

Legislative Report

Successful Legislative Session for Water

The legislature adjourned the regular run of the 68th legislative session on Sunday, April 30, using 75 of their constitutionally mandated 80 days. This leaves five days the legislature could use between now and January 2025. Now that the legislature has adjourned, the Governor has 15 days to either sign or veto a bill. Although unusual, the legislature could reconvene to consider any vetoes that happen after adjournment.

The water community had a very successful session. A record amount of Resources Trust Fund dollars were available for appropriation through SB 2020. That money will be used to make progress on a variety of projects, large and small, in every corner of the state this biennium. Additionally, HB 1020 included funding for important irrigation research stations in the state. On the policy side, many good policy bills were passed, including language to prod the federal government to inform the state of activity that might impact the Missouri River. Several adverse policy bills were defeated, including an attack on the weather modification program. Of the 14 bills our groups supported, all but one passed. We actively opposed four bills, all of which were defeated.

Thank you all for your attention to the legislative session and your assistance in contacting legislators about our priorities. Our work is not over yet though. Interim committees will be appointed and begin to meet later this summer and fall.

Water Funding

SB 2020 DWR/SWC Funding

Passed

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	\$81.7M
Capital Assets*	\$218M
--NAWS	--\$36M
--SWPP	--\$80M
--Devils Lake Outlet	--\$2M

Flood Control	\$115.7M
--Valley City	--\$13.2M
--Mouse River	--\$76.1M
--Lower Heart	--\$12.3M
--Other Flood Control	--\$6.1M
--Conveyance	--\$8M
Water Supply	\$316.2M
--Red River Valley Water Supply	--\$180M
--Western Area Water Supply	--\$46M
--Bismarck WTP	--\$50M
--Municipal	--\$37.2M
--Parks and Recreation Grant	--\$2M
--Unspecified**	--\$1M
Rural Water	\$52M
General Water	\$12M
Discretionary	\$9M

The bill also includes:

- 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 (\$953M)
- Legislative intent for the Mouse River Flood Control Project (\$380.5M)
- Language directing any dollars that come in for the remainder of the 21-23 biennium above projections be split evenly between rural water and municipal water supply.
- \$30M in loan repayment for WAWS
- Language directing any dollars that come in in the 23-25 biennium above projections be placed in the Water Stabilization Fund. Discussion was that this would be appropriated in the 2025 legislative session.
- Intent language that the Theodore Roosevelt Presidential Library, the library foundation and the city of Medora need to work together and come to a mutual agreement prior to requesting cost share for water storage, water main replacement or water supply expansion projects.
- Language allowing line transfers between the operating line and the capital assets line up to \$9.9M
- Directing up to \$100M in Bank of North Dakota income to the Water Infrastructure Revolving Loan Fund, as needed.
- Intent language in support of the efforts to protect and put to beneficial use the Missouri River.

- Directing the DWR to provide a legislative management report regarding the Red River Valley Water Supply intake in Washburn.
- Adding an emergency clause to SB 2196.

*The bill itself includes \$275.8M in the capitol assets line item. This includes the line of credit and authority to use federal funds for the NAWS project.

**The conference committee removed \$1M from the Parks and Recreation Grant and left it in the Water Supply bucket but did not specify a use.

Passed, House, 88-4, April 28

SB 2017 Game and Fish Department

Passed

SB 2017 is the appropriations bill for the Game and Fish Department, including funding for aquatic nuisance species (ANS) 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 recommended funding for the Game and Fish's 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 conference committee met several times and seems to have an agreement on the final version of the bill. The conference report passed both chambers and the final bill was sent to the Governor.

Signed by the Governor, April 27

HB 1286 Oil Tax Trigger

Passed

HB 1286 removes 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. The Senate committee passed the bill to the floor with no committee recommendation, an unusual motion. The committee was evenly split on the bill thus the no committee recommendation was the only motion that could get a majority of the committee.

