

NORTH DAKOTA

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

Legislative Report

The Journey of a Bill

It's crunch time at the North Dakota Legislature with the deadline to move policy bills out of committee quickly approaching on Feb. 21, followed by Crossover on Feb. 24. But what happens to bills as they move through the Legislative process from the session's start in January to Crossover? Below is a brief overview of the journey of a bill.

Bills begin their journey in their chamber of origin. Those bills sponsored by a Senator will start on the Senate side, and Representative-sponsored bills start in the House. Legislative Leadership assigns each bill to a committee, often based on the content or intent of the bill or whether the bill has fiscal impacts.

After committee assignments, each bill receives a public hearing, which includes an explanation of the bill, testimony both in support and opposition of the bill, and committee discussion. When all sides have been presented, the committee chair closes the hearing.

The committee then works on the bill through discussion and potentially changing or amending the bill's contents. A bill is then advanced out of committee with a "Do Pass" or "Do Not Pass" recommendation to the floor. After referral out of committee and any amendments have been adopted or rejected by the house of origin, the members of the house debate the bill. Following the conclusion of the floor debate, members of the house vote on the bill.

If the bill passes the floor, it crosses chambers and will start the journey again in the other house. A unique aspect of the North Dakota Legislature is that all bills introduced and not withdrawn prior to their committee hearings must go to the floor for a vote. While a bill may receive a "Do Not Pass" recommendation from a committee, it cannot be killed or withheld from the floor by a committee and must pass or fail in a floor vote. Bills which are defeated on the floor do not resurrect on the other side of the legislature.

Water Funding

SB 2020 DWR/SWC Funding

Support

SB 2020 is the appropriations bill for the Department of Water Resources and State Water Commission. The Senate Appropriations Education and Environment Division began its work on SB 2020 on January 19 with all day testimony from water projects seeking funding. The division has worked through several items and buckets including the major water supply projects, rural water, and municipal water. The division will continue its work next week, although committee work has not officially been scheduled yet.

Committee work, Senate Appropriations' E&E Division, February 7

SB 2017 Game and Fish Department

Monitor

SB 2017 is the appropriations bill for the Game and Fish Department, including funding for aquatic nuisance species prevention. The Senate Appropriations Committee received a report from the Game and Fish Department on the Governor's budget proposal for the department. The Governor's proposed budget recommends funding for the Game and Fish's aquatic nuisance species (ANS) line item totaling almost \$3 million. This includes funding for 1 FTE. The almost \$1.5 million increase from current funding will come from federal funds from the US Army Corps of Engineers and additional funding from the Game and Fish Department. This funding will be for more inspection facilities and activities. The Governor's proposal also includes \$850,000 for an aquatic nuisance species lab and storage facility in Jamestown. The Education and Environment divisions heard testimony on SB 2017 on January 25. The Water Users testified regarding the importance of funding ANS prevention activities. The committee worked on the bill this week and will likely finish its work on the bill next week.

Committee work, Appropriations' E&E Division, February 7

[HB 1286](#) Oil Tax Trigger

Monitor

HB 1286 would remove the trigger which increases the tax rate paid when oil prices get above \$90 per barrel for three consecutive months. The trigger was reached this summer and resulted in greater than expected revenue in the Resources Trust Fund, among other state government funds.

Hearing, House Finance and Taxation Committee, February 7

[HB 1385](#) Tribal Eligibility for SWC Funds

Support

HB 1385 would include tribes in the list of entities eligible for cost share from the State Water Commission. The ND Water Users Association testified in favor of this bill.

Hearing, House Energy and Natural Resources, February 10

[SB 2196](#) WAWS Oversight and Loans and NAWS Line of Credit

Support

SB 2196 would move oversight of WAWS from the Industrial Commission to the State Water Commission. It also provides for forgiveness of interest for WAWS loans and stipulates that interest on WAWS loans should be the same as what other North Dakota governmental entities receive. The bill also renews the line of credit available for NAWS. This bill was heard by the Senate Energy and Natural Resources Committee on January 20. The North Dakota Water Users submitted testimony in favor of SB 2196.

