

TESTIMONY OF

Beth Jacobson, Director of Accounting

Good afternoon Chairman Nelson and members of the House Human Resources Appropriation Committee. My name is Beth Jacobson, I am the Director of Accounting for the Department of Environmental Quality (DEQ). I prepared the budget for the department, and I will be covering the budget portion of the testimony in support of House Bill 1024.

I will first address the base level budget compared to the 2023-25 Governor's Executive Recommendation, walk through the budget changes to arrive at the Executive Recommendation, and I will also touch base on a few other budget related items as requested.

Base Level Budget Comparison to Executive Recommendation

The budget outlined in the table below includes the Office of the Director and the Division of Accounting along with five divisions: Air Quality, Chemistry Laboratory, Municipal Facilities, Water Quality, and Waste Management. In the table below, you will note significant increase in several budget lines. The increases are mainly due to federal funding related to the Infrastructure Investment and Jobs Act (IIJA).

Category	2021-23 Base Level Budget	2023-25 Executive Recommendation	Increase/(Decrease)
Salaries & Wages	32,551,817	38,126,784	5,574,967
Operating Expenses	10,771,898	16,208,026	5,436,128
Capital Assets	1,247,172	1,168,500	(78,672)
Grants	15,060,118	36,838,118	21,778,000
Total By Line	59,631,005	92,341,428	32,710,423

Category	2021-23 Base Level Budget	2023-25 Executive Recommendation	Increase/(Decrease)
General Fund	12,661,075	14,687,602	2,026,527
Federal Funds	25,585,277	53,655,863	28,070,586
Special Funds	21,384,653	23,997,963	2,613,310
Total by Fund	59,631,005	92,341,428	32,710,423

FTE	166	173	7
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2023 – 2025 Budget Changes as Recommended in Executive Recommendation

In May 2022 the Governor released the budget guidelines for the 2023-25 Base Budget. I will overview the changes made to the base level budget and then go through the decision packages to arrive at the 2023-25 Governor's Executive Recommendation. For your reference, Attachment A identifies the specific adjustments made to the base level budget to arrive at the Executive Recommendation. I will briefly explain each adjustment and the purpose of the adjustment.

Base Budget Changes

- The executive recommendation includes an increase to support the cost to continue the 2021-23 second year 2 percent salary increase in the 2023-25 Biennium. The increase is just over \$231,000.
- The executive compensation package increases the salary and wages line by approximately \$3 million. The executive compensation package includes a 6 percent performance-based increase for the first year and a 4 percent increase for the second year of the biennium, and a fully funded state-paid health insurance premium. With a competitive labor market and high inflation over the last few years, this investment in our workforce is greatly needed to retain and attract team members.
- As many of you are aware, the cost of technology is increasing. Due to the increased cost of technology-related expenses, an adjustment of \$223,000 was included in the 2023-25 base budget to support increases for the North Dakota Information Technology Department.
- The decrease of \$120,000 in the Capital Improvements line removes the bond payment from the department's budget. In the 2021-23 biennium, the department paid off the Capital Bond for the Laboratory Complex.
- To reflect and account for additional federal funding the department included an increase of federal funding in the base budget of \$3.2 million. Of the \$3.2 million only \$260,000 is an increase in the salaries line. This increase is for temporary employees in our Water Quality Monitoring program to conduct the triannual rivers and streams survey, a small increase for temporary employees in the Division of Waste Management for the Coal Combustion Residual Grant (CCR), and an increase in temporary salary funding for summer internships offered throughout the department.

In the operating line, the increase in federal funding is just over \$2.3 million which is mainly for Infrastructure Investment and Jobs Act (IIJA) funding including Brownfields, Water Quality Management, and Clean and Drinking Water Administration programs.

The decrease in the Capital Improvement line was in the Chemistry Laboratory. These funds were redirected to the operating line to offset the increased cost of consumables and other operating costs for the laboratory.

Finally, the increase in the Grants line of about \$780,000 is mainly for the Small and Disadvantage Communities Drinking Water Grant. This grant is passed through to enhance a project to reach an underserved or disadvantaged community.

