

GOVERNMENTAL AFFAIRS WEEKLY REPORT

Weekly Highlights At-A-Glance

FEDERAL – Legislative

Congressional Recess. The U.S. Senate and House of Representatives will be on July 4th recess beginning July 3 for two weeks through July 17. Congressional leaders may try to pass a police reform bill prior to the recess but at present there is no commitment to pass further COVID-19 related measures prior to that date. [Read more.](#)

FEDERAL – Regulatory

Lending Discrimination Against the Oil and Gas Industry. On June 16, U.S. Senators Dan Sullivan and Lisa Murkowski, and Rep. Don Young (all R-AK) sent a letter to Federal Reserve Chairman Jerome Powell and Vice Chair Randy Quarles, Acting U.S. Comptroller of the Currency Brian Brooks, and Chairwoman Jelena McWilliams of the Federal Deposit Insurance Corporation, urging these officials to consider regulatory action and oversight of large American financial institutions that are “openly discriminating against some of the most economically disadvantaged regions of America” by refusing financing of domestic energy projects, particularly in Alaska and the Arctic. The Alaska delegation argues that the banks are harming a foundation of the U.S. economy at a time when businesses, workers, and families are already reeling from the economic fall-out of the COVID-19 pandemic. “It is clear that these policies are overtly political and actually meant to appease extreme activists’ calls for fossil fuel divestment and to discriminate against certain sectors of the energy industry and projects in specific geographical areas,” said the legislators. Since November 2019, Citigroup, Goldman Sachs, JP Morgan, Morgan Stanley, and Wells Fargo have announced policies to stop lending to new oil and gas projects in the Arctic, including the

1002 Area of the Arctic National Wildlife Refuge. The letter writers question whether these policies violate multiple federal laws. [Read more.](#)

BLM Lease Sale – Utah. On June 9, the Bureau of Land Management (BLM) announced it will offer 77 parcels, totaling approximately 114,049.77 acres, at its September oil and gas lease sale. The parcels are located in Juab, Sanpete, Sevier, Emery, Duchesne, Grand, Uintah and San Juan counties on public lands managed by the BLM’s Moab, Richfield, Vernal, Price, and Fillmore Field Offices. The BLM has initiated a 30-day public comment period on the lease sale environmental assessment (EA) that ends on July 9, 2020. The BLM included four parcels (4,376.50 acres) previously scheduled for the June oil and gas lease sale in the September lease sale EA. [Read more.](#)

BLM Lease Sale – Wyoming. The BLM has postponed a June oil and gas lease sale covering Wyoming parcels. This follows previously delayed sales in Utah, Mississippi, Nevada, and Colorado expected this month, as well as a major sale in New Mexico in late May. Courtney Whiteman, a spokeswoman for BLM’s Wyoming office, confirmed the delay and said the 135 parcels that had been scheduled to be offered on June 23 and 24 would be wrapped into a September sale but Whiteman did not give a reason for the postponement. The parcels cover nearly 170,000 acres. [Read more.](#)

FEDERAL – Judicial

Mineral Leasing Act; Natural Gas Pipeline – U.S. Supreme Court. In a huge victory for the oil and gas industry, on June 15, the U.S. Supreme Court issued a defeat to environmental activists by approving an \$8 billion gas pipeline that will tunnel below the

Appalachian trail and will carry natural gas some 604 miles from West Virginia to North Carolina. In the 7-2 opinion in [U.S. Forest Service v. Cowpasture River Preservation Assoc.](#) (Case No. No. 18-1584), the justices held that the U.S. Forest Service (USFS) had “been duly authorized to greenlight the project, rejecting the challengers’ claim that power over the affected land lay elsewhere. The dispute stemmed from the Department of the Interior’s decision to make the National Park Service (NPS) responsible for the Appalachian Trail. Prior to the court’s Monday decision, the question of whether this move also transferred authority of lands underneath the trail had been an open one.” The case came on appeal from a 2018 ruling by the U.S. Circuit Court of Appeals for the Fourth Circuit, which had sided with environmentalists. The lower court ruled that the Appalachian Trail fell under the authority of the NPS, “which it said was barred by law from granting land access, known as a right-of-way, for energy development.” The Supreme Court ruling reverses that decision, finding that one of the laws in question — the Mineral Leasing Act — authorized the permit issued by the USFS. “We hold that the Mineral Leasing Act does grant the Forest Service that authority and therefore reverse the judgment of the lower court,” wrote Justice Clarence Thomas. According to a spokeswoman for the pipeline operator, “For decades, more than 50 other pipelines have safely crossed the trail without disturbing its public use. The Atlantic Coast Pipeline will be no different.” The company plans to be in operation by 2022. [Read more.](#)

Hydraulic Fracturing; Public Lands – California.

