

TYLER PATRICK GRAY
SECRETARY

MARK NORMAND, JR.
UNDERSECRETARY

BENJAMIN BIENVENU
COMMISSIONER
OFFICE OF CONSERVATION



**DEPARTMENT OF
ENERGY AND NATURAL RESOURCES**

DUSTIN H. DAVIDSON
DEPUTY SECRETARY

KEITH O. LOVELL
ASSISTANT SECRETARY
OFFICE OF COASTAL MANAGEMENT

ANDREW B. YOUNG
ASSISTANT SECRETARY
OFFICE OF MINERAL RESOURCES

August 13, 2024

State Mineral and Energy Board

Louisiana Department of Energy and Natural Resources
c/o Suzanne Hyatt
P. O. Box 2827
Baton Rouge, LA 70821-2827
Email: suzanne.hyatt@la.gov

RE: Overview of the Louisiana Natural Resources Trust Authority

Members of the State Mineral and Energy Board,

Pursuant to our last meeting, I am writing to provide an update on our internal review, including an overview of the Louisiana Natural Resources Trust Authority (NRTA), established under Act 727, and to share our proposal on how Louisiana approaches operator retirement obligations, future utility and economic value of existing or new wells, shifting to an asset management focus. This framework will enhance oversight of financial assurance, ensuring that Louisiana optimizes financial management, supports critical infrastructure projects, and promotes conservation efforts. The NRTA draws on successful models, such as the Louisiana Motor Fuels Underground Storage Tank Trust Fund, to create a comprehensive approach to idle assets.

The Louisiana Natural Resources Trust Authority was established by Act 727 of the 2024 Regular Session in response to Executive Order JML 2024-13, issued by Governor Jeff Landry, directing the Department of Energy and Natural Resources (DENR) to reorganize and enhance the management of Louisiana's natural resources. The NRTA operates with oversight of the State Mineral and Energy Board and in conjunction with the State Bond Commission for debt service and the Department of Treasury for funds management. Its initial design is intended to address several issues facing not only the DENR, but the energy industry operating in Louisiana, and was partially inspired by the Oklahoma Energy Relation Board (OERB), the Start Savings program, the Louisiana Agricultural Finance Authority, and regulatory challenges in managing orphan wells.¹ In addition, it provides Louisiana with the opportunity to better control its own destiny through newfound access to the energy finance industry and improved ability to review the finances and operations those licensed to operate in the State.

¹ The Office of Conservation has been subject to several performance audits since 2013, with an update in progress, reporting marginal changes due to structural barriers impeding a comprehensive strategy.

Initially, the NRTA's primary responsibilities include developing a framework of priorities and plans to address financial challenges in the energy and natural resources sector, such as assessment of risk in certifying financial assurance for operators and management of cash flow of the mineral and energy operation fund for collateralization. The NRTA will then have authority to enact policy consistent with its planning—adopting regulations for risk assessment and financial assurance mechanisms, including those necessary to meet plugging or abandonment obligations. Additionally, the NRTA's collaboration with the State Bond Commission and the Louisiana Department of Treasury will allow it to manage its responsibilities effectively and create robust financial securities that support sustainable development and regulatory compliance.

The creation of the NRTA also serves as a strategic counterbalance to the regulatory authority of the Office of Conservation ("Conservation").² While Conservation focuses on enforcing regulations to protect the environment and public welfare, the NRTA is tasked with oversight of the financial and strategic aspects of resource management. This balance is crucial to ensuring better preservation and regulation of Louisiana's natural resources, but also management in a financially sustainable manner for the State that supports long-term economic growth. Through oversight of financial obligations, indemnification of members, and grant management, the NRTA complements Conservation's regulatory efforts, ensuring that conservation measures are underpinned by robust financial assurance mechanisms. This dual approach helps to mitigate the financial risks associated with resource management while promoting responsible development.

The first step in developing the NRTA involves strategic planning and stakeholder engagement, where we will develop a detailed strategy for utilizing it as a financial assurance tool ensuring proper oversight at the conclusion of operations for the regulated community. This will involve engagement with key stakeholders, including representatives from other parts of the DENR, DEQ, the Department of Insurance, and industry partners, to gather input and align our objectives. Once informed by stakeholders, we will move into the rulemaking and framework development phase, where we will draft and adopt rules and regulations under the Administrative Procedure Act. This will establish the necessary financial assurance mechanisms, participant limits, and other provisions. We will develop specific guidelines for financial instruments, such as bonds, letters of credit, and insurance instruments, to ensure adequate coverage for well plugging, abandonment, and site restoration.

Once the framework is in place, NRTA offers the potential to mitigate unintended and unforeseen impacts by ensuring that the State of Louisiana has direct access to adequate funding for remediation. Under the existing system, Conservation must rely on third-party financial institutions with limited recourse due to legal complexities of collection or recovery. Operating through the Treasury, the NRTA will be able to manage these funds within the State's centralized financial system, giving the State an unprecedented ability to address asset abandonment and emergencies free of operational regulations that limit the ability to maneuver in line with the economy and changing financial markets. Alignment with Treasury will also allow DENR to benefit from their established protocols for cash flow management, risk mitigation, and investment, all designed to safeguard public assets. This oversight also allows for seamless integration with other state financial operations, ensuring that funds are managed in alignment with state policies and objectives.

² In Act 727, R.S. 36:359(B)(1) was amended, removing statutory barrier for cohesive operations between the Office of Conservation and the Department of Energy and Natural Resources.

NRTA will provide public stakeholders and users with a one-stop-shop to do business in the State of Louisiana, free of reliance on third-parties lacking subject matter expertise and reducing the risk of loss of financial instruments intended to ensure longevity of our State's resources. Internally, NRTA gives DENR access to other government functions, thus creating a transparent framework to serve as the counterbalance to Conservation's regulatory oversight. Considering the complexities in finance, rules and regulations for risk assessment and cash flow management will be essential to proper oversight; thus, extensive due diligence is needed prior to full implementation with consideration for continuous improvement protocols, ultimately developing a tool for all applicable operations.