Decision Package Changes

The department submitted six decision packages for consideration in the executive recommendation. Included in the six packages were two versions of the Municipal Facilities IIA and Lead and Copper Decision Package. One version was fully funded with federal funding and the other version was funded with federal and special funds. Of the six decision packages, five included the executive recommendation with the fully funded federal version removed. Note, one decision package was submitted as a placeholder to allow the department to be part of the litigation pool funding which the Attorney General's Office oversees.

- Two of the department's highest priority decision packages in the executive recommendation include funding to support the Chemistry Laboratory. In the 2021-23 biennium, the department was appropriated one-time funding for a new Laboratory Information Management System (LIM System) to replace an outdated DOS-based system. This funding supported the purchase and development of the LIM System. However, as we moved forward on the project it was discovered the ongoing licensing and maintenance cost was much higher than anticipated. The executive recommendation includes \$280,000 in operating general funds to support the ongoing costs of the LIM system.
- The Chemistry Laboratory relies on consumables supplies for day-to-day operation. Recent inflation has significantly impacted the cost of consumables. The Executive Recommendation includes one-time general funds of \$116,800 to offset the increased cost of laboratory supplies and consumables.
- The Office of Director and Division of Accounting support the program functions for the entire department. As a new agency, we discovered the need for several vital positions. The executive recommendation includes an addition of four (4) FTEs and funding of \$1.1 million to support an Assistant Director, a Human Resource Director, an Environmental Justice and Civil Right Coordinator, and an Account Budget Specialist.

Two of the positions, the Environmental Justice/Civil Rights Coordinator, and an Accountant Budget Specialist were requested and approved in the June 2022 Emergency Commission meeting. We are requesting to keep the two positions, which are vital to the daily operations of the department and help us respond to the increase in federal regulations.

The request to add an Assistant Director was the result of succession planning. This position would back up the director and oversee daily operations of the department. The Assistant Director will provide stability with the coordination of department-wide unified policies.

The last position in this decision package is for a Director of Human Resources (HR). The DEQ is considered a large-sized agency per Human Resource Management Services (HRMS)-HR tiers. Agencies of similar size have two to three HR staff. Currently, DEQ relies on HRMS for all our HR services. All four positions in this decision package will be funded by the negotiated indirect cost rate and funded with general, federal, and special funds.

- The next decision package totaling around \$23 million is funded with Federal and Special funds for the Municipal Facilities and Chemistry Laboratory Divisions. The funds requested include IIJA State Revolving Funds (SRF) and funds for the new Lead and Copper Rule. This decision package includes a mixture of one-time funding and ongoing request with an increase of three (3) FTEs. The IIJA funds are awarded annually for five years with project periods expected for the next ten years.

The three FTEs in this decision package support two Environmental Engineers and one Chemist for Lead and Copper Testing. In June 2022 we did receive emergency commission approval to hire two of the positions to move forward with the IIJA applications and the new Lead and Copper Rule. The Engineer positions will manage 10-12 projects per year. We are expecting an increase of about 37 projects per year. The third position is for a Chemist in response to the new Lead and Copper Rule. We expect a 766% increase in samples for Lead and Copper in the Chemistry Laboratory as a result of the new Lead and Copper Rule.

The majority of the funds in this decision package are in the Grants line for subawards totaling \$20 million for Small and Disadvantaged Communities Drinking Water grants and \$1 million for Sewer Overflow and Stormwater Reuse Municipal Grants. These funds will be directly awarded to specific improvement projects throughout the state.

This decision package is partially funded by the executive recommendation. The department requested six (6) FTEs of which three (3) FTEs were funded in the Executive Recommendation. When budgeting for the IIJA funds, there was and still is, uncertainty about what is needed. As we move forward in implementing the IIJA grants, if the need arises, the department may request support for additional FTEs.

