

NORTH DAKOTA

WATER USERS ASSOCIATION | WATER COALITION | WATER RESOURCE DISTRICTS ASSOCIATION | IRRIGATION ASSOCIATION

Legislative Report

Legislators Return to Capitol Following Crossover Recess

Legislators returned to the Capitol Wednesday to begin committee hearings following an extended Crossover Recess. The House adjourned last week Wednesday on legislative day 35, and the chambers didn't gavel in again until today (Friday), legislative day 36. Legislative leaders are looking to use 73 of the 80 days permitted each session, which leaves seven days for lawmakers to address any revenue shortfalls following the session. Saving five days in the first half of the session puts them on pace to do so. Currently, the last day of the session is slated for May 4.

This week, legislators returned to more than 760 bills and resolutions to address in the coming weeks. This is more than 200 less bills than the 982 total bills introduced this session. In the first half of the session, 572 House bills were introduced, 439 passed, 123 failed and 10 were withdrawn. In the other chamber, a total of 410 Senate bills were introduced, 325 passed, 81 failed, and 4 were withdrawn.

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 bill appropriates funding into the buckets as follows:

Bucket	Amount
Salaries and operations	\$83.3M
Capital Assets (Resources Trust Fund \$\$)*	\$118M
--NAWS	--\$36M
--SWPP	--\$80M
--Devils Lake Outlet	--\$2M
Flood Control	\$114.6M
--Valley City	--\$13.2M
--Mouse River	--\$76.1M
--Lower Heart	--\$12.3M
--Other Flood Control	--\$5M

--Conveyance	--\$8M
Water Supply	\$283M
--Red River Valley Water Supply	--\$175M
--Western Area Water Supply	--\$40M
--Bismarck	--\$30M
--Municipal	--\$38M
Rural Water	\$40M
General Water	\$12M
Discretionary	\$1M
Red River Joint Board Pilot Project	\$1M
TOTAL	\$652.9M

The bill also includes:

- \$30M from the water stabilization fund for WAWS debt service (per SB 2196)
- A line of credit for NAWS and SWPP's water treatment plant project (total of \$100M)
- Legislative intent to provide 75% funding for the Red River Water Supply Project (approx. \$953M)
- Legislative intent for the Mouse River Flood Control Project (approx. \$380.5M)
- Language allowing the State Water Commission to use the remaining funds in the 21-23 discretionary bucket, as well as the 23-25 discretionary bucket, for a wide variety of expenses, including potentially non-project expenses
- Language allowing line transfers between the operating line and the capital assets line up to \$5M
- Funding for staff training and tools for the DWR's appropriations division
- Funding for the DWR's IT unification initiative
- Approval of three additional FTEs for the DWR

*The bill itself includes \$300.3M in the capitol assets line item. This includes the line of credit and authority to use federal funds for the NAWS project.

The DWR gave their budget overview to the full House Appropriations Committee on Thursday, March 2. The public hearing for SB 2020 will be Thursday, March 9, starting at 8am.

Hearing scheduled, House Appropriations Education and Environment Division, March 9

SB 2017 Game and Fish Department

Support

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 as

well as seasonal workers. 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 Water Users testified regarding the importance of funding ANS prevention activities. The bill as passed by the Senate includes full funding for the ANS requests. The bill will be heard in front of the House Appropriations Government Operations Division on Wednesday, March 8.

Hearing scheduled, House Appropriations Government Operations Division, March 8

[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. This bill was amended to clarify the portion of the tax paid to the Three Affiliated Tribes.

Hearing scheduled, Senate Finance and Tax Committee, March 8

[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. The ND Water Users Association testified in favor of this bill.

Hearing scheduled, Senate Energy and Natural Resources Committee, March 9

[SB 2196](#) WAWS Oversight and Loans and NAWS Line of Credit

Support

SB 2196 would move oversight of WAWS from the Industrial Commission to the State Water Commission. It also provides for forgiveness of some 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. The North Dakota Water Users submitted testimony in favor of SB 2196. The Department of Water Resources asked the bill to be amended to remove the reference to the NAWS line of credit as that is now included in SB 2020.

Heard, House Energy and Natural Resources Committee, March 3

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.

Do pass recommendation, Senate Energy and Natural Resources Committee, 6-0, March 2

[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, Senate Energy and Natural Resources Committee, 5-0, March 2

[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. The ND Water Resource Districts Association and several agriculture groups testified in favor of this bill. The committee amended this bill to add an emergency clause and gave the bill a 'do pass' recommendation.

Passed, House, 92-0, February 20

[HB 1391](#) Assessment Authorities

Support

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. The ND Water Resource Districts Association and ND Water Users Association, along with several water managers testified in opposition to this bill. The committee amended this bill to remove the section dealing with assessment votes. It also changed the meeting minutes section to stipulate that the board will publish in a newspaper or put on a website draft meeting minutes 10 days after a meeting. The bill passed as amended unanimously.