The Louisiana Natural Resources Trust Authority is a critical component in our state's efforts to manage natural resources sustainably and responsibly. By leveraging NTRA's capabilities, we can ensure that financial assurances are robust, aligned with our strategic goals, and reflective of best practices. This initiative will enhance regulatory coherence, promote investor confidence, and modernize Louisiana government—allowing a revival of economic prosperity across the State.

Should you have any questions, please do not hesitate to reach out if you have any questions or require further information.



Tyler Patrick Gray, Secretary
Louisiana Department of
Energy and Natural Resources



Andrew B. Young
Assistant Secretary
Office of Mineral Resources

Enclosures: *Act 727 of 2024 Regular Session*
 Report to Natural Resources Steering Commission, Office of Management and Finance
 (NRTA)
 Letter, J. Clay Parker, Special Counsel, to Mark Normand, Jr., Undersecretary, July 12, 2024
 Letter, Mark Normand, Jr., Undersecretary, to J. Clay Parker, Special Counsel, July 25, 2024

ENROLLED

2024 Regular Session

ACT No. 727

HOUSE BILL NO. 810

BY REPRESENTATIVES GEYMANN AND JACOB LANDRY

1 AN ACT

2 To amend and reenact R.S. 36:351(B) and (C), 354(A)(15) and (B)(2) and (6), 356(B),
3 357(B) and (C), 358(C) and (D)(2), 359(B)(1) and (2), 401(C)(1)(b)(i), and
4 405(A)(1)(b), to enact R.S. 36:354(A)(19), 356.1, 358(E) through (G), and
5 359(B)(4), and to repeal R.S. 36:408(I) and 409(C)(8), relative to the organization,
6 powers, duties, and functions of the Department of Energy and Natural Resources;
7 to create and provide for the office of enforcement, the office of energy, and the
8 office of land and water; to provide for the duties and functions of the secretary and
9 assistant secretaries of the Department of Energy and Natural Resources; to provide
10 relative to the office of conservation; to create and provide for the Louisiana Natural
11 Resources Trust Authority; to provide for the Louisiana oil spill coordinator; to
12 provide for the remediation of oil spills; to provide for the management of state lands
13 and water bottoms; to provide for certain rights of way and leasing on state lands and
14 water bottoms; to provide for an effective date; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 36:351(B) and (C), 354(A)(15) and (B)(2) and (6), 356(B), 357(B)
17 and (C), 358(C) and (D)(2), 359(B)(1) and (2), 401(C)(1)(b)(i), and 405(A)(1)(b) are hereby
18 amended and reenacted and R.S. 36:354(A)(19), 356.1, 358(E) through (G), and 359(B)(4)
19 are hereby enacted to read as follows:

20 §351. Department of Energy and Natural Resources; creation; domicile;
21 composition; purposes and functions

22 * * *

23 B. The Department of Energy and Natural Resources, through its offices and
24 officers, shall be responsible for the conservation, management, and development of

HB NO. 810

ENROLLED

water, minerals, and other such natural resources of the state, including coastal management, state water bottom management and permitting, the issuance of energy-related rights of way on state water bottoms and state lands, and energy-related leasing of state water bottoms and state lands as further set forth in law, but not including except timber or and fish and wildlife and their habitats.

C.(1) The Department of Energy and Natural Resources shall be composed of the executive office of the secretary, the office of management and finance, the office of conservation, the office of mineral resources, the office of coastal management, the office of enforcement, the office of energy, the office of land and water, the Oilfield Site Restoration Commission, and other offices as shall be created by law.

(2) Whenever the secretary determines that the administration of the functions of the department may be more efficiently performed by eliminating, merging, or consolidating existing offices or establishing new offices, he shall present a plan therefor to the legislature for its approval by statute. In addition, beginning January 15, 2026, and thereafter in the same year as the sunset of the Department of Energy and Natural Resources, the secretary shall recommend to the Senate Committee on Natural Resources and the House Committee on Natural Resources and Environment to either terminate or continue the boards and commissions provided for in this Chapter. Any recommendation to terminate a board or commission shall include a plan to eliminate, merge, or consolidate the functions and responsibilities of that board or commission.

* * *

§354. Powers and duties of secretary of energy and natural resources

A. In addition to the functions, powers, and duties otherwise vested in the secretary by law, the secretary shall:

* * *

(15) Set priorities for ~~coastal energy impact~~ program funds as provided in R.S. ~~49:213-10(D)~~ 30:2483.

* * *

HB NO. 810

ENROLLED

1 (19)(a) Organize, plan, supervise, direct, administer, execute, and be
 2 responsible for the functions and programs relating to the deployment and operation
 3 of energy infrastructure in this state in a manner that results in affordable and reliable
 4 energy.

5 (b) Create and carry out a central, comprehensive, and unified energy and
 6 natural resources data and information program which will collect, evaluate,
 7 assemble, analyze, and disseminate data and information which is relevant to energy
 8 and natural resource reserves, energy and natural resource production, demand, and
 9 technology, and related economic and statistical information, or which is relevant to
 10 the adequacy of energy and natural resources to meet demands for the near and
 11 longer term future of the state.

12 B. The secretary shall have authority to:

13 * * *

14 (2) Appoint, subject to gubernatorial approval, advisory councils, boards,
 15 and commissions necessary in the administration of the department or for providing
 16 expertise within the department's jurisdiction, except as otherwise provided by law
 17 or by executive order.

18 * * *

19 (6) Represent, or designate ~~the~~ an assistant secretary ~~of the office of~~
 20 ~~conservation~~ to represent, the state in all matters involving or affecting the interest
 21 of the state and its residents, relative to energy and natural resources within the
 22 jurisdiction of the Department of Energy and Natural Resources before all federal
 23 agencies, offices, and officials, and congressional committees, and in all judicial
 24 actions arising out of the proceedings of the agencies, offices, and committees or in
 25 relation thereto. Those employed or contracted with as provided by this Section shall
 26 be entitled to represent the state and the secretary and to appear in the courts and
 27 before agencies of this state or the agencies, officials, and courts of the United States
 28 and of other states, to carry out the purposes of this Chapter.

