



**Western Dakota Energy Association  
Legislative Report #11, March 18, 2023  
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One could caption this photo, “Why I would never want to be a Public Service Commissioner.” This is a photo of the PSC on stage at the Heritage Center, with administrative law judge Tim Dawson sitting in for Commissioner Julie Fedorchak who recused herself.

The scene was the first of four PSC hearings on Summit Carbon Solution’s planned construction of a network of pipelines that will transport carbon dioxide from 32 ethanol plants in five states to the Mercer-Oliver County area for underground sequestration. The hearing began at 8:30 a.m. Tuesday, and continued more than 12 hours, well into the evening.

Members of the House and Senate Appropriations Committees set the stage Friday for the decision-making process in the final days of the session. The committees adopted a revised revenue forecast which will determine just how much the legislature has to spend, or cut, from the budget requests in dozens of bills. The forecast decision was not without controversy, as a few members of the House committee felt the oil price forecast was too optimistic. The committees settled on a prediction that oil prices will average \$70/barrel during the first year of the biennium, \$62/barrel in the second year of the biennium, and that production will remain flat at 1.1 million barrels/day. Given the historic volatility of oil prices, it’s all just guesswork, but because oil taxes represent about 50 percent of all state revenue, it is the key component that will guide the budget process in the final weeks of the 2023 session.

Senate members will have an interesting decision to make when [HCR 3033](#) comes up for debate. The constitutional measure passed the House this week on a vote of 67-24 with surprisingly no debate. The resolution would change the way earnings are distributed from the Legacy Fund. Earnings for a biennium would be defined as eight percent (4% per year) of the five-year average balance of the fund. But the kicker is, only 70 percent of the earnings would be transferred to the general fund, with 30 percent retained for reinvestment in the principal. If approved by the Senate, the measure would be placed on the general election ballot for voter consideration in the 2024 general election.

The House had lengthy debate before approving another constitutional measure that’s considerably more controversial. [HCR 3019](#) would replace the eight-year term limit measure passed by voters last fall with a 12-year limit that would impose the limit on all statewide elected officials, not just the governor. It passed the House 63-29 after 40 minutes of debate. The controversial element of the resolution is its repeal of a section of the term limit measure that prohibits the legislature from proposing changes to the term limit measure. Supporters of the resolution argue that the provision is an unconstitutional limitation on the power of the legislature. Opponents argue that HCR 3019 is itself unconstitutional because the voter-approved measure prevents the legislature from proposing any changes. The underlying argument behind the proposed change is that voters did not fully understand last year’s measure, with some believing that it would apply to members of Congress, nor did they consider the negative consequences on the state legislative process.

WDEA [testified](#) in support of [SB 2113](#) this week, a bill that provides for the creation of a Flexible Transportation Fund within the ND Department of Transportation. As its name implies, the fund would provide NDDOT budgetary discretion for a variety of purposes including operational needs, matching funds for federal grant opportunities, or to support local governments which may not have the resources to meet the infrastructure needs associated with various economic development projects. NDDOT initially requested \$170 million for the fund. The House cut the amount to \$115 million in [HB 1012](#), the department’s budget bill, which is now under consideration in the Senate Appropriations Committee.

Another bill that would provide state support to local governments appears to be headed for approval. [SB 2183](#) would appropriate \$20 million for emergency snow removal grants to tribal governments, counties, cities and townships. Of the total, \$15 million would apply to the period from October 1 to December 31, 2022, with the balance applying to the entire winter season. The bill is on the House floor after 20-0 approval in the House Appropriations Committee.

School construction grants are back on the table in the Senate Education Committee. A \$40 million grant program was pitched as an amendment to [HB 1186](#) to help school districts slammed by inflation on current construction projects, and to potentially assist other districts that have struggled to pass a bond issue. A similar amendment was previously pitched to the House Appropriations Committee, which declined to adopt it on a 7-to-15 vote. The committee took no action on the bill, but it is hoped it will adopt the amendment and send the bill to Senate Appropriations for further consideration.

The affordability of child care has become a major topic in the workforce discussion, but two bills ([SB 2237](#) and [2301](#)) aimed at assisting parents were defeated in the House this week. Whether the legislature deems child care needs worthy of state support will likely be determined as spending issues are resolved in the final days of the session.