

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2009

That the House recede from its amendments as printed on pages 1771-1777 of the Senate Journal and pages 2105-2111 of the House Journal and that Engrossed Senate Bill No. 2009 be amended as follows:

Page 1, line 2, remove "to create and enact a new section to chapter 4.1-01 of the North Dakota Century"

Page 1, line 3, remove "Code, relating to the establishment of a post-production royalty oversight program;"

Page 1, line 4, after the first coma insert "4.1-01-18,"

Page 1, line 4, remove "49-22-09,"

Page 1, line 5, after the second coma insert "the federal environmental law impact review committee,"

Page 1, line 6, remove "factors to be considered in evaluating applications and designations of sites,"

Page 1, line 7, remove "corridors, and routes,"

Page 1, line 7, remove "direct and indirect"

Page 1, line 8, remove "and"

Page 1, line 8, after "exemption" insert "; and to provide for a legislative management study"

Page 1, replace lines 18 and 19 with:

"Salaries and wages	\$15,717,126	\$873,888	\$16,591,014
Operating expenses	6,848,052	578,121	7,426,173"

Page 1, replace line 21 with:

"Grants	9,031,774	3,922,195	12,953,969"
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Page 2, after line 4 insert:

"Bioscience innovation program transfer	0	6,500,000	6,500,000"
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Page 2, replace lines 6 through 9 with:

"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"

Page 2, replace lines 17 and 18 with:

"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"

Page 2, replace lines 22 through 24 with:

"Total all funds	\$20,900,000	\$12,000,000
Less estimated income	<u>10,400,000</u>	<u>4,000,000</u>
Total general fund	\$10,500,000	\$8,000,000"

Page 3, line 4, replace "**LEGACY EARNINGS**" with "**GENERAL**"

Page 3, line 5, remove "Pursuant to the designation of"

Page 3, remove line 6

Page 3, line 7, replace "the office of management and budget shall transfer" with "The bioscience innovation program transfer line item in section 1 of this Act includes"

Page 3, line 7, replace "legacy earnings" with "general"

Page 3, line 7, after "fund" insert ", which the office of management and budget shall transfer"

Page 3, line 12, replace "office of management and budget" with "agriculture commissioner"

Page 3, line 25, replace "\$7,344,029" with "\$7,351,547"

Page 4, after line 7, insert:

"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."

Page 5, line 2, replace "thirty" with "thirty-one"

Page 5, line 3, after "~~fifty-three~~" insert "four hundred twenty-three"

Page 5, line 4, replace "thirty-five" with "thirty-six"

Page 5, line 4, replace "two" with "six"

Page 5, line 4, after "~~eighty-four~~" insert "eighty"

Page 5, replace lines 5 through 14 with:

"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."

Page 5, line 22, overstrike "agriculture"

Page 5, line 26, overstrike "Contracting for consultation" and insert immediately thereafter "Consultation"

Page 5, line 26, after "engineers" insert ", industry specialists, or others"

Page 5, line 27, after "to" insert "analyze or"

Page 5, line 29, overstrike "Reclamation or mitigation" and insert immediately thereafter "Creation, restoration, or mitigation of similar habitat affected by the construction or operation of an energy conversion or transmission facility. Mitigation"

Page 5, line 29, after "development" insert "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"

Page 6, line 1, overstrike "The federal environmental law impact review committee shall establish criteria for"

Page 6, line 2, overstrike "disbursement of"

Page 6, line 2, remove "moneys in the"

Page 6, line 2, overstrike "environmental impact"

Page 6, line 2, replace "mitigation fund" with "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"

Page 6, line 3, overstrike "The commissioner shall make disbursements"

Page 6, line 3, remove "of moneys in the environmental impact"

Page 6, line 4, remove "mitigation fund"

Page 6, line 4, overstrike "based upon the determinations made by the federal environmental law"

Page 6, overstrike lines 5 through 10

Page 6, line 11, overstrike "the disbursement of"

Page 6, line 11, remove "environmental impact mitigation fund"

Page 6, line 11, overstrike "grants in accordance with"

Page 6, line 12, overstrike "subsection 2 and provide those determinations to the commissioner" and insert immediately thereafter "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"

Page 6, line 13, overstrike "8." and insert immediately thereafter "6."

Page 6, line 13, overstrike "federal environmental law impact review committee" and insert immediately thereafter "commissioner"

Page 6, line 15, overstrike "9." and insert immediately thereafter "7."

