

— *North Dakota Water Users* — *April 12, 2019 No. 17*

Legislative Report

Hearing Schedule (April 15 – April 19).

Lists of bills being tracked by the North Dakota Water Users Association are included in this report. We are tracking these bills because they have a direct or indirect impact on water issues.

Conference committees have been active this week, and will dominate next week's schedule, while Appropriations Committees worked to move agency bills to the chamber floors. The conference committee schedule is [available](#), but meetings are often arranged with short notice.

The major water funding measure, Senate Bill 2020 passed the House this week. It will make nearly half a billion of new dollars available for grants and capital investments in critical water projects. With the revised revenue forecast and the correction oil tax money for water projects, the House was able to allocate \$123 million more than the Senate had available to consider.

I. This Week at the Legislature

[HB 1356](#) Bids, Plans and Specifications for Public Improvements and Bond Thresholds

Passed on the House floor with a vote of 54-37 on Wednesday, February 20.

Passed on the Senate floor with a vote of 39-6 on Monday, March 25.

Assigned to Conference Committee: Reps. Pyle, Johnson, M., Fegley and Sens. Lee, J., Burckhard, Dotzenrod

Conference Committee met on Thursday, April 11.

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.

[SB 2020](#) Appropriation for Defraying the Expenses of the State Water Commission

Passed on the Senate floor with a vote of 44-1 on Friday, February 15.

Passed on the House floor with a vote of 84-8 on Friday, April 12.

Assigned to Conference Committee: Sens. Lee, G., Sorvaag, and Robinson

This is the appropriations bill for the State Water Commission.

Section 1: Appropriation

Salaries and Wages	\$19,831,986
Operating Expenses – Includes Devils Lake pumping station and paying off Bank of North Dakota loan	\$69,755,753
Capital Assets – Includes NAWS and SWWA	\$180,938,758
Project Carryover	\$308,333,818
Water Supply Grants – Includes WAWS, RRWS and full municipalities list	\$128,000,000
Rural Water Supply Grants – Includes 16 of 22 rural water supply projects	\$37,200,000
Fargo Area Flood Control – Line item earmark	\$66,500,000
Mouse River Flood Control	\$82,500,000
Flood Control Projects Other than Fargo – Includes Sheyenne River, Lower Heart, water conveyance, Bismarck and contingency	\$48,000,000
General Water Grants	\$27,093,776
Total:	\$968,154,091

Section 2: One-time Funding

Line of Credit for NAWS	\$75,000,000
Pay Off Outstanding Debt	\$25,900,000
Total:	\$100,900,000

Section 3 requires OMB to carryover unexpended funds for two years after June 30, 2021 if unused during the next biennium. **Section 4** states that if there is any added income during the biennium, it needs Budget Section approval before it is distributed.

Section 5, Section 6 and **Section 7** put conditions on line items and carryover funds. They stipulate that no additional funds may be spent on flood control projects other than what was appropriated in Section 1. They also protect the bill from line item veto scenarios which could involving funds being shifted. The House committee intentionally drafted the language so a veto of any section that established conditions on funding, would veto the whole section, including the appropriated money.

Section 8 limits the use of funds allocated to the Fargo flood control to the costs of levees, dikes and land acquisition and not work related to the “Plan B” alternative until:

- The court injunction related to the diversion plan is modified to allow construction
- Federal funds are appropriated to the Plan B alternative
- The state engineer approves a mitigation plan and issues ND permits
- Minnesota appropriates funds for its construction

Section 9 sets the legislative intent for Fargo flood control at \$703 million.

Section 10 states that Fargo must mitigate downstream impacts for downstream communities for them to maintain FEMA certification.

Section 11 sets the legislative intent for Mouse River flood control at \$193 million.

Section 12 sets the legislative intent for RRVWSP for use of \$13 million of carryover funds. **Section 13** adjusts state cost share for RRVWSP at 60/40 state support ratio with no more than \$30 million to be provided this biennium. **Section 14** states criteria for Budget Section approval of RRVWSP.

Section 15 provides a line of credit of \$75,000,000 for NAWS biota treatment plant.

Section 16 is the emergency clause.

[SB 2090](#) **Permits for the Appropriation of Water**

Passed on the Senate floor with a vote of 42-2 on Monday, February 4.

Passed on the House floor with a vote of 78-7 on Friday, March 22.

Assigned to Conference Committee: Sens. Kreun, Unruh, Piepkorn and Reps. Zubke, Bosch, Ruby, M.

Conference Committee met on Thursday, April 11.

