

**Department 303 - Department of Environmental Quality  
House Bill No. 1024**

**First Chamber Comparison to Base Level**

	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
2023-25 First Chamber Version	\$14,289,434	\$76,828,535	\$91,117,969
2023-25 Base Level	12,661,075	46,969,930	59,631,005
Increase (Decrease)	\$1,628,359	\$29,858,605	\$31,486,964

**First Chamber Changes**

A summary of the first chamber's changes to the agency's base level appropriations and the executive budget is attached as an appendix.

**Selected Bill Sections Included in the First Chamber Version**

**Environment and rangeland protection fund** - Section 3 authorizes the Department of Environmental Quality (DEQ) to spend \$250,000 from the environment and rangeland protection fund for the ground water testing programs. Of this amount, \$50,000 is for a grant to the North Dakota Stockmen's Association for the environmental services program.

**Petroleum release compensation fund** - Section 4 authorizes DEQ to spend \$742,080 from the petroleum release compensation fund for expenses related to the petroleum tank release program.

**Environmental quality restoration fund and fund revenues** - Sections 5 and 6 remove the balance requirement in the environmental quality restoration fund to receive deposits and provide if, on the 1<sup>st</sup> day of July in any year, the amount of uncommitted or unrestricted money in the environmental quality restoration fund is more than \$5 million, the amount in excess of \$5 million must be transferred to the general fund.

**Continuing Appropriations**

**Environmental quality restoration fund** - North Dakota Century Code Sections 23-31-01 and 23-31-02 - Allows DEQ to provide immediate and timely response to catastrophic events that threaten the public and environmental health and when the responsible party is late in responding or cannot be located.

**Deficiency Appropriations**

There are no deficiency appropriations for this agency.

**Significant Audit Findings**

The State Auditor reported no areas of concern were identified with regard to errors, internal control weaknesses, or potential violations of law for significant or high-risk functions of the agency during the 2019-21 biennium. The Department of Environmental Quality was separated from the State Department of Health in 2019. This is the 1<sup>st</sup> biennium the department has been audited as a separate entity.

In addition to financial transactions and expenditures, the State Auditor reviewed permitting and monitoring special waste landfills and animal feeding operations. The State Auditor reported the following audit findings related to the additional reviews:

Other Findings: Special Waste Landfills

- Condition: Opportunities for improvement for inspection control and policy areas.

Cause: Lack of communication for inspection results, issues identified but not addressed, not tracking noncompliance issues, and duplication of effort by a third-party contractor and DEQ employees.

Recommendation: The State Auditor recommends DEQ evaluate policies and procedures to ensure they contribute to meeting the overall program objective. This includes modifying or implementing policies and procedures to ensure proper communication of inspection results, inspections verifying all required information, proper tracking and follow up of noncompliance, and assignment of inspection duties among staff.

Agency response: The department agrees to implement this recommendation. The department has an informal long-term policy to notify facility representatives verbally of items of noncompliance and follow up with a written inspection report. This informal policy is now memorialized in a field inspection operating procedure which requires facility notification within 48 hours of the inspection and a written report identifying all items of noncompliance sent within 30 days. Additionally, DEQ has updated the standard inspection form and removed the "unknown" option. The department will review third-party contracts to avoid duplication of effort. Database report tracking procedures will be implemented.

- Condition: Oilfield landfill operators are having to wait longer than the 120 days allowed by North Dakota Administrative Code (NDAC) for their permit to be approved before constructing new facilities or expanding already opened facilities. This may cause the solid waste needs in the state to go unmet.

Cause: Permit applications not reviewed within the required 120 days or 240 days if the review period is extended.

Recommendation: The State Auditor recommends DEQ develop procedures to review and approve all permits for special oilfield landfills within 120 days as required by NDAC 33.1-20-03.1-04.

Agency response: The department agrees to implement this finding. A complete permit application is a complex document made up of many interrelated components requiring input from several governmental, nongovernmental, and public entities. For example, permits may require county zoning approval and may also receive third-party review which may be provided after the initial application has been submitted to the state for review. The department will implement a policy and tracking system to monitor the 120-day period to ensure timely review, follow up, and approval decision of applications.

- Condition: There are no set solid waste permit lengths established. The program determines the permit length on an individual basis based on the level or risk with the facility. The risk factors used and the risk level assigned to the facility are not documented. This could result in inequitable treatment of facilities or missed revenue opportunities for the state by not requiring permit renewals as frequently.

Cause: Missing policies and procedures to determine how long permits are granted.

Recommendation: The State Auditor recommends the DEQ solid waste program develop a policy that defines risk assessment procedures to use in determining the active length of approved permits.

