

**Fifty-ninth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 4, 2005**

HOUSE BILL NO. 1009  
(Appropriations Committee)  
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the agriculture commissioner; to amend and reenact sections 4-01-21, 4-22-22, 4-37-03, 4-37-04, and 19-18-04 of the North Dakota Century Code, relating to the salary of the agriculture commissioner, compensation of supervisors of soil conservation districts, the agriculture in the classroom program, and pesticide registration fees; to provide a contingent appropriation; to provide for a legislative council study; and to provide for transfers.

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

**SECTION 1. BASE LEVEL FUNDING INFORMATION.** The amounts identified in this section represent the base level funding component appropriated to the agriculture commissioner in section 3 of this Act as follows:

Salaries and wages	\$4,494,970
Operating expenses	3,359,825
Capital assets	8,000
Grants	100,000
Board of animal health	869,464
State meat inspection	763,461
Pride of Dakota	180,948
Wildlife services	800,000
Safe send	308,870
Noxious weeds	1,596,836
Crop harmonization board	25,000
Agriculture in the classroom	45,000
Total all funds - Base level	\$12,552,374
Less estimated income - Base level	<u>8,318,849</u>
Total general fund - Base level	\$4,233,525

**SECTION 2. FUNDING ADJUSTMENTS OR ENHANCEMENTS INFORMATION.** The amounts identified in this section represent the funding adjustments or enhancements to the base funding level for the agriculture commissioner which are included in the appropriation in section 3 of this Act as follows:

Salaries and wages	\$1,243,463
Operating expenses	896,050
Capital assets	(3,000)
Grants	1,674,225
Board of animal health	1,309,224
Contingent appropriation - wildlife services	130,000
State meat inspection	(763,461)
Pride of Dakota	(180,948)
Wildlife services	(800,000)
Safe send	(308,870)
Noxious weeds	(1,596,836)
Agriculture in the classroom	<u>(45,000)</u>
Total all funds - Adjustments/enhancements	\$1,554,847

Less estimated income - Adjustments/enhancements	<u>1,294,916</u>
Total general fund - Adjustments/enhancements	<u>\$259,931</u>

**SECTION 3. 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 that agency, for the biennium beginning July 1, 2005, and ending June 30, 2007, as follows:

Salaries and wages	\$5,738,433
Operating expenses	4,255,875
Capital assets	5,000
Grants	1,774,225
Board of animal health	2,178,688
Contingent appropriation - wildlife services	130,000
Crop harmonization board	<u>25,000</u>
Total all funds	\$14,107,221
Less estimated income	<u>9,613,765</u>
Total general fund appropriation	<u>\$4,493,456</u>

**SECTION 4. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION FUND.** The estimated income line item in section 3 of this Act includes the sum of \$2,855,077, or so much of the sum as may be available, from the environment and rangeland protection fund for the purpose of defraying the expenses of various agriculture department programs, for the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 5. ANHYDROUS AMMONIA STORAGE INSPECTION FUND.** The estimated income line item in section 3 of this Act includes the sum of \$61,410, or so much of the sum as may be available, from the anhydrous ammonia storage inspection fund for the purpose of defraying the expenses of regulating anhydrous ammonia storage facilities, for the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 6. ESTIMATED INCOME - GAME AND FISH FUND.** The estimated income line item in section 3 of this Act includes the sum of \$700,000, or so much of the sum as may be necessary, from the game and fish department operating fund for the purpose of defraying the expenses of various agriculture department programs for the biennium beginning July 1, 2005, and ending June 30, 2007.

**SECTION 7. TRANSFER.** The commissioner shall transfer \$200,000 from the environment and rangeland protection fund to the minor use pesticide fund.

**SECTION 8. AMENDMENT.** Section 4-01-21 of the North Dakota Century Code is amended and reenacted as follows:

**4-01-21. Salary of agriculture commissioner.** The annual salary of the agriculture commissioner is ~~sixty six thousand five hundred nine dollars through December 31, 2001, sixty eight~~ seventy-one thousand five hundred four ~~seventy~~ seventy dollars through June 30, ~~2002~~ 2006, and ~~sixty nine~~ seventy-four thousand eight hundred ~~seventy-four~~ forty-nine dollars thereafter.

