

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

- **S. 2938, Certainty for States and Tribe Act.** On May 17, U.S. Senate bill, S. 2938, the *Certainty for States and Tribe Act*, was introduced by Sen. Steve Daines (R-Montana), and referred to the Senate Committee on Energy and Natural Resources. The bill would reestablish the Royalty Policy Committee in order to further a more consultative process with key Federal, State, tribal, environmental, and energy stakeholders. Among other provisions, the bill would require that with respect to any proposed regulation or policy relating to mineral leasing policy on Federal or Indian lands for exploration, development, or production of oil and gas the Committee must assess the proposed regulation or policy and issue a report that describes the potential impact of the proposed regulation or policy, including any State and tribal budgetary and economic impacts. [Read more.](#)
- **Comprehensive Energy Bill – S. 2012.** (Update to 4/25/16 Weekly Report) On May 25, congressional lawmakers moved one step closer to passing a comprehensive energy package when House members voted to pass an amended version of the Senate's bill. The House can now vote to formally enter a conference with the Senate. In that process, members of both parties from both chambers are tasked with reconciling differences between the House's package and the wide-ranging energy bill the Senate passed in April. While the 800-page bill will likely have many new amendments, as it pertains to the landman industry, provisions such as increasing fossil fuel research and improving job training for energy jobs remain in the package. The conference is expected to convene after lawmakers return June 6 from their recess. [Read more.](#)

FEDERAL – Regulatory

- **EPA Methane Emissions Rule.** In a May 20 letter sent to the Environmental Protection Agency (EPA) Administrator, six Republican senators, led by David Vitter of Louisiana, have urged the EPA not to complete methane emissions rules before "demonstrating a comprehensive understanding of the extent of emissions and their sources." The letter raised concerns about the methodology used by the agency in finalizing new rules. "Given that so many of our communities are being impacted by current market conditions, any new regulations impacting oil and natural gas should be based on reliable, transparent data that is devoid of any political considerations," wrote the senators. [Read more.](#)

- **BLM Online Auction – New Mexico.** The Bureau of Land Management (BLM) is set to have its first online auction for oil and gas leasing in New Mexico this summer. According to BLM’s director Neil Kornze, it has nothing to do with activists disrupting sales in recent months. Online auctions were approved by Congress last year, and while Kornze acknowledges that online lease sales may be easier to work through given the protests he still asserts that the online move was based on other factors. [Read more.](#)

FEDERAL – Judicial

- **Lesser Prairie Chicken – Texas.** The U.S. Fish and Wildlife Service (FWS) has announced its intention to [withdraw its appeal of a ruling](#) that removed the lesser prairie chicken from the “threatened” list. The ruling was issued in Sept. 1, 2015 and upheld February 29, 2016 in the U.S. District Court for the Western District of Texas in San Antonio. The decision comes after the Justice Department had filed arguments May 5 to the U.S. Court of Appeals for the Fifth Circuit, asking the court to review a lower-court ruling in Texas that the FWS’s efforts were unconstitutional. The Justice Department and FWS offered no explanation for dropping the appeal, saying in a statement that efforts to protect the species would continue. [Read more.](#)

STATE – Legislative

- **Mineral Rights – Louisiana.** (Update to 5/23/16 Weekly Report) On May 19, Governor John Bel Edwards (D) signed SB 404 into law. The bill regulates the sale or transfer of mineral rights by mail. The bill is effective as of May 19, 2016. [Read more.](#)

STATE – Judicial

- **Royalties – Texas.** Chesapeake Energy Corporation and Total SA have agreed to settle 400 lawsuits with landowners in the Barnett Shale. The oil companies were accused by Fort Worth’s McDonald Law Firm and the Circelli, Walter & Young law firm, in cases involving 13,000 plaintiffs, that royalties have been underpaid for leases in the Texas Barnett Shale play. While the small-acreage leases allowed for post-production costs, according to the plaintiffs, these deductions were higher than necessary. The estimated settlement to be paid to the plaintiff class is \$52.5 million. [Read more.](#)

INDUSTRY NEWS FLASH:

- ◆ The United States produced more petroleum liquids and natural gas than any other nation in 2015, federal energy data show. Even as low oil prices forced companies to delay drilling and postpone projects, U.S. producers still churned up more total hydrocarbons than Russia or Saudi Arabia last year. [Read more.](#)

ELECTION ALERT:

✪ As reported in the May 9 Weekly Report, GOP presidential nominee Donald Trump delivered the keynote address at the North Dakota Petroleum Council annual conference on May 26. In the long-awaited speech, Trump outlined his “America First” energy plan which promotes development of the country’s fossil fuel resources and supports opening up federal lands to higher production levels. [Read more.](#)

