

NORTH DAKOTA

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

Legislative Report

Deadline Approaches for Bills to Reach Appropriations Committees

Monday, Feb. 6, marks the deadline for all bills with a fiscal impact to reach their respective appropriations committees. All House bills with a fiscal impact must be referred to the House Appropriations Committee and all Senate bills with a fiscal impact must be referred to the Senate Appropriations Committee by this deadline.

Many bills are referred to their policy committees first to receive feedback and make recommendations on the bills, and then are referred to the appropriations committees. This week, the policy committees have been hard at work to ensure they can meet the deadline for referral of these bills to the appropriations committees.

The appropriations committees will then need to finalize all bills by Feb. 21, which is the deadline for all bills to be reported out of committee, prior to the Feb. 24 Crossover deadline.

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. The division worked on this bill several times this week, beginning in depth discussion on specific projects and buckets. Committee work will continue next week with at least three meetings, the first of which will be Tuesday afternoon. The discussion on Tuesday will surround the Southwest Pipeline Project, Northwest Area Water Supply Project, and Western Area Water Supply Project.

Committee work scheduled, Senate Appropriations' E&E Division, February 7

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. The committee worked on the bill this week and will continue to work next week on Tuesday and Wednesday.

Committee work scheduled, Appropriations' E&E Division, February 7

[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.

Hearing scheduled, House Finance and Taxation Committee, February 7

[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.

Hearing scheduled, House Energy and Natural Resources, February 10

[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.

Hearing scheduled, House Agriculture Committee, February 10**[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). The ND Water Resource Districts Association and ND Water Users Association, along with several water managers testified in opposition to this bill.

Hearing, 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. 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.

Hearing, amended, passed, House Political Subdivisions Committee, 14-0, February 3**[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.

Passed, Senate, 47-0, January 30**[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. There was much opponent testimony presented

during the hearing on February 2, including from the ND Water Users Association and the ND Water Resource Districts Association.

Hearing, 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. The ND Water Resource Districts Association and ND Water Users Association, along with several water managers testified in support of this bill.

Hearing, 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. 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.

Hearing, 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. From conversation, it seems likely that the Nesson Valley request will be funded, at least in part.

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. The amended version of the bill passed the House 81-10 on January 25.

Amended, passed, House, 81-10, January 25

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, 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. The committee heard testimony on this bill on February 1.

Hearing, 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.

Hearing scheduled, House Appropriations Committee, February 8

[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.

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

[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 the Garrison Diversion Conservancy District (GDCCD) to building, operating, and maintaining water pipelines and would clarify that easements from GDCCD can only be assigned from GDCCD to the state. An amendment was offered by the bill sponsor to also make the state liable for damages caused by a pipeline built by GDCCD. A further amendment will likely be made to clarify that liability would only apply to the state if GDCCD ceased to exist. The ND Water Users testified in favor of this bill.

Hearing35, 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. 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.

Passed, Senate, 43-4, January 30

Hearing Schedule (February 6-10)

<u>Date and Time</u>	<u>Bill Number</u>	<u>Short Title</u>	<u>Committee</u>	<u>Room</u>
02/07/2023 09:00 AM 	HB 1286	Relating to the removal of triggered oil extraction tax rate changes; to provide for application; and to provide an effective date.	House Finance and Taxation	327E
02/07/2023 02:30 PM 	HB 1020	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
02/07/2023 02:30 PM 	SB 2020	A BILL for an Act to provide an appropriation for defraying the expenses of the department of water resources.	Senate Appropriations - Education and Environment Division	Sakakawea
02/07/2023 03:45 PM 	SB 2017	A BILL for an Act to provide an appropriation for defraying the expenses of the game and fish department.	Senate Appropriations - Education and Environment Division	Sakakawea
02/08/2023 09:00 AM 	HB 1379	Relating to an agriculture infrastructure fund, an economic diversification research fund, a workforce development and enrichment fund, a legacy projects fund, a	House Appropriations	Brynhild Haugland

		legacy projects advisory board, and a county and township bridge fund; to amend and reenact sections 6-09.4-10.1 and 21-10-13 of the North Dakota Century Code, relating to the legacy sinking and interest fund and the legacy earnings fund; to provide a report; to provide an appropriation; to provide a contingent appropriation; and to provide an effective date.		
02/08/202 3 02:30 PM 	SB 2017	A BILL for an Act to provide an appropriation for defraying the expenses of the game and fish department.	Senate Appropriations - Education and Environment Division	Sakakawea
02/09/202 3 09:00 AM 	HB 1384	Relating to eminent domain and the assessment of damages.	House Energy and Natural Resources	Coteau AB
02/09/202 3 09:00 AM 	HB 1466	Relating to costs to landowners in eminent domain adjudicative proceedings.	House Energy and Natural Resources	Coteau AB
02/10/202 3 09:00 AM 	HB 1239	Relating to smaller subsurface water management systems; and to provide a penalty.	House Agriculture	327C
02/10/202 3 09:00 AM 	HB 1385	Relating to tribal contracts with the state water commission.	House Energy and Natural Resources	Coteau AB

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](#).