- The final decision package is for Environmental Data System totaling just over \$1.5 million and is a mixture of one-time funding and ongoing appropriation. The Department reviewed our current systems and prepared short and long terms goals for consolidation and enhancements. The department currently has over 36 separate environmental data systems for storing and managing data. We are looking to reduce this to 10 or fewer to standardize the data system. These systems will allow the automation of data collection and improve our ability to manage the data and the environmental programs we implement.

This decision package also includes migrating the Pollutant Discharge Elimination System (PDES) Program and Solid Waste Program system to nVIRO which is the same system currently used in Air Quality. This would be a significant upgrade for both systems, and it provides users at regulated facilities one web-based system to submit, and track required compliance reports electronically.

One-Time Funding

In the 2021-23 Biennium, the department received \$1 million of one-time funding for the LIM System in the Chemistry Laboratory. As stated in my previous testimony, we are in the process of implementing the new LIM System and expect to complete it by June 2023.

The 2023-25 Executive Recommendation includes one-time funding totaling just under \$2 million. A small portion of the one-time funding was included to offset inflation increases in the Chemistry Laboratory. We also have one-time funding in the Municipal Facilities IJJA request to purchase equipment in the Chemistry Laboratory, one-time set-up costs for office and IT equipment for new FTEs, and one-time funds in the IT contractual line to enhance the Drinking Water Portal. The last budget amount of one-time funding is for IT contractual development for the Environmental Data Systems.

Other HB1024 Sections

In addition to the fiscal item in HB1024, the Department is requesting to include a section for an accounting housekeeping item. We are proposing to add language regarding the accounting of the Environmental Quality Restoration Fund (EQRF). The section proposed, includes language that on the 1st day of July in any year the department would transfer uncommitted or unrestricted money in the EQRF over \$5 million to the general fund.

General and Special Funds Collections

The department only has minor collections that are deposited into the state general fund. No changes are anticipated to general fund collections. Special fund collections are expected to remain the same. Only two programs are likely to see an increase in special fund collections.

The Chemistry Laboratory anticipates an increase due to increased testing requirements for the new Lead and Copper Rule. We are projecting a 766% increase in tests. The increase in special funds collections in the laboratory will support the FTE increase and increase of consumable supplies. The Petroleum Tank Release Compensation Program (PTRCF) is also anticipating an increase in special fund collections. The increase is due to adopting a risk-based fee schedule to ensure the fund remains solvent. This was set in motion in the 2019-21 biennium when the PTRCF transferred to the department.

Other Bills

The department is tracking several bills which may have an impact on our appropriation. The Executive Recommendation included \$90 million to be considered in Senate Bill 2015 which would include \$1.3 million in target equity funds for the DEQ. This target equity funding package is in addition to the executive compensation package and specifically designated for Scientist, Engineer, Chemist, and Science Administrative positions. We are experiencing record turnover and in a recent HRMS study, the DEQ was one of the lowest-paying state agencies. Other bills the department is tracking include Senate Bill 2003 for litigation pool funding and various other bills related to employee compensation.

