

This Week at the Legislature

Light at the end of the tunnel!

As reported below, early this week was the “final” announcement by Republican leadership and Appropriations chairs of their “final” (session) revenue forecast.

This will now be the guiding light (and perhaps lid) on final budget numbers. As Sen. Ray Holmberg said, “This is the forecast we hang our hat on.” Of note, the new forecast is a little rosier than the one announced in January. General fund expectations are up an additional \$95 million. This is primarily based on higher expected oil prices per barrel. January was looking at \$40 a barrel and this March forecast is looking at \$50 a barrel for the next biennium. Expected per day oil production is down a bit but the industry feels confident in at least 1 million barrels a day so that was assumed in the forecast.

Budgets will now start their winding road through the process and the conference committees will begin to meet with an end in sight!

Final Revenue Forecast

Last week, North Dakota House and Senate appropriators convened to hear two revenue forecasts for the next biennium.

The first, provided by Moody’s Analytics for the North Dakota Office of Management and Budget, forecasted nearly \$4B in oil tax revenue to come in during the next two-year budget cycle, amounting to over \$1.1B more







than was predicted last November. The Moody’s projection includes \$53.50 per-barrel oil in 2022 and \$48.75 in 2023, nearly \$14 higher than the \$40 per-barrel oil prices estimated last fall. General Fund revenues were projected to be \$54M over the previous forecast.

The second forecast was provided by IHS Markit, the Legislature’s economic consultant firm. IHS projected similar levels of General Fund revenue increases from sales tax and income tax. Mention of a potential DAPL closure at the hands of the Biden Administration would mean higher oil transportation costs and drive down production—certainly, a word of caution for appropriators. Both forecasts amazingly came within \$18M of each other for predicting the over \$3B of sales, income, and motor vehicle excise taxes, the three biggest non-oil taxes.

Tuesday, the House and Senate Appropriations Committees effectively split the (relatively small) difference between the executive and legislative branch forecasts, adopting general fund tax collections at \$4.04B for the biennium, \$95M more than the Legislature’s budgetary starting point in January. They also adopted an oil price of \$50/barrel and production output of 1 million barrels of oil per day in 2022, which would amount to over \$3.71 billion in oil tax collections.

Legislative leaders expressed confidence in the final revenue forecast, what they termed a “reasonable” estimate, as they now head into the final weeks of the session, during which the big-ticket budget items and spending decisions are finalized. In pandemic-related news, North Dakota is projected to reach COVID herd immunity by July 2021, which should also bode well for the state budget.

Hearings Next Week

Date and Time	Bill Number	Short Title	Committee	List
Committee Work: 03/30 8:30 AM 03/31 8:30 AM 03/31 2:45 PM 04/01 8:30 AM 04/01 2:45 PM 04/02 8:30 AM	SB 2019	A BILL for an Act to provide an appropriation for defraying the expenses of the department of career and technical education; and to provide a report.	House Appropriations - Education and Environment Division	Tracking
Committee Work: 03/30 8:30 AM 03/31 8:30 AM 03/31 2:45 PM 04/01 8:30 AM 04/01 2:45 PM 04/02 8:30 AM	SB 2020	Relating to the appropriation for defraying the expenses of the NDSU extension service, northern crops institute, upper great plains transportation institute, main research center, branch research centers, and agronomy seed farm; to provide for a report; and to provide an exemption.	House Appropriations - Education and Environment Division	NDBA Priority
03/30/2021 08:30 AM 	HB 1282	Relating to a joint committee on nullification of federal laws; and to provide a directive.	Senate Judiciary	Tracking
03/31/2021 02:30 PM 	HB 1431	Relating to the community water development fund and an infrastructure revolving loan fund within the resources trust fund and to provide a bond issue limit; and to provide a loan repayment.	Senate Appropriations	NDBA Priority
03/31/2021 03:30 PM 	HB 1380	Relating to a legacy sinking and interest fund, a legacy earnings fund, and an income tax relief fund; to amend and reenact section 21-10-12 of the North Dakota Century Code, relating to legacy fund definitions; to provide for a transfer; and to provide a statement of legislative intent.	Senate Appropriations	NDBA Priority
04/01/2021 08:30 AM 	HB 1323	Relating to limitations on mask wearing requirements.	Senate Political Subdivisions	Tracking
04/01/2021 10:00 AM 	HB 1231	Relating to duty of the investment director to consider investing locally.	Senate Government and Veterans Affairs	NDBA Priority
04/01/2021 11:00 AM 	HB 1141	A BILL for an Act to provide a transfer to the innovation loan fund to support technology advancement.	Senate Appropriations	Tracking

