

— *North Dakota Water Users* — *May 2, 2019 No. 20*

Legislative Report

I. 66th Legislative Assembly Ends Session

Contents

A. Funding:	2
B. Finance:	5
C. Property Use/Protections:	7
D. Water Resource Districts:	8
E. Agriculture/Irrigation:	9
F. Ethics:	11
G. Watercourses:	12
H. Infrastructure/Construction/Contracts:	13
I. Legislative Bills Tracked During Session	14

The [2019](#) session ended late on Friday, April 26, the 76th day of session. Water had a busy and active session. Bills pertaining to Southwest Water Authority, flood protection, Red River Valley Water Supply Project, tile drainage, quick take eminent domain, water quality, mineral rights, funding and appropriations, aquatic invasive species, water resource districts and other related issues kept water folks extremely busy and engaged during the entire session.

Water interests had a very successful session in securing funding and on key policy issues. Regional, municipal and rural water supply, flood control, and general water management including irrigation, water resource district projects and cloud modification all have substantially more funds appropriated that was than was originally expected. While there were some minor policy disappointments related to subsurface drainage permits and the Southwest Water Authority mill levy there is an unprecedented legislative and public awareness of the importance of working to complete North Dakota’s water infrastructure for economic growth and quality of life. It was a very successful session.

The 2019 Legislature appropriated \$968 million of special funds for State Water Commission operations, capital projects, and grants. With the support of water leaders, in Senate Bill 2020 the Legislature:

- Appropriated \$66.5M and made a long-term \$750 million commitment to Fargo area Flood Control

- Approved \$82.5M and continued the previous \$193M legislative intent for Mouse River Flood Control
- Appropriated \$48M for Sheyenne River, Lower Heart, Bismarck and water resource district flood management projects
- Authorized \$180.9 of capital project spending for Northwest Area Water Supply (NAWS), Devils Lake Outlet, and the Southwest Pipeline Project
- Appropriated \$128 million dedicated to municipal and regional water supply grants, including for Western Area Water Supply (WAWS) and the Red River Valley Water Supply (RRVWS)
- Funded \$37.2M for rural water supply grants
- Approved \$27M for general water management projects including irrigation infrastructure, weather modification, water resource district projects.

The Legislature transferred significant funds to the [general fund](#) to achieve an ending fund balance for the 2019-21 biennium of \$65 million. Estimated general fund [revenue](#) for the upcoming biennium is \$4.2 billion, up from the \$4.1 billion approved during the 2017-2019 biennium. The [total budget](#) for the biennium is \$14.7 billion.

A sincere thank you goes out to the water leaders who participated and helped during the legislative process. Your phone calls, testimony, letters, e-mails, and personal contacts were crucial in the successful outcome of positive funding authority and for successful legislative initiatives concerning water. As water managers, you demonstrated that we are an extremely effective and vigorous grassroots group who is continuously working to improve North Dakota by completing the State's water infrastructure for economic growth and quality of life.

II. Final Report

The Final report includes the water and property related bills tracked during the 2019 Legislative Session. They are grouped in to general categories that reflect the main subject matter in the bill.

A. Funding:

[HB 1066](#) "Prairie Dog Bill"

[Passed](#) on the House floor with a vote of 80-12 on Wednesday, February 20.

[Passed](#) on the Senate floor with a vote of 46-0 on Thursday, March 14.

Signed by Governor on Wednesday, March 20.

This bill, widely known as the "Operation Prairie Dog" 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 also establishes "buckets" for non-oil producing cities, counties and

townships to support infrastructure needs. The bill will direct \$115 million to cities, \$115 million to counties and townships, and \$20 million for an airport infrastructure fund.

HB 1431 Removed Mandan from SW Water Authority’s Mill Levy

Passed on the House floor with a vote of 83-9 on Tuesday, February 19.

Failed on the Senate floor with a vote of 47-0 on Wednesday, March 27. This bill would have removed Mandan from Southwest Water Authority’s mill levy. The bill failed because it was no longer necessary due to SB 2213 failing in the House.

SB 2012 Appropriation Budget for the Department of Human Services

Passed on the Senate floor with a vote of 45-1 on Tuesday, February 19.

