

Minutes of a Meeting of the Industrial Commission of North Dakota
Held on April 27, 2021 beginning at 12:30 p.m.
Governor's Conference Room - State Capitol

Present: Governor Doug Burgum, Chairman
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Also Present: This meeting was open through Microsoft Teams so not all attendees are known
Members of the Press

Governor Burgum called the Industrial Commission meeting to order at approximately 12:30 p.m. and the Commission took up Renewable Energy Program business.

RENEWABLE ENERGY PROGRAM

Ms. Karlene Fine, Industrial Commission Executive Director/Secretary, provided a financial report on the Renewable Energy Program. There is currently \$2.6 million available for grant awards.

Mr. Jonathan Russo, Department of Commerce, presented the Renewable Energy Council's recommendations for the Grant Round 46 applications as follows:

R-046-B – Electrostatic Lubrication Filtration of Wind Turbine Oil Reservoirs; Submitted by UND Institute for Energy Studies; Total Project Costs: \$584,614; Recommended Amount: \$286,234

This project will research Electrostatic Lubrication Filtration technology that is designed to maintain lubricant cleanliness on wind turbines. Many wind turbine field-operating failures are related to poor lubricant quality, consequentially resulting in gearbox bearing failure. Regular or unexpected maintenance can create significant downtime, resulting in lost revenue from a lack of power generation. This project will allow for the conducting of field demonstrations, the creation and testing of two units for performance optimization and meet industry needs. Tasks include:

- Project management and planning – developing the protocols and processes to be used.
- Onsite field testing at wind turbines - which includes two prototypes being utilized for a 360-day test.
- Optimization and scale down of units.
- Market analysis and establishing ISO compliance.

If successful, this project could help the North Dakota wind industry by reducing maintenance costs and downtime of wind turbines, along with potential usage in other energy industries. NextEra is a project partner.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accepts the recommendation of the Renewable Energy Council to fund the grant application “Electrostatic Lubrication Filtration of Wind Turbine Oil Reservoirs” and authorizes the Industrial Commission Executive Director/Secretary to execute a contract with UND Institute for Energy Studies in an amount not to exceed \$286,234. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

R-046-D – Geothermal Development Consortium; Submitted by UND College of Engineering & Mines; Total Project Costs: \$865,791; Recommended Amount: \$432,895

This project will form a consortium of geothermal, oil and gas, and electric power industry professionals to advance the assessment and development of geothermal resources in North Dakota by conversion of non-economic oil and gas wells to geothermal applications. Tasks include:

- Assessing and quantifying geothermal resources.
- Economic analysis of power generation and direct use geothermal energy for heating and cooling.
- Planning conversion of a non-economic oil well to a geothermal well.
- Community outreach and educational components.

If successful, this project could help launch a relatively new industry to the State that can benefit multiple energy sectors. Industry project partners include: Neset Consulting, ElectraTherm, Climeon, GeothermEx, Inc.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accepts the recommendation of the Renewable Energy Council to fund the grant application “Geothermal Development Consortium” and authorizes the Industrial Commission Executive Director/Secretary to execute a contract with UND College of Engineering & Mines in an amount not to exceed \$432,895. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Andrea Pfennig, Industrial Commission Deputy Executive Director, presented a request from Midwest AgEnergy for the establishment of an additional grant round. Midwest AgEnergy would like to submit a proposal to study the geology near Spiritwood to support safe and permanent underground storage of CO₂ for the Dakota Spirit facility. The 45Q tax credits are critical to financial feasibility of the project. In order to qualify for the tax credits, projects must be in construction by 2025. Developing CO₂ storage projects can take a considerable length of time. Midwest AgEnergy believes the information derived from the study would also be beneficial to ethanol plants on the eastern side of the state that may be contemplating similar projects as well.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission accepts the recommendation of the Industrial Commission Deputy Executive Director and approve an additional grant round for the Renewable Energy Program with an application submission deadline of May 10, 2021. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

HOUSING FINANCE AGENCY (HFA)

Mr. Dave Flohr, HFA Executive Director, presented the 2021 Series A Supplemental General Authorization Resolution for consideration. The proposed Resolution authorizes a bond issuance of up to \$150,000,000. HFA currently plans to utilize approximately \$120,000,000 of the authorized amount, but this will provide flexibility if there are pricing benefits. Pricing will be done in May with closing in June. HFA is expecting to buy 1,800 loans from participating lenders for over \$300,000,000 during calendar year 2021.

Commissioner Goehring left the meeting at this time.

Mr. Flohr clarified that a total of \$300 million will be bonded during the year, with a bond issuance for the remaining \$150 million occurring later in the year. The full amount is not bonded at one time to avoid

negative arbitrage. When each bond issuance is completed, the Bank of North Dakota line of credit is paid down.

It was moved by Attorney General Stenehjem and seconded by Governor Burgum that the Industrial Commission accept the recommendation of the Housing Finance Agency Advisory Board and approve the issuance of 2021 Series A Bond Resolution in an amount not to exceed \$150,000,000. (A copy of the Resolution is available in Commission files.) On a roll call vote taken when Commissioner Goehring returned to the meeting, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Flohr presented the HFA Advisory Board proposed FirstHome and Down Payment Closing Cost Assistance (DCA) Annual Income Limits for consideration. Mr. Flohr clarified the newly released census data will not affect the proposed numbers. However, the new census data may result in changes next year.

It was moved by Attorney General Stenehjem and seconded by Governor Burgum that the Industrial Commission accept the recommendation of the Housing Finance Agency Advisory Board and approve Program Directive 117 and establish the following new Annual Income limits effective for loan reservations under the FirstHome (Standard/Start/HomeAccess) Programs dated on or after May 1, 2021:

**Maximum Annual Income
FirstHome/Start/HomeAccess**

County	Family Size Less than 3	Family Size 3 or More
Stark/Williams	\$102,200	\$117,530
Burleigh/Morton	\$100,800	\$115,920
McKenzie	\$98,600	\$113,390
Mercer	\$97,800	\$112,470
Cass	\$91,300	\$104,995
All Other Counties	\$90,100	\$103,615

And further approve the changes to the DCA Program limits effective for loan reservations dated on or after May 1, 2021 as follows:

**DCA INCOME LIMITS
 5/1/2021**

COUNTY	FAMILY SIZE*							
	1	2	3	4	5	6	7	8
Burleigh/Morton/Stark	55,950	63,950	71,950	79,900	86,300	92,700	99,100	105,500
McKenzie/Williams	54,950	62,800	70,650	78,500	84,800	91,100	97,350	103,650
Cass	51,150	58,450	65,750	73,050	78,900	84,750	90,600	96,450
All Others	48,100	54,950	61,800	68,650	74,150	79,650	85,150	90,650

**Larger families, check with NDHFA for limits.*

On a roll call vote taken when Commissioner Goehring returned to the meeting, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Flohr presented the HFA Advisory Board proposed FirstHome Acquisition Limits recommendation for consideration. He indicated the acquisition limit amount has had a good increase for one year, but it is not keeping up with the current costs of construction materials.

