

**State Water Commission
Budget No. 770
Senate Bill No. 2020**

	FTE Positions	General Fund	Other Funds	Total
2015-17 legislative appropriations	97.00	\$0	\$1,158,935,836	\$1,158,935,836
2015-17 base budget	90.00	0	827,407,605	827,407,605
Legislative increase (decrease) to base budget	7.00	\$0	\$331,528,231	\$331,528,231

SUMMARY OF LEGISLATIVE CHANGES TO THE BASE BUDGET AND MAJOR FUNDING ITEMS

Salaries and Wages

The legislative action affecting the recommended appropriation for the State Water Commission is in accordance with legislative salary and fringe benefits guidelines as contained in Senate Bill No. 2015.

Changes to Base Budget

	FTE Positions	General Fund	Other Funds	Total
The legislative action:				
Added funding for base payroll changes for cost-to-continue 2013-15 biennium salaries and benefit increases and for other base payroll changes.			\$511,958	\$511,958
Added funding for 2015-17 biennium performance salary adjustments of 2 to 4 percent per year.			706,605	706,605
Added funding for employee health insurance premiums to reflect a premium estimate of \$1,130.22 per month.			342,236	342,236
Added funding for 4 water permitting FTE positions.	4.00		768,831	768,831
Added funding for 1 regulatory director FTE position.	1.00		273,871	273,871
Added funding for 1 water supply project manager FTE position.	1.00		229,840	229,840
Added funding for 1 sovereign lands FTE position.	1.00		192,784	192,784
Adjusted water projects funding.			36,132,255	36,132,255
Increased funding for consultant engineering and attorney fees.			10,727,828	10,727,828
Increased operating expenses.			133,062	133,062
Added one-time funding from loan proceeds from the Bank of North Dakota to pay off or defease the remaining outstanding bond issues of the State Water Commission.			56,000,000	56,000,000

Added funding from the water development trust fund for repayment to the Bank of North Dakota of a loan to refinance the existing outstanding bonds of the State Water Commission.			7,000,000	7,000,000
Added one-time funding from a line of credit from the Bank of North Dakota for water projects.			200,000,000	200,000,000
Removed carryover funding for prior biennium water projects.			(16,529,039)	(16,529,039)
Added funding for operating costs incurred as a result of being a special funded agency, including rent (\$315,000), statewide cost allocation (\$235,000), and legal fees (\$488,000).			1,038,000	1,038,000
Added one-time funding from the state disaster relief fund for the Fargo interior flood control project.			30,000,000	30,000,000
Added one-time funding from the state disaster relief fund for funding levee projects in Burleigh County.			4,000,000	4,000,000
Total	<u>7.00</u>	<u>\$0</u>	<u>\$331,528,231</u>	<u>\$331,528,231</u>

FTE Changes

The 2015-17 biennium appropriation includes funding for 97 FTE positions, an increase of 7 FTE positions from the 2013-15 biennium authorized level of 90 FTE positions. The Legislative Assembly added:

- 4 water permitting FTE positions approved by the 2013-14 interim Emergency Commission;
- 1 regulatory director FTE position;
- 1 water supply project manager FTE position; and
- 1 sovereign lands FTE position.

One-Time Funding

In Section 7 of Senate Bill No. 2020, the Legislative Assembly authorized the State Water Commission to obtain a \$56 million loan from the Bank of North Dakota to pay off or defease the remaining outstanding bond issues of the commission.

In Sections 11 and 15 of Senate Bill No. 2020, the Legislative Assembly provided \$34 million from the state disaster relief fund as one-time funding for the Fargo interior flood control project (\$30 million), a levee for the Missouri River Correctional Center (\$1.2 million), and a levee for Lincoln Township's Fox Island area (\$2.8 million).

In Section 32 of Senate Bill No. 2020, the Legislative Assembly authorized the State Water Commission to obtain a \$200 million line of credit from the Bank of North Dakota for water projects.

These amounts are not to be considered part of the agency's 2017-19 biennium base budget, and the State Water Commission is to report to the Appropriations Committees during the 2017 legislative session on the use of this funding.

Fargo Flood Control

In 2009 and 2011 the Legislative Assembly provided \$45 million and \$30 million respectively for Fargo flood control. In 2013 the Legislative Assembly provided \$100 million for the Fargo flood control project to provide a total of \$175 million. In addition, the 2013 Legislative Assembly included legislative intent that the state provide up to \$450 million for the project, with the remaining \$275 million to be provided over the next four bienniums. The 2013 Legislative Assembly also limited the use of the funding designated for Fargo flood control levee and dike protection until the Fargo flood control project receives federal authorization, a project partnership agreement is executed, a federal appropriation is provided for project construction, and the budget for the Fargo flood control project is approved by the State Water Commission.