Passed on the House floor with a vote of 71-9 on Monday, April 15.

Assigned to Conference Committee: Sens. Dever, Erbele, Mathern and Reps. Nelson, J., Kreidt, Holman

Passed on the Senate floor with a vote of 45-1 on Thursday, April 25.

Passed on the House floor with a vote of 75-16 on Friday, April 26.

This is the appropriation bill for the Department of Human Services. In this bill, the interest on the tobacco settlement trust fund will no longer be transferred to the water development trust fund. This amounts to about \$16M less in funding for water projects each biennium.

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 and Reps. Schmidt, Monson, Boe

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 on Friday, April 19.

Signed by the Governor of Thursday, April 25.

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 –	\$66,500,000
Mouse River Flood Control	\$82,500,000

Flood Control Projects Other than Fargo – Includes Sheyenne River, Lower Heart, Bismarck, water conveyance projects, 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

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 additional 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, stipulating no additional funds may be spent on flood control projects other than what was appropriated in Section 1.

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 long-term legislative intent for Fargo flood control at \$750 million.

Section 10 states that the Fargo Moorhead Diversion project must mitigate impacts to downstream communities, so they can maintain FEMA certification.

Section 11 continues the legislative intent for Mouse River flood control funding at the \$193 million level set in 2017.

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 75% 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 establishes a pilot project for the creation of watershed-based water resource districts. Up to \$1 million of the \$48 million appropriated to the state water commission for flood control may be used to provide grants.

Section 16 modifies the Bank of North Dakota infrastructure loan fund interest rated to match the revolving loan funds.

Section 17 provides a line of credit of \$75,000,000 for NAWS biota treatment plant.

The emergency clause that was originally in SB 2020, did not receive sufficient votes to pass, but the EM for SB 2020 was adopted in Section 37 of [SB 2015](#), so the entirety of SB 2020 is in effect as of its filing date of April 25.

[SB 2213](#) SW Water Authority Permanent Mill Levy

Passed on the Senate floor with a vote of 40-6 on Monday, February 11.

Failed on the House floor with a vote of 27-65 on Tuesday, March 19.

This bill would have extended the sunset clause for the SWWA one mill levy until 2030. This bill failed because legislators were concerned about extending the tax and felt the potential \$2 per month increase for the users seemed a fair alternative to make up for the loss of the mill levy.

[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.

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

Passed the Senate with a vote of 41-6 on Tuesday, April 23.

Passed the House with a vote of 67-22 on Tuesday, April 23.

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 bill authorizes two FTE and appropriates \$1.8M from the new fund for the Game and Fish Department to address the threat of aquatic nuisance species.

B. Finance:

[HB 1014](#) Infrastructure Revolving Loan Fund

Passed on the House floor with a vote of 86-7 on Tuesday, February 19.

Passed on the Senate floor with a vote of 42-5 on Friday, April 12.

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

Passed on the House floor with a vote of 74-16 on Thursday, April 25.

Passed on the Senate floor with a vote of 47-0 on Friday, April 26.

This bill is the appropriations bill for the State Industrial Commission.

The bill had been modified by the conference committee to include a \$500M low-interest,

long-term revolving loan fund to support infrastructure projects. However, the HB 1014 conference committee removed the authority to establish a \$500M infrastructure revolving loan fund.

Instead, the final bill contains plans to supplement the existing BND \$150M 2% interest revolving loan fund with an additional \$40M from the SIIF contingent on the balance its balance reaching \$755M. This is in excess of approximately \$10 million more than the legislative estimate for the 2017-19 biennium to the infrastructure revolving loan fund.

The infrastructure revolving loan fund \$40M "bucket" will be at the bottom of distributions of the gross production and extraction tax allocations. Under present oil prices and production forecasts, this is anticipated to occur after gross production tax distributions to counties, cities, schools and airports under "Operation Prairie Dog" are completed in late 2020 or 2021.

[HB 1449](#) **Oil Extraction Tax Rate**

Failed on the House floor with a vote of 12-76 on Friday, February 8.

This bill would have raised the oil extraction tax rate to 6.5%. Competition from other states with lower tax rates for oil extraction was the main concern.

