

— *North Dakota Water Users* — *March 8, 2019 No. 12*

Legislative Report

Hearing Schedule (March 11 – March 15).

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

I. This Week at the Legislature

[SB 2362](#) was introduced as a delayed bill yesterday, March 7. The bill would address the interpretation issues of how oil and gas extraction tax revenues generated on the Fort Berthold Indian Reservation are deposited into the Resources Trust Fund, the Common Schools Trust Fund and the Foundation Aid Stabilization Fund. The bill stipulates that 20% of all the extraction tax collected in the state would be transferred to the Resources Trust Fund upon passage of the bill, which has an emergency clause. The bill has no reference to restoring funds that may not have been deposited under a different interpretation over the past decade.

[HB 1066](#) was heard before the Senate Finance and taxation committee on Tuesday, March 5- the Water Coalition support this bill, widely known as the “Project Prairie Dog” which revises the formula for the distribution of the gross production tax on oil and gas in a way that will fund Hub Cities and other oil-impacted communities in the 2019-2021 biennium at approximately the same rate as the current biennium. It would also establish “buckets” for non-oil producing cities, counties and townships to support infrastructure needs.

[HB 1136](#) passed the Senate with a vote of 42-0 on Friday, March 8. It was heard before the Senate Industry, Business and Labor committee on Wednesday, March 6. This bill allows a governing body to award a contract for each portion of the public improvement project that received bids and readvise for bids on the portion of the project that did not receive bids if a bid for general, electrical, or mechanical portions of a public improvement project are not received.

[HB 1192](#) was heard before the Senate Energy and Natural Resources committee on Thursday, March 7. This bill defines adds a definition of ordinary high water mark to N.D.C.C. ch. 61-33.1 and adds a section requiring the State Engineer maintain ordinary high water mark delineation guidelines as provided.

[HB 1207](#) awards reasonable costs awarded to defendants that prevail in eminent domain cases. The bill was heard before the Senate Judiciary committee on Tuesday, March 5.

[SB 2020](#) On March 7 and 8, the Education and Environment Division of the House Appropriations Committee - held nearly a day-and-a-half long hearing on Senate Bill 2020, the State Water Commission budget appropriation. Governor Burgum appeared and requested flexibility in the appropriation for water project funding when he introduced the SWC Budget.

On behalf of the Water Users Association and the Water Coalition, Alan Walter requested financial support for water projects across the State and requested that the Legislature:

- Fund State Water Commission administrative operations from the State General Fund
- Not reduce or divert the 20 percent of oil and gas extraction taxes from the Resources Trust Fund which supports water projects and infrastructure
- Consider credit options using Legacy Fund earnings to finance the completion of state water infrastructure

Throughout Thursday, the appropriators heard reports and requests for funding help with major flood control for Souris River Flood Protection, Lower Heart River Levy Recertification, Sheyenne River Flood Protection and it heard extended testimony in support and in opposition to the Fargo-Moorhead Area Diversion Project. The committee took testimony in support water supply grants with dedicated funding for rural water supply, and a continued commitment of funding for municipalities' water infrastructure, Western Area Water Supply, and Red River Valley Water Supply. The City of Devils Lake asked for consideration of the Lake Agassiz Water Authority to route water supply pipelines to the Sheyenne River upstream of the city.

The committee members received updates from the Southwest Pipeline Project and the Northwest Area Water Supply State and a request to invest in these state-owned capital assets. Water Resource Districts and irrigation representatives made a case for the continuation of the dedicated General Water Management funding that the Senate had proposed. The legislators also heard from several supporters of cloud modification and the weather monitoring efforts of the atmospheric resource board.

Friday's continued hearing focused almost entirely on the Fargo Moorhead Diversion Project, with questions from the committee about federal and local funding, finance cost, the private partnership proposal and progress on the interior flood control. Committee work on the bill is expected to continue throughout March.

[SB 2044](#) was heard before the House Energy and Natural Resources committee on Thursday, March 7. This bill provides penalties for tampering with critical infrastructure and defines critical infrastructure facility.

[SB 2213](#) was heard before the House Political Subdivisions committee on Thursday, March 7. This bill extends the sunset clause for the SWWA mill levy until 2030. Alan Walter testified on behalf of the NDWUA.

[SB 2293](#) was heard before the House Energy and Natural Resources committee on Friday, March 8. This bill creates funding mechanisms to support ANS programs through a \$3 surcharge on in state fishing licenses (excluding senior citizen and disabled licenses) and \$6 surcharge on out of state fishing waterfowl licenses. Mary Massad testified in support on behalf of the NDWUA.

[SB 2295](#) was heard before the House Agriculture committee on Thursday, March 7. This bill limits the creation of irrigation districts, adds permit requirements for drainage projects and ensures drainage benefits provided by an irrigation district do not impact the authority of a water resource board.

[SB 2342](#) was heard before the House Energy and Natural Resources committee on Thursday, March 7. This bill sets noise restrictions on the operation of airboat watercraft.

[SB 2358](#) was heard before the House Energy and Natural Resources committee on Thursday, March 7. This bill would study adding a creek, river, or stream appearing in a plat book to the definition of a watercourse.