The 2015 Legislative Assembly provided an additional \$69 million for the Fargo flood control project and \$60 million for Fargo interior flood control projects, of which \$30 million is from the state disaster relief fund, to provide a total of \$304 million for flood protection in Fargo. The Legislative Assembly also included legislative intent to provide up to \$570 million for Fargo flood control projects, an increase of \$120 million. The \$120 million is to be used for Fargo interior flood control projects and requires 50 percent matching funds from the Fargo flood authority. These funds may be expended only for Fargo interior flood control projects, including levees and dikes until a federal appropriation is provided for construction of the Fargo flood control project, at which time it may be used for a federally authorized Fargo flood control project. The Legislative Assembly also included legislative intent that funding for the Fargo flood control project will end June 30, 2021, if a federal appropriation has not been provided by that time. Of the \$570 million designated by Legislative Assemblies 2009, 2011, 2013, and 2015 for Fargo flood control, \$266 million has yet to be appropriated. The 2015 Legislative Assembly provided legislative intent that the remaining funding be made available in equal installments over the next four bienniums.

Other Sections in Bill

Sovereign lands enforcement grant - Section 3 directs the State Water Commission to provide a grant of \$135,000 from the resources trust fund to the Game and Fish Department for law enforcement activities on sovereign lands in the state.

Sovereign lands recreation use grant - Section 4 directs the State Water Commission to provide a grant of \$1 million from the resources trust fund to the Parks and Recreation Department for developing recreation opportunities on sovereign lands in the state.

Resources trust fund and water development trust fund - Section 5 provides, in addition to the amounts appropriated to the State Water Commission from the resources trust fund and the water development trust fund, any additional amounts that become available in those funds are appropriated, subject to Budget Section approval, to the State Water Commission for the purpose of defraying the expenses of the State Water Commission for the 2015-17 biennium.

Grant and water project carryover authority - Section 6 authorizes the State Water Commission to continue any unexpended 2015-17 appropriation authority for grants or water-related projects in the 2017-19 biennium.

Bank of North Dakota loan - Section 7 authorizes the State Water Commission to obtain a \$56 million loan from the Bank of North Dakota to pay off or defease the remaining outstanding bond issues of the commission.

Fargo flood control project funding exemption - Section 8 provides that of the funds appropriated in the water and atmospheric resources line item for the 2015-17 biennium, \$69 million is for Fargo flood control projects. Any funds not spent by June 30, 2017, are not subject to North Dakota Century Code Section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo flood control projects, including levees and dikes. In addition, except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs, and may not be used for the purchase of dwellings. No more than 10 percent of these funds may be used for engineering, legal, planning, or other similar purposes. The city of Fargo, Cass County, and the Cass County Joint Water Resource District must approve any expenditures made under this section. Costs incurred by nonstate entities for dwellings or other real property which are not paid by state funds are eligible for application by the nonstate entity for cost-sharing with the state.

Fargo flood control project funding legislative intent - Section 9 provides legislative intent that the state provide one-half of the local cost-share of constructing a federally authorized Fargo flood control project, total Fargo flood control project funding to be provided by the state not exceed \$570 million, \$120 million of the \$570 million is designated for Fargo interior flood control projects, and any funds spent for Fargo interior flood control projects after July 1, 2017, require 50 percent matching funds from the Fargo flood authority. In addition, the Legislative Assembly provided that the \$266 million yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next four bienniums and that Fargo flood control funding ends June 30, 2021, if a federal appropriation for project construction has not been provided by June 30, 2021.

Fargo interior flood control funding requirements - Section 10 requires the City of Fargo to apply to the State Water Commission for flood protection funding, which the commission may not deny, unless the funds are not intended to be used for costs directly associated with completion of interior flood protection projects within its city limits. Expenditures may include engineering and legal fees, right-of-way acquisition costs, land purchases, home buyouts, and construction costs. No more than 10 percent of the funds may be used for engineering and legal fees. Funds may not be used for general operations or administrative costs. Any funds designated by the 64th Legislative Assembly for Fargo interior flood control projects may be expended only for Fargo interior flood control projects, including levees and dikes until a federal appropriation is provided for project construction for the Fargo flood control project at which time it may be used for a federally authorized Fargo flood control project.