[SB 2275](#) **Essential Infrastructure Revolving Loan Fund**

Passed on the Senate floor with a vote of 45-0 on Friday, February 15.

Failed on the House floor with a vote of 34-55 on Wednesday, March 27.

This bill would have created 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. This bill failed due to the \$55M+ per biennium obligation from the state for the next 15 biennia.

[SB 2362](#) **Allocation of Oil Extraction Tax**

Passed on the Senate floor with a vote of 44-3 on Monday, April 1.

Passed the House floor with a vote of 85-0 on Friday, April 5.

Signed by Governor on Thursday, April 11.

This bill addresses 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 20.5% (was 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, until the over \$128M is restored to the Resources Trust Fund.

[SCR 4005](#) **Low-Interest Revolving Loan Fund**

Failed on the Senate floor with a vote of 11-34 on Thursday, January 31.

This bill would have created a North Dakota infrastructure fund to serve as a grant and low-interest revolving loan fund from the principal and earnings of the legacy fund for permanent infrastructure projects. One of the main reasons the measure failed was because it was a large fund and the it would have used the corpus of the legacy fund, and put it at risk.

C. Property Use/Protections:

[HB 1184](#) **Eliminating Quick Take Eminent Domain**

Failed on the House floor with a vote of 26-64 on Wednesday, February 19.

This bill would have eliminated the ability of state and local governments from using quick take eminent domain or acquiring an easement for a right of way through the use of quick take eminent domain. The bill implemented treble damages and a possible two-year moratorium on quick-take authority if WRDs fail to comply with statutory time-lines.

[HB 1207](#) **Reasonable Costs Awarded to Eminent Domain Defendant**

Passed on the House floor with a vote of 80-13 on Tuesday, February 19.

Failed on the Senate floor with a vote of 6-41 on Wednesday, April 3.

This bill would have awarded attorney's fees to defendants that prevail in eminent domain cases if the award for compensation and damages is less than the written offer of settlement submitted by the condemning authority at least 60 days before trial or if the taking is deemed not for a public use or unlawful. Landowner rights were a major concern with this bill.

[HB 1362](#) **Railroad Right of Way Utility Applications**

Passed on the House floor with a vote of 83-8 on Wednesday, February 20.

Passed on the Senate floor with a vote of 46-0 on Thursday, March 21.

Returned to House on Friday March 22, 2019.

Passed on the House floor with a vote of 79-8 on Monday, April 1.

Signed by Governor on Wednesday, April 10.

This bill allows a utility to cross over or under the railroad right of way for the placement of facilities.

[HB 1440](#) **Protection of Groundwater**

Failed on the House floor with a vote of 13-80 on Tuesday, January 29.

This bill would have removed the water quality test requirement from protections for groundwater against mineral developers and required developers to collect soil samples and inventory water wells. The process was deemed duplicative and an unnecessary burden.

[SB 2238](#) **Eminent Domain Power of County Commissioners**

Failed on the Senate floor with a vote of 12-35 on Monday, February 18.

This bill would have required county commissions to approve eminent domain proceedings.

This bill was deemed to be an additional step in an already arduous process.

[SB 2259](#) **Valuation of Property**

Failed on the Senate floor with a vote of 20-25 on Wednesday, January 30.

This bill would have set out guidelines for evaluating property when being taken for eminent domain. This bill would have placed a burden political subdivisions and the NDDOT.

D. Water Resource Districts:

[HB 1173](#) **Appeals to Local Government Cost**

Passed on the House floor with a vote of 90-1 on Thursday, January 17.

Failed on the Senate floor with a vote of 2-45 on Tuesday, April 2.

This bill would have reduced the cost of appeals to local government. The bill was found to be unnecessary.

[HB 1243](#) **Recording of Easements**

Failed on the House floor with a vote of 12-80 on Wednesday, January 30.

This bill would have required all easements to be recorded. The timelines that would have been imposed and when exactly the easements are created were the main concerns with the bill.

[HB 1299](#) **Duration of Pipeline Easements**

Failed on the House floor with a vote of 18-75 on Tuesday, January 29.