It was moved by Attorney General Stenehjem and seconded by Governor Burgum that the Industrial Commission accept the recommendation of the Housing Finance Agency Advisory Board and approve Program Directive 116 effective May 1, 2021 which adjusts the FirstHome Acquisition Limits for the FirstHome Standard, Start, HomeAccess, and DCA Programs as follows.

Previously Occupied

	<u>1 Unit</u>	<u>2 Units</u>	<u>3 Units</u>	<u>4 Units</u>
All Counties	\$311,979	\$399,448	\$482,814	\$600,037

Previously Unoccupied

	<u>1 Unit Only</u>
All Counties	\$311,979

On a roll call vote taken when Commissioner Goehring returned to the meeting, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Jennifer Henderson presented the HFA Advisory Board's recommended 2022 Low Income Housing Tax Credit Qualified Allocation Plan for consideration. She stated that a public hearing was held on April 1, 2021. The final draft plan takes into consideration public comments received prior to and during the public hearing, and the plan was recommended for approval by the HFA Advisory Board at its April 9th meeting. Some of the notable changes are as follows:

- 4 percent Tax Credit Rate (Section II A, page 1): Language in this section was updated to reflect the new 4 percent tax credit rate approved at the end of 2020. The Consolidated Appropriations Act of 2021 permanently fixed the 4 percent tax credit rate. Previously this rate was floating and had hit a historic low of 3.09%. Fixing the rate will provide stability to developers and investors of the program and make the 4 percent program easier to use.
- Maximum Developer Fee (Section II C, page 2-3): The tiered percentage limitation by the size of the project was removed and changed to 15% of the eligible basis of the project for all tax credit projects. Language was removed that limited the basis boost on developer fees to 4% applications and allows a boost for all applications. This change simplifies the developer fee calculation for projects, especially those that propose a twinned 4/9 percent application.
- Tenant Support Coordination (Section VII, D, page 15): Language was added to clarify that the service provider be a Medicaid biller, specifically, to get the additional points under section two of this scoring criteria. The timing of the service contract submission changed from reservation application to prior to equity closing. The prior Qualified Allocation Plan required the service provider be an insurance biller and did not specify Medicaid. The points in this section were meant to incentivize partnerships that are able to source service funding from Medicaid eligible services and support the Department of Human Services 1915(i) State Plan Amendment.

It was moved by Attorney General Stenehjem and seconded by Governor Burgum that the Industrial Commission accept the recommendation of the Housing Finance Agency Advisory Board and approve the 2022 Low Income Housing Tax Credit Qualified Allocation Plan as presented. (A copy of the Plan is available in the Commission files.) On a roll call vote taken when Commissioner Goehring returned to the meeting, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

Ms. Henderson reported on the 2021 Housing Trust Fund Annual Allocation Plan, noting that changes were made to the low-income housing tax credit removing the wait list requirement. This was done to avoid having a requirement that is not needed. The plan will be submitted to HUD effective May 15. HUD will have 45 days to approve it, after which it is finalized.

Ms. Henderson presented the HFA Advisory Board’s recommended 2021 Helping Hand Grant Awards for consideration.

It was moved by Attorney General Stenehjem and seconded by Governor Burgum that the Industrial Commission accept the recommendation of the Housing Finance Agency Advisory Board and approve the FY 2021 Helping HAND grants as follows:

Applicant	Community	Amount
Community Action Partnership Regions 1 & 8 Combined	Dickinson/Williston	14,991
Community Action Partnership - Minot Region	Minot	16,946
Dakota Prairie Community Action Agency	Devils Lake	13,934
Red River Valley Community Action	Grand Forks	20,612
Southeastern ND Community Action Agency	Fargo	44,635
Community Action Region VI	Jamestown	10,486
Community Action Program Region VII, Inc.	Bismarck	24,796
Subtotal - CA Agencies		\$146,400
Spirit Lake Tribal Housing	Fort Totten	14,666
Trenton Indian Service Area	Trenton	14,666
Turtle Mountain Band of Chippewa	Belcourt	14,666
Subtotal – Tribal Housing		\$ 43,998
Lake Agassiz Habitat for Humanity	Fargo	4,000
Northern Lights Habitat for Humanity	Minot	4,000
Subtotal – Habitats		\$8,000
Rebuilding Together Fargo/Moorhead Area	Fargo	800
Rebuilding Together Greater Bismarck/Mandan	Mandan	800
Subtotal - Non-Profits		\$ 1,600
Total		\$199,998

On a roll call vote taken when Commissioner Goehring returned to the meeting, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

In response to a question regarding whether the Agency was holding their annual housing conference, Mr. Flohr noted that virtual training was held this year in February due to the pandemic. Plans are underway to hold a housing conference this fall. Plans are also underway to celebrate the 40th anniversary of the first bond issuance, which will occur in 2022. Over \$5 billion of bonds have been issued over those 40 years.

Mr. Flohr provided a legislative update.

- SB 2018: The Department of Commerce's appropriation bill is still in conference committee, but the transfer of the HOME program is not anticipated to be an issue.
- SB 2014: Industrial Commission appropriation bill is also in conference committee, but it appears that HFA issues have been agreed upon. HFA had asked for five additional FTEs and will receive four FTEs with the fifth FTE added for the second year of the biennium. The Housing Incentive Fund received an allocation of \$9.5 million with the money coming from the General Fund. In response to a question, Mr. Flohr reviewed the various housing needs across the state.

Discussion was held about federal stimulus funds. A question was raised as to whether the funds can be redirected to HFA to meet the housing needs that have been identified by the Agency. Mr. Flohr indicated that the early funding can be used for rental assistance, security deposits and some supportive services, but not for housing development. The American Rescue Plan Funds in the amount of \$152 million approved in March 2021 for rental assistance must be spent by 2025 and has the same parameters as the 2020 stimulus funding. The stimulus funding from December 2020 has a utilization deadline of September 2022. HFA has worked with Department of Human Services on developing a plan to use the funds.

The American Rescue Plan approved in March 2021 also includes an allocation to the HOME program from HUD for homeless assistance which includes the development of housing. The State will receive \$7.8 million and the City of Fargo will receive \$1.7 million. The funds expire in 2030, which will provide plenty of time to develop a plan to use the dollars to have the most impact for the homeless.

Mr. Flohr noted that the American Rescue Fund also included \$50 million (small state minimum) of funding for a homeowner assistance fund to be spent by 2025. After consultation with the North Dakota Office of Management and Budget (OMB) and the Department of Human Services the funding was placed in the OMB bill and these dollars will be spent for rental assistance through the Department of Human Services program. The State had to request the funds by April 25, and this was done.

