

**Sixty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2023**

SENATE BILL NO. 2009  
(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the agriculture commissioner; to amend and reenact sections 4.1-01-02, 4.1-01-18, 4.1-01-21.1, and 49-22-09.2 of the North Dakota Century Code, relating to the salary of the agriculture commissioner, the federal environmental law impact review committee, the environmental impact mitigation fund, and mitigating environmental impacts; to provide for a transfer; to provide an exemption; and to provide for a legislative management study.

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

**SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the agriculture commissioner for the purpose of defraying the expenses of the agriculture commissioner, for the biennium beginning July 1, 2023, and ending June 30, 2025, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$15,717,126	\$873,888	\$16,591,014
Operating expenses	6,848,052	578,121	7,426,173
Capital assets	15,000	(8,000)	7,000
Grants	9,031,774	3,922,195	12,953,969
Agricultural products utilization commission	1,760,417	3,350,000	5,110,417
North Dakota trade office	1,600,000	500,000	2,100,000
Board of animal health	865,718	0	865,718
Wildlife services	1,457,400	200,000	1,657,400
Pipeline restoration and reclamation oversight program	200,000	0	200,000
Bioscience innovation program transfer	0	6,500,000	6,500,000
Crop harmonization board	<u>75,000</u>	<u>0</u>	<u>75,000</u>
Total all funds	\$37,570,487	\$15,916,204	\$53,486,691
Less estimated income	<u>24,110,775</u>	<u>6,856,343</u>	<u>30,967,118</u>
Total general fund	\$13,459,712	\$9,059,861	\$22,519,573
Full-time equivalent positions	79.00	1.00	80.00

**SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-NINTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

<u>One-Time Funding Description</u>	<u>2021-23</u>	<u>2023-25</u>
Agricultural products utilization commission	\$2,700,000	\$3,000,000
Soil health grants	700,000	0
Grasslands grazing grants	5,000,000	1,000,000
Bioscience innovation grant program transfer	5,500,000	6,500,000
Food distribution grants	0	1,000,000
Federal environmental law impact review	5,000,000	0
Intermodal facility construction grant program	2,000,000	0
North Dakota trade office	<u>0</u>	<u>500,000</u>
Total all funds	\$20,900,000	\$12,000,000

Less estimated income	10,400,000	4,000,000
Total general fund	\$10,500,000	\$8,000,000

The 2023-25 biennium one-time funding amounts are not a part of the entity's base budget for the 2025-27 biennium. The agriculture commissioner shall report to the appropriations committees of the sixty-ninth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2023, and ending June 30, 2025.

**SECTION 3. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO BIOSCIENCE INNOVATION FUND - BIOSCIENCE INNOVATION GRANT PROGRAM.** The office of management and budget shall transfer \$5,500,000 from the strategic investment and improvements fund to the bioscience innovation grant fund for the purpose of the bioscience innovation grant program under section 4.1-01-20.1 for the biennium beginning July 1, 2023, and ending June 30, 2025.

**SECTION 4. TRANSFER - GENERAL FUND TO BIOSCIENCE INNOVATION FUND - BIOSCIENCE INNOVATION GRANT PROGRAM.** The bioscience innovation program transfer line item in section 1 of this Act includes \$6,500,000 from the general fund, which the office of management and budget shall transfer to the bioscience innovation grant fund for the purpose of the bioscience innovation grant program under section 4.1-01-20.1 for the biennium beginning July 1, 2023, and ending June 30, 2025.

**SECTION 5. TRANSFER - ENVIRONMENT AND RANGELAND PROTECTION FUND TO ENVIRONMENTAL IMPACT MITIGATION FUND - MITIGATION OF AGRICULTURAL LAND.** The agriculture commissioner shall transfer \$250,000 from the environment and rangeland protection fund to the environmental impact mitigation fund for the purpose of mitigation of agricultural land under section 4.1-01-21.1 for the biennium beginning July 1, 2023, and ending June 30, 2025.

**SECTION 6. ESTIMATED INCOME - TRANSFER - DEPARTMENT OF WATER RESOURCES.** The estimated income line item in section 1 of this Act includes the sum of \$125,000 which the department of water resources shall transfer to the agriculture commissioner for the purpose of defraying the expenses of the wildlife services program.

**SECTION 7. TRANSFER - ENVIRONMENT AND RANGELAND PROTECTION FUND - MINOR USE PESTICIDE FUND.** The agriculture commissioner shall transfer \$325,000 from the environment and rangeland protection fund to the minor use pesticide fund during the biennium beginning July 1, 2023, and ending June 30, 2025.

