

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED HOUSE BILL NO. 1009**

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the agriculture
2 commissioner; to provide for a transfer; to amend and reenact sections 4.1-01-02, 4.1-01-17,
3 and 54-12-08 of the North Dakota Century Code, relating to the salary of the agriculture
4 commissioner, the pipeline restoration and reclamation oversight program, and the ability of
5 state agencies to employ attorney positions; to amend and reenact section 7 of chapter 34 of
6 the 2019 Session Laws, relating to the waterbank program; to provide for a report; and to
7 provide for a legislative management study.

8 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

9 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
10 as may be necessary, are appropriated out of any moneys in the general fund in the state
11 treasury, not otherwise appropriated, and from special funds derived from federal funds and
12 other income, to the agriculture commissioner for the purpose of defraying the expenses of the
13 agriculture commissioner, for the biennium beginning July 1, 2021, and ending June 30, 2023.

		Adjustments or		
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>	
15				
16	Salaries and wages	\$14,232,746	\$1,484,380	\$15,717,126
17	Operating expenses	6,592,780	255,272	6,848,052
18	Capital assets	15,000	0	15,000
19	Grants	8,823,774	908,000	9,731,774
20	Environmental impact mitigation	5,000,000	(5,000,000)	0
21	Agricultural products utilization	1,760,417	2,700,000	4,460,417
22	commission			
23	North Dakota trade office	0	1,600,000	1,600,000
24	Board of animal health	865,718	0	865,718

Sixty-seventh
Legislative Assembly

1	Wildlife services	1,457,400	0	1,457,400
2	Pipeline restoration and reclamation	200,000	0	200,000
3	oversight program			
4	Crop harmonization board	<u>75,000</u>	<u>0</u>	<u>75,000</u>
5	Total all funds	\$39,022,835	\$1,947,652	\$40,970,487
6	Less estimated income	<u>28,322,406</u>	<u>(811,631)</u>	<u>27,510,775</u>
7	Total general fund	\$10,700,429	\$2,759,283	\$13,459,712
8	Full-time equivalent positions	78.00	1.00	79.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO

SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

13	<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
14	Master customer database	\$110,000	\$0
15	Grain insolvency litigation	100,000	0
16	Agricultural products utilization commission	2,000,000	2,700,000
17	Soil health grants	<u>0</u>	<u>700,000</u>
18	Total all funds	\$2,210,000	\$3,400,000
19	Less estimated income	<u>2,000,000</u>	<u>3,400,000</u>
20	Total general fund	\$210,000	\$0

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The agriculture commissioner shall report to the appropriations committees of the sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. APPROPRIATION - TRANSFER - GENERAL FUND TO BIOSCIENCE

INNOVATION GRANT FUND - ONE-TIME FUNDING. There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,500,000, or so much of the sum as may be necessary, which the office of management and budget shall transfer to the bioscience innovation grant fund for the biennium beginning July 1, 2021, and ending June 30, 2023. The agriculture commissioner shall use these funds for providing bioscience innovation grants. This funding is considered a one-time funding item.

1 **SECTION 4. APPROPRIATION - TRANSFER - GENERAL FUND TO FEDERAL**
2 **ENVIRONMENTAL LAW IMPACT REVIEW FUND - ONE-TIME FUNDING.** There is
3 appropriated out of any moneys in the general fund in the state treasury, not otherwise
4 appropriated, the sum of \$5,000,000, or so much of the sum as may be necessary, which the
5 office of management and budget shall transfer to the federal environmental law impact review
6 fund for the biennium beginning July 1, 2021, and ending June 30, 2023. The agriculture
7 commissioner shall use these funds for defraying costs associated with federal environmental
8 legislation or regulations which detrimentally impact or potentially impact the state's agricultural,
9 energy, or oil production sectors. This funding is considered a one-time funding item.

10 **SECTION 5. ESTIMATED INCOME - TRANSFER - BANK OF NORTH DAKOTA**
11 **PROFITS - AGRICULTURAL PRODUCTS UTILIZATION COMMISSION - ONE-TIME**
12 **FUNDING.** The estimated income line item in section 1 of this Act includes the sum of
13 \$2,700,000 which the Bank of North Dakota shall transfer from the Bank's current earnings and
14 undivided profits to the agriculture commissioner for deposit in the agricultural products
15 utilization commission fund for defraying the expenses of the agricultural products utilization
16 commission for the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is
17 considered a one-time funding item.