29 * * *

HB NO. 810

ENROLLED

§356. Undersecretary; functions; office of management and finance

* * *

B. The undersecretary shall direct and be responsible for the functions of the office of management and finance and the Louisiana Natural Resources Trust Authority within the Department of Energy and Natural Resources. In this capacity, the undersecretary shall be responsible for accounting and budget control, procurement and contract management, data processing, management and program analysis, personnel management, and grants management for the department and all of its offices, including all agencies transferred to the Department of Energy and Natural Resources, except as otherwise specifically provided in this Title. The undersecretary shall employ, appoint, remove, assign, and promote personnel as is necessary for the efficient administration of the office of management and finance and the Louisiana Natural Resources Trust Authority and the performance of ~~its~~ their powers, duties, functions, and responsibilities, in accordance with applicable civil service laws, rules, and regulations, and with policies and rules of the department, all subject to budgetary control and applicable laws. The undersecretary shall exercise all powers and authority granted to him in this Title subject to the overall direction and control of the secretary.

* * *

§356.1. Louisiana Natural Resources Trust Authority; establishment; powers

A. The Louisiana Natural Resources Trust Authority, empowered and governed by the State Mineral and Energy Board pursuant to R.S. 30:121 et seq., possesses the authorities outlined in this Chapter, operating in conjunction with and through the State Bond Commission and the Louisiana Department of Treasury as required by law. The authority shall develop a strategic plan outlining the financial challenges facing energy and natural resources-related projects in the state and the authority's plans and goals in addressing them. The authority may establish an executive committee with delegated responsibilities, excluding interest rate determinations.

HB NO. 810

ENROLLED

B. The authority's powers shall also include the following:

(1) Setting financial obligations of operators or applicants, consistent with the purposes, authorities, and functions of the Department of Energy and Natural Resources and its officers.

(2) Indemnifying members, officers, and employees against liabilities.

(3) Executing necessary contracts and instruments.

(4) Entering agreements for deductions, payments, and the administration of
Paragraph (5) of this Subsection.

(5) Soliciting, accepting, and expending grants.

C. The authority may adopt rules and regulations in accordance with the Administrative Procedure Act for the following purposes:

(1) Establishing residency requirements, participant limits, and account accrual limits.

(2) Regulating substitutions, transfers, or other financial instruments

necessary to meet plugging or abandonment obligations.

(3) Setting interest rates with state treasurer approval.

(4) Handling abandoned accounts as provided by law.

(5) Adopting investment guidelines.

(6) Establishing procedures and standards for worthiness of applications.

(7) Establishing fees and other provisions necessary to implement this

Chapter.

§357. Assistant secretaries

* * *

B. ~~Except as otherwise expressly provided in this Title, the~~ The duties and functions of each office and its assistant secretary shall be determined by the secretary, and all of such duties and functions shall be exercised under the direct supervision and control of the secretary.

C. ~~Except as otherwise provided in R.S. 36:801, each~~ Each assistant secretary shall employ, appoint, remove, assign, and promote such personnel as is necessary for the efficient administration of his office and its programs and the

HB NO. 810

ENROLLED

performance of its powers, duties, functions, and responsibilities, in accordance with applicable civil service laws, rules, and regulations, and with policies and rules of the department, all subject to budgetary control and applicable laws.

* * *

§358. Offices; purposes and functions

* * *

C. The office of conservation, in accordance with law, shall exercise the functions of the state with respect to the regulation, conservation, permitting, compliance, and use of the natural resources of the state which are not specifically within the jurisdiction of other state departments or agencies. Its functions shall include but not be limited to the conservation of the oil and gas resources of the state and matters pertaining thereto; the promotion and encouragement of exploration, production, and refining efforts for oil, intrastate gas, and other hydrocarbons; the control and allocation of energy supplies and distribution; the lease or construction and operation of intrastate pipeline systems; the implementation and enforcement of any emergency gas shortage allocation plan and the setting of priorities; regulation of the minimum sale price of intrastate natural gas, and management of ground water resources all in accordance with applicable laws.

D.

* * *

(2) Work in cooperation with ~~Louisiana State University and Agricultural and Mechanical College~~ the Center for Energy Studies to maintain current surface and subsurface geological surveys of the state, or otherwise at the discretion of the assistant secretary of the office of mineral resources or his designee; conduct geological mapping; prepare geological hazards assessments and resource inventories; and conduct process investigations and related studies.

E. The office of enforcement shall be responsible for the inspection of the regulated community and the enforcement of laws and regulations within the jurisdiction of the department, consistent with Act No. 548 of the 2006 Regular Session of the Legislature.

HB NO. 810

ENROLLED

F. The office of energy shall organize, plan, supervise, direct, administer, execute, and be responsible for the functions and programs relating to the deployment and operation of alternative energy infrastructure in this state in a manner that results in affordable and reliable energy. The office of energy shall also work in cooperation with the Center for Energy Studies to create and carry out a central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information which is relevant to energy resource reserves, energy production, demand, and technology, and related economic and statistical information, or which is relevant to the adequacy of energy resources to meet demands in the near and longer term future of the state.

G. The office of land and water shall be responsible for the following:

(1) The administration of state water bottom management, the issuance of energy-related rights of way on state water bottoms and state lands, and energy-related leasing of state water bottoms and state lands as further set forth in law.

(2) The administration of groundwater, surface water, and other water resources for quantity purposes, unless otherwise designated by the secretary following adequate review set forth by rule.