Agency response: The department agrees to implement this recommendation. The department will create a decision matrix for selecting a permit length based on fixed criteria which will be added to the standard operating procedures for facility permitting. During the permit review process, the public will have an opportunity to review and comment on the permit length justification.

#### Other Findings: Animal Feeding Operations

No findings were identified. The North Dakota pollutant discharge elimination system program is properly permitting, and monitoring animal feeding operations as required by the NDAC and the North Dakota pollutant discharge elimination system program policies and procedures.

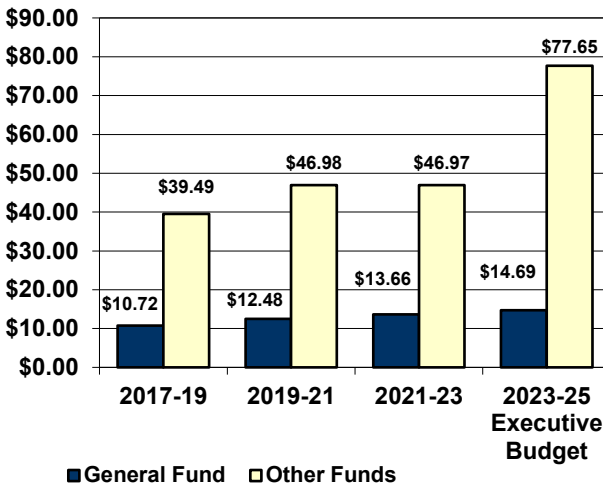
### **Major Related Legislation**

**House Bill No. 1358** - Relates to the composition of the environmental review advisory council.

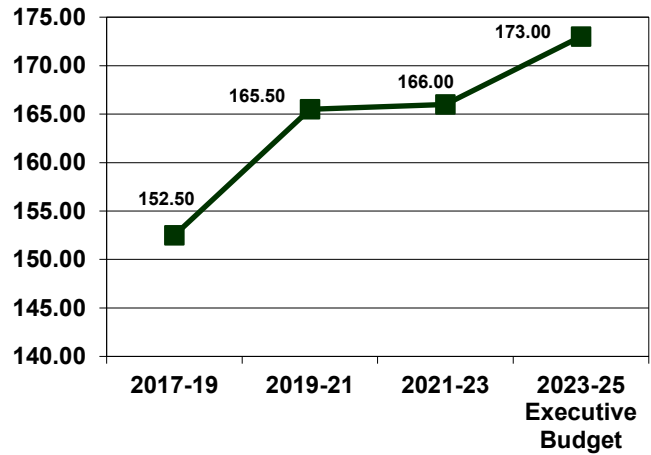
# Historical Appropriations Information

## Agency Appropriations and FTE Positions

Agency Funding (Millions)



FTE Positions



### Ongoing General Fund Appropriations

	2015-17	2017-19	2019-21	2021-23	2023-25 Executive Budget
Ongoing general fund appropriations	N/A	\$10,724,151	\$12,480,922	\$12,661,075	\$14,499,802
Increase (decrease) from previous biennium	N/A	N/A	\$1,756,771	\$180,153	\$1,838,727
Percentage increase (decrease) from previous biennium	N/A	N/A	16.4%	1.4%	14.5%
Cumulative percentage increase (decrease) from 2015-17 biennium	N/A	N/A	N/A	N/A	N/A

### Major Increases (Decreases) in Ongoing General Fund Appropriations

#### 2017-19 Biennium

- Removed 1 FTE electronics technician II position from the Air Quality Division of the Environmental Health Section and related funding for salaries and wages (\$111,233)
- Adjusted the funding source for litigation fees related to the Environmental Protection Agency lawsuit to provide funding from the strategic investment and improvements fund instead of the general fund (\$500,000)

#### 2019-21 Biennium

- Removed 3 FTE positions, including 1 FTE administrative assistant, 1 FTE office assistant, and 1 FTE legal assistant, and related funding for salaries and wages (\$94,123)
- Added 2 FTE positions and related funding from the general fund and the petroleum release compensation fund for salaries and wages and operating expenses to transfer the petroleum tank release program from the Insurance Department to DEQ \$297,217
- Added 2 FTE positions and funding for salaries and wages in the 1<sup>st</sup> year of the biennium related to the state assuming primacy over the Quad O and Quad Oa federal air pollution programs \$384,356
- Added 8 FTE positions and funding in the 2<sup>nd</sup> year of the biennium related to the state assuming primacy over the Quad O and Quad Oa federal air pollution programs \$1,056,767
- Reduced funding for operating expenses related to training water treatment system operators to provide a total of \$125,000 from the general fund (\$55,000)
- Added funding for Microsoft Office 365 licensing expenses \$20,048