Passed, Senate, 47-0, January 23

Water Resource Districts

[HB 1073](#) Operations Plans for Dams

Monitor

HB 1073 removes an existing requirement that operators of dams submit an operating plan to the Department of Water Resources.

Passed, House, 93-0, January 12

[HB 1076](#) Permit Thresholds for Dams and Dikes

Support

HB 1076 creates a tiered regulatory framework for dikes based on what the dike is protecting and not a specified volume. It does this by eliminating the requirement for a professional

engineer for the construction of agricultural dikes and farmstead ring dikes, increasing the threshold for requiring a construction permit for an agricultural dike from 50 acre-feet volume protected to 80 acres or more protected area, and requiring construction permits for construction of municipal dikes if they are protecting residences or occupied structures. HB 1076 was heard by the House Energy and Natural Resources Committee and was given a 'do pass' recommendation. The Water Resource Districts Association submitted testimony in favor of the bill.

Passed the House, 91-0, January 16

[HB 1239](#) Subsurface Drainage Notification

Support

HB 1239 would renew legislation passed during the 2021 session that requires landowners to notify water resource districts when they are conducting a subsurface drain project that is under 80 acres. The notification requirement that was passed in 2021 will sunset if this legislation does not pass. The ND Water Resource Districts Association and several agriculture groups testified in favor of this bill.

Hearing, House Agriculture Committee, February 10

[HB 1391](#) Assessment Authorities

Monitor

HB 1391 would require water resource districts publish and distribute meeting minutes within 72 hours after a meeting. It would also alter the trigger for when projects that are cleaning or repairing a drain have to go to a public vote. Currently, these projects only go to a vote when the cost of the project, minus dollars received for sources other than annual levies, exceeds the amount the board receives over six years in annual levies. This proposal would require projects that cost more than that six-year max, regardless of other funds, to go to a vote. The ND Water Resource Districts Association and ND Water Users Association, along with several water managers testified in opposition to this bill. The committee amended this bill to remove the section dealing with assessment votes. It also changed the meeting minutes section to stipulate that the board will publish in a newspaper or put on a website draft meeting minutes 10 days after a meeting. The bill passed as amended unanimously.

Pass as amended recommendation, House Energy and Natural Resources Committee, 14-0, February 10

[HB 1462](#) Appeals from a Local Governing Body

Oppose

HB 1462 would require a local board to serve a decision of the board on every entity impacted by a decision. Additionally, it would clarify the ability for the court to award attorney's fees if a board loses an appeal at the district court level. The ND Water Resource Districts Association and League of Cities testified in opposition to this bill. The committee adopted an amendment to require only water boards to serve notice via three publications, once per week over three weeks, in the county newspaper where the decision is made and mail a copy of the decision to any "aggrieved person". The amendment also removes the attorney's fees section. The House floor passed the bill as amended, sending it over to the Senate side.

Passed, House, 59-34, February 8

[SB 2036](#) Drainage Statute Clean Up

Support

SB 2036 is the clean-up bill put together by the interim drainage committee. This bill combines the current two chapters of code that deal with assessment projects into one chapter and makes some updates to the assessment process. The committee made a slight amendment to the bill to update a reference to the Department of Water Resources and fix a drafting error. The Senate passed the bill unanimously.

Passed, Senate, 47-0, January 30

[SB 2037](#) Economic Analysis for Drainage Projects

Oppose

SB 2037 is the proposed economic analysis bill from the interim drainage committee. This bill would require water resource districts to conduct an in-depth economic analysis on every parcel proposed to be part of an assessment district. There was much opponent testimony presented during the hearing on February 2, including from the ND Water Users Association and the ND Water Resource Districts Association. The committee will act on this bill late next week.