**SECTION 9. AMENDMENT.** Section 4-22-22 of the North Dakota Century Code is amended and reenacted as follows:

**4-22-22. Supervisors - Terms of office - Vacancies - Removal - Compensation - Expenses.** At the general election to be held in 1972, three district supervisors must be elected. The candidate receiving the largest number of votes is elected for a six-year term; the candidate receiving the second highest number of votes is elected for a four-year term; and the candidate receiving the third highest number of votes is elected for a two-year term. At each succeeding general election, one supervisor must be elected for a term of six years, or until the successor is duly elected and qualified, to each expiring or vacant term. In newly formed districts, three supervisors must be elected at the first

general election following the district's organization. The candidate receiving the largest number of votes is elected for a six-year term; the candidate receiving the second highest number of votes is elected for a four-year term; and the candidate receiving the third highest number of votes is elected for a two-year term. At each succeeding general election, one supervisor must be elected for a term of six years, or until the successor is duly elected and qualified, to each expiring or vacant term. The county auditor of the county or counties in which the district lies shall return to the secretary of state before four p.m. on the tenth day following any general election a certified abstract of the votes cast in the county at the election for each candidate for district supervisor. The secretary of state shall canvass the returns and issue certificates of election under chapter 16.1-15.

In order to be eligible for election to the office of supervisor, candidates must be land occupiers and physically living in the district. Candidates must be elected on a nonpartisan ballot. In case the office of any supervisor, for any reason, becomes vacant, the remaining members of the board of supervisors shall, with the advice and consent of the committee, fill the vacancy by appointment. If vacancies occur in the office of two supervisors, the remaining supervisor and the committee shall fill the vacancy; and in case the offices of all supervisors of a district become vacant, the committee shall fill the vacancies by appointment. A supervisor appointed to fill a vacancy holds office until the next general election. A supervisor elected to fill a vacancy serves the balance of the unexpired term in which the vacancy occurred.

Any soil conservation district, upon resolution of the three elected supervisors, may appoint two additional supervisors who shall serve for a term of one year from and after the date of their appointment. Such supervisors must be appointed by a majority of the three elected supervisors and have all the powers, voting privileges, duties, and responsibilities of elected supervisors, except that the expense allowances of the appointed supervisors must be paid by the local soil conservation district concerned. As far as possible, the appointed supervisors shall represent interests within the district which are not represented by the elected supervisors.

Any supervisor of a soil conservation district may, after notice given and hearing held in accordance with chapter 28-32, be removed from office by the committee.

The supervisors of soil conservation districts are entitled to receive, upon a majority vote of the supervisors, up to ~~twenty-five~~ sixty-two dollars and fifty cents for attending each regular or special meeting or for attending other meetings or events in the performance of their official duties as compensation for their services. Supervisors of soil conservation districts are entitled to receive travel and subsistence expenses necessarily incurred in attending district, state, or other meetings. The compensation and all other expenses including travel incurred by district supervisors while transacting district business must be paid from district funds.

**SECTION 10. AMENDMENT.** Section 4-37-03 of the North Dakota Century Code is amended and reenacted as follows:

**4-37-03. Purpose - Powers and duties.** The agriculture in the classroom council ~~shall~~ may provide grants and ~~contracts to individuals and organizations that conduct~~ contract with any person for the provision of an agriculture in the classroom program ~~to develop, the development of~~ the development of agricultural curriculum activities ~~and train applicable to students from kindergarten through grade twelve, and the training of~~ applicable to students from kindergarten through grade twelve, and the training of teachers in ~~these~~ these agricultural curriculum activities ~~for grades kindergarten through twelve in this state's public school system.~~ The council shall work with ~~all educators, including teachers,~~ all educators, including teachers, the superintendent of public instruction, the department of career and technical education, the United States department of agriculture, and the state agriculture commissioner in accomplishing ~~its~~ this purpose. The council ~~shall render services consistent with this purpose which include~~ may:

1. ~~Consultations~~ Consult with the state superintendent of public instruction, the department of career and technical education, the state agriculture commissioner, and the United States department of agriculture.
2. ~~Preparation of~~ Prepare instructional, informational, and reference publications on the North Dakota agricultural economy and rural lifestyles.

3. Provide training programs for public school teachers in ~~developed~~ agricultural curriculum activities.
4. Encourage research on and identification of new instructional, informational, and reference publications relating to this state's agricultural economy and rural lifestyles.
5. Monitor the quality and condition of the agriculture in the classroom program.

**SECTION 11. AMENDMENT.** Section 4-37-04 of the North Dakota Century Code is amended and reenacted as follows:

**4-37-04. Gifts and grants.** ~~In order to carry out its duties under this chapter, the~~ The agriculture in the classroom council may ~~contract for and~~ accept and expend private contributions, gifts, and grants-in-aid from the federal government, private industry, and other sources. ~~Additional income must be spent~~ The council shall expend any moneys received under this section for the designated purpose designated, if any, in if a purpose is included as a condition of the gift, grant, or donation. ~~The funds must be used to contract with individuals or organizations that conduct an agriculture in the classroom program~~ council may use all other moneys received under this section to carry out the purposes of this chapter.

