

2011 SENATE APPROPRIATIONS

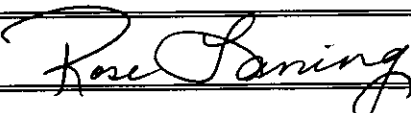
SB 2009

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2009  
January 13, 2011  
12852

☐ Conference Committee

Committee Clerk Signature	
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### Explanation or reason for introduction of bill/resolution:

A Bill for an Act to provide an appropriation for defraying the expenses of the agriculture commissioner.

### Minutes:

See attached testimony #1 -3.
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**Chairman Holmberg** called the committee hearing to order on SB 2009. Roll call was taken.

Tammy R. Dolan & Tad H. Torgerson – OMB; Brady Larson –Legislative Council.

### Rep. Matt Klein, District 40, Minot

Testimony attached - # 1. Testified in favor of SB 2009

He presented an amendment that was overlooked when the bill was put together. It gives the agriculture commissioner the authority to issue special events permits for the wine industry. There are a number of wineries in this state and they provide over a half million dollars to the tax fund and they need help to continue growing, but this bill gives the agriculture commissioner some authority to continue expanding it. He asked the committee to look favorably upon the amendment because it was simpler than running a separate bill.

### Doug Goehring, Agricultural Commission, State of North Dakota

Handed out Budget Presentation for the 2011-2013 Biennium - Testimony attached - #2.

The commissioner pointed out the Mission Statement on page 3 and the flow chart of administration Page 4. He introduced Deputy Commissioner **Bob Christmann**; State Veterinarian **Dr. Susan Keller**; **Ken Junkert**, Admin. Services; **Jim Gray**, Pesticide, Feed and Fertilizer; **Wayne Carlson**, Livestock Development Division; **Judy Carlson**, Plant Industry Division; **Chuck Fleming**, Business Development.

Starting on page 5, he gave a brief explanation of the program services the department provides.

Page 6 – Plant Industries division –

**Senator Warner** asked if the issue of Colony Collapse had resolved itself or should we anticipate future problems.

**Doug Goehring** replied that the Colony Collapse Disorder is still a major issue in the United States. Most of the states bees go to California over the winter. The issue was identified in CA with varroa mites which they believe is the problem with Colony Collapse Disorder in honey bees. They are studying whether there is a connection between the two. Almost 1/3 of honey bees in US have died and it still continues to be an issue.

**Senator Warner:** Is ND the #1 producer of honey?

**Doug Goehring:** Yes, and California is #2. ND is great place to have bees reside over the summer and to rebuild and replenish their stocks, as well as the beehives and bees themselves.

(continuing on page 7 – Livestock development)

**Senator Robinson:** There have been reductions from the federal government in terms of funding. We have serious problems with the coyote population. Where are we at and what funding do we have for nuisance species.

**Doug Goehring** explained some of the issues with beavers, coyotes, blackbirds – the nuisance species that cause harm and damage. The department has requested \$348,000 in the Governor's Executive Budget concerning the wildlife services program. They understand there is a lack of funding. It didn't help in the way the contracts were previously written between the State of North Dakota and USDA. They were interpreted in a way that put us in a worse position and they will address it. It came to their attention as they got later into this last year. There is a shortfall and an issue that needs to be addressed. The federal government is not providing as much funding to the states on multiple programs.

**Chairman Holmberg:** Was there a recent performance audit done and it wasn't favorable. Asked the Council to provide the committee with the performance audit.

(Continuing page 7 with State Meat & Poultry Inspection)

**Senator Warner** asked how many large animal veterinarians there are and if more are needed. What kinds of training programs are there with the recruitment and retention of veterinarians? Could he also comment on health of dairy industry in ND?

**Doug Goehring** said there is a concern about the availability of large animal veterinarians - especially with the aging vet population. He does not have the numbers but could provide them at a later date. He's aware of some programs at the national level to entice individuals into veterinary medicine. The dairy industry is a great concern because there are less than 200 dairy facilities in North Dakota. He pointed out that the dairy industry is like the chicken & the egg. If you lose the processors, you don't have the ability to support the dairies that are out there and if you have the dairies, but don't have processing facilities, then you affect the viability of the dairy industry itself and the producers that exist within the state.

**Gary Hoffman, North Dakota Dairy Coalition** (meter 26:23) said the dairy numbers have continued to drop. It's an older aging industry but there are 158 dairies in state. We've gone through a time period where dairy prices were at record 20 year lows. We dropped from \$20 milk to \$9 milk. It eroded the equity many dairies had in their operation. Internally, we have numerous dairy operations in the state that have permits in hand that would like to

grow, but farmers lost a lot of their equity. (meter 27:56). They are sitting on permits and would like to grow, but the bank has been reluctant to provide that money. They are currently working with two Dutch families and a German family that would like to build new dairies anywhere from 1500 to 5000 head. They are working with them along with the Agriculture and Commerce Departments to try and make those projects happen. Another family is looking for a 400 cow dairy because milk prices have rebounded some. With the help of some APUC funding, there is a feasibility study going on a specialty cheese processing plant. Because of the markets, we can't just produce commodity cheddar cheese; we need specialty cheese that demands the high market prices at the retail levels.

**Senator Robinson** asked what the average size of dairy herd is in ND right now.

**Gary Hoffman** replied the average is 125-130 head. They range from 50-60 cow herds to 1700 near Milnor. There is a brand new dairy over near Carrington and they are permitted for 1500 head.

**Senator Grindberg** asked **Gary Hoffman** to expound on the INS (Immigration & Naturalization Service) office and dairy producers.

**Gary Hoffman** replied that ND isn't on radar screen as far as the dairy industry goes, but they can't get locals to work, even though they are good paying jobs. They are also caught in an awkward position because if they do background checks, they get in trouble for discrimination. If a guy shows up with papers in hand, you have to depend on the employee having the correct papers. If you don't hire him, you're discriminating.

**Doug Goehring** (continuing on page 11 with the budget.) (meter 34:01)

Also handed out Agriculture Commissioner's Budget Additional Requests – Testimony attached - # 3.

**Senator Erbele** asked if the commissioner was able to move within the different departments. Are the FTEs flexible, and can move between departments if there is down time in one. The salaries in business development have taken a jump and the salaries in pesticides, feed and fertilizer have come down so are you dropping or adding FTEs?

**Doug Goehring**: When I came in department, I tried to find the best way to utilize people's talents and skills. I worked with my staff to identify people and how we could best utilize them in different areas. We have been doing cross training. If we're talking about general services that could be provided or provide for support, we can do some of that, but not always move staff around. Continuing on page 8 (of testimony #2), that reflects the sustainable ag program. The governor put that into his budget, that is, operating and personnel and was actually the 2011 biennium. We found there was a timeline with no appropriation. We put in a request that the sustainable ag program was going to stay in place. We needed to have the funding there. In Pesticide, Feed and Fertilizer, we have a decrease there. Some is through less spending authority, but we have also replaced funds for personnel such as, Jim Gray. He is no longer federally funded. His duties were changed to advocate more for pesticides, fertilizer and agriculture in general and I can't

have an employee using federal funds to go lobby against the federal policies. That was the request, that we shifted some funding sources there.

(Continuing attachment #3)

**Senator Robinson** asked about the fulltime temporary outreach specialist responsible for maintenance of the developed department website. Who would pick up these duties at end of that temporary assignment? Would they be re-assigned in the department?

**Doug Goehring** said that they hoped to have things worked out by then. The electronic communication is a new area but it's spreading like wildfire. If we start the program, we do a better job of framing it, putting it into place and it's functioning, we can, at that point in time, determine how we need to proceed forward at a later date. If we need to fund a part time person there or would it need to be a full time person. But our ability to do a better job communicating with the public and with the ag community is moving more and more toward electronic communications.

**Senator Robinson** said he thinks it may be difficult to end this position at the end of two years because of the demands and growth in this industry. Asking about wildlife services, the \$338,000 shortfall.

**Doug Goehring** said he's been approached by different legislators who want to introduce legislation concerning appropriation for the 2011-13 biennium. We chose to allow them to move forward and identify how they wanted to do that. We thought about putting it in the budget requests.

**Senator Robinson:** If it's not on list, it's not a priority and that becomes a problem for us to sell it in the legislature.

**Chairman Holmberg** questioned the FTEs. Were they presented to OMB and the budget process and were turned down?

**Doug Goehring** said all of the top ones were put forward. Those under the Ag Mediation Service, those two requests were not submitted to the governor.

**Chairman Holmberg** asked about the .5 marketing specialist where the request is to increase to 1. It's not seen on the green sheet, but his understanding is that .5 is an existing FTE position and you are asking for another .5. It wasn't something that was added in the governor's budget? The initial .5 is already there.

**Doug Goehring** replied that is correct and said they received funding for that and they are looking for the funding for the other ½.

**Chairman Holmberg:** If that other .5 isn't added, what happens to this .5 position?

**Doug Goehring** said they will make do with whatever you give us. We will take all the resources available and serve this state's largest economic engine to the best of our abilities. My request here is in response to what we are dealing with concerning the federal government. We are defending ourselves from our own federal government concerning

rules and regulations. In response to that, I need more warm bodies and the ability to address all the multiple issues that we seem to be faced with.

**Chairman Holmberg** closed the hearing on SB 2009.

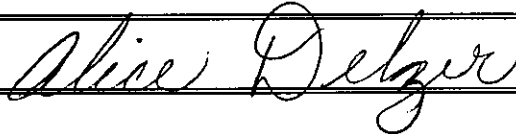
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2009  
01-25-2011  
Job # 13373 (Meter 11.18-13.14)

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A DISCUSSION ON THE AGRICULTURE COMMISSION (Several bills were discussed on the Job: 2001, 2002, 2003, 2004, 2005, **2009**, 2012, 2013, 2018, 2020

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg:** We will move on to **Ag commissioner, SB 2009**. We did appoint a subcommittee in the Ag Commission. They are Senator Christmann, Senator Wanzek and Senator Robinson. Was there anything that you all want them to look at? There were additional budget requests from the Commissioner.

**Senator O'Connell:** I think that predator control has been talked about and I would like to know where that's going in Wildlife Services.

**Senator Christmann:** We had initial discussion meetings of the various things we wanted to go over on both Ag and Game and Fish and that's probably the biggest issue on both of them. We'll be addressing that.

**Chairman Holmberg:** Which one had the deer on the hay?

**Senator Christmann:** That was Game and Fish and they defoliated two of my pine trees now. The deer did that.

**Senator Krebsbach:** There were proposed amendments by Rep. Klein that had to do with the wine industry. (Her microphone was not on)

**Chairman Holmberg:** Does the subcommittee have their copy of proposed amendments? That had to do with the wine industry.

**Discussion closed on SB 2009. (Meter 11.18 – 13.14)**

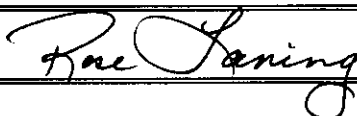
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2009  
January 26, 2011  
Job # 13488

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

This is a subcommittee meeting for a bill for the Agriculture Commissioner.

### Minutes:

See attached testimony - #A

**Senator Christmann** called the subcommittee hearing on SB 2009.

**Senator Christmann; Senator Wanzek Senator Robinson  
Doug Goehring, Lynette Baumiller, Ken Junkert**

Tammy R. Dolan – OMB; Brady Larson Legislative Council

**Senator Christmann** handed out attachment # A – Field Specialists FY 2011 from Wildlife Services for the committee's information.

**Senator Christmann** asked about Rep. Klein's amendment recommendation dealing with the wine industry.

**Doug Goehring** said the amendment was to address the issue surrounding the ability to issue a permit at special events for Pride of Dakota members – more specifically, the wine industry. They want to be able to get out and get the exposure. They have a limited amount of permits they can use throughout the year to promote the ND wine industry.

