

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the following 2023 Oil and Gas Hearings Schedule

<u>Hearing Date</u>	<u>Docket Closing Date</u>
January 18, 2023 January 19, 2023	December 16, 2022
February 22, 2023 February 23, 2023	January 20, 2023
March 22, 2023 March 23, 2023	February 17, 2023
April 26, 2023 April 27, 2023	March 24, 2023
May 17, 2023 May 18, 2023	April 14, 2023
June 28, 2023 June 29, 2023	May 26, 2023
July 26, 2023 July 27, 2023	June 23, 2023
August 23, 2023 August 24, 2023	July 21, 2023
September 27, 2023 September 28, 2023	August 25, 2023
October 25, 2023 October 26, 2023	September 22, 2023
November 15, 2023 November 16, 2023	October 13, 2023
December 13, 2023 December 14, 2023	November 10, 2023
January 17, 2024	December 15, 2023

On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

LIGNITE RESEARCH, DEVELOPMENT AND MARKETING PROGRAM

Mr. Reice Haase gave a presentation of the lignite research, development and marketing fund financial report. As of September 30, 2022, the Lignite Research Fund had a cash balance of \$29,914,405.98 and non-committed cash funding of \$10,541,807.19.

Mr. Haase presented for consideration of approval the following Lignite Research, Development and Marketing Grant Round 101 Applications:

- i. LRC-101A Lignite Energy Council: Enhance, Preserve and Protect the North Dakota Lignite Industry, \$3,519,189. All were recommended to fund by the technical reviewers. Governor Burgum made a comment about how the technical review scoring needs some modifications made so there was an action item that was taken to update how the scoring is done and update criteria.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation of the Lignite Research Council to fund the grant application “Enhance, Preserve and Protect the North Dakota Lignite Industry” and authorize the Office of the Industrial Commission to execute a contract with the Lignite Energy Council to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$3,519,189 with the following contingencies:

- **Semi-annual reporting be provided to the Industrial Commission**
- **At a minimum, an annual presentation be made to the Lignite Research Council and the Industrial Commission**
- **Funding of studies in excess of \$100,000 be approved by the Office of the Industrial Commission**

On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

- ii. LRC-101B Microbeam Technologies, Inc.: Lignite Resource Evaluation for Advanced Utilization Opportunities, \$1,238,994.18. Mr. Holmes stated that he would assist in overseeing the project and make sure that there is no doubling up on the same initiatives. A contingency was added and approved by the Lignite Council to fund up to the requested amount contingent upon Mr. Holmes review.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission accept the recommendation of the Lignite Research Council to fund the grant application “Lignite Resource Evaluation for Advanced Utilization Opportunities” and authorize the Office of the Industrial Commission to execute a contract with Microbeam Technologies, Inc. to provide a total of Industrial Commission Lignite Research Program funding in an amount not to exceed \$1,238,995 with the following contingencies:

- **Technical advisor participates in project reviews**
- **Technical advisor reviews the project management plan with the project team**
- **Discuss measurable standards of success**

On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Jason Bohrer made comments about other projects and initiatives that are being worked on in the Lignite, Research and Development Program- most notably with CO2 storage. Governor Burgum discussed CO2 storage and why it is so important along with how North Dakota stacks up with respect to other places around the country and world in the industry.

It was moved by Attorney General Wrigley and seconded by Commissioner Goehring that under the authority of North Dakota Century Code Sections 6-09-35, 44-04-18.4, 44-04-19.1, 44-04-19.2, the Industrial Commission enter into executive session for the purpose of considering a confidentiality request under the authority of NDCC 54-17.5-06.

Following NDCC 54-17.5-06 executive session, the Commission will enter into executive session to consider North Dakota Mill confidential business related to marketing strategies and sales plan. Only Commission members, their staff, and North Dakota Mill staff will participate in the executive session.

Following the North Dakota Mill executive session, the Commission will enter into executive session for attorney consultation regarding current adversarial proceedings in Case 29036 – Scout Energy complaint dated September 29, 2021.

Following the attorney consultation executive session, the Commission will enter into North Dakota Department of Mineral Resources confidential business. Only Commission members, their staff, and Department of Mineral Resources staff will participate in the executive session.

Following the Department of Mineral Resources executive session, the Commission will enter into Bank of North Dakota confidential business. Only Commission members, their staff, and BND staff will participate in the executive session.

