

Legislative Report

This week at the Capitol

GOP Bonding Bill Replacement

This week, the GOP revised its \$1.1 billion bonding proposal, aimed at funding infrastructure projects across the state, replacing it with [HB 1431](#), an \$800 million bond proposal with a continued focus on major flooding and water projects. While the original proposal's total bonding has declined and projects not viewed as priorities were eliminated in the new proposal, investments in water projects and transportation are expected to continue to be revised in the new bonding bill.

The majority party's original bonding proposal was one of three presented at the beginning of the session. The Governor also presented a \$1.25 billion bonding proposal, which included \$700 million in low-interest loans for roads, bridges and other construction, and the Democrats proposed a \$2 billion bonding package that included a \$750 million revolving loan fund for school construction.

The new bonding proposal includes \$435.5 million for the Fargo Diversion project to complete a total \$850 million state commitment to the project, as well as \$74.5 million to the Resources Trust Fund dedicated to the Mouse River Flood Control Project. New to the proposal is the addition of a water loan fund, with a 30-year term matching the current infrastructure revolving loan fund.

Fifty million dollars in funding is made available for the Agriculture Products Development Center and the Northern Crops Institute project at NDSU, as well as \$70 million for the Highway Fund, with \$35 million designated for state highway bridge projects and \$35 million designated for matching federal funds that may become available for state highway projects. County and township roads are not prioritized in the new proposal.

A proposed \$50 million is designated for the Infrastructure Revolving Loan Fund. The Department of Career and Technical Education Operating Fund will receive \$92.5 million, and the University System Capital Building Fund will receive a total of \$19 million in the proposed bill. The proposal aims to pay off the bonds using earnings from the Legacy Fund.

There is a separate proposal in [HB 1425](#), also introduced this week, which would allocate up to 20% of the Legacy Fund principle for investments within the state and use earnings from those investments to create a revolving loan fund to finance water and other infrastructure projects like the Red River Valley Water Supply Project or city replacement or improvement of water, wastewater treatment plants or water lines. Loans from the fund would have an interest rate of less than 2% interest and could be offered for up to 30 years.

Bill Deadlines

The House of Representatives reached its deadline for introducing bills on Monday, Jan. 18, and the Senate's deadline is approaching on Monday, Jan. 25. While this means no additional bills will be introduced after the Senate's deadline is reached next week, many bills are amended and changed throughout the remainder of the session. We will continue to monitor the bills of interest to our organization and provide information on changes to those bills in the weekly reports.

Providing Testimony

To provide testimony remotely (virtually), you must register for the committee hearing at this [legislative website](#). You will need to register at least one hour before the start of a committee meeting and upload written testimony via PDF. Registrants will receive a unique Zoom link by which to address the committee hearing. A brief tutorial on this process can be viewed [here](#).

To participate in the hearing in-person, you do not need to preregister. Many committee chairmen are taking in-person testimony before the online queue but recognize that room space is limited and once the chairs are taken, a standing audience is not permitted.

Public Access

There is a temperature check and health survey station at the Capitol visitor entrance, on the south side of the building. Everyone in legislative spaces is required to wear a face mask or shield covering their nose and mouth.

ND Legislative Daily is a free app available to download on your smartphone. All committee hearings, meetings, floor sessions, etc., are available and is updated frequently, however videos are not available.

Summaries of Key Water Bills

[HB 1425](#)– Legacy Fund Loans and Infrastructure Projects

This bill would provide loans for specific/essential infrastructure projects utilizing 10% of Legacy Fund fixed income investments. An additional 10% would be utilized to make equity investments in the state. Essential infrastructure projects include capital construction for the Red River Valley Water Supply Project, new or replacement of existing water treatment plants, wastewater treatment plants, sewer lines and waterlines, storm water and transportation infrastructure, including curb and gutter construction.

The bill also creates evolving Loan Program with a return to the legacy fund must be fixed at a target rate of 1.5% with a maximum term of 20 years.

[SB 2208](#) changes water boards ability to construct, maintain and manage water projects and drains

The bill would limit the ability of local water boards to construct, maintain and manage water projects and drains, and it also removes a landowner appeal process. The bill sponsors' intent was to merge the assessment process found in NDCC § 61-21 (which deals with assessment drains) into NDCC § 61-16.1 (which deals with all water resource district assessment projects drains), but the bill also removes ability of WRDs to create a snagging and clearing district; implement improvements or

enhanced maintenance for assessment drains without a vote; precludes a WRD from using an annual levy for anything other than simple maintenance; requires tile permits on all acreage projects; removes capability to file drain complaints against an illegal drain; requires a petition finance assessment drains; and does not change how water resource districts determine project benefits.