This bill would have made an easement, servitude, or nonappurtenant restriction in the building a pipeline considered abandoned if the pipeline is not built within twenty years of the easement. Restricting a landowners' right to negotiate a contract beyond a 20-year period for a pipeline easement was the main concern with this bill.

[HB 1302](#) **Sale of Property Acquired by Eminent Domain**

Passed on the House floor with a vote of 86-4 on Friday, February 15.

Failed on the Senate floor with a vote of 5-41 on Tuesday, March 26.

This bill would have allowed 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. Failed on the floor due to the many concerns and unanimous opposition at the hearing.

[HB 1314](#) **Compensation and Reimbursement of WRD Board Members**

Failed on the House floor with a vote of 12-80 on Wednesday, January 30.

This bill would have adjusted the compensation of WRD board members to be consistent with the state legislators. The main concern was tying a local governing body's pay to that of a legislator.

[HB 1514](#) **Eliminates Tile Permitting Process**

Failed on the House floor with a vote of 28-62 on Wednesday, February 19.

This bill would have repealed section 61-32-03.1, which requires permits for subsurface water management systems. The primary reason this bill failed was because the legislators felt that the changes made in the 2017 session should remain in effect.

[SB 2139](#) **State Cost-share authority for 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.

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 2166](#) Increased Liability Limits for Political Subdivisions

Failed on the Senate floor with a vote of 2-44 on Tuesday, February 5.

This bill would have raised the total liability of political sub divisions from \$250K to \$1M per person and from \$1M to \$4M for claims arising from any single occurrence. This would have doubled some current limits and current rates are evaluated regularly, which is a major reason why it did not pass.

[SB 2174](#) WRD Board Member Elections, Appointments and Terms

Failed on the Senate floor with a vote of 4-40 on Monday, February 4.

This bill would have required elections for WRD board members and set term limits. The bill was defeated because WRD boards are held accountable to County Commissions and the positions may be politicized.

[SB 2220](#) WRD Tile Permits

Failed on the Senate floor with a vote of 14-32 on Thursday, February 7.

This bill would have allowed WRD to charge actual costs associated with permits and allowed a WRD board to review completed applications up to 45 days after receipt. The primary reason this bill was defeated was because it was felt that the 2017 changes should remain.

[SCR 4009](#) Joint Water Resource Board Study

Passed on the Senate floor on Friday, February 8.

Passed on the House floor on Wednesday, March 13.

This resolution directs 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.

E. Agriculture/Irrigation:

[HB 1020](#) NDSU Ag Research and Extension (SBARE Priorities)

Passed on the House floor with a vote of 79-14 on Tuesday, February 19.

Passed on the Senate floor with a vote of 44-0 on Monday, April 8.

Assigned to Conference Committee: Reps. Monson, Nathe, Boe and Sens. Erbele, Wanzek, Robinson

Passed on the House floor with a vote of 82-10 on Thursday, April 25.

Passed on the Senate floor with a vote of 46-1 on Friday, April 26.

This bill includes appropriations for NDSU ag research and Extension, including the 2019-2021

SBARE priorities. Extension's budget received an eight percent general fund increase over the current biennium, while ag research received a seven percent increase. Both include salary increases of 2 percent in the first year and 2.5 percent in the second. Included in the Extension budget was \$870,000 to support county extension office partnerships. Regarding SBARE initiatives, the legislature funded the top Extension priority of web and digital upgrades at \$345,000 and the top Ag Experiment Station priority of \$1.16 million for the agri biome initiative (ag probiotics), as well as approving \$940,000 for extraordinary repairs. The Legislature also provided \$750,000 for the Williston seed cleaning plant and approved \$200,000 for the Oakes irrigation research site. Upper Great Plains Transportation Institute received \$875,000 to continue its road and bridge study.

[HB 1085](#) Drought Disaster Livestock Water Assistance Program

Passed on the House floor with a vote of 87-2 on Thursday, January 10.

Passed on the Senate floor with a vote of 45-0 on Wednesday, February 27.

Signed by Governor on Friday, March 8.

This bill amends the drought disaster livestock water assistance program to raises the limit from \$3,500 to \$4,500.