Hearings and Other Action this Week

SB 2292 – NDBA’s Mortgage Modification Legislation

The House Industry Business and Labor Committee heard SB 2292 Monday afternoon. NDBA’s Rick Clayburgh introduced the bill to the committee. He explained the bill was introduced by Senator Scott Meyer on behalf of NDBA. The bill creates section 35-03-15.1 of the North Dakota Century Code to statutorily establish that mortgage modifications serve to extend the expiration date of a mortgage. It also amends sections 35-04-14 and 35-04-15 of the Code to incorporate the new statute and add to the circumstances that serve to extend a mortgage. On behalf of Senator Meyer, NDBA President and CEO Rick Clayburgh introduced the bill to the Committee. Bismarck attorney Blaine Johnson, Crowley Fleck, and the State Bar Association of North Dakota – Real Property, Probate & Trust Section – Chair, testified in a neutral position to answer technical questions of the committee. There was no opposition, and the hearing was closed.

A motion for DO PASS carried 13-1. Representative Thomas, who voted no, met with Rick Clayburgh following the hearing to ask questions and ultimately stated he would support the bill. The full House should act on the bill Friday afternoon.

HB 1364 – Duties of a Personal Representative

The Senate Judiciary Committee heard HB 1364 Monday afternoon. The bill, which was introduced by Rep. Tom Kading on behalf of a constituent, requires that a personal representative transfer any real property to the person presumptively entitled to it unless a court order determines otherwise. Rep Kading explained the bill was introduced to return the ND statutes to previous common law status. Rodney Hogen provided personal testimony on how legal fees ate away at his inheritance and eventually forced the sale of his land during litigation against his brother who was personal representative over his mother's estate.

NDBA's Rick Clayburgh testified in opposition. He explained current law provides that real property can be left with the person presumptively entitled to it unless a personal representative must settle and administer the estate. This bill would completely change the current law to require a personal representative to get a court order to retain possession of estate property. It conflicts with Uniform Probate Code, most importantly, it contradicts the testator's intentions to have a personal representative administer the estate in the wishes and manner laid out in a will, and it forces neutral third-party-appointed PRs (banks and the like) to immediately file a petition in court to take control over what was legally assigned to them by the testator. Clayburgh also provided the committee written testimony in opposition from Mary Locken, Bell Bank, and Tim Richard, Serkland Law Firm. Bismarck attorney, Blaine Johnson, Crowley Fleck, & Real Property Probate Trusts and Estates, State Bar Association of ND, also testified in opposition. He explained uniform code has done away with requiring a court order to give over real property by personal representatives as it lowers legal costs, shortens probate periods, and provides for flexibility. He further explained the bill restricts the powers of the personal representative in estate administration and creates unnecessary procedural burdens upon the court system. The hearing was closed without the committee acting. On Wednesday morning, Senator Larson recommended DO NOT PASS, which carried 7-0. The bill now awaits full Senate action.

HB 1425 – Legacy Infrastructure Loan Fund, In-state investments

The Senate Appropriations Committee heard HB 1425 on Wednesday morning. The bill is intended to set a target allocation of 10% of the Legacy Fund Investment to fixed income investments in North Dakota and an additional 10% towards equity investments in North Dakota. It is intended to set a direction for the Legacy Fund and Budget Stabilization Advisory board, which is responsible for the asset allocation recommendations for the Legacy Fund. Rep. Mike Nathe explained the provisions of the bill including providing a report that shows the beneficial economic impacts of the bill on ND's GDP. He also addressed the prudent investor rule. North Dakota Insurance Commissioner Jon Godfread testified in support, explaining the Legacy Fund is for the people of ND and should be invested in North Dakota. BND's Todd Steinwand provided technical testimony regarding the CD Match Program and the Infrastructure Revolving Loan Program. Bob Harms, The Harms Group, testified in opposition. David Hunter, Retirement Investment Office, testified in a neutral position. The hearing was closed without the committee acting. Wednesday afternoon, the committee took the bill up for consideration and gave it a 14-0 do pass recommendation. The full Senate should act on the bill Friday afternoon.