Hearing, Senate Agriculture Committee, February 2

[SB 2326](#) Economic Analysis Threshold for SWC Cost Share

Support

SB 2326 would clarify that the State Water Commission could only require an economic analysis on flood control and water conveyance projects above \$1 million. This would remove the SWC's ability to lower that threshold via policy as is current practice. The ND Water Resource Districts Association and ND Water Users Association, along with several water managers testified in support of this bill. The committee will act on this bill late next week.

Hearing, Senate Energy and Natural Resources Committee, February 3

[SB 2372](#) Watershed Districts

Monitor

SB 2372 would require the Department of Water Resources to establish boundaries for watershed districts and then require counties to appoint managers to the watershed districts. The current drainage chapter of code, 61-16.1, would apply to watershed districts. The ND Water Resource Districts Association provided opposition testimony to SB 2372 and offered to work with interested parties on a possible amendment to encourage watershed-based management within the current water resource district model. The committee will act on this bill late next week.

Hearing, Senate Agriculture Committee, February 2

Irrigation

[HB 1020](#) 2023-2025 SBARE Funding Priorities

Support

HB 1020 includes appropriations for NDSU Agriculture Research and Extension, including the 2023-2025 priorities for the State Board of Agricultural Research and Education (SBARE) priorities. SBARE priorities include infrastructure for the Nesson Valley Irrigation Research and Demonstration Project. The Irrigation Association submitted testimony in support of HB 1020. The House Appropriation's Government Operations Division continues its work on this bill. From conversation, it seems likely that the Nesson Valley request will be funded, at least in part.

Hearing, House Appropriations' Government Operations Division, January 16

[HB 1074](#) Informational Hearings related to Water Permit Applications

Support

HB 1074 clarifies that informational hearings related to water permit applications are more appropriately referred to as public hearings for the public to provide input to the Department of Water Resources. The Irrigation Association testified in support of this bill.

Passed, House, 93-0, January 17

[HB 1075](#) Public Hearing on Water Permit Cancellations **Support**

HB 1075 removes the requirement that the Department of Water Resources hold a public hearing on a water permit cancellation. Instead, the bill would institute a public notice and comment period to allow feedback on a cancellation. The DWR believes this change will speed up the cancellation process. The Irrigation Association testified in support of this bill.

Passed, House, 92-1, January 17

[HB 1247](#) Property Tax Exemption for Elevators and Potato Warehouses **Monitor**

HB 1247 would treat property that is zoned commercial property, but is now privately owned and houses a grain elevator or potato warehouse, as agricultural property for tax purposes. The committee could not get information on what impact this would have statewide and so asked for the issue to be studied. The bill was amended to ask for a study and passed out of committee. The amended version of the bill passed the House 81-10 on January 25.

Passed, House, 81-10, January 25

Atmospheric Resources

[HB 1166](#) Weather Modification **Oppose**

HB 1166 would prohibit state cost share for weather modification unless counties adjoining the county conducting the activity agrees. The ND Weather Modification Association testified in opposition. The committee considered significant amendments to this bill. The bill as amended now completely removes the cost share for weather modification activities and restricts where weather modification activities can occur. The amendment also alters the process for reauthorizing weather modification in counties where it occurs. The committee gave the bill a do pass recommendation 12-2.

Do pass recommendation, House Agriculture Committee, 12-2, February 10

Other Bills of Interest

[HB 1038](#) Statute Technical Corrections **Monitor**

HB 1038 updates one outdated reference to the Office of the State Engineer.

Passed, House, 91-1, January 10

[HB 1072](#) Technical Corrections **Monitor**

HB 1072 updates some references to the State Water Commission in the Atmospheric Resource Board's statutes.

Referred to Senate Agriculture

[HB 1077](#) Water Storage Contracts **Support**

HB 1077 adds a requirement that a federal agency completing a water storage contract with an entity within North Dakota must provide the Department of Water Resources a copy of the contract. The ND Water Users Association testified in support of this bill. The Committee amended the bill to require entities to notify the DWR within 60 days of beginning discussions and keep in contact with the DWR throughout the negotiations.

