

NORTH DAKOTA

WATER USERS ASSOCIATION | WATER COALITION | WATER RESOURCE DISTRICTS ASSOCIATION | IRRIGATION ASSOCIATION

Legislative Report

Legislature Working to Save Days as End of Session Nears

The North Dakota Legislature is limited by the state's Constitution to meeting 80 days every two years, and legislative leaders are working to wrap up the session with at least eight days remaining for future use. So far, they have saved three days; May 5 is now the adjournment date for the 67th Legislative Session due to these savings. Policymakers are saving legislative days for use for meeting this fall to work on redistricting and appropriation of federal COVID-19 relief funds. The legislature will need to reconvene in the fall to redistrict, or draw new legislative district boundaries, based on the 2020 U.S. Census numbers. New district boundaries need to be adopted by the full legislature. In addition, legislative leaders want to address anticipated federal funds for pandemic relief and how those funds will be allocated in the state. Lawmakers also have the option to ask the Governor to call a special session, which would not count against the legislature's allotted 80 days.

As we head into the final weeks of the legislative session, the path forward on several high-priority water bills has become clearer. The subcommittee of Senate Appropriators met several times this week to finalize their recommendations on HB 1020, the budget bill for the State Water Commission. That bill is set to be finalized and passed out of committee next week. HB 1431, the major bonding bill, was amended once again to return it to the House-passed version and then passed the Senate unanimously. HB 1431 will now head to the Governor, who has announced his intent to sign the bill. The bonding authority found in HB 1431 for the Fargo Diversion and Mouse River projects will free up Resources Trust Fund dollars for other projects. As was noted last week, throughout the debate on the appropriate use of bonding for various state priority projects, there has been near universal acknowledgment of the importance of investing in water. Be sure to thank your legislators for this commitment if you have a chance.

State Water Commission Meeting Update

The State Water Commission (SWC) met on April 8. They received an update on actual Resources Trust Fund receipts, which are slightly below expectations. There was some discussion of the work the subcommittee of the SWC has been doing on the Commission's cost-share policy. There has been some concerns, which were not raised in the meeting, about the workability of proposed changes. The SWC deferred any action on changes until after legislative session. Projects that requested funding were approved for a total of \$1.2 million.

The SWC reactivated the Drought Disaster Livestock Water Supply Assistance Program as well. This program provides cost-share to producers to improve water supply to livestock in drought areas. Eligibility is triggered by a Governor-issued disaster declaration and a D3 or higher drought declaration. Counties adjacent to D3+ counties are also eligible. Based on the current drought map, all counties in North Dakota except those in the far southeast corner would be eligible. The Governor signed the required declaration on April 8 as well effectively activating the program. Additional information on this program can be found on the [SWC's website](#).

The SWC closed with a discussion on the potential additional Resources Trust Fund dollars. The sentiment of the SWC was that projects that deobligated funds last year should apply for these additional dollars prior to the June SWC meeting.

Water Funding

HB 1020 State Water Commission budget bill

The Senate Appropriations, chaired by Sen. Ron Sorvaag, continued its work on HB 1020 this week. The subcommittee is currently proposing appropriating the addition \$74 million in Resources Trust Fund (RTF) dollars now anticipated into the following buckets:

Line Item	HB 1020 House Version	HB 1020 Senate Subcommittee Proposal	Additional RTF Dollars Proposed
Capital Assets	\$163 M	\$173 M	\$10 M
Water Supply	\$96 M	\$125 M	\$29 M
Rural Water Supply	\$40.6 M	\$59.6 M	\$19 M
Flood Control	\$38 M	\$48 M	\$10 M
Discretionary	\$0	\$6 M	\$6 M
Line of Credit	\$75 M	\$50 M	n/a

The discretionary bucket is a new proposal and would be available to the State Water Commission (SWC) to use for any project. The North Dakota Water Coalition proposed this concept of providing the SWC this type of flexibility to ensure those projects that voluntarily turned back or deobligated funds in the current biennium could be prioritized now that there is additional funding available.

The subcommittee will meet again on Monday, April 12 and likely finalize the bill. It is also anticipated that the full committee will consider HB 1020 early next week.

Hearing Senate Appropriations Committee March 22

HB 1431 Bonding for Water Projects

HB 1431, the major water infrastructure bonding authority bill and includes a revolving loan fund, was passed by the Senate unanimously on April 8 sending the bill to the Governor. Legacy Fund earnings, found in HB 1380, would repay the bonds. The Senate removed amendments it had previously put on the bill, returning HB 1431 to the version that passed the House. There was growing concern that the \$1.1 billion price tag on the bill, after the Senate added a number of projects, could fail to garner enough support to pass the notably more conservative House. With the potential of the House defeating the bond bill entirely due to higher revenue forecasts, water groups advocated returning the bill to its original form to protect the significant water investment included in HB 1431. Many of the projects that had been added could be considered as parts of other funding bills. HB 1431 as passed by the Senate authorizes \$680 million in bonds. A list of projects that were considered as part of the bill are below, with strikethroughs through projects that were not included in the final bill:

- \$435.5 million for the Fargo Diversion Project
- \$74.5 million for the Mouse River Flood Control Project
- \$50 million to an infrastructure revolving loan fund

- \$70 million to the state highway fund
- \$50 million to NDSU for an agriculture products development center
- ~~\$250 million to the clean sustainable energy fund (coal power plant CO2 capture)~~
- ~~\$30 million the township highway aid fund~~
- ~~\$60 million to career and technical education~~
- ~~\$71 million state facility maintenance and ADA upgrades~~
- ~~\$10 million to the state park fund for deferred maintenance and improvements~~
- ~~\$4 million to Dickinson State University for a Pulver Hall~~
- ~~\$4 million to UND for a space command initiative~~
- ~~\$1 million to the art initiatives~~

Passage of HB 1431 will free up \$142 million of the RTF 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 bonding bill.