Any formal action taken by the Commission will occur after it reconvenes in open session.

Governor Burgum reminded the Commission members and those present in the executive sessions that the discussion must be limited to the announced purposes which is anticipated to last approximately 1 hour and 20 minutes.

The executive session began at 12:15pm.

The Meeting Closed to the Public for Executive Session Pursuant to NDCC 6-09-35, 44-04-18.4, 44-04-19.1, and 44-04-19.2, and 54-17.5-06.

LIGNITE ENERGY COUNCIL EXECUTIVE SESSION

Industrial Commission Members Present:

Governor Doug Burgum
Attorney General Drew H. Wrigley
Agriculture Commissioner Doug Goehring

Lignite Energy Council Personnel:

Mike Holmes, Lignite Energy Council
Jason Bohrer, Lignite Energy Council
Angie Hegre, Lignite Energy Council

Others in Attendance:

Ryan Norrell	Governor's Office
John Reiten	Governor's Office
Karen Tyler	Industrial Commission Office
Reice Haase	Industrial Commission Office
Brenna Jessen	Industrial Commission Office

NORTH DAKOTA MILL EXECUTIVE SESSION

Industrial Commission Members Present:

Governor Doug Burgum

Attorney General Drew H. Wrigley
Agriculture Commissioner Doug Goehring

North Dakota Mill Members Present:

Vance Taylor, North Dakota Mill
Cathy Dub, North Dakota Mill

Others in Attendance:

Ryan Norrell	Governor's Office
John Reiten	Governor's Office
Karen Tyler	Industrial Commission Office
Reice Haase	Industrial Commission Office
Brenna Jessen	Industrial Commission Office

NORTH DAKOTA DEPARTMENT OF MINERAL RESOURCES EXECUTIVE SESSION

Industrial Commission Members Present:

Governor Doug Burgum
Attorney General Drew H. Wrigley
Agriculture Commissioner Doug Goehring

Department of Mineral Resources Members Present:

Lynn Helms, Department of Mineral Resources

Others in Attendance:

Steve Nelson	Attorney General's Office
Ryan Norrell	Governor's Office
John Reiten	Governor's Office
Karen Tyler	Industrial Commission Office
Reice Haase	Industrial Commission Office
Brenna Jessen	Industrial Commission Office

BANK OF NORTH DAKOTA EXECUTIVE SESSION

****At this time, Attorney General Wrigley needed to physically leave the meeting, but he remained in the meeting via his cell phone.**

Industrial Commission Members Present:

Governor Doug Burgum
Attorney General Drew H. Wrigley (via phone)
Agriculture Commission Doug Goehring

Bank of North Dakota Members Present:

Todd Steinwand, BND
Kirby Evanger, BND
Kelvin Hullet, BND
Rob Pfennig, BND

Others in Attendance:

Ryan Norrell	Governor's Office
John Reiten	Governor's Office
Karen Tyler	Industrial Commission Office
Reice Haase	Industrial Commission Office
Brenna Jessen	Industrial Commission Office

The executive session ended, and the meeting reconvened in open session at approximately 2:00pm.

Governor Burgum stated that during the executive session pursuant to NDCC 54-17.5-06, the Commission considered a confidentiality request. He then asked what their wishes were.

It was moved by Commissioner Goehring and seconded by Governor Burgum that the Industrial Commission grant the confidentiality request pursuant to section 54-17.5-06 of the North Dakota Century Code and determine that the information described in the request is designated as confidential.

On a roll call vote, Governor Burgum and Commissioner Goehring voted aye. The motion carried. (Attorney General Wrigley was not back online at the time of this motion due to technical issues)

NORTH DAKOTA STUDENT LOAN TRUST

Mr. Jared Mack, auditor with Eide Bailley, gave a presentation of the June 30, 2022 student loan trust audit. Overall, there was an unmodified opinion with no findings, which is the cleanest opinion that can be given. Governor Burgum congratulated Ms. Ament and the student loan trust for a perfect audit.

