Prepared by the Legislative Council staff for
the Senate Appropriations - Government
Operations Division Committee
February 16, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2009

Page 1, line 2, replace "and" with "to create and enact a new section to chapter 4.1-01 of the North Dakota Century Code, relating to the establishment of a post-production royalty oversight program; to amend and reenact sections 4.1-01-02, 4.1-01-21.1, 49-22-09, and 49-22-09.2 of the North Dakota Century Code, relating to the salary of the agriculture commissioner, the environmental impact mitigation fund, factors to be considered in evaluating applications and designations of sites, corridors, and routes, and mitigating direct and indirect environmental impacts;"

Page 1, line 2, after "transfer" insert "; and to provide an exemption"

Page 1, remove lines 10 through 24

Page 2, replace lines 1 through 5 with:

"

	Base Level	Adjustments or Enhancements	Appropriation
Salaries and wages	$15,717,126	$1,693,446	$17,410,572
Operating expenses	6,848,052	588,121	7,436,173
Capital assets	15,000	(8,000)	7,000
Grants	9,031,774	1,922,195	10,953,969
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
Crop harmonization board	75,000	0	75,000
Total all funds	$37,570,487	$8,245,762	$45,816,249
Less estimated income	24,110,775	6,025,073	30,135,848
Total general fund	$13,459,712	$2,220,689	$15,680,401
Full-time equivalent positions	79.00	2.00	81.00"

Page 2, line 6, after "**FUNDING**" insert "**- EFFECT ON BASE BUDGET - REPORT TO SIXTY-NINTH LEGISLATIVE ASSEMBLY**"

Page 2, line 7, after "biennium" insert "and the one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace line 9 with:

"Agricultural products utilization commission	$2,700,000	$3,000,000"

Page 2, replace lines 14 through 17 with:

"Intermodal facility construction grant program	2,000,000	0
North Dakota trade office	0	500,000
Total all funds	$20,900,000	$3,500,000

Less estimated income	10,400,000	3,000,000
Total general fund	$10,500,000	$500,000

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 - LEGACY EARNINGS FUND TO BIOSCIENCE INNOVATION FUND - BIOSCIENCE INNOVATION GRANT PROGRAM. Pursuant to the designation of funding for other legislative purposes under subdivision c of subsection 4 of section 21-10-13, the office of management and budget shall transfer $6,500,000 from the legacy earnings 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 5. TRANSFER - ENVIRONMENT AND RANGELAND PROTECTION FUND TO ENVIRONMENTAL IMPACT MITIGATION FUND - MITIGATION OF AGRICULTURAL LAND. The office of management and budget 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."

Page 2, line 18, replace "**STATE WATER COMMISSION**" with "**DEPARTMENT OF WATER RESOURCES**"

Page 2, line 19, remove "state"

Page 2, line 20, replace "water commission" with "department of water resources"

Page 2, line 27, replace "$6,899,395" with "$7,344,029"

Page 2, line 31, replace "$619,329" with "$648,228"

Page 3, after line 2, insert:

"**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."

Page 3, line 3, replace "**PIPELINE RESTORATION AND RECLAMATION**" with "**ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION FUND**"

Page 3, line 4, replace "$200,000" with "$700,000"

Page 3, line 5, after "fund" insert ", of which $200,000 is"

Page 3, line 6, after "program" insert "and $500,000 is for the purpose of defraying the expenses of the post-production royalty oversight program"

Page 3, line 9, replace "$1,600,000" with "$2,100,000"

Page 3, after line 19, insert:

"**SECTION 14. 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 thousand ~~five hundred fifty-three~~ dollars through June 30, ~~2022~~2024, and one hundred ~~twenty-three~~thirty-five thousand ~~nine~~two hundred ~~eighty-four~~ dollars after that date.

SECTION 15. A new section to chapter 4.1-01 of the North Dakota Century Code is created and enacted as follows:

Post-production royalty oversight program.

The commissioner shall establish a post-production royalty oversight program providing technical assistance and support to mineral owners, lease owners, and mineral companies relating to royalty payment issues. The commissioner may contract for ombudsmen for assistance on royalty payment issues. The commissioner is not subject to the provisions of chapter 54-44.4 when contracting for the services of ombudsmen. The names of mineral owners, lease owners, and mineral companies that receive assistance under the program are not subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota.