(Discussion centered on the anhydrous ammonia industry tonnage fees and divided inspections with the insurance department as well as education compliance and audits. Also EPA involvement in a risk management plan for anhydrous)

**Doug Goehring** was concerned with the EPA intrusion and levying fines. Doug said they work with businesses and help them comply with the law and that way they don't have to levy fines. They end up being in compliance and then when they are audited by EPA, they find out the state is doing their job and performing the service. Doug Goehring said the department doesn't have the ability to change the rules or regulations, but they can debate them and through interpretation with EPA to look at certain rules and say this is how we believe it should be enforced. Then they prevent EPA from continuing to levy fines,



violations and pursue our agricultural producers and those entities that provide service to agriculture.

**Doug Goehring** said they need to continue inspection services or EPA will continue to look for violations and levy fines.

**Ken Junkert** said HB 1321 is an anhydrous bill that is coming forward to address the combination of efforts into one agency – the ag dept. Ken said he met with the insurance department and helped write the fiscal note for this bill. The bill strikes the insurance commissioner and adds agriculture commissioner. If the bill would pass, it would be an impact of \$410,328 for the Agriculture Commissioner to assume all that work into one shop. The insurance department pays for a portion of the program through the anhydrous ammonia fund, and they pay a portion of the program through the Fire and Tornado fund. They have difficulty in the budget covering the portion of their inspection program. The struggle with how to pay for all these services.

(Discussion continued on the frustrations in dealing with two different agencies. Also the FTEs needed in the Agriculture Department and the sustainable ag program as well as Ag in the Classroom.)

Discussed John's disease, disease outbreak and the state veterinarians.

**Senator Christmann** closed the subcommittee hearing on SB 2009

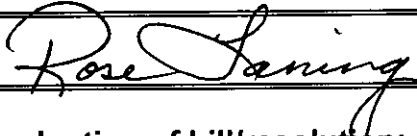
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2009  
January 27, 2011  
13574

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

This is a subcommittee hearing on SB 2009 in regard to the Wildlife services division.

### Minutes:

See attached testimony B, C & D

**Senator Christmann** called the subcommittee hearing to order on SB 2009.  
**Brady Larson** - Legislative Council; **Tammy R. Dolan** - OMB

Those in attendance were: **Senator Christmann, Senator Wanzek, Senator Robinson, Phil Mastrangelo, ND Wildlife Services Director, USDA; John Paulson, District Supervisor, USDA Wildlife Services Doug Goehring, Agriculture Commissioner; Lynette Baumiller, Ken Junkert**

**Chris Erickson** – from Beulah Beacon, Beulah, ND

**Senator Christmann:** Just to clarify – we are \$186,778 short to get through this biennium and \$348,246 expected additional for next biennium.

There was an audit last summer and a follow up audit. Thoughts (to Phil Mastrangelo) talk revolves around an opening that you filled with a fairly highly trained person. When the budgets are getting short, I'm wondering why that wasn't done here.

**Phil Mastrangelo:** We had opening in January 2009. A long time employee who worked out of Elgin retired and we had a choice. What do we want to do with that position? We understood that we'd have some budget issues, and we had to decide if we wanted to leave that position open to have some salary savings or do we want to try to : (3 options)

1. Leave it open for awhile and make-up for some projected shortfalls in our funding.
2. Fill the position with an entry level position with a lower salary and try to pick up the workload in that 5 county area with our other existing personnel, or
3. Bring in an experienced person. We looked at the option of leaving the position open and that would've meant two things; either not provide service to those in the 5 county area or try to use the remaining eight personnel that are scattered throughout the state and broaden their responsibilities to cover those areas. This area is in the SW part of North Dakota. That was out of the question – trying to ask our eight people to cover more responsibilities than they are currently doing.

We had the opportunity to bring in this experienced individual. He had twenty years of experience in our program in Wyoming. We could have brought in a less seasoned employee for a lower grade level and salary, but we wanted to make that transition as seamless as possible meaning we want to hit the ground running and we were able to do that by bringing in this 20 year employee. We didn't have to provide him with any training at all on technical skills or administrative training. The only thing he had to learn was how to find his way around that 5 county area. That was a decision that I made and I felt it was the right thing to do. Over the course of that one year time that's he's been there, he's provided assistance to almost eighty different land owners. If we hadn't brought him in, there was no way that we could've provided that same level of service with our existing personnel unless we'd have left that whole 5 county area vacant.

The questions were raised because he came over with a high salary. When he came to this position, the federal government has a lateral transfer and he transferred laterally from the Wyoming program to the North Dakota program. He came over with the same salary he had when in Wyoming. Also, what transferred with him is the annual comp time sick leave. By federal regulations, that transferred with him... That was an issue that came up with him. When he got settled into Elgin, per federal guidelines, federal regulations say that a person with a lateral transfer, is eligible to spend up to 80 hours of administrative time to help settle into their new locality; dealing with banks, dealing with houses, setting up everything that goes with a new house, post office, utilities, etc. He used about 40 hours of that allowed time.

If we look at the terms of our contract with the Ag Dept., there's a line in there that we will abide by federal laws and department regulations. Per the language in that agreement, I felt that what we did was above board and everything the agreement said we could do. So we brought that individual in and it was a seamless transition. He was able to provide assistance to 77 or 78 landowners in that 5 county area.

**Senator Christmann:** So there are some coyotes that thought it was a terrible move?

**Phil Mastrangelo:** Yes there were and a few beaver too. We're all about delivering service. It was as seamless as possible transition.

**Senator Wanzek:** When the federal requirements come with them as far as sick time, leave time, do federal dollars come with that? **Phil Mastrangelo** said no.

**Senator Wanzek:** Then his time that he accumulated while in Wyoming becomes our responsibility.

**Phil Mastrangelo** said that is correct and that the leave transfers to the station that he's at. If our agreement had said that I was paying his salary and benefits, then it would've fallen under our responsibility, but the agreement with the Ag Dept. says that salaries and benefits of these employees will be covered with state funds.

On other hand, when our employee retired, he had some annual leave not used up; that was annual leave that he accrued while working under this contract. When he retired, I was obligated to pay him for that annual leave. I paid that with my federal dollars even tho it was accrued under the contract. It was paid with federal dollars and not state dollars.

**Senator Wanzek:** I'm still a little confused. He came with leave time. And he hasn't utilized it yet? Answer - No. But we are obligated to pay for it?

**Phil Mastrangelo** said yes, that if he has to take sick leave, it would be paid for with state dollars.

**Senator Wanzek:** And that's a federal requirement in a lateral move. Answer - Yes.

**Senator Robinson:** There have been previous issues regarding budgets and finances, audit concerns, and we hear from constituents that were very upset that we might lose some seasoned veterans that are going to be furloughed. What is the pattern here because apparently there was more than one incident – over the last few years.

**Phil Mastrangelo:** This issue about funding is not an acute problem and didn't just happen this year. This has been a long standing issue with this entire contract and the service we provide to North Dakotans. The ten years that I've been here and previous to that, whenever we run short, we have set amount of dollars in our contract with the state of ND and whenever that would run out, we'd make up for it with federal dollars. We were always able to do that and it was just standard. It was not a very good business practice, but it was the business practice that we had to work with. We'd run short, we'd make up for it. How do we make up for shortfalls? Well we would not make capital gains improvements, like vehicles. We would not replace vehicles. We would save that money and apply it towards the salaries of these employees. This is nothing new. We signed a contract with the state and we'd look at it and say "This is not going to be enough money", I know that. But we were always able to make up with it with federal dollars. In the previous biennium, I think we applied \$178,000 of federal dollars to make up for these shortfalls. As we moved into the current biennium, the amount that I was able to make up with federal dollars dropped to \$78,000. We were just robbing Peter to pay Paul.

**Senator Robinson** said that if they don't make changes with the formula, you're saying this problem will continue and maybe even worsen.

**Phil Mastrangelo:** I think so. The figures we're talking about right now that make up the shortfall in the current biennium, the projected shortfall in the upcoming biennium, if we're able to get those dollars, that just puts us on the level playing field that we are right now. We'll be able to keep our pilot and nine field specialists but doesn't allow us to do any program expansion. The land owners across the state have three complaints that they raise in the form of a question; 1) Why are there only 9 people across the state? 2) Why is there only one airplane? 3) Why isn't the state giving you more money to help us?

**Senator Christmann:** For this biennium, does this new person get paid quite a bit higher than the previous person. How much of this \$187,000 is because of that salary? Where did we end up short? I thought we left here last session thinking that we had enough left for the biennium.

**Phil Mastrangelo:** In the last session, when Roger Johnson was Ag Commissioner, he submitted an enhancement request of maybe \$400,000 – the full amount was not granted.

When the previous session ended, we got an increase in money. The legislature has been extremely gracious to this program, but it was never enough to cover all the costs. We made it up with federal dollars. The new individual's salary was slightly less than the person who retired. If he had not retired, it would almost seamless in the sense of the experience level, the pay scale and the amount of annual leave and sick leave that he had. The individual we brought in had high level sick leave simply because the individual that retired had injured his back on the job and had several job related back surgeries.

**Senator Christmann** said the \$187,000 just slowly....You've known it's been coming since the biennium started.

**Phil Mastrangelo:** We had a retirement, what do we do? Do we make up a salary savings? Then I thought about those land owners that had service for 20 years and longer. There was no way to absorb that 5 county area into the work duties of the eight remaining field specialists.

**Senator Robinson:** If something doesn't happen ASAP, you'll be forced to furlough how many people? Are they job searching?

**Phil Mastrangelo:** There is a lot of angst in this department. The worst conversation was in December when I told them the magnitude of what may happen to them. We have a shortfall and a number of people in this program that are not linked to this contract as far as our salaries. How do I handle the furlough if we have to do it? The guidance I got said the funding source determines who will be subject to furlough. Anyone who receives funding through that contract with state funds, those are the individuals who are subject to the furlough. Those individuals are nine field specialists and a pilot. They are all tied to this contract. We don't have the money to carry on through the last quarter of the current biennium.

**Senator Wanzek:** You said your salaries or wages, I'm assuming are the administrative costs of running the office, you don't use the state dollars; you use federal dollars to cover that?

**Phil Mastrangelo:** That is correct. The administrative staff consists of 4.5 people: myself as state director; John, supervising field staff; our budget analyst; our office operation assistant; and part-time data technician. We are all paid with federal dollars. If we had a severe drop in our federal dollars, it would be us who would be subject to any kind of furlough, not the field people.

**Senator Wanzek:** The state dollars have mostly been targeted towards those who actually carry out the programs. You can assure me that's where the state dollars went. You're saying there's been more need than dollars. Answer – correct.

**Senator Robinson:** Have your FTE numbers remained stagnant over the years.

**Phil Mastrangelo:** No. Traditionally we had 10 field specialists in the state - and the pilot. We had an unfortunate incident and one of our field specialist died while on the job five or six years ago. There's not enough money, so when Mike passed away, we decided to

reduce our permanent staff from 10 to 9. And we'll divide up the state and have more responsibilities. Our administrative staff is 4.

**Senator Robinson** asked about the process of on-going communication with a combined effort of state and federal funds. Maybe knowing about this problem earlier rather than later might have relieved some tension.

**Phil Mastrangelo:** We're unique in this program because they're a non-regulatory agency. We deal with the Game & Fish Department on a regular basis. We talk about issues with Commissioner Goehring's staff as well. All of us should have been more engaged.

**Senator Christmann:** The \$348,246 - How did you come up with that amount when I assume you're guessing what the feds are going to do.