Commissioner Goehring returned to the meeting and all the roll call votes on the HFA motions were taken at this time.

PIPELINE AUTHORITY

Mr. Justin Kringstad, Pipeline Authority Director, presented a draft letter of support to the Federal Energy Regulatory Commission (FERC) for the WBI Energy Transmission North Bakken Expansion Project for the Commission's consideration.

WBI has been experiencing capacity constraints for some time which has hindered gas processing capacity north of Lake Sakakawea. In July 2019, WBI sent FERC a pre-filing notice of a system that would connect the Tioga area to send gas down the Northern Border Pipeline. The formal application went to FERC in February 2020. It was hoped that FERC would make a decision by February 2021 for in service by November 2021. To date, it has not been put on the agenda and this letter would ask FERC to do so. If not approved by May, the project may not be completed. There is a potential impact of \$1 million per day in tax revenue by not having the capacity to process the gas if not approved. The estimated capital investment of the project totals \$260 million.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that the Industrial Commission send the following letter of support to the Federal Energy Regulatory Commission for the WBI Energy Transmission North Bakken Expansion Project:

**The Honorable Richard Glick
Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426**

RE: WBI Energy Transmission, Inc. North Bakken Expansion Project, Docket CP20-52

Dear Chairman Glick:

The North Dakota Industrial Commission, acting as the North Dakota Pipeline Authority, supports the construction of the WBI Energy Transmission North Bakken Expansion Project (Project) and requests expedited action by the Federal Energy Regulatory Commission (FERC) to approve the Project.

The Project will add much needed gas transmission capacity in northwest North Dakota, support regional gas capture infrastructure expansions, and limit the requirement for gas flaring. The interests of shippers, royalty owners, gas processors, producers, and the State of North Dakota will be supported through the incremental transmission capacity provided by this Project.

Of immediate concern, is the fact that any further delays in the project timeline threaten the ability of WBI Energy Transmission to complete this much needed project before challenging winter conditions set in and still meet the expected 2021 in-service date for committed shippers.

The North Dakota Industrial Commission, acting as the North Dakota Pipeline Authority, respectfully requests the North Bakken Expansion Project be included on the May 20, 2021 FERC agenda and that favorable consideration be given to this Project.

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

Mr. Kringstad provided a Pipeline Authority update. (A copy of his presentation is available in the Commission files.) A review of drilling activity history was provided, reflecting a decline in the number of rigs and a slow recovery in West Texas Intermediate (WTI) pricing. Robust growth is projected with 60-70 well completions per month anticipated which will maintain oil production levels. There are 395 "Drilled but Uncompleted" (DUC) wells targeted for development and 60-70 per month are needed to keep oil production stable. The rig count is slowly rising (current count is 17) and a significant jump is expected after load restrictions are off. Mr. Kringstad stated he is using 1.8 wells completed per month with the 17 rigs. In response to a question, Mr. Helms indicated that the frack crew number has increased from 5 to 9 since the end of last year. It was indicated that each frack crew can frac six wells per month.

Mr. Helms noted that because the State is in a drought, oil well operators are being innovative in transporting produced water to frack locations to improve the economics and conserve freshwater resources. Oil well operators are blending produced water with fresh water. Trucking increases the costs so they are looking at alternatives such as using pipe within a pipeline laid across the surface to prevent leaks, economically transport the produced water and blend it in with freshwater sources. Two to three miles of the double pipe has been done with full-time monitoring.

Mr. Kringstad provided information on the projected consequences of a DAPL shut down. Court action on DAPL is anticipated on May 3rd. Rail transportation of 400,000 barrels of crude per day would be needed to replace DAPL. An incremental 150,000 barrels would have to be immediately transported using other options and would likely be transported to the Gulf Coast where there is more unloading capacity. It was noted that prior to DAPL going into service, there were over 20 loading manifests in North Dakota. There

are currently a dozen manifests that are well positioned but would need incremental staffing. The product would need to get there by truck, which would create other safety issues. Some manifests have pipeline connections, but not at the scale that is needed. Mr. Kringstad noted that due to logistics, every unit train sent needs 5-6 other unit trains in service somewhere along the track.

Gas-Oil ratio continues to outpace expectations. Gas capture has shown a lot of success. There are some issues that need to be resolved at the field level.

Mr. Kringstad provided an update and some graphics on the issue of propane and the work he has been doing since the legislative session on this topic. Inventory storage is a challenge for propane. Sufficient propane is produced in North Dakota to meet the needs of North Dakotans but there is a need to store larger volumes. A cost-effective way to store larger volumes of propane and other natural gas liquids (NGLs) could certainly assist North Dakota with inventory challenges. The closest underground storage is in Minnesota. It was stated that the storage in Minnesota is in granite. A question was raised regarding SB 2096 and whether it would work for propane. Propane marketers see great value for propane storage in salt cavern storage in North Dakota. Currently the propane is fractionated in Kansas and piped to Sioux City, Iowa where it is put on a railcar or a truck and brought to east central North Dakota. The ideal geologic area suited for salt cavern storage is in the northwestern part of the state. Although the need for propane may primarily be in central and eastern North Dakota, having the product in northwestern North Dakota is much closer than Sioux City, Iowa. The key is finding good geologic storage opportunities. Granite storage is not an option in North Dakota as the granite is far too deep.

Hydrogen solutions are being explored regarding applications in the Williston Basin. There is significant interest in nontraditional pipeline work moving forward especially as a result of the recent discussions about bringing carbon dioxide from other states.

Governor Burgum thanked Mr. Kringstad for the report, noting that hydrogen and carbon dioxide will be key to North Dakota's future and requested that those items continue to be discussed in future reports.

DEPARTMENT OF MINERAL RESOURCES (DMR)

Mr. Lynn Helms, DMR Director, presented the following order for consideration.

Case 28724, Order 31269 – Request for a variance of gas volumes flared

The Gas Capture policy change made on Sept 22, 2020 requires this type of request to have a notice and hearing to give midstream companies an opportunity to provide input. White Butte made application and no one else appeared. There are three well pads with ten wells. The west well pad is drilled and producing and flaring significant volumes. The two east well pads are drilled and fractured, but have not been able to go on production because the midstream gas gathering company does not have capacity. The operator asked the gas gatherer about a timeline and the gas gatherer did not offer sufficient capacity this year to take on all three drilling pads. A release was then requested from the midstream company, which offered a partial, temporary release. Alternative gas gathering companies were approached but did not have an appetite for the arrangement. A bitcoin mining company was approached and made a commitment that they will connect the two eastern well pads and will employ flare mitigation to the maximum extent possible of what they can fit on the well pads. The recommendation is to grant the variance. It will be temporary with the following contingencies: the company must connect to a midstream company and provide quarterly reports on flare mitigation efforts taking place onsite.