SECTION 16. 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 with environmental scientists or engineers for relevant services to implement mitigation required from the impact of development; and

   b. Reclamation or mitigation of adverse impacts from development.

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 moneys in the environmental impact ~~funds~~mitigation fund.

5. The commissioner shall make disbursements of moneys in the environmental impact mitigation fund 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 environmental impact mitigation fund grants in accordance with subsection 2 and provide those determinations to the commissioner.

8. The federal environmental law impact review committee shall provide a biennial report of environmental impact mitigation fund disbursements to the legislative management.

9. For purposes of this section, the environmental impact mitigation fund is not subject to subsection 2 of section 4.1-01-18.

SECTION 17. AMENDMENT. Section 49-22-09 of the North Dakota Century Code is amended and reenacted as follows:

49-22-09. Factors to be considered in evaluating applications and designation of sites, corridors, and routes.

1. The commission shall be guided by, but is not limited to, the following considerations, where applicable, to aid the evaluation and designation of sites, corridors, and routes:

   a. Available research and investigations relating to the effects of the location, construction, and operation of the proposed facility on public health and welfare, natural resources, and the environment.

   b. The effects of new electric energy conversion and electric transmission technologies and systems designed to minimize adverse environmental effects.

   c. The potential for beneficial uses of waste energy from a proposed electric energy conversion facility.

   d. Adverse direct and indirect environmental effects that cannot be avoided should the proposed site or route be designated.

   e. Alternatives to the proposed site, corridor, or route which are developed during the hearing process and which minimize adverse effects.

f. Irreversible and irretrievable commitments of natural resources should the proposed site, corridor, or route be designated.

g. The direct and indirect economic impacts of the proposed facility.

h. Existing plans of the state, local government, and private entities for other developments at or in the vicinity of the proposed site, corridor, or route.

i. The effect of the proposed site or route on existing scenic areas, historic sites and structures, and paleontological or archaeological sites.

j. The effect of the proposed site or route on areas unique because of biological wealth or because the areas are habitats for rare and endangered species.

k. Problems raised by federal agencies, other state agencies, and local entities.

l. Written comments from the agriculture commissioner.

2. The commission may not condition the issuance of a certificate or permit on the applicant providing a mitigation payment assessed or requested by another state agency or entity to offset a negative impact on wildlife habitat.

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 or indirect environmental impacts.

1. An applicant ~~may elect to~~shall provide payment to mitigate any assessed adverse direct or indirect environmental impacts of a proposed site, corridor, route, or facility. The applicant ~~may elect to~~shall provide a minimum of fifty percent of 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~~.

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. The amount of $5,000,000 appropriated from federal funds derived from COVID-19 funds for the specialty crop block grant program 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 program during the biennium beginning July 1, 2023, and ending June 30, 2025."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2009 - Department of Agriculture - Senate Action

	Base Budget	Senate Changes	Senate Version
Salaries and wages	$15,717,126	$1,693,446	$17,410,572
Operating expenses	6,848,052	588,121	7,436,173
Capital assets	15,000	(8,000)	7,000
Grants	9,031,774	1,922,195	10,953,969
State Board of Animal Health	865,718		865,718
Wildlife services	1,457,400	200,000	1,657,400
Crop Harmonization Board	75,000		75,000
Pipeline restoration and reclamation	200,000		200,000
Ag. Products Utilization Commission	1,760,417	3,350,000	5,110,417
North Dakota trade office	1,600,000	500,000	2,100,000
Total all funds	$37,570,487	$8,245,762	$45,816,249
Less estimated income	24,110,775	6,025,073	30,135,848
General fund	$13,459,712	$2,220,689	$15,680,401
FTE	79.00	2.00	81.00