Hearing scheduled, Senate Agriculture Committee, March 10

[HB 1462](#) Appeals from a Local Governing Body

Oppose

HB 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. The ND Water Resource Districts Association and League of Cities testified in opposition to this bill. The committee adopted an amendment to require only water boards to serve notice via three publications, once per week over three weeks, in the county newspaper where the decision is made and mail a copy of the decision to any "aggrieved person". The amendment also removes the attorney's fees section. The House floor passed the bill as amended, sending it over to the Senate side. The bill was heard on March 2 but the committee did not take action on this bill.

Heard, Senate Energy and Natural Resources Committee, March 2

[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 Senate passed the bill unanimously. The bill was heard on March 2 with both the DWR and the Water Resource Districts Association offering amendments to the bill.

Heard, House Energy and Natural Resources Committee, March 2

[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. This bill will be heard on March 9 on the House side.

Hearing scheduled, House Energy and Natural Resources Committee, March 9

[SB 2372](#) Watershed Districts Monitor

SB 2372 would require the Department of Water Resources to establish boundaries for watershed districts and then require counties to appoint managers to the watershed districts. The current drainage chapter of code, 61-16.1, would apply to watershed districts. The ND Water Resource Districts Association provided opposition testimony to SB 2372 and offered to work with interested parties on a possible amendment to encourage watershed-based management within the current water resource district model. The bill was amended to require participation in joint boards.

Passed, Senate, 47-0, February 20

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 gave this bill a 'do pass' recommendation, sending it to the full Appropriations Committee. The bill includes \$1.2 million for Nesson Valley. The full Senate Appropriations Committee received an overview of this bill. The Government Operations Division will hear this bill on March 9.

Hearing scheduled, Senate Appropriations Government Operations Division, March 9

[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.

Do pass recommendation, Senate Energy and Natural Resources Committee, 6-0, March 2

[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.

Heard, Senate Energy and Natural Resources Committee, March 2

[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. The committee could not get information on what impact this would have statewide and so asked for the issue to be studied. The bill was amended to ask for a study.

Hearing scheduled, Senate Finance and Taxation Committee, March 6

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. The committee considered significant amendments to this bill. The bill as amended now completely removes the cost share for weather modification activities and restricts where weather modification activities can occur. The amendment also alters the process for reauthorizing weather modification in counties where it occurs. The bill passed the floor, 69-22.

Referred to Senate Agriculture Committee

Other Bills of Interest

[HB 1038](#) Statute Technical Corrections **Monitor**

HB 1038 updates one outdated reference to the Office of the State Engineer.

Referred to the Senate Judiciary Committee

[HB 1072](#) Technical Corrections **Monitor**

HB 1072 updates some references to the State Water Commission in the Atmospheric Resource Board's statutes.

Hearing scheduled, Senate Agriculture Committee, March 9

[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 bill was amended to require entities to notify the DWR within 60 days of beginning discussions and keep in contact with the DWR throughout the negotiations.

Do pass recommendation, Senate Energy and Natural Resources Committee, 6-0, March 2

[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.

Do pass recommendation, Senate State and Local Government Committee, 6-0, March 2

[HB 1118](#) Income Tax Credit

Monitor

HB 1118, as amended by the committee, would provide a \$800 tax credit for single filers and a \$1,600 tax credit for joint filers. It also establishes a flat tax rate of 1.9%.

Passed, House, 87-7, February 21

[HB 1158](#) Income Tax Rate

Monitor

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

Passed, House, 79-14, February 21

[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. The committee lowered the representation from Minot and gave the bill a do pass recommendation unanimously. The bill passed the House 91-0 on February 14. The Senate committee made a minor amendment and gave it a do pass recommendation.

Do pass as amended, Senate Energy and Natural Resources Committee, 5-1, March 2

[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.

Passed, House, 77-16, February 22

[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.

Heard, House Government and Veterans Affairs Committee, March 2

[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.

Heard, House Energy and Natural Resources, March 3

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.

Referred to the House Transportation Committee

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.

Hearing, House Political Subdivisions, March 9

SB 2251 Land Access for Eminent Domain Proceedings

Oppose

SB 2251 would require an entity to receive written permission, or a court order, to access a landowner's property to conduct surveys. The committee made a minor amendment and gave it a do pass recommendation.

Referred to House Energy and Natural Resources Committee

SB 2313 Legislative Management Study on 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. The bill was amended to request a study.

Referred to House Energy and Natural Resources Committee

SB 2330 Infrastructure Revolving Loan Fund

Monitor

SB 2330 makes changes to the way the Legacy Fund is invested. It changes the amount of investment made in North Dakota. Of interest to the water community, the bill makes changes to how the Infrastructure Revolving Loan Fund and the Water Infrastructure Revolving Loan Fund. In the 2021 session, legislation was passed to allow these loan fund to be backstopped by the Legacy Fund. This would have allowed the Bank of ND to utilize the Legacy Fund should there be more interest in the funds than the funds have available. SB 2330 removes the ability to use the Legacy Fund as a backstop for these funds. During testimony the bill sponsor indicated that there was a plan to find an alternative funding source to fund these programs. There seems to be agreement from Senate appropriators to find \$100 million in general funds for the infrastructure revolving loan fund.

