

# Legislative Report

## **Hearing Schedule (February 20 – 24)**

Hearings of bills being tracked by the North Dakota Water Users Association for the next week are included in this report. We are tracking these bills because they have a direct or indirect impact on water issues.

## **This Week at the Legislature**

The first half of the session is winding down with Crossover on Friday, February 24. Legislative leadership anticipates completing its work on Thursday, February 23. Legislators will return to Bismarck on Wednesday, March 1. House and Senate Appropriations Committees anticipate approved appropriations will exceed the January legislative revenue forecast. Significant work will need to be done after Crossover to balance the budget with further cuts expected. Much will depend on the final revenue forecast of the session on Thursday, March 9.

**HB 1339**: The House Government and Veterans Affairs Committee considered amendments to this bill, including the elimination of the original language that would have required certified mailings for all assessment and reassessment projects. HB 1339 also sought to eliminate the 25percent requirement for appeals of assessment projects to the State Engineer. The current law allows 25percent of the benefitting landowners to file a full appeal with the State Engineer (regarding the project mechanics, location, any and all benefits, etc.); the bill language originally would have allowed any single landowner the right to a full appeal to the State Engineer (in addition to their other appeal rights already available), a process that would have resulted in significant delays and costs to assessment projects, and would have inevitably resulted in frivolous appeals. The Committee agreed with us regarding the appeal language, and compromised by reducing the 25percent landowner threshold to 15percent (instead of allowing any single landowner to appeal in this manner). The Committee recommended a ‘do pass’ with an 11-2-1 vote on Friday, February 10.

**HB 1416**: The House Ag Committee unanimously recommended a do not pass on HB 1416 following the hearing on Monday, February 6. The intent of this bill is to limit WRDs’ use of maintenance district dollars so WRDs cannot do legal drain reconstructions or improvements without a new assessment district vote. Despite the overwhelming ‘do not pass’ recommendation from the Committee, the bill was rereferred to the Committee so the primary bill sponsor can propose amendments. We expect Rep. Sebastian Ertelt to propose an amendment that would allow “small” improvements (replacing culverts here-and-there, etc.), but that would require a vote of the assessment district before a WRD can do a reconstruction or improvement project. This bill is still a significant threat to WRDs’ abilities to properly operate and maintain their drains.

**HB 1020**: The House Appropriations Education and Environment Division completed its work on HB 1020, the State Water Commission Appropriation bill, on Monday, February 13. The full committee recommended a do pass as amended with a 17-2-2 vote on Friday, February 17. The bill includes \$299,875,000 from the resources trust fund and water development trust fund plus a \$75 million line of credit. This is comparable to the ND Water Coalition’s recommendations of \$366 million, except for a lower amount for regional water systems and a limitation on drainage projects.

- Seven purpose funding buckets:
  1. \$30,000,000 for rural water supply projects;
  2. \$44,125,000 for municipal water supply projects;
  3. \$58,000,000 for regional water supply projects;
  4. \$ 1,000,000 for water conveyance projects;
  5. \$150,000,000 for flood control or protection projects
  6. \$750,000 for irrigation projects; and
  7. \$16,000,000 for general water management.
- Requires SWC to use BND line of credit for NAWS before any other funding.
- Authorizes SWC to obtain a loan from BND not to exceed \$110 million for phases 1-4 of Minot flood control project and restricts them from receiving any funding for the next 8 years.
- Directs BND to consolidate WAWS loans and directs the SWC to make the payments if the authority defaults, which is subject to budget section approval.
- Authorizes \$50,000 a flood hazard risk management study.
- Reduces the energy conservation grant fund from \$1 million to \$0 and the renewable energy fund will remain at \$3 million.
- Limits the deposit into the infrastructure revolving loan fund to \$25 million, if the amount exceeds \$25 million it is transferred into the Resources Trust Fund.
- Authorizes a \$75 million line of credit.
- Directs the Industrial Commission to consider the amount of state secured debt and market rates before setting domestic water rates for WAWS.
- Creates two new sections of code relating to oil and gas industry fresh water royalties.
- Provides a legislative management study on the effects on repayment of state-guaranteed debt by allowing private persons to lease the WAWS authority's industrial infrastructure and privatizing industrial water sales.