#### 2021-23 Biennium

- Decreased funding for temporary salaries (\$138,050)
- Transferred 1 FTE computer and network specialist III position to the Information Technology Department for the information technology (IT) unification initiative, including a decrease in salaries and wages and an increase in operating expenses \$2,022

- 3. Removed 2 FTE environmental scientist II positions paid from the general fund and restored other positions from special funds (\$360,800)
- 4. Decreased funding for operating expenses (\$614,873)
- 5. Increased funding for cost to continue operating expenses and grants, including funding to fully fund the Quad O and Quad Oa program, increases in IT data processing, IT equipment, and repairs \$362,474

**2023-25 Biennium (Executive Budget Recommendation)**

- 1. Adds funding for 1 FTE human resource director position in the Office of the Director and related operating expenses of \$15,165 \$94,718
- 2. Adds funding for 1 FTE assistant director in the Office of the Director and related operating expenses of \$15,167 \$127,704
- 3. Adds funding for 1 FTE civil rights and environmental justice position in the Office of the Director and related operating expenses of \$25,168 \$85,341
- 4. Adds funding for 1 FTE accountant budget specialist III position in the Office of the Director and related operating expenses of \$10,500 \$80,141
- 5. Adds funding for operating expenses related to a laboratory information management system (LIMS) maintenance and hosting \$280,000

**One-Time General Fund Appropriations**

	2015-17	2017-19	2019-21	2021-23	2023-25 Executive Budget
One-time other funds appropriations	N/A	\$0	\$0	\$1,000,000	\$187,800

**Major One-Time Other Funds Appropriations**

**2017-19 Biennium**

None \$0

**2019-21 Biennium**

None \$0

**2021-23 Biennium**

Added one-time funding for a laboratory information management system \$1,000,000

**2023-25 Biennium (Executive Budget Recommendation)**

- 1. Adds one-time funding for operating expenses related to chemistry laboratory inflation \$116,800
- 2. Adds one-time funding for operating expenses for environmental data system development \$71,000

**Department of Environmental Quality - Budget No. 303**  
**House Bill No. 1024**  
**Base Level Funding Changes**

	Executive Budget Recommendation				House Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2023-25 Biennium Base Level</b>	166.00	\$12,661,075	\$46,969,930	\$59,631,005	166.00	\$12,661,075	\$46,969,930	\$59,631,005
<b>2023-25 Ongoing Funding Changes</b>								
Cost to continue salary increase		\$81,541	\$149,916	\$231,457		\$81,541	\$149,916	\$231,457
Adds funding from federal funds for base budget adjustments, including increases in salaries and wages (\$259,515), operating expenses (\$2,338,313), and grants (\$778,000) and a decrease in capital assets of \$113,700			3,262,128	3,262,128			3,262,128	3,262,128
Salary increase		673,222	1,602,721	2,275,943		492,317	1,178,150	1,670,467
Health insurance increase		224,262	536,982	761,244		229,421	549,334	778,755
Adds funding from federal and special funds for 1 FTE natural resource services III position and related operating expenses of \$7,500	1.00		226,162	226,162	1.00		226,162	226,162
Adds funding from federal funds for 2 FTE engineering and planning services VI positions and related operating expenses of \$97,500	2.00		608,784	608,784	2.00		608,784	608,784
Adds funding, including funding from federal and special funds, for 1 FTE human resource director position in the Office of the Director and related operating expenses of \$15,165	1.00	94,718	175,903	270,621				0
Adds funding, including funding from federal and special funds, for 1 FTE assistant director in the Office of the Director and related operating expenses of \$15,167	1.00	127,704	237,169	364,873				0
Adds funding, including funding from federal and special funds, for 1 FTE civil rights and environmental justice position in the Office of the Director and related operating expenses of \$25,168	1.00	85,341	158,491	243,832	1.00	85,341	158,491	243,832
Adds funding, including funding from federal and special funds, for 1 FTE accountant budget specialist III position in the Office of the Director and related operating expenses of \$10,500	1.00	80,141	148,835	228,976	1.00	80,141	148,835	228,976