Referred to House Finance and Tax Committee

SB 2364 Garrison Diversion Easements

Support

SB 2364 would limit the use of easements by the Garrison Diversion Conservancy District (GDGD) to building, operating, and maintaining water pipelines and would clarify that easements from GDGD can only be assigned from GDGD to the state. The ND Water Users testified in favor of this bill. The committee amended the bill to clarify that easements would first

pass to a local water authority before going to state. The amended bill was given a 'do pass' recommendation.

Hearing scheduled, House Energy and Natural Resources Committee, March 9

SB 2359 Tax Levies to Pay for Special Assessments

Monitor

SB 2359 would remove the levy limitation to cover the costs of land acquisitions. It also requests a legislative management study studying the impact of political subdivisions levying special assessments against other political subdivisions and the overall impact on taxpayers. This bill was amended in committee to remove the levy limitation section but maintain the study. After amending, the committee gave the bill a do pass recommendation.

Hearing scheduled, House Finance and Tax Committee, March 6

Hearing Schedule (March 6-10)

<u>Date and Time</u>	<u>Bill Number</u>	<u>Short Title</u>	<u>Committee</u>	<u>Room</u>
03/06/2023 10:00 AM 	<u>HB 1247</u>	Relating to a commercial property tax exemption for grain elevator and potato warehouse property used for personal use; and to provide an effective date.	Senate Finance and Taxation	Fort Totten
03/06/2023 11:30 AM 	<u>SB 2359</u>	Relating to the impact of political subdivisions levying special assessments against other political subdivisions and the overall impact on taxpayers.	House Finance and Taxation	327E
03/06/2023 02:15 PM 	<u>HB 1088</u>	Relating to membership of the state investment board.	Senate Industry and Business	Fort Union
03/08/2023 08:30 AM 	<u>SB 2017</u>	A BILL for an Act to provide an appropriation for defraying the expenses of the game and fish department; to provide a contingent appropriation; to provide for a transfer; and to provide an exemption.	House Appropriations - Government Operations Division	Brynhild Haugland
03/08/2023 09:45 AM 	<u>HB 1286</u>	Relating to the removal of triggered oil extraction tax rate changes for wells located outside the exterior boundaries of a reservation; and to provide an effective date.	Senate Finance and Taxation	Fort Totten
03/08/2023 02:15 PM 	<u>SB 2017</u>	A BILL for an Act to provide an appropriation for defraying the expenses of the game and fish department; to provide a contingent appropriation; to	House Appropriations - Government	Brynhild Haugland

		provide for a transfer; and to provide an exemption.	Operations Division	
03/09/2023 08:00 AM 	<u>SB 2020</u>	Relating to a Bank of North Dakota line of credit and state water commission discretionary funding; to provide legislative intent; to provide an exemption; and to declare an emergency.	House Appropriations - Education and Environment Division	Prairie
03/09/2023 08:30 AM 	<u>HB 1072</u>	Relating to the powers and duties of the department of water resources; and to repeal section 61-04.1-35 of the North Dakota Century Code, relating to the required bond, cash, or negotiable securities required when bids are submitted to the atmospheric resources board.	Senate Agriculture and Veterans Affairs	Fort Union
03/09/2023 08:30 AM 	<u>HB 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 agronomy seed farm; to provide for a report; to provide for a transfer; to provide an exemption; and to declare an emergency.	Senate Appropriations - Government Operations Division	Red River
03/09/2023 10:30 AM 	<u>SB 2192</u>	Relating to the impact of term limits on the legislative assembly.	House Political Subdivisions	327B
03/09/2023 02:15 PM 	<u>SB 2020</u>	Relating to a Bank of North Dakota line of credit and state water commission discretionary funding; to provide legislative intent; to provide an exemption; and to declare an emergency.	House Appropriations - Education and Environment Division	Prairie
03/09/2023 02:15 PM 	<u>SB 2326</u>	Relating to the use of economic analysis for flood control and water conveyance projects and works.	House Energy and Natural Resources	Coteau AB
03/09/2023 02:15 PM 	<u>SB 2364</u>	Relating to the Garrison Diversion Conservancy District and permanent easements.	House Energy and Natural Resources	Coteau AB

03/09/2023 02:45 PM 	<u>HB 1385</u>	Relating to tribal contracts with the state water commission.	Senate Energy and Natural Resources	Peace Garden
03/10/2023 08:30 AM 	<u>HB 1391</u>	Relating to the publication and distribution of water resource board meeting minutes.	Senate Agriculture and Veterans Affairs	Fort Union

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

- May 4: Final day of session (limited to 80 legislative days)

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