

— *North Dakota Water Users* — *March 15, 2019 No. 13*

Legislative Report

Final [executive](#) and [legislative](#) revenue forecasts were heard in joint Appropriations Committee meetings March 11-12.

The [March forecast numbers](#) were finalized March 14 by both committees. For the 2017-19 biennium, General Fund revenue increased \$40 million from the January forecast for total General Fund revenue of \$4.7 billion. For the 2019-21 biennium, appropriators reduced the January General Fund revenue forecast by \$174 million for a total of \$4 billion. However, this reduction results from adjusting the transfer of Legacy Fund earnings to the General Fund from \$300 million in the January forecast to \$100 million. There is a slight increase in General Fund tax revenue of \$25 million for 2019-21.

As of March 14, the estimated General Fund [ending balance](#) for the 2019-21 biennium is (\$900 million) based on pending legislation.

The March 14 revenue projection increased both the anticipated oil production and oil price in the 2019-21 biennium, increasing the January forecast oil price of \$42.50 per barrel to \$47/bbl this week; and increasing the average daily production from 1.35 million barrels per day to 1.38 MBPD.

The Resources Trust Fund, which is the major source of funding for the State Water Commission operations, capital projects and water project grants, receives 20% of the oil and gas extraction tax. The revenue forecast's impact on predictions for the deposits have not yet been published by Legislative Council but based on the forecast the Appropriations Committee is tentatively anticipating an additional \$62 million in the 2019-21 biennium over the \$350 million estimated in January. The committee also expects an increase of \$9.8 million to be deposited during the remainder of the 2017-19 biennium.

Additionally, the appropriations committee counting on an additional \$45.4 million with passage of [SB 2362](#), which clarifies the distribution of extraction taxes from oil produced on the Fort Berthold Reservation. The House appropriators are also anticipating a \$23 million transfer from the Bank of North Dakota to the RTF if the infrastructure revolving loan fund contemplated in [SB 2275](#) is adopted.

SB 2020 State Water Commission Budget Appropriation.

The House Appropriations Educations and Environment Division spent substantial committee time Friday, reviewing the SWC budget in SB 2020. The subcommittee reviewed Engrossed SB

2020 as adopted by Senate and studied a Legislative Council prepared analysis (attached) of the Senate's version of the SWC budget.

Based on the revised revenue forecast and pending legislation, the subcommittee is anticipating an additional \$133 to \$140 million more funds in the RTF than the \$350 million the Senate was able to appropriate for grants and capital projects.

The committee considered, but did not adopt, several possible amendments to SB 2020, the Committee:

- Will likely add a tenth member (8th appointed) to the State Water Commission to represent the Heart, Cannonball and Little Missouri Rivers watersheds in Southwest North Dakota
- Will likely continue the previously adopted legislative intent of \$193 million for the Minot portion of the Mouse River Flood control to \$135.5 million over the next 3 biennia
- Will gather addition information on a proposed amendment anticipated from Rep. Delzer to shift the revenue to the Water Development Trust Fund from the \$16 to \$18 million in biennial Tobacco Settlement payments, instead to fund Human Services program. Potentially to be replaced by additional funds in the RTF
- Is unlikely to adopt an amendment offered to create a Missouri River advocacy board to promote reaction, water access and utilization of the river and its reservoirs. The committee would have a similar responsibility to a board that would have been created in [HB 1428](#), which the House defeated earlier

I. This Week at the Legislature

[HB 1066](#) passed on the Senate floor with a vote of 46-0 on Thursday, March 14. This bill was heard before the Senate Appropriations committee on Monday, March 11. This bill, widely known as the "Operation Prairie Dog Bill," 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, airports, and townships to support infrastructure needs.

[HB 1302](#) was heard before the Senate Political Subdivisions committee on Friday, March 15. This bill allows the person whose land was taken by eminent domain by the state or a political subdivision to have the opportunity to purchase the land back if it is no longer needed for the purpose for which it was acquired.

[HB 1356](#) was heard before the Senate Political Subdivisions committee on Thursday, March 14. This bill requires that the state and its political subdivisions may not engage in the

construction of public works involving the practice of professional engineering when the contemplated expenditure for the project exceeds the sum of two hundred fifty thousand dollars, unless the engineering drawings and specifications and estimates have been prepared by, and the construction administration and construction observation services are executed under the supervision of, a registered professional engineer.

[HB 1362](#) was heard before the Senate Industry, Business and Labor committee on Wednesday, March 13. This bill allows a utility to cross over or under the railroad right of way for the placement of facilities.

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

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

[SB 2275](#) was heard before the House Appropriations committee on Tuesday, March 12. 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.

[SB 2295](#) passed the House with a vote of 76-13 on Friday, March 15. 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 2362](#) was heard before the Senate Finance and Taxation Committee on Wednesday, March 13. This 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. The Water Coalition, the Rural Water Systems Association and the State Engineer all testified in support of the bill, and advocated restoration of the estimated \$125 million that was not deposited into the RTF over the previous decade.

[SCR 4009](#) passed on the House floor on Wednesday, March 13. 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 18 - March 22, 2019

Date and Time	Bill Number	Short Title	Committee	Room
03/21/2019 9:30 AM	HB 1431	Relating to the parts of the state included in the southwest water authority and the membership of the board of directors of the southwest water authority; and to provide an effective date.	Senate Political Subdivisions	Red River

IV. Legislative Bills Tracked (To Date)

Bill	Short Title	House	Senate
HB 1066	"Project Prairie Dog"	PASSED	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	PASSED
SB 2342	Noise Restrictions on Watercraft		PASSED
SB 2358	Definition of a Watercourse		PASSED
SB 2362	Allocation of Oil Extraction Tax		
SCR 4009	Joint Water Resource Board Study	PASSED	PASSED