The bitcoin company will turn the gas into electricity through generators to power servers that will mine for bitcoin. It is a good use of gas until the gathering and processing is established. The gas is purchased

at a significant discount, but royalty owners will receive compensation vs. flaring. In response to a question Mr. Helms stated that there are 13 bitcoin operations currently in the state.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that effective April 27, 2021, the Industrial Commission approve Order No. 31269 issued in Case No. 28724 granting White Butte Oil Operations, LLC a variance for gas volumes flared from certain current and future wells completed in the Clarks Creek-Bakken Pool, located in Section 12, T.151N., R.95W., McKenzie County, ND contingent on continued connection to midstream gathering and utilization of flare mitigation to the extent allowed by space and economic constraints. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

Mr. Helms provided a legislative update. Of the six bills introduced by DMR, four passed. SB 2014 is in conference committee; discussion continues on the salt cavern research study funding level and FTEs for BND. There is also discussion of including \$500,000 to study hydrogen.

HB 1395 addresses CARES Act funding. There is a potential for additional funds for plugging and reclamation. The bill currently includes an appropriation of \$4 million for this purpose. DMR is also pursuing other funding options. Mr. Helms reported that DMR has come to an agreement with the bonding company for one of the significant orphan well operators to forfeit \$3.1 million in single well bonds. This will enable DMR to plug and reclaim an additional 22 orphan wells in Bottineau and Renville Counties. There is a possibility of federal funding. However, the federal funding would not be released in time for work this summer. There are 19 orphan federal wells located on BLM land, and federal funds have not been provided. DMR will only deal with significant risks on those wells until federal funds come through.

Mr. Helms reported that the U.S. Dept. of the Interior is not going to hold a June lease sale. This is a growing problem for operators as federal tracts are not being made available. FMLA requires quarterly lease sales, but the sales are not being done.

Mr. Helms reminded the Commission that the Williston Basin Conference will be held May 11-13. Former United States Secretary of State Mike Pompeo is scheduled to speak on May 13. There are currently 1,300 people registered.

It was moved by Attorney General Stenehjem and seconded by Commissioner Goehring that under the authority of North Dakota Century Code Sections 44-04-19.1 and 44-04-19.2 the Industrial Commission enter into executive session for the purpose of attorney consultation on Department of Mineral Resources business. The purpose of the executive session will be to consult with the Commission's attorney(s) regarding current adversarial proceedings in:

- **Case No. 08-2021-CV-00026 – Armstrong vs. North Dakota Industrial Commission**
- **Case No. 31-2020-CV-00198 – Northern Oil and Gas, Inc. vs. Continental Resources, Inc; Board of University and School Lands and ND Industrial Commission, et al.**
- **Case No. 05-2019-CV-00085/Northwest Landowners Association vs. State of North Dakota, et al.**
- **Case No. 1:16-cv-01534-JEB Standing Rock Sioux Tribe vs United States Army Corps of Engineers**

And further moved that upon conclusion of the DMR Executive Session the Industrial Commission enter into executive session for the purpose of reviewing a confidentiality request under the authority of N.D.C.C. 54-17.5-06 and 44-04-19.2(1)

And further upon conclusion of the Lignite Research, Development & Marketing Program Business executive session, the Industrial Commission enter into executive session pursuant to N.D.C.C. §44-04-18.4 to discuss commercial information including marketing strategies and sales plans and pursuant to N.D.C.C. §44-04-19.1 to discuss strategy and instructions regarding upcoming union contract labor negotiations. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

Governor Burgum stated that the Commission was meeting in executive session to consult with the Commission's attorney(s) regarding the current adversarial proceedings listed on the agenda. Following the DMR executive session, the Industrial Commission entered into executive session regarding the Lignite Research, Development & Marketing Program to consider a confidentiality request. Following the Lignite Research, Development & Marketing Program executive session, the Industrial Commission entered into executive session regarding State Mill business.

Only the Commission members and their staff will be in all the executive sessions. DMR staff will be in the DMR session and Mill management will be in the Mill session.

Governor Burgum reminded the Commission members and those present in the executive sessions that the discussion must be limited to the announced purpose for entering into executive sessions which in total were anticipated to last 60 minutes. Commission members, their staff, and DMR staff were asked to join the executive session at this time and the public was asked to leave the room. It was noted that any formal action by the Commission would occur after reconvening in open session.

The DMR executive session began at 2:03 p.m.

DMR EXECUTIVE SESSION

Members Present:

Governor Doug Burgum
Attorney General Wayne Stenehjem

DMR Personnel Present:

Lynn Helms
Bruce Hicks
Katie Haarsager

Others in Attendance:

Leslie Bakken Oliver	Governor's Office
David Phillips	Attorney General's Office (remotely)
Matt Sagsveen	Attorney General's Office (remotely)
Karlene Fine	Industrial Commission Office
Andrea Pfennig	Industrial Commission Office

The DMR executive session ended at 2:22 p.m. The Lignite Research, Development & Marketing Program executive session began at 2:23 p.m.

LIGNITE RESEARCH, DEVELOPMENT, & MARKETING PROGRAM EXECUTIVE
SESSION

Members Present:

Governor Doug Burgum
Attorney General Wayne Stenehjem

Others in Attendance:

Leslie Bakken Oliver Governor's Office
Karlene Fine Industrial Commission Office
Andrea Pfennig Industrial Commission Office

The Lignite Research, Development & Marketing Program executive session ended at 2:27 p.m. and the North Dakota Mill executive session began at 2:28 p.m.

NORTH DAKOTA MILL EXECUTIVE SESSION

Members Present:

Governor Doug Burgum
Attorney General Wayne Stenehjem
Agriculture Commissioner Doug Goehring

Others in Attendance:

Leslie Bakken Oliver Governor's Office
Vance Taylor State Mill
Cathy Dub State Mill
Karlene Fine Industrial Commission Office
Andrea Pfennig Industrial Commission Office

The North Dakota Mill executive session ended at 3:18 p.m. and the public was invited to rejoin the meeting. Governor Burgum noted the following:

- During the DMR executive session, guidance was provided to the Commission's counsel regarding the matters listed on the agenda.
- During the Mill executive session, guidance was provided to the Mill management regarding the matters listed on the agenda.
- During the Lignite Research, Development & Marketing Program executive session, a motion was made regarding a confidentiality request. Governor Burgum asked that the vote be taken on the confidentiality request.

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

NORTH DAKOTA MILL (Mill)

Mr. Vance Taylor, North Dakota Mill President and CEO, presented the FY 2021 Third Quarter Report.

*Review of Operations
3rd Qtr. Ended 3/31/21*

SUMMARY

Profits for the 3rd Quarter of the year were \$3,594,365 compared to \$3,580,299 last year. Operating activity for the nine months ending March resulted in a profit of \$11,394,841 compared to \$10,006,105 last year, an increase of 13.9%.

