

Legislative Report

Legacy Fund Changes Proposed

Many bills being debated this session are aimed at making changes to the Legacy Fund. Originally approved by voters in 2010, the Legacy Fund was developed to ensure a portion of the state's revenues would be set aside for the long-term financial well-being of the state. The 2021 session [established a framework](#) for the utilization of the Legacy Fund earnings to support initiatives, programs and projects that benefit North Dakota both in the present and future. This included payment of bonds issued for large infrastructure projects as well as further investment in the Highway Tax Distribution Fund.

Several bills introduced this session would alter and, in some cases, expand the initiatives that could be funded with earnings from the Legacy Fund. These additional initiatives include: workforce development; infrastructure to enhance value-added agriculture development; research into ways to diversify North Dakota's economy; [funding for county and township bridges \(HB 1379\)](#); tax relief [\(SB 2309\)](#); addressing, at least in part, the unfunded liability of the public employees retirement systems (PERS) [\(HB 1040\)](#); and housing [\(SB 2220\)](#). We expect continued debate on the use of Legacy Fund earnings throughout the legislative session.

Revenue Forecast

Both the House and Senate Appropriations Committees adopted preliminary revenue forecasts as they begin work on state government budget bills. The forecast anticipates just over \$5 million in general fund revenue. The forecast also expects 1.1 million barrels per day in oil production and per barrel price at \$65-70 for the 2023-2035 biennium. The preliminary forecast suggests \$460 million in the Resources Trust Fund for the biennium.

Bill Deadlines

The House of Representatives reached its deadline for introducing bills on Wednesday, Jan. 18, and the Senate's deadline is approaching on Monday, Jan. 23. While this means no additional bill will be introduced after the senators' deadline is reached next week, many bills are amended and changed throughout the remainder of the session. We will continue to monitor the bills of interest to our organization and provide information on changes to those bills in the weekly reports.

2022 Convention Videos Available

The presentations made at the Joint Water Convention this past December were recorded and are now available via the [ND Water YouTube channel](#).

Water Funding

SB 2020 DWR/SWC Funding

Support

SB 2020 is the appropriations bill for the Department of Water Resources and State Water Commission. The Senate Appropriations Education and Environment Division began its work on SB 2020 on Jan. 19 with all day testimony from water projects seeking funding.

Hearing held, Senate Appropriations' E&E Division, Jan. 19

SB 2017 Game and Fish Department

Monitor

SB 2017 is the appropriations bill for the Game and Fish Department, including funding for aquatic nuisance species prevention. The Senate Appropriations Committee received a report from the Game and Fish Department on the governor's budget proposal for the department. The governor's proposed budget recommends funding for the Game and Fish's aquatic nuisance species (ANS) line item totaling almost \$3 million. This includes funding for 1 FTE. The almost \$1.5 million increase from current funding will come from federal funds from the US Army Corps of Engineers and additional funding from the Game and Fish Department. This funding will be for more inspection facilities and activities. The governor's proposal also includes \$850,000 for an aquatic nuisance species lab and storage facility in Jamestown. The Education and Environment divisions will hear testimony on SB 2017 on Jan. 25.

Hearing scheduled, Appropriations' E&E Division, Jan. 25

HB 1286 Oil Tax Trigger

Monitor

HB 1286 would remove the trigger which increases the tax rate paid when oil prices get above \$90 per barrel for three consecutive months. The trigger was reached this summer and resulted in greater than expected revenue in the Resources Trust Fund, among other state government funds.

Referred to House Finance and Taxation Committee

HB 1385 Tribal Eligibility for SWC Funds

Support

HB 1385 would include tribes in the list of entities eligible for cost share from the State Water Commission.

Referred to House Energy and Natural Resources

SB 2196 WAWS Oversight and Loans and NAWS Line of Credit

Monitor

SB 2196 would move oversight of WAWS from the Industrial Commission to the State Water Commission. It also provides for forgiveness of interest for WAWS loans and stipulates that interest on WAWS loans should be the same as what other North Dakota governmental entities receive. The bill also renews the line of credit available for NAWS. This bill was heard by the Senate Energy and Natural Resources Committee on Jan. 20. The North Dakota Water Users submitted testimony in favor of SB 2196.

