



**FINAL REPORT**

**May 2, 2021**

## **A Successful Session**

The 67th Legislative Assembly of the State of North Dakota adjourned just after midnight on Friday, April 30. It was the conclusion of the 76th legislative day. The state constitution limits the legislature to meet for 80 days, so it left itself four days to use in November or December for legislative redistricting and possibly to allocate additional federal funds.

A total of 914 bills were introduced and acted on this session. Numerous studies were also proposed for consideration during the interim. Legislative Management will meet soon to choose proposed studies to be assigned to interim legislative committees it will form. The interim committees will review policies and ideas prior to the 2023 Legislative Session.

The North Dakota Corn Growers Association was successful in moving forward several initiatives in support of value-added agriculture, rural road infrastructure, and renewable energy. The NDCGA played an instrumental role in advancing key issues and Legislators were responsive and approved rural investments and agriculture initiatives.

THANK YOU to all members who reached out to local legislators on important ag-related issues. Your participation was impactful and instrumental in advancing ethanol priorities. Please remember to thank legislators for their support.

Highlights, as well as a summary of key bills tracked by the North Dakota Corn Growers Association are below and attached is a comprehensive summary of ag-related bills acted on during the 67<sup>th</sup> Legislative Assembly.

### **Highlights**

- **Value-added Agriculture and Energy**

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- \$80 million value-added loan guarantee program (SB 2230)
- \$10 million agriculture diversification and development fund (HB 1475)
- **Rural Infrastructure**
  - \$750,000 to assist townships with FEMA match dollars for emergency repairs (SB 2012 DOT)
  - \$30 million for township roads and bridges (HB 1015 OMB)
- **Renewable Energy**
  - DOT to use E15 and biodiesel in the state motor fleet (SB 2012 DOT)
  - \$25 million clean sustainable energy fund (HB 1452)

### **Detail of Bills Acted upon in the final days**

#### **Value-added Agriculture and Energy**

##### **SB 2230 Value added loan guarantee program**

This bill increases the value-added loan guarantee program from \$50 million to \$80 million to support loans to value-added agriculture and energy ventures.

State funds are not spent, they are set-aside to use as a loan guarantee and to provide the Bank of North Dakota flexibility in structuring loans.

The value-added loan guarantee fund is another tool to support value-added agriculture and value-added energy projects in the state leading to economic diversification for farmers and rural areas.

##### **HB 1475 Agriculture diversification and development fund**

HB 1475 creates a \$10 million agriculture diversification and development fund to provide loans, interest rate buydowns and grants from the fund to support new or expanded value-added agriculture businesses. Up to 25% of the fund may be utilized for value added grants in addition to interest buydown.



There are several value-added agriculture and energy projects that could utilize the ag diversification and development fund. The expanded loan guarantee fund and the ag diversification fund will be used to support new ag product processing investments to add more value for North Dakota crops like:

- ethanol fuel, industrial sanitizer, and biobased chemistry production
- greenhouses
- oil seed crushing, bio-based surfactants, and bio- or renewable diesel fuel
- livestock finishing, meat processing and rendering
- livestock and aquaculture feed processing
- plant based protein and pet food manufacture

availability of these loan programs supports partnerships between the state-owned Bank and local financial institutions to secure the right financing package and keep projects moving forward.

### **SB 2012 Department of Transportation**

The Department of Transportation budget bill in directs the Department of Transportation to use 15% ethanol in the state's car fleet and biodiesel in larger engines when these products are available and cost-effective. Corn and soybean farmers, along with ethanol producers promoted this provision of the state using biofuels in its 2,000 cars and trucks.

### **Rural Infrastructure**

The DOT budget bill, HB 1015, also includes \$750,000 to assist townships to match FEMA dollars for emergency repairs.

