

— *North Dakota Water Users* — February 15, 2019 No. 9

Legislative Report

It is the homestretch of the legislative session's first half with next Friday, Feb. 22, the official Crossover date when bill action should be complete in its originating chamber. Legislators will take a two-day recess Feb. 25-26 and then return to work Feb. 27.

It is expected approved first-half appropriations for 2019-2021 will exceed the revenue forecast, which is typical each session. Significant work will need to be done after Crossover to balance the [budget](#). Much will depend on the final revenue forecast of the session expected next month.

Hearing Schedule (February 18 – February 22).

There are not hearings of bills scheduled for bill being tracked by the North Dakota Water Users Association.

I. This Week at the Legislature

[HB 1085](#) was heard before the Senate Agriculture Committee on Friday, February 15. This bill would amend the drought disaster livestock water assistance program to remove the \$3,500 funding limit and raises the limit to \$4,500 to address increased costs. This bill passed on the House floor with a vote of 87-2 on Thursday, January 10.

[HB 1087](#) was heard before the Senate Agriculture Committee on Friday, February 15. This bill excludes agricultural dikes two feet in height or less from requiring a PE to submit plans and specs be reviewed by the State Engineer. This bill passed on the House floor with a vote of 87-3 on Tuesday, January 22.

[HB 1207](#) was amended on Thursday, February 14 to allow the costs and attorney fees to be awarded to a defendant who prevails in an eminent domain case.

[HB 1302](#) passed on the House floor on Friday, February 15 with an 86-4 vote. This bill allows the person whose land was taken for eminent domain by the state or a political subdivision to have the opportunity to purchase the land back if it is no longer needed.

[HB 1320](#) passed on the House floor on Wednesday, February 13 with a 73-19 vote. This bill removes voter approval requirements for some RRVWS projects and allows contract terms to exceed forty years.

[HB 1514](#) was amended on Friday, February 15 to require the installer of the tiling system to hold a \$500,000 bond and record the tile location with the county water board. It also received a 10-2 DO NOT PASS recommendation out of the committee. This bill repeals section 61-32-03.1, which requires permits for subsurface water management systems.

[HB 1521](#) was heard before the Ethics Committee on Tuesday, February 12. This bill lays out campaign contribution disclosure requirements and the complaint procedure for campaign contribution violations by lobbyists.

[SB 2020](#) passed on the Senate floor on Friday, February 15 with a 44-1 vote. SB 2020 includes a statement of legislative intent that the SWC approve a grant of \$50 million for the RRV Water Supply Project and after the 2019-21 biennium, the SWC provide grants to accomplish 80% state cost-share for the project. The bill also includes a section of legislative intent to extend the State commitment to the Fargo Flood Control Project, wherein the state will continue to provide a portion of the non-federal project costs not to exceed \$703 million, which includes the \$120 million originally designated for Fargo interior flood control. The intent of the legislature is the biennial commitment of \$66.5 million be extended two additional biennia to total an additional \$332.5 million over five biennia. During the floor session, Senator Luick proposed an amendment to remove Section 5 (the Fargo flood control project intent) from the bill, creating Division A, SB 2020 without Section 5, and Section B, Section 5 of SB 2020, to be voted on separately. Division A passed 45-0 and Division B passed 40-5.

[SB 2044](#) passed on the Senate floor on Friday, February 15 with a 42-3 vote. This bill provides penalties for tampering with critical infrastructure and defines what a critical infrastructure facility is.

[SB 2148](#) was heard before the Ethics Committee on Tuesday, February 12. This bill establishes an ethics commission and outlines the complaint process for violations.

[SB 2213](#) passed on the Senate floor on Monday, February 11 with a 40-6 vote. This bill extends the sunset clause for the SWWA mill levy until 2030.

[SB 2315](#) would have reversed the presumption that all land is considered open to hunting and required permission without having to post signs. The bill has been amended by the Ag Committee to maintain the presumption of open land unless it is physically posted with a sign or posted on the landowner database. A database and app will be created to provide a color-coded map to indicate land open to hunting, requires permission to hunt, or unavailable to hunters. The amendments will also establish an advisory committee that includes representation from the Department of Agriculture, Game and Fish Department, Information Technology Department, Association of Counties and Agriculture groups.

