

Legislative Report

I. This Week at the Legislature

Conference committees on policy bills began meeting this week, while Appropriations Committees continued their work on budget bills. The House began twice-a-day floor sessions on Tuesday and even held a third floor session on Wednesday. Although Thursday was the deadline to report all bills out of committee, the rules were suspended to extend the deadline to next week. Only a few bills remain in committee.

According to an [April 6 budget status summary](#) by Legislative Council, the estimated general fund balance at the end of the 2017-19 biennium is (\$448.3 million). This means additional expenses must be cut or transfers from other funds must be made to meet the state's constitutional balanced budget requirement.

Leadership hopes to complete its work the week of April 17, saving several of the 80 legislative days authorized each biennium so legislators may return to Bismarck prior to the 2019 session if necessary.

[HB 1020](#): The Senate Appropriations Subcommittee finished its work on HB 1020, the State Water Commission appropriation bill. The full Senate Appropriations Committee recommended a unanimous do pass to the bill on Monday, April 3 and the bill passed on the Senate floor on Wednesday, April 5 with a 45-2 vote. They will meet in conference committee with the House to reconcile the differences between the two versions of the bill. The Senate made the following changes to HB 1020:

- Reduced the total appropriation to the SWC from \$741,713,589 to \$722,143,475 in section 1.
- Reduced the appropriation for employee health insurance premiums from \$277,612 to \$257,498 in section 2.
- Removed the section which provides a grant of \$135,000 from the Resources Trust Fund to the Game and Fish Department for law enforcement activities on sovereign lands in the state.
- Removed sections relating to an oil and gas industry fresh water royalty tax.
- Combined the seven funding buckets in section 5 to the three buckets below:
 - Water Supply: \$147,125,000
 - Flood Control: \$136,000,000
 - General Water: \$15,750,000
 - The committee removed \$1 million from the General Water bucket to obtain a \$900,000 loan for the city of Lisbon.
 - They also transferred \$15 million from the Flood Control bucket to the Water Supply bucket.
- Removed the section which requires any funding provided for NAWS to be made available through a line of credit.
- Increased the legislative intent limit for the Mouse River flood control projects from \$110 million to \$193 million for the next four bienniums in section 6.
- Inserted section 7 requiring the SWC to provide up to \$30 million, for a 90 percent state cost share to GDCD for the Red River Valley Water Supply Project.

- Modified section 8 instructing the Bank of North Dakota to consolidate three WAWS loans which are worth \$40,000,000, \$50,000,000 and \$25,000,000. WAWS is not obligated to repay principal on loans from the Resources Trust Fund for the period of July 1, 2017 to June 30, 2018.
- Section 9 instructs the SWC to provide payment if WAWS defaults on their loan payments.
- Inserted sections 10 and 11 appropriating \$150,000 from the Resources Trust Fund to the Industrial Commission to conduct an independent study on the sale or lease of industrial assets of WAWS. The Industrial Commission would be required to conduct the study during the 2017-2019 interim and report their findings to the Water Topics Interim Committee. The Industrial Commission would determine if it is feasible or desirable to lease or sell assets of the authority.
- Removed sections which would require the State Engineer to conduct a flood hazard risk management study.
- Amended section 12 to reduce the maximum funding allocated to the energy conservation grant fund from \$1 million to \$200,000 for the upcoming biennium and restoring the fund to \$1 million on July 1, 2019.
- Increased the cap on the Infrastructure Revolving Loan fund from \$25 million to \$26 million which alters section 14.
- Established a three percent interest rate cap on the State Water Commission line of credit through the Bank of N.D. in section 15.
- Inserted section 16 which modifies Century Code in regards to agricultural, recreational or temporary use purposes and the dredging of waters within the confines of the Little Missouri Scenic River and all Little Missouri River tributary streams. The change was brought forward by the SWC.
- Section 17 authorizes the Industrial Commission to issue revenue bonds.
- Giving power to the Industrial Commission to authorize WAWS to determine domestic water rates in section 18.
- Added section 20, instructing legislative management to consider studying industrial water use of the oil and gas industry during the 2017-2018 interim.
- Added section 22, which adds a contingent effective date to the Industrial Commission study on WAWS.
- Added section 23, which adds an emergency clause to sections 8, 9, 10, 11, 16, 17 and 20.

SB 2047: On Monday, April 3, the Senate refused to concur with House amendments to SB 2047, which relates to quick take eminent domain. The conference committee met on Thursday, April 6 and the House explained the compromise they had reached on 2047. Sen. Don Schaible, conference committee chair, proposed adding the requirement for county commission approval to another section of Century Code dealing with regular or long take eminent domain. He asked the conference committee to think about that and they would consider it at their next meeting. On Friday, April 7 Sen. Schaible withdrew the proposal to add county commission approval for regular eminent domain, so the Senate then concurred with the House amendments to SB 2047 and it was approved.

