

**CHAPTER 04.1-01.1**  
**AGRICULTURAL PRODUCTS UTILIZATION COMMISSION**

**4.1-01.1-01. Agricultural products utilization commission - Composition - Appointment.**

The agricultural products utilization commission shall administer the agricultural products utilization fund. The commission shall consist of nine members, five of whom must be appointed by the agriculture commissioner for terms of two years each, arranged so that two terms expire in odd-numbered years and three terms expire in even-numbered years. Four members appointed by the agriculture commissioner must be actively engaged in farming in this state and one member appointed by the agriculture commissioner must be actively engaged in business in this state. The governor shall appoint one member for a term of two years which expires in odd-numbered years. The member appointed by the governor must be actively engaged in business in this state. Commission members may be reappointed. Terms of commissioners commence on the first day of July. The commissioner of commerce, the president of North Dakota state university, and the agriculture commissioner, or their designees, are members of the commission. The commission shall elect one of its members as chairman.

**4.1-01.1-02. Agricultural products utilization commission - Authority.**

1. The North Dakota agricultural products utilization commission may apply for, accept, and expend any appropriation, grant, gift, or service made available from public or private sources.
2. The commission may administer grant programs including:
  - a. A basic and applied research grant program;
  - b. A utilization and marketing grant program;
  - c. A cooperative marketing grant program;
  - d. A nature-based tourism grant program;
  - e. A technical assistance grant program for value-added businesses;
  - f. A farm diversification grant program;
  - g. An agricultural prototype development grant program;
  - h. An agricultural technologies grant program; and
  - i. A North American marketing grant program.
3. As a condition of any grant administered by the commission, the commission may require the recipient repay some or all of the grant if the recipient does not fulfill the conditions of the grant. Repayment may be monetary or any other type or method determined by the commission.

**4.1-01.1-03. Agricultural products utilization commission - Meetings - Personnel - Reports.**

The agricultural products utilization commission, an office of the agriculture commissioner, shall meet as necessary and shall report to each session of the legislative assembly. The commissioner shall provide office space, employ required personnel for the performance of its duties, hire consultants, spend any funds appropriated to the commission, and contract with public entities or private parties for services.

**4.1-01.1-04. Agricultural products utilization commission - Reimbursement - Compensation.**

Members of the agricultural products utilization commission are entitled to be reimbursed for expenses incurred in the performance of their duties, in the same manner as other state officials are reimbursed, according to sections 44-08-04 and 54-06-09. If not otherwise employed by the state of North Dakota, members of the commission are entitled to receive per diem compensation of one hundred thirty-five dollars for each day of attending meetings and performing other duties relating to official business of the commission. The commission chairman, if not otherwise employed by the state of North Dakota, may receive an additional

one hundred dollars for each day of a regular meeting attended as payment for reviewing and evaluating grant proposals.

**4.1-01.1-05. Agricultural products utilization commission - Administrative expenses.**

Administrative expenses of the agricultural products utilization commission, including expenses of members of the commission, employment of required personnel, hiring of consultants, and contracting with public or private entities for services may not exceed ten percent of the funds appropriated to the commission by the legislative assembly each biennium, excluding federal funds.

**4.1-01.1-06. Agricultural products utilization fund - Purposes.**

The agricultural products utilization fund in the state treasury must be used to fund programs for agricultural research, equipment, development, processing, technology, and marketing. The fund must be used to defray the expenses of the North Dakota agricultural products utilization commission. Interest earned on moneys in the fund must be credited to the fund.

**4.1-01.1-07. Agriculture diversification and development fund - Continuing appropriation. (Effective through June 30, 2029)**

1. There is created in the state treasury the agriculture diversification and development fund. The fund consists of all moneys transferred to the fund by the legislative assembly, interest upon moneys in the fund, and payments of interest and principal on loans made from the fund. Moneys in the fund are appropriated to the Bank of North Dakota on a continuing basis for loan disbursements and administrative costs pursuant to this section, and moneys in the fund are appropriated to the agriculture commissioner on a continuing basis for grants and value-added agriculture facility incentive funding pursuant to this section and section 4.1-01-27. The agriculture diversification and development committee shall designate the amount available from the fund for loans, interest rate buydowns, grants, and value-added agriculture facility incentive funding.
2. Loans, interest rate buydowns, or grants under subsections 3 and 4 may be issued from the fund to support new or expanding value-added agriculture businesses that demonstrate financial feasibility, enhance profitability for farmers and ranchers, create jobs, and grow the state's economy. Grants under section 4.1-01-27 may be issued from the fund for infrastructure improvements necessary for the development or expansion of new or existing value-added agriculture businesses. Value-added agriculture businesses include food production or processing facilities; feed or pet food processing facilities; commodity processing facilities; agriculture product manufacturers; and animal agriculture production facilities, including swine, poultry, dairy, and feed lot production facilities.
3. The Bank of North Dakota shall develop policies for loans and interest rate buydowns from the fund in consultation with the agriculture diversification and development committee. The Bank shall review loan applications. To be eligible for a loan under this section, an entity shall agree to provide the Bank with information as requested. The Bank may develop policies for loan participation with local financial institutions. The Bank shall deposit in the fund all principal and interest paid on the outstanding loans. The Bank may use a portion of the interest paid as a servicing fee to pay for administrative costs, which may not exceed one-half of one percent of the amount of the outstanding loans. The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.
4. The agricultural diversification and development committee shall develop policies for grants from the fund to support new or expanding value-added agriculture businesses, including eligibility criteria, maximum grant amounts, and reporting requirements. Based on recommendations from the agricultural diversification and development committee, the agriculture commissioner shall distribute the grant funding.