[HB 1087](#) Permit to Construct or Modify a Dam or Dike

Passed on the House floor with a vote of 87-3 on Tuesday, January 22.

Passed on the Senate floor with a vote of 44-1 on Wednesday, February 27.

Signed by Governor on Friday, March 8.

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.

[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.

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

Signed by Governor on Tuesday, April 23.

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 a 30-day comment period on water permit applications into statute. All new water permit applications increased from \$200 to \$500, industrial permits are now \$1,000, and amendments are raised to \$100.

[SB 2295](#) Limiting Creation of Irrigation Districts

Passed on the Senate floor with a vote of 46-0 on Friday, February 8.

Passed on the House floor with a vote of 76-13 on Thursday, March 14.

Signed by Governor on Tuesday, March 19.

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 2315](#) Relating to identifying private land open to hunters

Passed on the Senate floor with a vote of 28-18 on Tuesday, February 19.

Passed on the House floor with a vote of 55-38 on Thursday, April 11.

Assigned to Conference Committee: Sens. Luick, Erbele, Larson, O. and Reps. Schreiber-Beck, Heinert, Tveit

Passed on the Senate floor with a vote of 29-17 on Thursday, February 25.

Failed on the House floor with a vote of 44-48 on Friday, April 26.

This bill would have reversed the presumption that all land is considered open and required people to seek permission to access private property, except for hunting, where designations of open or closed may be indicated on a published electric database. If the landowner did not provide information for the database, the land will be considered open to hunting unless traditional signs have been posted. The bill would have established an advisory group, including landowners and sportsmen, to oversee the development of the database. This bill failed because it was deemed too complex and failed to address the problems highlighted with the original intent of the bill.

[SB 2360](#) Calculation of Income for Farm Residence Property Tax Exemption

Passed on the Senate floor with a vote of 34-11 on Friday, February 15.

Passed on the House floor with a vote of 74-18 on Monday, March 18.

Signed by Governor on Tuesday, March 26.

This bill modernizes the tax exemption by changing the definition of farm income from net to gross for purposes of qualification for the farm home property tax exemption. The bill adopts the IRS definition of a farmer, which is two-thirds or more of annual gross income from farming activities during any of the two preceding calendar years. It also removed the present \$40,000 cap for allowable off-farm income.

F. Ethics:

[HB 1521](#) Reporting Campaign Contributions

Passed on the House floor with a vote of 81-9 on Wednesday, February 19.

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

Passed on the House floor with a vote of 74-17 on Thursday, April 25.

Passed on the Senate floor with a vote of 36-10 on Thursday, April 25.

This bill lays out campaign contribution disclosure requirements and the complaint procedure for campaign contribution violations by lobbyists.

[SB 2148](#) Measure 1 Lobbyist Bill

Passed on the Senate floor with a vote of 46-0 on Tuesday, February 19.

Passed on the House floor with a vote of 90-2 on Thursday, April 25.

Passed on the Senate floor with a vote of 42-5 on Friday, April 26.

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

G. Watercourses:

[HB 1086](#) Waters of the State

Failed on the House floor with a vote of 0-91 on Thursday, January 31.

This bill related to the waters of the state. WOTUS negatively impacted the bill and its intent was unclear, causing concern.

[HB 1192](#) Ordinary High Water Marks

Passed on the House floor with a vote of 80-13 on Tuesday, February 19.

Passed on the Senate floor with a vote of 39-6 on Wednesday, March 20.

Failed on the House floor with a vote of 80-13 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. This bill failed because the language of the bill was already in SB 2211.

[HB 1202](#) Navigable Water Determination

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

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

Passed the House with a vote of 79-13 on Tuesday, April 23.

Passed the Senate with a vote of 45-2 on Tuesday, April 23.

This bill lays out the process the state engineer must follow in order to determine the navigability of waters.

[HB 1428](#) Acquisition and Management of the Missouri River Shoreline

Failed on the House floor with a vote of 38-54 on Wednesday, February 6.

This bill would have formed a Missouri River council to conduct acquisitions and manage the Missouri River shoreline. The proposed council was too viewed as duplicative and potentially confusing with the existing Missouri River Advisory Council efforts.

