial**

**Oil and Gas Projects – California.** On February 24, environmentalists filed suit against California for approving thousands of oil and gas drilling and hydraulic fracturing projects without the required environmental review, according to the complaint. In [Center for Biological Diversity v. California Geologic Energy Mgmt. Div.](#) (Case No. not yet docketed), the litigants claim the California Geologic Energy Management Division (CalGEM) "ignored its legal obligation to conduct analyses of environmental and health harms before issuing permits and approvals." The suit also claims state regulators have skipped public notice, comment, and hearing requirements that ordinarily apply. Among other claims, the litigants seek a permanent injunction enjoining CalGEM from continuing what they deem unlawful practices unless and until CalGEM complies with California Environmental Quality Act "environmental review procedures and adequately discloses, evaluates, and mitigates the direct, indirect, and cumulative impacts of each project." [Read more.](#)

**Climate Change Lawsuit – Maryland.** On February 22, the City of Annapolis, Maryland, sued 26 oil and gas companies for the costs and consequences of climate change. In [City of Annapolis vs. BP PLC](#) (Case No. C-02-CV-21-000250), the city argues that the companies violated the Maryland Consumer Protection Act and five other actions, including public and private nuisance, negligence, failure to warn and trespass. "The fossil fuel industry knew for the past 50 years that their industry was pushing the environment to a tipping point where combating climate change would become progressively difficult," said Annapolis Mayor Gavin Buckley (D) [during a news conference to discuss the lawsuit.](#) "The companies worked to deceive people of the danger, hiding their knowledge and engaging in an intentional campaign to mislead the public about the science, proving the growing danger posed by fossil fuels." The oil and gas company defendants have yet to respond to the complaint. [Read more.](#)

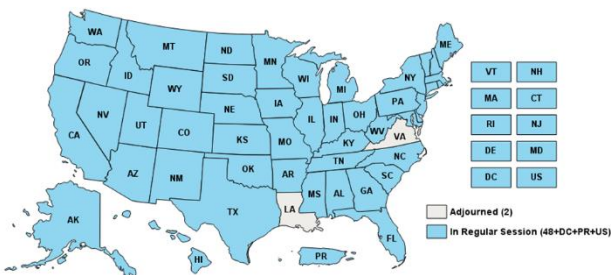
## INDUSTRY NEWS FLASH

► **President Biden's Conservation of 30% of U.S. Lands and Waters by 2030.** To follow up on our ongoing reporting since President Biden was inaugurated, the Colorado- and Wyoming-based law firm Welborn Sullivan Meck & Tooley, P.C. has published a legal update on how the Biden administration's recent executive orders on climate change and conservation goals might be implemented. [Read more.](#)

► **COVID-19 stimulus expected to boost oil industry.** On March 1, Rystad Energy, an oil and gas industry research firm, reported that oil is finally pricing in the full boost from the long-awaited Covid-19 stimulus bill, rising on the prospect of extra spending and its related market benefits. "Oil prices are naturally moving as spending is expected to rise in industrial and social activity, naturally creating more demand for oil," said Rystad analyst Louise Dickson. [Read more.](#)

## LEGISLATIVE SESSION OVERVIEW

### States in Session



**Session Notes (by date):** Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South

Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin and Wyoming are in regular session. The District of Columbia Council and the U.S. Congress are also in session.

Virginia adjourned its 2021 legislative session sine die on March 1. Louisiana is scheduled to convene its 2021 legislative session on April 12.

The following states are scheduled to adjourn their 2021 legislative session on the dates provided: Utah (March 5), Arkansas (March 11), Mississippi (March 15), New Mexico (March 20), South Dakota (March 29) and Kentucky (March 30).

**Signing Deadlines (by date):** Virginia Democratic Gov. Ralph Northam has until March 31 to sign or veto legislation or it becomes law without his signature. Illinois Democratic Gov. J.B. Pritzker has 60 days from presentment to sign or veto legislation or it becomes law without his signature. New Jersey Democratic Gov. Phil Murphy has 45 days from presentment to act on legislation or it becomes law without his signature.

**Interim Committee Hearings:** Louisiana is currently holding 2021 interim committee hearings.

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

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