

Legislative Report

This week at the Capitol

Bill introductions are complete, except for study resolutions and constitutional resolutions. A total of 845 bills were introduced this session, which includes 501 House bills and 344 Senate bills. A total of 28 resolutions have also been introduced thus far.

There is a process for delayed bills to be introduced, but it is only used occasionally. Our focus will be to monitor the many policy and funding bills as they are amended and debated throughout the remainder of the session. We will continue to monitor the bills of interest to you and provide information on changes to those bills in weekly updates.

Water Project Funding

HB 1020 State Water Commission budget bill

HB 1020, the appropriation bill for State Water Commission (SWC) cost-share grants and department operations, remains in the House Appropriations Education and Environment Division. The subcommittee has received regular updates and clarifications from project sponsors and SWC staff, but has not finalized its recommendations.

Funding for capital assets, cost-share grants and agency operations is paid by the Resources Trust Fund, largely funded by oil extraction tax collections. The January forecast estimates \$261.4 million of oil tax revenue to the fund.

Proposes funding levels being considered by the subcommittee include: \$100 million for water supply grants, \$41.6 million for rural water supply grants, \$66.5 million for Fargo flood control, \$85.8 million for Mouse River flood control, \$49 million for other flood control, \$14.2 million for general water management grants, and \$1.1 million for a basin wide pilot project. With capital asset costs of \$175.3 million and operations and salaries of \$64 million, the revenue to cover objectives is short \$157 million, even with a \$75 million line of credit.

Appropriators are awaiting legislative consideration of bonding proposals which include substantial support for major water projects. Many are anticipating the influx of funds which would be generated with passage [HB 1431](#), an \$800 million bond proposal which 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 dedicated to the Mouse River Flood Control Project.

Bonding [HB 1431](#) House Appropriations Hearing Feb. 1 3:15

Adoption of HB 1431 would free up \$142.1 million of the Resources Trust Fund shortfall for cost-share grants, leaving a funding gap of only \$16.1 million. Many water projects could benefit from reduced competition for SWC money if the major flood control projects are funded with bonding. Large and small water managers and water project sponsors should support HB 1431.

Please contact legislators to request passage of HB 1431 to bolster investment in water infrastructure.

Water project supporters, water managers and infrastructure sponsors should consider testifying in support of HB 1431 at the House Appropriations hearing on Feb. 1 at 3:15.

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.

Referred to House Finance and Taxation Committee

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 Jan. 28 Senate Agriculture Committee hearing lasted throughout the day with water resource district managers, farmers, road authorities and several agriculture groups [testifying](#) in opposition to the measure, which was promoted by several landowners frustrated with water project processes and notification. The written comments from the many testifiers can be found at this [link](#).

Heard by Senate Agriculture Committee

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 Ag 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

The hearing on HB 1431 will be with the House Appropriations Committee on Feb. 1.

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.

Heard by House Appropriations Committee

HB 1437 Modifies drain tile approval processes

For subsurface drain permits, the bill allows a simplified land ownership (tiled and downstream) documentation process using tax statements instead of deeds; reduces the documents required in notification process; requires WRD notification, but not permits for projects under 80 acres; provides for an increase in the permit fee for actual cost up to \$500; eliminates restriction of the size of the drainage coefficient with surface inlets since the outflow capacity and drainage coefficient are requirements on the application; the actual tile plan is not subject to open record; and defines conditions that could be attached to a permit. Contains an emergency clause.

The hearing on HB 1437 will be with the House Agriculture Committee on Feb. 4.

Other Bills of Interest

HB 1038 Legislative Management Legacy Fund Earnings Committee

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

Passed the House 89-0, sent to Senate

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.

Reported back do pass, referred to Judiciary

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 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.

Heard by Energy and Natural Resources Committee

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, sent to Senate

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, and drops the ability of project applicants' to count Heritage Fund grants as local cost-share.

Heard by House Energy and Natural Resources Committee

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 Republican leaders' \$1.1 billion infrastructure bonding bill (WITHDRAWN)

Proposal for a \$1.1 billion bonding package to fund infrastructure projects across the state using legacy fund dollars to pay for the borrowed money. The plan included at least \$250 million over the next four years for the Fargo-Moorhead Area Diversion project, the Mouse River Flood Protection Plan, and the Red River Valley Water Supply Project. \$160 million in state transportation funding for state and local roads is also earmarked and potentially the expansion of US Highway 85 between Belfield and Williston and \$80 million to the county and township infrastructure fund and \$10 million for township road projects associated with roads inundated by water. \$50 million to the NDSU Ag Products Development Center and Northern Crops Institute.

