

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2009

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the agriculture
2 commissioner; to create and enact a new section to chapter 4.1-01 of the North Dakota Century
3 Code, relating to the establishment of a post-production royalty oversight program; to amend
4 and reenact sections 4.1-01-02, 4.1-01-21.1, ~~49-22-09~~, and 49-22-09.2 of the North Dakota
5 Century Code, relating to the salary of the agriculture commissioner, the environmental impact
6 mitigation fund, ~~factors to be considered in evaluating applications and designations of sites,~~
7 ~~corridors, and routes~~ and mitigating ~~direct and indirect~~ environmental impacts; to provide for a
8 transfer; to provide for a legislative management study; to provide for a report; and to provide
9 an exemption.

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

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

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>	
17				
18				
19	Salaries and wages	\$15,717,126	\$1,693,446	\$17,410,572
20	Operating expenses	6,848,052	588,121	7,436,173
21	Capital assets	15,000	(8,000)	7,000
22	Grants	9,031,774	1,922,195	10,953,969
23	Agricultural products utilization	1,760,417	3,350,000	5,110,417
24	commission			

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1	North Dakota trade office	1,600,000	500,000	2,100,000
2	Board of animal health	865,718	0	865,718
3	Wildlife services	1,457,400	200,000	1,657,400
4	Pipeline restoration and reclamation	200,000	0	200,000
5	oversight program			
6	Crop harmonization board	<u>75,000</u>	<u>0</u>	<u>75,000</u>
7	Total all funds	\$37,570,487	\$8,245,762	\$45,816,249
8	Less estimated income	<u>24,110,775</u>	<u>6,025,073</u>	<u>30,135,848</u>
9	Total general fund	\$13,459,712	\$2,220,689	\$15,680,401
10	Full-time equivalent positions	79.00	2.00	81.00

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

12 **SIXTY-NINTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
13 items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the
14 one-time funding items included in the appropriation in section 1 of this Act:

15	<u>One-Time Funding Description</u>	<u>2021-23</u>	<u>2023-25</u>
16	Agricultural products utilization commission	\$2,700,000	\$3,000,000
17	Soil health grants	700,000	0
18	Grasslands grazing grants	5,000,000	0
19	Bioscience innovation grant program	5,500,000	0
20	Federal environmental law impact review	5,000,000	0
21	Intermodal facility construction grant program	2,000,000	0
22	North Dakota trade office	<u>0</u>	<u>500,000</u>
23	Total all funds	\$20,900,000	\$3,500,000
24	Less estimated income	<u>10,400,000</u>	<u>3,000,000</u>
25	Total general fund	\$10,500,000	\$500,000

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

30 **SECTION 3. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO**
31 **BIOSCIENCE INNOVATION FUND - BIOSCIENCE INNOVATION GRANT PROGRAM.** The

1 office of management and budget shall transfer \$5,500,000 from the strategic investment and
2 improvements fund to the bioscience innovation grant fund for the purpose of the bioscience
3 innovation grant program under section 4.1-01-20.1 for the biennium beginning July 1, 2023,
4 and ending June 30, 2025.

5 **SECTION 4. TRANSFER - LEGACY EARNINGS FUND TO BIOSCIENCE INNOVATION**
6 **FUND - BIOSCIENCE INNOVATION GRANT PROGRAM.** Pursuant to the designation of
7 funding for other legislative purposes under subdivision c of subsection 4 of section 21-10-13,
8 the office of management and budget shall transfer \$6,500,000 from the legacy earnings fund to
9 the bioscience innovation grant fund for the purpose of the bioscience innovation grant program
10 under section 4.1-01-20.1 for the biennium beginning July 1, 2023, and ending June 30, 2025.

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

17 **SECTION 6. ESTIMATED INCOME - TRANSFER - DEPARTMENT OF WATER**
18 **RESOURCES.** The estimated income line item in section 1 of this Act includes the sum of
19 \$125,000 which the department of water resources shall transfer to the agriculture
20 commissioner for the purpose of defraying the expenses of the wildlife services program.