[SCR 4009](#) was heard before the House Agriculture committee on Thursday, March 7. This bill would direct Legislative Management to consider studying the feasibility and desirability of the water resource boards in each drainage basin forming a joint water resource board to plan and construct water conveyance projects based on basin-wide needs.

II. 2019 Legislative Deadlines and Dates

May 2 Session is limited to 80 legislative days

III. HEARING SCHEDULE: March 11 - March 15, 2019

Date and Time	Bill Number	Short Title	Committee	Room
03/11/2019 3:00 PM	HB 1066	Relating to infrastructure funds; to amend and reenact subsection 5 of section 57-51-01 and sections 57-51-15, 57-51.1-07.3, and 57-51.1-07.5 of the North Dakota Century Code, relating to oil and	Senate Appropriations	Harvest

		gas tax revenue allocations; to provide a continuing appropriation; to provide for a report; and to provide an effective date.		
03/12/2019 8:15 AM	SB 2275	Relating to the infrastructure revolving loan fund debt repayments; to amend and reenact sections 6-09-49, 6-09.4-06, and 6-09.4-10, subsection 6 of section 21-03-07, and sections 21-03-19, 57-15-06.6, and 57-47-02 of the North Dakota Century Code, relating to the infrastructure revolving loan fund, borrowing and lending authority, reserve funds, and expanded bonding authority for counties; to repeal section 61-02-78 of the North Dakota Century Code, relating to a revolving loan fund for water projects; to provide a transfer; to provide a continuing appropriation; to provide a bond issuance limitation; and to provide an effective date.	House Appropriations	Roughrider
03/12/2019 2:15 PM	SB 2148	Relating to disclosures of expenditures, restrictions on public officials and lobbyists, investigations of ethics violations; and to the prohibition on personal use of campaign contributions and the rulemaking procedures and requirements for the ND ethics commission.	Ethics	Brynhild Haugland
03/12/2019 3:45 PM	HB 1521	Relating to reporting campaign contributions and expenditures, 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 section 16.1-	Ethics	Brynhild Haugland

		08.1-01, subsection 4 of section 16.1-08.1-02.1, sections 16.1-08.1-02.3, 16.1-08.1-02.4, 16.1-08.1-03.1, 16.1-08.1-04.1, 28-32-01, 28-32-02, 28-32-03, 28-32-06, 28-32-07, 28-32-08, 28-32-08.1, 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, and 28-32-18.1, subsections 2 and 4 of section 28-32-19, and sections 28-32-27, 28-32-47, 28-32-48, and 28-32-49 of the North Dakota Century Code, relating to rulemaking procedures, disqualification of agency heads in quasi-judicial proceedings, implementing article XIV of the Constitution of North Dakota, and requirements for the North Dakota ethics commission; to provide for a penalty; to provide an appropriation; to provide an effective date; to provide an expiration date; and to declare an emergency.		
03/13/2019 9:00 AM	SB 2362	Relating to the allocation of oil extraction tax; to provide an effective date; and to declare an emergency.	Senate Finance and Taxation	Lewis and Clark
03/13/2019 2:30 PM	HB 1362	Relating to the right of utilities to cross over or under a railroad right of way; and to provide for application.	Senate Industry, Business and Labor	Roosevelt Park
03/14/2019 10:45 AM	HB 1356	Relating to bids, plans, and specifications for public improvements and bond thresholds.	Senate Political Subdivisions	Red River
03/15/2019 8:30 AM	HB 1302	Relating to the sale of property acquired by eminent domain or acquired when the property was eligible for taking by eminent	Senate Political Subdivisions	Red River

		domain, but no longer needed for a public purpose.		
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IV. Legislative Bills Tracked (To Date)

Bill	Short Title	House	Senate
HB 1066	“Project Prairie Dog”	PASSED	
HB 1085	Drought Disaster Livestock Water Assistance Program	PASSED	PASSED
HB 1087	Permit to Construct or Modify a Dam, Dike, or Other Device	PASSED	PASSED
HB 1136	Bid Requirements for Public Improvements	PASSED	PASSED
HB 1173	Appeals to Local Government Cost	PASSED	
HB 1192	Ordinary High Water Marks	PASSED	
HB 1207	Reasonable Costs Awarded to Eminent Domain Defendant	PASSED	
HB 1302	Sale of Property Acquired by Eminent Domain	PASSED	
HB 1320	RRVWSP Contract Terms and Elimination of Voter Approval Requirements	PASSED	
HB 1356	Bids, Plans and Specifications for Public Improvements and Bond Thresholds	PASSED	
HB 1362	Railroad Right of Way Utility Applications	PASSED	
HB 1431	Removal of Mandan from SW Water Authority’s Mill Levy	PASSED	
HB 1521	Reporting Campaign Contributions	PASSED	
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	PASSED
SB 2139	Snagging and Clearing		PASSED
SB 2148	Measure 1 Lobbyist Bill		PASSED
SB 2213	SW Water Authority Permanent Mill Levy		PASSED
SB 2275	Essential Infrastructure Revolving Loan Fund		PASSED
SB 2293	Aquatic Nuisance Species Program Fund		PASSED
SB 2295	Limiting Creation of Irrigation Districts		PASSED
SB 2342	Noise Restrictions on Watercraft		PASSED
SB 2358	Definition of a Watercourse		PASSED
SCR 4009	Joint Water Resource Board Study		PASSED