**Phil Mastrangelo:** When we had the audit two years, one of the best things that happened as a result of that audit, was we changed what we bill the state for. Prior to the audit, we would bill the state for the salaries of the field specialists but not the benefits. We would charge the state for any fuel expenditures for the field staff, but the feds would pick any overnight travel costs. We would bill the state for vehicle maintenance, but not vehicle purchases. That was made with federal dollars. It was a convoluted mess. When we'd sit down and try to sort through this and make projections, it was extremely difficult. I'm a biologist, not an economist. But as a result of the audit, we redefined the terms of the contract. Now the state is just going to reimburse us for salaries and benefits only - fixed costs. And that has made it extremely easy for us to project out into the future because these are federal employees and they are on a federal pay scale. We know, per federal regulations, when they are due for maybe a in-grade increase or federal cost of living increase.

There is some uncertainty here. The only projections we try to make is the federal cost of living increase and there aren't going to be any. We are under a federal continuing resolution until the middle of March. What happens after that is anybody's guess. It comes back to that business practice that we followed; when we're short in this pot of money, we'll make up for it with federal dollars.

(Discussion continued on the avian influenza project and bovine TB surveillance.)

**Senator Robinson** asked if \$348,000 is best figure.

**Senator Christmann:** If we're paying salaries and benefits, that should be fairly close.

**Phil Mastrangelo:** It just keeps the status quo, but there wouldn't be any money to answer the three questions - why can't the state do more to help us.

**Senator Christmann** I had been thinking you had money into April. We have to find where to get the money. If we don't have the money found by early March, these guys will be laid off? Answer - Yes.

**Doug Goehring:** We have engaged Wildlife Services, Phil and John, to discuss how to do a better job of tracking and identifying what it is that's going on with all the monies so we

have the ability to do a better job articulating what those needs are going to be. Over a period of this past year and a half, following this and having multiple meetings to discuss what the shortfall is, how did we get here? I'm going to propose a new contract - a contract for services. We are paying salaries for federal employees that we have no oversight over and we don't employ directly. And the federal government is not sending an appropriation for those employees when there's an increase in salary or benefits. We're going to continue to be behind the eight ball.

(Discussion followed on a new contract and the amount of bargaining power they have. The contract goes through July 1, 2011.

Handed out FY 2010 Federal Funds Applied to the Cooperative Agreement – Testimony attached - # B. Showed the committee what costs the federal government picks up. The feds are still providing more to the state than the state has in their budget.

Wildlife Services' Response to State Auditor Report No. 3026.1 – Attachment # C  
Office of the State Auditor Performance Audit Follow-up Report # 3026.1 – Attachment # D

**Senator Christmann** closed the subcommittee hearing on SB 2009.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2009  
February 17, 2011  
Job # 14705

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A committee vote on the Agriculture Commissioner's budget.

### Minutes:

You may make reference to "attached testimony."

**Senator Christmann** presented amendment 11.8147.01003 – tonnage fees assessed on fertilizer but taking away the Sustainable Ag person. They come close to balancing out, but he Sustainable Ag person was a lot more expensive position. But in order to do this, a law that we passed last time, makes it by code, a requirement that they have this Sustainable Ag person. If we approve all that is suggested here, that would require us to pass the amendment that Senator Wanzek would hand out. It would change it so we wouldn't have to hire that person. More

**Senator Christmann moved Do Pass Amendment 118147.01003**

**Senator Wanzek seconded.**

After discussion, **Senator Christmann** withdrew his motion.

### Vote 1

**Senator Wanzek** passed out amendments 11.8147.01005 and explained that under current law, a program will go into effect July 1, 2011 when the Ag Commissioner will be mandated to implement a program to promote agriculture commodities that are sustainably grown. This is a pro-active approach and felt it was important to have the department follow the trends that is happening in the nation.

**Senator Wanzek moved Do Pass on amendment 11.8147.01005**

**Senator O'Connell seconded.**

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 0

Amendment carried.

### Vote 2

**Senator Christmann** presented amendment 11.8147.01004 putting the tonnage fees into the ERP fund (Environment & Rangeland Protection fund.)

**Senator Christmann moved Do Pass on amendment 11.8147.01004 .**

**Senator O'Connell seconded.**

A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 0

Amendment carried.



**Vote 3 – wine industry**

**Senator Christmann 11.8147.01001**  
**Senator O'Connell seconded.**

**Chairman Holmberg** asked that this amendment was done at the request of the Ag Commissioner?

**Senator Krebsbach** said it's for events promotion where they do wine tasting at functions and it's specified for a day and they want it for an event as in Pride of Dakota promotions.  
**Senator Christmann** said this will be in tax dept bill.

**A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 0**  
**Amendment carried.**

**Vote 4**

**Senator Christmann moved Do Pass as Amended on SB 2009**  
**Senator Wanzek seconded.**

**A Roll Call vote was taken. Yea: 13 Nay: 0 Absent: 0**

**Senator Wanzek will carry.**

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

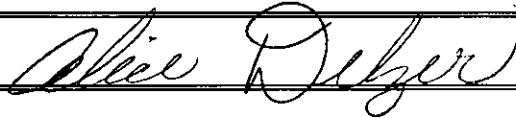
SB 2001, 2004, 2005, **2009**, 2018, 2014

04-05-2011

Job # 16331

☐ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

**DISCUSSION ON SEVERAL BILLS, NO ACTION TAKEN; SENATE BILLS 2001, 2004, 2005, 2009, 2018, 2014.**

### Minutes:

You may make reference to "attached testimony."

**Chairman Holmberg** called the committee to order on Tuesday, April 5, 2011 in the Harvest Room. Roll call was taken.

**Chairman Holmberg:** Our meeting here was to take roll and tell you what we are doing on the 12<sup>th</sup> order today and then to brake out for ½ hour for subcommittee work and then we come back and we will I work on some of the 31 bills that we have left to handle in committee.

SB 2001 is the Governor's budget. The only change the House made is to make it clear that the \$21M plus change, that is a pass-through from the federal government is to be considered one time funding and not to be built into a base budget. I plan to concur on that budget.

SB 2004 is the State Auditor. This committee put in some requirements for a private audit of the process they use up there to do performance audits where there is some concern and complaining about. The House took that out. We will not concur. The Conference Committee will be Grindberg, Holmberg, Robinson.

SB 2005 was the State Treasurer. What they (the House) did there is we had not agreed to the Treasurer's request for more money, we did not put it in. The House put it in. We will not concur. Conference Committee will be Grindberg, Holmberg, Robinson.

**SB 2009 is the Ag. Commissioner.** The House made a bunch of changes. I won't go into them because I don't have them in front of me. **Do Not Concur. The Conference Committee will be Christmann, Wanzek, O'Connell.**

**SB 2018 DO CONCUR,** That's the State Historical Society. They (the House) made minor changes in that and the Historical Society is fine with the changes that they made so we will concur on that and the carrier is Senator Erbele.

SB 2014 on Protection and Advocacy. They (the House) took \$50,000, remember they had a pretty decent increase in funding this time, they took \$50,000 out of that budget. They didn't

tell the agency where to take the money from. They said reduce your general fund by \$50,000. And Senator Christmann isn't here right now, and I would like him to have been here for this. There he is. (Senator Christmann came into the meeting at that time).

**Senator Warner:** I would urge a do not concur.

**Senator Krebsbach:** I would recommend that we do not concur.

**Chairman Holmberg:** OK, we will do not concur. Let us do, he's very busy but, let's do Erbele, and do you want to be on that, Randy, you're pretty busy.

**Senator Christmann:** I can be on that one.

**Chairman Holmberg:** OK, Conference Committee will be Christmann, Erbele, and Warner. That's the end of that. We will come back at 9:40 a.m. The discussion was closed and committee dismissed.

**FISCAL NOTE**  
Requested by Legislative Council  
04/19/2011

Amendment to: Engrossed  
SB 2009

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$785,000)	\$785,000	\$0	\$785,000
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The amendments to SB 2009 amends Sections 19-20.1-03, 19-20.1-03.1, and 19.20.1-06 to deposit fertilizer registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The amended Sections referenced in 2A are estimated to reduce the general fund revenues by \$785,000. The fees will be deposited in the environment and rangeland protection fund.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The revenue estimate is based on historical revenue data. The Department of Agriculture reported the revenue as general funds in the budget we submitted.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

<b>Name:</b>	Kenneth S. Junkert	<b>Agency:</b>	Agriculture
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Phone Number: 328-4756

Date Prepared: 04/19/2011

**FISCAL NOTE**  
Requested by Legislative Council  
03/31/2011

Amendment to:           Engrossed  
                                  SB 2009

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$785,000)	\$785,000	\$0	\$785,000
Expenditures	\$0	\$0	(\$298,600)	\$0	\$0	\$0
Appropriations	\$0	\$0	(\$298,600)	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The amendments to SB 2009 amends Sections 19-20.1-03, 19-20.1-03.1, and 19.20.1-06 to deposit fertilizer registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund; and eliminate the Wildlife Services' line item.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The amended Sections referenced in 2A are estimated to reduce the general fund revenues by \$785,000. The fees will be deposited in the environment and rangeland protection fund. The Wildlife Services' line item was eliminated.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The revenue estimate is based on historical revenue data. The Department of Agriculture reported the revenue as general funds in the budget we submitted.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

The Wildlife Services' line item was eliminated. This amendment results in a \$298,600 general fund reduction in expenditures.

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

The Wildlife Services' line item was eliminated, resulting in a reduction of \$298,600 general fund reduction in appropriations.

<b>Name:</b>	Kenneth S. Junkert	<b>Agency:</b>	Agriculture
<b>Phone Number:</b>	328-4756	<b>Date Prepared:</b>	03/31/2011

## FISCAL NOTE

Requested by Legislative Council  
02/23/2011

Amendment to: SB 2009

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$785,000)	\$785,000	\$0	\$785,000
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2A. Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

The amendment to SB 2009 amends Sections 19-20.1-03, 19-20.1-03.1, and 19.20.1-06 to deposit fertilizer registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund.

**B. Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The amended Sections referenced in 2A are estimated to reduce the general fund revenues by \$785,000. The fees will be deposited in the environment and rangeland protection fund.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

The revenue estimate is based on historical revenue data. The Department of Agriculture reported the revenue as general funds in the budget we submitted.

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kenneth S. Junkert	Agency:	Agriculture
Phone Number:	328-4756	Date Prepared:	02/23/2011



PROPOSED AMENDMENTS TO SENATE BILL NO. 2009

Page 1, line 2, remove the first "and"

Page 1, line 3, after "commissioner" insert "; and to declare an emergency"

Page 1, replace lines 12 and 13 with:

"Salaries and wages	\$8,566,196	\$818,632	\$9,384,828
Operating expenses	6,094,603	274,058	6,368,661"

Page 1, replace lines 15 through 17 with:

"Grants	2,969,825	201,003	3,170,828
State board of animal health	2,563,325	(414,273)	2,149,052
Wildlife services	1,067,400	350,000	1,417,400"

Page 1, replace lines 19 through 22 with:

"Total all funds	\$21,316,349	\$1,241,420	\$22,557,769
Less estimated income	<u>14,094,466</u>	<u>271,457</u>	<u>14,365,923</u>
Total general fund	\$7,221,883	\$969,963	\$8,191,846
Full-time equivalent positions	74.50	0.50	75.00"

Page 2, after line 3, insert:

**"SECTION 3. APPROPRIATION - 2009-11 BIENNIUM - WILDLIFE SERVICES.**

There is appropriated out of any special funds received from the game and fish department, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of providing funding for the wildlife services program, for the period beginning with the effective date of this Act and ending June 30, 2011."