On June 12, environmental groups and California’s attorney general filed [notices of appeal](#) to the U.S. Court of Appeals for the Ninth Circuit to challenge the Trump administration’s rollback of Obama-era rulemaking regulating hydraulic fracturing on federal and tribal lands. Those restrictions never took effect due to protracted litigation, and the Trump administration officially eliminated them in 2017. In the consolidated cases, [California v. Bernhardt](#) (Case No. 4:18-cv-00521-HSG) and [Sierra Club v. Bernhardt](#) (Case No. 4:18-cv-00524-HSG), the plaintiffs argued that the rollback violated the Administrative

Procedure Act, National Environmental Policy Act, and Endangered Species Act. The U.S. District Court for the Northern District of California, however, rejected the arguments, and ruled in favor of the Trump administration, finding the Interior Department complied with federal law when it scrapped the standards for construction, wastewater management, and chemical disclosure for hydraulic fractured oil and gas wells on those lands. In the wake of the appeal, the Interior Department defended its actions, saying that it “continues to implement the President’s agenda to repeal overly burdensome regulations and ensure America’s energy independence, while protecting the safety of our workers and the health of our environment,” according to a statement by Interior Department spokesman Conner Swanson. “We are confident that the Courts will, again, affirm the Department’s actions.” [Read more.](#)

[STATE – Legislative](#)

Occupational Licensing – Colorado. (*Update to 6/8/20 Weekly Report*) On June 16, bipartisan bill, HB20-1326, was transmitted to Gov. Jared Polis (D) after passing both chambers of the Assembly. The legislation creates the “occupational credential portability program” to allow the recognition of out of state occupational credentials “to reduce certification, registration and licensure barriers” and foster economic opportunities for workers. [Read more.](#)

Ad Valorem Tax – Louisiana. (*Update to 6/8/20 Weekly Report*) On June 12, HB 360 was enacted. This constitutional amendment will be put to the voters in November. The measure, sponsored by Rep. Mike Huval (R), provides for the methodology of valuation of oil and gas wells for the purpose of ad valorem assessment. Specifically, the ballot measure will read: “Do you support an amendment to permit the presence or production of oil or gas to be included in the methodology used to determine the fair market value of an oil or gas well for the purpose of property assessment?” [Read more.](#)

Partition Actions – Louisiana. *(Update to 5/26/20 Weekly Report)* On June 11, HB 594 was signed into law by Gov. John Bel Edwards (D) and is effective immediately. The Act, sponsored by Rep. Alan Seabaugh (R), amended existing law to provide for partitions by private sale; provides for absentee co-owners, and provides other guidance relative to these partition actions. [Read more.](#)

Notarial Acts – Louisiana. *(Update to 3/16/20 Weekly Report)* On June 11, HB 274 was signed into law by Gov. John Bel Edwards (D). The Act, sponsored by Rep. Ray Garofalo (R), provides for the execution of electronic notarial acts. The Act has various effective dates pertaining to its provisions. [Read more.](#)

Notarial Acts – Louisiana. *(Update to 3/2/20 Weekly Report)* On June 9, HB 122 was signed into law by Gov. John Bel Edwards (D) and is effective immediately. The Act, sponsored by Rep. Gregory Miller (R), provides for the execution of electronic notarial acts and related procedures. [Read more.](#)

Trusts; Mineral Interests – Louisiana. *(Update to 6/8/20 Weekly Report)* On June 4, HB 123 was signed into law by Gov. John Bel Edwards (D). The Act, sponsored by Rep. Gregory Miller (R), provides for the allocation of receipts and expenses to income and principal in trusts, and specifically regarding mineral interests, current law provides for the allocation of proceeds of mineral interests and allocates the royalty payments associated with oil and gas leases in the amount of 27.5% to principal and 72.5% to income. The Act changes current law by providing that royalty payments shall be allocated in accordance with what is reasonable and equitable. The Act amendments further provide that allocation of 90% to principal and 10% to income is presumed to be reasonable and equitable but clarifies that other allocations are not necessarily unreasonable or inequitable. The new law also abolishes the open mines doctrine as it relates to a trust. The Act is effective January 1, 2021. [Read more.](#)

