

NORTH DAKOTA

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

Legislative Report

Bill Introductions Completed

Bill introductions are complete, with the exception of study resolutions and constitutional resolutions. As of today, 959 bills and resolutions have been introduced and are available on the [North Dakota Legislative Branch website](#). More bills could still be posted on the website as they are processed by Legislative Council. There are 538 House bills and 391 Senate bills. A total of 30 resolutions also have been introduced thus far.

There is a process for delayed bills to be introduced, but it is only used occasionally. Our focus will be to monitor the many policy and funding bills as they are amended and debated throughout the remainder of the session. We will continue to monitor bills of interest and provide information on changes to those bills in weekly updates.

Bill Testimony Available Online

Submitted bill testimony is available for viewing online through the [North Dakota Legislative Branch website](#). Specific bills and related testimony can be accessed on the [68th Legislative Assembly](#) page by scrolling down to “Bills & Resolutions Information” box and clicking on [Bills and Resolutions](#).

Find the bill you would like to view in the numerical bill listing and click on the linked bill number. On the bill’s page are titled tabs that include “Testimony.” Click the bill’s “Testimony” tab to access a list of the submitted testimony, which includes the committee which heard the bill, the individuals who submitted the testimony, the organizations represented, and positions on the bill. Click on the document number at the far right of the list to access the selected testimony.

This is a great resource for better understanding a bill and its impacts. The efforts of the Legislative Council to provide submitted testimony online also helps to make the legislative process more accessible during the session.

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 January 19 with all day testimony from water projects seeking funding.

Hearing held, Senate Appropriations’ E&E Division, January 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 heard testimony on SB 2017 on January 25. The Water Users testified regarding the importance of funding ANS prevention activities.

Hearing held, Appropriations' E&E Division, January 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****Support**

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 January 20. The North Dakota Water Users submitted testimony in favor of SB 2196.

Passed, Senate, 47-0, January 23**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).

Hearing scheduled, House Energy and Natural Resources Committee, February 2

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.

Hearing scheduled, House Political Subdivisions Committee, February 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 committee passed the bill unanimously.

Amended and passed, Senate Agriculture Committee, 6-0, January 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.

Hearing scheduled, Senate Agriculture Committee, February 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.

Hearing scheduled, Senate Energy and Natural Resources Committee, February 3

[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.

Hearing scheduled, Senate Agriculture Committee, February 2

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 began working on the bill on January 25.

Hearing held, House Appropriations' Government Operations Division, January 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, January 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, January 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. 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 and passed out of committee.

Amended, passed, House Finance and Taxation Committee, 9-4, January 23

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, January 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, January 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, January 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.

Passed, House, 93-0, January 24

[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, January 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, January 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, January 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.

Hearing scheduled, the House Appropriations Committee, February 1

[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, January 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, January 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, January 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, January 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. The committee heard this bill on January 26 with much proponent testimony.

Hearing held, Senate Energy and Natural Resources Committee, January 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. The committee heard this bill on January 26 with much opponent testimony.

Hearing held, Senate Energy and Natural Resources Committee, January 26

[SB 2333](#) Annual Sessions

Monitor

SB 2333 would allow for the legislature to meet annually.

Hearing scheduled, Senate State and Local Government Committee, January 27

[SB 2364](#) Garrison Diversion Easements

Support

SB 2364 would limit the use of easements by GDCD to building, operating, and maintaining water pipelines and would clarify that easements from GDCD can only be assigned from GDCD to the state.

Hearing scheduled, Energy and Natural Resources Committee, February 3

[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.

Hearing scheduled, Senate Finance and Taxation Committee, January 30

Hearing Schedule (January 30-February 3)

| <u>Date and Time</u> | <u>Bill Number</u> | <u>Short Title</u> | <u>Committee</u> | <u>Room</u> |
|-----------------------------|---------------------------|--|---|--------------------|
| 01/30/2023 10:30 AM | <u>SB 2359</u> | Relating to exemptions from political subdivision tax levies for payment of special assessments; and to provide for a legislative management study. | Senate Finance and Taxation | Fort Totten |
| 01/30/2023 02:00 PM | <u>SB 2367</u> | Relating to the allocation of the state share of oil and gas taxes. | Senate Finance and Taxation | Fort Totten |
| 01/31/2023 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; and to provide an exemption. | House Appropriations - Government Operations Division | Brynhild Haugland |
| 02/01/2023 10:15 AM | <u>HB 1217</u> | A BILL for an Act to provide an appropriation to the department of transportation for transportation projects to alleviate flooding impacts; to provide for a department of transportation study; and to provide for a report to the legislative management. | House Appropriations | Brynhild Haugland |
| 02/02/2023 08:30 AM | <u>SB 2037</u> | Relating to calculations of costs and benefits for assessment projects; to amend and reenact sections 61-16.1-02, 61-16.1-09.1, 61-16.1-12.1, 61-16.1-15, 61-16.1-17, 61-16.1-18, 61-16.1-19, 61-16.1-20, 61-16.1-21, 61-16.1-22, and 61-16.1-23 of the North Dakota Century | Senate Agriculture and Veterans Affairs | Fort Union |

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|------------------------|----------------|---|---|--------------|
| | | Code, relating to costs, benefits, and special assessments for water projects; to repeal section 61-16.1-01 of the North Dakota Century Code, relating to legislative intent; and to provide a penalty. | | |
| 02/02/2023 09:30 AM | <u>SB 2372</u> | Relating to the operation of watershed districts. | Senate Agriculture and Veterans Affairs | Fort Union |
| 02/02/2023 10:00 AM | <u>HB 1462</u> | Relating to the procedural requirements governing appeals from a local governing body and water resource board. | House Political Subdivisions | 327B |
| 02/02/2023 02:15 PM | <u>HB 1391</u> | Relating to the publication and distribution of water resource board meeting minutes and maintenance of an assessment drain. | House Energy and Natural Resources | Coteau AB |
| 02/03/2023 10:00 AM | <u>SB 2326</u> | Relating to the use of economic analysis for flood control and water conveyance projects and works. | Senate Energy and Natural Resources | Peace Garden |
| 02/03/2023 10:30 AM | <u>SB 2364</u> | Relating to the Garrison Diversion Conservancy District and permanent easements. | Senate Energy and Natural Resources | Peace Garden |

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

- 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](#).