Passed, Senate Energy and Natural Resources, 6-0

Water Resource Districts

HB 1073 Operations Plans for Dams

Monitor

HB 1073 removes an existing requirement that operators of dams submit an operating plan to the Department of Water Resources.

Passed, House, 93-0, January 12

HB 1076 Permit Thresholds for Dams and Dikes

Support

HB 1076 creates a tiered regulatory framework for dikes based on what the dike is protecting and not a specified volume. It does this by eliminating the requirement for a professional engineer for the construction of agricultural dikes and farmstead ring dikes, increasing the threshold for requiring a construction permit for an agricultural dike from 50 acre-feet volume protected to 80 acres or more protected area, and requiring construction permits for construction of municipal dikes if they are protecting residences or occupied structures. HB 1076 was heard by the House Energy and Natural Resources Committee and was given a “do pass” recommendation. The Water Resource Districts Association submitted testimony in favor of the bill.

Passed the House, 91-0, January 16

HB 1239 Subsurface Drainage Notification

Support

HB 1239 would renew legislation passed during the 2021 session that requires landowners to notify water resource districts when they are conducting a subsurface drain project that is under 80 acres. The notification requirement that was passed in 2021 will sunset if this legislation does not pass.

Referred to the House Agriculture Committee

HB 1391 Assessment Authorities

Oppose

HB 1391 would require water resource districts publish and distribute meeting minutes within 72 hours after a meeting. It would also alter the trigger for when projects that are cleaning or repairing a drain have to go to a public vote. Currently, these projects only go to a vote when the cost of the project, minus dollars received for sources other than annual levies, exceeds the amount the board receives over six years in annual levies. This proposal would require projects that cost more than that six-year max, regardless of other funds, to go to a vote. For example, if a drain reconstruction project will cost \$1M, but the WRD gets \$999K from outside sources (water cost share, etc.), and only \$1K of the costs will come from the drain fund, the project would still require a vote because the total cost exceeds the six-year max (\$600K).

Referred to the House Energy and Natural Resources Committee

SB 1462 Appeals from a Local Governing Body

Oppose

SB 1462 would require a local board to serve a decision of the board on every entity impacted by a decision. Additionally, it would clarify the ability for the court to award attorney’s fees if a board loses an appeal at the district court level.

Referred to House Political Subdivisions Committee

[SB 2036](#) Drainage Statute Clean Up

Support

SB 2036 is the clean-up bill put together by the interim drainage committee. This bill combines the current two chapters of code that deal with assessment projects into one chapter and makes some updates to the assessment process. The committee made a slight amendment to the bill to update a reference to the Department of Water Resources and fix a drafting error. The committee passed the bill unanimously.

Amended and passed, Senate Agriculture Committee, 6-0, Jan. 20

[SB 2037](#) Economic Analysis for Drainage Projects

Oppose

SB 2037 is the proposed economic analysis bill from the interim drainage committee. This bill would require water resource districts to conduct an in-depth economic analysis on every parcel proposed to be part of an assessment district.

Referred to the Senate Agriculture Committee

[SB 2326](#) Economic Analysis Threshold for SWC Cost Share

Support

SB 2326 would clarify that the State Water Commission could only require an economic analysis on flood control and water conveyance projects above \$1 million. This would remove the SWC's ability to lower that threshold via policy as is current practice.

Referred to Senate Energy and Natural Resources

Irrigation

[HB 1020](#) 2023-2025 SBARE Funding Priorities

Support

HB 1020 includes appropriations for NDSU Agriculture Research and Extension, including the 2023-2025 priorities for the State Board of Agricultural Research and Education (SBARE) priorities. SBARE priorities include infrastructure for the Nesson Valley Irrigation Research and Demonstration Project. The Irrigation Association submitted testimony in support of HB 1020. The House Appropriation's Government Operations Division will begin working on the bill on Jan. 25.

Hearing held, House Appropriations' Government Operations Division, Jan. 16

[HB 1074](#) Informational Hearings related to Water Permit Applications

Support

HB 1074 clarifies that informational hearings related to water permit applications are more appropriately referred to as public hearings for the public to provide input to the Department of Water Resources. The Irrigation Association testified in support of this bill

Passed, House, 93-0, Jan. 17

[HB 1075](#) Public Hearing on Water Permit Cancellations

Support

HB 1075 removes the requirement that the Department of Water Resources hold a public hearing on a water permit cancellation. Instead, the bill would institute a public notice and comment period to allow feedback on a cancellation. The DWR believes this change will speed up the cancellation process. The Irrigation Association testified in support of this bill.