Page 2, line 5, replace "\$4,257,709" with "\$4,627,709"

Page 2, line 15, replace "\$968,261" with "\$1,068,261"

Page 2, after line 24, insert:

**"SECTION 8. EMERGENCY.** Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

Executive  
Budget

Senate  
Changes

Senate  
Version

Salaries and wages	\$9,303,178	\$81,650	\$9,384,828
Operating expenses	6,548,199	(179,538)	6,368,661
Capital assets	17,000		17,000
Grants	3,095,828	75,000	3,170,828
State Board of Animal Health	1,949,052	200,000	2,149,052
Wildlife Services	1,067,400	350,000	1,417,400
Crop Harmonization Board	50,000		50,000
Total all funds	\$22,030,657	\$527,112	\$22,557,769
Less estimated income	13,645,923	720,000	14,365,923
General fund	\$8,384,734	(\$192,888)	\$8,191,846
FTE	74.50	0.50	75.00

### Department No. 602 - Department of Agriculture - Detail of Senate Changes

	Adds Research Analyst FTE Position <sup>1</sup>	Adds Marketing Specialist Position <sup>2</sup>	Removes Sustainable Agriculture Position <sup>3</sup>	Removes Transportation Research Funding <sup>4</sup>	Adds Funding for Honeybee Colony Research Grants <sup>5</sup>	Adds Funding for John's Disease Control <sup>6</sup>
Salaries and wages	\$131,000	\$71,000	(\$120,350)			
Operating expenses	20,000	25,000	(174,538)	(50,000)		
Capital assets						
Grants					75,000	
State Board of Animal Health						200,000
Wildlife Services						
Crop Harmonization Board						
Total all funds	\$151,000	\$96,000	(\$294,888)	(\$50,000)	\$75,000	\$200,000
Less estimated income	20,000	0	0	0	0	0
General fund	\$131,000	\$96,000	(\$294,888)	(\$50,000)	\$75,000	\$200,000
FTE	1.00	0.50	(1.00)	0.00	0.00	0.00

	Adds Funding for Wildlife Services <sup>7</sup>	Adjusts Funding Sources <sup>8</sup>	Total Senate Changes
Salaries and wages			\$81,650
Operating expenses			(179,538)
Capital assets			
Grants			75,000
State Board of Animal Health			200,000
Wildlife Services	350,000		350,000
Crop Harmonization Board			
Total all funds	\$350,000	\$0	\$527,112
Less estimated income	350,000	350,000	720,000
General fund	\$0	(\$350,000)	(\$192,888)
FTE	0.00	0.00	0.50

<sup>1</sup> A research analyst FTE position is added with funding from the general fund for salaries (\$131,000) and funding from the environment and rangeland protection fund for operating expenses (\$20,000).

<sup>2</sup> Funding is added from the general fund for a .5 FTE marketing specialist position (\$71,000) and related operating expenses (\$20,000).

<sup>3</sup> Funding included in the executive budget recommendation for 1 FTE sustainable agriculture program specialist position and related expenses is removed.

<sup>4</sup> Transportation research funding included in the executive budget is removed.

<sup>5</sup> Additional funding is provided for grants to public and private entities engaging in research efforts focusing on honeybee colony health.

<sup>6</sup> Funding for Johne's disease testing and control for livestock is added.

<sup>7</sup> Additional funding is added for the Wildlife Services program from the Game and Fish Department (\$100,000) and the State Water Commission (\$250,000) to provide total funding of \$1,417,400.

<sup>8</sup> The funding source for a portion of rent expense (\$100,000) and a grant to the dairy coalition (\$250,000) is changed from the general fund to the environment and rangeland protection fund.

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A section is also added to provide additional 2009-11 biennium funding from the game and fish fund for the Wildlife Services program, and the section is declared to be an emergency.

Date: 2-17-11  
Roll Call Vote #: \_\_\_\_\_

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2009

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11. 8147. 01003 (Christmann)

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Christmann Seconded By Sen Wanzek

Withdraw Motion

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg			Senator Warner		
Senator Bowman			Senator O'Connell		
Senator Grindberg			Senator Robinson		
Senator Christmann					
Senator Wardner					
Senator Kilzer					
Senator Fischer					
Senator Krebsbach					
Senator Erbele					
Senator Wanzek					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO SENATE BILL NO. 2009

Page 1, line 2, replace "section" with "sections"

Page 1, line 2, after "4-01-21" insert "and 4-01-23"

Page 1, line 3, after "commissioner" insert "and the promotion of sustainably grown commodities"

Page 2, after line 24, insert:

**"SECTION 7. AMENDMENT.** Section 4-01-23 of the North Dakota Century Code is amended and reenacted as follows:

**4-01-23. (Effective July 1, 2011) Sustainably grown in North Dakota - Application - Logo - Promotion of commodities.**

1. The agriculture commissioner ~~shall~~may implement a program to promote agricultural commodities that are sustainably grown in North Dakota.
2. Alf a program referenced in subsection 1 is implemented, the program must require that a producer may apply to file an application with the commissioner and upon demonstrating. If the producer demonstrates that the producer's growing practices with respect to a particular commodity meet the commissioner's established criteria for sustainability, the commissioner shall authorize the producer to label and market the commodity as being sustainably grown in North Dakota.
3. The commissioner ~~shall~~may develop and make available for the use of authorized producers a logo indicating that the commodity is sustainably grown in North Dakota. The commissioner ~~shall~~may actively support and promote the sale and use of products identified as sustainably grown in North Dakota.
4. The commissioner may establish and charge producers a fee for participating in the program. The commissioner shall forward all fees collected under this section to the state treasurer for deposit in the general fund.
5. The agriculture commissioner may engage in research and provide education to members of the public regarding agricultural commodities that are sustainably grown in this state.
6. For purposes of this section, "sustainably grown" means that a crop is grown using research-based practices that result in:
  - a. Increased efficiencies in soil and nutrient preservation;
  - b. Decreased reliance on tillage and other soil-depleting practices;
  - c. Increased efficiencies in the use of water;

- d. Increased efficiencies in the use of other necessary and measurable agricultural inputs;
- e. Increased yield efficiencies; and
- f. Greater economic benefit to producers."

Renumber accordingly

Date: 2-17-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2009

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8147.01005 (wanzek)

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Wanzek Seconded By O'Connell

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO SENATE BILL NO. 2009

Page 1, line 2, remove the first "and"

Page 1, line 2, replace "section" with "sections"

Page 1, line 2, after "4-01-21" insert ", 19-20.1-03, 19-20.1-03.1, and 19-20.1-06"

Page 1, line 3, after "commissioner" insert "and fertilizer distribution registration, licensing, and inspection fees; and to declare an emergency"

Page 1, replace lines 12 and 13 with

"Salaries and wages	\$8,566,196	\$818,632	\$9,384,828
Operating expenses	6,094,603	274,058	6,368,661"

Page 1, replace lines 15 through 17 with:

"Grants	2,969,825	201,003	3,170,828
State board of animal health	2,563,325	(414,273)	2,149,052
Wildlife services	1,067,400	350,000	1,417,400"

Page 1, replace lines 19 through 22 with:

"Total all funds	\$21,316,349	\$1,241,420	\$22,557,769
Less estimated income	<u>14,094,466</u>	<u>271,457</u>	<u>14,365,923</u>
Total general fund	\$7,221,883	\$969,963	\$8,191,846
Full-time equivalent positions	74.50	0.50	75.00"

Page 2, after line 3, insert:

**"SECTION 3. APPROPRIATION - 2009-11 BIENNIUM - WILDLIFE SERVICES.**

There is appropriated out of any special funds received from the game and fish department, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of providing funding for the wildlife services program, for the period beginning with the effective date of this Act and ending June 30, 2011."

Page 2, line 5, replace "\$4,257,709" with "\$4,627,709"

Page 2, line 15, replace "\$968,261" with "\$1,068,261"

Page 2, after line 24, insert:

**"SECTION 8. AMENDMENT.** Section 19-20.1-03 of the North Dakota Century Code is amended and reenacted as follows:



### **19-20.1-03. Registration.**

Each brand and grade of fertilizer, material, foliar fertilizer, micronutrient, specialty fertilizer, soil amendment, or plant amendment must be registered in the name of the person whose name appears upon the label before being offered for sale or distributed in this state. The application for registration must be submitted to the commissioner on a form furnished by the commissioner and must be accompanied by a fee of fifty dollars. Upon approval by the commissioner, a certificate of registration must be furnished to the applicant. Registrations cover a two-year period beginning July first and ending June thirtieth of every even-numbered year. Distribution of fertilizer products without prior registration or renewal received after July thirty-first must be assessed a penalty of twenty-five dollars per product. A distributor is not required to register any brand of fertilizer, soil amendment, or plant amendment that is already registered under this chapter by another person, providing the label complies with the issued registration. Compost that is transferred between parties without compensation is exempt from these requirements. The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

**SECTION 9. AMENDMENT.** Section 19-20.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **19-20.1-03.1. License required - Penalty.**

A person may not distribute any fertilizer, soil amendment, or plant amendment in this state without first obtaining a distributor's license from the commissioner. However, a distributor's license is not required for those distributors selling only specialty fertilizers. A license must be obtained for each location or mobile mechanical unit used by a distributor in the state. The application for the license must be submitted on a form furnished by the commissioner and must be accompanied by a fee of one hundred dollars. A license covers a two-year period beginning July first and ending June thirtieth of every even-numbered year. License renewal applications received after July thirty-first may be assessed a penalty fee of twenty dollars. Licenses are not transferable, and each license must be conspicuously posted at each location and must accompany each mobile mechanical unit operating in the state. The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

**SECTION 10. AMENDMENT.** Section 19-20.1-06 of the North Dakota Century Code is amended and reenacted as follows:

#### **19-20.1-06. Inspection fees and tonnage reports.**

There must be paid to the commissioner for all fertilizers, soil amendments, or plant amendments distributed in this state an inspection fee at the rate of twenty cents per ton [907.18 kilograms]. The inspection fee may not be less than ten dollars. Sales to manufacturers or exchanges between them are exempt from the inspection fee. ~~Fees collected under this section must be used for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for the administration of this chapter~~ forwarded to the state treasurer for deposit in the environment and rangeland protection fund.

Individual packages of fertilizers, soil amendments, or plant amendments sold exclusively in packages of twenty-five pounds [11.34 kilograms] or less are exempt

from the provisions of this section. If a person sells fertilizer, soil amendments, or plant amendments in packages of twenty-five pounds [11.34 kilograms] or less and in packages over twenty-five pounds [11.34 kilograms], that portion sold in packages over twenty-five pounds [11.34 kilograms] is subject to the same inspection fee of twenty cents per ton [907.18 kilograms], including the minimum ten dollar fee, as provided in this chapter.

Every licensed person who distributes a fertilizer, soil amendment, or plant amendment to a nonlicensed person in this state shall file with the commissioner, on forms furnished by the commissioner, an annual statement for the calendar year, setting forth the number of net tons [kilograms] of each fertilizer, soil amendment, or plant amendment so distributed in this state during the period. A licensed end user shall report all sales and purchases and pay the appropriate tonnage tax. The statement is due on or before January thirty-first of the following year. The person filing the statement shall pay the inspection fee at the rate stated in this section. If the tonnage statement is not filed and the payment of inspection fee is not made by January thirty-first, a collection fee amounting to ten percent, minimum ten dollars, of the amount must be assessed against the licensee, and the amount of fees due constitute a debt and become the basis of a judgment against the licensee.