Increases federal funding for temporary salaries related to lead line inventory		274,560	274,560		274,560	274,560		
Adds funding for operating expenses related to LIMS maintenance and hosting	280,000		280,000	280,000		280,000		
Adds funding for operating expenses related to ITD rate increases	136,379	86,842	223,221	136,379	86,842	223,221		
Adds funding from special funds for operating expenses related to lead and copper testing		184,000	184,000		184,000	184,000		
Increases federal funding for operating expenses related to printing lead and copper program materials		10,000	10,000		10,000	10,000		
Adds federal funding for operating expenses related to ongoing licensing and maintenance of the drinking water system database		100,000	100,000		100,000	100,000		
Adds federal funding for operating expenses for professional services related to lead line service replacement project		150,000	150,000		150,000	150,000		
Adds funding, including federal funds, for operating expenses related to environmental data system maintenance	115,000	35,000	150,000	115,000	35,000	150,000		
Removes funding, including funding from federal funds, for 2021-23 biennium bond payment	(59,581)	(60,391)	(119,972)	(59,581)	(60,391)	(119,972)		
Adds federal funding for grants related to Infrastructure Investment and Jobs Act (IIJA) municipal facilities and lead and copper programs		21,000,000	21,000,000		21,000,000	21,000,000		
Total ongoing funding changes	7.00	\$1,838,727	\$28,887,102	\$30,725,829	5.00	\$1,440,559	\$28,061,811	\$29,502,370
<b>One-Time Funding Items</b>								
Adds one-time funding for operating expenses related to chemistry laboratory inflation		\$116,800	\$116,800	\$116,800		\$116,800	\$116,800	
Adds one-time funding from federal funds for operating expenses related to administering the IIJA municipal facilities revolving loan fund, including office and IT equipment		\$22,350	22,350		\$22,350	22,350		
Adds one-time funding from federal funds for operating expenses to upgrade the drinking water program portal		325,000	325,000		325,000	325,000		
Adds one-time funding for operating expenses, including funding from federal and special funds, for environmental data system development	71,000	1,294,444	1,365,444	71,000	1,294,444	1,365,444		

Adds one-time funding from federal funds for equipment over \$5,000 related to administering IJJA municipal facilities revolving loan fund			155,000	155,000			155,000	155,000
Total one-time funding changes	0.00	\$187,800	\$1,796,794	\$1,984,594	0.00	\$187,800	\$1,796,794	\$1,984,594
<b>Total Changes to Base Level Funding</b>	<b>7.00</b>	<b>\$2,026,527</b>	<b>\$30,683,896</b>	<b>\$32,710,423</b>	<b>5.00</b>	<b>\$1,628,359</b>	<b>\$29,858,605</b>	<b>\$31,486,964</b>
<b>2023-25 Total Funding</b>	<b>173.00</b>	<b>\$14,687,602</b>	<b>\$77,653,826</b>	<b>\$92,341,428</b>	<b>171.00</b>	<b>\$14,289,434</b>	<b>\$76,828,535</b>	<b>\$91,117,969</b>
<i>Federal funds included in other funds</i>			\$53,655,863				\$53,203,600	
<i>Total ongoing changes as a percentage of base level</i>	4.2%	14.5%	61.5%	51.5%	3.0%	11.4%	59.7%	49.5%
<i>Total changes as a percentage of base level</i>	4.2%	16.0%	65.3%	54.9%	3.0%	12.9%	63.6%	52.8%

**Other Sections in Department of Environmental Quality - Budget No. 303**

	<u>Executive Budget Recommendation</u>	<u>House Version</u>
Environment and rangeland protection fund	Section 3 would authorize the department to spend \$250,000 from the environment and rangeland protection fund for the ground water testing programs. Of this amount, \$50,000 is for a grant to the North Dakota Stockmen's Association for the environmental services program.	Section 3 authorizes the department to spend \$250,000 from the environment and rangeland protection fund for the ground water testing programs. Of this amount, \$50,000 is for a grant to the North Dakota Stockmen's Association for the environmental services program.
Petroleum release compensation fund	Section 4 would authorize the department to spend \$748,169 from the petroleum release compensation fund for expenses related to the petroleum tank release program.	Section 4 authorizes the department to spend \$742,080 from the petroleum release compensation fund for expenses related to the petroleum tank release program.
Environmental quality restoration fund and fund revenues	Sections 5 and 6 would remove the balance requirement in the environmental quality restoration fund to receive deposits and provide if, on the 1st day of July in any year, the amount of uncommitted or unrestricted money in the environmental quality restoration fund is more than \$5 million, the amount in excess of \$5 million must be transferred to the general fund.	Sections 5 and 6 remove the balance requirement in the environmental quality restoration fund to receive deposits and provide if, on the 1st day of July in any year, the amount of uncommitted or unrestricted money in the environmental quality restoration fund is more than \$5 million, the amount in excess of \$5 million must be transferred to the general fund.