State-by-State Legislative Session Overview

Alaska Independent Gov. Bill Walker called a special session which convened on May 23, [KTVF](#) reports. The regular session had adjourned on May 18 without resolving the state budget, oil and gas tax credits and a plan to confront the \$4 billion budget deficit. [HCR 401](#), which passed both chambers on May 24 and is currently awaiting transmission to Governor Walker, would allow legislators to carry-over certain budget related bills from the regular session to the special session. Included among those bills are [HB 256](#) and [SB 138](#), which contain the House and Senate budget proposals respectively, [SB 128](#), which would restructure the Alaska Permanent Fund, and [HB 247](#), which would restructure oil and gas tax credits. [HB 4001](#), which was introduced and referred to the House Finance Committee on May 23, contains an omnibus tax proposal that would implement a personal state income tax and increase other taxes and has been described by Governor Walker as a necessary measure to address Alaska’s fiscal situation. Lawmakers have until July 1, the start of the new fiscal year, to resolve the budget before a government shutdown occurs.

California, Delaware, Illinois, Louisiana, Massachusetts, Michigan, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island and South Carolina are in regular session. The **District of Columbia** Council and the **U.S. Congress** are also in regular session.

The following states convened special sessions on the dates provided: **Connecticut** (May 12), **West Virginia** (May 16), **Arkansas** (May 19) and **Alaska** (May 23).

Kansas is in recess until June 1 and is expected to adjourn its legislative session on that day.

The following states are expected to adjourn their legislative sessions on the dates provided: **Oklahoma** (May 27), **Missouri** (May 30), **Kansas** (June 1), **South Carolina** (June 2) and **Louisiana** (June 6).

Iowa Republican Gov. Terry Branstad has until May 30 to act on legislation presented after April 26 or it is pocket vetoed. **Maryland** Republican Gov. Larry Hogan has until May 31 to act on legislation or it becomes law without signature. **Colorado** Democratic Gov. John Hickenlooper has until June 10 to act on legislation presented after May 1 or it becomes law without signature. **Hawaii** Republican Gov. David Ige has until July 11 to act on legislation presented after April 21 or it becomes law without signature. **Alaska** Independent Gov. Bill

Walker has 20 days from presentment, Sundays excluded, to act on legislation or it becomes law without signature. **Connecticut** Democratic Gov. Dannel Malloy has 15 days from presentment to act on legislation or it becomes law without signature. **Minnesota** Democratic Gov. Mark Dayton has 14 days from presentment to act on legislation or it is pocket vetoed. **Mississippi** Republican Gov. Phil Bryant has 15 days from presentment, Sundays excepted, to act on legislation or it becomes law without signature. **Vermont** Democratic Gov. Peter Shumlin has five days from presentment, Sundays excepted, to act on legislation or it is pocket vetoed.

Utah Republican Gov. Gary Herbert has until June 7 to act on legislation passed during the second special session or it becomes law.

Tennessee Republican Gov. Bill Haslam had acted on all legislation as of May 20.

The following states are currently holding interim committee hearings: **Alabama, Arkansas, Colorado, Idaho, Indiana, Iowa, Kentucky, Maine, Maryland, Minnesota, Mississippi** House and Senate, **Montana, Nebraska, Nevada, North Dakota, Oregon, Tennessee**, the **Texas** House, Senate and Joint, **Utah, Vermont, Virginia, Washington** and **Wyoming**.

The following states are currently posting bill draft requests for the 2017 session: **Colorado, Montana, North Dakota, Utah** and **Wyoming** (draft requests appear on individual committee pages).

Franchise Tax

Louisiana [HB 735](#) passed the Senate Revenue and Fiscal Affairs Committee with [amendments](#) on May 23. HB 735 was then reported favorably by the Legislative Bureau and passed to third reading and final passage. This bill would change the date corporate franchise taxes are due from the 15th day of the third month following the month the tax is due, to the 15th day of the fourth month following the month the tax is due.

Landmen

Employee Misclassification

(Update to 5/16/16 Weekly Report) - Colorado [SB 179](#) was delivered to Democratic Gov. John Hickenlooper on May 20, he has 30 days to act on the bill or it becomes law. The state Department of Labor and Employment has the authority to audit businesses to gather information to determine whether individuals are independent contractors or employees for the purpose of unemployment insurance. In order to improve this process, this bill would require the department to:

- Develop specific guidance for employers to help them determine the proper classification for their employees.
- Clarify the process by which an employer or individual may submit additional information in response to a request from the department.

- Establish an individual within the department to serve as a resource for employers to provide guidance.
- Establish internal methods to improve the consistency among auditors.
- Establish an independent review of a portion of the audit and appeal results at least twice a year to monitor trends and make improvements to the audit process.

The amendment would appropriate additional money to the Department of Labor and Employment to be used by the Division of Unemployment.