### **HB 1015 Office of Management and Budget**

HB 1015 is the appropriation bill for the Office of Management and Budget (OMB). The bill contains road and bridge appropriations unrelated to the OMB operations, including funding for township and state infrastructure. The legislature included \$30 million of state funds and up to \$20 million of federal



fund to support township road and bridge infrastructure. Townships in non-oil counties will share \$10 million in equal allocations and a separate \$10 million based on each township's road miles. The DOT was also granted authority to request and distribute \$20 million of federal money to match state funding allocated to townships to:

- address impacts of flooded roads
- improve safety
- reduce weight restrictions
- enhance mobility
- permit agriculture product movement and access to crop and range land

Grants may be awarded for construction, engineering, and design, but not routine maintenance. The DOT will seek federal funds to enhance the money directed to townships roads and bridges.

HB 1015 also transferred \$100 million from the General Fund to the state Highway Fund to match federal discretionary grants. The bill authorizes DOT to spend the federal and state money on road and bridge projects, specifying at least \$10 million be used to match federal funds for township road and bridge projects.

## **Renewable Energy**

### **HB 1452 Clean sustainable energy fund**

HB 1452 creates a \$25 million clean sustainable energy fund and authority to support research, development and technological advancements for large-scale development and commercialization of projects that reduce environmental impacts of energy production. The authority includes two renewable energy council members.

## **Final Report**

Below is the Legislative Final Report, which includes a summary and status of the bills NDCGA supported, opposed, and monitored.



## **NDCGA Support Bills**

NDCGA actively supported seven bills this session. Below are details of those bills and their status.

### **HB 1431 Water infrastructure revolving loan fund and bonded debt repayments**

HB 1431 is the \$680 million major water and road infrastructure bonding authority and funding for the NDSU Ag Products Development Center and Northern Crops Institute bill, which also includes a revolving loan fund. Legacy Fund earnings, found in HB 1380, will repay the bonds. A list of projects that were included:

- \$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

**STATUS: Passed**

### **HB 1437 Modifies drain tile approval processes**

House Bill 1437 is subsurface water management (tiling) bill permit streamlining bill, which also included a fix to allow for State Water Commission to cost share widening or deepening activities for drains. Tile projects over 80 acres will be able to submit a simplified permit application to local water board, the operations maps for which, are exempt from open records access. Tile projects under 80-acres do not need a permit, but through 2022, will be required to notify water resource districts of the location and operation of the project. The notification and sunset language will be reviewed and extended in the next legislative session to continue. It is anticipated that subsurface drains will be studied in water drains study authorized in SB 2208.

**STATUS: Passed with an Emergency Clause**

### **HB 1464 \$.03 per gallon tax increase on motor vehicle fuels**



HB 1464 relates to electric and plug-in hybrid vehicle road use fees and the motor vehicle fuel tax. The bill would have raised the present \$.23 per gallon fuel tax 3 cents and increased the registration fee for electric vehicles.

**STATUS: Failed**

### **HB 1475 Agriculture innovation fund**

The NDCGA worked closely with legislative and agriculture leaders in preparing options to enhance the state's investments in value added agriculture. HB 1475 creates a \$10 million agriculture diversification and development fund to provide loans, interest rate buydowns and grants from the fund to support new or expanded value-added agriculture businesses. Up to 25% of the fund may be utilized for value added grants in addition to interest buydown. Testimony presented at the hearing can be found [here](#).

**STATUS: Passed**

### **SB 2020 2021-23 SBARE Priorities**

The NDCGA supported a strong appropriation bill for the Research Extension Center network, Main Research Center, NDSU Extension, and Northern Crops Institute. The final bill included full restoration of the Governor's recommended budget cuts.

- Initiatives from the SBARE priority list:
  - \$500,000 plus 2 FTE for the Livestock Initiative for NDSU Extension
  - \$240,000 for Farm Safety plus the flexibility to hire as needed for NDSU Extension
  - \$280,000 plus 1 FTE for the Big Data Initiative for NDSU Extension
  - \$835,000 plus 3 FTE for Big Data Center to serve the needs of NDAWN and Ag Experiment Station
  - \$120,000 in operating funds for the State Soil Conservation Committee
- Capital improvement projects from the SBARE priority list:
  - \$775,000 for the Carrington REC for a feedlot research facility and pen renovation
  - \$200,000 for the Central Grasslands REC for pasture based working facilities
  - \$473,000 for the Langdon REC greenhouse
  - \$325,000 for the Central Grasslands REC for a director residence
  - \$300,000 for a machine shed at the Hettinger Research Extension Center



- The bill also includes \$500,000 in one-time funds for deferred maintenance for the ND Ag Experiment Station.