	<i>Quarter</i>		<i>Year-to-Date</i>	
	<i>3/21</i>	<i>3/20</i>	<i>3/21</i>	<i>3/20</i>
Profits	\$ 3,594,365	\$ 3,580,299	\$ 11,394,841	\$ 10,006,105
Sales	82,998,076	79,094,767	248,739,074	232,224,952
Cwt. Shipped:				
Spring	3,483,776	3,487,934	10,833,036	10,386,954
% to Total	91.5%	93.3%	92.0%	93.2%
Durum	323,975	249,001	944,985	759,580
	<u>3,807,751</u>	<u>3,736,935</u>	<u>11,778,020</u>	<u>11,146,534</u>
Bulk Shipments	3,243,189	3,104,960	9,854,342	9,202,600
% to Total	85.2%	83.1%	83.7%	82.6%
Bag Shipments	525,308	586,809	1,798,637	1,816,888
% to Total	13.8%	15.7%	15.3%	16.3%
Tote Shipments	9,253	46,165	125,041	127,046
% to Total	1.0%	1.2%	1.0%	1.1%
Family Flour Shipments	56,768	87,687	375,205	282,253
% to Total	1.5%	2.3%	3.2%	2.5%
Organic Flour Shipments	32,284	41,261	117,933	107,814
% to Total	.8%	1.1%	1.0%	1.0%
Grain Purchased:				
Spring	7,121,701	7,461,280	22,873,232	22,637,463
Durum	626,264	518,909	1,869,879	1,657,742
Total	<u>7,747,965</u>	<u>7,980,189</u>	<u>24,743,111</u>	<u>24,295,205</u>

SALES

3rd Quarter

Sales for the 3rd Quarter were \$82,998,076 compared to \$79,094,767 last year. Shipments of 3,807,751 cwts. are 70,816 cwts. above last year. Bag shipments for the 3rd Quarter are 525,308 cwts., which is 61,501 cwts. below last year's 3rd Quarter. Tote shipments for the 3rd Quarter are 39,253 cwts., which is 5,912 cwts. below last year. Family flour shipments reached 56,768 cwts., which is 35.3% below last year's 3rd Quarter.

Year-to-Date

Sales for the nine months ended March were \$248,739,074 compared to \$232,224,952 last year, an increase of 7.1%. Shipments of 11,778,020 cwts. are 631,486 cwts. above last year, an increase of 5.7%. The average settled price of grain purchased increased \$.15 per bushel from last year. Year-to-date bag

shipments are 1,798,637 cwts., a decrease of 18,250 cwts. from last year. Tote shipments for the year are 125,041 cwts., which is 2,005 cwts. below last year. Family flour shipments for the nine months ended are 375,205 cwts., an increase of 32.9% from last year. Organic flour shipments were 117,933 cwts., an increase of 10,119 cwts. from last year.

OPERATING COSTS

3rd Quarter

Operating costs for the 3rd Quarter were \$11,168,483 compared to \$10,109,333 last year, an increase of \$1,059,150. Operating cost per cwt. of production was \$2.90 compared to \$2.72 last year, an increase of 6.6%.

Year-to-Date

Year-to-date operating costs are \$29,716,105 compared to \$28,093,051 last year, an increase of 5.8%. Operating cost per cwt. of production for the nine months ended was \$2.52 compared to \$2.52 last year, change of 0%.

PROFITS

3rd Quarter

Profits for the 3rd Quarter were \$3,594,365 compared to \$3,580,299 last year. Gross margins as a percent of gross sales for the quarter were 18.1% compared to 17.8% last year.

Year-to-Date

Operating activity for the nine months ended March led to a profit of \$11,394,841 compared to \$10,006,105 last year, an increase of 13.9%. Year-to-date gross margins are 16.9% compared to 17.0% last year.

RISK MANAGEMENT

Risk Management Position

The table below shows our hedge ratio by futures month going forward. A hedge ratio shows the relationship between our net cash position and our futures position. The mill does remain at risk for changes in the basis.

Position Report
31-Mar-21

Period	Hedge Ratio
May-21	1.0
July-21	1.0
Sept-21	.9
Dec-21	.9
Mar-22	1.0
May-22	.6
Net Position	.9

Mr. Taylor provided an update on ongoing capital projects. The first shuttle train was unloaded in April with 114 cars. The track system prevents the blocking of major roads. The first train took 17 hours for unloading. The goal moving forward is 15 hours. After the first few trains, there will be a penalty if the train is not unloaded within 15 hours as the Mill will not get the full discount. The discount is worth \$.30 a

bushel, which is a significant decrease. When it is needed the shuttle train will add to the bottom line. The primary source of grain will continue to come in by truck.

The scales and conveyor project is progressing well. The scales are in operation and the work on the conveyor is still in process. Everything should be in operation before harvest. It is anticipated that when completed, the equipment will speed up truck and rail unloading.

The new packers are underway. The first is installed and the second will be added in June. This will increase packing efficiency and reduce overtime. One person operates the entire line. Currently, the bags are sewn across the top. The second packer will switch to a heat seal, which is better for food safety. The packer currently in use will be converted to a heat seal later this summer. The Mill now has the capability and has started to pack retail mixes in house. Previously, it was being done at a facility in Fargo.

In regard to the H, I, and D mills project most of the equipment has been built and is starting to ship in containers from Italy. Construction on site is planned to begin in May. The first mill should be running in August or September.

Mr. Taylor indicated that the Mill is in the process of eliminating 100 pound bags and switching to 50 pound bags. Most of the industry has made this change.

PUBLIC FINANCE AUTHORITY (“PFA”)

Ms. DeAnn Ament, PFA Executive Director, presented the following State Revolving Fund loan applications for consideration.

North Prairie Regional Water District (Drinking Water) – \$1,151,000

This project will replace 13.5 miles of transmission line, rehabilitate a booster station and increase storage capacity. The population to benefit from the project is 1,000, and the population served by the system includes 11,000 plus six bulk users which serve a population of 2,592.

