

**FIRST ENGROSSMENT  
with Conference Committee 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 4.1-83-22, 4.1-83-23, 4.1-83-28, and 54-12-08 of the North Dakota Century Code and section 7  
4 of chapter 34 of the 2019 Session Laws, relating to the salary of the agriculture commissioner,  
5 the pipeline restoration and reclamation oversight program, insolvency of livestock dealers, the  
6 ability of state agencies to employ attorney positions, and the waterbank program; to provide for  
7 a report; to provide for a legislative management study; and to declare an emergency.

**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 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	5,908,000	14,731,774
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	\$6,947,652	\$45,970,487
6	Less estimated income	<u>28,322,406</u>	<u>4,188,369</u>	<u>32,510,775</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**

10 **SIXTY-EIGHTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding  
11 items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the  
12 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	0	700,000
18	Grasslands grazing grants	<u>0</u>	<u>5,000,000</u>
19	Total all funds	\$2,210,000	\$8,400,000
20	Less estimated income	<u>2,000,000</u>	<u>8,400,000</u>
21	Total general fund	\$210,000	\$0

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

**SECTION 3. APPROPRIATION - TRANSFER - GENERAL FUND TO BIOSCIENCE**

27 **INNOVATION GRANT FUND - ONE-TIME FUNDING.** There is appropriated out of any moneys  
28 in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,500,000, or  
29 so much of the sum as may be necessary, which the office of management and budget shall  
30 transfer to the bioscience innovation grant fund for the biennium beginning July 1, 2021, and

1 ending June 30, 2023. The agriculture commissioner shall use these funds for providing  
2 bioscience innovation grants. This funding is considered a one-time funding item.

3 **SECTION 4. APPROPRIATION - TRANSFER - GENERAL FUND TO FEDERAL**  
4 **ENVIRONMENTAL LAW IMPACT REVIEW FUND - ONE-TIME FUNDING.** There is

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

12 **SECTION 5. ESTIMATED INCOME - TRANSFER - BANK OF NORTH DAKOTA**  
13 **PROFITS - AGRICULTURAL PRODUCTS UTILIZATION COMMISSION - ONE-TIME**

14 **FUNDING.** The estimated income line item in section 1 of this Act includes the sum of  
15 \$2,700,000 which the Bank of North Dakota shall transfer from the Bank's current earnings and  
16 undivided profits to the agriculture commissioner for deposit in the agricultural products  
17 utilization commission fund for defraying the expenses of the agricultural products utilization  
18 commission for the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is  
19 considered a one-time funding item.

20 **SECTION 6. ESTIMATED INCOME - TRANSFER - BANK OF NORTH DAKOTA**  
21 **PROFITS ADDITIONAL INCOME - SOIL HEALTH COVER CROP GRANT PROGRAM -**

22 **ONE-TIME FUNDING.** The estimated income line item in section 1 of this Act includes the sum  
23 of \$700,000, of which the Bank of North Dakota shall transfer \$300,000 from the Bank's current  
24 earnings and undivided profits to the agriculture commissioner for deposit in the agriculture  
25 commissioner's operating fund and \$400,000 is from federal or other funds available to the  
26 agriculture commissioner for defraying the expenses of the soil health cover crop grant program  
27 for the biennium beginning July 1, 2021, and ending June 30, 2023. During the 2021-23  
28 biennium, the agriculture commissioner shall submit an application to the North Dakota outdoor  
29 heritage advisory board for funding from the outdoor heritage fund for the soil health cover crop  
30 grant program, which the North Dakota outdoor heritage advisory board shall consider pursuant

1 to section 54-17.8-03. The agriculture commissioner shall establish guidelines for the use of  
2 grant funding provided for this program. This funding is considered a one-time funding item.

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

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

11 **SECTION 9. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS**  
12 **FUND - GRASSLANDS GRAZING GRANT PROGRAM - ONE-TIME FUNDING - MATCHING**  
13 **FUNDS.** The estimated income line item in section 1 of this Act includes the sum of \$5,000,000  
14 from the strategic investment and improvements fund for the purpose of providing grassland  
15 grazing grants to an organization representing cooperative grazing associations in the state. To  
16 be eligible for a grant under this program, an organization must provide one dollar of matching  
17 funds from nonstate sources for every four dollars of grant funding. An organization that  
18 receives a grant under this program may distribute the funding to cooperative grazing  
19 associations for eligible infrastructure projects, which must be located on national grasslands  
20 within the state. Eligible infrastructure projects include water development; fencing;  
21 conservation initiatives; compliance with federal permitting requirements, including fees for  
22 professional services; and other projects to enhance wildlife habitat, capture carbon, or increase  
23 the health of grasslands. Program participants shall develop and implement a grazing land plan  
24 in compliance with local soil conservation district guidance and the plan must be approved by  
25 the local soil conservation district. The agriculture commissioner shall establish additional  
26 guidelines for the program.