**STATUS: PASSED**

### **SB 2208 Related to legal drain and waterway approval and maintenance**

As introduced, SB 2208 would have substantially modified assessment drain processes and maintenance authority. NDCGA opposed of SB 2208 in its original form. The Senate amended the bill into a study of assessment drain processes and irrigation permits. The study committee will include members representing agriculture, water resource districts, a county road engineer, and the Legislature. It will also include eight nonvoting members representing townships, counties, state's attorneys' association, ag commissioner's office, state water commission, department of transportation and citizens. With the conversion to a study, North Dakota Corn supported SB 2208.

**STATUS: Passed**

### **SB 2230 Value added loan guarantee**

This bill increases the value-added loan guarantee program, established in 2019, from \$50 million to \$80 million to support credit for value-added ag and energy ventures. Corn Growers had advocated for the program to offer \$100 million of loan guarantee funds.

**STATUS: Passed**

### **NDCGA Opposed Bills**

NDCGA opposed two bills this session. Below are details of those bills and their status.

#### **HB 1487 Beef Check Off**

This bill would have changed language the state beef checkoff which is assessed when any person sells cattle. The current law states the \$1 per head assessment must be paid when cattle are sold, but a refund can be requested. The bill would have changed "must" to "may" rather than the current opt-out program where producers may request a refund. NDCGA opposed because of the potential for the opt-in proposal to be implemented for other checkoff funded research, marketing and promotion programs. HB 1009, the budget bill for the Agriculture Department includes a study of the Beef Commission operations and board selection process.

**STATUS: Failed**



**SB 2342 Soil conservation compensation, training, powers and duties, elections, and land use regulations; and to provide for a continuing appropriation.**

NDCGA opposed SB 2342- stating concerns the initiative does not partner with existing stakeholders and soil health framework already in place and created unfunded programs.

**STATUS: Failed**

### **NDCGA Monitoring Bills**

NDCGA monitored numerous bills this session. Below is list of those bills, broken down by category, and their status.

#### **Value-Added Agriculture**

##### **HB 1046 Advisory Committee on Sustainable Agriculture**

The Committee on Sustainable Agriculture met in 2010 and determined there was not a need for a sustainable certification program, so the bill changes language from “shall” to “may” to provide flexibility in calling the committee together when there is more demand for a sustainable certification program.

**STATUS: Passed**

##### **HB 1141 Innovation Loan Fund**

HB 1141 provides \$15 million to renew the Innovation Technology Loan Fund (LIFT). The program charges borrowers no interest for the first three years of the loan’s term and a 2-percent interest rate in loan’s fourth and fifth years. Data based on the \$15 million investment from the deployed LIFT funding is projected to increase North Dakota GDP by \$92 million annually, deliver \$49 million in





increased employee compensation, generate \$151 million in annual economic output increase, and create 750 new jobs.

**STATUS: Passed**

#### **HB 1172 Agricultural mediation and negotiation services**

HB 1172 related to requiring the option of mediation and negotiation services in distressed ag credit situations and a requirement to forgo litigation options. Farm Credit Services asked to be exempt from the notification requirements because federal law already stipulates its requirements.

**STATUS: Failed**

#### **HB 1244 Permits direct sale of raw milk or raw milk products**

**STATUS: Failed**

#### **HB 1452 Establishes a Renewable and Clean Energy Grant Fund**

HB 1452 creates a \$25 million clean sustainable energy fund and authority to support research, development and technological advancements for large-scale development and commercialization of projects that reduce environmental impacts of energy production. HB 1015 added a \$250 million line of credit for clean sustainable energy projects.

**STATUS: Passed**

#### **SB 2053 Adds Equipment to APUC Eligibility**

Clarifies that equipment is eligible for APUC grant funds. The emergency clause carried.

**STATUS: Passed**

#### **SB 2058 Expands loan interest buydown program to livestock operations**

This bill encourages livestock development by expanding the eligibility of use of the existing Biofuels PACE Program to include an interest buydown for livestock operations, including dairy and poultry.