The final version of HB 1431 includes an infrastructure loan program with a stepped-up interest rate. This was briefly changed to a 2% flat interest rate cap, but was changed back on the floor prior to passage. The North Dakota Water Coalition had advocated for a fixed interest rate cap and may look for another piece of legislation to make that change before the end of session.

With no amendments to the House version, the bill will be delivered to the Governor, who as announced his intention to sign the measure. This is an incredible accomplishment for water.

Passed Senate 46-0 April 8

HB 1380 Legacy Fund Earnings Programs

HB 1380, referred to as the Legacy Fund 'streams' bill, was head by the Senate Appropriations Committee; one of the 'streams' is to fund repayment of the infrastructure bonds authorized in HB 1431. There is speculation that some of the projects removed from HB 1431 may find a home in HB 1380. A subcommittee of the Senate Appropriations Committee met this week to work on HB 1380 but no action was taken.

Heard Senate Appropriations March 31

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 Godread, Bank of North Dakota, and infrastructure investment supporters, including the North Dakota Water Coalition and the Water Users testified in support.

Governor signed April 8

Water Resource Districts

HB 1437 Modifies drain tile approval processes

House Bill 1437, the subsurface water management (tiling) bill, which also includes a fix to allow for State Water Commission to cost share widening or deepening activities, was amended by the Senate Agriculture committee to remove the notification requirement on projects less than 80

acres unless the project drains into an assessment drain or a “tributary” of an assessment drain. A conference committee began its work this week.

Conference Committee Meeting April 13

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. A conference committee was appointed to further discuss this bill. It is anticipated that an amendment will be made to the study to also look at water permits and irrigation in the state.

Conference Committee Meeting April 13

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. After meeting with the bill sponsor of HB 1353, the North Dakota Water Users negotiated an amendment to HB 1353 to clarify the role and responsibility of the state engineer under this new department. The Senate Energy and Natural Resources Committee put this amendment on the bill and gave the bill a do pass as amended. The bill passed the Senate as amended and the House Appropriations Committee has recommended the House concur in the Senate amendments.

Passed Senate 36-11 March 29

Irrigation

SB 2020 2021-2023 SBARE Funding Priorities

SB 2020 includes appropriations for NDSU Agriculture Research and Extension as well as 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 FTE 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. Committee work continued for SB 2020 in the House Appropriations Education and Environment Committee on March 23. Proposed amendments to the Senate version of the bill include:

- Adding:
 - \$240,000 to the NDSU Extension budget for the agricultural safety initiative.
 - \$35,000 to the NDSU Main Research Center budget for the “big data” initiative for the NDAWN addition making it \$835,000 total.
 - \$473,000 in one-time funding for Langdon Research Center greenhouse from the SIIF fund.
- Removing the following one-time funding:
 - \$525,000 for the Central Grasslands Research Center housing and livestock facilities.
 - \$300,000 for the Hettinger Research Center machine shed.

Do pass as amended House Appropriations 17-1 April 7

[SB 2041](#) Taxation of Grain or Potato Warehouses

SB 2041 would have clarified 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. The committee adopted a “hog house” amendment to the bill that updates a definition in the state tax code regarding gross farm income to match changes at the federal level and authorizes a legislative management study of the warehouse issue. A conference committee met this week to begin working out the differences between the two versions of the bill.

Conference Committee Meeting April 12

Other Bills of Interest

[HB 1043](#) Ethics Commission Bill

HB 1043 makes modifications to the complaint process for the Ethics Commission. The Senate Judiciary Committee amended this bill to change the proposed process for dealing with anonymous complaints. The committee recommended a do pass as amended. The Senate concurred in the committee’s recommendation on March 24.

House concurred in Senate amendments 70-23 April 1

[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.

House concurred in Senate amendments 83-9 March 30

[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. The Senate Finance and Tax Committee made some amendments to the bill and the bill passed the full Senate as amended.

Passed as amended Senate 45-2 April 6

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. The Senate Political Subdivisions Committee made some amendments to the bill and the bill passed the full Senate as amended.

Passed as amended Senate 36-11 April 5

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.

Passed House 94-0 March 29

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.

Hearing House Human Services Committee March 22

Hearing Schedule (April 12-16)

Please note that conference committees regularly meet with very little prior notice. There will likely be more conference committee meetings next week than are indicated below.

<u>Date and Time</u>	<u>Bill Number</u>	<u>Committee</u>	<u>Representatives</u>	<u>Senators</u>
04/13/2021 10:30 AM	<u>SB 2208</u>	Senate Agriculture	Johnson, Dennis (R), Beltz, Mike (R), Headland, Craig (R)	Luick, Larry (R) (Chair), Myrdal, Janne (R), Larsen, Oley (R)
04/13/2021 03:00 PM	<u>HB 1437</u>	House Agriculture	Schreiber-Beck, Cynthia (R) (Chair), Thomas, Paul J. (R), Johnson, Dennis (R)	Luick, Larry (R), Myrdal, Janne (R), Hogan, Kathy (D)

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 5: Final day of session (limited to 80 legislative days)