18 **SECTION 6. ESTIMATED INCOME - TRANSFER - BANK OF NORTH DAKOTA**
19 **PROFITS ADDITIONAL INCOME - SOIL HEALTH COVER CROP GRANT PROGRAM -**
20 **ONE-TIME FUNDING.** The estimated income line item in section 1 of this Act includes the sum
21 of \$700,000, of which the Bank of North Dakota shall transfer \$300,000 from the Bank's current
22 earnings and undivided profits to the agriculture commissioner for deposit in the agriculture
23 commissioner's operating fund and \$400,000 is from federal or other funds available to the
24 agriculture commissioner for defraying the expenses of the soil health cover crop grant program
25 for the biennium beginning July 1, 2021, and ending June 30, 2023. The agriculture
26 commissioner shall establish guidelines for the use of grant funding provided for this program.
27 This funding is considered a one-time funding item.

28 **SECTION 7. ESTIMATED INCOME - TRANSFER - STATE WATER COMMISSION.** The
29 estimated income line item in section 1 of this Act includes the sum of \$125,000 which the state
30 water commission shall transfer to the agriculture commissioner for the purpose of defraying the
31 expenses of the wildlife services program.

1 **SECTION 8. TRANSFER - ENVIRONMENT AND RANGELAND PROTECTION FUND -**
2 **MINOR USE PESTICIDE FUND.** The agriculture commissioner shall transfer \$325,000 from the
3 environment and rangeland protection fund to the minor use pesticide fund during the biennium
4 beginning July 1, 2021, and ending June 30, 2023.

5 **SECTION 9. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION**
6 **FUND.** The estimated income line item in section 1 of this Act includes the sum of \$6,899,395
7 from the environment and rangeland protection fund for the purpose of defraying the expenses
8 of various agriculture commissioner programs.

9 **SECTION 10. ESTIMATED INCOME - GAME AND FISH FUND.** The estimated income line
10 item in section 1 of this Act includes the sum of \$619,329 from the game and fish department
11 operating fund for the purpose of defraying the expenses of various agriculture commissioner
12 programs.

13 **SECTION 11. TRADE OFFICE - MATCHING FUND REQUIREMENT.** The North Dakota
14 trade office line item and the general fund appropriation in section 1 of this Act include
15 \$1,600,000 of funding related to the North Dakota trade office. The agriculture commissioner
16 may spend sixty percent of this amount without requiring any matching funds from the trade
17 office. Any additional amounts may be spent only to the extent the North Dakota trade office
18 provides one dollar of matching funds from private or other public sources for each one dollar
19 provided by the agriculture commissioner. Matching funds may include money spent by
20 businesses or organizations to pay salaries to export assistants, providing training to export
21 assistants, or to purchase computer equipment as part of the North Dakota trade office's export
22 assistant program.

23 **SECTION 12. AMENDMENT.** Section 4.1-01-02 of the North Dakota Century Code is
24 amended and reenacted as follows:

25 **4.1-01-02. Salary of agriculture commissioner.**

26 The annual salary of the agriculture commissioner is one hundred ~~sixteen~~twenty-one
27 thousand ~~eight~~five hundred ~~thirty-six~~fifty-three dollars through June 30, ~~2020~~2022, and one
28 hundred ~~nineteen~~twenty-three thousand ~~seven~~nine hundred ~~fifty-seven~~eighty-four dollars after
29 that date.

30 **SECTION 13. AMENDMENT.** Section 4.1-01-17 of the North Dakota Century Code is
31 amended and reenacted as follows:

1 **4.1-01-17. Pipeline restoration and reclamation oversight pilot program - Generally.**

2 1. The commissioner shall establish a pilot program providing technical assistance and
3 support to surface owners and surface tenants on pipeline restoration and followup
4 support to surface owners and surface tenants on pipeline reclamation.

5 2. The commissioner may contract for ombudsmen to be a resource for technical
6 assistance and followup on pipeline issues. The ombudsmen may not investigate or
7 assist with any pipeline installed before January 1, 2006, or regulated by the public
8 service commission under title 49, and may not assist in easement negotiations.

9 3. The pilot program may provide technical education, support, and outreach on
10 pipeline-related matters in coordination with other entities.

11 4. The commissioner may contract with local individuals, deemed trustworthy by the
12 surface owners and surface tenants, to be ombudsmen. The commissioner is not
13 subject to the provisions of chapter 54-44.4 when contracting for the services of
14 ombudsmen.