**STATUS: Passed**

**SB 2171 Transfers the Trade Office from the Dept of Commerce to Agriculture Department**

This bill moves the oversight of and funding for the North Dakota Trade Office from the Department of Commerce to the Department of Agriculture.

**STATUS: Failed**

**SB 2216 Definition of Location for Animal Feeding Operations**

This bill clarifies language regarding the definition of boundary location in relation to animal feeding operations.

**STATUS: Passed**

**Agriculture Interests**

**HB 1145 ND Soybean Council members**

HB 1145 relates to soybean districts and terms of office for members elected to the ND soybean council.

**STATUS: Passed**

**SB 2041 Commercial Property Tax Exemption for Grain Elevator and Potato Warehouse Property**

This bill created a commercial property tax exemption for potato warehouse property used for personal use, like that of on-farm storage. 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 study of the warehouse tax exemption issue. It also includes a study of property tax exemption for ag product storage.

**STATUS: Passed**

**Water**

**HB 1353 Reorganizes Office of the State Engineer to the Dept of Water Resources**

HB 1353 converts the Office of the State Engineer and its powers and duties to the Director of the Department of Water Resources with the state engineer as a division. An amendment was included to



retain technical responsibilities with a professional engineer who would serve under the cabinet level department director.

**STATUS: Passed**

### **SB 2324 Installation of culverts**

SB 2324 requires a road authority to install a culvert or bridge within one-year after the State Engineer's determination of sufficient capacity or to provide good cause for not installing a replacement crossing. The bill permitted courts costs and attorney fees to the plaintiff if the road authority does not install the recommended culvert or bridge within one year.

**STATUS: Failed**

### **Transportation**

#### **HB 1015**

The OMB budget bill contains appropriations for state and township road funding. The legislature included \$30 million of state funds and up to \$20 million of federal fund to support township road and bridge infrastructure and it transferred \$90 million to the State Highway Fund. Townships in non-oil counties will share \$10 million in equal allocations and a separate \$10 million based on road miles in the township. The DOT was granted authority to request and distribute \$20 million of federal money to match state funding allocated to townships.

HB 1015 also transferred \$100 million from the General Fund to the state highway fund to match federal discretionary grants. The bill authorizes the DOT to spend the federal and state money on road and bridge projects, specifying at least \$10 million of state highway funds be used to match federal funds for township road and bridge projects.

Separately HB 1015, contains \$70 million of COVID relief funds for career academies, a \$250 million line of credit for coal carbon capture, \$17.5 million for the Theodore Roosevelt Presidential Library, \$500,000 for a new medical center in Griggs County, \$5.9 million of COVID money for a children's science center in Minot, and \$1 million to a cultural endowment fund with \$50,000 annually distributed by the Council on the Arts. The bill also includes a study of a sales tax for biologic product manufacturing.



**HB 1038 Legislative management legacy fund earnings committee**

Continues the interim committee study of Legacy Fund earnings options

**STATUS: Passed**

**HB 1132 Republican leaders' \$1.1 billion infrastructure bonding bill**

**STATUS: Withdrawn**

**HB 1380 Legacy Fund Earnings Programs**

HB 1380 provides for Legacy Fund earnings to be designated for various streams. The final version included \$150 million to pay for the bonds authorized in HB 1431 and \$60 million for the highway tax distribution fund. Of the funds remaining, it is suggested to future legislative assemblies that up to \$50 million go to tax relief, up to \$30 million for coal carbon capture, and up to \$30 million for research workforce initiatives. The bill creates a new interim legacy fund earnings committee.

**STATUS: Passed**

**SB 2026 Governor's Order Authorizing Excess Limits Regarding Road Trains**

Directs the Department of Transportation to study long combination vehicle options and pilot projects.

**STATUS: Passed**

**SB 2245 Intermodal transportation assistance program**

This bill provides a \$2 million one-time appropriation from the federal coronavirus capital projects fund to the agriculture commissioner for an intermodal facility grant program.