§359. Transfer of agencies and functions to Department of Energy and Natural Resources

* * *

B. The following agencies are transferred to the Department of Energy and Natural Resources and shall exercise and perform their powers, duties, functions, and responsibilities in accordance with the provisions of R.S. 36:802:

(1) State Department of Conservation (Article V, Section 18 and Article VI, Section 1(C) of the 1921 Constitution of Louisiana made statutory by Article XIV, Section 16(A)(2) and (3) of the 1974 Constitution of Louisiana; Part I of Chapter 1 of Subtitle I of Title 30 of the Louisiana Revised Statutes of 1950 and other provisions of Title 30 that directly apply to the department), ~~except that the secretary, deputy secretary, and undersecretary of the department shall have no authority to~~

1 ~~exercise, review, administer, or implement the quasi judicial, licensing, permitting,~~
2 ~~regulatory, rulemaking, or enforcement powers or decisions of the assistant secretary~~
3 ~~of the office of conservation.~~ The assistant secretary shall be authorized to employ,
4 appoint, remove, assign, and promote personnel as is necessary for the efficient
5 administration required in making these decisions, in accordance with applicable
6 civil service laws, rules, and regulations, and with policies and rules, subject to
7 budgetary control of the Department of Energy and Natural Resources, and
8 applicable laws.

9 (2) State Mineral and Energy Board (R.S. 30:121 et seq.), except the
10 secretary of the Department of Energy and Natural Resources or his designee shall
11 be an ex officio member of the State Mineral and Energy Board. The State Mineral
12 and Energy Board shall retain the authority to lease for development and production
13 of minerals, oil, and gas, any lands belonging to the state, or the title to which is in
14 the public, including road beds, water bottoms, and land adjudicated to the state at
15 tax sale. The State Mineral and Energy Board shall retain supervision of all mineral
16 leases granted by the state, and it shall retain general authority to take action for and
17 on behalf of and to protect the interests of the state in accordance with the provisions
18 of Title 30 of the Louisiana Revised Statutes of 1950, as amended, and applicable
19 laws.

20 * * *

21 (4) Office of the oil spill coordinator (R.S. 30:2451 et seq.).

22 * * *

23 §401. Department of Public Safety and Corrections; public safety services;
24 corrections services; youth services; creation; domicile; composition;
25 purposes and functions

26 * * *

27 C.(1)

28 * * *

29 (b)(i) Public safety services shall include the office of management and
30 finance for public safety services, the office of state police, the office of legal affairs,

HB NO. 810

ENROLLED

the office of motor vehicles, the office of state fire marshal, and code enforcement and building safety, ~~and the office of the Louisiana oil spill coordinator~~ and shall also include the deputy secretary of public safety services, the assistant secretaries of the offices, and personnel necessary to carry out their functions.

* * *

§405. Deputy secretaries for public safety services, corrections services, and youth services

A.(1) There shall be a deputy secretary for public safety services and a deputy secretary for corrections services. Each shall be appointed by the secretary and serve at the pleasure of the secretary at a salary fixed by the secretary, which salary shall not exceed the amount approved for such position by the legislature while in session. Each appointment by the secretary shall be submitted to the Senate for confirmation. The duties and functions of the deputy secretaries provided for in this Subsection shall be determined and assigned by the secretary, except that:

* * *

(b) Public safety services, including the office of state police, the office of legal affairs, the office of motor vehicles, the office of state fire marshal, and code enforcement and building safety, ~~the office of the Louisiana oil spill coordinator~~, and their assistant secretaries; shall be under the supervision and direction of the deputy secretary for public safety services. The deputy secretary for public safety services shall be an ex officio member of each board and commission in the Department of Public Safety and Corrections which is related to the functions of public safety services. However, the deputy secretary may appoint a designee to be his representative as an ex officio member of each board and commission which is related to the functions of public safety services.

* * *

Section 2. R.S. 36:408(I) and 409(C)(8) are hereby repealed in their entirety.

HB NO. 810

ENROLLED

1 Section 3. This Act shall become effective July 1, 2024; if vetoed by the governor
2 and subsequently approved by the legislature, this Act shall become effective on July 1,
3 2024, or on the day following such approval by the legislature, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____



DENR OFFICE OF MANAGEMENT, BUDGET, AND FINANCE

REPORT TO NATURAL RESOURCES STEERING COMMISSION

PURSUANT TO EXECUTIVE ORDER JML 24-13

June 18, 2024



DRAFT
INTERNAL WORKING DOCUMENT
REVIEW BEFORE RELEASE



Table of Contents

| | |
|--|----------|
| DENR OFFICE OF MANAGEMENT, BUDGET, AND FINANCE | 3 |
| EXECUTIVE SUMMARY | 3 |
| CURRENT FINANCIAL SECURITY ARRANGEMENTS..... | 4 |
| • <i>Engineering Division</i> | 4 |
| • <i>Environmental Division</i> | 4 |
| • <i>Injection and Mining Division</i> | 4 |
| • <i>Renewable Energy</i> | 6 |
| BENEFITS OF CENTRALIZED OVERSIGHT | 6 |
| • <i>Streamlined Processes</i> | 6 |
| • <i>Enhanced Coordination</i> | 6 |
| • <i>Improved Transparency and Accountability</i> | 6 |
| • <i>Strengthened Enforcement</i> | 6 |
| • <i>Enhanced Risk Management</i> | 6 |
| • <i>Promoting Innovation and Best Practices</i> | 6 |
| RECOMMENDATIONS | 7 |
| • <i>Establishment of Separate Fund</i> | 7 |
| • <i>Cash Equivalent for Financial Security</i> | 7 |
| • <i>Indexing Coupon Rate to Inflationary Rate</i> | 7 |
| • <i>Managing Financial Security in High Inflationary Eras</i> | 7 |
| • <i>Interest Spread Management</i> | 8 |
| • <i>Elimination of Blanket Bonds</i> | 8 |
| • <i>Insurance Instrument and Planned Escrow</i> | 8 |
| • <i>Cash Equivalent - further analysis</i> | 8 |
| • <i>Insurance Instrument - further analysis</i> | 8 |



DRAFT
INTERNAL WORKING DOCUMENT
REVIEW BEFORE RELEASE



DENR OFFICE OF MANAGEMENT, BUDGET, AND FINANCE

Executive Summary

The Louisiana Natural Resources Trust Authority (LNRTA) represents a pivotal initiative in the state's efforts to optimize financial management, support critical infrastructure projects, and promote conservation efforts. House Bill 810, which establishes the LNRTA, is designed to address the financial and operational challenges related to energy and natural resources projects within the state.