The requested loan term is 30 years. The District will issue revenue bonds payable with user fees. Accordingly, the annual payment to the Public Finance Authority will average approximately \$48,200. The reserve requirement will be \$52,250 and the 120% coverage requirement will be \$57,840. The District provides water services in Ward, McHenry, McLean, Mountrail, Pierce and Sheridan Counties. The monthly base water rate is \$54 per user for original North Prairie customers. For original North Central and future new customers, the monthly base rate is \$65. The volume charge is \$8.30 per 1,000 gallons. In 2022, the base rate for original North Prairie customers will increase to \$65 per month. The new connections associated with this project and the 2022 base rate increase will increase annual revenue approximately \$441,252.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the following resolution:

RESOLUTION APPROVING LOAN FROM DRINKING WATER STATE REVOLVING FUND

WHEREAS, the Industrial Commission has heretofore authorized the creation of a Drinking Water State Revolving Fund Program (the “Program”) pursuant to N.D.C.C. chs. 6-09.4, 61-28.1, and 61-28.2; and

WHEREAS, the State Revolving Fund is governed in part by the Master Trust Indenture dated as of July 1, 2011 (the "Indenture"), between the North Dakota Public Finance Authority (the "NDPFA") and the Bank of North Dakota (the "Trustee"); and

WHEREAS, the North Prairie Regional Water District (the "Political Subdivision") has requested a loan in the amount of \$1,151,000 from the Program to replace 13.5 miles of transmission line, rehabilitate a booster and increase storage capacity; and

WHEREAS, NDPFA's Advisory Committee is recommending approval of the Loan; and

WHEREAS, there has been presented to this Commission a form of Loan Agreement proposed to be adopted by the Political Subdivision and entered into with the NDPFA;

NOW, THEREFORE, BE IT RESOLVED by the Industrial Commission of North Dakota as follows:

- 1. The Loan is hereby approved, as recommended by the Advisory Committee.**
- 2. The form of Loan Agreement to be entered into with the Political Subdivision is hereby approved in substantially the form on file and the Executive Director is hereby authorized to execute the same with all such changes and revisions therein as the Executive Director shall approve.**
- 3. The Executive Director is authorized to fund the Loan from funds on hand in the Drinking Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in the Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.**
- 4. The Commission declares its intent pursuant to Treasury Regulations '1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.**

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

City of Northwood (Clean Water) – \$7,000,000

This city-wide sanitary sewer and storm sewer project will correct drainage issues and improve the sanitary sewer system. There will be 105,600 linear feet of drain tile, three lift stations, stormwater detention pond, catch basin, and six manholes installed.

The requested term is 30 years. The average annual payment for the improvement bonds will be \$300,430. The City will issue improvement bonds payable with special assessments. The improvement bonds will be a contingent general obligation of the City, backed by the statutory requirement that the City will levy a general deficiency tax in the event that the revenues from the collection of special assessments are not sufficient to pay the debt service on the improvement bonds. The City has 527 residential connections and 83 commercial connections which all pay a base sewer rate of \$26.50 per connection per month and \$2.50/1,000 gallons over 5,000 gallons. A FEMA grant has been requested for \$11,722,000. Also, a federal Community Project Funding has been requested. The CWSRF will be reduced should these or other grants be awarded.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission approve the following resolution:

**RESOLUTION APPROVING
LOAN FROM CLEAN WATER STATE REVOLVING FUND**

WHEREAS, the Industrial Commission has heretofore authorized the creation of a Clean Water State Revolving Fund Program (the "Program") pursuant to N.D.C.C. chs. 6-09.4 and 61-28.2; and

WHEREAS, the Clean Water State Revolving Fund is governed in part by the Master Trust Indenture dated as of July 1, 2011 (the "Indenture"), between the North Dakota Public Finance Authority (NDPFA) and the Bank of North Dakota (the Trustee); and

WHEREAS, the City of Northwood (the "Political Subdivision") has requested a loan in the amount of \$7,000,000 from the Program to correct drainage issues and improve the sanitary sewer system, including installation of drain tile, three lift stations, a storm water detention pond, catch basin, and six manholes; and

WHEREAS, the NDPFA's Advisory Committee is recommending approval of the Loan; and

WHEREAS, there has been presented to this Commission a form of Loan Agreement proposed to be adopted by the Political Subdivision and entered into with the NDPFA;

NOW, THEREFORE, BE IT RESOLVED by the Industrial Commission of North Dakota as follows:

- 1. The Loan is hereby approved, as recommended by the Advisory Committee.**
- 2. The form of Loan Agreement to be entered into with the Political Subdivision is hereby approved in substantially the form on file and the Executive Director is hereby authorized to execute the same with all such changes and revisions therein as the Executive Director shall approve.**
- 3. The Executive Director is authorized to fund the Loan from funds on hand in the Clean Water Loan Fund established under the Indenture upon receipt of the Municipal Securities described in the Political Subdivisions bond resolution, to submit to the Trustee a NDPFA Request pursuant to the Indenture, and to make such other determinations as are required under the Indenture.**
- 4. The Commission declares its intent pursuant to Treasury Regulations '1.150-2 that any Loan funds advanced from the Federally Capitalized Loan Account shall be reimbursed from the proceeds of bonds issued by the NDPFA under the Indenture.**

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

Ms. Ament provided a legislative update. HB 1431 establishes a water infrastructure revolving loan and bond fund of \$680,000,000 to provide funding for infrastructure projects across the state. Each biennium, the legislative assembly will provide an appropriation from the General Fund, derived from Legacy Fund earnings, and Bank of North Dakota profits to meet debt service requirements for bonds funding infrastructure projects and programs. Funding includes: \$435.5 million for the Fargo Diversion Project, \$74.5 million to the Resources Trust Fund for Mouse River Flood Control, \$50 million to the Infrastructure Revolving Loan Fund, \$70 million to the Highway Fund, and \$50 million to Agriculture Products Development Center, including a Northern Crops Institute project. The bill was signed April 21st.

HB 1380 involves the creation of a Legacy Sinking and Interest Fund. Moneys in the fund may be spent by the PFA pursuant to legislative appropriations to meet the debt service requirements for evidences of indebtedness issued by the PFA. These bonds would support the economic diversification research fund, career and technical education support fund, behavioral health support fund, Legacy infrastructure project fund, State building and maintenance project fund and information technology cybersecurity fund. Conference committee meetings are being held.

HB 1020, the State Water Commission appropriation bill, includes language clarifying that Western Area Water System Authority can borrow from the Drinking Water State Revolving Fund. The bill has passed both the Senate and the House.

OUTDOOR HERITAGE FUND

Ms. Pfennig provided a legislative update on the following bills.

- HB 1215: This bill, as passed by the House, would develop a revolving loan fund from 10% of the funds deposited into OHF, not to exceed \$25 million.
 - A hoghouse amendment was introduced that would have established an OHF Grasslands Fund that would run parallel with OHF. The amendment failed.
 - Another hoghouse amendment was introduced and passed by Senate Energy and Natural Resources Committee to exempt buildings that need repairs or replacement due to damage caused by an act of God from needing a comprehensive conservation plan, and to modify Directive A to read:
 - Providing access to private and public lands for ~~sportsmen~~ the public, including projects that create fish and wildlife habitat and provide access for ~~sportsmen~~ recreation and enhance the recreational experiences and opportunities on public lands.
 - The amendment failed on the Senate floor, and the bill as passed by the House, failed 0-47.
- HB 1009: As passed by the House, the Dept. of Agriculture appropriation bill includes a transfer of \$200,000 from OHF for a soil health cover crop grant program. The Senate removed the transfer from OHF and left the funding source unnamed. The conference committee amended the bill to state that an application shall be submitted to OHF. The bill has passed both chambers and is on the way to the Governor's desk.
- SB 2014: As passed by the Senate, \$7.5 million would be appropriated for OHF each fiscal year, totaling \$15 million for the biennium. The House maintained that funding level. The bill is currently in conference committee.