HB 1132 was withdrawn on Jan. 27 and a reduced bond package as the GOP infrastructure proposal is in HB 1431.

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.

Heard by House Political Subdivisions Committee; reported back do pass

HB 1324 Eminent Domain Penalties

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

Referred to House Political Subdivisions Committee

HB 1419 Cities, Counties Levying Infrastructure Fees

Relating to the authority of cities and counties to levy an infrastructure fee in lieu of special assessments and special assessment fund balances.

Heard by House Political Subdivisions Committee

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.

Heard by Senate Judiciary Committee; reported back do pass; referred to Judiciary

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 0-47.**

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 3-44.**

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. **Heard by Senate Agriculture Committee; reported back do pass; passed Senate 47-0, sent to House**

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. **Heard by Senate Judiciary Committee; reported back do pass; Referred to Judiciary**

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.**

Hearing Schedule (Feb. 1-5)

<u>Date and Time</u>	<u>Bill Number</u>	<u>Hearing Description</u>	<u>Committee</u>
02/01/2021 02:45 PM	<u>HB 1275</u>	Relating to an infrastructure bonding repayment fund, a research and innovation fund, a workforce development and lifelong education fund, a student meal and support services fund, a legacy earnings fund, a human services and public health stabilization fund, and a regional economic development infrastructure fund; relating to funds invested by the state investment board, legacy fund definitions, and an arts and culture endowment fund; to provide a continuing appropriation.	House Appropriations
02/01/2021 03:15 PM	<u>HB 1431</u>	Relating to a water infrastructure revolving loan fund and bonded debt repayments; borrowing and lending authority of the public finance authority, and reserve funds associated with bonds; relating to a community water development fund and an infrastructure revolving loan fund within the resources trust fund; to provide an appropriation; to provide a continuing appropriation; to provide for a transfer; to provide for a contingent transfer; to provide a bond issue limit; and to provide a loan repayment.	House Appropriations
02/02/2021 09:00 AM	<u>HB 1380</u>	Relating to an economic diversification research fund, a legacy sinking and interest fund, a career and technical education support fund, a legacy earnings fund, a behavioral health support fund, a legacy	House Appropriations

		infrastructure project fund, a state building maintenance and project fund, and an information technology cybersecurity fund; relating to funds invested by the state investment board and legacy fund definitions; to provide for a transfer; and to provide a report.	
02/02/2021 09:00 AM	HB 1425	Relating to the legacy infrastructure revolving loan fund and the state investment board; to amend and reenact sections 21-10-02 and 21-10-11 of the North Dakota Century Code, relating to the state investment board and the legacy and budget stabilization fund advisory board; and to provide a continuing appropriation.	House Finance and Taxation
02/04/2021 09:00 AM	HB 1437	Relating to small subsurface water management systems; to amend and relating to large subsurface water management system permits; to provide a penalty; and to declare an emergency.	House Agriculture
02/04/2021 09:00 AM	SB 2306	Relating to the contracting authority of the western area water supply authority.	Senate Energy and Natural Resources

Status of Key Bills

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

Bill Testimony Available Online

Submitted bill testimony is available for viewing online through the [North Dakota Legislative Branch](#) website. Specific bills and related testimony can be accessed on the [67th Legislative Assembly](#) page by scrolling down to [House Bills](#) or [Senate Bills](#).

Find the bill you would like to view in the numerical bill listing and click on the linked bill number. Listed above the bolded “Bill Action for (Bill #)” title are additional linked titles that include “Testimony on (Bill #).” Once you are on the selected bill’s testimony page, a list of the submitted testimony is available, which includes the committee which heard the bill, the individuals who submitted the testimony, the organizations represented, and positions on the bill. Click on the word “view” at the far right of the list to access the selected testimony. On a hand-held or mobile device, the user may be required to scroll to the far right of the page to access the linked “view” button.

This a great resource for better understanding a bill and its impacts. The efforts of the Legislative Council to provide submitted testimony online has also helped to make the legislative process more accessible this session.

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

- Feb. 26: Crossover
- March 1-2: Recess
- April 30: Final day of session (limited to 80 days)