

**Department of Environmental Quality
Budget No. 303
Senate Bill No. 2024**

| | FTE Positions | General Fund | Other Funds | Total |
|---|----------------------|---------------------------|-------------------------------|-------------------|
| 2021-23 legislative appropriation | 166.00 | \$13,661,075 ¹ | \$46,969,930 | \$60,631,005 |
| 2019-21 legislative appropriation | <u>165.50</u> | <u>12,480,922</u> | <u>46,978,574²</u> | <u>59,459,496</u> |
| 2021-23 appropriation increase (decrease) to 2019-21 appropriation | 0.50 | \$1,180,153 | (\$8,644) | \$1,171,509 |

¹This amount includes \$1,000,000 of one-time funding. Excluding this amount, the agency's ongoing general fund appropriation is \$12,661,075.

²This amount includes \$1,040,000 of one-time funding from the strategic investment and improvements fund and \$745,000 from the federal Coronavirus Relief Fund. Excluding this amount, the agency's ongoing other funds appropriation is \$45,193,574.

Item Description

One-time funding - The Legislative Assembly, in Section 2 of Senate Bill No. 2024, identified \$1 million of one-time funding from the general fund to replace the chemistry laboratory's existing laboratory information management system (LIMS).

Legislative intent - Wastewater testing and LIMS funding - The Legislative Assembly, in Section 6 of Senate Bill No. 2024, provided legislative intent that DEQ use federal coronavirus relief funds, or any other funds available, for wastewater testing. In addition, legislative intent provided that the department use federal coronavirus relief funds or other available funds for the laboratory information management system before accessing funding from the general fund. The department may seek Emergency Commission approval to adjust the funding source if a nongeneral fund source is identified.

Status/Result

The Department of Environmental Quality (DEQ) completed a notice of intent to make a noncompetitive purchase and the purchase has been approved by the State Procurement Office. The department is currently refining the scope of work requirements and negotiating a contract with the vendor. The department is evaluating the LIMS budget and possible funding sources. Other funding sources may include federal grants and special funding. As of March 31, 2022, none of the one-time funding has been spent.

In June 2021, DEQ requested Emergency Commission approval for \$1.5 million of additional appropriation authority to accept federal passthrough funding from the State Department of Health for a COVID-19 wastewater sampling project to continue monitoring for COVID-19 and possible variants through the testing of wastewater. The request was to add \$750,000 of federal fund authority to each the 2019-21 biennium the 2021-23 biennium. The request was amended by the Emergency Commission to authorize DEQ to accept \$400,000 from the State Department of Health and utilize the DEQ's existing federal spending authority for the 2019-21 biennium and to accept \$750,000 from the State Department of Health and increase federal authority by \$750,000 for the 2021-23 biennium. The \$750,000 approved for the 2021-23 biennium was used to contract with North Dakota State University to continue testing through December 31, 2021 and has been expended.

In December 2021 the department received Emergency Commission approval to increase federal funds spending authority by \$1.2 million to accept and expend passthrough grant funds from the State Department of Health to continue monitoring for COVID-19 and possible variants through the testing of wastewater for the period beginning January 1, 2022, through December 31, 2022. The funding has been used to contract with North Dakota State University for testing through December 31, 2022.

The department is in the procurement process for LIMS and is evaluating the estimated budget and possible funding sources. Other funding sources for LIMS may include federal grants and special funding.

Environmental quality restoration fund - The Legislative Assembly, in Senate Bill No. 2070 (2021), provided if the balance of the environmental quality restoration fund is less than \$5 million, money recovered by DEQ in an action or administrative proceeding based on violation of the state's environmental statutes must be deposited in the fund. The Legislative Assembly also expanded the use of the environmental quality restoration fund to include environmental incidents and contaminated property and provided a continuing appropriation to DEQ for costs of environmental assessment, removal, corrective action, or monitoring as determined on a case-by-case basis.

United States Department of Justice and Volkswagen Corporation settlement - The Legislative Assembly, for the 2021-23 biennium, provided \$4,485,118 of special fund authority for grants resulting from a settlement agreement between the United States Department of Justice and the Volkswagen Corporation related to emissions. The State Department of Health, and subsequently DEQ, was designated to receive the funds by the Governor's office.