BANK OF NORTH DAKOTA

Mr. Jared Mack gave a presentation of June 30, 2022 Audits of the following Legislatively Mandated Programs:

- i. Ag-Pace Fund
- ii. Pace Fund
- iii. Medical Facility Infrastructure Loan Fund
- iv. Rebuilders Loan Program
- v. Addiction Counselors Internship Loan Program
- vi. Infrastructure Revolving Loan Fund
- vii. School Construction Revolving Loan Fund
- viii. COVID-19 PACE Recovery Program
- ix. Innovation Technology Loan Program (LIFT)
- x. Water Infrastructure Revolving Loan Fund
- xi. Clean Sustainable Energy Authority

Mr. Mack explained that only one audit had any findings (item x. – Water Infrastructure Revolving Loan Fund) which was material control. The loans were brought in at a gross, rather than net, provisions. It was adjusted by BND and the items are now correct so it will roll correctly going forward. Governor Burgum thanked Mr. Mack and BND staff for their work on these audits.

Mr. Kirby Evanger gave a presentation on the third quarter 2022 performance highlights. Net income was \$135.1 million as of September 30, 2022. He stated that rates are up 375 basis points this year, cost of funds are going up, liquidity strains in the market are being seen so borrowing for BND's side is up, and loan activity continues to be strong. BND currently has a \$5 billion loan portfolio.

Mr. Todd Steinwand discussed the BND's 68th Legislative Assembly Proposals.

1. Agency Bills
 - i. Bill addressing the transition from the London InterBank Offered Rate (LIBOR) to the Secured Overnight Financing Rate (SOFR).
 - ii. Amendment to Pledge of security in place of depository bond to eliminate the need for issuance of a joint receipt.
2. BND Appropriations Bill
 - i. Appropriation of \$60m for PACE
 - ii. Appropriation of \$1.5m to support the North Dakota Small Business Development Center
 - iii. Request 12 new FTE's for the 2023-2025 biennium
 - iv. Request for \$750,000 for employee equity adjustments
3. Other Issues
 - i. Western Area Water Supply Restructure
 - ii. BND 529 Plan Tax deduction revisions
 - iii. Various lines of credit to state agencies
 - a) State Water Commission
 - b) Public Service Commission
 - c) Clean Sustainable Energy
 - iv. Changes to Legislatively directed programs
 - a) Infrastructure Revolving Loan Fund
 - b) School Construction Revolving Loan Fund
 - c) Medical Facility Revolving Loan Fund
 - d) Clean Sustainable Energy Authority
 - e) Agriculture Development and Diversification Fund
 - f) Propane Storage Revolving Loan Fund
 - g) Changes to Legacy Fund Programs

State Energy Research Center

The presentation of the annual report detailing activities of the State Energy Research Center was pushed back to the December 20, 2022 meeting.

Mr. Tom Erickson presented for consideration of approval the extension to Contract SERC 2019-01.

The State Energy Research Center (SERC) was created in 2019, authorized in SB 2249 by the 66th Legislative Assembly. At the June 20th, 2019 meeting, the Industrial Commission authorized a contract with the Energy and Environmental Research Center (EERC) to approve funding of \$5,000,000 per biennium **through June 30, 2023** for the purpose of implementing the intent of SB 2249. A contract with EERC was signed on August 7th, 2019, effective through June 30, 2023.

The 67th Legislative Assembly, in SB 2014, extended the authorization for SERC until **June 30, 2027**. Authorization for a contract amendment from the Commission is needed to extend the contract through June 30, 2027. Therefore, Mr. Reice Haase recommended the Commission authorize an amendment to Contract No. SERC 2019-01 to extend the effective date to June 30, 2027.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission authorize an amendment to Contract No. SERC 2019-01 for the purpose of extending the contract effective date to June 30, 2027.

On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

NORTH DAKOTA PIPELINE AUTHORITY

Mr. Justin Kringstad gave a presentation of the ND Pipeline Authority Midstream Report. He discussed the ND well completions and developed sections, pipeline development, steel pipe price index, the EIA oil price outlook, crude oil prices, ND oil production, and North Dakota oil transmission pipelines.

Mr. Kringstad discussed two projects: WBI Energy – Grasslands South Project and TC Energy – Proposed Bison Xpress Project, both of which would consist of Fort Union Gas Gathering and Wyoming Interstate Company providing further transportation to the Cheyenne hub.