**SECTION 11. EMERGENCY.** Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Executive Budget	Senate Changes	Senate Version
Salaries and wages	\$9,303,178	\$81,650	\$9,384,828
Operating expenses	6,548,199	(179,538)	6,368,661
Capital assets	17,000		17,000
Grants	3,095,828	75,000	3,170,828
State Board of Animal Health	1,949,052	200,000	2,149,052
Wildlife Services	1,067,400	350,000	1,417,400
Crop Harmonization Board	50,000		50,000
Total all funds	\$22,030,657	\$527,112	\$22,557,769
Less estimated income	13,645,923	720,000	14,365,923
General fund	\$8,384,734	(\$192,888)	\$8,191,846
FTE	74.50	0.50	75.00

**Department No. 602 - Department of Agriculture - Detail of Senate Changes**

	Adds Research Analyst FTE Position <sup>1</sup>	Adds Marketing Specialist Position <sup>2</sup>	Removes Sustainable Agriculture Position <sup>3</sup>	Removes Transportation Research Funding <sup>4</sup>	Adds Funding for Honeybee Colony Research Grants <sup>5</sup>	Adds Funding for John's Disease Control <sup>6</sup>
Salaries and wages	\$131,000	\$71,000	(\$120,350)			
Operating expenses	20,000	25,000	(174,538)	(50,000)		
Capital assets						
Grants					75,000	
State Board of Animal Health						200,000
Wildlife Services						
Crop Harmonization Board						
Total all funds	\$151,000	\$96,000	(\$294,888)	(\$50,000)	\$75,000	\$200,000
Less estimated income	20,000	0	0	0	0	0

General fund	\$131,000	\$96,000	(\$294,888)	(\$50,000)	\$75,000	\$200,000
FTE	1.00	0.50	(1.00)	0.00	0.00	0.00
	<b>Adds Funding for Wildlife Services<sup>7</sup></b>	<b>Adjusts Funding Sources<sup>8</sup></b>	<b>Total Senate Changes</b>			
Salaries and wages			\$81,650			
Operating expenses			(179,538)			
Capital assets						
Grants			75,000			
State Board of Animal Health			200,000			
Wildlife Services	350,000		350,000			
Crop Harmonization Board						
Total all funds	\$350,000	\$0	\$527,112			
Less estimated income	350,000	350,000	720,000			
General fund	\$0	(\$350,000)	(\$192,888)			
FTE	0.00	0.00	0.50			

<sup>1</sup> A research analyst FTE position is added with funding from the general fund for salaries (\$131,000) and funding from the environment and rangeland protection fund for operating expenses (\$20,000).

<sup>2</sup> Funding is added from the general fund for a .5 FTE marketing specialist position (\$71,000) and related operating expenses (\$20,000).

<sup>3</sup> Funding included in the executive budget recommendation for 1 FTE sustainable agriculture program specialist position and related expenses is removed.

<sup>4</sup> Transportation research funding included in the executive budget is removed.

<sup>5</sup> Additional funding is provided for grants to public and private entities engaging in research efforts focusing on honeybee colony health.

<sup>6</sup> Funding for Johnes's disease testing and control for livestock is added.

<sup>7</sup> Additional funding is added for the Wildlife Services program from the Game and Fish Department (\$100,000) and the State Water Commission (\$250,000) to provide total funding of \$1,417,400.

<sup>8</sup> The funding source for a portion of rent expense (\$100,000) and a grant to the dairy coalition (\$250,000) is changed from the general fund to the environment and rangeland protection fund.

This amendment also:

- Adds a section to provide additional 2009-11 biennium funding from the game and fish fund for the Wildlife Services program and the section is declared to be an emergency.
- Amends North Dakota Century Code Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. This is estimated to reduce general fund revenues by \$785,000 for the 2011-13 biennium.

Date: 2-17-11  
Roll Call Vote # 20

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2009

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8147.01004

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Christmann Seconded By O'Connell

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

PROPOSED AMENDMENTS TO SENATE BILL NO. 2009

Page 1, line 2, after "4-01-21" insert ", subsection 2 of section 5-01-17, and subsection 2 of section 5-01-19"

Page 1, line 3, after "commissioner" insert "and domestic wineries and domestic distilleries"

Page 2, after line 24, insert:

**"SECTION 7. AMENDMENT.** Subsection 2 of section 5-01-17 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to persons inside or outside of the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year; glassware; wine literature and accessories; and cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between twelve noon and twelve midnight. The state tax commissioner may issue special events permits for not more than twenty days per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at a designated trade show, convention, festival, or a similar event approved by the state tax commissioner. In addition, the commissioner of agriculture may issue special events permits to promote the wine industry in this state. A domestic winery may not engage in any wholesaling activities. All sales and deliveries of wines to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. For any month in which a domestic winery has made sales to a North Dakota wholesaler, that domestic winery shall file a report with the state tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.

**SECTION 8. AMENDMENT.** Subsection 2 of section 5-01-19 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year. Direct sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at on sale and off sale may be made

on Sundays between twelve noon and twelve midnight. A domestic distillery may hold events inside and outside its premises, but only on contiguous property under common ownership, allowing free samples of its spirits and to sell its spirits by the glass or in closed containers. The tax commissioner may issue special events permits for not more than twenty days per calendar year to a domestic distillery allowing the domestic distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers, at a designated trade show, convention, festival, or similar event approved by the tax commissioner. In addition, the commissioner of agriculture may issue special events permits to promote the spirits industry in this state. A domestic distillery may not engage in any wholesaling activities. All sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a domestic distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the domestic distillery by the domestic winery. No later than the last business day of a calendar month, a farm distillery that has made sales to a North Dakota wholesaler during the preceding calendar month shall file a report with the tax commissioner reporting those sales."

Renumber accordingly

Date: 2.17-11  
Roll Call Vote # 3

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2009

Senate Approp. Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.8147-01001

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Christmann Seconded By OConnell

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

Date: 2-17-11  
Roll Call Vote # 4

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2009

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Christmann Seconded By Wanzek

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Warner	✓	
Senator Bowman	✓		Senator O'Connell	✓	
Senator Grindberg	✓		Senator Robinson	✓	
Senator Christmann	✓				
Senator Wardner	✓				
Senator Kilzer	✓				
Senator Fischer	✓				
Senator Krebsbach	✓				
Senator Erbele	✓				
Senator Wanzek	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Wanzek

If the vote is on an amendment, briefly indicate intent:



**REPORT OF STANDING COMMITTEE**

**SB 2009: Appropriations Committee (Sen. Holmberg, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2009 was placed on the Sixth order on the calendar.

Page 1, line 2, remove the first "and"

Page 1, line 2, replace "section" with "sections"

Page 1, line 2, after "4-01-21" insert "and 4-01-23, subsection 2 of section 5-01-17, subsection 2 of section 5-01-19, and sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06"

Page 1, line 3, after "commissioner" insert ", the promotion of sustainably grown commodities, domestic wineries and domestic distilleries, and fertilizer distribution registration, licensing, and inspection fees; and to declare an emergency"

Page 1, replace lines 12 and 13 with

"Salaries and wages	\$8,566,196	\$818,632	\$9,384,828
Operating expenses	6,094,603	274,058	6,368,661"

Page 1, replace lines 15 through 17 with:

"Grants	2,969,825	201,003	3,170,828
State board of animal health	2,563,325	(414,273)	2,149,052
Wildlife services	1,067,400	350,000	1,417,400"

Page 1, replace lines 19 through 22 with:

"Total all funds	\$21,316,349	\$1,241,420	\$22,557,769
Less estimated income	<u>14,094,466</u>	<u>271,457</u>	<u>14,365,923</u>
Total general fund	\$7,221,883	\$969,963	\$8,191,846
Full-time equivalent positions	74.50	0.50	75.00"

Page 2, after line 3, insert:

**"SECTION 3. APPROPRIATION - 2009-11 BIENNIUM - WILDLIFE SERVICES.**  
There is appropriated out of any special funds received from the game and fish department, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of providing funding for the wildlife services program, for the period beginning with the effective date of this Act and ending June 30, 2011."

Page 2, line 5, replace "\$4,257,709" with "\$4,627,709"

Page 2, line 15, replace "\$968,261" with "\$1,068,261"

Page 2, after line 24, insert:

**"SECTION 8. AMENDMENT.** Section 4-01-23 of the North Dakota Century Code is amended and reenacted as follows:

**4-01-23. (Effective July 1, 2011) Sustainably grown in North Dakota -  
Application - Logo - Promotion of commodities.**

1. The agriculture commissioner ~~shall~~may implement a program to promote agricultural commodities that are sustainably grown in North Dakota.
2. If a program referenced in subsection 1 is implemented, the program must require that a producer may apply to file an application with the commissioner and upon demonstrating. If the producer demonstrates that the producer's growing practices with respect to a particular commodity meet the commissioner's established criteria for sustainability, the commissioner shall authorize the producer to label and market the commodity as being sustainably grown in North Dakota.
3. The commissioner ~~shall~~may develop and make available for the use of authorized producers a logo indicating that the commodity is sustainably grown in North Dakota. The commissioner ~~shall~~may actively support and promote the sale and use of products identified as sustainably grown in North Dakota.
4. The commissioner may establish and charge producers a fee for participating in the program. The commissioner shall forward all fees collected under this section to the state treasurer for deposit in the general fund.
5. The agriculture commissioner may engage in research and provide education to members of the public regarding agricultural commodities that are sustainably grown in this state.
6. For purposes of this section, "sustainably grown" means that a crop is grown using research-based practices that result in:
  - a. Increased efficiencies in soil and nutrient preservation;
  - b. Decreased reliance on tillage and other soil-depleting practices;
  - c. Increased efficiencies in the use of water;
  - d. Increased efficiencies in the use of other necessary and measurable agricultural inputs;
  - e. Increased yield efficiencies; and
  - f. Greater economic benefit to producers.

**SECTION 9. AMENDMENT.** Subsection 2 of section 5-01-17 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to persons inside or outside of the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year; glassware; wine literature and accessories; and cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between twelve noon and twelve midnight. The state tax commissioner may issue special events permits for not more than twenty days per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at a designated trade show,

convention, festival, or a similar event approved by the state tax commissioner. In addition, the agriculture commissioner may issue special events permits to promote the wine industry in this state. A domestic winery may not engage in any wholesaling activities. All sales and deliveries of wines to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. For any month in which a domestic winery has made sales to a North Dakota wholesaler, that domestic winery shall file a report with the state tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.

**SECTION 10. AMENDMENT.** Subsection 2 of section 5-01-19 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year. Direct sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between twelve noon and twelve midnight. A domestic distillery may hold events inside and outside its premises, but only on contiguous property under common ownership, allowing free samples of its spirits and to sell its spirits by the glass or in closed containers. The tax commissioner may issue special events permits for not more than twenty days per calendar year to a domestic distillery allowing the domestic distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers, at a designated trade show, convention, festival, or similar event approved by the tax commissioner. In addition, the agriculture commissioner may issue special events permits to promote the spirits industry in this state. A domestic distillery may not engage in any wholesaling activities. All sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a domestic distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the domestic distillery by the domestic winery. No later than the last business day of a calendar month, a farm distillery that has made sales to a North Dakota wholesaler during the preceding calendar month shall file a report with the tax commissioner reporting those sales.