Production Payments – Louisiana. *(Update to*

6/8/20 Weekly Report) On June 5, HB 227 was signed into law by Gov. John Bel Edwards (D). The Act, sponsored by Rep. Jean-Paul Coussan (R), provides for clarification of the nature of production payments and eliminates redundancy in terminology. Prior law required written notice of the nonpayment of a production payment to be provided prior to a judicial demand for damages. This new law retains present law but eliminates the linguistic redundancy and clarifies the application of present law by stating explicitly that the interest at issue is one created out of a mineral lessee's interest. The Act is effective August 1, 2020. [Read more.](#)

Corporation Franchise Tax – Louisiana. On June 4, HCR 66 was passed by both chambers of the legislature. The bill, sponsored by Rep. Stuart J. Bishop (R), suspends the lower tier of the corporation franchise tax levied on domestic and foreign corporations and the initial tax levied on certain business entities subject to the franchise tax. [Read more.](#)

Recording Fees – Mississippi. *(Update to 3/16/20 Weekly Report)* On June 22, HB 1175 was enrolled after passage and concurrence by the House and Senate. The measure, sponsored by Rep. Brent Powell (R), revises court clerk fees charged for recording oil and gas assignment instruments from a per book and page fee to a “per assignee” flat fee and allows for a set fee for marginal notations entered pertaining to the recording of oil and gas assignments. [Read more.](#)

Severance Tax Payments – Mississippi. *(Update to 5/26/20 Weekly Report)* On June 16, HB 977 was transmitted to Gov. Tate Reeves (R) after passing both chambers of the legislature. The bill, sponsored by Rep. Brent Powell (R), amends existing law to change the severance tax payment due date. This bill mirrors Senate companion bill [SB 2761](#), which was introduced in February by Sen. Joel Carter, Jr. (R) and died in committee in favor of the House version. [Read more.](#)

Notarial Acts – Mississippi. *(Update to 5/26/20*

Weekly Report) On June 12, HB 1156 passed the Senate. The bill passed the House in March. The measure, sponsored by Rep. Shane Aguirre (R), will revise notarial law to define certain terms, set electronic documents provisions, and provides for the procedures and processes related to the performance of notarial acts. [Read more.](#)

Severance Tax Payments – Mississippi. (*Update to 5/26/20 Weekly Report*) On June 9, [SB 2761](#) died in committee. Companion bill, HB 977, is still active in the Senate. The bill, sponsored by Rep. Brent Powell (R), would amend existing law to change the severance tax payment due date. [Read more.](#)

Electronic Instrument Execution – Ohio. On June 8, Rep. D.J. Swearingen (R) introduced HB 692. The bill allows for the electronic execution of wills, health care directives, and other testator-related documents. [Read more.](#)

State House Speaker Resigns – Pennsylvania. On June 10, Pennsylvania House Speaker Mike Turzai (R) resigned from his leadership position and as a representative in the State House. His last day was June 15. An advocate for the natural gas industry, Turzai's resignation comes two weeks after Rep. Brian Sims (D) said Pennsylvania's House Republicans intentionally withheld information about a GOP representative's coronavirus diagnosis, putting other members and staff at risk. There had been growing pressure on Turzai since then. [Read more.](#)

STATE – Regulatory

Local Regulations – California. On June 3, the California Independent Petroleum Association (CIPA) [sent a letter to the Culver City city attorney](#) in response to a recent city report "where it concludes that it may have the authority to shut down wells within city limits as early as this year." The report, [Capital Investment Amortization Study for the City of Culver City Portion of the Inglewood Oil Field](#), provided an analysis of the amortization of capital investment in existing oil and gas production

facilities within the 78-acre portion of the Inglewood Oil Field (IOF) and includes the collection and validation of technical and commercial data used as the basis for determining capital expenditures, revenues, royalties, operating costs, and reasonable returns on capital investment for oil and gas operations in the IOF. In response to the report, CIPA CEO Rock Zierman made the argument that the city "is facing a massive budget shortfall due to the economic fallout of COVID-19. Now is not the time to jeopardize the hundreds of thousands of dollars the Inglewood Oil Field pays in taxes and fees to fund critical local programs, such as schools and firefighters. There are also questions about whether this plan would expose the city to expensive litigation." [Read more.](#)