HB 1187 – BND Rebuilder Loan Program

The Senate Appropriations Committee heard HB 1187 Thursday morning. The purpose of the bill is to create a permanent Rebuilders Loan Fund program at the bank. The Rebuilders Loan Program was created in 2011 to provide low-interest loans to North Dakota residents affected by flooding. Rep Scott Louser introduced the bill to the committee. BND's Todd Steinwand answered some technical questions. There was no opposition, and the hearing was closed without the committee taking action.

NDBA's High Priorities to Date

Bill	Status	Title
HB 1026	House: PASSED House 89 – 0 Senate: PASSED Senate 46 – 0 Governor: SIGNED NDBA Supports	Relating to financial criteria for grain buyer, grain broker, grain processor, and warehousemen licenses, and licensing and bonding for grain brokers and grain processors; to definitions of grain brokers and processors, the duties and powers of the commissioner, confidentiality records, scale ticket contents, credit-sale contracts, reports, annual licenses, fees, and bonds for grain buyers, grain brokers, grain processors, and warehousemen.
HB 1050	House: PASSED House 90 – 0 Senate: PASSED Senate 47 – 0 Governor: SIGNED NDBA Supports	Relating to definitions relating to business incentives, agreements, and reports. Bill exempts BND's interest rate buy down programs (PACE programs) from the reporting requirements of 54-60.1-01.
HB 1077	House: PASSED House 92 – 1 Senate: PASSED Senate 47 - 0 Governor: SIGNED NDBA Supports	Relating to the Uniform Electronic Wills Act; and to provide for application.
HB 1154	House: PASSED House 60 – 34 Senate: PASSED Senate 45 – 1 Governor NDBA Neutral	Relating to transparency in dental benefits contracting; and to provide a penalty.
HB 1172	House: DEFEATED House 5 – 89 NDBA Opposed	Relating to agricultural mediation and negotiation services.
HB 1175	House: PASSED House 77 – 17 Senate: PASSED Senate 41 – 6 NDBA Supports	Relating to business immunity from COVID-19 liability claims; to provide for retroactive application; to provide an expiration date; and to declare an emergency.
HB 1187	House: PASSED House 93 – 1 NDBA Supports	Relating to creation of a Bank of North Dakota rebuilders loan program and a rebuilders permanent loan fund; to repeal sections 6-09-46 and 6-09-46.1 of the North Dakota Century Code, relating to a rebuilders loan program, a rebuilders home loan program, and a rebuilders home loan fund; to provide a continuing appropriation; and to provide for a transfer.
HB 1204	House: DEFEATED House 19 – 74 NDBA Neutral	Relating to limitations on requirements to wear a mask at work; to provide an expiration date; and to declare an emergency.
HB 1222	House: PASSED House 87 – 6 Senate: NDBA Neutral	Relating to repairing, replacing, or improving a residential structure that is nonconforming due to zoning changes.

