

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

	FTE Positions	General Fund	Other Funds	Total
2019-21 legislative appropriation	90.00	\$0	\$968,154,091 ¹	\$968,154,091
2017-19 legislative appropriation	<u>93.00</u>	<u>0</u>	<u>722,173,475²</u>	<u>722,173,475</u>
2019-21 appropriation increase (decrease) to 2017-19 appropriation	(3.00)	\$0	\$245,980,616	\$245,980,616

¹This amount includes \$100.9 million of one-time funding, of which \$75 million is a line of credit with the Bank of North Dakota and \$25.9 million is to pay off an outstanding loan with the Bank. Excluding this amount, the agency's ongoing other funds appropriation is \$867,254,091.

²This amount includes \$75 million of one-time funding. Excluding this amount, the agency's ongoing other funds appropriation is \$647,173,475.

Item Description

FTE positions - The 2019 Legislative Assembly authorized 90 FTE positions, a decrease of 3 FTE positions from the 2017-19 biennium authorized level of 93 FTE positions. The Legislative Assembly removed 4 unspecified FTE positions and added 1 FTE risk mapping position.

Resources trust fund and water development trust fund - In Section 4 of Senate Bill No. 2020, the Legislative Assembly provided that, in addition to the amounts appropriated to SWC from the resources trust fund and the water development trust fund, any amounts that become available in those funds are appropriated, subject to Budget Section approval, to SWC for the purpose of defraying the expenses of the commission for the 2019-21 biennium.

State Water Commission project funding designations - The Legislative Assembly, in Section 1 of Senate Bill No. 2020, designated \$697,627,594 to be used as follows:

- \$308,333,818 for project carryover;
- \$128,000,000 for water supply - grants;
- \$37,200,000 for rural water supply - grants;
- \$66,500,000 for Fargo area flood control, including the Fargo Moorhead diversion;
- \$82,500,000 for Mouse River flood control;
- \$48,000,000 for flood control projects other than Fargo area flood control, including the Fargo Moorhead diversion; and
- \$27,093,776 for general water - grants.

Status/Result

The 4 unspecified positions which have been removed are a hydrologist III, water resource program administrator I, engineering technician IV, and water resource engineer II. All positions were vacant at the time of removal. The 1 FTE risk mapping position has not been filled.

Through March 2020, funding available in the resources trust fund was approximately \$6.56 million more than estimated during the 2019 legislative session. The increase in the estimated balance is due to oil extraction tax collections being more than estimated in the 2019 legislative revenue forecast and increased utilization of the water development trust fund by SWC rather than the resources trust fund. The estimated June 30, 2021, water development trust fund balance made at the end of the 2019 regular legislative session was \$1,339,845. The decrease in the estimated balance of \$1,339,845 is due to SWC utilizing all the funds available from the water development trust fund as the transfers of tobacco settlement revenue to the fund were discontinued in Senate Bill No. 2012 (2019). The agency does not anticipate requesting Budget Section approval to expend any additional funds during the 2019-21 biennium.

Through March 31, 2020, SWC has obligated \$240,827,591 in funding, designated as follows:

- \$77,217,982 for project carryover;
- \$50,475,500 for water supply - grants;
- \$10,135,075 for rural water supply - grants;
- \$0 for Fargo area flood control, including the Fargo Moorhead diversion;
- \$82,500,000 for Mouse River flood control;
- \$16,296,714 for flood control projects other than Fargo area flood control, including the Fargo Moorhead diversion; and
- \$4,202,320 for general water - grants.

Red River Valley Water Supply Project - Section 12 of Senate Bill No. 2020 provides legislative intent that SWC provide, in the form of a grant, up to \$13 million to the Garrison Diversion Conservancy District for the Red River Valley Water Supply Project (RRVWSP) during the 2019-21 biennium. This funding had been allocated during the 2017-19 biennium but it was not requested by the project sponsor or committed by SWC. Section 13 provides legislative intent to provide no more than \$30 million of state funding for RRVWSP during the 2019-21 and 2021-23 bienniums, and that SWC provide state funding at a 75 percent state cost-share after June 30, 2021. Section 14 establishes certain requirements the Garrison Diversion Conservancy District must meet regarding the planning and permitting process and requires the district obtain certification from SWC and the state engineer that those items are complete. The section also requires approval from the Budget Section of the certification and for construction to begin before the funding can be provided to the Garrison Diversion Conservancy District for RRVWSP.

Fargo Moorhead diversion project - The Legislative Assembly has been providing funding to the Fargo Moorhead diversion project since the 2009 legislative session. The 2019 Legislative Assembly provided legislative intent to provide a total of \$750 million in state funding through SWC for the Fargo Moorhead diversion project.

Pilot project - Implementation of a basinwide plan - Section 15 of Senate Bill No. 2020 allows SWC to provide up to \$1 million in grants to water resource districts to develop basinwide water plans.

Bank of North Dakota line of credit - Section 17 of Senate Bill No. 2020 amends Section 61-02-79 to continue the authorization of a line of credit at the

The Red River Valley Water Supply Project is waiting for a discharge permit to be issued by DEQ. A public hearing was held on May 12, 2020. It is anticipated that the State of Missouri will bring legal action on finalization of the permit. The Garrison Diversion Conservancy District has not expended any of the \$30 million allocated to the project. The conservancy district anticipates it will expend \$10 million during the 2019-21 biennium. Once finalized, RRVWSP will need approval from the state engineer, SWC, and the Budget Section. The conservancy district has requested, but has not yet been awarded, conditional approval from the state engineer.

The schedule below provides a history of funding provided for the Fargo Moorhead diversion project:

Funding for the Fargo Moorhead Diversion Project				
(In Millions)				
	2009-11 - 2013-15	2015-17	2017-19	2019-21
SWC-approved funding	\$175.0	\$129.0	\$66.5	\$0.0 ¹
Cumulative state commitment	\$175.0	\$304.0	\$370.5	\$370.5
Remaining to be committed	275.0	266.0	199.5	379.5
Legislative intent ²	\$450.0	\$570.0	\$570.0	\$750.0

¹The sponsors of the Fargo Moorhead diversion project have not requested the \$66.5 million the 2019 Legislative Assembly intends to provide during the 2019-21 biennium.

²Funding for the Fargo Moorhead diversion project was appropriated by the 2009, 2011, 2013, 2015, and 2019 Legislative Assemblies and included legislative intent to provide a total of \$750 million, of which \$437 million has been appropriated by the Legislative Assembly and approved by SWC for the project through the 2019-21 biennium. The 2019 Legislative Assembly required the remaining funding designated by the state for the Fargo Moorhead diversion project be made available in installments as follows: \$66.5 million during the 2021-23, 2023-25, 2025-27, and 2027-29 bienniums, and \$47 million during the 2029-31 biennium.

The state engineer and the chairman of the Water Topics Overview Committee have met with the Upper Sheyenne Water District to develop a plan for the Sheyenne River. The group is working to define eligible costs.

The State Water Commission has not utilized the line of credit as of March 31, 2020.

Bank of North Dakota, not to exceed \$75 million, at the prevailing interest rate charged to North Dakota government entities. The State Water Commission must repay the line of credit from funds available in the resources trust fund, water development trust fund, or other funds, as appropriated by the Legislative Assembly. The State Water Commission may access the line of credit, as necessary, to provide funding as authorized by the Legislative Assembly for water supply and flood control projects approved for funding before June 30, 2021.