Appropriation - State disaster relief fund - Fargo interior flood control - Section 11 appropriates \$30 million from the state disaster relief fund for flood protection projects within city limits of Fargo. In addition, the City of Fargo must apply for flood protection funding, but the State Water Commission may not deny an application unless the funds are not intended to be used for costs directly associated with completion of interior flood protection projects within its city limits, including engineering and legal fees, right-of-way acquisition costs, land purchases, home buyouts, and construction costs. No more than 10 percent of the funds may be used for engineering and legal fees. Funds may not be used for general operations or administrative costs. Any funds designated by the 64th Legislative Assembly for Fargo interior flood control projects may be expended only for Fargo interior flood control projects, including levees and dikes until a federal appropriation is provided for project construction for the Fargo flood control project at which time it may be used for a federally authorized Fargo flood control project.

Fargo interior flood control project funding exemption - Section 12 provides that of the funds appropriated in the water and atmospheric resources line item for the 2015-17 biennium, \$30 million is for Fargo interior flood control projects. Any funds not spent by June 30, 2017, are not subject to Section 54-44.1-11 and must be continued into the next or subsequent bienniums and may be expended only for Fargo interior flood control projects. In addition, the City of Fargo must apply for flood protection funding, but the State Water Commission may not deny an application unless the funds are not intended to be used for costs directly associated with completion of interior flood protection projects within its city limits, including engineering and legal fees, right-of-way acquisition costs, land purchases, home buyouts, and construction costs. Funds may not be used for general operations or administrative costs. Any funds designated by the 64th Legislative Assembly for Fargo interior flood control projects may be expended only for Fargo interior flood control projects, including levees and dikes until a federal appropriation is provided for project construction for the Fargo flood control project at which time it may be used for a federally authorized Fargo flood control project.

Grand Forks water treatment plant project funding legislative intent - Section 13 provides legislative intent that the state provide grants for one-half of the cost of constructing the Grand Forks water treatment plant and that the state provide \$30 million during the 2015-17 biennium, and \$30 million during the 2017-19 biennium.

Red River Valley Water Supply Project funding and report to Water Topics Overview Committee - Section 14 designates that \$7,359,000 of unobligated funding from the 2013-15 biennium designated by the State Water Commission for the Red River Valley Water Supply Project and an additional \$5 million for the 2015-17 biennium in the water and atmospheric resources line item be granted to the Garrison Diversion Conservancy District for planning and designing the Red River Valley Water Supply Project. In addition, the Garrison Diversion Conservancy District must report to the Legislative Management's Water Topics Overview Committee regarding its progress in planning and designing the project.

Appropriation - State disaster relief fund - Missouri River Correctional Center levee - Fox Island levee - Section 15 appropriates \$4 million from the state disaster relief fund for a levee for the Missouri River Correctional Center (\$1.2 million) and a levee for Lincoln Township's Fox Island area (\$2.8 million).

Funding designation - Reimbursements for 2013-15 biennium rural and municipal water systems - Section 16 designates \$11 million in the water and atmospheric resources line item from funds available from a line of credit for reimbursing rural and municipal water systems affected by local cost-share changes during the 2013-15 biennium up to a 65 percent state share in lieu of the 75 percent that was approved by the State Water Commission.

Project funding designations - In Section 17, the Legislative Assembly directs the State Water Commission to provide \$414 million from the water and atmospheric resources line item for the following designated purposes:

- \$113 million for flood control projects;
- \$61 million for general water projects, including \$50 million for providing grants and \$11 million from the infrastructure revolving loan fund for providing loans;
- \$130 million for rural water projects;
- \$85 million for municipal water projects; and
- \$25 million for providing loans from the infrastructure revolving loan fund for rural and municipal water projects.

Budget Section approval - Project funding transfer between designations - Section 18 provides that the State Water Commission must receive Budget Section approval to transfer funding between the items identified in Section 17 of Senate Bill No. 2020 and notify the Water Topics Overview Committee of any transfers.

Contingent allocation and Central Dakota Water Supply study - Section 19 provides contingent funding of \$70 million from the water and atmospheric resources line item for a water reuse facility constructed in Stutsman County (\$50 million) and the Central Dakota Water Supply project (\$20 million), contingent on the State Water Commission entering into a written agreement that a fertilizer or chemical processing facility will be constructed in Stutsman County. The State Water Commission must also conduct a study of the feasibility and desirability of proceeding with the project.

Stutsman County water reuse facility project exemption - Section 20 provides the Stutsman Rural Water District an exemption from the aggregated total outstanding revenue bond limit of \$50 million under Section 61-35-15 and is instead limited to an aggregated total of \$100 million of revenue bonds.

Stutsman County water reuse facility project user bonding - Section 21 requires that any agreement entered into by the State Water Commission relating to the Stutsman County water reuse facility project must include requirements that the users of the water reuse facility have entered into contracts, which may include use contracts or credit support arrangements, with the Stutsman Rural Water District in which the expected revenues from the contracts over the term of the contracts are sufficient to repay the total balance of the loans or revenue bonds authorized by the 64th Legislative Assembly for the Stutsman County water reuse facility.