Passed on the Senate floor with a vote of 45-2 on Friday, April 12.

This bill exempts reuse of fossil byproduct water from requiring a water permit, clarifies that a legal interest in the point of diversion or place of use for irrigation water is required, and puts into statute the long-standing practice of having a 30-day comment period on water permit applications. It also increases the costs. All new water permit applications increased from \$200 to \$500, industrial permits are now \$1,000, and amendments are raised to \$100. The \$250 under 2,500 population break would be dropped.

[SB 2139](#) **Snagging and Clearing**

Passed on the Senate floor with a vote of 41-5 on Friday, February 1.

Passed on the House floor with a vote of 91-2 on Thursday, April 11.

This bill reinstates the ability of the State Water Commission to cost-share snagging and clearing operations in natural waterways.

[SB 2293](#) **Aquatic Nuisance Species Program Fund**

Passed on the Senate floor with a vote of 45-2 on Monday, February 18.

Passed on the House floor with a vote of 71-20 on Friday, April 12.

This bill creates funding mechanisms to support ANS programs. This would be done through a \$15 fee on North Dakota boat license renewals and a \$15 annual fee for boats registered out of state.

[SB 2342](#) **Noise Restrictions on Watercraft**

Passed on the Senate floor with a vote of 37-9 on Friday, February 8.

Passed on the House floor with a vote of 60-25 on Friday, March 22.

Assigned to Conference Committee: Sens. Kreun, Roers, J., Piepkorn and Reps. Heinert, Bosch, Lefor

Conference Committee met on Thursday, April 11.

This bill sets noise restrictions of 88 decibels for no more than 10 minutes on the operation of watercraft during the hours of 12am-5am.

[SB 2358](#) **Definition of a Watercourse**

Passed on the Senate floor with a vote of 44-1 on Friday, February 15.

Passed on the House floor with a vote of 89-2 on Thursday, March 28.

Assigned to Conference Committee: Sens. Kreun, Unruh, Piepkorn and Reps. Anderson, D., Zubke, Damschen

Conference Committee met on Thursday, April 11 and Friday, April 12.

This bill would add a creek, river, or stream appearing in a USGS topographical map to the definition of a watercourse.

II. 2019 Legislative Deadlines and Dates

May 2 Session is limited to 80 legislative days

III. HEARING SCHEDULE: April 15 - April 19, 2019

Date and Time	Bill Number	Short Title	Committee	Room
04/15/2019 3:30 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.	Ethics	Fort Lincoln
04/16/2019 9:30 AM	SB 2358	Relating to notice of proposed subsurface water management systems.	Conference Committee	Fort Lincoln
04/16/2019 3:30 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.	Ethics	Fort Lincoln

04/18/2019 3:30 PM	SB 2148	Relating to the prohibition on personal use of campaign contributions and the rulemaking procedures and requirements for the North Dakota ethics commission; to provide a penalty and appropriation.	Ethics	Brynhild Haugland
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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	FAILED
HB 1192	Ordinary High-Water Marks	PASSED	PASSED
HB 1207	Reasonable Costs Awarded to Eminent Domain Defendant	PASSED	FAILED
HB 1302	Sale of Property Acquired by Eminent Domain	PASSED	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	PASSED	PASSED
HB 1362	Railroad Right of Way Utility Applications	PASSED	PASSED
HB 1431	Removal of Mandan from SW Water Authority's Mill Levy	PASSED	FAILED
HB 1521	Reporting Campaign Contributions	PASSED	
SB 2020	Appropriation for Defraying the Expenses of the State Water Commission	PASSED	PASSED
SB 2044	Damaging Critical Infrastructure Penalty	PASSED	PASSED
SB 2090	Permits for the Appropriation of Water	PASSED	PASSED
SB 2091	Floodplain Management Community Standards	PASSED	PASSED
SB 2139	Snagging and Clearing	PASSED	PASSED
SB 2148	Measure 1 Lobbyist Bill		PASSED
SB 2213	SW Water Authority Permanent Mill Levy	FAILED	PASSED
SB 2275	Essential Infrastructure Revolving Loan Fund	FAILED	PASSED
SB 2293	Aquatic Nuisance Species Program Fund	PASSED	PASSED
SB 2295	Limiting Creation of Irrigation Districts	PASSED	PASSED

SB 2342	Noise Restrictions on Watercraft	PASSED	PASSED
SB 2358	Definition of a Watercourse	PASSED	PASSED
SB 2362	Oil and Gas Extraction Tax Revenues	PASSED	PASSED
SCR 4009	Joint Water Resource Board Study	PASSED	PASSED