

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

	FTE Positions	General Fund	Other Funds	Total
2015-17 legislative appropriation (original)	97.00	\$0	\$1,158,935,836	\$1,158,935,836
2013-15 legislative appropriation	<u>90.00</u>	<u>0</u>	<u>859,045,805</u>	<u>859,045,805</u>
2015-17 appropriation increase (decrease) to 2013-15 appropriation	7.00	\$0	\$299,890,031	\$299,890,031
2015-17 general fund budget allotment (4.05 percent)	<u>0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>
Adjusted 2015-17 appropriation after budget allotment	97.00	\$0	\$1,158,935,836	\$1,158,935,836

Item Description

General fund budget allotment - In February 2016 the Governor ordered a 4.05 percent general fund budget allotment for state agencies.

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 new FTE positions include 4 water permitting FTE positions, 1 regulatory director FTE position, 1 water supply project manager FTE position, and 1 sovereign lands FTE position.

Sovereign lands enforcement grant - The Legislative Assembly in Section 3 of 2015 Senate Bill No. 2020 directed 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 - The Legislative Assembly in Section 4 of Senate Bill No. 2020 directed 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 - In Section 5 of Senate Bill No. 2020, the Legislative Assembly provides that 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 commission for the 2015-17 biennium.

Status/Result

The budget allotment did not reduce the appropriation authority for the State Water Commission because the commission did not receive an appropriation from the general fund.

The State Water Commission filled the 4 water permitting FTE positions, the regulatory director FTE position, and sovereign lands FTE position in July 2015. The commission is reassigning position duties for the water supply project manager FTE position and anticipates filling the position before the end of the 2015-17 biennium.

As of April 30, 2016, the State Water Commission has not received any requests for reimbursement from the Game and Fish Department.

As of April 30, 2016, the State Water Commission has not received any requests for reimbursement from the Parks and Recreation Department.

Through April 2016 funding available in the resources trust fund is approximately \$38.3 million less than estimated during the 2015 legislative session. The reduction in revenue is not anticipated to affect any projects during the 2015-17 biennium.

Bank of North Dakota loan to refinance bonds - In Section 7 of Senate Bill No. 2020, the Legislative Assembly directed the State Water Commission to secure a loan of up to \$56 million from the Bank of North Dakota to pay off or defease outstanding bond issues of the commission.

Fargo flood control - The Legislative Assembly in Senate Bill No. 2020 provided for the following relating to the Fargo flood control project:

- **Fargo flood control project funding** - Section 8 designates \$69 million from the water and atmospheric resources line item for Fargo flood control projects for the 2015-17 biennium and also provides an exemption from North Dakota Century Code Section 54-44.1-11, allowing funds to be continued into the next biennium.
- **Legislative intent - Fargo flood control project funding** - Section 9 provides legislative intent that the state provide one-half of the local cost-share of Fargo flood control projects, including constructing a federally authorized Fargo flood control project, and that total Fargo flood control project funding to be provided by the state not exceed \$570 million. It is the intent of the 64th Legislative Assembly that \$120 million of the \$570 million, be used for Fargo interior flood control projects and that any funds spent for Fargo interior flood control projects after July 1, 2017, require 50 percent matching funds from the Fargo Flood Authority. It is further the intent 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, beginning July 1, 2017.
- **Fargo interior flood control - Funding requirements** - Section 10 requires the City of Fargo to apply for flood protection funding, but the State Water Commission may not deny an application unless the funds are not intended to be used in accordance with provisions of this section. The City of Fargo may use the funds 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 these 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.

The State Water Commission refinanced the bonds on July 29, 2015, \$45,840,221 at a variable interest rate of 1.75 percent. The loan will mature on June 30, 2030. The commission will make an interest only payment each December and a principal and interest payment in June of each year until maturity. Payment amounts will vary depending on the variable interest rate in effect at that time.

Through March 2016 the State Water Commission has received cost reports related to Fargo flood control totaling \$227.1 million, of which the State Water Commission has reimbursed \$107 million, leaving \$197 million available for Fargo flood control of the \$304 million allocated. The following table is a summary of Fargo flood control costs reported to the State Water Commission by the City of Fargo through March 2016:

	Total Requested		
	Diversion	Interior Flood Control	Total Reported Cost
Dwellings	\$54,133,478	\$0	\$54,133,478
Land	18,257,700	2,795,712	21,053,412
Construction	118,519,314	9,760,301	128,279,615
Engineering, legal, and administrative	22,248,150	1,363,214	23,611,364
Total	\$213,158,642	\$13,919,227	\$227,077,869

- **Fargo interior flood control project funding** - Section 11 appropriated \$30 million from the state disaster relief fund for the purpose of providing funding for flood protection projects within city limits of Fargo and Section 12 designates \$30 million from the water and atmospheric resources line item is for Fargo interior flood control projects. The \$60 million in funding 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.

Legislative intent - Grand Forks Water Treatment Plant Project funding - The Legislative Assembly in Section 13 of Senate Bill No. 2020 provides that it is the intent of the 64th Legislative Assembly that the state provide one-half of the cost to construct the Grand Forks Water Treatment Plant Project (estimated \$130 million cost to construct during the 2015 legislative session) and provide a \$30 million grant for the project during the 2015-17 biennium. The Legislative Assembly also provided legislative intent to provide a \$30 million grant for the project during the 2017-19 biennium.