**SECTION 8. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION FUND.** The estimated income line item in section 1 of this Act includes the sum of \$7,351,547 from the environment and rangeland protection fund for the purpose of defraying the expenses of various agriculture commissioner programs.

**SECTION 9. ESTIMATED INCOME - GAME AND FISH FUND.** The estimated income line item in section 1 of this Act includes the sum of \$648,228 from the game and fish department operating fund for the purpose of defraying the expenses of various agriculture commissioner programs.

**SECTION 10. ESTIMATED INCOME - TRANSFER - BANK OF NORTH DAKOTA PROFITS - AGRICULTURAL PRODUCTS UTILIZATION COMMISSION.** The estimated income line item in section 1 of this Act includes the sum of \$3,000,000 which the Bank of North Dakota shall transfer from the Bank's current earnings and undivided profits to the agriculture commissioner for deposit in the agricultural products utilization fund for the purpose of defraying the expenses of the agricultural products utilization commission for the biennium beginning July 1, 2023, and ending June 30, 2025.

**SECTION 11. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - GRASSLANDS GRAZING GRANTS - MATCHING FUNDS REQUIREMENT.** The estimated income line item in section 1 of this Act includes the sum of \$1,000,000 from the strategic investment and improvements fund for the purpose of providing grasslands grazing grants to an organization representing cooperative grazing associations in the state. To be eligible for a grant under this program,

an organization must provide one dollar of matching funds from nonstate sources for every four dollars of grant funding. An organization that receives a grant under this program may distribute the funding to cooperative grazing associations for eligible infrastructure projects, which must be located on national grasslands within the state. Eligible infrastructure projects include water development; fencing; conservation initiatives; compliance with federal permitting requirements, including fees for professional services; and other projects to enhance wildlife habitat or capture carbon, or to increase the health of grasslands. Program participants shall develop and implement a grazing land plan in compliance with local soil conservation district guidance and the plan must be approved by the local soil conservation district. The agriculture commissioner shall establish additional guidelines for the program.

**SECTION 12. ESTIMATED INCOME - ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION FUND.** The estimated income line item in section 1 of this Act includes the sum of \$700,000 from the abandoned oil and gas well plugging and site reclamation fund, of which \$200,000 is for the purpose of defraying the expenses of the pipeline restoration and reclamation program and \$500,000 is for the purpose of defraying the expenses of the post-production royalty oversight program.

**SECTION 13. TRADE OFFICE - MATCHING FUND REQUIREMENT.** The North Dakota trade office line item and the general fund appropriation in section 1 of this Act include \$2,100,000 of funding related to the North Dakota trade office. The agriculture commissioner may spend sixty percent of this amount without requiring any matching funds from the trade office. Any additional amounts may be spent only to the extent the North Dakota trade office provides one dollar of matching funds from private or other public sources for each one dollar provided by the agriculture commissioner. Matching funds may include money spent by businesses or organizations to pay salaries to export assistants, providing training to export assistants, or to purchase computer equipment as part of the North Dakota trade office's export assistant program.

**SECTION 14. WATERBANK PROGRAM - MATCHING FUNDS.** The salaries and wages line item in section 1 of this Act includes up to \$50,000 from the general fund for matching funds for the North Dakota outdoor heritage fund grant provided for the waterbank program.

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

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

The annual salary of the agriculture commissioner is one hundred ~~twenty-one~~thirty-one thousand ~~five hundred fifty-three~~four hundred twenty-three dollars through June 30, ~~2022~~2024, and one hundred ~~twenty-three~~thirty-six thousand ~~nine~~six hundred ~~eighty-four~~eighty dollars after that date.