If enacted, this bill would take effect 90 days after the date of adjournment, which was May 11.

Lands

Land Permits

Democratic Gov. John Bel Edwards signed **Louisiana [HB 313/Act No. 108](#)** into law on May 19. Effective January 1, this law will amend current law requiring certain disclosures before exercising the right of expropriation by entities including those engaged in marketing, transportation and supply of natural gas. This law will require the entity to provide the property owner with a notice including a statement within 30 days of making an offer that:

- The property owner is entitled to receive just compensation for the property to be acquired to the fullest extent allowed by law.
- The property may be acquired only by an authority authorized by law to do so.
- The property owner is entitled to receive from the expropriating authority a written appraisal or evaluation of the amount of compensation due.
- Identifies the website of the expropriating authority where the property owner can read the expropriation statutes upon which the expropriating authority relies.
- Offers to provide upon request of the property owner a copy of the expropriation statutes upon which the expropriating authority relies.
- Identifies each agency responsible for regulating the expropriating authority, including the name, website and telephone number of each agency.
- The property owner may hire an agent or attorney to negotiate with the expropriating authority and an attorney to represent the property owner in any legal proceedings involving the expropriation.

(Update to 5/23/16 Weekly Report) - Louisiana [HB 632](#) unanimously passed the Senate on May 25, it was then returned to the House on May 26 where it is scheduled to be debated on the floor on June 2. This bill relates to the financial security needed for oil and gas drilling activities. It says that an applicant would have to provide financial security for a permit to drill within 30 days of the completion date or from the date the operator is notified that the financial security is required. The financial security that is required is contingent on the type and depth of the well. This legislation would exempt an owner in good standing from the financial security requirements needed to drill new wells.

Oil and Gas

General Oil and Gas

Michigan [SB 600](#) was substituted for [H-1](#) and placed on third reading on May 25. The bill would clarify the fee for recording and indexing a statement claiming a lien for labor on an oil or gas well. If enacted, the bill would take effect 90 days after final passage and approval.

New Jersey [SR 54](#) was introduced on May 23 and referred to the Senate Environment and Energy Committee. This resolution would urge the Department of Environmental Protection to conduct a thorough and thoughtful review of any proposed interstate oil pipeline. The goal would be to carefully weigh the risks of any proposed pipeline to the public health, safety and welfare, public drinking water supplies, the environment, and the natural resources of the state. Asm. Patrick Diegnan, D-South Plainfield, sponsors this resolution.

Oklahoma [HB 2651](#) died in conference committee on May 19. The bill would have created a policy that would have reduced and recycled oil and gas waste whenever feasible, and treated waste that cannot be recycled. Oil and gas waste includes saltwater, mineral brines, waste oil and other substances produced or obtained during the drilling, development, producing and operation of wells.

Mineral Rights

California [AB 2729](#) is scheduled to be heard in the Assembly Appropriations Committee on May 27. This bill would make changes to the definitions of active observation well, idle well and long-term idle well. An idle well would be defined as a well that had six months of not producing or being used for injection. An idle well would continue to be an idle well until the well has been properly abandoned in accordance with existing law. For active observation wells, the bill would require the user to report their data once every month, instead of every three years. The bill would define a long-term idle well as a well that has been idle for five or more years. As amended, the bill would provide that the abandoned underground personal property, including a well, of an operator becomes the property of the mineral interested owner when the operator loses the right to remove it under common law or lease or any other agreement that initially gave the operator the right to conduct activity on the well.

The amendment would require that the division review, evaluate, and update all regulations pertaining to idle wells until January 1, 2020 unless additional statutes are enacted to delete or extend that date.

If enacted, this bill would take effect on January 1, 2018.

Democratic Gov. John Bel Edwards signed **Louisiana** [HB 911/Act No. 152](#) into law on May 19. Effective immediately, this law authorizes the transfer or lease of state property in Grant Parish from the Department of Transportation and Development to the Grant Parish Police Jury. The state retains the mineral rights.

(Update to 5/23/16 Weekly Report) - Democratic Gov. John Bel Edwards signed **Louisiana SB 404/Act No. 179** into law on May 19. Effective immediately, this law regulates the sale or transfer of mineral rights by mail. The law requires a disclosure to highlight the sale of the mineral rights by mail. If the proper disclosure is provided, the transferor may rescind the agreement within 60 days after the date on which the transferor signs it. If the instrument does not include the required disclosure, the transferor may rescind the agreement within three years after the date on which the transferor signs it. The rescission will not be effective against a party to make royalty payments until 60 days after that part is furnished with a certified copy of the notice of rescission. A transferor who exercises the right to rescind is required to return any payments, including royalties and interest, made by the transferee within 60 days.

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