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

25 **SECTION 8. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION**
26 **FUND.** The estimated income line item in section 1 of this Act includes the sum of \$7,344,029
27 from the environment and rangeland protection fund for the purpose of defraying the expenses
28 of various agriculture commissioner programs.

29 **SECTION 9. ESTIMATED INCOME - GAME AND FISH FUND.** The estimated income line
30 item in section 1 of this Act includes the sum of \$648,228 from the game and fish department

1 operating fund for the purpose of defraying the expenses of various agriculture commissioner
2 programs.

3 **SECTION 10. ESTIMATED INCOME - TRANSFER - BANK OF NORTH DAKOTA**

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

10 **SECTION 11. ESTIMATED INCOME - ABANDONED OIL AND GAS WELL PLUGGING**

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

16 **SECTION 12. TRADE OFFICE - MATCHING FUND REQUIREMENT.** The North Dakota

17 trade office line item and the general fund appropriation in section 1 of this Act include
18 \$2,100,000 of funding related to the North Dakota trade office. The agriculture commissioner
19 may spend sixty percent of this amount without requiring any matching funds from the trade
20 office. Any additional amounts may be spent only to the extent the North Dakota trade office
21 provides one dollar of matching funds from private or other public sources for each one dollar
22 provided by the agriculture commissioner. Matching funds may include money spent by
23 businesses or organizations to pay salaries to export assistants, providing training to export
24 assistants, or to purchase computer equipment as part of the North Dakota trade office's export
25 assistant program.

26 **SECTION 13. WATERBANK PROGRAM - MATCHING FUNDS.** The salaries and wages

27 line item in section 1 of this Act includes up to \$50,000 from the general fund for matching funds
28 for the North Dakota outdoor heritage fund grant provided for the waterbank program.

29 **SECTION 14. AMENDMENT.** Section 4.1-01-02 of the North Dakota Century Code is

30 amended and reenacted as follows:

1 **4.1-01-02. Salary of agriculture commissioner.**

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

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

7 **Post-production royalty oversight program.**

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

15 **SECTION 16. AMENDMENT.** Section 4.1-01-21.1 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **4.1-01-21.1. Environmental impact mitigation fund - Report to legislative management**
18 **- Continuing appropriation.**

19 1. There is created in the state treasury the environmental impact mitigation fund. The
20 fund consists of all moneys deposited in the fund under section 49-22-09.2. All
21 moneys in the fund are appropriated to the commissioner on a continuing basis for
22 ~~distribution~~disbursement by the agriculture commissioner ~~to landowners for the~~
23 ~~mitigation of agricultural land impacted by development as set forth under subsection~~
24 ~~2~~in accordance with this section.

25 2. ~~Funding~~Moneys in the fund may be used only for:

- 26 a. ~~Contracting for consultation~~Consultation with environmental scientists ~~or~~
27 engineers, industry specialists, or others for relevant services to analyze or
28 implement mitigation required from the impact of development; and
29 b. ~~Reclamation or mitigation~~Mitigation of adverse impacts from development in the
30 following order of priority:

31 (1) The area immediately impacted by the development:

1 (2) The county impacted by the development;

2 (3) The region impacted by the development; and

3 (4) Other areas within the state.

4 3. The commissioner is not subject to chapter 54-44.4 when contracting for services
5 under this chapter.

6 4. ~~The federal environmental law impact review committee shall establish criteria for~~
7 ~~disbursement of moneys in the environmental impact funds~~~~mitigation fund~~In
8 consultation with the federal environmental law impact review committee, the
9 commissioner shall adopt rules pursuant to chapter 28-32 to implement the provisions
10 of this section.