Pipeline Authority Tools are as follows (54-17.7-04. Powers)-

The authority has all powers necessary to carry out the purposes of this chapter, including the power to:

- i. Make grants or loans and to provide other forms of financial assistance as necessary or appropriate for the purposes of this chapter.
- ii. Make and execute contracts and all other instruments necessary or convenient for the performance of the authority's powers and functions.
- iii. Acquire, purchase, hold, use, lease, license, sell, transfer, and dispose of an undivided or other interest in or the right to capacity in any pipeline system or systems, including interconnection of pipeline systems, within or without the state of North Dakota in order to facilitate the production, transportation, distribution, or delivery of energy-related commodities produced in North Dakota as a purchase of last resort. The obligation of the state may not exceed ten percent of the pipeline authority's acquisition or purchase of a right to capacity in any pipeline system or systems, or interconnection of pipeline systems, and the state's obligation is limited to the funding available from the oil and gas research fund.
- iv. Borrow money and issue evidences of indebtedness as provided in this chapter.

Mr. Kringstad presented the 68th legislative assembly proposals for the Pipeline Authority which includes enhancing the ability for the Authority to take up pipeline capacity under an amendment to authority as follows:

54-17.7-03. Pipeline authority purposes.

The authority is created for the purpose of diversifying and expanding the North Dakota economy by facilitating development of pipeline facilities to support the production, transportation, and utilization of North Dakota energy-related commodities, thereby increasing employment, stimulating economic

activity, augmenting sources of tax revenue, fostering economic stability, and improving the state's economy.

54-17.7-04. Powers.

The authority has all powers necessary to carry out the purposes of this chapter, including the power to:

- i. Make grants or loans and to provide other forms of financial assistance as necessary or appropriate for the purposes of this chapter.
- ii. Make and execute contracts and all other instruments necessary or convenient for the performance of the authority's powers and functions.
- iii. Acquire, purchase, hold, use, lease, license, sell, transfer, and dispose of an undivided or other interest in or the right to capacity in any pipeline system or systems, including interconnection of pipeline systems, within or without the state of North Dakota in order to facilitate the production, transportation, distribution, or delivery of energy-related commodities produced in North Dakota ~~as a purchaser of last resort. The obligation of the state may not exceed ten percent of the pipeline authority's acquisition or purchase of a right to capacity in any pipeline system or systems, or interconnection of pipeline systems, and the state's obligation is limited to the funding available from the oil and gas research fund.~~ The Bank of North Dakota shall extend a line of credit to the authority related to actions under this section. The line of credit may not exceed twenty-five million dollars, and the interest rate associated with the line of credit must be the prevailing interest rate charged to North Dakota governmental entities. If the moneys available are not sufficient to repay the line of credit, the authority shall request from the legislative assembly a deficiency appropriation to repay the line of credit or the authority may repay the line of credit from other funds, as appropriated by the legislative assembly. The authority must sell capacity positions at first opportunity for the advancement of the authority's purpose in this chapter if the sale covers expenses and obligations incurred. The authority may sell capacity positions at first opportunity for the advancement of the authority's purpose in this chapter if the sale does not cover expenses and obligations incurred.

OFFICE OF THE INDUSTRIAL COMMISSION

Ms. Karen Tyler presented for consideration of approval the Industrial Commission meeting minutes for the June 30, 2022 and August 4, 2022 meetings.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the Industrial Commission meeting minutes for the June, 30 2022 and August 4, 2022 meetings.

On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Haase presented for consideration of approval a policy related to Industrial Commission staff designated and delegated responsibilities.

With the retirement of Karlene Fine, day-to-day operations of the Office of the Industrial Commission have passed to remaining office staff. Currently, an Interim Executive Director and Secretary, Deputy Executive Director, Administrative Assistant and Grant Program Specialist are employed by the Office.

Karlene Fine had previously been delegated certain authorities to conduct the business of the Office. Delegated authorities included:

- Commission's Authorized Officer for the Outdoor Heritage Fund, Oil and Gas Research Program, Lignite Research Program, Renewable Energy Program, Clean Sustainable Energy Program and the State Energy Research Center, with delegated authority to:
 - Sign contracts and contract amendments for Commission-approved projects
 - Contracts use a base template approved by the Attorney General's Office
 - All contracts are reviewed by an Assistant Attorney General prior to signature
 - Approve no-cost time extensions
 - Approve no-cost budget adjustments
 - Approve subcontractors
 - Approve budget adjustments up to \$5,000
 - Approve grant payments for Commission-approved projects
- Certification of Industrial Commission Records
 - Attesting the Chairman's signature on meeting minutes
 - Certificates of Record for court filings
- Signing Non-disclosure Agreements related to grant programs
- Signing agreements with grant program independent technical reviewers
- Approving honoraria payments to grant program independent technical reviewers
- Signing agreements with contract employees
- Approving invoices with contract employees
- Signing letters of support for federal grant proposals (without commitment of funding)
- Commission's designee for drilling permits subject to review under the North Dakota Industrial Commission Drilling Permit Review Policies for Areas of Interest, Airports, and Floodplains.