**SECTION 16. AMENDMENT.** Section 4.1-01-18 of the North Dakota Century Code is amended and reenacted as follows:

**4.1-01-18. Federal environmental law impact review committee.**

1. The federal environmental law impact review committee consists of:
  - a. The commissioner, who shall serve as the chairman;
  - b. The governor or the governor's designee;
  - c. The majority leader of the house of representatives, or the leader's designee;
  - d. The majority leader of the senate, or the leader's designee;
  - e. One member of the legislative assembly from the minority party, selected by the chairman of the legislative management;
  - f. One individual appointed by the North Dakota corn growers association;

- g. One individual appointed by the North Dakota grain growers association;
  - h. One individual appointed by the North Dakota soybean growers association;
  - i. One individual appointed by the North Dakota stockmen's association;
  - j. One individual appointed by the North Dakota farm bureau;
  - k. One individual appointed by the North Dakota farmers union;
  - l. The chairman of the public service commission or the chairman's designee;
  - m. The director of the department of water resources or the director's designee;
  - n. The director of the game and fish department, or the director's designee;
  - o. The director of the department of transportation, or the director's designee;
  - p. The director of the department of environmental quality, or the director's designee;
  - q. One representative of an investor-owned utility company;
  - r. One representative from the North Dakota association of rural electric cooperatives; and
  - s. Two individuals from the energy community, of which one individual must be a representative of an organization that supports lignite energy in the state appointed by the commissioner and one individual must be a representative of an organization that supports oil and gas activity in the state appointed by the governor.
2. The committee shall review federal environmental legislation and regulations detrimentally impacting or potentially detrimentally impacting the state's agricultural, energy, or oil production sectors. The committee shall confer with the attorney general with respect to participation in administrative or judicial processes pertaining to the legislation or regulations.
3. a. Any member of the legislative assembly serving on the committee is entitled to compensation at the rate provided for attendance at interim committee meetings and reimbursement for expenses, as provided by law for state officers, if the member is attending meetings of the committee or performing duties directed by the committee.
- b. The compensation and reimbursement of expenses, as provided for in this subsection, are payable by the legislative council.

**SECTION 17. AMENDMENT.** Section 4.1-01-21.1 of the North Dakota Century Code is amended and reenacted as follows:

**4.1-01-21.1. Environmental impact mitigation fund - Report to legislative management - Continuing appropriation.**

1. There is created in the state treasury the environmental impact mitigation fund. The fund consists of all moneys deposited in the fund under section 49-22-09.2. All moneys in the fund are appropriated to the commissioner on a continuing basis for ~~distribution~~disbursement by the ~~agriculture commissioner to landowners for the mitigation of agricultural land impacted by development as set forth under subsection 2~~in accordance with this section.
2. ~~Funding~~Moneys in the fund may be used only for:
- a. ~~Contracting for consultation~~Consultation with environmental scientists or engineers, industry specialists, or others for relevant services to analyze or implement mitigation required from the impact of development; and

- b. ~~Reclamation or mitigation~~Creation, restoration, or mitigation of similar habitat affected by the construction or operation of an energy conversion or transmission facility. Mitigation of adverse impacts from development under this section shall be conducted in the following order of priority:
- (1) The area immediately impacted by the development;
  - (2) The county impacted by the development;
  - (3) The region impacted by the development; and
  - (4) Other areas within the state.
3. The commissioner is not subject to chapter 54-44.4 when contracting for services under this chapter.
4. ~~The federal environmental law impact review committee shall establish criteria for disbursement of environmental impact funds~~In consultation with the federal environmental law impact review committee, the commissioner shall adopt rules pursuant to chapter 28-32 to implement the provisions of this section.
5. ~~The commissioner shall make disbursements based upon the determinations made by the federal environmental law impact review committee.~~
6. ~~For purposes of this section, the federal environmental law impact review committee shall hold meetings as the chairman determines necessary at a time and place set by the chairman. Upon written request of any four members, the presiding officer shall call a special meeting of the committee.~~
7. ~~The federal environmental law impact review committee shall make determinations for the disbursement of grants in accordance with subsection 2 and provide those determinations to the commissioner~~Easements or leaseholds purchased by a person to mitigate adverse environmental effects of the construction or operation of an energy conversion or transmission facility under chapter 49-22 must be limited to the operational life of the facility as defined under chapter 49-22. Any payment made to mitigate adverse environmental effects of the construction or operation of an energy conversion or transmission facility under chapter 49-22 must be made to the commissioner who shall deposit the payment into the environmental impact mitigation fund. Prior to the public service commission issuing a permit or certificate to an applicant under chapter 49-22, the commissioner shall notify the public service commission of mitigation efforts under this section to create, restore, or mitigate similar habitat affected by the construction or operation of an energy conversion or transmission facility.
- 8-6. ~~The federal environmental law impact review committee~~commissioner shall provide a biennial report of environmental impact mitigation fund disbursements to the legislative management.
- 9-7. For purposes of this section, the environmental impact mitigation fund is not subject to subsection 2 of section 4.1-01-18.