**SECTION 11. AMENDMENT.** Section 19-20.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**19-20.1-03. Registration.**

Each brand and grade of fertilizer, material, foliar fertilizer, micronutrient, specialty fertilizer, soil amendment, or plant amendment must be registered in the name of the person whose name appears upon the label before being offered for sale or distributed in this state. The application for registration must be submitted to the commissioner on a form furnished by the commissioner and must be accompanied by a fee of fifty dollars. Upon approval by the commissioner, a certificate of registration must be furnished to the applicant. Registrations cover a two-year period beginning July first and ending June thirtieth of every even-numbered year. Distribution of fertilizer products without prior registration or renewal received after July thirty-first

must be assessed a penalty of twenty-five dollars per product. A distributor is not required to register any brand of fertilizer, soil amendment, or plant amendment that is already registered under this chapter by another person, providing the label complies with the issued registration. Compost that is transferred between parties without compensation is exempt from these requirements. The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

**SECTION 12. AMENDMENT.** Section 19-20.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

**19-20.1-03.1. License required - Penalty.**

A person may not distribute any fertilizer, soil amendment, or plant amendment in this state without first obtaining a distributor's license from the commissioner. However, a distributor's license is not required for those distributors selling only specialty fertilizers. A license must be obtained for each location or mobile mechanical unit used by a distributor in the state. The application for the license must be submitted on a form furnished by the commissioner and must be accompanied by a fee of one hundred dollars. A license covers a two-year period beginning July first and ending June thirtieth of every even-numbered year. License renewal applications received after July thirty-first may be assessed a penalty fee of twenty dollars. Licenses are not transferable, and each license must be conspicuously posted at each location and must accompany each mobile mechanical unit operating in the state. The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

**SECTION 13. AMENDMENT.** Section 19-20.1-06 of the North Dakota Century Code is amended and reenacted as follows:

**19-20.1-06. Inspection fees and tonnage reports.**

There must be paid to the commissioner for all fertilizers, soil amendments, or plant amendments distributed in this state an inspection fee at the rate of twenty cents per ton [907.18 kilograms]. The inspection fee may not be less than ten dollars. Sales to manufacturers or exchanges between them are exempt from the inspection fee. ~~Fees collected under this section must be used for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for the administration of this chapter~~ forwarded to the state treasurer for deposit in the environment and rangeland protection fund.

Individual packages of fertilizers, soil amendments, or plant amendments sold exclusively in packages of twenty-five pounds [11.34 kilograms] or less are exempt from the provisions of this section. If a person sells fertilizer, soil amendments, or plant amendments in packages of twenty-five pounds [11.34 kilograms] or less and in packages over twenty-five pounds [11.34 kilograms], that portion sold in packages over twenty-five pounds [11.34 kilograms] is subject to the same inspection fee of twenty cents per ton [907.18 kilograms], including the minimum ten dollar fee, as provided in this chapter.

Every licensed person who distributes a fertilizer, soil amendment, or plant amendment to a nonlicensed person in this state shall file with the commissioner, on forms furnished by the commissioner, an annual statement for the calendar year, setting forth the number of net tons [kilograms] of each fertilizer, soil amendment, or plant amendment so distributed in this state during the period. A licensed end user shall report all sales and purchases and pay the appropriate tonnage tax. The statement is due on or before January thirty-first of the following year. The person filing the statement shall pay the inspection fee at the rate stated in this section. If the tonnage statement is not filed and the payment of inspection fee is not made by January thirty-first, a collection fee amounting to ten percent, minimum ten dollars, of

the amount must be assessed against the licensee, and the amount of fees due constitute a debt and become the basis of a judgment against the licensee.

**SECTION 14. EMERGENCY.** Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Executive Budget	Senate Changes	Senate Version
Salaries and wages	\$9,303,178	\$81,650	\$9,384,828
Operating expenses	6,548,199	(179,538)	6,368,661
Capital assets	17,000		17,000
Grants	3,095,828	75,000	3,170,828
State Board of Animal Health	1,949,052	200,000	2,149,052
Wildlife Services	1,067,400	350,000	1,417,400
Crop Harmonization Board	50,000		50,000
	\$22,030,657	\$527,112	\$22,557,769
Total all funds			
Less estimated income	13,645,923	720,000	14,365,923
	\$8,384,734	(\$192,888)	\$8,191,846
General fund			
	74.50	0.50	75.00
FTE			

**Department No. 602 - Department of Agriculture - Detail of Senate Changes**

	Adds Research Analyst FTE Position <sup>1</sup>	Adds Marketing Specialist Position <sup>2</sup>	Removes Sustainab le Agricultur e Position <sup>3</sup>	Removes Transport ation Research Funding <sup>4</sup>	Adds Funding for Honeybee Colony Research Grants <sup>5</sup>	Adds Funding for John's Disease Control <sup>6</sup>
Salaries and wages	\$131,000	\$71,000	(\$120,350)			
Operating expens es	20,000	25,000	(174,538)	(50,000)		
Capital assets						
Grants					75,000	
State Board of Animal Health						200,000
Wildlife Service s						
Crop Harmon ization Board						
	\$151,000	\$96,000	(\$294,888)	(\$50,000)	\$75,000	\$200,000
Total all funds						
Less estimated income	20,000	0	0	0	0	0
	\$131,000	\$96,000	(\$294,888)	(\$50,000)	\$75,000	\$200,000
General fund						
	1.00	0.50	(1.00)	0.00	0.00	0.00
FTE						
	Adds Funding for Wildlife Services <sup>7</sup>		Adjusts Funding Sources <sup>8</sup>		Total Senate Changes	

Salaries and wages			\$81,650
Operating expenses			(179,538)
Capital assets			
Grants			75,000
State Board of Animal Health			200,000
Wildlife Services	350,000		350,000
Crop Harmonization Board			
	\$350,000	\$0	\$527,112
Total all funds			
Less estimated income	350,000	350,000	720,000
	\$0	(\$350,000)	(\$192,888)
General fund			
	0.00	0.00	0.50
FTE			

<sup>1</sup> A research analyst FTE position is added with funding from the general fund for salaries (\$131,000) and funding from the environment and rangeland protection fund for operating expenses (\$20,000).

<sup>2</sup> Funding is added from the general fund for a .5 FTE marketing specialist position (\$71,000) and related operating expenses (\$20,000).

<sup>3</sup> Funding included in the executive budget recommendation for 1 FTE sustainable agriculture program specialist position and related expenses is removed.

<sup>4</sup> Transportation research funding included in the executive budget is removed.

<sup>5</sup> Additional funding is provided for grants to public and private entities engaging in research efforts focusing on honeybee colony health.

<sup>6</sup> Funding for Johne's disease testing and control for livestock is added.

<sup>7</sup> Additional funding is added for the Wildlife Services program from the Game and Fish Department (\$100,000) and the State Water Commission (\$250,000) to provide total funding of \$1,417,400.

<sup>8</sup> The funding source for a portion of rent expense (\$100,000) and a grant to the dairy coalition (\$250,000) is changed from the general fund to the environment and rangeland protection fund.

This amendment also:

- Adds a section to provide additional 2009-11 biennium funding from the game and fish fund for the Wildlife Services program and the section is declared to be an emergency.
- Amends North Dakota Century Code Section 4-01-23 regarding the sustainable agriculture program.
- Amends Section 5-01-17(2) and Section 5-01-19(2) relating to special events permits for wine and spirit promotion in the state.
- Amends Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. This is estimated to reduce general fund revenues by \$785,000 for the 2011-13 biennium.

**2011 HOUSE APPROPRIATIONS**

**SB 2009**

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Sakakawea Room, State Capitol

SB 2009

3/7/11

14989

☐ Conference Committee

Committee Clerk Signature

*Shirley Branning*

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the agriculture commissioner; to amend and reenact sections 4-01-21 and 4-01-23, subsection 2 of section 5-01-17, subsection 2 of section 5-01-19, and sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 of the North Dakota Century Code, relating to the salary of the agriculture commissioner, the promotion of sustainably grown commodities, domestic wineries and domestic distilleries, and fertilizer distribution registration, licensing, and inspection fees; and to declare an emergency

## Minutes:

You may make reference to "attached testimony."

**Chairman Skarphol:** The meeting on SB 2009 was called to order and it was stated that all members of the Committee are present.

**Doug Goehring, Agricultural Commissioner:** Printed Testimony was distributed, see Attachment # 1, beginning on pp. 3, 3-1-11, 5-7, reviewing the Administrative Services, Plant Industries, Livestock Development.

**Chairman Skarphol:** What kind of work do you do for the Federal Inspection?

**Goehring:** We do grade meat for them if they request it. They have a limited number of federal Inspectors in North Dakota.

**Rep. Monson:** Is that for a fee?

**Goehring:** I would have to verify that, they reimburse us for mileage and hours. Continuing with testimony on p. 7-8, Attachment # 1 Business Development,

**Chairman Skarphol:** Addressing **Brady Larson, Legislative Council Representative.** In reviewing the green sheet, it is dated March 4<sup>th</sup>, are those updated?

**Larson:** Yes, portions of the green sheet are recalculated after the Senate action. However, at the bottom of the first page where it says Executive Budget Highlights, we add special comments noting if the Senate did change anything to the Executive budget and are enfolded. Other sections are updated such as major related legislation and other sections in the bill.



**Chairman Skarphol:** So the Senate changes are bold otherwise everything else is on here that was on the original. ....

**Larson:** Correct. Under the Executive Budget highlights.

**Goehring:** Continuing with pp. 9-10 Attachment # 1, Animal Health/State Veterinarian, Pesticide, Feed and Fertilizer.

**Rep. Monson:** You test all of the commercial feeds and make sure the content is the same as the label. Do you have your own lab or do you send those samples out somewhere to get that done?

**Goehring:** We send those out, some are tested by the North Dakota Department of Health. Most are sent out of state to have those things tested. We do some of those things.

**Rep. Monson:** The Universities cannot help with that?

**Goehring:** Not sure.

**Chairman Skarphol:** What type of testing are we talking about? To see if they actually meet the labels?

**Goehring:** Protein, fat, energy, anything that they claim is on that label has to be in that feed sample.

**Chairman Skarphol:** What is the frequency of not meeting what is on that label?

**Goehring:** Most are truthful..

**Chairman Skarphol:** Are you random sampling or do you test virtually everything?

**Goehring:** I believe it is random sampling. Continuing with p. 10-11. We are looking at ½ FTE increase overall.

**Chairman Skarphol:** Looking at the Green sheet, p. 2, Statement of purpose of amendment, asking about 2 and 3, the FTE. A Research Analyst in number 1 is added. In number 2 funding is added for a ½ time Marketing Specialist. Number 3, funding is included in Executive Budget for one FTE but the numbers on the green sheet don't seem to follow that. Which of these divisions is there a change in FTE numbers? In Administrative Services you have a \$308,000 increase in salary.

**Goehring:** Under administrative division that is where we would have an increase in one FTE, Research Analyst, the ½ FTE is under business development division and that is in conjunction with the Governor's recommendation and we just made it one full FTE. The FTE first requested was under the sustainable ag program, we actually lost that program so under 3 the Senate removed one FTE. Previously we lost an FTE as we came into this

new budget. That is why we only went up  $\frac{1}{2}$ . It shows one and  $\frac{1}{2}$  on here but in reality it is only  $\frac{1}{2}$ .

**Chairman Skarphol:** The green sheet doesn't show an increase in FTE. Addressing **Tammy Dolan, OMB Analyst** for an explanation.

**Dolan:** The Governor's recommendation was the 74  $\frac{1}{2}$  and on the Senate side it went up  $\frac{1}{2}$ . This chart has not been updated for the Senate changes.

**Chairman Skarphol:** Going back to attachment # 1 , p. 5, the \$308,000 I referred to in salary increase that is the one FTE and the cost to continue on the 3 and 3 and that type of thing. You have \$152,000 reduction in grants, enlighten us briefly on that.

**Goehring:** That is for the Ag in the Classroom project. It was authority when we were raising money, we were not able to raise as much as we had in the past. We are trying to reflect accurately what we will be able to raise and what that spending authority would be for that program

**Chairman Skarphol:** There was a required match and you were unable to raise the match so you don't need the additional spending authority.

**Goehring:** Exactly.

**Rep. Hawken:** Ag in the classroom for a number of years, the Farm Bureau was involved. Are they still involved or not? has been on the board, are they still?

**Goehring:** Yes they are, they serve on the Council. The North Dakota program is different compared to the rest of the states because in other states it is generally the private sector that has been the main leader in providing administrative services. We provide the majority of support for administrative services.

**Rep. Hawken:** You should be using the services of REAs, Teacher Centers. The curriculum was there so there wasn't much administrative. You have a 20 member committee and I realize it is not one of your major programs it is important to the rural areas.