27 **SECTION 10. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION**  
28 **FUND.** The estimated income line item in section 1 of this Act includes the sum of \$6,899,395  
29 from the environment and rangeland protection fund for the purpose of defraying the expenses  
30 of various agriculture commissioner programs.

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

5       **SECTION 12. TRADE OFFICE - MATCHING FUND REQUIREMENT.** The North Dakota  
6 trade office line item and the general fund appropriation in section 1 of this Act include  
7 \$1,600,000 of funding related to the North Dakota trade office. The agriculture commissioner  
8 may spend sixty percent of this amount without requiring any matching funds from the trade  
9 office. Any additional amounts may be spent only to the extent the North Dakota trade office  
10 provides one dollar of matching funds from private or other public sources for each one dollar  
11 provided by the agriculture commissioner. Matching funds may include money spent by  
12 businesses or organizations to pay salaries to export assistants, providing training to export  
13 assistants, or to purchase computer equipment as part of the North Dakota trade office's export  
14 assistant program.

15       **SECTION 13. AMENDMENT.** Section 4.1-01-02 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17       **4.1-01-02. Salary of agriculture commissioner.**

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

22       **SECTION 14. AMENDMENT.** Section 4.1-01-17 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24       **4.1-01-17. Pipeline restoration and reclamation oversight ~~pilot~~ program - Generally.**

- 25       1. The commissioner shall establish a ~~pilot~~ program providing technical assistance and  
26 support to surface owners and surface tenants on pipeline restoration and followup  
27 support to surface owners and surface tenants on pipeline reclamation.
- 28       2. The commissioner may contract for ombudsmen to be a resource for technical  
29 assistance and followup on pipeline issues. The ombudsmen may not investigate or  
30 assist with any pipeline installed before January 1, 2006, or regulated by the public  
31 service commission under title 49, and may not assist in easement negotiations.

1       3. The ~~pi~~lot program may provide technical education, support, and outreach on  
2 pipeline-related matters in coordination with other entities.

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

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

9       **SECTION 15. AMENDMENT.** Section 4.1-83-22 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11       **4.1-83-22. Appointment of trustee.**

12       1. Upon the insolvency of a livestock dealer, the agriculture commissioner ~~may apply to~~  
13 ~~the district court of the county in which the dealer maintains its principal place of~~  
14 ~~business for appointment as the trustee.~~

15       2. ~~Upon notice to the livestock dealer, as the court shall prescribe but not exceeding ten~~  
16 ~~days, or upon a written waiver of notice by the dealer, the court shall hear and make a~~  
17 ~~determination regarding the application in a summary manner.~~

18       3. ~~If the court determines that the livestock dealer is insolvent within the meaning of this~~  
19 ~~chapter and that it would be in the best interest of persons holding claims against the~~  
20 ~~dealer for the purchase price of livestock sold to the dealer or to the dealer's agent~~  
21 ~~that the agriculture commissioner execute the trust, the court shall issue an order~~  
22 ~~appointing the commissioner as the trustee, without bond.~~

23       4. ~~Upon being appointed as the trustee shall provide notice to the livestock dealer and~~  
24 ~~may immediately suspend, close, or take control of assets held in the trust fund~~  
25 ~~pursuant to section 4.1-83-21, or take any combination of these actions as the~~  
26 ~~agriculture commissioner deems necessary to begin orderly liquidation of trust fund~~  
27 ~~assets as set forth in this chapter.~~

28       2. Upon establishing the trust fund, the agriculture commissioner shall perform the duties  
29 of a trustee as set forth in this chapter.

30       **SECTION 16. AMENDMENT.** Section 4.1-83-23 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1       **4.1-83-23. Possession of records and property - Notice to file claims.**

- 2       1.    a.    Upon ~~being appointed trustee~~establishing the trust fund, the agriculture  
3            commissioner shall take possession of all accounts and records pertaining to the  
4            livestock dealer's business. After reviewing the records, the agriculture  
5            commissioner may return to the dealer any records that are not necessary to the  
6            settlement of claims under this chapter.
- 7        b.    Upon ~~being appointed trustee~~establishing the trust fund, the agriculture  
8            commissioner shall take possession of all livestock purchased by the dealer  
9            under the dealer's license and remaining in the dealer's possession.
- 10       2.    The agriculture commissioner, as trustee, shall publish a notice once each week for  
11            three consecutive weeks in the official newspaper of each county in which the  
12            livestock dealer was conducting business, directing any person having a claim against  
13            the dealer to file the claim and all supporting documentation with the commissioner no  
14            later than forty-five days from the last date of publication. Any person failing to meet  
15            the filing requirements set forth in the notice is barred from participating in any funds  
16            marshalled by the agriculture commissioner under this chapter.