**SECTION 18. AMENDMENT.** Section 49-22-09.2 of the North Dakota Century Code is amended and reenacted as follows:

**49-22-09.2. Mitigating direct environmental impacts.**

1. ~~An applicant may elect to provide payment to mitigate any assessed adverse direct environmental impacts of a proposed site, corridor, route, or facility. The applicant may elect to provide the payment to the agriculture commissioner.~~
2. ~~The agriculture commissioner shall deposit any moneys paid to mitigate the adverse environmental impacts of a proposed site, corridor, route, or facility as follows:~~

- a. ~~Fifty percent into the environmental impact mitigation fund; and~~
- b. ~~Fifty percent into the federal environmental law impact review fund~~If an applicant elects to provide a payment to mitigate the environmental impact of the construction or operation of an energy conversion or transmission facility, the payment must be made to the agriculture commissioner who shall deposit the payment into the environmental impact mitigation fund under section 4.1-01-21.1. Nothing in this section shall be construed to limit an applicant from conducting mitigation activities.


**SECTION 19. WILDLIFE SERVICES PROGRAM - INDIRECT COSTS.** The wildlife services line item in section 1 of this Act includes the sum of \$1,657,400 for the purpose of defraying the expenses of the wildlife services program during the biennium beginning July 1, 2023, and ending June 30, 2025. The agriculture commissioner may not use funding appropriated for the program to pay indirect costs as part of the United States department of agriculture animal and plant health inspection service wildlife services program.

**SECTION 20. EXEMPTION - COVID-19 SPECIALTY CROP BLOCK GRANT PROGRAM AND COVID-19 STRESS ASSISTANCE PROGRAM.** The amount of \$5,500,000 appropriated from federal funds derived from COVID-19 funds, of which \$5,000,000 was for the specialty crop block grant program and \$500,000 was for stress assistance program operating expenses, during the 2019-21 biennium in section 1 of chapter 27 and continued into the 2021-23 biennium in section 2 of chapter 27 of the 2021 Session Laws is not subject to section 54-44.1-11 and is available for the programs during the biennium beginning July 1, 2023, and ending June 30, 2025.


**SECTION 21. EXEMPTION - GRASSLANDS GRAZING GRANTS.** The amount of \$5,000,000 appropriated from the strategic investment and improvements fund for grasslands grazing grants in the grants line item in section 1 of chapter 9 of the 2021 Session Laws is not subject to section 54-44.1-11 and may be continued into the biennium beginning July 1, 2023, and ending June 30, 2025.

**SECTION 22. LEGISLATIVE MANAGEMENT STUDY - ENERGY CONVERSION OR TRANSMISSION FACILITY - ENVIRONMENTAL MITIGATION.** During the 2023-24 interim, the legislative management shall consider studying plans for mitigation of adverse wildlife and environmental impacts and monetary payments made to state agencies, contractors, nongovernmental organizations, and others by applicants or other persons for mitigation during the siting and operation of energy conversion or transmission facilities. The study must include consideration of the provisions of law that affect the ability of developers to effectively mitigate adverse wildlife habitat and environmental impacts, applicant payments used for the purchase of perpetual or nonperpetual conservation easements, the distinction between an adverse direct environmental effect or an adverse indirect environmental effect, methods to monetarily quantify adverse direct or adverse indirect environmental effects, and alternative programs that may be used or developed for the mitigation of adverse wildlife and environmental effects. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.

**SECTION 23. LEGISLATIVE MANAGEMENT STUDY - TRANSFER OF AGRICULTURE EDUCATION PROGRAMS.** During the 2023-24 interim, the legislative management shall consider studying the feasibility and desirability of transferring agriculture education programs in the department of career and technical education to the agriculture commissioner. The study must include an analysis of each program, duties and responsibilities of the programs and department of career and technical education staff, the potential to gain administrative and resource efficiencies if the programs are transferred to the agriculture commissioner, and future staffing, operating, and equipment needs of the programs. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-ninth legislative assembly.

  
President of the Senate

  
Speaker of the House


  
Secretary of the Senate

  
Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2009.


Senate Vote:    Yeas 46            Nays 0            Absent 1

House Vote:    Yeas 81            Nays 10           Absent 3

  
Secretary of the Senate

Received by the Governor at 2:13 PM. on April 28, 2023.

Approved at 2:37 PM. on May 5, 2023.

  
Governor

Filed in this office this 9 day of May, 2023,  
at 1:07 o'clock P M.

  
Secretary of State