Financial Audit Findings

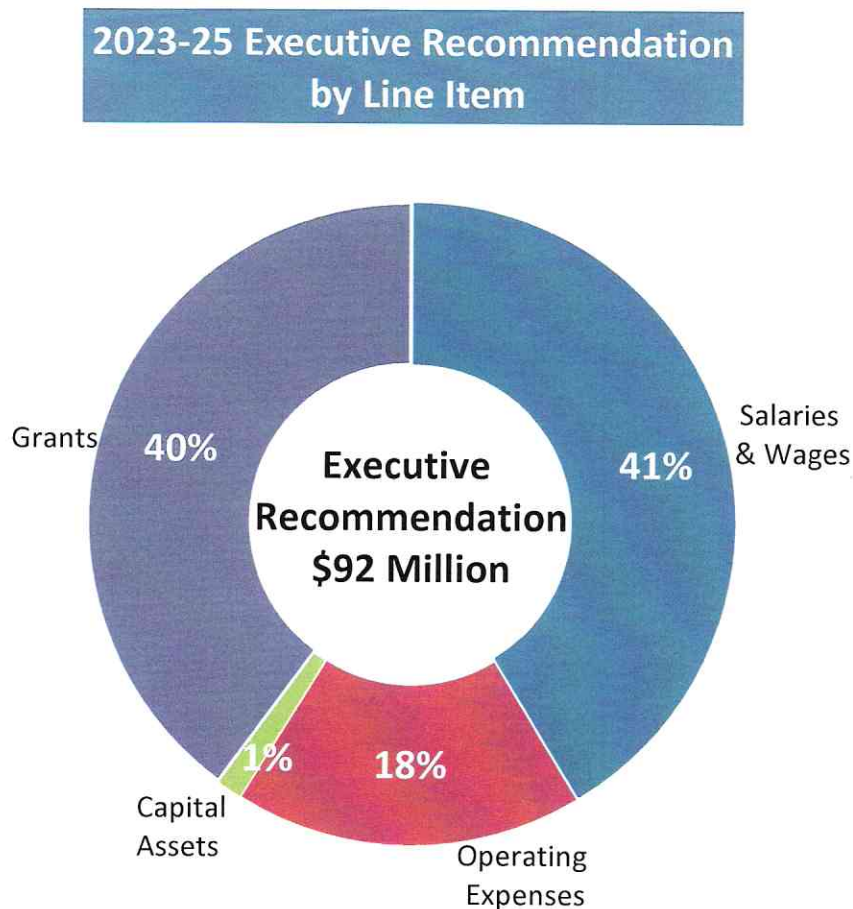
The 2019-2021 biennium is the first biennium for the Department of Environmental Quality as a stand-alone state agency. The State Auditor's Office did perform an audit for the 2019-2021 biennium with three audit findings noted.

- Recommendation to review and approve all permits for special oilfield landfills within 120 days as required by N.D.A.C. 33.1-20-03.1-04. The department agreed to implement this finding and has already caught up on a backlog of permits. The department has taken steps to clearly track all start and stop dates of permits.
- Recommendation for the Solid Waste Program to develop a policy that defines risk assessment procedures to use in determining the active length of approved permits. The department agreed to implement this finding. The department had an informal policy in place however the Standard Operating Procedures are being finalized to include guidance on determining permit length.
- Recommendation for the department to 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. The department was already in the process of implementing this finding. The Standard Operating Procedures are being finalized and the tracking system has been implemented to ensure proper communication of inspection results.

The department was aware of the issues noted in the finding and is in the process of addressing them. Unfortunately, with limited resources to implement a data tracking system and staffing resources stretched thin due to turn over, the process was delayed. Our budget addresses the resources needed to ensure these findings are implemented and properly addressed.

2023 – 2025 Summary of the Governor’s Executive Recommendation

I will finish up with an overall review of the Governor’s Executive Recommendation by appropriation line and by funding source. The Executive Recommendation includes a total of \$92.3 million appropriated by line.



Salaries and Wages

Salaries and wages make up \$38 million or 41 percent of the budget. The increase in the salaries line item is attributed to the executive compensation package, the increase to fund 7 FTEs and a small increase in the temporary employee line.

Operating Expenses

The operating budget totals just over \$16 million making up 18 percent of our budget. Operating Expenses increase is mainly due to IIJA funding. This increase is mainly for IT contracts and operating contracts.