[SB 2275](#) passed on the Senate floor on Friday, February 15 with a 45-0 vote. [SB 2275](#) was heard before the Senate Appropriations Committee on Wednesday, February 13. This bill creates an infrastructure revolving loan fund at the Bank of North Dakota with the lending terms

supported with earnings from the Legacy Fund. The following points relating to water projects were presented to the Committee:

- SB 2275 proposes to allocate no more than \$55,000,000 of Legacy Fund earnings as a repayment source for appropriations bonds to provide funding for the Legislature’s Infrastructure Revolving Loan Fund. The concept is to “disconnect” repayment of the bonds from use of the bond proceeds.
- The estimated bond proceeds to be used in the IRLF are approximately \$450,000,000.
- SB 2275 will enable loans for flood control, water supply and water management projects with a loan term up to 40-years, as opposed to 30-years for other projects. The committee agreed to the longer term because of the scale of water projects.
- SB 2275 consolidates the State Water Commission Revolving Loan Fund for water project loans into the IRLF. These loans are provided by the SWC in coordination with grants for projects approved by the SWC.

[SB 2358](#) passed on the Senate floor on Friday, February 15 with a 44-1 vote. This bill would study adding a creek, river, or stream appearing in a plat book to the definition of a watercourse.

II. 2019 Legislative Deadlines and Dates

February 22	Crossover for bills
February 25-26	Recess
March 6	Crossover for resolutions
April 23	Session is limited to 80 legislative days

III. HEARING SCHEDULE: February 18 - February 22, 2019

Date and Time	Bill Number	Short Title	Committee	Room
02/18/2019 9:00 AM	SB 2148	Relating to restrictions on public officials and lobbyists, investigations of ethics violations, and implementing requirements of article XIV of the Constitution of North Dakota; to amend and reenact sections 28-32-01, 28-32-02, 28-32-03, 28-32-06, 28-32-07, and 28-32-08, subsection 5 of section 28-32-08.1, sections 28-32-08.2, 28-32-09, 28-32-10, 28-32-11, 28-32-12, 28-32-14, 28-32-15, 28-32-16, 28-32-17, 28-32-18,	Senate Appropriations	Harvest

		and 28-32-18.1, and subsections 2 and 4 of section 28-32-19 of the North Dakota Century Code, relating to rulemaking procedures and requirements for the North Dakota ethics commission; to provide for a legislative management study; to provide a penalty; and to provide an appropriation.		
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IV. Legislative Bills Tracked (To Date)

Bill	Short Title	House	Senate
HB 1066	"Prairie Dog Bill"		
HB 1085	Drought Disaster Livestock Water Assistance Program	PASSED	
HB 1086	Waters of the State	FAILED	
HB 1087	Permit to Construct or Modify a Dam, Dike, or Other Device	PASSED	
HB 1136	Bid Requirements for Public Improvements	PASSED	
HB 1173	Appeals to Local Government Cost	PASSED	
HB 1184	Eliminating Quick Take Eminent Domain		
HB 1192	Ordinary High Water Marks		
HB 1207	Reasonable Costs Awarded to Eminent Domain Defendant		
HB 1243	Recording of Easements	FAILED	
HB 1299	Duration of Pipeline Easements	FAILED	
HB 1302	Sale of Property Acquired by Eminent Domain	PASSED	
HB 1314	Compensation and Reimbursement of WRD Board Members	FAILED	
HB 1320	RRVWSP Contract Terms and Elimination of Voter Approval Requirements	PASSED	
HB 1356	Bids, Plans and Specifications for Public Improvements and Bond Thresholds		
HB 1362	Railroad Right of Way Utility Applications		
HB 1428	Acquisition and Management of the Missouri River Shoreline	FAILED	

HB 1431	Removal of Mandan from SW Water Authority's Mill Levy		
HB 1440	Protection of Groundwater	FAILED	
HB 1449	Oil Extraction Tax Rate	FAILED	
HB 1514	Eliminates Tile Permitting Process		
HB 1521	Reporting Campaign Contributions		
SB 2020	Appropriation for Defraying the Expenses of the State Water Commission		PASSED
SB 2044	Damaging Critical Infrastructure Penalty		PASSED
SB 2090	Permits for the Appropriation of Water		PASSED
SB 2091	Floodplain Management Community Standards		PASSED
SB 2139	Snagging and Clearing		PASSED
SB 2148	Measure 1 Lobbyist Bill		
SB 2166	Increased Liability Limits for Political Subdivisions		FAILED
SB 2174	WRD Board Member Elections, Appointments and Terms		FAILED
SB 2213	SW Water Authority Permanent Mill Levy		PASSED
SB 2220	WRD Tile Permits		FAILED
SB 2238	Eminent Domain Power of County Commissioners		
SB 2259	Valuation of Property		FAILED
SB 2275	Essential Infrastructure Revolving Loan Fund		PASSED
SB 2293	Aquatic Nuisance Species Program Fund		
SB 2295	Limiting Creation of Irrigation Districts		PASSED
SB 2342	Noise Restrictions on Watercraft		PASSED
SB 2358	Definition of a Watercourse		PASSED
SCR 4005	Low-Interest Revolving Loan Fund		FAILED
SCR 4009	Joint Water Resource Board Study		PASSED