HB 1231	House: PASSED House 94 – 0 Senate: NDBA Supports	Relating to duty of the investment director to consider investing locally. Amended to provide for a legislative management study regarding the benefits of investing legacy fund moneys locally.
HB 1251	House: PASSED House 92- 2 Senate PASSED Senate 46 – 1 Governor NDBA Neutral	Relating to actions having twenty-year limitations, docketing judgments, renewal of judgments by affidavit, and cancellation of judgment of record. Bill eliminates 10-year judgment renewal requirement and creates a 20-year judgment.
HB 1267	House: DEFEATED House 19 – 75 NDBA Neutral	Relating to the Bank of North Dakota providing custodian services for digital currency and may implement a digital currency exchange. Relating to BND studying the feasibility and desirability of providing digital currency custodian services and of implementing a digital currency exchange.
HB 1268	House: DEFEATED House 36 – 56 NDBA Opposed	Relating to a financial technology sandbox program for innovative financial products and services and criminal history background checks.
HB 1321	House: WITHDRAWN NDBA Neutral	Relating to exemption of recognition of daylight-saving time; and to repeal section 40-01-20 of the North Dakota Century Code, relating to daylight saving time.
HB 1330	House: DEFEATED House 19 – 75 NDBA Neutral	Relating to prohibiting covered entities from selling users' protected data without consent; and to provide a penalty. Not a direct impact on Financial Institutions
HB 1339	House: PASSED House 65 – 28 Senate: NDBA Neutral	Relating to the definition of dangerous weapons. Amended to provide for a legislative management study of the definitions of "dangerous weapon" and "public gathering." NDBA Neutral to the study
HB 1363	House: DEFEATED House 7 - 85	Relating to ante-mortem probate of wills. Ante-mortem is currently used by testators to have their wills declared valid. Bill would allow other persons to challenge the validity of the will. NDBA had concerns with the bill.
HB 1364	House: PASSED House 79 – 15 Senate: NDBA Opposed	Relating to the duties of a personal representative.
HB 1366	House: PASSED House 94 – 0 Senate: PASSED Senate 47 – 0 Governor NDBA Opposed in part.	Relating to the sale of property subject to a repairman's lien and sale proceeds; and to amend and reenact sections 35-13-01, 35-13-05, and 35-13-06 of the North Dakota Century Code, relating to repairman's liens, notice requirements, and assignments. Adopted NDBA amendments regarding UCC Article 9 – NDBA has concerns with storage fees addition.
HB 1380	House: PASSED House 71 – 22 Senate: NDBA Supports	Relating to a legacy sinking and interest fund, a legacy earnings fund, and an income tax relief fund; to amend and reenact section 21-10-12 of the North Dakota Century Code, relating to legacy fund definitions. The bill creates a new legacy earnings fund to receive all of the constitutionally mandated legacy fund earnings transfers. It then stipulates the amount available for appropriation out of the new fund and directs the transfer of funding to multiple funds.

HB 1425	House: PASSED House 85 – 8 Senate: NDBA Supports	Relating to the legacy infrastructure loan program and the state investment board; to amend and reenact sections 21-10-02 and 21-10-11 of the North Dakota Century Code, relating to the state investment board and the legacy and budget stabilization fund advisory board; and to provide a continuing appropriation. The bill includes a requirement that the state investment board (SIB) give preference to qualified investment firms with a presence in the state when investing Legacy Fund assets. It also sets specific targets for investing Legacy Fund assets within the state and within specified asset classes.
HB 1431	House: PASSED House 74 – 17 Senate: NDBA Supports	Relating to a water infrastructure revolving loan fund and bonded debt repayments; to amend and reenact subsection 1 of section 6-09-49, and sections 6-09.4-06 and 6-09.4-10 of the North Dakota Century Code, relating to interest rates for infrastructure revolving loans, borrowing and lending authority of the public finance authority, and reserve funds associated with bonds; to repeal chapter 6-09.5 and section 61-02-78 of the North Dakota Century Code, relating to a community water development fund and an infrastructure revolving loan fund within the resources trust fund; to provide an appropriation; to provide a continuing appropriation; to provide for a transfer; to provide for a contingent transfer; to provide a bond issue limit; and to provide a loan repayment.
HB 1499	House: DEFEATED House 9 – 84 NDBA Opposed	Relating to election requirements for bonds. The bill provided that the state may not issue bonds without first being authorized to do so by a vote of two - thirds of the qualified electors in the state. The bill would have restricted the ability of the Housing Finance Agency from issuing bonds on a timely basis without a public vote.
SB 2008	Senate: PASSED Senate 47 – 0 House: NDBA Supports	A BILL for an Act to provide an appropriation for defraying the expenses of the department of financial institutions. DFI's Budget
SB 2014	Senate: PASSED Senate 47 – 0 House: NDBA Supports	A BILL for an Act to provide an appropriation for defraying the expenses of the industrial commission and the agencies under its control; to provide contingent funding; to provide for a transfer; and to provide an exemption. BND's and Housing Finance's Budget
SB 2020	Senate: PASSED Senate 47 – 0 House: NDBA Supports	A BILL for an Act to provide an appropriation for defraying the expenses of the North Dakota state university extension service, northern crops institute, upper great plains transportation institute, main research center, branch research centers, and agronomy seed farm; to provide for a report; and to provide an exemption.
SB 2048	Senate: PASSED Senate 47 – 0 House: PASSED House 93 – 0 NDBA Supports	Relating to North Dakota adopting the Revised Uniform Unclaimed Property Act. NDBA Amendments adopted – NDBA supports
SB 2098	Senate: PASSED Senate 47 – 0 House: PASSED House 90 – 3 Governor Signed NDBA Neutral	Relating to abandoned vehicles. Bill introduced by the Highway Patrol – intended to streamline their administrative process.
SB 2101	Senate: PASSED Senate 47 – 0 House: PASSED House 92 – 1 NDBA Supports	DFI Bill relating to regulatory fund, assessment of civil money penalties, appointment of receivers, supervision and examinations, assessments, real estate loans, bank mergers, bank branches, bank investments, trust branches, credit union powers, credit union board notice & sale or purchase of banking institutions.

