

Legislative Report

For Your Calendar

HB 1020, the State Water Commission's budget, will be heard in Senate Appropriations on Monday, March 22 from 9-noon. We will be in touch with more opportunities to advocate for the important funding included in this bill.

First Bills of the Legislative Session Signed into Law

On Monday, Governor Burgum signed the first bills into law for the 2021 Legislative Session. The Governor has three legislative days to act on a bill from the date it is received. He signed a total of 15 bills that day, marking their start as laws in the state of North Dakota upon their effective dates.

In the second half of the legislative session, bills that are passed will begin to move into the process of becoming law. If the second house passes the bill in the same form as its house of origination, the bill is enrolled, signed by presiding officers and sent to the Governor. If the second house amends and then passes the bill, it is sent back to the first house for concurrence. If the first house does not concur, the presiding officers of both houses appoint a conference committee.

The conference committee, usually made up of three members from each body, makes recommendations to both houses and both houses must approve the bill in the same form. The bill then is enrolled, signed by the presiding officers and sent to the Governor. If signed or if forwarded to the Secretary of State without being signed, the bill becomes law.

The effective dates of the new laws are usually Aug. 1 for policy bills or July 1 for appropriations and revenue measures. A bill could also carry an emergency clause, which would make the bill a law upon its signing and filing with the Secretary of State, if two-thirds of the members of both houses had voted to adopt the measure.

Water Funding

HB 1020 State Water Commission budget bill

The House passed HB 1020, the appropriation bill for SWC cost-share grants and department operations, on Feb. 23. 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 is not adopted, HB 1020 will have to be largely rewritten to address a \$141 million difference in funding needs compared to anticipated revenue.

The bill caps total state funds for the Fargo Flood Control Project at \$850 million including the \$414.5 million the state has already provided and the remaining \$435.5 million from the bond issue. It also caps future state funding for Mouse River Flood Control projects at \$604 million, including \$74.5 million provided through bond proceeds.

House Bill 1020 also includes a \$75 million line of credit for the Northwest Area Water Supply and allows the Western Area Water Supply to issue revenue bonds. The bill also directs the Legislative Management to study governance and ownership of the Red River Valley Water Supply Project and the Northwest Area Water Supply project. Spending authority for prior budget carryover projects is not reappropriated, but the bill authorizes the SWC to obtain approval from the Emergency Commission and Budget Section to increase carryover funding.

HB 1020 will be heard in Senate Appropriations Committee March 22

HB 1380 Legacy Fund Earnings Programs

HB 1380 sets up a disbursement formula earnings from the Legacy Fund. The bill allows appropriation of 6% of the 5-year rolling average of the Legacy Fund earnings. \$100 million of the appropriation goes to pay off the bond payment set up in HB 1431; \$40 million goes to a clean energy fund; and \$40 million goes to a local community revolving loan fund. Earnings above the 6% will be distributed as follows: 40% to the strategic investment and improvements fund; 40% back into the Legacy Fund principal; 20% into an income tax relief fund.

Hearing Senate Finance and Taxation Committee March 17

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.

In addition to bonding authority, HB 1431 includes an infrastructure loan fund that political subdivisions would have access to. These 30-year loans would be subject to stepped-up interest rates, capping out at 5%. This program would be more accessible to water-related projects if the terms were changed to 40-year loans with a low, flat, interest rate. The North Dakota Water Coalition will be advocating for these changes.

Hearing Senate Finance and Taxation Committee March 17

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

HB 1425 would support an in-state Legacy Fund investment plan and give direction to the State Investment Board to invest up to 20 percent of the Legacy Fund in North Dakota in fixed investments (BND CDs and infrastructure loans) and equity/venture capital. Insurance Commissioner Godfread, Bank of North Dakota, and infrastructure investment supporters including the North Dakota Water Coalition and the Water Users testified in support. Sen. Hogue proposed amendments to the bill which would significantly lower the amount of investment into the state, from 10% in fixed income to approximately 3.5% and from 10% in equity to approximately 3%.

Hearing Senate Finance and Taxation Committee March 10

[HCR 3034](#) Federal Funding of NAWS Biota Treatment Plant

HCR 3034 calls on Congress and the President to fully fund the biota water treatment plant for NAWS.

Referred to Senate Energy and Natural Resources Committee Feb. 19

Water Resource Districts

[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. A recent opinion from the Attorney General had created a question whether drain improvements and extraordinary maintenance were eligible for state cost share. The House added an amendment to clarify the SWC can cost-share drain 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 Water Resource District Association testified in support of HB 1437 in front of the Senate Agriculture Committee. The committee gave the bill a unanimous do pass recommendation.

Senate Agriculture Committee do pass 6-0 March 12

[SB 2208](#) Interim Water Study

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; make assessment procedures uniform; establish an appeals and mediation process; manage water by watershed; review responsibility of culvert sizing; cost-benefit analyses on projects; and the relationship between the SWC and water resource districts. The 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 Water Resource District Association testified in support of SB 2208. The House Agriculture Committee amended SB 2208 to expand both the scope of the study, to include looking at state cost-sharing additional assessed drains state-wide, and the study committee to include a road authority engineer, an additional legislator, and more representation from the Office of the State Engineer.

Do pass as amended House Agriculture 13-0 March 11

[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. The Water Resource District Association testified in support of this bill.

