

— *North Dakota Water Users* — *April 19, 2019 No. 18*

Legislative Report

Hearing Schedule (April 22 – April 26).

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 continue to dominate next week's schedule. The conference committee schedule is [available](#), but meetings are often arranged or changed with short notice.

I. This Week at the Legislature

[HB 1014](#) Infrastructure Revolving Loan Fund

Assigned to Conference Committee: Reps. Brandenburg, Vigesaa, Mock and Sens. Sorvaag, Holmberg, Mathern

Conference Committee met on Wednesday, April 17.

This bill creates a large scale low-interest, long-term revolving loan fund at the Bank of North Dakota with the lending terms supported with earnings from the Legacy Fund for water projects and other infrastructure investments.

[HB 1192](#) Ordinary High Water Marks

Failed on the House floor with a vote of 3-88 on Tuesday, April 16.

This bill would have added 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. This bill failed because the language of the bill was already in SB 2211.

[HB 1202](#) Navigable Water Determination

Discussed in Senate Energy and Natural Resources Committee on Tuesday, April 16.

Passed on the Senate floor with a vote of 45-2 on Wednesday, April 17.

Assigned to Conference Committee: Reps. Lefor, Zubke, Anderson, D. and Sens. Unruh, Schaible, Piepkorn

This bill establishes a public process to determine the navigability of waters (previously part of HB 1320).

[HB 1320](#) **RRVWSP Contract Terms and Elimination of Voter Approval Requirements**

Discussed in Senate Energy and Natural Resources Committee on Tuesday, April 16.

Passed on the Senate floor with a vote of 34-13 on Wednesday, April 17.

This bill was “hog housed” and split into HB 1202 and SB 2358 to instead become a Theodore Roosevelt Presidential Library funding bill.

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

Passed on the House floor with a vote of 73-17 on Tuesday, April 16.

Passed on the Senate floor with a vote of 46-1 on Wednesday, April 17.

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 \$250,000, unless the engineering plans and estimates and the construction administration are executed under a registered professional engineer.

[HB 1521](#) **Reporting Campaign Contributions**

Heard in the Ethics Committee on Monday, April 15.

Heard in the Ethics Committee on Tuesday, April 16.

Passed on the Senate floor with a vote of 39-8 on Wednesday, April 17.

Assigned to Conference Committee: Reps. Kasper, Louser, Mock and Sens. Dever, Hogue, Oban
This bill lays out campaign contribution disclosure requirements and the complaint procedure for campaign contribution violations by lobbyists.

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

Conference Committee of Sens. Lee, G., Sorvaag, and Robinson and Reps. Schmidt, Monson, Boe met on Wednesday, April 17.

Passed on the Senate floor with a vote of 36-11 on Thursday, April 18.

Passed on the House floor with a vote of 61-31 (emergency clause failed) on Friday, April 19.

The bill will be delivered to the Governor for his consideration

This is the appropriations bill for the State Water Commission.

Amendments were added during the conference committee that bumped up the legislative intent for the F-M Diversion from \$703M to \$750M. Other changes the conferees made to the earlier House passed version of SB 2020 increased the state cost-share commitment for the Red River Valley Water Project from 60/40 to 75/25, added spending authority for the creation of water resource districts based upon watersheds, and raised the interest for the Resources Trust revolving loan fund from 1.5% to 2%.

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

Conference Committee report adopted on Tuesday, April 16, bill delivered to Governor.

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 codifies the practice of a 30-day public comment period on water permit applications. 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 will also go away.

SB 2139 Snagging and Clearing

Passed on the Senate floor with a vote of 43-3 on Monday, April 15.

Signed by Governor on Wednesday, April 17.

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

SB 2148 Measure 1 Ethics Bill

Heard in the Ethics Committee on Thursday, April 18.

This bill establishes and ethics commission and outlines the complaint process for violations.

SB 2293 Aquatic Nuisance Species Program Fund

Assigned to Conference Committee: Howe, Anderson, D., Zubke and Sens. Cook, Oehlke, Piepkorn

Conference Committee met on April 18 and April 19.

This bill creates funding mechanisms to support ANS programs through a \$2 surcharge to resident fishing and combination licenses except for a resident over the age of 65 or disabled residents, and a \$3 surcharge for non-resident fishing and waterfowl licenses starting in 2020. There will also be a \$15 surcharge on all motorboats implemented in 2020 to coincide with the 3-year cycle on resident boats. The ANS fund will raise about \$1.5M for the Game and Fish Department to address the threat of aquatic nuisance species.

SB 2342 Noise Restrictions on Watercraft

Passed the Senate with a vote of 29-17 on Monday, April 15.

Conference Committee report adopted by House on Tuesday, April 16. Sent to Governor

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

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

Passed on the Senate floor with a vote of 46-1 on Wednesday, April 17.

Passed on the House floor with a vote of 76-16 on Wednesday, April 17.

This bill would add a creek, river, or stream appearing in a USGI topographical map to the definition of a watercourse. This bill also now includes the removal of voter approval requirements for some RRVWS projects and allows contract terms to exceed forty years (previously part of 1320).

II. 2019 Legislative Deadlines and Dates

May 2

Session is limited to 80 legislative days

III. HEARING SCHEDULE: April 22 - April 26, 2019 (subject to changes and additions)

Date and Time	Bill Number	Short Title	Committee	Room
04/22/2019 10:00 AM	HB 1202	Relating to determinations of navigability; to amend and reenact sections 61-33-01 and subdivision e of subsection 3 of section 61-33.1-03 of the North Dakota Century Code, relating to sovereign land management definitions; and to provide for a state engineer review of determinations of navigability.	Conference Committee	Coteau A
04/22/2019 2:30 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	Brynild Haugland
04/22/2019 2:30 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.	Conference Committee	Roughrider
04/23/2019 2:30 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	Brynild Haugland
04/23/2019 2:30 PM	HB 1521	Relating to reporting campaign contributions and expenditures, restrictions on public officials and lobbyists, investigations of ethics	Conference Committee	Roughrider

		violations, and implementing requirements of article XIV of the Constitution of North Dakota.		
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IV. Legislative Bills Tracked

Bill	Short Title	House	Senate
HB 1014	Infrastructure Revolving Loan Fund	PASSED	PASSED
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	FAILED
HB 1202	Navigable Water Determination	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 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	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
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