Department 602 - Department of Agriculture - Detail of Senate Changes

	Adds Funding for the Cost to Continue Salaries[1]	Adds Funding for Salary and Benefit Increases[2]	Adds Salary Equity Funding for Elected Officials[3]	Adds Funding for FTE Positions[4]	Adjusts Base Level Funding[5]	Adds Funding for the Capitol Rent Model[6]
Salaries and wages	$115,069	$1,190,586	$2,535	$385,256		
Operating expenses				111,300	($221,315)	$198,136
Capital assets					(8,000)	
Grants					866,695	
State Board of Animal Health						
Wildlife services					200,000	
Crop Harmonization Board						
Pipeline restoration and reclamation						
Ag. Products Utilization Commission						
North Dakota trade office						
Total all funds	$115,069	$1,190,586	$2,535	$496,556	$837,380	$198,136
Less estimated income	49,755	497,347	0	0	572,471	0
General fund	$65,314	$693,239	$2,535	$496,556	$264,909	$198,136
FTE	0.00	0.00	0.00	2.00	0.00	0.00

	Adds Funding for a Royalty Oversight Program[7]	Adds Funding for Specialty Crop Block Grants[8]	Adds funding for APUC[9]	Adds One-Time Funding for APUC[10]	Adds One-Time Funding for the Trade Office[11]	Total Senate Changes
Salaries and wages						$1,693,446
Operating expenses	$500,000					588,121
Capital assets						(8,000)
Grants		$1,055,500				1,922,195
State Board of Animal Health						
Wildlife services						200,000
Crop Harmonization Board						
Pipeline restoration and reclamation						
Ag. Products Utilization Commission			$350,000	$3,000,000		3,350,000
North Dakota trade office					$500,000	500,000
Total all funds	$500,000	$1,055,500	$350,000	$3,000,000	$500,000	$8,245,762
Less estimated income	500,000	1,055,500	350,000	3,000,000	0	6,025,073
General fund	$0	$0	$0	$0	$500,000	$2,220,689
FTE	0.00	0.00	0.00	0.00	0.00	2.00

[1] Funding is added for the cost to continue salary increases.

[2] The following funding is added for 2023-25 biennium salary adjustments of 4 percent on July 1, 2023, and 4 percent on July 1, 2024, and increases in health insurance premiums from $1,429 to $1,648 per month:

	General Fund	Other Funds	Total
Salary increase	$453,936	$309,206	$763,142
Health insurance increase	239,303	188,141	427,444
Total	$693,239	$497,347	$1,190,586

[3] Funding is added for providing a salary equity increase for the Agriculture Commissioner. The Agriculture Commissioner's annual salary is increased from the current level of $123,984 to $130,000 (4.9 percent) effective July 1, 2023. This funding is in addition to the funding added for the general 4 percent annual salary increases for state employees.

[4] Funding of $496,566 is added from the general fund for 2 FTE positions. Of the funding provided, $180,326 is for an FTE project manager and systems coordinator position, including $170,326 for salaries and wages and $10,000 for operating expenses, and $316,230 is for an FTE marketing specialist position, including $214,930 for salaries and wages and $101,300 for operating expenses.

[5] Base level funding is adjusted as follows:

	General Fund	Other Funds	Total
Adds funding for information technology rate increases	$17,565	$12,568	$30,133
Adds funding for information technology data processing, communications, and services	10,078	215,059	225,137
Adjusts funding for travel, operating fees and services, and other operating expenses	47,266	(659,851)	(612,585)
Adds federal funding for the plant and potato cyst nematode program	0	26,000	26,000
Adds federal funding for the local food purchase assistance program for local underserved producers, including $110,000 for operating expenses and $868,000 for grants	0	978,000	978,000
Adjusts funding for capital assets to provide a total of $7,000 for capital assets from the environment and rangeland protection fund	(10,000)	2,000	(8,000)
Adds funding for noxious weeds grants, of which $80,000 is from federal funds and $118,695 is from the environment and rangeland protection fund to provide a total of $1,623,969, of which $170,000 is from federal funds and $1,453,969 is from the environment and rangeland protection fund	0	198,695	198,695

Reduces funding for the waterbank program to provide a total of $100,000 from the North Dakota outdoor heritage fund	0	(200,000)	(200,000)
Adds funding for aerial contract services for the Wildlife Services program to provide a total of $1,657,400 for the Wildlife Services program	200,000	0	200,000
Total	$264,909	$572,471	$837,380

[6] Funding of $198,136 is added from the general fund for a new Capitol space rent model.