Passed, House, 93-0, January 24

[HB 1098](#) Floodplain Management Ordinances

Monitor

HB 1098 clarifies when communities that fail to adopt or enforce floodplain management ordinances are prohibited from receiving funds.

Passed, House, 91-1, January 10

[HB 1118](#) Income Tax Credit

Monitor

HB 1118 would provide a \$750 tax credit for single filers and a \$1,500 tax credit for joint filers.

Heard, House Finance and Taxation Committee, January 11

[HB 1158](#) Income Tax Rate

Monitor

HB 1158 would lower the income tax rate to a flat 1.5%.

Heard, House Finance and Taxation Committee, January 11

[HB 1217](#) Northern Red River Flooding

Monitor

HB 1217 would appropriate more than \$37 million to the Department of Transportation to begin working on a comprehensive transportation plan to address flooding in the northern part of the Red River valley. The committee gave this bill a do not pass recommendation 21-0.

Do not pass recommendation, the House Appropriations Committee, 21-0, February 9

[HB 1218](#) NAWS Authority

Monitor

HB 1218 would make the current Northwest Area Water Supply (NAWS) advisory committee an authority. It would also change the makeup of the Authority and stipulate that authority members are appointed by the state water commission. The North Dakota Water Users submitted testimony in favor of HB 1218. The committee lowered the representation from Minot and gave the bill a do pass recommendation unanimously.

Do pass as amended recommendation, House Energy and Natural Resources Committee, 14-0, February 10

[HB 1379](#) Legacy Fund Earnings

Monitor

HB 1379 would change the current 'streams' that Legacy Fund earnings go into. Last session, the legislature established certain priorities that would be funded with Legacy Fund earnings. This would make a few changes to that, expanding priorities to include value-added agriculture, county and township bridges, and workforce development.

Hearing, House Appropriations Committee, February 8

[HB 1384](#) Assessment Damages in Eminent Domain

Monitor

HB 1384 would direct a court to increase the damages award in an eminent domain case by 33% above what was established by the court.

Hearing, House Energy and Natural Resources Committee, February 9

SB 2029 Caps for Emergency Commission and Budget Section Approvals **Monitor**
SB 2029 changes the caps on approvals from the Emergency Commission and Budget Section. Last session, the legislature placed dollar amount caps on these approvals. This bill seeks to change that to a percent of the budget approved by the legislature. This bill was amended in committee to add an emergency clause. An emergency clause would allow the bill to come into effect sooner.

Passed, Senate, 45-1, January 12

SB 2097 Wild and Scenic River Designations **Support**
SB 2097 would require anyone seeking a wild, scenic or recreational river designation notify the department of water resources, the local water resource district and other interested state and local entities prior to seeking the designation. The North Dakota Water Users testified in support of this bill. The committee amended the bill to add some legislators and grazing associations to the organizations that receive notification.

Passed, Senate 45-2, January 11

SB 2113 Flexible Transportation Fund **Monitor**
SB 2113 would create a flexible transportation fund to hold federal, state, or private dollars to fund road and bridge construction and maintenance and to match available federal funds. If passed, it is anticipated that some motor vehicle excise tax dollars and general funds could be put in this fund.

Passed, Senate 46-0, January 12

SB 2192 Term Limits **Monitor**
SB 2192 would authorize an interim study to look at the impact term limits will have on the legislature and make recommendations to the next legislative assembly.

Passed, Senate, 47-0, January 19

SB 2251 Land Access for Eminent Domain Proceedings **Monitor**
SB 2251 would require an entity to receive written permission, or a court order, to access a landowner's property to conduct surveys. The committee made a minor amendment and gave it a do pass recommendation.