Capital Assets

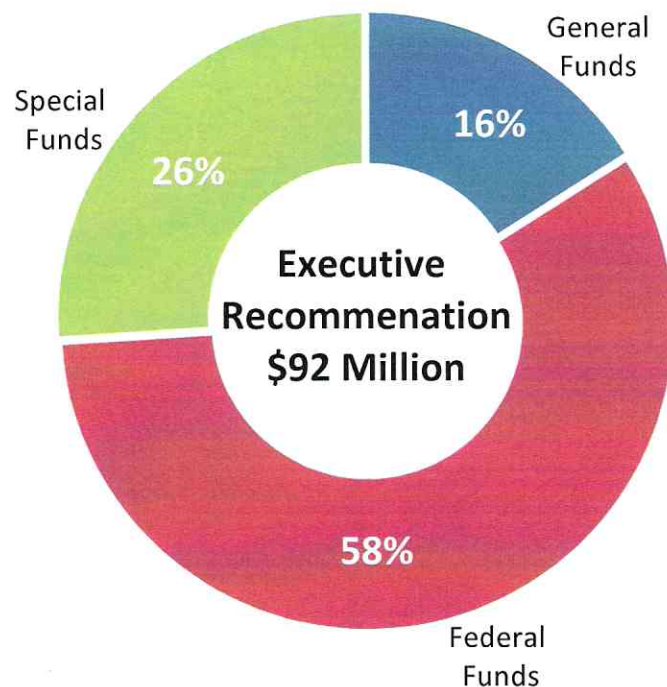
Capital assets of \$1 million make up only 1 percent of the Department's total budget. The Capital asset line includes funding for extraordinary repairs for the Environmental Training Center, and equipment costs of over \$5,000, mainly for the laboratory and air monitoring program.

Grants

Grants, which are sub-awarded to many local entities within the state total \$36.8 million and make up 40 percent of our budget. The increase in the grant line totals \$21.8 which is mainly due to IJA funds for Small and Disadvantage Communities Drinking Water System grants.

Next, I will briefly go over the breakdown by funding source of the Governor's Recommendation for the DEQ.

2023-25 Executive Recommendation by Funding Source



As noted in the above chart, the DEQ is funded by 16 percent general funds, 58 percent federal funds, and 26 percent special funds. The Executive Recommendation includes \$14.7 million in general funds with an increase of \$2 million. The increase in general funds supports the executive compensation package and funds the additional FTEs in Director's Office and Accounting Division.

Federal funds total just under \$53.7 million with an increase of \$28 million. The increase in federal funds is mainly due to IJA funds in Municipal Facilities Division.

The special funds make up just under \$24 million which is an increase of \$2.6 million. The increase in special funds is due to the executive compensation package and to support decision packages.

The status of our federal funding is often uncertain. With that uncertainty, we prepared our budget by assuming that federal grant amounts will essentially hold even, except as noted above. We recognize that as we proceed through the next biennium we will have to adjust our budget, operations, and possibly staffing if federal funding changes from the amounts included in our budget request.

Conclusion

Chairman Nelson and members of the Committee, this concludes my testimony on House Bill 1024. In the upcoming weeks, we look forward to working with you on the detail of the Governor's Executive Recommendation for the Department. I will now turn it back to Dave Glatt who has some final comments, and we will stand for any questions.

ATTACHMENT A	FTE	Salaries & Wages	Operating Expenses	Capital Assets	Grants	Total	General Fund Ongoing	General Fund One-time	Other Fund Ongoing	Other Fund One-time	Total
Base Level Budget	166	32,551,817	10,771,898	1,247,172	15,060,118	59,631,005	12,661,075	-	46,969,930	-	59,631,005
Cost to Continue Salary Increase	-	231,457	-	-	-	231,457	81,541	-	149,916	-	231,457
Executive Compensation Package Salary and Health Insurance	-	3,037,187	-	-	-	3,037,187	897,484	-	2,139,703	-	3,037,187
NDIT Telephone and Data Processing increase	-	-	223,221	-	-	223,221	136,379	-	86,842	-	223,221
Adjustment to remove Capital Bond	-	-	-	(119,972)	-	(119,972)	(59,581)	-	(60,391)	-	(119,972)
Cost to Continue Adjustments Federal Funds	-	259,515	2,338,313	(113,700)	778,000	3,262,128	-	-	3,262,128	-	3,262,128
LIMS Licensing and Maintenance Decision Package	-	-	280,000	-	-	280,000	280,000	-	-	-	280,000
Chemistry Laboratory Inflation Decision Package	-	-	116,800	-	-	116,800	-	116,800	-	-	116,800
Director's Office and Accounting Decision Package	4	1,042,302	66,000	-	-	1,108,302	387,904	-	720,398	-	1,108,302
Municipal Facilities IJA and Lead & Copper Decision Package	3	1,004,506	896,350	155,000	21,000,000	23,055,856	-	-	22,553,506	502,350	23,055,856
Environmental Data System Decision Package	-	-	1,515,444	-	-	1,515,444	115,000	71,000	35,000	1,294,444	1,515,444
2023-2025 Executive Recommendation	173	38,126,784	16,208,026	1,168,500	36,838,118	92,341,428	14,499,802	187,800	75,857,032	1,796,794	92,341,428
Total Executive Changes to Base Level Budget	7	5,574,967	5,436,128	(78,672)	21,778,000	32,710,423	1,838,727	187,800	28,887,102	1,796,794	32,710,423