Signed by the Governor, March 29

HB 1385 Tribal Eligibility for SWC Funds

Passed

HB 1385 includes tribes in the list of entities eligible for cost share from the State Water Commission. The North Dakota Water Users Association testified in favor of this bill. The Senate passed the bill unanimously. ND Water Users participated in a ceremonial signing ceremony on March 30.

Signed by the Governor, March 27

SB 2196 WAWS Oversight and Loans and NAWS Line of Credit

Passed

SB 2196 moves oversight of WAWS from the Industrial Commission to the State Water Commission, provides 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. North Dakota Water Users submitted testimony in favor of SB 2196. The Department of Water Resources asked the bill be amended to remove the reference to the NAWS line of credit as that is now included in SB 2020. The committee amended the bill to remove the loan forgiveness authorized in the bill and gave the bill a do pass recommendation as amended. The House passed the bill but the Senate refused to concur in the amendments and appointed a conference committee. The conference committee met several times and finally agreed to a refinance package with no loan forgiveness. The conference report also retains interest rate forgiveness on the Resources Trust Fund loans and directs the general fund to be reimbursed approximately \$2M from the Resources Trust Fund for interest rate payments.

Passed, House, 84-8, April 26

Water Resource Districts

HB 1073 Operations Plans for Dams

Passed

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

Signed by the Governor, March 15

HB 1076 Permit Thresholds for Dams and Dikes

Passed

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.

Signed by the Governor, March 29

HB 1239 Subsurface Drainage Notification

Passed

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 passed in 2021 would have sunset if the legislation had not passed. The North Dakota 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. The Senate committee heard this bill. There were questions raised about exempting farmyards from the notification requirement. The committee was interested in looking at that issue further. The Senate Ag Committee added an amendment to the bill that exempts projects under 15 acres from notification. The conference committee met and removed the Senate amendments and gave the bill a “do pass” recommendation.

Signed by the Governor, April 27

HB 1391 Assessment Authorities

Passed

HB 1391 requires water resource districts publish and distribute meeting minutes within 72 hours after a meeting. It also alters 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 the six-year max, regardless of other funds, to go to a vote. The North Dakota Water Resource Districts Association and North Dakota Water Users Association, along with several water managers, testified in opposition to the bill. The committee amended the 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. This bill was heard on the Senate side on March 10. Amendments were made to the bill to clarify that the minutes could be draft or unofficial minutes and that minutes must be posted both on the website and in the newspaper. The bill was given a “do pass as amended” recommendation. The conference committee met, removed the Senate amendments, added that minutes would be unofficial or draft and that the website should be the official county website, and gave the bill a “do pass” recommendation.

Passed, Senate, 47-0, April 25

HB 1462 Appeals from a Local Governing Body

Failed

HB 1462 would have required a local board to serve a decision of the board on every entity impacted by a decision. Additionally, it would have clarified the ability for the court to award attorney’s fees if a board loses an appeal at the district court level. The North Dakota 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 received a ‘do not pass’ recommendation from the committee.

Failed, Senate, 46-0, March 30

SB 2036 Drainage Statute Clean Up

Passed

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. Amendments are still being prepared on the bill. The committee added amendments and gave the bill a “do pass” recommendation. The House passed the bill and the Senate concurred in the amendments, sending this bill to the Governor for his signature.

Signed by the Governor, April 12

SB 2037 Economic Analysis for Drainage Projects

Failed

SB 2037 was the proposed economic analysis bill from the interim drainage committee. This bill would have required water resource districts to conduct an in-depth economic analysis on every parcel proposed to be part of an assessment district. There was much opponent testimony presented during the hearing on February 2, including from the North Dakota Water Users Association and the North Dakota Water Resource Districts Association. The bill was amended to add an additional public hearing in the assessment process; gives the water board additional flexibility on the type of cost benefit analysis used; adds a list of benefits the water board can consider; and adds a sunset clause, ending the new requirement after four years unless otherwise acted on by the legislature. This bill still requires a parcel-by-parcel analysis. The committee adopted the amendment and gave the bill a “do pass” recommendation.