The LNRTA will operate in conjunction with the State Mineral and Energy Board, the State Bond Commission, the Department of Treasury, and the Department of Insurance. This report delves into the intricacies of current financial security arrangements and provides recommendations for optimizing financial management and supporting sustainable development. Here are the key objectives and functions as outlined in the law:

1. **Strategic Planning:** The authority is tasked with developing a strategic plan that identifies the financial challenges facing energy and natural resources-related projects in Louisiana. This plan will also outline the authority's goals and strategies to address these challenges.
2. **Governance and Operations:** The authority operates under the State Mineral and Energy Board and collaborates with the State Bond Commission and the Louisiana Department of Treasury. It is granted a range of powers to manage its responsibilities effectively, including setting financial obligations for operators or applicants, indemnifying its members, and entering into necessary contracts and agreements.
3. **Financial Management:** The authority can solicit, accept, and expend grants to support its activities. It is also empowered to establish rules and regulations for managing financial obligations, such as:
 - Setting residency requirements and limits on participation and account accruals.
 - Regulating financial instruments to meet plugging or abandonment obligations.
 - Setting interest rates with the approval of the state treasurer.
 - Handling abandoned accounts as per legal provisions.
 - Adopting investment guidelines.
 - Establishing procedures and standards for evaluating the worthiness of applications.
 - Implementing necessary fees and other provisions to facilitate the authority's functions.

Overall, the law aims to ensure the efficient and effective management of financial resources and obligations related to energy and natural resources projects, thereby supporting the sustainable development and regulation of these sectors in Louisiana.



DRAFT
INTERNAL WORKING DOCUMENT
REVIEW BEFORE RELEASE



Current Financial Security Arrangements

Effective management of financial security arrangements is essential for mitigating risks associated with energy and natural resources projects. The LNRTA will oversee financial security across various divisions within the Department of Energy and Natural Resources (DENR), each with specific requirements tailored to its operational context. Below is a summary of current financial security arrangements:

- **Engineering Division** - In the Engineering Division, financial security is essential for newly drilled wells and when a new operator takes over existing wells. This security ensures the state has the necessary funds for well closure and site restoration activities. Operators are required to provide financial security to guarantee proper well closure and site restoration, complying with regulatory standards. Accepted methods include certificates of deposit, performance bonds, and letters of credit, with the required amount based on the well's location and depth. These measures serve as a crucial safeguard against the financial risks of well abandonment and environmental remediation, reassuring the state and local communities that operators can meet their regulatory obligations.
- **Environmental Division** - The Environmental Division imposes stringent financial responsibility requirements on commercial facilities and transfer stations to mitigate liability for damages caused by material discharge. Operators must provide evidence of financial responsibility, typically in the form of bonds, letters of credit, or certificates of deposit, prior to permit issuance. Closure funding is also mandatory to ensure proper site closure, with operators required to maintain bonds or letters of credit as evidence of financial responsibility. Furthermore, operators must submit closure cost estimates annually for reassessment, reflecting a commitment to adapting financial security arrangements to changing operational and environmental conditions.
- **Injection and Mining Division**
 - **Class I Non-Hazardous Wells - Financial Responsibility:** The permit requires the permittee to maintain financial responsibility and resources to close, plug, and abandon the underground injection wells as prescribed by the commissioner. Evidence of financial responsibility must be shown to the commissioner through the submission of a surety bond or other adequate assurances such as financial statements.
 - **Class I Hazardous Wells - Financial Responsibility:** The permit mandates that the permittee maintain financial responsibility and resources to close, plug, abandon, and provide post-closure care for Class I hazardous waste injection wells as prescribed by the commissioner. Evidence of financial responsibility must be provided by submitting a surety bond or other acceptable materials.
 - **Class II Enhanced Oil Recovery (EOR) and Saltwater Disposal (SWD) Wells - Financial security measures are required to ensure well plugging, abandonment, and site restoration. Operators can comply with these requirements through various means, including a certificate of deposit, a performance bond, a letter of credit, or a site-specific trust account.**

The required amounts for financial security depend on the well's location and depth. For land locations, individual wells require security based on their measured depth: \$2 per foot for wells less than 3,000 feet, \$5 per foot for wells between 3,001 and 10,000 feet, and \$4



DRAFT
INTERNAL WORKING DOCUMENT
REVIEW BEFORE RELEASE



per foot for wells deeper than 10,000 feet. Blanket financial security for operators with multiple wells is set at \$50,000 for up to 10 wells, \$250,000 for 11 to 99 wells, and \$500,000 for 100 or more wells.

For water locations, specifically inland lakes and bays, individual wells require \$8 per foot of well depth. Blanket financial security in these areas is \$250,000 for fewer than 10 wells, \$1,250,000 for 11 to 99 wells, and \$2,500,000 for 100 or more wells. Offshore water locations demand \$12 per foot of well depth for individual wells. The blanket financial security amounts are \$500,000 for up to 10 wells, \$2,500,000 for 11 to 99 wells, and \$5,000,000 for 100 or more wells.

- Class II Hydrocarbon Storage Cavern Wells - Financial Responsibility - The owner/operator must maintain financial responsibility to close, plug, abandon, and conduct post-closure care for the hydrocarbon storage well, cavern, and related facilities. Evidence of financial responsibility includes surety bonds, letters of credit, certificates of deposit, or other acceptable instruments. The amount of funds must meet the cost estimate of the closure and post-closure plans. Financial instruments must be issued by authorized financial institutions. Operators must increase financial security if required, within 30 days after notice from the commissioner.
- Class III Solution-Mining Wells - Financial Responsibility - The owner/operator must maintain financial responsibility to close, plug, abandon, and conduct post-closure care for the solution-mining well, cavern, and related facilities. Evidence includes surety bonds, letters of credit, certificates of deposit, or other acceptable instruments. Funds must cover the cost estimate of the closure and post-closure plans. Financial instruments must be issued by authorized financial institutions. Operators must increase financial security if required, within 30 days after notice from the commissioner.
- Class V Monitor, Remediation, and Stratigraphic Test Wells - Financial Responsibility - The permit requires the permittee to maintain financial responsibility and resources to close, plug, and abandon the wells as prescribed by the commissioner. Evidence of financial responsibility must be shown through the submission of a surety bond or other acceptable assurances
- Class VI Carbon Sequestration Wells - Financial Responsibility - The permit requires the permittee to maintain financial responsibility and resources to close, plug, abandon, and provide post-injection site care and closure for the wells and related surface facilities. Evidence includes a certificate of deposit, performance bond, letter of credit, site-specific trust account, or other acceptable instruments. Funds must meet the cost estimate of the closure and post-injection site care plans. Financial instruments must be issued by authorized financial institutions.
- Surface Mining Financial Surety Rules - Requirement to File a Bond - After permit application approval, the applicant must file a performance bond payable to the Office of Conservation before the permit is issued. The bond ensures faithful performance of all requirements of the Act, regulatory program, permit, and reclamation plan.