Legislative Management report - Low-carbon initiative - The Legislative Assembly, in Section 7 of Senate Bill No. 2024, required the department to gather information from private industry, private organizations, and government that relates to carbon reduction initiatives, rules, or policies that will affect North Dakota residents and industries and report to the Legislative Management.

Through March 31, 2022, \$785,266 has been deposited in the fund and expenditures totaled \$45. The fund balance of the environmental quality restoration fund as of March 31, 2022, is \$920,925.

As part of the settlement, Volkswagen was required to establish an environmental mitigation trust which was allocated to states based on the number of registered Volkswagen vehicles. Based on the trust guidelines, DEQ submitted a mitigation plan for North Dakota's allocation of \$8.125 million. The mitigation plan submitted by DEQ focuses on reducing nitrogen oxide emissions from mobile sources. The department awards the funds as 2-year rebate grants through a competitive application process in four categories as outlined in the mitigation plan. The four categories are large trucks, buses, medium trucks, and electric vehicle charging stations. During the 2019-21 biennium expenditures totaled approximately \$1.58 million.

In December 2021 DEQ received Emergency Commission approval to increase special funds spending authority by \$2,056,000 from Volkswagen settlement funds in the grants line item to provide a total appropriation of \$6,541,118 for the 2021-23 biennium. The request was to fund rebate grant contracts that had an unexpended balance at the end of the 2019-21 biennium. The funds were awarded during the 2019-21 biennium; however, due to supply issues because of the COVID-19 pandemic, the funds were not spent.

Expenditures through March 31, 2022, totaled \$2.9 million. Expenditures related to 2019-21 biennium awards totaled \$1.6 million, including \$422,962 for buses, \$55,861 for medium trucks, and \$1.1 million for electric vehicle charging stations. Expenditures related to 2021-23 biennium awards totaled \$1.3 million, including \$632,500 for large trucks, \$351,580 for buses, and \$331,516 for electric vehicle charging stations. Remaining 2021-23 biennium obligations total \$3 million, including \$2.7 million for large trucks, \$166,275 for buses, \$62,000 for medium trucks, and \$90,885 for electric vehicle charging stations.

The department has collected data, interviewed interested parties, and witnessed technical demonstrations related to carbon removal and sequestration. The department is in the process of drafting a low-carbon future white paper specifically outlining North Dakota's potential carbon reduction and sequestration opportunities.

Infrastructure Investment and Jobs Act (IIJA) - The \$1.2 trillion federal IIJA bill was signed on November 15, 2021. State and local governments will receive federal funding from programs authorized in the Act during federal fiscal years 2022 through 2026. Major provisions of the bill include state and tribal assistance grants and capitalization grants through the clean water state revolving fund and drinking water state revolving fund.

Relocation and laboratory building space - The department relocated their main office in Bismarck from 918 East Divide Avenue to 4201 Normandy Street. In addition, during the November 2021 special legislative session, the Legislative Assembly, in Senate Bill No. 2345, approved \$15 million of one-time funding from the federal State Fiscal Recovery Fund to the State Department of Health for a public health laboratory capital project.

The department estimates \$63 million may be made available through IIJA and is in the process of drafting a request for funding authority and FTE positions for the next Emergency Commission meeting. The request will be related to the clean and drinking water state revolving funds and environmental justice. In the future, applications for funding from these funds will require additional review related to environmental justice to ensure awards do not adversely impact certain communities. The department has indicated additional Emergency Commission requests for other programs may be necessary if additional IIJA funding is made available.

The department indicated space was not adequate at the Divide location. When space became available at the Normandy location, the department secured adequate space and the rental cost-savings offset the moving cost. The department anticipates rent cost at the new location will continue to be comparable in the future.

A steering committee was established to guide and make decisions related to the process, design, and location of the new or remodeled public health laboratory. The State Department of Health has included DEQ in the evaluation of laboratory building space needs and proposed solutions. The State Department of Health has hired a consultant to evaluate proposed solutions. The Department of Environmental Quality could be part of the proposed laboratory or may remodel the existing laboratory space.