Passed, House, 92-1, Jan. 17

[HB 1247](#) Property Tax Exemption for Elevators and Potato Warehouses **Monitor**
HB 1247 would treat property that is zoned commercial property, but is now privately owned and houses a grain elevator or potato warehouse, as agricultural property for tax purposes.

Hearing held, House Finance and Taxation Committee, Jan. 16

Atmospheric Resources

[HB 1166](#) Weather Modification **Oppose**
HB 1166 would prohibit state cost share for weather modification unless counties adjoining the county conducting the activity agrees. The ND Weather Modification Association testified in opposition.

Hearing held, House Agriculture Committee, Jan. 13

Other Bills of Interest

[HB 1038](#) Statute Technical Corrections **Monitor**
HB 1038 updates one outdated reference to the Office of the State Engineer.

Passed by the House, 91-1, Jan. 10

[HB 1072](#) Technical Corrections **Monitor**
HB 1072 updates some references to the State Water Commission in the Atmospheric Resource Board's statutes.

Passed, House, 93-0, Jan. 17

[HB 1077](#) Water Storage Contracts **Support**
HB 1077 adds a requirement that a federal agency completing a water storage contract with an entity within North Dakota must provide the Department of Water Resources a copy of the contract. The ND Water Users Association testified in support of this bill. The Committee amended the bill to require entities to notify the DWR within 60 days of beginning discussions and keep in contact with the DWR throughout the negotiations.

Amended and passed, House Energy and Natural Resources Committee, 12-0, Jan. 19

[HB 1098](#) Floodplain Management Ordinances **Monitor**
HB 1098 clarifies when communities that fail to adopt or enforce floodplain management ordinances are prohibited from receiving funds.

Passed, House, 91-1, Jan. 10

[HB 1118](#) Income Tax Credit **Monitor**
HB 1118 would provide a \$750 tax credit for single filers and a \$1,500 tax credit for joint filers.

Heard, House Finance and Taxation Committee, Jan. 11

[HB 1158](#) Income Tax Rate

Monitor

HB 1158 would lower the income tax rate to a flat 1.5%.

Heard, House Finance and Taxation Committee, Jan. 11

[HB 1217](#) Northern Red River Flooding

Monitor

HB 1217 would appropriate more than \$37 million to the Department of Transportation to begin working on a comprehensive transportation plan to address flooding in the northern part of the Red River valley.

Referred to the House Appropriations Committee

[HB 1218](#) NAWS Authority

Monitor

HB 1218 would make the current Northwest Area Water Supply (NAWS) advisory committee an authority. It would also change the makeup of the Authority and stipulate that authority members are appointed by the state water commission. The North Dakota Water Users submitted testimony in favor of HB 1218.

Hearing held, House Energy and Natural Resources Committee, Jan. 19

[HB 1379](#) Legacy Fund Earnings

Monitor

HB 1379 would change the current "streams" that Legacy Fund earnings go into. Last session, the legislature established certain priorities that would be funded with Legacy Fund earnings. This would make a few changes to that, expanding priorities to include value-added agriculture, county and township bridges, and workforce development.

Referred to the House Appropriations Committee

[HB 1384](#) Assessment Damages in Eminent Domain

Monitor

HB 1384 would direct a court to increase the damages award in an eminent domain case by 33% above what was established by the court.

Referred to the House Energy and Natural Resources Committee

[SB 2029](#) Caps for Emergency Commission and Budget Section Approvals

Monitor

SB 2029 changes the caps on approvals from the Emergency Commission and Budget Section. Last session, the legislature placed dollar amount caps on these approvals. This bill seeks to change that to a percent of the budget approved by the legislature. This bill was amended in committee to add an emergency clause. An emergency clause would allow the bill to come into effect sooner.

Passed, Senate, 45-1, Jan. 12

[SB 2097](#) Wild and Scenic River Designations

Support

SB 2097 would require anyone seeking a wild, scenic or recreational river designation notify the department of water resources, the local water resource district and other interested state and local entities prior to seeking the designation. The North Dakota Water Users testified in support of this bill. The committee amended the bill to add some legislators and grazing associations to the organizations that receive notification.