11 5. ~~The commissioner shall make disbursements of moneys in the environmental impact~~
12 ~~mitigation fund based upon the determinations made by the federal environmental law~~
13 ~~impact review committee.~~—

14 ~~6. For purposes of this section, the federal environmental law impact review committee~~
15 ~~shall hold meetings as the chairman determines necessary at a time and place set by~~
16 ~~the chairman. Upon written request of any four members, the presiding officer shall~~
17 ~~call a special meeting of the committee.~~

18 ~~7. The federal environmental law impact review committee shall make determinations for~~
19 ~~the disbursement of environmental impact mitigation fund grants in accordance with~~
20 ~~subsection 2 and provide those determinations to the commissioner~~Easements or
21 leaseholds purchased by a person to mitigate adverse environmental effects of the
22 construction or operation of an energy conversion or transmission facility under
23 chapter 49-22 must be limited to the operational life of the facility as defined under
24 chapter 49-22. Any payment made to mitigate adverse environmental effects of the
25 construction or operation of an energy conversion or transmission facility under
26 chapter 49-22 must be made to the commissioner who shall deposit the payment into
27 the environmental impact mitigation fund.

28 ~~8.6. The federal environmental law impact review committee~~agriculture commissioner shall
29 provide a biennial report of environmental impact mitigation fund disbursements to the
30 legislative management.

1 ~~9.7.~~ For purposes of this section, the environmental impact mitigation fund is not subject to
2 subsection 2 of section 4.1-01-18.

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

5 ~~49-22-09. Factors to be considered in evaluating applications and designation of~~
6 ~~sites, corridors, and routes.~~

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

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

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

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

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

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

20 ~~f. Irreversible and ir retrievable commitments of natural resources should the~~
21 ~~proposed site, corridor, or route be designated.~~

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

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

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

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

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

30 ~~l. Written comments from the agriculture commissioner.~~

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

4 **SECTION 17. AMENDMENT.** Section 49-22-09.2 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **49-22-09.2. Mitigating ~~direct or indirect~~ environmental impacts.**

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

11 ~~2. The agriculture commissioner shall deposit any moneys paid to mitigate the adverse~~
12 ~~environmental impacts of a proposed site, corridor, route, or facility as follows:~~

13 a. ~~Fifty percent into the environmental impact mitigation fund; and~~

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

21 **SECTION 18. WILDLIFE SERVICES PROGRAM - INDIRECT COSTS.** The wildlife
22 services line item in section 1 of this Act includes the sum of \$1,657,400 for the purpose of
23 defraying the expenses of the wildlife services program during the biennium beginning July 1,
24 2023, and ending June 30, 2025. The agriculture commissioner may not use funding
25 appropriated for the program to pay indirect costs as part of the United States department of
26 agriculture animal and plant health inspection service wildlife services program.

27 **SECTION 19. EXEMPTION - COVID-19 SPECIALTY CROP BLOCK GRANT PROGRAM.**

28 The amount of \$5,000,000 appropriated from federal funds derived from COVID-19 funds for
29 the specialty crop block grant program during the 2019-21 biennium in section 1 of chapter 27
30 and continued into the 2021-23 biennium in section 2 of chapter 27 of the 2021 Session Laws is

1 not subject to section 54-44.1-11 and is available for the program during the biennium beginning
2 July 1, 2023, and ending June 30, 2025.

3 **SECTION 20. LEGISLATIVE MANAGEMENT STUDY - ENERGY CONVERSION OR**
4 **TRANSMISSION FACILITY - ENVIRONMENTAL MITIGATION.** During the 2023-24 interim, the
5 legislative management shall consider studying plans for mitigation of adverse wildlife and
6 environmental impacts and monetary payments made to state agencies, contractors,
7 nongovernmental organizations, and others by applicants or other persons for mitigation during
8 the siting and operation of energy conversion or transmission facilities. The study must include
9 consideration of the provisions of law that affect the ability of developers to effectively mitigate
10 adverse wildlife habitat and environmental impacts, applicant payments used for the purchase
11 of perpetual or nonperpetual conservation easements, the distinction between an adverse direct
12 environmental effect or an adverse indirect environmental effect, methods to monetarily quantify
13 adverse direct or adverse indirect environmental effects, and alternative programs that may be
14 used or developed for the mitigation of adverse wildlife and environmental effects. The
15 legislative management shall report its findings and recommendations, together with any
16 legislation necessary to implement the recommendations, to the sixty-ninth legislative assembly.