HB 1390: The Senate Agriculture Committee took SB 2263, the other tile drain bill, and inserted it into HB 1390 with a hog house amendment. The amendment included the following sentence concerning conditions: “A water resource district may attach reasonable conditions to an approved permit for a subsurface water management system that outlets directly into a legal assessment drain or public highway right-of-way”. WRDs requested the underlined statement be removed to provide protection for downstream landowners. The proposal failed 3-3. The amended bill passed out of committee with a 6-0 vote. The bill only allows conditions if the tile project outlets directly into a road ditch or assessment drain, which will happen very seldom, if at all. So essentially there is no authority to attach conditions, including rural water easement conditions. The amended bill passed

on the Senate floor on Tuesday, April 4 with a 42-5 vote. The conditions are narrowly defined as follows:

- Requires water resource board managers to attend a course on water management within three months of the start of their terms and every three years during the remainder of their term.
- Changes the language throughout the bill from “drainage project” to “subsurface water management project.”
- Outlines a maximum coefficient of three-eighths of an inch or less for subsurface water management systems that use surface intakes.
- Installation of a subsurface water management system comprising less than 80 acres does not require a permit.
- Requires the State Engineer to develop an application form for a permit and requires applicants to submit a complete application to the water resource district board.
- Establishes a \$150 fee for the application and requires the water resource board send notice and copy of the submission via certified mail to each landowner, downstream and upstream.
- Outlines procedure moving forward if application is approved or denied.
- Only allows conditions if the tile project outlets directly into a road ditch or assessment drain.
- Outlines that all liability of the project lies within the applicant, not the water resource board.
- Projects cannot be any closer than 20 feet to rural water lines on either side.
- Outlines possible infractions for a person who were to install a project over 80 acres and did not acquire a permit and permission.
- Instructs legislative management to consider studying and monitoring the nutrient management plan developed by the State Department of Health during the 2017-2018 interim.

SB 2270: On Tuesday, April 4, the Senate refused to concur with House amendments to SB 2270, which relates to financing options for GDCD. The conference committee met on Wednesday, April 5. Members of the committee discussed the public hearing aspect of the bill. The Senate argued the hearings were not worth the time or money, while the House thought the public, whether they are affected or unaffected, should not be left out of the process. The conference committee decided to essentially not approve the amendments proposed in the original bill and add instead a requirement for a newspaper notice. Rep. Bill Devlin is an advocate of newspaper notices, so all landowners, both those being assessed and surrounding landowners, will have notice of hearings.

SB 2239: The conference committee for SB 2239 met on Tuesday, April 4. As it came out of the Senate, the bill sought to repeal annual inspections completed by the N.D. Game and Fish Department for guide boats for hire. The House later amended the bill to also include rental boats. The amended bill, which passed unanimously out of conference committee, repeals the annual inspection of all watercraft used for hire. The Senate acceded to the House amendments and unanimously passed the bill on Wednesday, April 5.

HB 1339: The conference committee met on Tuesday, April 4 and Thursday, April 6. The conference committee concluded its work on HB 1390, and voted to compromise on the appeal percentage at 20 percent. The House had reduced from 25 percent to 15 percent, and the Senate had returned to 25 percent. WRDs indicated they were supportive of the compromise, so the bill was amended and both bodies recommended a do pass as amended.

SB 2134, which relates to mineral ownership, passed on the House floor on Thursday, April 6 with a 79-11 vote. The amended bill does four things:

- Legislature establishes the high water mark for the property in and around Lake Sakakawea.
- Establishes a procedure and timeline of review and distribution of the funds collected on

behalf of the mineral owners.

- Appropriates the funding to make the payments to the mineral owners.
- Establishes the remedy through the courts if any of the part of the process fails.

II. E-mail Version of Weekly Legislative Reports

If you receive this by mail or fax, but have e-mail, please send your email to Julie at ndwaterusers@btinet.net, and you can receive it by e-mail.

III. How to Contact Your Legislators

During a legislative session, a legislator can be reached at the State Capitol through e-mail or by leaving a message with the legislative telephone message center at (888) NDLEGIS (635-3447). That number can also be used to obtain information on bills under consideration. A legislator can also be reached by mail or e-mail and address rosters are posted at <http://www.legis.nd.gov/contact-information>.

Addressing Mail Correspondence

To a Senator:

Honorable (full name)
State Senator
600 E Boulevard Ave
Bismarck, ND 58505
Dear Senator (last name)

To a Representative:

Honorable (full name)
State Representative
600 E Boulevard Ave
Bismarck, ND 58505
Dear Representative (last name)