SB 2102	Senate: PASSED Senate 47 – 0 House: PASSED House 94 – 0 Governor NDBA Supports	DFI Bill relating to dissolution, insolvency, suspension, emergency receivership, and liquidation of institutions under the department of financial institutions' supervision & financial institutions cross references, cease & desist orders prompt corrective action.
SB 2191	Senate: PASSED Senate 46 – 0 House: PASSED House 86 – 6 Governor: Signed NDBA Supports	Relating to the disposal of abandoned personal property.
SB 2197	Senate: PASSED Senate 47 – 0 House: PASSED House 91 – 3 Governor NDBA Supports	Relating to confidentiality of facts and information obtained or created by the commissioner of financial institutions and the department of financial institutions. NDBA's Bill
SB 2203	Senate: DEFEATED Senate 8 – 39 NDBA Opposed	Relating to surcharges paid by employers for employees who receive unemployment insurance benefits; and to provide an effective date.
SB 2223	Senate: DEFEATED Senate 2 – 45 NDBA Opposed	Relating to a deed in lieu of foreclosure.
SB 2261	Senate: PASSED Senate 46 – 0 House: PASSED House 93 – 0 NDBA 's Bill	Relating to irrevocable itemized funeral contracts and Medicaid assets exempt for funeral expenses; and to declare an emergency. NDBA's Bill
SB 2292	Senate: PASSED Senate 47 – 0 House: NDBA's Bill	Relating to mortgage modifications; and to amend and reenact sections 35-03-14 and 35-03-15 of the North Dakota Century Code, relating to the expiration and extension of real estate mortgages. NDBA's Bill

How to Contact Your Legislators

During a legislative session, a legislator can be reached at the State Capitol through:



Contact My Legislators

<http://www.legis.nd.gov/contact-my-legislators>



or by leaving a message with the legislative telephone message center at **1-888-NDLEGIS (635-3447)** or **701-328-3373** (local).

Otherwise, a legislator can be reached by mail, telephone or email at the address listed in the legislator's biography, or one of the lists provided below. Individual legislator contact information is listed here:



Senate

<http://www.legis.nd.gov/files/resource/miscellaneous/senateroster.pdf?20150106101229>



House

<http://www.legis.nd.gov/files/resource/miscellaneous/houseroster.pdf?20150106101310>

Over the course of the session, NDBA may ask you to call your Senator or Representative to talk to them about a particular bill or to ask them to support or oppose a particular bill.

Legislator contacts from local bankers are extremely important, so, please, if we ask, contact your legislators!

Also, local legislative forums are great to attend because they inform you about issues beyond banking and let you get to know your legislators at home where they are most responsive to your interests and concerns.

Don't be a stranger; get to know your representatives in Bismarck!