ADMINISTRATION

Ms. Fine presented the March 30, 2021 non-confidential meeting minutes for consideration.

It is moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the March 30, 2021 non-confidential meeting minutes be approved. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

WESTERN AREA WATER SUPPLY AUTHORITY (WAWS)

Ms. Fine provided the WAWS 2021 First Quarter Financial Report and Debt Reduction Report. No debt service payments were made for the month of March 2021 on the BND loan. The Bank has deferred P&I payments for twelve months, April 2020 through March 2021. P&I payments have also been deferred for the Water Commission loans. The Bank has worked with WAWS regarding a payment schedule beginning May 1, 2021. From January 1 to March 31, 2021 there were no capital improvement expenditures. During this time period the net income on a monthly basis, exclusive of capital expenditures and no P&I payments, was \$82,680.63; \$403,039.13; and \$440,372.62. The 2020 overall Debt Service spreadsheet shows a breakeven sales monthly number of \$1,131,811. WAWS sales did not reach that level during January through March 2021.

Ms. Tami Madsen, WAWS Executive Director, presented the 2021 First Quarter Sales Activities Report. Industrial water is selling at ~\$.60 per barrel, which is the target price. The sales are mostly coming from depots. March was strong due to a frack from February. There have not been any frack sales in April. There is currently only one contract in place and that entity is optimistic that things may change rapidly. Companies are fracking, just not where WAWS has water. Overall, both industrial and domestic demand is trending low, and sales are flat. This may change with drought conditions. There are reports that the State Water Commission is canceling stream permits. Water quality suffers in drought conditions, which may make WAWS water more attractive.

There was a push during the legislative session to restrict WAWS from selling to its business partners. The bill has since been killed.

Currently, WAWS has one take or pay contract. That company is trying to sell the water, unfortunately, none of the current fracks are in the WAWS area.

Projects are on hold due to 30-40% increases in material pricing. The increase in costs is related to the power outages that occurred in Texas in February. The resin plants making the materials were shut down. It is anticipated that the challenge on getting materials will last between 6-9 months.

BANK OF NORTH DAKOTA (BND or Bank)

Mr. Eric Hardmeyer, BND President and CEO, and Mr. Kelvin Hullet, BND, presented a legislative update. Many bills have been approved and the Bank is starting to think about post-session implementation of new programs.

- HB 1425 establishes a Legacy Infrastructure Loan fund, and the Bank has begun to explore how it relates to the existing infrastructure loan funds and what policies and procedures will need to be enacted. This process will be integrated in with the One Application process that the Bank has been working on.
- HB 1380 has not been finalized, but the current version will impact bonding and other areas of the Bank.
- SB 2245 will utilize a \$2 million grant from the American Recovery Act to get the rail finished at the port facilities in Minot. The Dept. of Agriculture will administer these funds. Commissioner Goehring commended the Bank staff on their work during the session—providing a number of options for the Legislature to consider.
- SB 2014 is in conference committee and one of the remaining issues is the number of additional FTEs for the Bank. The House will not move from 7.5 FTEs and the Senate wanted 9.5. Discussions about gainsharing has been dropped. There has been talk of having a separate bill next session regarding BND compensation and gain sharing specifically, as well as removing BND from the Industrial Commission appropriation bill because BND is being used as a negotiating tool. There is some consideration of whether the Bank, because it is a business that generates its own profits, needs an appropriation.
- It is anticipated that \$1.59 billion in program funding could be added to the Bank's administered loan/grant portfolio. The dividend to the State will be \$189,000,000. Loan programs that were authorized related to other agencies total \$402,500,000. This includes a \$250,000,000 line of credit for the Clean Sustainable Energy Authority to make loans or loan guarantees until June 30, 2025.
- There is a possibility that the Commerce appropriations bill, SB 2018, may include a \$5 million loan from BND for a project in Jamestown. There are some stipulations outlined to access the money and it would be a deficiency appropriation.

- Mr. Steinwand clarified that HB 1375 provides students that take dual credit classes in high school a reimbursement of up to \$1,500 or the amount paid in dual credits if they go to a North Dakota college and receive passing grades. He indicated that this is a new program. Governor Burgum noted that this results in the state paying twice for certain classes. This program will need to be carefully evaluated in future sessions.

The Commission members commended the Bank staff for all their hard work during the legislative session.

Mr. Hardmeyer and staff presented the First Quarter 2021 Performance Highlights.

- Securities are higher than anticipated largely due to federal funds that are being held at the Bank.
- Total loans are down. Commercial loans are up, but agriculture loans are down, likely due to strong commodity prices and paydowns on the disaster loans and the local lenders taking those loans back into their portfolios. Residential loans are down largely due to mortgage refinancing.
- There is nearly \$1 billion of excess liquidity due to increases in deposits and federal funds.
- Net income for the first quarter of 2021 is \$34.2 million, \$1.9 million over budget. Interest income exceeds the budget by \$1.2 million due mostly to prepayment penalties paid on securities as well as higher balances and interest rates compared to budget. This is partially offset by a higher interest expense.
- As of March 31, 2021, the average asset size is \$7.9 billion compared to \$6.8 billion in the first quarter of 2020. The Bank asset size has increased from \$6.2 billion in 2012 to \$8.1 billion in 2021. Increased deposits drove total ending assets of the Bank from \$6.2 billion in 2012 to over \$7.4 billion by 2015. However, the increase in asset size in 2020 and 2021 is primarily due to \$1.25 billion of Federal CARES ACT dollars and higher correspondent bank deposits related to Paycheck Protection Program (PPP) loans and government issued COVID-19 relief payments. Tier One Capital is \$966 million compared to \$944 million at the end of 2020.
- The fluctuating quarterly ratios are the result of the Bank's quarterly earnings offset by capital transfers, including \$105 million to the General Fund, \$30 million to the Small Employer Loan Fund (SELF), \$28.5 million to buydown programs, \$15 million to the Innovation Technology Loan Fund (LIFT) and \$11 million to other state programs in the last six quarters. BND's current internal benchmark is 12.00%. As of March 31, 2021, the Bank's leverage ratio is 12.13%.

There was discussion about the additional funding that will be coming from the American Rescue Act—timing of those deposits; rules that are still being developed, etc.