**Goehring:** You are right, the administrative aspect would be to collect the money. We are talking about moving it back to the private sector.

**Rep. Monson:** On the Green Sheet, #s 7-8. Number 7 talks about the Wild Life Service Program and about what you are doing with the game and fish and the State Water Commission, is the program we've been getting many emails concerning trapping and predator control?

**Goehring:** Their goal is to pick up on predator control, beaver, coyote and blackbirds.

**Rep. Monson:** Did the Feds drop that funding? Is this to pick up the slack?

**Goehring:** There is a contract that is entered into between the State of North Dakota and USDA Wildlife Services. The contract was changed to identify salaries; we are in a salary contract, money that would come from the State of North Dakota would go toward salaries. We don't fully compensate those federal employees for their salaries. No money has been appropriated by the federal government for salaries and benefits for those employees over the last several years. A new contract will be entered into to perform performance audits in the future.

**Recording Failure**

**Rep. Monson:** Number 8 talks about rent expense? Where and what do you rent?

**Goehring:** Part of Bismarck, not North Dakota but Bismarck, down Divide and that is where we have our pesticide or plant industries program because we ran out of room here on floors six and 14th. The Dairy Coalition was a part of that.

**Chairman Skarphol:** Is that a new action on your part?

**Goehring:** Retracting previous statement, we rent in Bismarck for the Pesticide program. That was approved in the last legislative session.

**Chairman Skarphol:** That rental agreement was negotiated by facilities management?

**Goehring:** We negotiated with facilities management and administrative services to come up with a contract.

**Rep. Monson:** The Dairy Coalition \$150,000, this is just a grant that you give to them?

**Goehring:** That is pass through money, much like wild life services program is. Supporting certain segments of our industry to assist in this situation with the dairy industry itself. We do provide multiple grants that would be mostly federal grants. There are some special funds that come into our department but there is always criteria.

**Chairman Skarphol:** What was the amount for the Dairy Coalition in '09-'11?

**Goehring:** \$250,000.

**Rep. Monson:** You have a bigger line item for rent, a \$100,000 increase? That won't rent much so you have a bigger line item for rent and this is just an increase?

**Goehring:** This is for that facility that we rent on West Divide for Plant Industries.

**Rep. Monson:** It says for a portion of rent is \$100,000. How much area do you rent?

**Chairman Skarphol:** The prior administration requested rental space, is this the only rental property that you have?

**Goehring:** Yes, we have some offices in Fargo at NSU but that is a working agreement.

**Chairman Skarphol:** The staff in the tower that existed prior to your administration, all of them are still in the tower with the exception of this aspect. Going back to p. 6, plant industries, under operating you are up by \$160,000. What is that about? Briefly touch on the reduction in Federal funds because that seems to be down, General funds are down special funds are up.

**Goehring:** Where we have an increase in general funds that was money provided for temporaries, employment for our apiary program and includes some survey and pest work for the Emerald Ash Borerl. We have lost more and more Federal funds as we have went forward, we've lowered the spending authority under that area.

**Chairman Skarphol:** What kind of Federal funds are we talking about?

**Goehring:** Forest service grants and Water Bank.

**Chairman Skarphol:** You get forest service grants as well as the forest service.

**Goehring:** Because of Emerald Ash Borerl.

**Chairman Skarphol:** You work in conjunction, there is no duplication.

**Goehring:** Yes, our programs at the local level, generally have better job of assessing and evaluating what problems exist and how best to address them. We implement and enforce USDA programs, FDA programs just as we do EPA programs. We are here on the ground to do that.

**Chairman Skarphol:** Forest Service Grants and Water Bank that you would have anticipated from Emerald Ash Borer.

**Goehring:** Those would have been offset with general funds

**Chairman Skarphol:** Federal funds because that seems to be down, General funds are down as well and special funds are up a little.

**Goehring:** I apologize mine is not the same as yours.

**Chairman Skarphol:** General funds are down and special funds are up.

**Goehring:** Under special funds, that would have been our Environment and Rangeland Protection (EARPL) funds for the noxious weed program.

**Chairman Skarphol:** How is the funding on that particular EARPL fund? We spend more than is in there.

**Goehring:** Attachment # 2 was distributed to explain EARP program and funding.

**Chairman Skarphol:** We are still in the positive?

**Goehring:** We are still in the positive; We show after everything that would be proposed which has come up for bills, we would show at the end of June 30<sup>th</sup> of 2013 there would be a \$506,451 balance.

**Chairman Skarphol:** Which is less than half of what we were projecting at the end of this biennium, correct?

So the noxious weed off a little over \$2M. Tell us what percentage of that or what dollar amount is general and what is special funds? Is that the only source of revenue for noxious weeds?

**Goehring:** The EARPL fund, yes.

**Chairman Skarphol:** That is grant monies?

**Goehring:** That ends up in a grant program.

**Chairman Skarphol:** Don't you have someone that works in the noxious weed area that would be funded somewhat out of that?

**Goehring:** No, they would already be under plant industries.

**Ken Junkert, Administrative Services Director:** A break down will be provided.

**Goehring:** I stand corrected

**Chairman Skarphol:** Under livestock development, you're up by \$350,000. The Green Sheet would seem to indicate that part of that is from Game and fish and part is from the Water Commission

**Goehring:** Yes, that is what is being proposed. In the past that has been Game and Fish and General funds. A request from the Water Commission may be because of the beaver work tht is done in local communities.

**Chairman Skarphol:** Water commission gets its money from the general fund.

**Goehring:** (Over Talk) Water Users and assessments..

**Chairman Skarphol:** We want to track that to be sure we are OK there. You have a \$250,000 increase in federal funds. Continuing with budget questions, p. 7 Livestock Development

**Goehring:** Under Livestock Development? The increase there is under livestock pollution prevention program, increasing from \$319 (?)or federal funds that go towards that program.

**Chairman Skarphol:** On p. 8 Business Development, you have a significant increase \$650,000.

**Goehring:** That is due to grant program, especially crop grant program that we administer through the department.

**Chairman Skarphol:** What is the total federal funds in that specialty fund.

**Goehring:** I think it is about \$653,000 that was the specialty crop grant program. Spending authority.

**Chairman Skarphol:** That is strictly the federal program. I would like to see a list of the grantees.

Animal Health p. 9, about a \$900,000 drop in federal funds

**Goehring:** We have lost federal funding for these animal disease programs. The Animal ID program which has been so controversial and there was money provided two years ago to help get that program up and implemented, those funds have went away, and a refocus on what the national animal ID program will be and it will fall more in the states hands.

**Chairman Skarphol:** Never implemented on the federal level. And the change here in the federal funds, did you ever receive any funds in the last biennium? What were you authorized to receive and didn't receive?

**Goehring:** We did receive the funds. They were spent to try and do outreach and development. It failed and faltered at the national level.

**Chairman Skarphol:** So the reduction is the \$615,000 in that program or.

**Goehring:** And all other cooperative agreements, also.

**Chairman Skarphol:** Continuing with p. 10, Attachment #1 salaries went down.

**Goehring:** In this situation we needed to move some funding to the EARP Program. It is for our division director primarily because we were using federal funds to lobby and fight the federal government and they frown upon that so we had to find a different funding mechanism to lobby and work toward pesticide rule changes and EPA programs.

**Chairman Skarphol:** So you moved some personnel.

**Goehring:** Well, that was due to reorganization also right after I came in. I addressed and evaluated programs and people and we changed some funding within that division.

**Chairman Skarphol:** Where were they moved?

**Goehring:** That person would have been moved to Plant Industries

**Chairman Skarphol:** And the \$360,000 drop in federal funds there?

**Goehring:** There was a reduction there. Because there was a reduction in federal grants we lowered our spending authority on that program within that division?

**Chairman Skarphol:** What kind grants would you have in that area?

**Goehring:** EPA programs. We implement and enforce those. We have regulatory primacy in the state of North Dakota.

**Rep.Hawken:** What kind of increase do you see in your technology budget?

**Goehring:** IT? Need to check that out.

**Rep. Hawken:** It appears to be going up in all the budgets

**Chairman Skarphol:** It appears the Senate did a lot of changing as to revenue sources. While there have been some fairly significant additions. Asking Larson to address the changes.

**Larson:** There were some changes in the Senate version of this bill and it mainly involves switching some general fund costs over to the EARP fund. In this bill there is also some changes made to statutes deposit fees into the EARP fund rather than the general fund. It reflects where the revenue sources are coming in. The EARP fund will have additional revenue so additional expenses are coming from that fund.

**Chairman Skarphol:** What is the additional revenue?

**Larson:** Two bills address this one issue, roughly \$785,000 is being added to the EARP fund based on statutory changes included in SB 2009. It is should be noted that HB 1321 relates to anhydrous ammonia inspection fees. If that bill were to pass there would be an additional \$110,000 deposited into the EARP fund.

**Goehring:** Attachment # 3 is distributed to show the anhydrous tonnage fees.

**Chairman Skarphol:** Addressing Larson, can you give us an historical perspective as to whether or not we are following what we have done before with this budget?

**Larson:** We can get a document detailing the history of funding coming out of the EARP Fund. There has been a certain amount of funding coming out of the EARP fund directly to the Ag Department for operating expenses as has been noted this morning.

**Chairman Skarphol:** If there are changes, we would like to know what the effect will be. Are you looking forward to the anhydrous inspection?

**Goehring:** I will do whatever the Ag community asks me to do. I will do whatever it takes. I understand the need, I recognize the ramifications and will gladly step up and do our role.

**Chairman Skarphol:** We will have to talk briefly about your additional FTE in Ag Research. Tell us why you have to have it.

**Goehring:** The game seems to have changed in recent years concerning federal rules and regulations. We have numerous issues that we are doing battle with. Currently, myself

and one other individual tried to monitor and deal with all federal and state regulations and deal with outreach programs. We seem to be spending an inordinate amount of time trying to defend ourselves from our own federal government. Between the Farm bill, USDA, EPA and FDA programs and policies and rules that we are responsible for implementing and enforcing. We have to be keenly aware of what is going on around the country and respond to ... we have to be aware of changes, growing rules and regulations and to make an immediate response. With over 60 programs in the department that we have oversight on and I am trying to track and work with. This gives me the ability to respond in a timely manner. There seems to be a growing rules and regulations and our ability to respond even in written comment or joining forces and coalitions to address this on the national or regional level has started to help and it has worked. We don't have the staff or the expertise....we have that but these people have jobs to do. I need someone to collectively help to pull some of that together and assist with respect to where we're headin and how we're headin down this road in state and moreso federal rules, regulations and policies in the upcoming farm bill.

**Chairman Skarphol:** One would hope that our congressional delegation would provide you with an awful lot of information with what is going on at the federal level. If that is not happening we should be talking to those folks a little bit.

**Goehring:** I am more in line to give them information; I am the one who deals with these programs directly. They are at a 10, 20 thousand foot level. We are the first line of defense between the people of North Dakota, the ag industry, the energy industry and the public between the EPA, USDA, and FDA.

**Chairman Skarphol:** They must have 300 plus staff. I am disappointed if they are not aware of what is going on at the federal level and making you aware.

**Goehring:** I don't want to speak on behalf or characterize their positions and their work. They are trying to monitor a lot of bills and stuff coming at them. As soon as we identify something we make them aware of it, they then respond to that much like we had issues with law suits that were brought forward for NPDS which is Cotton Council verses EPA, green house gasses which is Massachusetts versus EPA, or most recently the Centers for Biological Diversity that brought a comprehensive lawsuit forward identifying 404 pesticides targeting 214 endangered species that will bring agriculture to its knees. It would stop agriculture from existing and being able to function over the next decade. These are things that...and generally, we are the first ones to be aware of it, we then let the congressional delegation know, we ask for their assistance where they can. But generally, on the front side of that we can do things that at the ground level, here at ground zero, to address and affect a lot of this by working with my other counterparts in other states. But not all other states have the same interest because a lot of them are appointed, they are not elected. They have a boss to answer to and their boss may not want them to wade into some of these waters.