17       **SECTION 17. AMENDMENT.** Section 4.1-83-28 of the North Dakota Century Code is  
18    amended and reenacted as follows:

19       **4.1-83-28. Report of amounts payable - Distribution of trust fund.**

- 20       1.    Upon recovery of the trust fund, or so much of the fund as is recoverable or necessary  
21            to pay the outstanding claims, the agriculture commissioner shall file with the  
22            ~~court~~claimants a report showing the amount payable on each claim, after recognition  
23            of all proper liens, pledges, assignments, and deductions.
- 24       2.    If the trust fund is insufficient to pay all claims in full, the agriculture commissioner  
25            shall prorate the fund among the claimants.
- 26       3.    ~~The court shall notify the claimants by mail regarding the proposed distribution and~~  
27            ~~direct that the claimants show cause why the report and distribution should not be~~  
28            ~~approved.~~
- 29       4.    After holding a hearing on the matter, the ~~court~~agriculture commissioner shall:  
30            a.    Approve or modify the report; and  
31            b.    Issue an order directing that the trust fund be distributed; ~~and~~

1           e. ~~Discharge the agriculture commissioner from all duties as trustee.~~

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

4           **54-12-08. Assistant and special assistant attorneys general - Appointment -**  
5 **Revocation - Compensation.**

6           1. After consultation with the head of the state department or institution or with the state  
7 board, commission, committee, or agency affected, the attorney general may appoint  
8 assistant or special assistant attorneys general to represent the state board,  
9 commission, committee, or agency. A state officer, head of any state department,  
10 whether elected or appointed, or state department, board, commission, committee, or  
11 agency may not employ legal counsel, and no person may act as legal counsel in any  
12 matter, action, or proceeding in which the state or any state department, board,  
13 commission, committee, or agency is interested or is a party, except upon written  
14 appointment by the attorney general. Workforce safety and insurance, the department  
15 of transportation, the state tax commissioner, the public service commission, the  
16 insurance commissioner, the agriculture commissioner, and the securities  
17 commissioner may employ attorneys to represent them. These entities shall pay the  
18 salaries and expenses of the attorneys they employ within the limits of legislative  
19 appropriations. The attorneys that represent these entities must be special assistant  
20 attorneys general appointed by the attorney general pursuant to this section. Absent  
21 good cause, the attorney general shall appoint as special assistant attorneys general  
22 licensed attorneys selected by these entities. The attorney general may revoke the  
23 appointment only for good cause or upon the request of the entity. Good cause means  
24 an inadequate level of experience, competence, or ethical standards.

25           2. The powers conferred upon special assistant attorneys general are the same as are  
26 exercised by the regular assistant attorneys general, unless the powers are limited  
27 specifically by the terms of the appointment. Except as otherwise provided by this  
28 section, an appointment is revocable at the pleasure of the attorney general. The  
29 appointment may be made with or without compensation, and when compensation is  
30 allowed by the attorney general for services performed, the compensation must be  
31 paid out of the funds appropriated therefor.



- 1           3. The attorney general may require payment for legal services rendered by any  
2           assistant or special assistant attorney general to any state official, board, department,  
3           agency, or commission and those entities shall make the required payment to the  
4           attorney general. Moneys received by the attorney general in payment for legal  
5           services rendered must be deposited into the attorney general's operating fund.  
6           General fund moneys may not be utilized for the payment of legal services provided by  
7           the attorneys employed by the attorney general, except for those payments required of  
8           the department of human services, state department of health, department of  
9           environmental quality, and the state hospital.
- 10          4. An assistant or special assistant attorney general appointed to represent the state  
11          board of higher education or an institution under the control of the state board of  
12          higher education may access and examine any record under the control of the state  
13          board of higher education. For purposes of reviewing records under the Family  
14          Educational Rights and Privacy Act [20 U.S.C. 1232g; 34 CFR 99] or any other federal  
15          privacy law, the assistant or special assistant attorney general is considered a state  
16          educational official authorized to access student records.

17           **SECTION 19. ESTIMATED INCOME - PIPELINE RESTORATION AND RECLAMATION.**

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

21           **SECTION 20. AMENDMENT.** Section 7 of chapter 34 of the 2019 Session Laws is  
22           amended and reenacted as follows:

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

27           **SECTION 21. WATERBANK PROGRAM - MATCHING FUNDS.** The salaries and wages  
28           line item in section 1 of this Act includes up to \$50,000 from the general fund for matching funds  
29           for the North Dakota outdoor heritage fund grant provided for the waterbank program.

30           **SECTION 22. LEGISLATIVE MANAGEMENT STUDY - NORTH DAKOTA BEEF**  
31           **COMMISSION.** During the 2021-22 interim, the legislative management shall consider studying

1 the North Dakota beef commission, including its operations and the selection of commission  
2 members. The legislative management shall report its findings and recommendations, together  
3 with any legislation required to implement the recommendations, to the sixty-eighth legislative  
4 assembly.

5 **SECTION 23. EMERGENCY.** Sections 15, 16, and 17 of this Act are declared to be an  
6 emergency measure.