**SECTION 12. AMENDMENT.** Section 19-18-04 of the North Dakota Century Code is amended and reenacted as follows:

**19-18-04. (Effective through June 30, 2005 2007) Registration - Fees.**

1. Any person before selling or offering for sale any pesticide for use within this state shall file biennially with the commissioner an application for registration of the pesticide. The application must:
  - a. Give the name and address of each manufacturer or distributor.
  - b. Give the name and brand of each product to be registered.
  - c. Be accompanied by a current label of each product to be registered.
  - d. Be accompanied by a registration fee of three hundred fifty dollars for each product to be registered. At the close of each calendar month, the commissioner shall transmit to the state treasurer all moneys received for the registrations. The state treasurer shall credit fifty dollars for each registered product to the general fund in the state treasury and the remainder of the registration fee for each registered product to the environment and rangeland protection fund.
  - e. Be accompanied by a material safety data sheet for each product to be registered.
2. The commissioner may require an applicant or registrant to provide efficacy, toxicity, residue, and any other data necessary to determine if the pesticide will perform its intended function without unreasonable adverse effects on the environment. If the commissioner finds that the application conforms to law, the commissioner shall issue to the applicant a certificate of registration of the product.
3. Each registration covers a designated two-year period beginning January first of each even-numbered year and expiring December thirty-first of the following year. A certificate of registration may not be issued for a term longer than two years, and is not transferable from one person to another, or from the ownership to whom issued to another ownership. A penalty of fifty percent of the license or registration fee must be imposed if the license or certificate of registration is not applied for on or before January thirty-first following the expiration date. Each product must go through a two-year discontinuance period in order to clear all outstanding products in the channel of trade.

4. This section does not apply to a pesticide sold by a retail dealer if the registration fee has been paid by the manufacturer, jobber, or any other person, as required by this section.

**(Effective July 1, 2005 2007) Registration - Fees.** Any person before selling or offering for sale any pesticide for use within this state shall file biennially with the commissioner an application for registration of the pesticide. The application must:

1. Give the name and address of each manufacturer or distributor.
2. Give the name and brand of each product to be registered.
3. Be accompanied by a current label of each product to be registered.
4. Be accompanied by a registration fee of three hundred dollars for each product to be registered. At the close of each calendar month, the commissioner shall transmit to the state treasurer all moneys received for the registrations. The state treasurer shall credit fifty dollars for each registered product to the general fund in the state treasury and the remainder of the registration fee for each registered product to the environment and rangeland protection fund.
5. Be accompanied by a material safety data sheet for each product to be registered.

The commissioner may require an applicant or registrant to provide efficacy, toxicity, residue, and any other data necessary to determine if the pesticide will perform its intended function without unreasonable adverse effects on the environment. If the commissioner finds that the application conforms to law, the commissioner shall issue to the applicant a certificate of registration of the product.

Each registration covers a designated two-year period beginning January first of each even-numbered year and expiring December thirty-first of the following year. A certificate of registration may not be issued for a term longer than two years, and is not transferable from one person to another, or from the ownership to whom issued to another ownership. A penalty of fifty percent of the license or registration fee must be imposed if the license or certificate of registration is not applied for on or before January thirty-first following the expiration date. Each product must go through a two-year discontinuance period in order to clear all outstanding products in the channel of trade.

This section does not apply to a pesticide sold by a retail dealer if the registration fee has been paid by the manufacturer, jobber, or any other person, as required by this section.

**SECTION 13. CONTINGENT APPROPRIATION - WILDLIFE SERVICES.** The contingent appropriation - wildlife services contained in section 3 of this Act is a contingent appropriation out of any moneys in the game and fish fund, not otherwise appropriated, to the agriculture commissioner for the wildlife services program. This funding is in addition to the funding identified in section 6 of this Act. If the federal funding for the cooperative wildlife damage management program for North Dakota wildlife services for federal fiscal year 2006 is less than \$400,000, then \$65,000 of the appropriation is available for wildlife services programs and if the same federal funding is less than \$400,000 for federal fiscal year 2007, an additional \$65,000 of the appropriation is available for wildlife services programs.

**SECTION 14. LEGISLATIVE COUNCIL STUDY - MEAT INSPECTION LICENSE FEES.** The legislative council shall consider studying, during the 2005-06 interim, the feasibility and desirability of implementing a license fee for businesses receiving state meat inspection program services and whether the fee would impact the number of businesses that would use the federal meat inspection service rather than the state service. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixtieth legislative assembly.

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Speaker of the House

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Chief Clerk of the House

\_\_\_\_\_  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-ninth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1009.

House Vote:      Yeas    88      Nays    2      Absent    4

Senate Vote:    Yeas    45      Nays    0      Absent    2

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Chief Clerk of the House

Received by the Governor at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

Approved at \_\_\_\_\_ M. on \_\_\_\_\_, 2005.

\_\_\_\_\_  
Governor

Filed in this office this \_\_\_\_\_ day of \_\_\_\_\_, 2005,

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State