[7] Funding of $500,000 is added from the abandoned oil and gas well plugging and site reclamation fund for a post-production royalty oversight program, allowing the Agriculture Commissioner to contract for ombudsmen to assist individuals and companies in royalty payment issues.

[8] Federal funding of $1,055,500 is added for the specialty crop block grant program to provide a total of $7,094,805 from federal funds. This amount does not include funding for the program from COVID-19 federal funds. A section is added to the bill to provide the Agriculture Commissioner an exemption to continue COVID-19 funding appropriated for the program for the 2019-21 biennium and continued into the 2021-23 biennium during the 2021 legislative session into the 2023-25 biennium.

[9] Funding of $350,000 is added from the Agricultural Products Utilization Commission (APUC) fund for the APUC program to provide total ongoing funding of $2,110,417 from the APUC fund.

[10] One-time funding of $3,000,000 is added from Bank of North Dakota profits for the APUC program to provide total funding of $5,110,417 for the program.

[11] One-time funding of $500,000 is added from the general fund for the North Dakota Trade Office to provide a total of $2.1 million from the general fund.

This amendment also:

- Adds a section providing for a $5.5 million transfer from the strategic investment and improvements fund to the bioscience innovation grant fund for the bioscience innovation grant program. The Agriculture Commissioner has continuing appropriation authority for the bioscience innovation grant fund.
- Adds a section providing for a $6.5 million transfer from the legacy earnings fund to the bioscience innovation grant fund for the bioscience innovation grant program to provide a total of $12 million for the bioscience program in Senate Bill No. 2009 for the 2023-25 biennium.
- Adds a section providing for a $250,000 transfer from the environment and rangeland protection fund to the environmental impact mitigation fund for the environmental impact mitigation program. The Agriculture Commissioner has continuing appropriation authority for the environmental impact mitigation fund.
- Amends a section identifying the amount of funding ($7,344,029) appropriated from the environment and rangeland protection fund.
- Amends a section identifying the amount of funding ($648,228) appropriated from the Game and Fish Department operating fund.
- Adds a section to transfer $3 million from Bank of North Dakota profits to the APUC fund.
- Amends a section to identify the amount of funding ($700,000) appropriated from the abandoned oil and gas well plugging and site reclamation fund.
- Amends a section identifying the amount of funding ($2,100,000) appropriated from the general fund for the North Dakota Trade Office. The Agriculture Commissioner may spend 60 percent of this amount without requiring any matching funds from the North Dakota Trade Office. Additional amounts may be spent only to the extent that the North Dakota Trade Office provides $1 of matching funds from private or other public sources for every $1 provided by the Agriculture Commissioner. Matching funds may include money spent by businesses or organizations to pay salaries to export assistants, to provide training, and to buy computer equipment as part of the North Dakota Trade Office's export assistance program.
- Adds a section to provide the statutory changes necessary to increase the Agriculture Commissioner's salary to $130,000 (4.9 percent) effective July 1, 2023, and to $135,200 (4 percent) effective July 1, 2024.
- Adds a new section to North Dakota Century Code Chapter 4.1-01 to establish a post-production royalty oversight program, allowing the Agriculture Commissioner to contract for ombudsmen to assist individuals and companies in royalty payment issues.
- Adds three sections to amend Sections 4.1-01-21.1, 49-22-09, and 49-22-09.2 relating to the environmental impact fund, factors to be considered in evaluating applications and designation of sites, corridors, and routes, and mitigating direct and indirect environmental impacts.
- Adds a section to provide the funding appropriated in the wildlife services line item may not be used to pay indirect costs as part of the United States Department of Agriculture Animal and Plant Health Inspection Service Wildlife Services program.
- Adds a section to provide an exemption to authorize the Agriculture Commissioner to continue the $5 million appropriated by the 2021 Legislative Assembly for the COVID-19 specialty crop block grant program for the

2019-21 biennium, which was continued into the 2021-23 biennium into the 2023-25 biennium. The Agriculture Commissioner anticipates approximately $3.5 million will be continued into the 2023-25 biennium.