**STATUS: Passed**



### **HRC 3001 Regarding Road Trains**

This concurrent resolution urges Congress to temporarily amend cargo carrying truck length and weight restrictions on state highways and interstates that are a part of the National Network to allow North Dakota and surrounding states to conduct a road train pilot program and to permanently amend the restrictions to allow road trains on the National Network highways and interstates if the pilot program is successful.

**STATUS: Passed**

### **Regulatory**

#### **HB 1026 Grain Licensing and Regulation**

HB 1026 simplifies the grain licensing process for grain buyers while providing enhanced protection for producers by making changes to North Dakota Century Code Title 60, as recommended by the Department of Agriculture and the ND Grain Dealers Association.

**STATUS: Passed**



### **HB 1043 Ethics Commission Complaint Procedures**

HB 1043 relates to the ethics commission delegation of duties and advisory opinions; to amend and reenacts North Dakota Century Code, relating to ethics commission complaint procedures. Amendments related to confidential proceedings and complaints.

**STATUS: Passed**

### **HB 1079 Uniform Law regarding Environmental Covenants**

HB 1079 relates to the Uniform Environmental Covenants Act.

**STATUS: Passed**

### **HB 1087 Reauthorize North Dakota's Reinsurance program**

Established in the 2019 Legislative Session, HB 1087 continues North Dakota's Reinsurance which essentially functions as "insurance for insurance companies." The pool provides reinsurance for high level health insurance claims on individual health policies.

The reinsurance program helped reduce premium increases by approximately 20% compared to the baseline premium (without the waiver). In this program, enrollees can remain in the individual market with their current plan and carrier. Corn Grower were active in supporting the program rollout.

**STATUS: Passed**

### **HB 1115 Regulation of animal feeding operations by the agriculture commissioner**

**STATUS: Withdrawn**

### **HB 1118 Limitation on Governor's Declaration of Disaster or Emergency**

HB 1118 specifies the state health officer can only issue a statewide order if there is a declared disaster and limits the governor's ability to declare a disaster to 30 days unless the legislature is called for a special session. It also limits the Governor's ability to issue an executive order to only those specifically addressing the mitigation of the disaster. The emergency clause was carried.

**STATUS: Passed**

### **HB 1158 Mitigate adverse environmental impacts**



This bill equally divides (50/50) all deposits of any money paid into the environmental impact mitigation fund into that fund and the federal environmental law impact review fund. This will allow half of the deposits to be under the oversight of the Department of Agriculture and half to be under the oversight of the Department of Game and Fish. Currently all oversight is with the Department of Game and Fish.

**STATUS: Passed**

**SB 2034 Advisory opinions regarding ethics**

SB 2034 relates to written advisory opinions regarding ethics related events or issues

**STATUS: Passed**

**SB 2065 Industrial commission to regulate the permitting of underground storage of oil and gas**

SB 2065 relates to the authority of the board of university and school lands to lease lands under its control for the underground storage of oil or gas and the jurisdiction of the industrial commission to regulate the permitting and amalgamation of the underground storage of oil or gas.

**STATUS: Passed**

**SB 2124 Virtual Special Session Authority During Emergency or Disaster**

SB 2124 relates to permitting a virtual session of the legislative assembly during an emergency or disaster; relating to the state health officer's and governor's authority during a declared disaster or emergency; and to provide a penalty.

**STATUS: Failed**

**SB 2218 Annually reconvened sessions of the legislature and interim committee meetings**

SB 2218 relates to introduction of bills and interim committees; to amend and reenact sections of the North Dakota Century Code, relating to annually reconvened sessions of the legislative assembly and interim committee meetings; and to provide an expiration date.

**STATUS: Passed**

**Property Rights**

**HB 1113 Landowners permission before baiting and trail cameras**

This bill clarifies requirements for obtaining a landowner's permission before using bait or trail cameras on their property.



**STATUS: Passed**

**SB 2036 Access to Lands and Electronic Posting Study**

This bill continues the legislative management study regarding access to lands and public posting into the 2021-2023 interim. This includes evaluation of the electronic land access database and application developed during the 2019-2021 interim and expansion of the project to all counties. Testimony indicated positive feedback from those who participated in a pilot program to evaluate the effectiveness and feasibility of electronically posting land (Ramsey, Richland and Slope counties were included in the original study).