The planned Jan. 21 hearing was postponed and is now scheduled for a hearing with the Senate Agriculture Committee at 10 a.m. on Jan. 28. The Water Resource Districts Association and several agriculture groups are expected to testify in opposition to the measure.

HB 1431– Water infrastructure revolving loan and bond fund

Replaces HB 1132, proposes \$800 million bond fund to provide funding for infrastructure projects across the state. Each biennium, the legislative assembly will provide appropriation from the general fund, derived from Legacy Fund earnings, and Bank of North Dakota profits to meet debt service requirements for bonds funding infrastructure projects and programs.

HB 1431 includes:

- \$435.5 million for the Fargo Diversion Project
- \$74.5 million to the Resources Trust Fund for Mouse River Flood Control
- \$50 million to the Infrastructure Revolving Loan Fund
- \$70 million to the Highway Fund
- \$50 million to Agriculture Products Development Center, including a Northern Crops Institute project
- \$92.5 million to the Department of Career and Technical Education operating fund
- \$10 million to the University System Capital Building Fund
- \$9 million to the University System Capital Building Fund
- \$3 million to Dickinson State University, for Pulver Hall
- \$4 million to the University of North Dakota for a space command initiative

HB 1353 – Reorganizes Office of State Engineer into Department of Water Resources

The bill would reorganize the Office of the State Engineer and the State Water Commission into the Department of Water Resources and set powers and duties of the director of the Department of Water Resources. The 129-page bill would place the engineer and associated regulatory roles into a division within the reorganized department and make the head of the Department a member of the Governor’s cabinet. The cost-share grant role and the selection of the board of the State Water Commission would not change from current practice of being appointed to represent specific watershed areas. **Scheduled to be heard by House Appropriations Committee Jan. 26.**

Other Bills of Interest

HB 1020 Appropriation for Defraying the Expenses of the State Water Commission

This is the appropriations bill for the State Water Commission operations and cost-share grant

[HB 1038](#) **Legislative Management Legacy Fund Earnings Committee**

This bill would create a legislative management legacy fund earnings committee.

[HB 1043](#) **Ethics Commission Bill**

This bill addresses the complaint procedure and investigations. It also covers the commission's delegation of duties and advisory opinions issued by the committee.

[HB 1057](#) **Liability of Political Subdivisions**

This bill changes the total liability of political subdivisions from \$250,000 to \$375,000 per person and from \$1,000,000 to \$500,000 for any number of claims from a single occurrence. Heard by House Political Subdivisions Committee; reported back amended; Passed House 89-3; sent to Senate.

[HB 1079](#): Uniform Environmental Covenants Act

Relating to assessment projects, operations of water resource districts and to assessment drains, drain permits, noncompliant drains and obsolete provisions. **Heard by House Judiciary Committee; reported back do pass; passed House 86-7.**

[HB 1063](#) **NAWS Advisory Committee Membership**

This bill removes the requirements for members of the advisory committee from Williston, Three Affiliated tribes and the counties of Divide, Mountrail, and Williams.

[HB 1088](#) **Commissioner Hosted Meeting Requirements in the SWC Development Plan**

This bill requires commissioner-hosted meetings to be held in the upper Missouri River, lower Missouri River, James River, Little Missouri River, upper Heart River and upper Cannonball River drainage basins.

[HB 1116](#) **General Obligation Bonds**

This bill lays out the purposes in which a governing body of a county may authorize and issue general obligation bonds. Heard by House Finance and Taxation Committee; reported back do pass; passed House 64-26; sent to Senate.

[HB 1132](#) **Public Finance Bonds**

This bill allows the public finance authority to transfer money to the Bank of North Dakota for allocations to infrastructure projects and programs. Bonds issued for these purposes are payable in each biennium solely from amounts the legislative assembly may appropriate for debt service for any biennium or from a reserve fund established for the bonds. This bill also allows the public finance authority to request from the legislative assembly each biennium an appropriation from the general fund, derived from legacy fund earnings, Bank of North Dakota profits, or other sources to meet the debt service requirements for bonds issued by the authority for allocations to infrastructure projects and programs.

[HB 1216](#) **Water Resource District Board Member Compensation**

This bill allows for board members to be compensated at least \$75 per day, but not more than the rate set for a member of the legislative assembly under subsection 1 of section 54 - 03 - 20,

allowance for meals at the same rates as state officers, and reimbursement of lodging and other necessary travel expenses at the same rate as state officers, while performing duties. Water Resources Districts Association testified in support at the Jan. 22 hearing.