**[HB 1393](#)** would alter the assessment process for all new WRD assessment projects, including drains and flood protection projects; the bill would have required written reports for each parcel, utilization of a second consultant engineering firm to conduct benefit analysis, and, most importantly, would have basically prohibited assessments of virtually all properties for drain projects. We offered effective opposition testimony at the hearing before the House Political Subdivisions Committee on Friday, February 3. The committee reviewed an amendment offered by the sponsor, but still recommended a 'do not pass' with an 8-4-3 vote on Monday, February 13. Rep. Denton Zubke has done great work on this bill and he will carry the bill on the House floor, where we hope to see the bill go down.

**HB 1374**: The bill offers various amendments relating to types of financial assistance for water projects and the composition and operation of the State Water Commission, but the most concerning came in an amendment generated last week. Section 2, Page 2, item #3 would prohibit the SWC from providing any cost-share to any drainage project, including legal assessment drains, drain improvements, or snagging and clearing. The committee recommended a do pass on Monday, February 13 with a 13-0-1 vote.

**HB 1345** passed on the House floor on Monday, February 13 with a 91-0 vote. The bill would amend various sections and subsections of Century Code relating to open record and meeting laws.

**SB 2245** passed on the Senate floor on Monday, February 13 with a 43-3 vote. The bill would allow landowners to mitigate activities with wetlands established on state lands.

**HB 1165** passed on the House floor on Tuesday, February 14 with a 79-10 vote. The bill relates to transparency of state grants.

**HB 1326** failed on the House floor on Wednesday, February 15 with a 33-57 vote. This bill would allow political subdivisions to opt in or opt out of local property tax incentives.

**SB 2270** was heard before the Senate Energy and Natural Resources Committee on Thursday, February 16. Introduced by Sen. Terry M. Wanzek, the bill requests ability of GDCD and LAWA to work with the ND Public Finance Authority to finance various projects. The bill also requests to eliminate public hearings if the board receives written consent from each affected landowner to the levy assessments. GDCD Administrative Officer Merri Mooridian testified in support. The committee unanimously recommended a do pass immediately following the hearing.

**HB 1244** was heard before the House Energy and Natural Resources Committee on Thursday, February 16. The bill would require County Commission approval before a water resource district could exercise quick take authority. At the previous hearing on Friday, January 20, Mike Dwyer, representing water resource districts, provided testimony in support and explained that quick take is only for right of way, and that water managers are landowners and farmers, and only use quick take authority as a very last resort. Dwyer also explained the many responsibilities that water managers have been assigned by the Legislature. At the first hearing, the SWC also requested clarification on the word “appropriation”. Rep. Robin Weisz introduced an amendment that clarified the language. The amendment was adopted and the committee recommended a do pass with a 12-0-2 vote.

**SB 2327** passed on the Senate floor with a 27-17 vote on Thursday, February 16. The bill would transfer duties and responsibilities of the State Department of Health relating to environmental quality to a newly established Department of Environmental Quality. The transition would take place over the next two years.

**SB 2263** and **HB 1390**: Water Resource Districts have been in negotiations with advocates of SB 2263 (Ellingson Companies), along with the State Engineer’s Office. Our negotiations seemed to be constructive and we came up with some draft amendments, but negotiations seemed to stall at that point. However, in the meantime, the House Ag Committee conducted a hearing on HB 1390 on Friday, February 10. HB 1390 contains a provision that would create a tile permitting exemption for all property that “qualifies” for prevented planting. We had an excellent turnout on Friday by WRDs, and that made a significant difference! Thanks to everyone who made it, including: Gary Thompson and Joel Halvorson (RRJWRD and Traill County WRD); Arv Burvee, Robert Rostad, Monica Zentgraf, and Justin Johnson (Richland County WRD); and Todd Stein (Sargent County WRD). Ellingson and Farm Bureau provided the most testimony in favor of HB 1390. Mike Dwyer, Arv Burvee, Monica Zentgraf, and Justin Johnson all provided effective testimony against the bill.