[SB 2211](#) Determination of the Ordinary High Water Mark

Passed on the Senate floor with a vote of 44-0 on February 14

Passed on the House floor with a vote of 87-4 on April 17

Assigned to a Conference committee: Sens. Unruh, Schaible, Piepkorn and Reps. Keiser, Martinson, Porter

Passed on the Senate floor with a vote of 46-1 on April 25 – Emergency clause carried

Passed on the House floor with a vote of 90-1 on April 26 – Emergency clause carried

The bill relates to the definition of the ordinary high water mark; to sovereign lands, determining the ordinary high water mark; the ownership of mineral rights of land subject to

inundation by Pick-Sloan Missouri basin project dams; and authorizes the Land Board to hire a firm to analyze acreage of submerged mineral acres and to make adjustment to mineral bonus and royalty refunds.

[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

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

Signed by Governor on Tuesday, April 23.

This bill sets noise restrictions of 88 decibels for no more than 10 minutes on the operation of watercraft between 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

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.

Signed by Governor on Tuesday, April 23.

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

H. Infrastructure/Construction/Contracts:

[HB 1136](#) Bid Requirements for Public Improvements

Passed on the House floor with a vote of 91-0 on Friday, January 25.

Passed on the Senate floor with a vote of 42-0 on Friday, March 8.

Signed by Governor on Wednesday, March 20.

This bill allows a governing body to award a contract for each portion of the public improvement project that received bids and readvertise for bids on the portion of the project that did not receive bids.

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

Passed on the House floor with a vote of 73-19 on Wednesday, February 13.

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

Laid on the Table in the House- with no final action taken

This bill was “hog housed” and split into HB 1202 and SB 2358 to instead become a Theodore Roosevelt Presidential Library funding bill, but the Speaker determined that topic as not

Germaine to the original bill, so the library was moved to another bill and HB 1320 was tabled indefinitely.

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

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.

Signed by Governor on Wednesday, April 24.

This bill requires that the state or political subdivisions must use a professional engineering if the public works expenditure exceeds \$200,000.

SB 2044 Damaging Critical Infrastructure Penalty

Passed on the Senate floor with a vote of 42-3 on Friday, February 15.

Passed on the House floor with a vote of 76-14 on Monday, March 25.

Signed by Governor on Wednesday, April 10.

This bill provides penalties for tampering with critical infrastructure, including waterworks.

SB 2091 Floodplain Management Community Standards

Passed on the Senate floor with a vote of 46-1 on Monday, January 14.

Passed on the House floor with a vote of 86-0 on Friday, March 1.

Signed by Governor on Wednesday, March 6.

This bill allows permissible structures within a flood fringe to be constructed on piers or columns, or other methods allowed by FEMA.

I. Legislative Bills Tracked During Session

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 1086	Waters of the State	FAILED	
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 1184	Eliminating Quick Take Eminent Domain	FAILED	

HB 1192	Ordinary High-Water Marks	PASSED	PASSED
HB 1202	Navigable Water Determination	FAILED	
HB 1207	Reasonable Costs Awarded to Eminent Domain Defendant	PASSED	FAILED
HB 1243	Recording of Easements	FAILED	
HB 1299	Duration of Pipeline Easements	FAILED	
HB 1302	Sale of Property Acquired by Eminent Domain	PASSED	FAILED
HB 1314	Compensation and Reimbursement of WRD Board Members	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 1428	Acquisition and Management of the Missouri River Shoreline	FAILED	
HB 1431	Removal of Mandan from SW Water Authority's Mill Levy	PASSED	FAILED
HB 1440	Protection of Groundwater	FAILED	
HB 1449	Oil Extraction Tax Rate	FAILED	
HB 1514	Eliminates Tile Permitting Process	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	PASSED
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	FAILED	PASSED
SB 2220	WRD Tile Permits		FAILED
SB 2238	Eminent Domain Power of County Commissioners		FAILED
SB 2259	Valuation of Property		FAILED
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 4005	Low-Interest Revolving Loan Fund		FAILED

SCR 4009	Joint Water Resource Board Study	PASSED	PASSED
--------------------------	----------------------------------	--------	--------