Page 6, remove lines 17 through 31

Page 7, remove lines 1 through 16

Page 7, line 19, overstrike "**direct** "

Page 7, line 19, remove "or indirect"

Page 7, line 20, overstrike "1. An applicant"

Page 7, line 20, remove "shall"

Page 7, line 20, overstrike "provide payment to mitigate any assessed adverse"

Page 7, line 21, overstrike "direct"

Page 7, line 21, remove "or indirect"

Page 7, line 21, overstrike "environmental impacts of a proposed site, corridor, route, or facility."

Page 7, line 22, overstrike "The applicant"

Page 7, line 22, remove "shall"

Page 7, line 22, overstrike "provide"

Page 7, line 22, remove "a minimum of fifty percent of"

Page 7, line 22, overstrike "the payment to"

Page 7, overstrike lines 23 and 24

Page 7, line 25, overstrike "environmental impacts of a proposed site, corridor, route, or facility"

Page 7, line 26, overstrike "into the environmental impact mitigation fund"

Page 7, line 27, after "fund" insert "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"

Page 8, line 3, after "PROGRAM" insert "AND COVID-19 STRESS ASSISTANCE PROGRAM"

Page 8, line 4, replace "5,000,000" with "5,500,000"

Page 8, line 4, after the second "funds" insert ", of which \$5,000,000 was"

Page 8, line 5, after "program" insert "and \$500,000 was for stress assistance program operating expenses,"

Page 8, line 7, replace "program" with "programs"

Page 8, after line 8, insert:

"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."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Salaries and wages	\$15,717,126	\$17,410,572	(\$819,558)	\$16,591,014	\$16,591,014	
Operating expenses	6,848,052	7,436,173	(10,000)	7,426,173	7,426,173	
Capital assets	15,000	7,000		7,000	7,000	
Grants	9,031,774	10,953,969	2,000,000	12,953,969	12,953,969	
State Board of Animal Health	865,718	865,718		865,718	865,718	
Wildlife services	1,457,400	1,657,400		1,657,400	1,657,400	
Crop Harmonization Board	75,000	75,000		75,000	75,000	
Pipeline restoration and reclamation	200,000	200,000		200,000	200,000	
Ag. Products Utilization Commission	1,760,417	5,110,417		5,110,417	5,110,417	
North Dakota trade office	1,600,000	2,100,000		2,100,000	2,100,000	
Bioscience innovation program transfer			6,500,000	6,500,000	6,500,000	
Total all funds	\$37,570,487	\$45,816,249	\$7,670,442	\$53,486,691	\$53,486,691	\$0
Less estimated income	24,110,775	30,135,848	831,270	30,967,118	30,967,118	0
General fund	\$13,459,712	\$15,680,401	\$6,839,172	\$22,519,573	\$22,519,573	\$0
FTE	79.00	81.00	(1.00)	80.00	80.00	0.00

Department 602 - Department of Agriculture - Detail of Conference Committee Changes

	Adjusts Funding for Salary and Benefit Increases ¹	Removes Funding for Elected Official Salary Equity ²	Removes FTE Position ³	Removes Salary Funding for Funding Pool ⁴	Adjusts One-Time Funding for Bioscience Innovation Grants ⁵	Adds One-Time Funding ⁶
Salaries and wages	\$230,303	(\$2,535)	(\$170,326)	(\$877,000)		
Operating expenses			(10,000)			
Capital assets						
Grants						\$2,000,000
State Board of Animal Health						
Wildlife services						
Crop Harmonization Board						
Pipeline restoration and reclamation						
Ag. Products Utilization Commission						
North Dakota trade office						
Bioscience innovation program transfer					\$6,500,000	
Total all funds	\$230,303	(\$2,535)	(\$180,326)	(\$877,000)	\$6,500,000	\$2,000,000
Less estimated income	99,543	0	0	(268,273)	0	1,000,000
General fund	\$130,760	(\$2,535)	(\$180,326)	(\$608,727)	\$6,500,000	\$1,000,000
FTE	0.00	0.00	(1.00)	0.00	0.00	0.00

	Total Conference Committee Changes
Salaries and wages	(\$819,558)
Operating expenses	(10,000)
Capital assets	
Grants	2,000,000
State Board of Animal Health Wildlife services	
Crop Harmonization Board	
Pipeline restoration and reclamation	
Ag. Products Utilization Commission	
North Dakota trade office	
Bioscience innovation program transfer	6,500,000
Total all funds	\$7,670,442
Less estimated income	831,270
General fund	\$6,839,172
FTE	(1.00)

¹ Salaries and wages funding is adjusted to provide for 2023-25 biennium salary increases of 6 percent on July 1, 2023, and 4 percent on July 1, 2024, and for adjustments to health insurance premium rates as follows:

	General Fund	Other Funds	Total
Salary increase	\$141,284	\$103,774	\$245,058
Health insurance adjustment	<u>(10,524)</u>	<u>(4,231)</u>	<u>(14,755)</u>
Total	\$130,760	\$99,543	\$230,303

The Senate provided salary adjustments of 4 percent on July 1, 2023, and July 1, 2024. The House approved the same salary and health insurance adjustments as the Conference Committee.