Red River Valley Water Supply Project funding - Report to Water Topics Overview Committee - Legislative intent - The Legislative Assembly in Section 14 of Senate Bill No. 2020 provides that in addition to the 2013-15 biennium unobligated funding of \$7,359,000 designated by the State Water Commission for the Red River Valley Water Supply Project, an additional \$5,000,000 in the water and atmospheric resources line item is designated for a grant to the Garrison Diversion Conservancy District to plan and design the Red River Valley Water Supply Project during the 2015-17 biennium. The Garrison Diversion Conservancy District must report on a regular basis to the Legislative Management's Water Topics Overview Committee to review its progress in planning and designing the Red River Valley Water Supply Project. The Legislative Assembly in Section 23 of Senate Bill No. 2020 provides legislative intent that the state provide \$150,000,000 per biennium for the next four bienniums to implement the selected alternative for the Red River Valley Water Supply Project.

State disaster relief levee funding - The Legislative Assembly in Section 15 of Senate Bill No. 2020, appropriated \$4 million from the state disaster relief fund for the Missouri River Correctional Center levee (\$2.8 million) and the Lincoln township's Fox Island area levee (\$1.2 million).

As of April 30, 2016, the State Water Commission has not received any requests for reimbursement from the City of Grand Forks for the water treatment plant.

As of March 2016 the State Water Commission has provided reimbursements totaling \$3 million of the \$12.4 million made available for the Red River Valley Water Supply Project. The Garrison Diversion Conservancy District reported to the Water Topics Overview Committee that its 2017-19 biennium work plan estimates \$20.5 million will be needed for the final design and \$130 million will be needed for phased bidding construction of the project.

As of March 2016 the State Water Commission has distributed the \$4 million in funding for designated levee projects.

Reimbursements for 2013-15 biennium rural and municipal water systems affected by local cost-share change - The Legislative Assembly in Section 16 of Senate Bill No. 2020 directed the State Water Commission to make available an \$11 million line of credit from the water and atmospheric resources line item to reimburse rural and municipal water systems affected by local cost-share changes during the 2013-15 biennium. Reimbursements are to bring the state's share up to 65 percent of the approved project.

State Water Commission project funding designations - The Legislative Assembly in Section 17 of Senate Bill No. 2020, designated \$414 million of the amount appropriated in the water and atmospheric resources line item to be used as follows:

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

The Legislative Assembly in Section 18 of Senate Bill No. 2020, requires the State Water Commission to notify the Legislative Management's Water Topics Overview Committee and obtain approval from the Legislative Management's Budget Section to transfer funds between designations.

Water reuse facility - The Legislative Assembly in Section 19 of Senate Bill No. 2020 designated, contingent on a processing facility being constructed in Stutsman County, \$70 million from the water and atmospheric resources line item for grants and a loan for a water reuse facility (\$50 million) and for the Central Dakota Water Supply Project (\$20 million).

State Water Commission study of FM Area Diversion Project - The Legislative Assembly in Section 29 of Senate Bill No. 2020, required the State Water Commission to contract with North Dakota State University to expand the scope of the current agricultural impacts study of the FM Area Diversion Project at a cost that may not exceed \$80,000. The study must be completed by September 1, 2016.

The State Water Commission reported to the Water Topics Overview Committee in August 2015 that \$9.5 million in reimbursements have been made to rural and municipal water systems.

As of March 2016, the State Water Commission has obligated \$248 million in funding with the following designations:

- \$22.7 million for flood control projects;
- \$8.9 million for general water projects (\$8.4 million for grants and \$500,000 from the infrastructure revolving loan fund for loans);
- \$118.9 million for rural water projects;
- \$84.4 million for municipal water projects; and
- \$13.1 million for loans from the infrastructure revolving loan fund for rural and municipal water projects.

As of March 2016 the State Water Commission has not requested any transfer of funds between designations.

The private company has decided not to build the facility, therefore, no agreement will be entered into for a fertilizer or chemical processing facility in Stutsman County.

The State Water Commission has expended \$10,893 as of May 2, 2016, and anticipates expending the remaining balance before the end of the 2015-17 biennium.

Bank of North Dakota line of credit - The Legislative Assembly in Section 32 of Senate Bill No. 2020, directs the Bank of North Dakota to extend a \$200 million line of credit to the State Water Commission for funding water supply projects in suspense, water supply projects identified in Section 19 of the bill, 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 - The Legislative Assembly in Section 33 of Senate Bill No. 2020 directs the State Water Commission to adopt a cost-share policy for the financing of water projects. The policy:

- Must provide a water supply project is eligible for grants up to 75 percent of the total eligible project costs.
- May not determine program eligibility of water supply projects based on a population growth factor. However, a population growth factor may be used in prioritizing projects for that purpose.
- Must consider all project costs potentially eligible for reimbursement, except the commission may exclude operations expense and regular maintenance. The commission shall require a water project sponsor to maintain a capital improvement fund from the rates charged customers for future extraordinary maintenance projects as a condition of funding an extraordinary maintenance project.
- May not determine program eligibility of water supply projects based on affordability. However, affordability may be used in prioritizing projects for that purpose.

As of March 2016 the State Water Commission has not drawn on the line of credit available with the Bank of North Dakota. The State Water Commission does not anticipate drawing on the line of credit during the 2015-17 biennium.

In March 2016 the State Water Commission reported to the Water Topics Overview Committee that the cost-share policy had been modified as directed by the 2015 Legislative Assembly.