Legislative Management study - Section 22 requires a Legislative Management study of the water supply for central and eastern North Dakota.

Red River Valley Water Supply Project legislative intent - Section 23 provides legislative intent that, beginning July 1, 2017, and extending over the next four bienniums, \$150 million per biennium of state funds be provided to implement the selected alternative for the Red River Valley Water Supply Project.

Western Area Water Supply Authority member entities debt - Section 24 provides that Western Area Water Supply Authority member entities may incur debt as authorized by law, except that beginning January 1, 2015, they may not use any income from industrial water sales relating to oil and gas exploration or production to repay any debt or as collateral to secure debt. In addition, previous debt accrued by the Western Area Water Supply may be serviced by the Western Area Water Supply revenues from industrial water sales.

State Water Commission priority projects list - Reports to the Water Topics Overview Committee - Section 25 requires the State Water Commission to report to the Water Topics Overview Committee every six months regarding any changes made to the water project priority list presented to the 2015 Legislative Assembly.

Fargo flood control - Reports to the Water Topics Overview Committee - Section 26 requires the F-M Area Diversion Authority board to report to the Water Topics Overview Committee biannually regarding an update on congressional authorization of the diversion project and the status of the self-insured crop insurance pool; mitigation efforts, alternatives, and costs; easements; and the project budget. The MNDak Upstream Coalition must also report to the Water Topics Overview Committee biannually regarding an update on the impacts of the Fargo flood control project and mitigation efforts, alternatives, and costs.

Independent water providers and Western Area Water Supply Authority - Reports to the Water Topics Overview Committee - Section 27 requires the independent water providers and the Western Area Water Supply Authority to report to the Water Topics Overview Committee on a regular basis and to collaborate with the committee and the State Water Commission to monitor water usage, rates, engineering contract procedures, and market share.

Southwest Pipeline Project - Report to the Legislative Assembly - Section 28 requires the State Water Commission and the Southwest Water Authority to continue the process of reviewing capital repayment and revenues being returned to the resources trust fund, payments necessary to meet obligations of existing bonds and other loans, ownership of land associated facilities, existing construction documents, liabilities, contracts with cities, bulk users, companies, and other users; and other items; and to report to the 65th Legislative Assembly on the actions necessary for the transfer of ownership and responsibility of the Southwest Pipeline Project from the State Water Commission to the Southwest Water Authority.

State Water Commission study of the Fargo diversion project - Section 29 requires the State Water Commission contract with North Dakota State University to expand the scope of the current agricultural impacts study of the F-M area diversion project at a cost that may not exceed \$80,000. In addition, the study must be completed by September 1, 2016.

Bonding authority - Budget Section approval - Section 30 requires the State Water Commission to request Budget Section approval prior to issuing any revenue bonds during the 2015-17 biennium.

Water Topics Overview Committee duties - Section 31 amends Section 54-35-02.7 to require the Water Topics Overview Committee review and update State Water Commission policies as necessary, report on its project prioritization process, provide updates on allocated program expenditures, and report on the fund balances of projects, grants and contracts.

Bank of North Dakota line of credit - Section 32 creates a new section to Chapter 61-02 to direct the Bank of North Dakota to extend a \$200 million line of credit at a rate not to exceed 1.75 percent to the State Water Commission for water supply projects in suspense, water supply projects identified in Section 19 of Senate Bill No. 2020, and water supply projects approved before June 30, 2017, and flood control projects that have approval for funding before June 30, 2017.

State Water Commission cost-share policy - Section 33 creates a new section to Chapter 61-02, creating cost-share policy for the financing of water projects.

North Dakota outdoor heritage fund grants - Effect on local cost-share - Section 34 creates a new section to Chapter 61-02 precluding the State Water Commission from deducting North Dakota outdoor heritage fund money provided from the cost of the project before determining the local cost-share and directs the commission to include the North Dakota outdoor heritage fund money as part of the local cost-share, to the extent that total funding received from the State Water Commission and North Dakota outdoor heritage fund do not exceed total project costs.

Emergency - Section 35 provides that Sections 1, 7, 12, and 17 are declared to be an emergency measure.

Related Legislation

Senate Bill No. 2375 - Provides for a Legislative Management study of the formation of community facilities districts for public improvements.

House Bill No. 1061 - Amends Section 54-35-02.7 relating to the duties of the Water Topics Overview Committee to remove 2013-14 interim legislative directives.

House Bill No. 1096 - Allows the State Engineer to issue conditional permits in excess of present needs to incorporated municipalities or rural water systems.