IV. 2017 Legislative Deadlines and Dates

Date	Topic
April 14	Good Friday
May 1	Session is limited to 80 legislative days

V. Legislative Bills Tracked (To Date)

Bill	Short Title	House	Senate
HB 1009	Agriculture Commissioner Appropriation		PASSED
HB 1017	Game and Fish Department Appropriation		PASSED
HB 1020	State Water Commission Appropriation		PASSED
HB 1026	Underground Facilities Before Excavation	PASSED	PASSED
HB 1055	Revenue Bond Indebtedness Limit for WRD	PASSED	PASSED
HB 1106	Definitions of Disasters and Emergencies	PASSED	PASSED
HB 1111	Metro Flood Diversion Authority	PASSED	PASSED
HB 1191	Loans for Political Subdivisions	PASSED	PASSED
HB 1199	Definition of Sovereign Lands	PASSED	
HB 1322	Township Bonding Authority	PASSED	PASSED
HB 1336	Environmental or Health Safety Audits	PASSED	PASSED
HB 1339	Notice, Appeals, and Refunds of Special Assessments	<i>Conf. Comm.</i>	<i>Conf. Comm.</i>
HB 1345	Open Record and Meeting Laws	PASSED	PASSED
HB 1361	Limitations of Property Tax Levies	PASSED	
HB 1367	Personal Watercraft and Towing an Individual on Water Skies	PASSED	PASSED
HB 1374	Contracts & Financial Assistance for Water Projects/Duties of the State Engineer	PASSED	PASSED
HB 1385	Municipal Refunding Bonds	PASSED	PASSED

HB 1390	Limitation on County Authority and Subsurface Drains		PASSED
HB 1409	Well Water Testing	PASSED	PASSED
SB 2047	Quick Take Eminent Domain	<i>Conf.</i> <i>Comm.</i>	<i>Conf.</i> <i>Comm.</i>
SB 2134	Pick-Sloan Missouri Basin Project Dams	PASSED	
SB 2142	Construction Manager At-Risk Subcontractor Bids	PASSED	PASSED
SB 2146	Public Improvement Bid and Bond Thresholds	PASSED	PASSED
SB 2147	Bond Requirements for Public Improvements	PASSED	PASSED
SB 2168	Public Improvements	PASSED	PASSED
SB 2178	Infrastructure Revolving Loan Fund	PASSED	PASSED
SB 2236	Pipeline Restoration and Reclamation Oversight Program	PASSED	PASSED
SB 2239	Annual Inspections for Watercraft for Hire		PASSED
SB 2245	Listing Parcels Under Control of Certain State Entities Use as Wetlands Mitigation	PASSED	PASSED
SB 2262	Fertilizer Regulation by Cities, Counties, or Townships	PASSED	PASSED
SB 2263	Subsurface Drainage Permits		PASSED
SB 2269	Powers of LAWA & GDCD	PASSED	PASSED
SB 2270	Financing Options for the GDCD	<i>Conf.</i> <i>Comm.</i>	<i>Conf.</i> <i>Comm.</i>
SB 2308	Identification of Ice Fish houses and Coyote Snares	PASSED	PASSED
SB 2327	Creation of the Department of Environmental Quality	PASSED	PASSED
HCR 3019	Exercise nondiscrimination in public land management and return the land no longer required for the Pick-Sloan Missouri Basin Project dam at Lake Sakakawea to the citizens of the United States.	<i>Conf.</i> <i>Comm.</i>	<i>Conf.</i> <i>Comm.</i>
HCR 3021	Allow the utilization of the Garrison Diversion Unit facilities, including the McClusky Canal and the Snake Creek pumping plant, as a water supply for eastern and central North Dakota, irrigation, and for all other authorized project purposes, and not deauthorize or repurpose any part of the Garrison Diversion Unit and to allow the Continuation of the Garrison Diversion project canal system to aid in the delivery of water to the Red River Valley.	PASSED	PASSED

VI. Legislative Bills Failed (To Date)

Bill	Short Title	House	Senate
HB 1054	Cancellation of Unexpected Appropriations	PASSED	FAILED
HB 1114	License Fees for Plumbers and Sewer and Water Installers	FAILED	
HB 1162	Competition between the Government and Private Industry	PASSED	FAILED
HB 1165	Transparency of State Grants	PASSED	FAILED
HB 1168	Reimbursement for Public Employees	FAILED	
HB 1244	Authority of County Commissioners to Approve Quick Take Eminent Domain	PASSED	FAILED
HB 1298	Prohibiting Contracting Lobbyists	FAILED	
HB 1326	Local Property Tax Incentives from Impacted Municipalities	FAILED	
HB 1331	Inspection of Septic Systems	FAILED	
HB 1349	Pipeline Leak Detection Equipment Depreciation Expenses	FAILED	
HB 1351	Approval of Special Assessments by Elected Governing Bodies	PASSED	FAILED
HB 1393	Assessments by Water Resource Districts	FAILED	
HB 1416	Definition of Cleaning Out and Repairing of Drain	FAILED	

<u>SB 2227</u>	Nonresident Waterfowl Hunting Licenses	FAILED	
<u>SB 2229</u>	Appointments to the Red River Basin Commission	FAILED	
<u>SB 2259</u>	Nonresident Waterfowl Hunting Licenses	FAILED	PASSED
<u>SB 2280</u>	City Levy Authority for Emergency Purposes	FAILED	PASSED
<u>SB 2331</u>	Protecting Groundwater & Mineral Developer Responsibilities		FAILED
<u>SB 2332</u>	Valuation of Property for Just Compensation		FAILED
<u>HCR 3020</u>	Allow the Continuation of the Garrison Diversion project canal system to aid in the delivery of water to the Red River Valley.	PASSED	FAILED