[HB 1324](#) **Eminent Domain Penalties**

This bill provides penalties for unauthorized or unnecessary takings for airport authorities, municipalities, water resource boards and improvement districts.

[HB 1353](#) **Department of Water Resources**

This bill established the Department of Water Resources and duties of its director.

[SB 2034](#) **Advisory Opinions**

This bill requires a requested written advisory opinion from a public official, candidate for elected office, or lobbyist to be issued by the ethics commission within ninety (90) days of the request. The request may regard the application of Article XIV of the Constitution or states statutes and ethics rules related to transparency, corruption, elections, and lobbying, based on a specific set of hypothetical or actual facts.

[SB 2079](#) **Operating Plans for Dams**

This bill removes requirements for dam operators to follow state engineer plans of operations. **Heard by Senate Energy and Natural Resources Committee; reported back do not pass; failed in Senate 47-0.**

[SB 2080](#) **Construction Permit Thresholds for Dikes, Dams, and Other Devices**

This bill adds requirements for permits to construct low-hazard dam capable of retaining, obstructing, or diverting more than fifty acre-feet of water, medium and high-hazard dams capable of retaining, obstructing, or diverting more than twenty-five acre-feet of water, and low - risk dike capable of protecting more than eighty acres of land area; and moderate-risk or high-risk dike. **Heard by Senate Energy and Natural Resources Committee; reported back do not pass; failed in Senate 44-3.**

[SB 2081](#) **Floodways and National Flood Insurance Program**

This bill provides for uses of within the floodway as delineated by the national flood insurance program. **Heard by Senate Energy and Natural Resources Committee; reported back do pass; passed Senate 47-0; sent to House.**

[SB 2120](#) **Water Resource District Board Members**

This bill requires an odd number of board members, not to exceed seven.

[SB 2124](#) **Declared State of Disaster or Emergency and Virtual Legislative Assembly**

This bill adds parameters to a disaster or emergency declared by the governor. It also permits a virtual special session of the legislative assembly during the emergency or disaster.

[SB 2129](#) **Liability of State and Political Subdivisions**

This bill changes the total liability of political subdivision from \$250,000 to \$500,000 per person and from \$1,000,000 to \$2,000,000 for any number of claims from a single occurrence. Introduced and referred to Political Subdivisions Committee; **return requested from committee; withdrawn from future consideration.**

[SB 2208](#) **Water Resource District Operations, Permits and Projects**

This bill replaces “Snagging and clearing of watercourses are,” with “Changing the flow capacity of drains by widening or deepening channels is,” to help define what is not regular maintenance. This bill also adds or changes the definitions of “assessment drain,” “cleaning out and repairing a drain,” “drain,” “maintenance,” “practical drainage area,” and “project.” A basinwide plan for snagging, clearing, and maintaining natural watercourses and removing debris from bridges and low water crossings would be required, when practicable, under this bill and it removes all exceptions to assessments levied in this section. This bill also makes changes to the process of assessment drains. The process of the consolidation of drainage districts into water resource districts is also included, as well as requirements for permits to drain surface and subsurface waters.

Hearing Schedule (Jan. 25-29)

<u>Date and Time</u>	<u>Bill Number</u>	<u>Hearing Description</u>	<u>Committee</u>
01/26/2021 10:45 AM	HB 1353	Relating to the establishment of the department of water resources and powers and duties of the director of the department of water resources	House Appropriations
01/28/2021 10:30 AM	SB 2208	Relating to procedures for drain permits, assessments projects and operations of water resource districts.	Senate Agriculture
01/29/2021 09:00 AM	HB 1419	Relating to the authority of cities and counties to levy an infrastructure fee in lieu of special assessments and special assessment fund balances	House Political Subdivisions

Status of Key Bills

A report on the status of all tracked bills is attached.

Legislative Leaders

The 67th Legislative Assembly includes 80 Republicans and 14 Democrats in the House of Representatives and 40 Republicans and seven Democrats in the Senate. Thirteen legislators are new this session. House and Senate members have selected the following leaders for the 2021 Legislative Session: House and Senate.

How to Contact Your Legislators

During the session, legislators can be reached at the Capitol through Contact My Legislators or by leaving a message at 888-NDLEGIS (635-3447) or 701-328-3373 (local). A legislator can also be reached by email, phone or mail as listed in the legislator's online bio: Senate or House. Details information on legislative activities is available on the Legislative Assembly website.

Legislative Calendar

- Jan. 18: Deadline for representatives to introduce bills
- Jan. 25: Deadline for senators to introduce bills
- Feb. 26: Crossover
- March 1-2: Recess
- April 30: Final day of session (limited to 80 days)

For more details, check out the complete list of legislative deadlines.