Passed Senate 44-2 March 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 within one county, and more members from the county with the larger aggregate taxable valuation of property in the district. The House Political Subdivisions Committee amended this bill to clarify board make up of joint boards as well.

Do not pass as amended House Political Subdivisions Committee 12-0 March 11

[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 within one year if the state engineer makes such a recommendation. Court costs and attorney fees could be awarded to the plaintiff if the road authority does not install the recommended culvert or bridge within one year. The House Political Subdivisions Committee held a three hour hearing on this bill on March 11 and indicated adjustments should be made to the bill. An amendment was offered, though not voted on, to remove the court cost and attorney fee penalties added on the Senate side.

Hearing House Political Subdivisions Committee March 11

[HCR 3042](#) Removing Revenue Generation Authority

HCR 3042 would put a constitutional amendment on the ballot to require any revenue generation for a political subdivision done through levying assessments or collection of taxes or fees to be done by an elected board. This would remove the authority of water resource district boards to make assessments. The North Dakota Water Resource District Association testified in opposition to this resolution.

Failed the House 31-59 March 9

Governance Changes

[HB 1353](#) Reorganization of the Office of State Engineer

HB 1353 would reorganize the Office of the State Engineer and the SWC 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 SWC would not change from current practice of appointment to represent specific watersheds.

Hearing Senate Energy and Natural Resources Committee March 18

Irrigation

SB 2020 2021-2023 SBARE Funding Priorities

This bill includes appropriations for NDSU Agriculture Research and Extension including the 2021-2023 priorities SBARE priorities. The Senate restored the Governor's recommended cuts to budgets for the Research Extension Center (REC) network, ND Ag Experiment Station, NDSU Extension and Northern Crops Institute. It also added \$500,000 plus two FTEs for Livestock Initiative for NDSU Extension, \$280,000 plus one FTE for the Big Data Initiative for NDSU Extension, and \$800,000 plus three FTEs for the Big Data Initiative for the ND Ag Experiment Station.

Four capital improvement projects are also included in the bill. These are \$500,000 in general funds and \$275,000 in special fund authorization for the Carrington REC for a feedlot research facility and pen renovation, \$200,000 in general funds for the Central Grasslands REC for pasture based working facilities, \$225,000 in general funds and \$100,000 in special funds for the Central Grasslands REC for a director residence and \$300,000 in general funds for Hettinger Research Extension Center for a machine shed. It also includes \$500,000 in one-time funds for deferred maintenance. The North Dakota Irrigation Association testified in support of SB 2020.

Hearing House Appropriations March 12

SB 2041 Taxation of Grain or Potato Warehouses

SB 2041 would clarify that facilities for holding potatoes or grain that is situated on commercial property should be eligible for a tax exemption if the commodities being stored is owned by the owner of the facility or their family. The Irrigation Association supported the bill with the House Finance and Tax Committee.

Hearing House Finance and Taxation Committee March 3

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.

Signed by the Governor March 9

HB 1043 Ethics Commission Bill

HB 1043 makes modifications to the complaint process for the Ethics Commission. The Senate Judiciary Committee heard this bill and several amendments were discussed, though not voted on, on March 10.

Hearing Senate Judiciary Committee March 10

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.

Signed the Governor March 10

[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. The House amended HB 1063 to require the SWC 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.

Hearing Senate Energy and Natural Resources Committee March 12

[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.

Passed as amended Senate 40-7 March 10

[HB 1088](#) 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 SWC.

Passed Senate 45-1 March 9

[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.

Referred to Senate Finance and Taxation Committee February 15

[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.

Hearing Senate Political Subdivisions Committee March 18

[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 must be approved by the voters.

Referred to Senate Political Subdivisions March 3

[SB 2034](#) Advisory Opinions

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

Hearing House Government and Veterans Affairs Committee March 12

[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 do not result in an increase in flood levels.

Passed House 92-0 March 10

SB 2124 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.

Referred to House Judiciary Committee February 19

Hearing Schedule (March 15-19)

<u>Date and Time</u>	<u>Bill Number</u>	<u>Hearing Description</u>	<u>Committee</u>
03/15/2021 03:30 PM	<u>SB 2020</u>	NDSU research and extension: Committee work	House Appropriations - Education and Environment Division
03/17/2021 09:00 AM	<u>HB 1431</u>	Bill relating to relating to a community water development fund and an infrastructure revolving loan fund within the resources trust fund.	Senate Finance and Taxation
03/17/2021 10:00 AM	<u>HB 1380</u>	A public hearing on a bill relating to a legacy sinking and interest fund, a legacy earnings fund, and an income tax relief fund.	Senate Finance and Taxation
03/18/2021 09:00 AM	<u>HB 1259</u>	Relating to participation in a state or national wastewater surveillance system.	Senate Political Subdivisions
03/18/2021 10:00 AM	<u>HB 1353</u>	Reorganizes the Office of the State Engineer and the Water Commission into a Department of Water Resources	Senate Energy and Natural Resources
03/19/2021 08:30 AM	<u>SB 2020</u>	NDSU research and extension: Committee work	House Appropriations - Education and Environment Division
03/22/2021 9:00 AM	<u>HB 1020</u>	State Water Commission Budget	Senate Appropriations

Status of Key Bills

A detailed 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

- May 4: Final day of session (limited to 80 legislative days)