**STATUS: Passed**

**SB 2037 Criminal Trespass and Electronic Posting**

**STATUS: Failed 0-47**

**SB 2038 Electronic Posting of Land to Prohibit Hunting**

**STATUS: Failed 0-47**

**SB 2144 Criminal Trespass and Electronic Posting**

This bill clarifies a recent Supreme Court decision that acknowledged that landowners have some inherent criminal trespass protection on fenced property without having to sign. The bill revises the penalty for criminal trespass on fenced property by giving a peace officer discretion to cite an individual for a non-criminal charge (\$250 fine) or up to a Class A misdemeanor if he or she entered or remained in an enclosed fence, defined as “a permanent structure on non-urban, private property, which is maintained and capable of containing livestock,” or otherwise enclosed as manifestly to exclude intruders, unless the individual is a licensed hunter or angler who is lawfully hunting or fishing. The bill also allows electronic posting of land by the owner or authorized person in an online database or application maintained or authorized by the state and made available to the public, which identifies whether land is available to hunters. Electronic posting against hunting trespass will be available to all North Dakota counties.

**STATUS: Passed**

**State Agency**





### **HB 1009 Department of Agriculture Budget**

The Department of Agriculture appropriation bill allocates nearly \$46 million, which is a \$6.9 million increase from the current biennium. The bill includes:

- \$4.4 million for the Ag Products Utilization Commission (APUC) fund (increase of \$2.7 million)
- \$5.5 million for bioscience innovation grants
- \$5 million for a federal environmental law impact review fund
- \$50,000 to match an outdoor heritage fund grant for a state water bank project.
- Transfers the ND Trade Office from the Commerce Department to the Ag Department with \$1.6 million in funding.
- \$700,000 for the soil health and cover crop grants program
- \$125,000 from the State Water Commission for the wildlife services program
- \$5 million to provide grants to improve grazing management on national grasslands
- \$200,000 for the pipeline restoration and reclamation program.

Other changes include making the Ag Commissioner the trustee in the case of an insolvency within a livestock dealer like the process for grain insolvency and moving one FTE position within the Department to an attorney position. The bill also includes a legislative management study on the makeup of the ND Beef Commission.

**STATUS: Passed**

### **HB 1425 North Dakota Investment via State Investment Board**

HB 1425 supports 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 income investments (BND CDs and infrastructure loans) and equity/venture capital.

**STATUS: Passed**

### **SB 2012 Department of Transportation Appropriation**

The House adopted an amendment to the Department of Transportation budget, SB 2012, offered at Corn Growers' request, directs the DOT to use 15% ethanol in the state fleet and biodiesel in



department trucks. The amendment was promoted by the Corn Growers in partnership with the Soybean and Ethanol Associations.

The section of SB 2012 as adopted by the Legislature reads:

*SECTION 10. LEGISLATIVE INTENT - DEPARTMENT OF TRANSPORTATION - BIOLOGICAL AND OTHER RENEWABLE PRODUCTS. It is the intent of the sixty-seventh legislative assembly that the department of transportation use gasoline fuel with fifteen percent ethanol and the highest compatible percentage of biodiesel or renewable diesel for all department and state fleet vehicles when these products are available and result in cost-savings. It is further the intent of the sixty-seventh legislative assembly that state fleet vehicles refueling at nonstate fuel sites use renewable fuels when available.*

The House Appropriations Committee also added \$750,000 to assist townships to match FEMA dollars for emergency repairs.

**STATUS: Passed**

### **SB 2019 Career and Technical Education Appropriation**

Provide additional funding for the Department of Career and Technical Education's programs including \$1.5 million to continue CTE course cost reimbursement rates at schools, \$1 million to reimburse schools and area CTE's for the cost of new and expanding CTE program course expenses, and \$630,119 for distance education. The program is also eligible for future anticipated COVID assistance funds.

**STATUS: Passed**

### **SB 2024 Department of Environmental Quality budget**

SB 2024 gives an overview of the Department of Environmental Quality.

**STATUS: Passed**



**SB 2033 University system capital building fund**

SB 2033 relates to the university system capital building fund; to provide for a transfer; and to declare an emergency.

**STATUS: Passed**