Failed, Senate, 5-42, February 21

SB 2326 Economic Analysis Threshold for SWC Cost Share

Failed

SB 2326 would have clarified that the State Water Commission could only require an economic analysis on flood control and water conveyance projects above \$1 million. This removed the SWC’s ability to lower that threshold via policy as is current practice. The committee added an amendment to reduce the threshold to \$500,000 and gave the bill a “do pass” recommendation. The conference committee met and gave the bill as proposed by the House (\$500K limit) a “do pass” recommendation. The Senate failed to pass the conferenced bill, killing the bill.

Failed, Senate, 8-39, April 21

SB 2372 Watershed Districts

Passed

SB 2372 requires 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, applies to watershed districts. The North Dakota 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. The House committee took testimony on this bill with some opposition testimony. The committee amended the bill to remove an unnecessary section and gave the bill a do pass as amended recommendation and sent it to the full House.

****SB 2015, the budget bill for the Office of Management and Budget, includes a change to SB 2372 to make the mill payment to a joint board discretionary and not mandatory.**

Signed by the Governor, April 20

Irrigation

HB 1020 2023-2025 SBARE Funding Priorities

Passed

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 and funding for the Oakes Research Facility. The conference committee met

and added back in funding for potato research that had been removed by the Senate. The committee then gave the bill a “do pass as amended” recommendation.

Passed, Senate, 46-0, April 27

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

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.

Signed by the Governor, March 15

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

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

Signed by the Governor, March 27

[HB 1247](#) Property Tax Exemption for Elevators and Potato Warehouses Passed

HB 1247 treats 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.

Signed by the Governor, March 20

[SB 2279](#) Property Tax Exemption for Potato Warehouses Failed

SB 2279 would have treated property that is zoned commercial property, but is now privately owned and houses a potato warehouse, as agricultural property for tax purposes. It had been described as a temporary exemption while the legislative management study authorized in HB 1247 looked into the issue. The expectation was that this issue would be discussed again next session after the study has concluded. The committee gave the bill as passed by the House a “do pass” recommendation. The Senate failed to approve the conference committee report, killing the bill.

Failed, Senate, 17-30, April 19

Atmospheric Resources

[HB 1166](#) Weather Modification Failed

HB 1166 would have prohibited state cost share for weather modification unless counties adjoining the county conducting the activity agreed. The North Dakota Weather Modification Association testified in opposition. The committee considered significant amendments to the bill. The amended bill completely removed the cost share for weather modification activities and restricted where weather modification activities could occur. The amendment also altered the process for reauthorizing weather modification in counties where it occurred. The bill passed the floor, 69-22. The Senate committee heard the bill with several amendments

discussed but took no action. The Senate Agriculture Committee amended the bill to remove the prohibition of cost share and clarify that reauthorization needed to occur via a public vote every four years. After amending the bill, the committee sent the bill to the floor with no committee recommendation.

Failed, Senate, 14-33, April 3

Other Bills of Interest

HB 1038 Statute Technical Corrections

Passed

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

Signed by the Governor, March 23

HB 1072 Technical Corrections

Passed

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

Signed by the Governor, March 15

HB 1077 Water Storage Contracts

Passed

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 North Dakota 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.

Signed by the Governor, March 15

HB 1098 Floodplain Management Ordinances

Passed

HB 1098 clarifies when communities that fail to adopt or enforce floodplain management ordinances are prohibited from receiving funds.

Signed by the Governor, March 15

HB 1118 Income Tax Credit

Failed

HB 1118, as amended by the committee, would have provided an \$800 tax credit for single filers and a \$1,600 tax credit for joint filers. It also established a flat tax rate of 1.9%. This bill was killed because HB 1158 became the vehicle for all tax relief proposals.

Failed, Senate, 0-47, April 26

HB 1158 Income Tax Rate

Passed

HB 1158 lowers the income tax rate to a flat 1.5%. The Senate Finance and Tax Committee significantly amended the bill to make a more comprehensive tax bill, passed the bill unanimously, and rereferred the bill to the Appropriations Committee. In its current form the bill combines initiatives to provide both income tax and property tax relief. Income tax relief is preferred by the House; property tax relief is preferred by the Senate. The conference committee agreed to a package that includes reduction in the income tax, including compressing the code into three brackets, and property tax relief via a homeowners' tax credit.