DRAFT
INTERNAL WORKING DOCUMENT
REVIEW BEFORE RELEASE



- **Renewable Energy** - Recent statutory changes introduced financial security mechanisms for solar power generation facilities, emphasizing direct engagement with landowners or lessors. Comprehensive compliance requirements, disaster planning mandates, and periodic plan updates underscore the State's commitment to sustainable development and risk mitigation in the renewable energy sector. By requiring solar developers to provide financial security directly to landowners or lessors, the State seeks to ensure that adequate funds are available for site closure and restoration activities, thereby reducing the burden on taxpayers and local communities.

Benefits of Centralized Oversight

Establishing a centralized authority, such as the LNRTA, to oversee financial security arrangements across divisions offers several potential benefits:

- **Streamlined Processes** - Centralizing financial security oversight under a single authority enables standardization of practices, harmonization of requirements, and streamlining of administrative processes. Operators benefit from clearer guidelines, simplified compliance procedures, and reduced administrative burdens, enhancing regulatory efficiency and effectiveness.
- **Enhanced Coordination** - A centralized authority facilitates improved coordination and collaboration among regulatory bodies, divisions, and stakeholders involved in financial security oversight. By fostering communication, information sharing, and collaboration, the LNRTA can enhance regulatory coherence, consistency, and responsiveness, promoting a more cohesive and integrated approach to risk management.
- **Improved Transparency and Accountability** - Centralized oversight promotes transparency and accountability in financial management practices by establishing clear lines of responsibility, accountability, and reporting. Operators, regulators, and stakeholders have greater visibility into financial assurance requirements, mechanisms, and outcomes, enhancing trust, confidence, and public oversight of regulatory processes.
- **Strengthened Enforcement** - Centralizing enforcement mechanisms under the LNRTA enables more effective monitoring, enforcement, and compliance assurance. By consolidating enforcement authority and resources, the LNRTA can enhance regulatory oversight, deter non-compliance, and expedite enforcement actions, ensuring timely and effective response to violations and emerging risks.
- **Enhanced Risk Management** - A centralized authority facilitates comprehensive risk assessment, monitoring, and mitigation strategies, enabling proactive identification and management of financial risks. By leveraging data analytics, risk modeling, and predictive analytics, the LNRTA can enhance risk awareness, resilience, and preparedness, safeguarding against potential liabilities and systemic risks.
- **Promoting Innovation and Best Practices** - Centralized oversight fosters innovation, knowledge sharing, and best practices dissemination across divisions and sectors. By serving as a hub for



DRAFT
INTERNAL WORKING DOCUMENT
REVIEW BEFORE RELEASE



research, innovation, and capacity-building initiatives, the LNRTA can promote continuous improvement, adaptive management, and resilience-building efforts, driving innovation and sustainability in the energy and natural resources sectors.

In conclusion, centralizing financial security oversight under the LNRTA offers an opportunity to address the fragmented approach to financial security arrangements, enhance regulatory coherence, and promote sustainable development across Louisiana's energy and natural resources sectors. By leveraging the benefits of centralized oversight, Louisiana can strengthen regulatory effectiveness, promote investor confidence, and advance its commitment to environmental stewardship and economic prosperity.

Recommendations

The recommendations outlined below are intended as suggestions for the LNRTA to consider and explore further. They are not recommendations for immediate implementation but rather potential options for the LNRTA to evaluate in the context of enhancing financial management and supporting sustainable development.

- **Establishment of Separate Fund** - To enhance transparency and accountability, consider establishing a dedicated account specifically earmarked for financial security funds. This would streamline fund management processes and ensure clear segregation of collected financial security from other operational funds, facilitating effective oversight and regulatory compliance.
- **Cash Equivalent for Financial Security** - Currently, financial security for new permits is pledged to the Office of Conservation through a letter of credit, a Pledge of Certificate of Deposit (CD), or a performance bond, with physical funds maintained outside our office and collected only if an operator is non-compliant. The Office of Conservation has encountered issues enforcing the collection of the Pledge of CDs. We should explore the possibility of requiring operators to replace the Pledge of CD with a letter of credit or performance bond, or remit the face value as cash to be managed in a separate escrow account. This approach would simplify the enforcement process, provide immediate access to funds when needed, and ensure more reliable financial security. Additionally, managing these funds as cash in a separate account would enhance transparency and better reflect the distinct nature of these financial securities.
- **Indexing Coupon Rate to Inflationary Rate** - Consider indexing the coupon rate (interest rate) of financial security instruments to an inflationary rate to maintain purchasing power over time. This could involve selecting a suitable benchmark, such as the Consumer Price Index (CPI) or the yield curve of a 10-year corporate bond, to adjust the coupon rate periodically in line with changes in inflation.
- **Managing Financial Security in High Inflationary Eras** - Considers strategies for managing financial security requirements during periods of high inflation. This may involve adjusting financial security amounts or exploring inflation-indexed instruments to maintain the adequacy of financial assurances relative to evolving economic conditions.