COGCC Mission Change Rulemaking – Colorado. (*Update to 6/8/20 Weekly Report*) On June 10, the [Colorado Oil and Gas Conservation Commission \(COGCC\)](#) [announced their adoption of new Wellbore Integrity regulations](#). According to the COGCC, Commissioners adopted new protective Wellbore Integrity rules during its June 10 hearing. "Improving Wellbore Integrity rules, throughout the entire lifecycle of the well, will increase the protections of Colorado's critical groundwater resources. The COGCC's Wellbore Integrity rulemaking, as part of the SB 19-181 rulemaking process, focuses on protecting Colorado's groundwater from potential contamination from oil and gas activity." ([Read more about SB 19-181 Mission Change rulemaking here](#)) Gov. Jared Polis (D) also offered his support for the new rules. "I am proud of the rules adopted by the Colorado Oil and Gas Conservation Commission for two reasons. First, these advances protect the environment in a manner that is achievable and are the most protective standards in the nation in terms of protecting groundwater in the development of oil and gas. Second, these rules reflect what we can accomplish when we engage with people of different viewpoints," said Polis. "The consensus reached by state agencies, oil and gas operators, citizen and environmental organizations has helped to create an oil and gas regulatory environment that protects health, safety, welfare and the environment." Lynn

Granger, Executive Director of the American Petroleum Institute-Colorado, said wellbore integrity is a highly technical and complex issue. The rulemaking process “benefited tremendously from the willingness of industry, staff, and nongovernmental organizations to collaboratively come to the table and craft sound rules,” she said. Dan Haley, President and CEO of the Colorado Oil and Gas Association in Denver, said most companies are already doing what the rules call for, and this will make it consistent for everybody. Beefing up the rules “is the right thing to do,” he added. Adam Peltz, a senior attorney for the Environmental Defense Fund said the rules will “prevent air and water pollution while protecting the communities who live and work in the oil field.” The rules fulfill essentially all of the [136 elements](#) that a multi-stakeholder group provided for COGCC regulators to consider in the pursuit of ensuring well integrity. The new rules take effect November 2, 2020. [Read more.](#)

COGCC Mission Change Rulemaking; Series 800 and 900 Regulations – Colorado. (*Update to 6/8/20 Weekly Report*) On June 16, the Colorado Oil and Gas Conservation Commission (COGCC) released draft rulemaking for the 800 (Underground Injection for Disposal and Enhanced Recovery Projects) and 900 (Environmental Impact Prevention) Series Mission Change regulations to implement the ongoing SB19-181 mandated COGCC Mission Changes which AAPL has been reporting on over the past few months. ([Read more about SB19-181 here](#)) The COGCC also expects to release their draft 1200 Series (Protection of Wildlife Resources) rulemaking shortly. [Read more.](#)

Regulatory Amendments – Texas. On June 17, the Texas Railroad Commission announced that at its open meeting on June 16, the agency adopted amendments to [16 TAC §3.30](#) regarding the Memorandum of Understanding (MOU) between the Railroad Commission and the Texas Commission on Environmental Quality as it relates to produced water, discharges and other waste materials “that result from or are related to activities associated with the exploration for and the development,

production, and refining of oil and gas.” The adopted amendments will be published in the July 3, 2020, issue of the Texas Register, with an effective date of July 15, 2020. The adopted amendments are [available here](#).

Flaring – Texas. Last week, after listening to environmental groups, industry organizations and shale producers on ways the state’s flaring issue should be addressed, Wayne Christian, Chairman of the Texas Railroad Commission, said he directed staff to consider whether measures could be implemented this fall. “I am very concerned by the rate of flaring in Texas,” Christian said during the webcast meeting. “We cannot continue to waste this much natural gas and allow the practice of flaring to tarnish the reputation of our state’s thriving energy sector to the general public and investors on Wall Street.” Christian said he has been told that Wall Street is less willing to invest in oil and gas companies because of the volumes of natural gas that they’re flaring. He said he wants Wall Street and “the market” to understand that the industry is working toward addressing the problem. [Read more.](#)