15 5. The names of surface owners and surface tenants who receive assistance under the
16 program are closed records as defined in section 44-04-17.1.

17 **SECTION 14. AMENDMENT.** Section 54-12-08 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **54-12-08. Assistant and special assistant attorneys general - Appointment -**
20 **Revocation - Compensation.**

21 1. After consultation with the head of the state department or institution or with the state
22 board, commission, committee, or agency affected, the attorney general may appoint
23 assistant or special assistant attorneys general to represent the state board,
24 commission, committee, or agency. A state officer, head of any state department,
25 whether elected or appointed, or state department, board, commission, committee, or
26 agency may not employ legal counsel, and no person may act as legal counsel in any
27 matter, action, or proceeding in which the state or any state department, board,
28 commission, committee, or agency is interested or is a party, except upon written
29 appointment by the attorney general. Workforce safety and insurance, the department
30 of transportation, the state tax commissioner, the public service commission, the
31 insurance commissioner, the agriculture commissioner, and the securities

1 commissioner may employ attorneys to represent them. These entities shall pay the
2 salaries and expenses of the attorneys they employ within the limits of legislative
3 appropriations. The attorneys that represent these entities must be special assistant
4 attorneys general appointed by the attorney general pursuant to this section. Absent
5 good cause, the attorney general shall appoint as special assistant attorneys general
6 licensed attorneys selected by these entities. The attorney general may revoke the
7 appointment only for good cause or upon the request of the entity. Good cause means
8 an inadequate level of experience, competence, or ethical standards.

9 2. The powers conferred upon special assistant attorneys general are the same as are
10 exercised by the regular assistant attorneys general, unless the powers are limited
11 specifically by the terms of the appointment. Except as otherwise provided by this
12 section, an appointment is revocable at the pleasure of the attorney general. The
13 appointment may be made with or without compensation, and when compensation is
14 allowed by the attorney general for services performed, the compensation must be
15 paid out of the funds appropriated therefor.

16 3. The attorney general may require payment for legal services rendered by any
17 assistant or special assistant attorney general to any state official, board, department,
18 agency, or commission and those entities shall make the required payment to the
19 attorney general. Moneys received by the attorney general in payment for legal
20 services rendered must be deposited into the attorney general's operating fund.
21 General fund moneys may not be utilized for the payment of legal services provided by
22 the attorneys employed by the attorney general, except for those payments required of
23 the department of human services, state department of health, department of
24 environmental quality, and the state hospital.

25 4. An assistant or special assistant attorney general appointed to represent the state
26 board of higher education or an institution under the control of the state board of
27 higher education may access and examine any record under the control of the state
28 board of higher education. For purposes of reviewing records under the Family
29 Educational Rights and Privacy Act [20 U.S.C. 1232g; 34 CFR 99] or any other federal
30 privacy law, the assistant or special assistant attorney general is considered a state
31 educational official authorized to access student records.

1 **SECTION 15. ESTIMATED INCOME - PIPELINE RESTORATION AND RECLAMATION.**

2 The estimated income line item in section 1 of this Act includes the sum of \$200,000 from the
3 abandoned oil and gas well plugging and site reclamation fund for the purpose of defraying the
4 expenses of the pipeline restoration and reclamation program.

5 **SECTION 16. AMENDMENT.** Section 7 of chapter 34 of the 2019 Session Laws is
6 amended and reenacted as follows:

7 **SECTION 7. WATERBANK PROGRAM - MATCHING FUNDS.** The salaries and
8 wages line item in section 1 of this Act includes up to \$50,000 from the general fund
9 for matching funds for the North Dakota outdoor heritage fund grant provided for the
10 waterbank program.

11 **SECTION 17. WATERBANK PROGRAM - MATCHING FUNDS.** The salaries and wages
12 line item in section 1 of this Act includes up to \$50,000 from the general fund for matching funds
13 for the North Dakota outdoor heritage fund grant provided for the waterbank program.

14 **SECTION 18. LEGISLATIVE MANAGEMENT STUDY - NORTH DAKOTA BEEF**
15 **COMMISSION.** During the 2021-22 interim, the legislative management shall consider studying
16 the North Dakota beef commission, including its operations and the selection of commission
17 members. The legislative management shall report its findings and recommendations, together
18 with any legislation required to implement the recommendations, to the sixty-eighth legislative
19 assembly.