Do pass as amended, Senate Energy and Natural Resources Committee 6-0, February 10

SB 2313 Assessment Damages in Eminent Domain **Monitor**
SB 2313 would direct a court to increase the damages award in an eminent domain case by 33% above what was established by the court. The committee heard this bill on January 26 with much opponent testimony. This bill was given a do not pass recommendation by the committee.

Do not pass, Senate Energy and Natural Resources Committee, 5-1, February 10

SB 2330 Infrastructure Revolving Loan Fund

Oppose

SB 2330 makes changes to the way the Legacy Fund is invested. It changes the amount of investment made in North Dakota. Of interest to the water community, the bill makes changes to how the Infrastructure Revolving Loan Fund and the Water Infrastructure Revolving Loan Fund. In the 2021 session, legislation was passed to allow these loan fund to be backstopped by the Legacy Fund. This would have allowed the Bank of ND to utilize the Legacy Fund should there be more interest in the funds than the funds have available. SB 2330 removes the ability to use the Legacy Fund as a backstop for these funds. During testimony the bill sponsor indicated that there was a plan to find an alternative funding source to fund these programs.

Hearing held, Senate Industry and Business Committee, February 7

SB 2333 Annual Sessions

Monitor

SB 2333 would allow for the legislature to meet annually. The Senate State and Local Government Committee gave the bill a 'do pass' recommendation. The bill was then referred to the Senate Appropriations Committee as the bill has a fiscal impact. The bill will be heard in Appropriations on February 15.

Hearing, Senate Appropriations, February 15

SB 2364 Garrison Diversion Easements

Support

SB 2364 would limit the use of easements by the Garrison Diversion Conservancy District (GDCD) to building, operating, and maintaining water pipelines and would clarify that easements from GDCD can only be assigned from GDCD to the state. An amendment was offered by the bill sponsor to also make the state liable for damages caused by a pipeline built by GDCD. A further amendment will likely be made to clarify that liability would only apply to the state if GDCD ceased to exist. The ND Water Users testified in favor of this bill. The committee will act on this bill late next week.

Hearing, Energy and Natural Resources Committee, February 3


SB 2359 Tax Levies to Pay for Special Assessments

Monitor

SB 2359 would remove the levy limitation to cover the costs of land acquisitions. It also requests a legislative management study studying the impact of political subdivisions levying special assessments against other political subdivisions and the overall impact on taxpayers. This bill was amended in committee to remove the levy limitation section but maintain the study. After amending, the committee gave the bill a do pass recommendation.

Passed, Senate, 43-4, January 30

Hearing Schedule (February 13-17)

<u>Date and Time</u>	<u>Bill Number</u>	<u>Hearing Description</u>	<u>Short Title</u>	<u>Committee</u>	<u>Room</u>
02/15/2023 10:00 AM 	<u>SB 2333</u>	Committee Work: Committee	Relating to annually reconvened sessions of	Senate Appropriations	Roughrider

		Work SB2333	the legislative assembly.		
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There will also be committee work on any bills that have not been acted on by committees next week. Many of these committee work sessions will happen throughout the week as committees have time. Please note that committee work on bills in the Agriculture Committees and Energy and Natural Resources Committees will happen on Thursday and/or Friday.

How to Submit Testimony This Session

During this Legislative Session, individuals and organizations still can [testify](#) at committee hearings both in person and virtually. This session, however, the permitting of virtual testimony is left to the discretion of each committee chairperson. An instructional video on how to submit written and oral testimony remotely in a committee hearing is available on the Legislative Branch [website](#). To view the video, [click here](#).

How to Contact Your Legislators

During the session, legislators can be reached by email, phone or mail as listed in the legislator's online bio: [Senate](#) or [House](#). Detailed information on legislative activities is available on the [Legislative Assembly website](#).

Legislative Calendar

- Feb. 24: Crossover
- February 27-28: Recess
- April 28: Final day of session (limited to 80 legislative days)

For more details, check out the complete list of [legislative deadlines](#).