The Senate Agriculture Committee worked on [SB 2263](#) this week. On Friday, February 17, Sen. Jerry Klein presented a new set of amendments. The committee adopted the amendments and recommended a do pass as amended with a 5-1 vote. The committee is in high hopes that the bill can be further amended on the House side. Sen. Klein's amendments are attached.

The House Agriculture Committee worked on [HB 1390](#) this week. On Friday, February 17, Rep. Craig Headland introduced a new set of amendments. The committee adopted the amendments and recommended a do pass as amended with an 11-3 vote. Rep. Headland's amendments are attached.

## II. E-mail Version of Weekly Legislative Reports

If you receive this by mail or fax, but have e-mail, please send your email to Julie at [ndwaterusers@btinet.net](mailto:ndwaterusers@btinet.net), and you can receive it by e-mail.

## III. How to Contact Your Legislators

During a legislative session, a legislator can be reached at the State Capitol through e-mail or by leaving a message with the legislative telephone message center at (888) NDLEGIS (635-3447). That number can also be used to obtain information on bills under consideration. A legislator can also be reached by mail or e-mail and address rosters are posted at <http://www.legis.nd.gov/contact-information>.

### Addressing Mail Correspondence

#### *To a Senator:*

Honorable (full name)  
State Senator  
600 E Boulevard Ave  
Bismarck, ND 58505  
Dear Senator (last name)

#### *To a Representative:*

Honorable (full name)  
State Representative  
600 E Boulevard Ave  
Bismarck, ND 58505  
Dear Representative (last name)

## IV. 2017 Legislative Deadlines and Dates

<b>Date</b>	<b>Topic</b>
February 24	Crossover for bills
February 27-28	Recess
March 8	Crossover for resolutions
April 14	Good Friday
April 28	Session is limited to 80 legislative days

## V. HEARING SCHEDULE: February 20-24, 2017

There are currently no hearings scheduled for the week of February 20-24.

## VI. Legislative Bills Tracked (To Date)

<b>Bill</b>	<b>Short Title</b>	<b>House</b>	<b>Senate</b>
<a href="#"><u>HB 1009</u></a>	Agriculture Commissioner Appropriation		
<a href="#"><u>HB 1017</u></a>	Game and Fish Department Appropriation		
<a href="#"><u>HB 1020</u></a>	State Water Commission Appropriation		
<a href="#"><u>HB 1026</u></a>	Underground Facilities Before Excavation	PASSED	
<a href="#"><u>HB 1054</u></a>	Cancellation of Unexpected Appropriations	PASSED	
<a href="#"><u>HB 1055</u></a>	Revenue Bond Indebtedness Limit for WRD		
<a href="#"><u>HB 1106</u></a>	Definitions of Disasters and Emergencies	PASSED	
<a href="#"><u>HB 1111</u></a>	Metro Flood Diversion Authority	PASSED	
<a href="#"><u>HB 1162</u></a>	Competition between the Government and Private Industry	PASSED	
<a href="#"><u>HB 1165</u></a>	Transparency of State Grants	PASSED	
<a href="#"><u>HB 1168</u></a>	Reimbursement for Public Employees		
<a href="#"><u>HB 1191</u></a>	Loans for Political Subdivisions	PASSED	
<a href="#"><u>HB 1199</u></a>	Definition of Sovereign Lands		
<a href="#"><u>HB 1244</u></a>	Authority of County Commissioners to Approve Quick Take Eminent Domain		
<a href="#"><u>HB 1298</u></a>	Prohibiting Counties, Cities and Townships from Contracting with Lobbyists		
<a href="#"><u>HB 1322</u></a>	Township Bonding Authority		
<a href="#"><u>HB 1336</u></a>	Environmental or Health Safety Audits		
<a href="#"><u>HB 1339</u></a>	Notice, Appeals, and Refunds of Special Assessments		
<a href="#"><u>HB 1345</u></a>	Open Record and Meeting Laws	PASSED	
<a href="#"><u>HB 1351</u></a>	Approval of Special Assessment Projects by Elected Governing Bodies	PASSED	
<a href="#"><u>HB 1367</u></a>	Personal Watercraft and Towing an Individual on Water Skies or Similar Devices		
<a href="#"><u>HB 1374</u></a>	Contracts and Financial Assistance for Water Projects/Duties of the State Engineer		
<a href="#"><u>HB 1385</u></a>	Municipal Refunding Bonds		
<a href="#"><u>HB 1390</u></a>	Limitation on County Authority and Subsurface Drains		
<a href="#"><u>HB 1393</u></a>	Assessments by Water Resource Districts		
<a href="#"><u>HB 1409</u></a>	Well Water Testing		
<a href="#"><u>HB 1416</u></a>	Definition of Cleaning Out and Repairing of Drain		
<a href="#"><u>SB 2001</u></a>	Legislative Branch Appropriation		
<a href="#"><u>SB 2047</u></a>	Quick Take Eminent Domain		PASSED
<a href="#"><u>SB 2134</u></a>	Pick-Sloan Missouri Basin Project Dams		PASSED
<a href="#"><u>SB 2142</u></a>	Construction Manager At-Risk Subcontractor Bids		PASSED
<a href="#"><u>SB 2146</u></a>	Public Improvement Bid and Bond Thresholds		PASSED
<a href="#"><u>SB 2147</u></a>	Bond Requirements for Public Improvements		PASSED
<a href="#"><u>SB 2168</u></a>	Public Improvements		PASSED
<a href="#"><u>SB 2178</u></a>	Infrastructure Revolving Loan Fund		PASSED
<a href="#"><u>SB 2236</u></a>	Pipeline Restoration and Reclamation Oversight Program		PASSED
<a href="#"><u>SB 2239</u></a>	Annual Inspections for Watercraft for Hire		PASSED
<a href="#"><u>SB 2245</u></a>	Listing Parcels Under Control of Certain State Entities Use as Wetlands Mitigation		PASSED
<a href="#"><u>SB 2259</u></a>	Nonresident Waterfowl Hunting Licenses		PASSED
<a href="#"><u>SB 2262</u></a>	Fertilizer Regulation by Cities, Counties, or Townships		PASSED
<a href="#"><u>SB 2263</u></a>	Subsurface Drainage Permits		
<a href="#"><u>SB 2269</u></a>	Powers of LAWA & GDCD		PASSED
<a href="#"><u>SB 2270</u></a>	Financing Options for the GDCD		