DRAFT
INTERNAL WORKING DOCUMENT
REVIEW BEFORE RELEASE



- **Interest Spread Management** (specifically related to LORA Financial Security) - Proposes keeping the interest spread, or the difference between the interest earned on financial security instruments and the rate paid to operators, within the Oilfield Site Restoration Fund. This approach allows for the claw back of most of the interest spread, potentially increasing the funds available for orphan well restoration and other initiatives.
- **Elimination of Blanket Bonds** - Consider eliminating blanket bonds, which provide coverage for multiple wells under a single financial security instrument. This streamlines the financial security process and may enhance transparency and accountability in managing individual well liabilities.
- **Insurance Instrument and Planned Escrow** - Explores the possibility of implementing insurance instruments or planned escrow mechanisms as alternative forms of financial security. These instruments could offer flexibility and efficiency in managing financial assurances while addressing contingent liabilities associated with asset transactions.
- **Cash Equivalent - further analysis**
 - Cash equivalents provide greater stability and predictability in financial management, as they are less susceptible to market fluctuations and valuation uncertainties compared to pledged CDs. By maintaining a dedicated cash reserve or liquidity pool, the LNRTA can ensure a reliable source of funds for well closure, site restoration, and environmental remediation activities, minimizing disruptions and uncertainties in regulatory enforcement.
 - Well-Specific Cash Equivalents - Develop a system where each well is associated with a designated cash equivalent account. This ensures that the funds allocated for financial security are directly linked to the liabilities of individual wells.
 - Escrow Accounts - Establish escrow accounts with financial institutions where cash equivalents are held for specific wells. Operators deposit funds into these accounts, which are earmarked for well-related financial security obligations.
 - Regulatory Reporting and Auditing - Implement stringent reporting and auditing requirements to track the movement and utilization of cash equivalents tied to specific wells. Regular audits verify compliance and prevent misuse of funds.
 - Financial Assurance Agreements - Develop customized financial assurance agreements between operators and regulatory authorities, specifying the allocation and management of cash equivalents for each well.
 - Integration with Regulatory Platforms - Integrate cash equivalent management systems with existing regulatory platforms to streamline monitoring, reporting, and enforcement processes. This facilitates seamless communication between operators, regulators, and financial institutions.
- **Insurance Instrument - further analysis**

Setting up insurance instrument for financial security involves establishing well-specific reserves that operate akin to insurance policies tailored to individual wells. Engaging with the Department



DRAFT
INTERNAL WORKING DOCUMENT
REVIEW BEFORE RELEASE



of Insurance will be crucial to ensure that these mechanisms are effectively implemented and regulated. Here's how this approach could be implemented:

- Individual Well Coverage - Treat each well as an individual policyholder, requiring operators to maintain dedicated cash reserves or financial instruments equivalent to the coverage needed for that specific well's liabilities. This ensures that the financial security is directly aligned with the risks associated with each well.
- Risk Assessment and Premium Calculation - Conduct a comprehensive risk assessment for each well, considering factors such as depth, location, operational history, and environmental sensitivity. Similar to life insurance underwriting, calculate the required coverage amount (premium) based on the assessed risk profile of the well. This task would be extensive and would involve collecting substantial data on each well's characteristics and potential performance.
- Actuarial Analysis and Reserve Management - Employ actuarial analysis techniques to estimate future liabilities and determine the appropriate level of reserves needed for each well. Continuously monitor and adjust the reserves based on changes in well conditions, regulatory requirements, and industry standards.
- Premium Payments - Operators would make periodic premium payments into the cash equivalent reserves, similar to paying insurance premiums. The frequency and amount of payments could be determined based on the assessed risk and regulatory requirements. Explore the feasibility of redirecting a portion of severance taxes to contribute to the reserves, providing a steady funding stream.
- Coverage Terms and Conditions - Define the terms and conditions of coverage, specifying the scope of liabilities covered, including well closure, plugging, abandonment, environmental remediation, and post-closure monitoring. Ensure that the coverage terms are transparent and standardized across all well-specific policies.
- Claims and Payouts - In the event of well closure, abandonment, or environmental remediation, operators can file claims against the cash equivalent reserves to cover the associated costs. Regulatory authorities would assess the validity of claims and authorize payouts accordingly, ensuring that funds are used for their intended purposes.
- Regulatory Oversight and Compliance - Regulators would oversee the establishment and management of cash equivalent reserves, ensuring that operators comply with the prescribed coverage requirements. Implement reporting mechanisms and audits to verify the adequacy and utilization of reserves.
- Risk Pooling and Reinsurance - Explore options for risk pooling among operators or obtaining reinsurance to mitigate individual operator risk and ensure the availability of funds for larger-scale liabilities or catastrophic events.



DRAFT
INTERNAL WORKING DOCUMENT
REVIEW BEFORE RELEASE



- Long-Term Sustainability - Ensure the long-term sustainability of the cash equivalent reserves by incorporating provisions for inflation adjustment, investment income, and reserve replenishment to maintain the solvency of the reserve pool over time.

By adopting a structure similar to life insurance, the establishment of cash equivalents for financial security can provide a robust mechanism for managing well-specific liabilities in the oil and gas industry. This approach enhances transparency, accountability, and financial stability, contributing to environmental protection and regulatory compliance.



Jeff Landry
Governor

State of Louisiana

OFFICE OF THE GOVERNOR
P.O. BOX 94004
BATON ROUGE
70804-9004

To: Mr. Mark Normand, Natural Resources Trust Authority Working Group

From: J. Clay Parker

Date: July 12, 2024

Re: Outstanding Questions from NRSC

Dear Mr. Normand:

Thank you very much for your service and assistance in leading the Natural Resources Trust Authority(NRTA) working group through the first Natural Resources Steering Commission(NRSC) meeting. Your presentation was very informative and will be of great assistance to the Commissioners as they deliberate over reorganization under Executive Order JML 24-13. After the presentation and close of public comment, some questions have arisen from the Commissioners and the public regarding your presentation. Given that you are the subject matter expert on the NRTA, I would like to request some information from you. I have attached the questions from the NRSC, from the public, and other outstanding questions in the following paragraphs. Please review and respond to these questions by July 19, 2024.

Questions from Commission Members

1. How can the NRTA take the current interest-bearing system and invest those monies in such a way as to earn more interest and provide more capital?

