

Legislative Report

Committees Hard at Work to Meet Crossover Deadline

“Committee work” is the phrase of the week. A few policy committees held hearings this week, but most of the attention was on the Appropriations Committees, which were focused on completing agency budgets and bills with a fiscal impact so the House and Senate can vote on all bills before Crossover. Next week, floor sessions will be longer, potentially running most of the day, as the House and Senate strive to complete their work before the Feb. 26 Crossover deadline.

The Legislature will be in recess March 1 and 2, for a short break before the second half of the session resumes on March 3. Watch for our legislative Crossover report next week, which will include a summary and status of the bills water is supporting, opposing, or monitoring.

Water Project Funding

[HB 1020](#) State Water Commission budget bill

The House Appropriations Committee unanimously adopted a Do Pass recommendation vote on HB 1020, the appropriation bill for State Water Commission cost-share grants and department operations, on Feb. 17. Below is a chart comparing the funding levels as they currently stand in HB 1020 compared with the budget for the current biennium from the 2019 session appropriation:

Line Item	Current Appropriation	HB 1020
Capital Assets	\$106 million	\$163 million
Water Supply Grants	\$128 million	\$96 million
Rural Water Supply Grants	\$37.2 million	\$40.6 million
Fargo Flood Control	\$66.5 million	\$0; caps total state funds at \$850 million (funding in HB 1431)
Mouse River Flood Control	\$82.5 million	\$0; caps total state funds at \$604 million (funding in HB 1431)
Other Flood Control	\$48 million	\$38 million
General Water Management Grants	\$27.1 million	\$14.2 million
Basin Wide Pilot Project	\$1 million (of other flood control line)	\$1.1 million

Funding levels are based on the presumption that HB 1431, the major water project bonding bill, passes. If HB 1431 does not pass, HB 1020 will have to be largely rewritten to address a \$141 million difference in funding needs compared to anticipated revenue.

House Bill 1020 also includes a \$75 million line of credit and allows the Western Area Water Supply to issue revenue bonds. The bill also directs the Legislative Management to conduct governance and ownership studies for the Red River Valley Water Supply Project and the Northwest Area Water Supply project.

HB 1431 Bonding for Water Projects

The House approved HB 1431, the major water infrastructure and revolving loan bonding authority bill, 74-17 on Feb. 19. Legacy Fund earnings would repay 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 and Hastings Hall

Adoption of HB 1431 would free up \$142.1 million of the Resources Trust Fund shortfall for water project cost-share grants for projects contemplated in HB 1020. Many water projects could benefit from reduced competition for SWC money if the major water projects are funded with bonding. The North Dakota Water Users, North Dakota Water Coalition, and the North Dakota Water Resource Districts Association all supported the bill. Thank you to everyone who contacted your representatives in support of HB 1431.

HB 1425 Legacy Fund Loans and Infrastructure Projects

HB 1425 establishes an infrastructure revolving loan fund for water-related projects and other infrastructure investments. Projects could receive a loan of up to \$40 million. Eligible 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. This bill requires the State Investment Board give preference to qualified investment firms and sets specific targets for investing Legacy Fund assets within the state and within specified asset classes. The North Dakota Water Users and North Dakota Water Coalition submitted testimony in favor of HB 1425.

HB 1425 was referred to House Appropriations which today gave the bill a “Do Pass” recommendation by a vote of 15-5, so the bill will be on the House Floor next week.

Water Resource Districts

SB 2208 Changes water boards’ ability to construct, maintain, and manage water projects and drains

Initially SB 2208 would have substantially modified assessment drain processes and maintenance authority, but the Senate Agriculture Committee completely rewrote the bill to instead establish an interim study to examine combining NDCC chapters 61-16.1 and 61-21; making assessment procedures uniform; establishing an appeals and mediation process; managing water by watershed; reviewing responsibility of culvert sizing; cost-benefit analyses on projects; and reviewing the relationship between the State Water Commission and water resource districts. The bill’s study committee will include both legislators and non-legislators. Two members of water resource district boards are currently slated to be voting members on the committee. The full Senate passed SB 2208, as amended, 45-2 on Feb. 16. It will now head to the House.

HB 1437 Modifies drain tile approval processes

House Bill 1437 streamlines the permit process for subsurface water management (tiling) by simplifying ownership documentation processes; requires tile projects under 80 acres to report and larger projects to apply for a permit from local water board; defines conditions that could be attached to a permit; allows for

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; and tile plans cannot be disclosed by officials without cause.

On Feb. 18, the House Agriculture Committee added amendments related to defining downstream impacts and clarifying the State Water Commission can cost-share widening or deepening activities. The bill includes an emergency clause which will allow its immediate effective date if the bill receives sufficient legislative support. The committee gave HB 1437 a do pass recommendation as amended.