5. The agriculture diversification and development committee shall develop a value-added milk processing facility incentive program to provide grants.
  - a. Grant funding under this subsection is limited to the lesser of five million dollars or five percent of the total construction cost of building or expanding a value-added milk processing facility in the state capable of processing at least three million pounds [1360777 kilograms] of milk each year.
  - b. Grant funding under the program is a reimbursement for infrastructure, site acquisition, or other capital expenditures necessary for the value-added milk processing facility construction, including natural gas supply, electricity supply, roads, water lines, wastewater lines, storm water conveyance, or rail lines.
  - c. Upon achieving one hundred percent of the processing capacity of the value-added milk processing facility, the agriculture commissioner shall distribute the grant award from funding available in the agriculture diversification and development fund.
6. The agriculture diversification and development committee may use funding available in the agriculture diversification and development fund for in-state travel, per diem, and related costs of administering grants under this section. The agriculture commissioner may reimburse agriculture diversification and development committee members for in-state travel, per diem, and related costs incurred associated with the program as authorized under subsection 2 of section 4.1-01.1-08.
7. The agricultural diversification and development committee shall develop a value-added agriculture production facility incentive program to provide grants. Grant award funding for the value-added agriculture production facility incentive program under this subsection is limited to thirty million dollars.
  - a. To be eligible for a grant award under the value-added agriculture production facility incentive program, the production facility must:
    - (1) Be located within the state;
    - (2) Be a new construction project on an industrial-ready site with access to existing municipal infrastructure;
    - (3) Have capital investment of at least three hundred fifty million dollars and leverage regional agricultural producer capital investment to support the facility's operations;
    - (4) Have a competing offer from at least one other midwestern state;
    - (5) Produce a new agriculture product or variant of an existing agriculture product to provide a domestic supply of the product and to diversify the market for agriculture products; and
    - (6) Have an estimated economic contribution of at least twenty million dollars when fully operational based on an economic analysis conducted by the Bank.
  - b. Grant funding under the program is a reimbursement for infrastructure, site acquisition, or other capital expenditures necessary for the value-added agriculture facility construction, including natural gas supply, electricity supply, roads, water lines, wastewater lines, storm water conveyance, or rail lines.
  - c. Upon issuance of a certificate of occupancy for the value-added agriculture production facility, the agriculture commissioner shall distribute a grant equal to fifty percent of the total grant award from funding available in the agriculture diversification and development fund.
  - d. Upon achieving fifty percent of the production capacity of the value-added agriculture production facility, the agriculture commissioner shall distribute the remainder of the grant award from funding available in the agriculture diversification and development fund.
  - e. The Bank of North Dakota may extend a line of credit of up to thirty million dollars to the agriculture commissioner to support a grant from the fund under this subsection. The interest rate associated with the line of credit must be the prevailing interest rate charged to North Dakota governmental entities.

- f. If the agriculture diversification and development committee approves a grant under this subsection, the agriculture commissioner may access the line of credit under this subsection through June 30, 2029, to provide funding for the grant. Any moneys borrowed from the Bank pursuant to this subsection must be transferred to the fund. If the agriculture commissioner accesses the line of credit, the commissioner shall request from the legislative assembly a deficiency appropriation to repay the line of credit.