Drilling Permits – Texas. The Texas Railroad Commission posted a notice to oil and gas operators regarding an update to the drilling permits (W-1) online filing system, as follows: “Effective June 1, 2020, the Railroad Commission of Texas’ (RRC) Drilling Permits (W-1) online filing system will determine if horizontal wells proposed in regulatory fields with special rules require an exception. The RRC’s online filing system will make this determination for oil and gas operators submitting drilling permit applications online. This change in the RRC’s filing system was made because the system could not determine if applications for certain locations met applicable field requirements relating to lease line or well spacing.” [Read more.](#)

Forced Pooling Rules – Utah. Effective June 1, 2020, the Utah Board of Oil, Gas & Mining approved significant [revisions to the state’s forced pooling rules](#). According to law firm Holland & Hart, “The prior rules gave an operator little certainty and

direction on how to force pool interests in Utah. The new rules include procedures for handling disputes over the governing terms of the imposed operating agreement, treatment of unidentifiable or unlocatable owners, and application of the initial force pooling order to subsequently drilled wells.” [Read more.](#)

STATE – Judicial

Leasing; Royalties; Termination – Kentucky. On April 17, in [Crisp v. Blackridge Appalachian Land, LLC](#) (Case No. 2019-CA-000991-MR), the Kentucky Court of Appeals affirmed a lower court ruling that deemed a natural gas lease terminated for a lack of sufficient gas in paying quantities produced. There had been no maintenance on the well and no effort to market or sell gas from the well had occurred over a five-year period. During this time, no production royalty was ever tendered to the landowner. The well, however, continued to supply “free gas” to the three households and arguably this was sufficient to meet and satisfy the “production in paying quantities” standard. The Court disagreed, noting “that for an oil and gas lease to be ‘producing’ (and therefore transition beyond the primary term), the production must be ‘in paying quantities’”. This in turn means that there must be sufficient revenue to pay all operating costs including the payment of production royalties. Here, although there was sufficient production to supply the three households with ‘free gas’, no gas was ever sold on the open market and no production royalty was ever generated.” [Read more.](#)

INDUSTRY NEWS FLASH

► **New Mexico State University and ExxonMobil to study produced water.** Last week, New Mexico State University Chancellor Dan Arvizu announced he has signed an agreement with ExxonMobil to coordinate research focused on wastewater produced during oil and gas operations. Monte Dobson of ExxonMobil said the project is designed

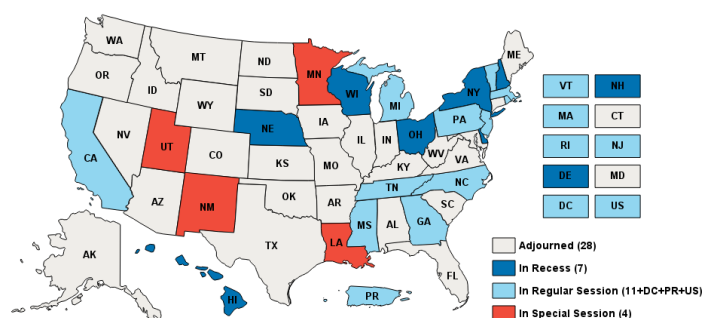
“to find beneficial ways to reuse produced water.” [Read more.](#)

► **Oil markets moving closer to balance.** The U.S. Energy Information Administration has reported in its June Short-Term Energy Outlook that a faster recovery of global oil demand and steeper declines in global oil production are bringing markets closer to balance sooner than forecasted a month ago. The report also saw increases in global consumption of oil from April to May. [Read more.](#)

► **Oil and gas industry wary of a “President Joe Biden.”** A recently released survey conducted by the University of Houston for the Texas Oil and Gas Association showed that 76 percent of oil and gas executives have a “great deal” or “good deal” of concern about their companies’ future economic growth prospects should former Vice President Biden win the White House in November. In contrast, the results showed that just 11 percent of those surveyed would see President Donald Trump’s re-election as a threat to their business. [Read more.](#)

LEGISLATIVE SESSION OVERVIEW

States in Session



Session Notes: California, Georgia, Massachusetts, Michigan, Mississippi, New Jersey, North Carolina, Pennsylvania, Rhode Island, Tennessee, and Vermont are in regular session. The District of Columbia Council, Puerto Rico and the U.S. Congress are also in regular session. New York is in recess subject to the call of the chair. Iowa

adjourned its session on June 14 and **Colorado** adjourned its session on June 15.

The following legislatures are postponing their 2020 legislative sessions due to COVID-19 until the dates provided: **Delaware** and **Hawaii** (June 22), **New Hampshire House** (June 30), **Nebraska** (July 20) and the **New Hampshire Senate**, **Ohio**, and **Wisconsin** (TBD).