Passed, Senate 45-2, January 11

SB 2113 Flexible Transportation Fund

Monitor

SB 2113 would create a flexible transportation fund to hold federal, state, or private dollars to fund road and bridge construction and maintenance and to match available federal funds. If passed, it is anticipated that some motor vehicle excise tax dollars and general funds could be put in this fund.

Passed, Senate 46-0, Jan. 12

SB 2192 Term Limits

Monitor

SB 2192 would authorize an interim study to look at the impact term limits will have on the legislature and make recommendations to the next legislative assembly.

Passed, Senate, 47-0, Jan. 19

SB 2251 Land Access for Eminent Domain Proceedings

Monitor

SB 2251 would require an entity to receive written permission, or a court order, to access a landowner's property to conduct surveys.

Hearing scheduled, Senate Energy and Natural Resources Committee, Jan. 26

SB 2313 Assessment Damages in Eminent Domain

Monitor

SB 2313 would direct a court to increase the damages award in an eminent domain case by 33% above what was established by the court.

Hearing scheduled, Senate Energy and Natural Resources Committee, Jan. 26

SB 2333 Annual Sessions

Monitor

SB 2333 would allow for the legislature to meet annually.

Hearing scheduled, Senate State and Local Government Committee, Jan. 27

HCR 3005 Special Session for Consideration of Vetoes

Monitor

HCR 3005 would require the governor to call the legislature into session to consider vetoes if the Governor vetoes a bill after the legislature has adjourned.

Hearing scheduled, House Government and Veterans Affairs Committee, Jan. 26

Hearing Schedule (January 23-27)

| <u>Date and Time</u> | <u>Bill Number</u> | <u>Short Title</u> | <u>Committee</u> | <u>Room</u> |
|----------------------------|--------------------------|--|--|------------------|
| 01/25/20 23 02:00 PM | <u>HB</u> <u>1020</u> | A BILL for an Act to provide an appropriation for defraying the expenses of the North Dakota state university extension service, northern crops institute, upper great plains transportation institute, main research center, branch research centers, and | House Appropriation s - Government Operations Division | Brynild Haugland |

| | | | | |
|---------------------|-----------------|--|--|--------------|
| | | agronomy seed farm; to provide for a report; and to provide an exemption. | | |
| 01/25/2023 02:00 PM | <u>SB 2017</u> | A BILL for an Act to provide an appropriation for defraying the expenses of the game and fish department. | Senate Appropriations - Education and Environment Division | Sakakawea |
| 01/26/2023 09:00 AM | <u>SB 2251</u> | Relating to the surveying process during eminent domain proceedings; and to declare an emergency. | Senate Energy and Natural Resources | Peace Garden |
| 01/26/2023 09:30 AM | <u>SB 2313</u> | Relating to eminent domain and the assessment of damages. | Senate Energy and Natural Resources | Peace Garden |
| 01/26/2023 10:30 AM | <u>HCR 3005</u> | Relating to requiring the governor to call a special session of the legislative assembly to consider a veto if the governor vetoes a bill or item when the legislative assembly is not in session. | House Government and Veterans Affairs | Pioneer |
| 01/27/2023 09:00 AM | <u>SB 2333</u> | Relating to annually reconvened sessions of the legislative assembly. | Senate State and Local Government | 216 |

How to Submit Testimony This Session

During this Legislative Session, individuals and organizations still can [testify](#) at committee hearings both in person and virtually. This session, however, the permitting of virtual testimony is left to the discretion of each committee chairperson. An instructional video on how to submit written and oral testimony remotely in a committee hearing is available on the Legislative Branch [website](#). To view the video, [click here](#).

How to Contact Your Legislators

During the session, legislators can be reached by email, phone or mail as listed in the legislator's online bio: [Senate](#) or [House](#). Detailed information on legislative activities is available on the [Legislative Assembly website](#).

Legislative Calendar

- Jan. 23: Deadline for senators to introduce bills
- Feb. 24: Crossover
- February 27-28: Recess
- April 28: Final day of session (limited to 80 legislative days)

For more details, check out the complete list of [legislative deadlines](#).