ENVIRONMENTAL QUALITY

Our small staff of highly trained scientists, chemists, and engineers keeps pace with an increasingly complex regulatory and permitting industry. The recent focus on environmental issues, including the Bipartisan Infrastructure Law, puts demand for their skill set at the highest point in history. We are much more than a regulatory agency. We educate industry and are partners in the field. Our universal responsiveness to government, industry, and citizens, pays off in that North Dakota has some of the highest environmental compliance rates in the country. Our staff is entrusted with legal and technical decisions that could impact generations. They thrive in knowing they make a difference, and they see protecting our environment as meaningful work.

WHAT HAPPENS IF WE CAN'T DO OUR JOB...

Limited Economic Development

It would take us longer to approve permits.



Less Responsiveness

The public and industry would have to wait longer to get the help they need from us, causing frustration.



Protections Could Lapse

Bad actors would go unenforced putting our state resources at risk.



CURRENT AGENCY TEAM MEMBER STATS

166

Full-Time Equivalent

17

Number of Vacancies

88%

Below Salary Midpoint

44

Average Age

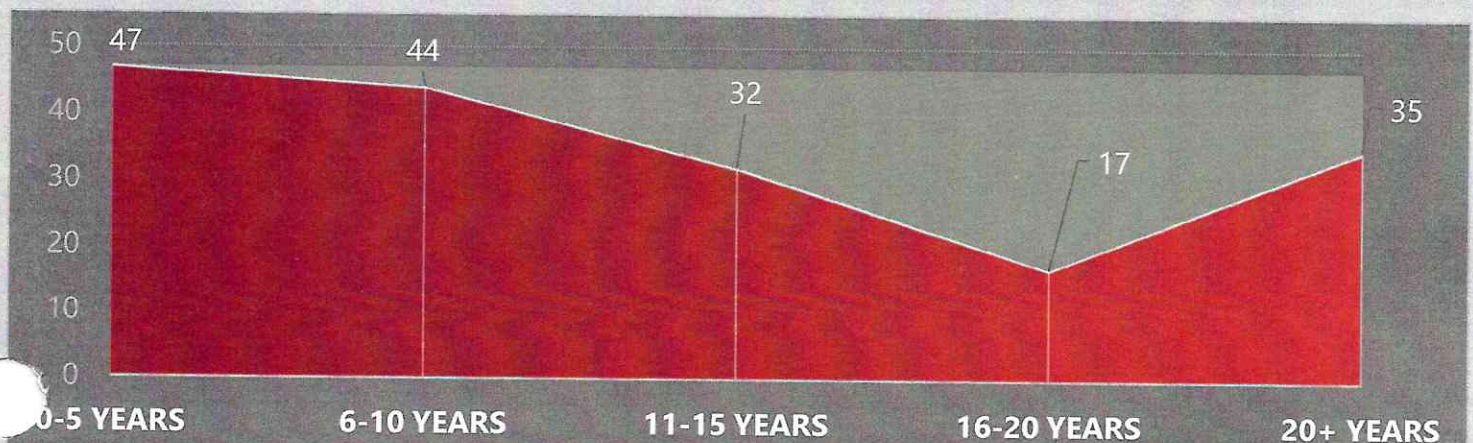
18

Retirement Eligible

\$67 K

Median Annual Salary

YEARS OF SERVICE



Some applicant challenges are unrelated to the numbers, such as quality of applicants, lack of experience, etc.