**Agriculture diversification and development fund - Continuing appropriation.  
(Effective after June 30, 2029)**

1. There is created in the state treasury the agriculture diversification and development fund. The fund consists of all moneys transferred to the fund by the legislative assembly, interest upon moneys in the fund, and payments of interest and principal on loans made from the fund. Moneys in the fund are appropriated to the Bank of North Dakota on a continuing basis for loan disbursements and administrative costs pursuant to this section, and moneys in the fund are appropriated to the agriculture commissioner on a continuing basis for grants pursuant to this section and section 4.1-01-27. The agriculture diversification and development committee shall designate the amount available from the fund for loans, interest rate buydowns, and grants.
2. Loans, interest rate buydowns, or grants under subsections 3 and 4 may be issued from the fund to support new or expanding value-added agriculture businesses that demonstrate financial feasibility, enhance profitability for farmers and ranchers, create jobs, and grow the state's economy. Grants under section 4.1-01-27 may be issued from the fund for infrastructure improvements necessary for the development or expansion of new or existing value-added agriculture businesses. Value-added agriculture businesses include food production or processing facilities; feed or pet food processing facilities; commodity processing facilities; agriculture product manufacturers; and animal agriculture production facilities, including swine, poultry, dairy, and feed lot production facilities.
3. The Bank of North Dakota shall develop policies for loans and interest rate buydowns from the fund in consultation with the agriculture diversification and development committee. The Bank shall review loan applications. To be eligible for a loan under this section, an entity shall agree to provide the Bank with information as requested. The Bank may develop policies for loan participation with local financial institutions. The Bank shall deposit in the fund all principal and interest paid on the outstanding loans. The Bank may use a portion of the interest paid as a servicing fee to pay for administrative costs, which may not exceed one-half of one percent of the amount of the outstanding loans. The fund must be audited annually pursuant to section 6-09-29, and the cost of the audit must be paid from the fund.
4. The agricultural diversification and development committee shall develop policies for grants from the fund to support new or expanding value-added agriculture businesses, including eligibility criteria, maximum grant amounts, and reporting requirements. Based on recommendations from the agricultural diversification and development committee, the agriculture commissioner shall distribute the grant funding.
5. The agriculture diversification and development committee shall develop a value-added milk processing facility incentive program to provide grants.
  - a. Grant funding under this subsection is limited to the lesser of five million dollars or five percent of the total construction cost of building or expanding a value-added milk processing facility in the state capable of processing at least three million pounds [1360777 kilograms] of milk each year.
  - b. Grant funding under the program is a reimbursement for infrastructure, site acquisition, or other capital expenditures necessary for the value-added milk processing facility construction, including natural gas supply, electricity supply, roads, water lines, wastewater lines, storm water conveyance, or rail lines.
  - c. Upon achieving one hundred percent of the processing capacity of the value-added milk processing facility, the agriculture commissioner shall distribute

the grant award from funding available in the agriculture diversification and development fund.

6. The agriculture diversification and development committee may use funding available in the agriculture diversification and development fund for in-state travel, per diem, and related costs of administering grants under this section. The agriculture commissioner may reimburse agriculture diversification and development committee members for in-state travel, per diem, and related costs incurred associated with the program as authorized under subsection 2 of section 4.1-01.1-08.

#### **4.1-01.1-08. Agriculture diversification and development committee.**

1. The agriculture diversification and development committee consists of eleven members, five of whom must be appointed by the commissioner for terms of two years each, arranged so that two terms expire in odd-numbered years and three terms expire in even-numbered years.
  - a. Four of the members appointed by the commissioner must be actively engaged in farming in this state and the fifth member appointed by the commissioner must be actively engaged in agribusiness in this state.
  - b. The governor shall appoint one member for a term of two years which expires in odd-numbered years.
  - c. The member appointed by the governor must be actively engaged in business in this state.
  - d. The remaining committee members must consist of:
    - (1) One representative from the independent community banks of North Dakota;
    - (2) One representative from the North Dakota bankers association;
    - (3) The commissioner of commerce or the commissioner's designee;
    - (4) The president of North Dakota state university or the president's designee; and
    - (5) The agriculture commissioner or the commissioner's designee.
  - e. The committee shall elect one of its members as chairman.
2. The agriculture diversification and development committee shall develop guidelines for the grants, including eligibility criteria and reporting requirements. The guidelines must include priority for businesses with a majority of the ownership comprised of North Dakota residents. The agriculture diversification and development committee shall review grant applications and make funding determinations. Members of the committee are entitled to be reimbursed for expenses incurred in the performance of their duties, in the same manner as other state officials are reimbursed, in accordance with sections 44-08-04 and 54-06-09. If not otherwise employed by the state of North Dakota, members of the committee are entitled to receive per diem compensation of one hundred thirty-five dollars for each day of attending meetings and performing other duties relating to official business of the committee.

#### **4.1-01.1-09. Agriculture diversification and development fund grants program - Access to records.**

1. To the extent the agriculture diversification and development committee determines the materials or data provided under section 4.1-01.1-07 consist of trade secrets or commercial, financial, or proprietary information of individuals or entities applying for grants with the committee, materials and data submitted to, made by, or received by the committee, are not public records subject to section 44-04-18 and section 6 of article XI of the Constitution of North Dakota, and are subject to section 44-04-18.4.
2. A person may file a request with the committee to have material designated as confidential under subsection 1. The request must contain any information required by the committee and must include at least the following:
  - a. A general description of the nature of the information sought to be protected;
  - b. An explanation of why the information derives independent economic value, actual or potential, from not being generally known to other persons;

- c. An explanation of why the information is not readily ascertainable by proper means of other persons;
  - d. A general description of any person that may obtain economic value from disclosure or use of the information, and how the person may obtain this value; and
  - e. A description of the efforts used to maintain the secrecy of the information.
3. A request under subsection 2 is confidential. The committee shall examine the request and determine whether the information is relevant to the matter at hand and is a trade secret under the definition in section 47-25.1-01 or 44-04-18.4. If the committee determines the information is not relevant or not a trade secret, the committee shall notify the requester and the requester may ask for the return of the information and the request within ten days of the notice. If no return is sought, the information and request are public records.
4. The names or identities of independent technical reviewers on a project or program are confidential, may not be disclosed by the committee, and are not public records subject to section 44-04-18 or section 6 of article XI of the Constitution of North Dakota.