SB 2324 Installation of Culverts or Bridges

SB 2324 requires a road authority to install a culvert or bridge to the state engineer's specification if the state engineer makes such a recommendation. The bill sponsor offered amendments in committee to provide a road authority with one-year after the State Engineer's determination to install a bridge or culvert of sufficient capacity or to provide good cause for not installing a replacement crossing. On Feb. 18, the committee further amended the bill to allow courts to award court costs and attorney fees to the plaintiff if the road authority does not install the recommended culvert or bridge within one year. The committee passed SB 2324 as amended 7-0 on Feb. 18.

Governance Changes

HB 1063 NAWS Advisory Committee Membership

HB 1063 removes the requirements for members of the advisory committee from Williston, Three Affiliated tribes and Divide, Mountrail, and Williams Counties. On Feb. 18, the House Energy and Natural Resources Committee amended HB 1063 to require the State Water Commission consult with and provide staff support to the advisory committee. The amendments also require the advisory committee to prepare reports on the long-term plan for operation and management of NAWS for legislative management and interim committees. After amending HB 1063, the committee gave the bill a do pass recommendation.

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

The House Appropriations Committee passed House Bill 1353 to the House floor on Feb. 16. 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. There was anticipation that HB 1353 was to be amended to restore the State Engineer in some technical roles, but no amendments were offered in committee. The committee adopted a 20-1 do pass recommendation on the bill.

Other Bills of Interest

HB 1038 Legacy Fund Earnings

HB 1038 creates a legislative management committee to look at how legacy fund earnings should be used.
Passed Senate Finance and Taxation Committee 7-0 Feb. 16

HB 1043 Ethics Commission Bill

HB 1043 makes modifications to the complaint process for the Ethics Commission.
Amended and passed House Judiciary Committee 12-2 Feb. 18

HB 1057 Liability of Political Subdivisions

HB 1057 increases the liability cap for the state and political subdivisions starting July 1, 2022 and increasing annually until July 1, 2026.

Passed the Senate Political Subdivisions Committee 7-0 Feb. 18

[HB 1079](#) Uniform Environmental Covenants Act

HB 1079 creates a framework at the state level to register and oversee sites that have use restrictions due to environmental considerations (e.g., if a site had a hazardous waste spill and was remediated, its use in the future might be limited to industrial uses); any land under an “environmental covenant” issued at the state or federal level would be registered with the state’s DEQ.

Amended and passed the Senate Judiciary Committee 5-2, Feb. 16

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

HB 1088 removes the ability of projects to use Outdoor Heritage funds as a local match on projects seeking funding from the Water Commission.

Passed House 82-12 Feb. 10; referred to the Senate Energy and Natural Resources Committee

[HB 1116](#) General Obligation Bonds

HB 1116 allows county capital project levies to be used for roads and bridges and lengthens the term of county bonds from 20 to 30 years.

Passed House 64-26 Jan. 12; referred to Senate Finance and Taxation Committee

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

HB 1216 Allows water resource board members to receive pay and per diem matching what legislators receive.

Hearing in Senate Political Subdivisions, March 5

[HB 1259](#) Wastewater Surveillance

HB 1259 would require a public hearing and vote by a governing entity before a local or state entity can participate in a national or state wastewater surveillance program.

Passed House 87-5 Feb. 17

[HB 1324](#) Eminent Domain Penalties

HB 1324 provides penalties for unauthorized or unnecessary takings for airport authorities, municipalities, water resource boards and improvement districts, or for depositing insufficient compensation in a quick-take procedure.

Heard by House Political Subdivisions Feb. 12

[HB 1380](#) Legacy Fund Earnings Programs

HB 1380 creates a legacy fund earnings fund and then sets up various program funds, including fund for one-time infrastructure projects, and a distribution formula to fund those programs.

Heard by House Appropriations Committee Feb. 2

[HB 1419](#) Cities, Counties Levying Infrastructure Fees

HB 1419 gives counties and cities the ability to charge an ‘infrastructure fee’ instead of a special assessment to pay off infrastructure projects. The imposition of an infrastructure fee much be approved by the voters.

Heard by House Political Subdivisions Committee Jan. 29

[SB 2034](#) Advisory Opinions

SB 2034 allows for requests for advisory opinions from the Ethics Commission, provides a timeframe for issuance the opinion, and provides protections for individuals who utilize such opinions.

Passed Senate as amended 42-4 Jan. 29

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

SB 2081 provides for uses, within the floodway as delineated by the national flood insurance program if those uses due not result in an increase in flood levels.

Passed Senate 47-0 Jan. 8

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

SB 2120 requires an odd number of board members, not to exceed seven, for Water Resource District boards containing one county.

Passed Senate 47-0 Jan. 18; referred to House Political Subdivisions Committee Feb. 18

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

SB 2124 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.

Passed Senate 40-7 Feb. 4.

Hearing Schedule (Feb. 22-26)

There are no scheduled committee hearings or work next week. Instead, the floors will work long days to get through all their bills before crossover day on Friday, Feb. 26.

Status of Key Bills

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

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)