² Funding of \$2,535 from the general fund for a salary equity increase for the Agriculture Commissioner is removed. The House also removed this funding.

³ Funding of \$180,326 added by the Senate from the general fund for 1 FTE project manager and systems coordinator position, including \$170,326 for salaries and wages and \$10,000 for operating expenses, is removed. The House also removed this position.

⁴ Funding for new FTE positions and estimated savings from vacant FTE positions is removed as shown below. These amounts are available to the agency if needed by submitting a request to the Office of Management and Budget for a transfer from the new and vacant FTE funding pool.

	General Fund	Other Funds	Total
New FTE positions	(\$214,930)	\$0	(\$214,930)
Vacant FTE positions	<u>(393,797)</u>	<u>(268,273)</u>	<u>(662,070)</u>
Total	(\$608,727)	(\$268,273)	(\$877,000)

The House also removed this funding.

⁵ One-time funding for the bioscience innovation grant program is adjusted by removing \$6.5 million from the legacy earnings fund and adding \$6.5 million from the general fund to provide a total of \$12 million, of which \$5.5 million is from the strategic investment and improvements fund (SIIF), the same as provided by the House. Funding provided by the Conference Committee from the general fund is added in a new bioscience innovation program transfer line item, the same as provided by the House.

The Senate provided \$12 million, of which \$5.5 million was from SIIF and \$6.5 million was from the legacy earnings fund.

⁶ One-time funding is added as follows:

- Adds \$1 million from SIIF for grasslands grazing grants, the same as provided by the House. The Senate did not provide funding for this program.

- Adds \$1 million from the general fund for a food distribution grant program to be used for the purchase of food and equipment and any distribution costs associated with assisting local food banks to provide food to individuals in the state, the same as provided by the House. The Senate did not provide funding for this program.
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This amendment also:

- Amends a section providing for a transfer of \$6.5 million to the bioscience innovation grant fund. The Senate provided the transfer from the legacy earnings fund. The Conference Committee and the House provided the transfer from the general fund.
- Amends a section identifying funding in Section 1 from the environment and rangeland protection fund. The Conference Committee did not change the House version.
- Adds a section identifying funding in Section 1 from SIIF. The Conference Committee and the House provided one-time funding of \$1 million for grasslands grazing grants. The Senate did not provide funding for this program. To be eligible for a grant under this program, an organization must provide \$1 of matching funds from nonstate sources for every \$4 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.
- Amends a section to provide the statutory changes necessary for the salary of the Agriculture Commissioner, the same as provided by the House.
- Removes a section added by the Senate that established a post-production royalty oversight program. This program was created in Senate Bill No. 2194 (2023). The House also removed this section.
- Adds a section to amend Section 4.1-01-18 to provide of the two individuals from the energy community that serve on the Federal Environmental Law Impact Review Committee, the Governor will appoint one individual and the Agriculture Commissioner will appoint one individual, instead of the Agriculture Commissioner appointing both individuals. The House did not add this section.
- Amends two sections related the environmental impact mitigation fund and mitigation of environmental impacts. The House also amended these sections.
- Removes a section added by the Senate that amended Section 49-22-09 related to factors to be considered in evaluating applications and designations of sites, corridors, and routes. The House also removed this section.
- Amends a section to provide an exemption to the Agriculture Commissioner for the COVID-19 specialty crop block grant program (\$5 million) and COVID-19 stress assistance program operating expenses (\$500,000) that were appropriated for the 2019-21 biennium and continued into the 2021-23 biennium to be continued into the 2023-25 biennium. The Senate and House provided an exemption for the COVID-19 specialty crop block grant program but not for COVID-19 stress assistance program operating expenses.
- Adds a section to provide an exemption to authorize the Agriculture Commissioner to continue \$5 million appropriated from SIIF for grasslands grazing grants for the 2021-23 biennium into the 2023-25 biennium. The House also added this section.
- Adds a section to provide for a Legislative Management study of 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 House also added this section.
- Adds a section to provide for a Legislative Management study of the feasibility and desirability of transferring agriculture education programs in the Department of Career and Technical Education to the Agriculture Commissioner. The House also added this section.