- BND has established a maximum Net Loans to Earning Assets Ratio of 90%. Currently, BND is well within this limit at 59.57%.
- The loan portfolio has grown from \$3.3 billion in 2012 to over \$4.8 billion as of March 31, 2021, an increase of 47%. Overall, loan originations and renewals are up over half a billion. Much of the activity has been in the commercial portfolio which has been very strong.
- The commercial loan portfolio increased by \$126 million during the first quarter of 2021 with BND funding and renewing \$386 million of loans. The largest area of activity was commercial participations with BND funding and renewing \$218 million. The commercial portfolio increased by 5.52% due to increased activity in bank participations and bank stock loans.
- The agriculture, residential, and student loans portfolios have decreased. The farm loan portfolio decreased by \$24 million during the first quarter of 2021 with BND funding and renewing \$74 million of loans. Farm and Ranch loans led the way with \$49 million, followed by Established Farmer which funded \$10 million in loans. The student loan portfolio decreased by \$56 thousand during the first quarter of 2021. BND has disbursed \$39 million in our DEAL programs so far this year. DEAL Loan origination has decreased due to more favorable federal rates and fewer students

attending college since COVID-19 pandemic. The residential loan portfolio decreased by \$41 million during the first quarter of 2021 with BND funding \$4 million of home loans. The size of the portfolio will continue to decline with paydowns and refinancing as BND has shifted its mission focus on the rural mortgage purchase and origination programs to fill a niche need in North Dakota.

- The Bank's loan reserve is \$109 million and is very healthy at 2.27%, which is higher than the most recently posted North Dakota average of 1.41%. BND's total allowance as a percentage of all non-guaranteed loans is 3.39%. The percent of non-performing loans is 0.80%, which is a slight decrease from last quarter. Adversely Classified loans as a percentage of total loans decreased to 2.21% since last quarter which is lower than the most recent North Dakota average of 2.28%. Mr. Evanger pointed out that this trend is not the case for most North Dakota banks.
- Commercial delinquencies were 1.92% of which 0.74% were delinquent over 90 days. Delinquencies were higher compared to a year ago and are higher than the North Dakota average of 0.86%. BND has provided payment modifications to 243 borrowers totaling \$468 million as a response to the economic impact of COVID-19. Out of those 243 borrowers, 18 borrowers totaling \$50 million remain in deferment as of March 31, 2021.
- Farm delinquencies were 2.64% of which 1.01% were delinquent over 90 days. Delinquencies are lower than the previous year and higher than the North Dakota average of 0.89%. BND provided a Farm Disaster Relief program to help producers affected by marketing lags caused by pricing and wet conditions in the Fall of 2019.
- Residential delinquencies were 8.78% of which 6.45% were delinquent over 90 days. FHA delinquencies of 13.50% are higher than the North Dakota average of 11.73%, which can be attributed to the mission driven nature of BND's Residential Portfolio. In total, \$28.4 million of federally guaranteed delinquent loans were in approved COVID-19 forbearances. As of March 31, 110 borrowers totaling approximately \$18 million remain in COVID-19 forbearances. Nearly all residential delinquencies are on federally guaranteed loans.
- The overall student loan portfolio has a delinquency rate of 2.63% with 1.19% of the loans being over 90 days. At the end of 2020 that delinquency rate was at 8.17%, so there has been a significant improvement because of the work of the Bank's collection team. BND provided delinquent student loan borrowers up to six months of payment deferrals as an economic relief response to the economic impact of the COVID-19 Pandemic. As of March 31, BND had 1,096 borrowers for \$38.5 million in COVID-19 Disaster Forbearances.
- The Bank's overall loan delinquencies are under 3% and at the end of 2020 the Bank was at 4%. The Bank has seen improvements and is continuing to closely monitor these loans.

In response to a question regarding BND's strategy for growing demand, Mr. Hardmeyer indicated that strategic planning will occur this fall.

Mr. Hardmeyer announced his retirement effective July 6, 2021 and suggested the Commission name Mr. Todd Steinwand as the Interim President/CEO effective July 6, 2021 while a search for a replacement is conducted.

Commissioner Goehring thanked Mr. Hardmeyer for everything he has done for the Bank, and his excellent leadership.

Attorney General Stenehjem remarked on the notable impacts Mr. Hardmeyer has had during his tenure, including the construction of a new building and the Bank's 100th anniversary. Attorney General Stenehjem stated that it has been a pleasure to work with Mr. Hardmeyer for the last 31 years and that he has served the people of North Dakota well.

Governor Burgum stated that it has been remarkable to watch the Bank's record performance under Mr. Hardmeyer's leadership and noted that over 20% of the history of the Bank has been under his leadership. During his 36 years, Mr. Hardmeyer has touched every corner of the state and every community. He built an institution, but also built a successful leadership team at the Bank. Governor Burgum noted that Mr. Hardmeyer has kept leading through Covid and personal challenges to lead the Bank through a legislative session with amazing outcomes.

Mr. Hardmeyer thanked the Commission for the kind words. He expressed his appreciation of the staff at BND for their hard work and noted that the Bank is in a strong position for the future. Mr. Hardmeyer stated that he is grateful he had the opportunity to lead the Bank these many years.

It was moved by Commissioner Goehring and seconded by Attorney General Stenehjem that the Industrial Commission accept Eric Hardmeyer's July 6, 2021 notice of retirement and wish him the very best in his retirement years and further announce the appointment of Todd Steinwand as Interim Bank of North Dakota President/CEO effective July 6, 2021. Further the Commission directs the Industrial Commission Executive Director to prepare a plan for filling the President/CEO position on a permanent basis and submit that plan to the Commission at a future meeting. On a roll call vote, Governor Burgum, Attorney General Stenehjem, and Commissioner Goehring voted aye. The motion carried unanimously.

Commissioner Goehring left the meeting at this time.

Mr. Hardmeyer presented the Bank of North Dakota Advisory Board February 18, 2021 nonconfidential meeting minutes.

Pursuant to N.D.C.C. 6-09-35 the Industrial Commission entered into executive session. Governor Burgum reminded the Commission members and those present in the executive session that the discussion during executive session must be limited to those items listed on the agenda which was anticipated to last between 10 and 20 minutes. The public was asked to leave the meeting at this time.

The BND executive session began at 4:45 p.m. to discuss the following items:

- Consideration of a loan application.
- Presentation of Bank of North Dakota Advisory Board February 18, 2021 confidential meeting minutes.
- Other Bank of North Dakota confidential business (as defined under N.D.C.C. 6-09-35).

BND EXECUTIVE SESSION

Members Present:

Governor Doug Burgum
Attorney General Wayne Stenehjem

Bank of North Dakota Personnel:

Eric Hardmeyer
Kirby Evanger
Todd Steinwand
Tim Porter

Others in Attendance:


Leslie Bakken Oliver Governor's Office
Karlene Fine Industrial Commission Office

Andrea Pfennig Industrial Commission Office

The BND executive session ended at 4:49 p.m. and the public was invited to return to the room. Governor Burgum noted that during Executive Session the Commission made a motion regarding a loan request. **On a roll call vote, Governor Burgum and Attorney General Stenehjem voted aye. The motion carried.**

With no further Industrial Commission business, Governor Burgum adjourned the meeting at 4:50 p.m.

North Dakota Industrial Commission



Karlene Fine, Executive Director and Secretary