<a href="#"><u>SB 2280</u></a>	City Levy Authority	PASSED
<a href="#"><u>SB 2308</u></a>	Identification of Fishhouses and Coyote Snares	PASSED
<a href="#"><u>SB 2327</u></a>	Creation of the Department of Environmental Quality	PASSED
<a href="#"><u>HCR 3019</u></a>	Exercise nondiscrimination in public land management and return the land no longer required for the Pick-Sloan Missouri Basin Project dam at Lake Sakakawea to the citizens of the United States.	
<a href="#"><u>HCR 3020</u></a>	Allow the Continuation of the Garrison Diversion project canal system to aid in the delivery of water to the Red River Valley.	
<a href="#"><u>HCR 3021</u></a>	Allow the utilization of the Garrison Diversion Unit facilities, including the McClusky Canal and the Snake Creek pumping plant, as a water supply for eastern and central North Dakota, irrigation, and for all other authorized project purposes, and not deauthorize or repurpose any part of the Garrison Diversion Unit.	

## **VII. Legislative Bills Failed (To Date)**

<a href="#"><u>HB 1114</u></a>	License Fees for Plumbers and Sewer and Water Installers
<a href="#"><u>HB 1271</u></a>	Education for Water Well Contractors
<a href="#"><u>HB 1317</u></a>	Transfer of Legacy Fund Earnings
<a href="#"><u>HB 1326</u></a>	Approval from Impacted Municipalities for Grant of Local Property Tax Incentives
<a href="#"><u>HB 1349</u></a>	Deduction for Pipeline Leak Detection Equipment Depreciation Expenses
<a href="#"><u>SB 2227</u></a>	Nonresident Waterfowl Hunting Licenses
<a href="#"><u>SB 2229</u></a>	Appointments to the Red River Basin Commission
<a href="#"><u>SB 2331</u></a>	Protection of Groundwater and Other Responsibilities of a Mineral Developer
<a href="#"><u>SB 2332</u></a>	Valuation of Property for Just Compensation