A new delegation policy is needed to carry out the duties of the Office. Therefore, Mr. Haase recommended that the Commission designate these authorities as follows:

Designate the current Interim Executive Director and Secretary and the Deputy Executive Director as the Commission's Authorized Officers for the Outdoor Heritage Fund, Oil and Gas Research Program, Lignite Research Program, Renewable Energy Program, Clean Sustainable Energy Program and the State Energy Research Center.

Designate authority to the current Interim Executive Director and Secretary and the Deputy Executive Director to certify Industrial Commission records, sign non-disclosure agreements and independent technical reviewer agreements related to grant programs, approve honoraria payments to grant program technical reviewers, sign agreements with contract employees, approve invoices with contract employees and sign letters of support for federal grant proposals.

Designate the current Deputy Executive Director as the Commission's designee for drilling permits subject to review under the North Dakota Industrial Commission Drilling Permit Review Policy.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission authorize delegation of authorities of Industrial Commission staff as follows:

Designate the current Interim Executive Director and Secretary and the Deputy Executive Director as the Commission's Authorized Officers for the Outdoor Heritage Fund, Oil and Gas Research Program, Lignite Research Program, Renewable Energy Program, Clean Sustainable Energy Program and the

State Energy Research Center.

Designate authority to the current Interim Executive Director and Secretary and the Deputy Executive Director to certify Industrial Commission records, sign non-disclosure agreements and independent technical reviewer agreements related to grant programs, approve honoraria payments to grant program technical reviewers, sign agreements with contract employees, approve invoices with contract employees and sign letters of support for federal grant proposals.

Designate the current Deputy Executive Director as the Commission's designee for drilling permits subject to review under the North Dakota Industrial Commission Drilling Permit Review Policy.

On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Haase presented for approval the proposed dates for 2023 Industrial Commission Meetings.

It was moved by Commissioner Goehring and seconded by Attorney General Wrigley that the Industrial Commission approve the following 2023 Industrial Commission Meeting Schedule:

Tuesday, January 24th, 2023
Tuesday, February 22nd, 2023
Tuesday, March 28th, 2023
Tuesday, April 25th, 2023
Thursday, May 25th, 2023
Tuesday, June 27th, 2023
Friday, July 28th, 2023
Tuesday, August 29th, 2023
Tuesday, September 26th, 2023
Tuesday, October 31st, 2023
Tuesday, November 28th, 2023
Tuesday, December 19th, 2023

On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

Director Tyler and Mr. Haase presented the 68th Legislative Assembly Proposals that were submitted for review. The Office of the Industrial Commission would like to remove the requirement to print and physically post an agenda in our office as part of Red Tape Reduction, along with removing the requirement to have Dept. of Commerce administer grant applications, retain Commerce Director as chair of the Council and act as technical advisors to the program for the Renewable Energy Program.

Along with these proposals, Mr. Haase shared an attachment that included most of proposals that were

shared with the Commission by participant throughout the meeting.

Governor Burgum stated that he would like to see all of these efficiencies combined and for the Office of the Industrial Commission to bring forward a bill.

The Governor commented on the need to, across the state government enterprise, focus on salary and strategy rather than a particular number of FTEs.

Governor Burgum asked for a motion for this list, along with other suggestions made today, to be included in the red tape reduction bill.

A motion was made by Commissioner Goehring and seconded by Attorney General Wrigley to approve the Office of the Industrial Commission to create a Red Tape Reduction Bill.

On a roll call vote, Governor Burgum, Attorney General Wrigley, and Commissioner Goehring voted aye. The motion carried unanimously.

With no further Industrial Commission business, Governor Burgum adjourned the meeting at 3:15p.m.

North Dakota Industrial Commission

Karen Tyler, Interim Executive Director and Secretary