Questions from Public

1. Can the NRTA be expanded to include providing financing to industry? Is this advisable?

Other Outstanding Questions

1. Will additional staff be necessary to manage the NRTA, such as an Executive Director?
2. Will collaboration with the departments of Treasury and Insurance be necessary to create the financial securities envisioned in the NRTA?
3. Are the current financial security requirements in statute or administrative rule?

Again, thank you for your assistance and service in this process so far. Please review and respond to these questions by July 19, 2024. I will forward your answers to the Commissioners and let you know if they have any further questions. In the meantime, if you have any questions, comments, or concerns, please do not hesitate to let me know.



Jeff Landry
Governor

State of Louisiana

OFFICE OF THE GOVERNOR
P.O. BOX 94004
BATON ROUGE
70804-9004

Sincerely,

A handwritten signature in blue ink, appearing to read "J. Clay Parker", is written over the word "Sincerely,".

J. Clay Parker

JEFF LANDRY
GOVERNOR



TYLER PATRICK GRAY
SECRETARY

MARK NORMAND, JR.
UNDERSECRETARY

State of Louisiana
DEPARTMENT OF ENERGY AND NATURAL RESOURCES
OFFICE OF MANAGEMENT AND FINANCE

July 25, 2024

Mr. J. Clay Parker
Special Counsel
Office of the Governor
Natural Resources Steering Commission

Dear Mr. Parker:

Please find below my responses to the outstanding questions listed in your memorandum dated July 12, 2024. Let me know if you have any questions about these responses.

Questions from Commission Members

1. How can the NRTA take the current interest-bearing system and invest those monies in such a way as to earn more interest and provide more capital?

Optimizing how the NRTA can enhance its interest-bearing system to earn more interest and provide more capital is a complex challenge that requires a deep understanding of financial markets and investment strategies. This would necessitate engaging with the Louisiana Department of Treasury and financial experts specializing in public fund management. They could conduct a comprehensive analysis of the NRTA's revenue and explore various avenues such as diversified investments, risk management techniques, and strategic asset allocation to enhance potential returns and increase capital.

Questions from Public

1. Can the NRTA be expanded to include providing financing to industry? Is this advisable?

The possibility of expanding the NRTA's role to directly finance industry projects within Louisiana's energy and natural resource sectors is certainly worth considering. This could provide companies with greater access to capital, potentially at lower interest rates, and encourage investment in cleaner technologies or responsible development projects aligned with the state's conservation goals.

However, venturing into industry financing presents potential challenges. Conflicts of interest could arise if the NRTA oversees financial security compliance for companies it also finances. Direct government involvement might also distort competition in the private lending market, potentially harming smaller companies or those without connections to the NRTA.

Before moving forward, a comprehensive analysis would be necessary. Clearly defined criteria for project selection would be crucial to ensure financing aligns with the NRTA's core mission and avoids favoritism. An assessment of existing financing options would ensure the NRTA complements, not replaces, private sector lenders. Robust risk management strategies and transparent disclosure procedures would also be essential to safeguard public trust and financial sustainability. Ultimately, while industry financing holds potential benefits, a thorough evaluation of potential drawbacks is necessary to determine the best path forward for the NRTA.

Other Outstanding Questions

1. Will additional staff be necessary to manage the NRTA, such as an Executive Director?

The NRTA's establishment will necessitate additional staff to manage its operations effectively. The Civil Service Commission has already approved the creation of an Executive Director position within the Unclassified Service. This key leadership role will be instrumental in setting the NRTA's direction, overseeing its day-to-day operations, and building relationships with stakeholders.

Initially, the focus will be on establishing core functionalities and priorities for the NRTA. However, as the specific functions and scope of the NRTA's work develop, further staffing needs will likely be identified. This may involve adding personnel with expertise in financial management, risk assessment, legal affairs, or industry regulations, depending on the specific direction the NRTA takes. A flexible and adaptable staffing approach will be crucial to ensure the NRTA has the resources necessary to fulfill its mandate.

2. Will collaboration with the departments of Treasury and Insurance be necessary to create the financial securities envisioned in the NRTA?

Collaboration with the Department of Treasury and the Department of Insurance will be critical. Their expertise in financial management, risk mitigation, and insurance regulation is crucial for establishing an appropriate financial security framework.

The Treasury Department brings experience in cash flow management and investment strategies. They can advise and/or be responsible for selecting secure and potentially profitable investments for financial security funds, implementing strong accounting practices, and establishing efficient collection and disbursement mechanisms. Their risk management experience can also be valuable in developing frameworks for

managing the financial security portfolio and mitigating risks associated with economic fluctuations.

The Department of Insurance offers expertise in risk assessment, underwriting, and insurance instruments. They can assist the NRTA in developing risk-based financial security requirements, evaluating operator financial health, and exploring the feasibility of insurance-based solutions or risk pooling mechanisms. Their experience in regulatory oversight and compliance can be applied to developing clear regulations for alternative financial security instruments and implementing robust monitoring and dispute resolution procedures.

3. Are the current financial security requirements in statute or administrative rule?

Financial security requirements are established through a combination of law (L.A.R.S. 30:4 & 30:4.3) and administrative rule (Chapter 104 of Title 43, Part XIX of the Louisiana Administrative Code).

The law establishes the foundation in L.A.R.S. 30:4(R). This statute empowers the Commissioner of Conservation to create rules and regulations requiring reasonable financial security for plugging abandoned wells, performing site cleanup, and ensuring compliance. The law also allows for exceptions based on well location and specific circumstances. **L.A.R.S. 30:4.3 further details the financial security requirement.** It mandates that applicants for drilling permits or those seeking a change of operator provide financial security in a form approved by the Commissioner of Conservation.

To implement these legal requirements, the Office of Conservation established additional regulations. Chapter 104 of Title 43, Part XIX of the Louisiana Administrative Code was created under the authority of the Administrative Procedure Act. These regulations specify the exact amounts of financial security required based on well location, depth, and other factors.

Sincerely,



Mark Normand, Jr., Undersecretary
Department of Energy Natural Resources