Signed by the Governor, April 27

HB 1218 NAWS Authority

Passed

HB 1218 makes the current Northwest Area Water Supply (NAWS) advisory committee an authority and changes the makeup of the Authority. 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. The Senate passed the bill and the House concurred, sending the bill to the Governor.

Signed by the Governor, April 11

HB 1379 Legacy Fund Earnings

Passed

HB 1379 changes the current “streams” that Legacy Fund earnings go into. Last session, the legislature established certain priorities that would be funded with Legacy Fund earnings. The bill streamlines the distribution process for \$486.6 million during the 2023-25 biennium with \$102.6 million to the Legacy Sinking and Interest Fund, \$225 million to the General Fund for tax relief and \$100 million to the Legacy Earnings Highway Distribution Fund. Remaining earnings will be split 50/50 between the General Fund and the Strategic Investment and Improvements Fund.

Passed, Senate, 44-2, April 27

SB 2029 Caps for Emergency Commission and Budget Section Approvals

Passed

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 changes that to a percent of the budget approved by the legislature. This bill was amended in committee to add an emergency clause to allow the bill to come into effect sooner. The bill was given a “do not pass” recommendation from the House committee. The bill was sent back to committee by the House floor. The committee made some further amendments and gave it a “do pass” recommendation.

Signed by the Governor, April 26

SB 2097 Wild and Scenic River Designations

Passed

SB 2097 requires 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. North Dakota Water Users testified in support of this bill. The Senate committee amended the bill to add some legislators and grazing associations to the organizations that receive notification. The House committee added the Public Service Commission to the list of entities and gave the bill the a “do pass” recommendation. The House passed the bill and the Senate concurred, sending the bill to the Governor for his signature.

Signed by the Governor, April 11

SB 2113 Flexible Transportation Fund

Passed

SB 2113 creates 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. It is

anticipated that some motor vehicle excise tax dollars and general funds could be put in this fund.

Signed by the Governor, April 4

SB 2192 Term Limits

Passed

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

Signed by the Governor, March 22

SB 2251 Land Access for Eminent Domain Proceedings

Failed

SB 2251 would have required an entity to receive written permission, or a court order, to access a landowner's property to conduct surveys. The House committee gave it a "do not pass" recommendation. The bill failed on a tie vote on the floor.

Failed, House, 46-46, March 28

SB 2313 Legislative Management Study on Eminent Domain

Failed

SB 2313 would have directed 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.

Failed, House, 40-51, March 28

SB 2330 Infrastructure Revolving Loan Fund

Passed

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 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 allowed the Bank of North Dakota 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. There was much testimony regarding the importance of the infrastructure loan funds. The committee amended the bill to provide \$150 million for the Infrastructure Revolving Loan Fund. The conference committee clarified that loans out of the fund would be limited to \$20M per project.

Passed, House, 92-0, April 26

SB 2364 Garrison Diversion Easements

Passed

SB 2364 limits the use of easements by the Garrison Diversion Conservancy District (GDCCD) to building, operating, and maintaining water pipelines and clarifies that easements from GDCCD can only be assigned from GDCCD to the state. North Dakota Water Users testified in favor of this bill. The committee amended the bill to clarify that easements will first pass to a local water authority before going to state. The amended bill was given a "do pass" recommendation. The House committee heard the bill and additional amendments were made to include non-pipeline components of the project. The committee brought the bill back and made some further amendments. It gave it a "do pass as amended" recommendation. The bill passed the House, sending it back to the Senate with amendments.

Signed by the Governor, April 12

[SB 2359](#) Tax Levies to Pay for Special Assessments

Passed

SB 2359 removes the levy limitation to cover the costs of land acquisitions. It also requests a legislative management study on 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.

Signed by the Governor, March 13