Special Sessions (by date): **Louisiana** began a special session immediately after the adjournment of the regular session on June 1, reports [WBRZ](#). The legislature will discuss the spending of federal coronavirus aid and the expansion of tax break programs. This special session cannot last longer than June 30.

Minnesota began a special session on June 12 to address an ambitious package of police reform and economic recovery measures, reports the [Star Tribune](#). Senate Republicans plan to hold the special session to just one week and end on June 19.

New Mexico began a special session on June 18. The agenda includes issues ranging from balancing the budget to coronavirus relief stimulus funding, reports the [Albuquerque Journal](#).

Utah convened a virtual special session on June 18 to address several issues regarding the impact of the COVID-19 pandemic, reports [FOX 13](#). Legislators plan to consider a bill that will expand immunity for businesses that might expose someone to the virus.

Oregon Democratic Gov. Kate Brown will convene a special session beginning June 24. This special session will focus on police accountability and coronavirus related legislation, reports [The Oregonian](#).

Nevada Democratic Gov. Steve Sisolak will convene a special session before the end of the fiscal year, which is June 30, reports [The Center Square](#). The special session will focus on the state's budget shortfall as a result of COVID-19.

South Carolina adjourned on May 12 and is expected to meet for a two-week special session starting September 15, reports [The News & Observer](#).

The following states are scheduled to adjourn on the dates provided: **Delaware** and **Rhode Island** (June 30).

Signing Deadlines (by date): **Iowa** Republican Gov. Kim Reynolds has until July 14 to act on legislation or it will be pocket vetoed. **Missouri** Republican Gov. Mike Parson has until July 14 to act on legislation or it becomes law without signature. **Colorado** Democratic Gov. Jared Polis has until July 15 to act on legislation or it becomes law without signature. **Alaska** Republican Gov. Mike Dunleavy must act on legislation within 20 days of presentment, not including Sundays or it becomes law without signature. **Arkansas** Republican Gov. Asa Hutchinson has 20 days from presentment to act on legislation or it becomes law without signature. **Connecticut** Democratic Gov. Ned Lamont must act on legislation within 15 days of presentment or it becomes law without signature. **Florida** Republican Gov. Ron DeSantis has 15 days from presentment to act on legislation or it becomes law without signature. **Kansas** Democratic Gov. Laura Kelly has 10 days from presentment to act on legislation or it becomes law without signature. **Kentucky** Democratic Gov. Andy Beshear has 10 days from presentment, Sundays excepted, to act or legislation becomes law without signature. **Louisiana** Democratic Gov. John Bel Edwards has 20 days from presentment to sign or veto legislation or it will become law without signature. **Maine** Democratic Gov. Janet Mills must act on legislation presented within 10 days of adjournment or it becomes law unless returned within three days after the next meeting of the same legislature. **South Carolina** Republican Gov. Henry McMaster has until two days after the next meeting of the legislature to act on legislation or it becomes law.

Arizona Republican Gov. Doug Ducey had a signing deadline on June 6. **Oklahoma** Republican Gov. Kevin Stitt had a signing deadline on June 13.

Interim Committee Hearings: The following states are currently holding 2020 interim committee hearings: [Alaska](#), [Arkansas](#), [Colorado](#), [Connecticut](#), [Idaho](#), [Indiana](#), [Kansas](#), [Kentucky](#), [Maine](#), [Maryland](#), [Minnesota](#), [Missouri House](#) and [Senate](#), [Montana](#), [Nevada](#), [New Mexico](#), [New York Assembly](#) and [Senate](#), [North Dakota](#), [Oregon](#), [South Carolina House](#) and [Senate](#), [South Dakota](#), [Utah](#), [Virginia](#), [Washington](#) and [Wyoming](#).

Bill Pre-Files: [Utah](#) is currently posting 2020 bill drafts, pre-files and interim studies. ■

CONTENT DISCLAIMER: Information and/or website links provided by sources in this report may be among the many resources available to you. This report does not endorse nor advocate for any particular attorney or law firm, or other private entity, unless expressly stated. Any legal and/or tax information contained herein is neither legal nor tax advice. Links are provided for reference only and any cited outside source is derived solely from material published by its author for public use. Any copyrighted material remains the property of its respective owner and no use or distribution authorization is granted herein.