**Chairman Skarphol:** Anyone else wishing to speak in support of SB 2009.



**Allan Tellmann, Milk producers:** Testified in support of SB 2009. He provided printed testimony, See Attachment # 4, regarding Johne's disease testing. He emphasized that it is an asset during times of shortcomings.

**Chairman Skarphol:** The \$200,000 that the Senate provided, the cost share? Give us an example of what that provides.

**Tellmann:** I can't give you exact numbers but there would be cost share on the testing; blood samples from each animal, fecal testing depending on the severity of the infection and how long you have been on the program. It is usually a veterinarian's call as to what kind of testing should be done. We have been doing the blood sampling from each animal. Now that we are down to one cow in 200, our next testing would be a pool sample of fecal, five to six animals, taking one test of that. If you get a positive or a suspect it would go back to the pool of those animals. You could save a lot of costs by doing that. The other part of the program is the educational part where the veterinarian spends time with you and going over your operation from feeding habits and how you put up your feed as far as cross contamination from manure or feed supply or cross contamination from different ages of animals or drainage in your operation.

**Chairman Skarphol:** When an animal tests positive do you remove the animal from the herd?

**Tellmann:** Yes.

**Chairman Skarphol:** Are you compensated in any way by this fund for that?

**Tellmann:** No, it is sold for slaughter and we would receive the slaughter price.

**Chairman Skarphol:** It doesn't affect the quality of the meat.

**Tellmann:** No, it does not.

**Julie Ellingson, North Dakota Stockman's Association:** Testified in support of SB 2009. She provided printed testimony, See Attachment # 5.

**Alexis Brinkman, Administrator of the North Dakota Ag Coalitions:** Testified in support of SB 2009. She provided printed testimony, See Attachment # 6.

**Chairman Skarphol:** Why can't we eradicate Johne's Disease?

**Dr. Susan Keller, State Veterinarian:** One word, "Deer" that carry micro bacteria. If everyone is not participating and you don't have a national program. There are also cattle moving in and comingling and exposure again.

**Chairman Skarphol:** So we continuously appropriate \$200,000 for Johne's and it seems there should be some way to help them get rid of it.

**Keller:** We don't have 100% participation from all producers and that really helps producers deal with bio security on a lot of different diseases in livestock. They benefit dramatically from other diseases such as salmonella, ecoli, you could go on and on; tuberculosis which is another microbacterium. It is well spent money and I would like to see it in our bill. We could use that money wisely to focus on the myriad of diseases.

**Scott Rising, Lobbyist # 73:** Speaking in favor of SB 2009 and the budget.. We are appreciative of the work that is going on in Ag. This budget allows an opportunity to get good answers, to share information, any number of things.

**Chairman Skarphol:** Opposing?

**Pat Ward, North Dakota Wholesale Liquor Dealers, Lobbyist # 102:** Provided testimony in opposition to portions of the bill, See attachment # 7.

**Rep. Hawken:** When those bill were heard on the House Side, we were told that this occurs in neighboring states. Is that inaccurate information?

**Ward:** Some of this does occur in neighboring states. They have not been challenged in neighboring states, New York which has an extensive region in the Finger Lakes Area and others were challenged and they lost a sizable amount in legal fees. The even permits are given through the Tax Department. If there is going to be a change in how they are permitted, we suggest it be done through the Tax Department rather than through the Agriculture Department.

**Rep. Hawken:** How much of this is a turf deal with the three tier system?

**Ward:** It is somewhat, but it is more. Our concern is that an out of state comes with a retail provision the result could be that they would be permitted to sell direct and bypass wholesale. Someone like Gallo, has a direct distribution agreement with someone like Sam's Club or Walmart and completely by passes the wholesaler.

**Rep. Hawken:** In North Dakota you can't sell in those facilities. This law would allow them to?

**Ward:** They do sell in those facilities.

**Rep. Hawken:** We cannot go into a grocery store and buy alcohol.

**Ward:** They do have their separate liquor licenses and is just one step away from permitting them to deal directly with major winery and beer producers.

**Rep. Hawken:** So we could have it in the grocery stores?

**Ward:** It would be in their liquor stores unless something else was changed in the law. Our concern that bypassing the wholesaler and that three tier system.....This is to create a system at three distinct levels and the wholesale tier is an immediate tier that collects the taxes and it comes through the tax department.

**Rep. Hawken:** It is not an additional tax when you get it from the retailer.

**Chairman Skarphol:** Currently there are special event permits that can be issued by the Tax Commissioner's office so if a winery wants to have an event they can do it under today's law.

**Ward:** Yes, on page 4 of the bill, beginning on line 14.

**Chairman Skarphol:** What is the liability of the Ag Commissioner if there were an incident at one of the events after issuing one of these permits?

**Ward:** There would likely be a requirement that you have liability insurance and be responsible by contract.

**Chairman Skarphol:** That liability would be no greater than it would be on the Tax Commissioner.

**Ward:** Correct.

**Rep. Monson:** This one actually says 20 events, actual permit is for 20 days and most events run more than one day.

**Dan Rouse, Legal Counsel to the North Dakota Office of the State Tax Commissioner:** Asks that the proposed amendment to Engrossed Senate Bill 2009 be adopted, Attachment # 8. The intent is to enhance the language already in the Century Code. The work on HB 1099 will be changed from days to events. This was seen as a value added benefit to the agriculture community. That permission comes from the State Tax Department. The language should remain in Title 5 of the Century Code. The idea that was given to Rep Klein turned into an amendment to SB 2009 and managed to get put into this bill before brakes could be put onto that. Rep. Klein is aware that the plan is simply to remove this language from the Agriculture Commissioner's bill to enhance the language that is already in the Century Code for the Tax Commissioner's bill. We have a bill HB 1089 tomorrow in the Senate Finance and Tax Committee where the word "days" will be changed to "events". This would be of benefit Pride of Dakota.

**Chairman Skarphol:** So it will be 20 events. Is that the only way a winery can sell their product off their business site?

**Rouse:** Yes.

**Rep. Monson:** You just don't like the language that is in here?

**Rouse:** That is correct. We have for many years been a regulatory agency. This snuck up on us. The Agriculture Commissioner wants our agency to do the regulatory work.

**Chairman Skarphol:** You are not going to suggest any other bill, you will handle this, not the ag commissioner.

**Rouse:** Precisely.

**Rep. Hawken:** Could these wineries sell to the wholesaler and then to the retailer? How do we get it in the grocery stores?

**Rep. Monson:** This would take the wineries out of the Pride of Dakota program?

**Rouse:** No, It would recognize that those Pride of Dakota are special events and that they are approved for the special events.

**Rep. Monson:** These domestic wineries would be involved with Pride of Dakota and you would not interfere with that. You just want the ability to regulate it in your....

**Rouse:** Yes, we keep a tally, a checklist that we go through with those requesters and we want to keep tabs on it. The bill being introduced tomorrow would still require the wineries to get a special event permit from us but it would not count against the 20 event total.

**Rep. Williams:** Domestic wineries can go through wholesalers, is that very common?

**Rouse:** The wholesale industry welcomes these products, but there are few people who go this route. The wholesale tier has said it will take the specialty wines but they recognize that there is a small audience of people would want them. It is a supply and demand issue.

**Chairman Skarphol:** Does anyone in the state produce what they call "frost wine"? They allow the grape to freeze and then turn it into wine. Freezing here would not be a problem. Hearing no further testimony, the hearing is closed.

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Sakakawea Room, State Capitol

SB 2009  
3/23/11  
15889, 15909

☐ Conference Committee

Committee Clerk Signature

*Julia E. Goffe*

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the agriculture commissioner; to amend and reenact sections 4-01-21 and 4-01-23, subsection 2 of section 5-01-17, subsection 2 of section 5-01-19, and sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 of the North Dakota Century Code, relating to the salary of the agriculture commissioner, the promotion of sustainably grown commodities, domestic wineries and domestic distilleries, and fertilizer distribution registration, licensing, and inspection fees; and to declare an emergency.

## Minutes:

**Chairman Skarphol:** Directed the attention of the committee to SB 2009 and requested Brady Larson, Legislative Council Representative to explain components of the bill.

(recording error thus specifics of Chairman Skarphol's request from Legislative Council is not known)

**Larson:** ...money spent out of the ERP (environmental and rangeland protection) fund it would be reflected as a special fund appropriation.

**Chairman Skarphol:** what's been the practice in the past (not running ERP funds through the general funds)?

**Larson:** The history of the fund is that it's generally been used for pesticide registration fees and those funds have been used for various programs in the ag dept. however, in the engrossed version of this bill, you will notice that some funds that have gone to the general fund in the past are not being directed into the ERP fund and spent that way. The engrossed version of the bill provides for an estimated revenue reduction for the general fund – sections 11, 12, and 13. It would be about \$785,000.

**Rep. Monson:** are there places where we are taking money out of the ERP fund that historically didn't come out of ERP?

**Larson:** In the engrossed version of the bill, it could be argued that some of the funds that are now coming out of the ERP fund probably came out of the general fund in a prior biennium or in the executive recommendation. There were some amendments made in the Senate for some funding to come out of the ERP fund that had come out of the general

fund in the executive recommendation and those would include funding for some rent expenses, grant for the dairy coalition. In the second to last page of the green sheet (**attachment # 2**) where we have a copy of the SPA from the Senate side, it would be footnote #8 where it says adjust funding sources.

**Chairman Skarphol:** it says a portion of the rental cost. What is the full rental cost?

**Larson:** During the last session that you had provided the ag commissioner with \$120,000 to rent some office space outside of the capitol complex, there were some discussions about the ag commissioner moving his entire office off the complex, but you only provided the \$120,000. This \$100,000 would essentially be the entire amount of rent expense that they have for off campus buildings, but I wasn't sure if they were using the full \$100,000 or \$120,000.

**Tammy Dolan, OMB Analyst:** There was \$120,000 provided last time. In the executive recommendation, we removed \$20,000 for rent so that they only had \$100,000 of general fund money for rent for that location because that is all that they needed.

**Rep. Monson:** Not much can be rented for \$100,000. What are they renting?

**Chairman Skarphol:** The intent was to move their labs. I don't know if that is what they actually did.

**Dolan:** they do have location and that includes their labs which are in the building on west Divide Ave (across from Central Market, where the old Eckroth music building use to be).

**Larson:** the fees still would be in the agriculture dept budget. They would appear in the ag commissioner's operating fund or the Pride of Dakota fund. They would be other funds.

**Chairman Skarphol:** can you give us Wildlife Services (revenue sources – dollar amounts) for this biennium and last biennium?

**Larson:** for the 09-11 biennium, there is \$768,800 being transferred from Game and Fish fund to the ag dept for wildlife services. There is another proposal included in the current versions of the bill to transfer another \$200,000 from the Game and Fish fund to the ag commissioner for 09-11 expenses of wildlife services. Essentially it would be a deficiency appropriation. There would be \$298,600 in '09-'11 from the general fund used for wildlife services. \$1.067M would be the total that you appropriated.

**Chairman Skarphol:** What is in the budget for this time?

**Larson:** based on the current amounts included in all of the various bills, the Game and Fish transfer is now \$868,800 so that would be an increase of \$100,000. The general fund is still the same (\$298,600) and there is an additional \$250,000 from the state water commission. That would total up to \$1.4M.

**Chairman Skarphol:** they were never in before. What's the status of the funded Game and Fish?

**Larson:** \$24-25M

**Chairman Skarphol:** What is happening to that fund; is it stable?

**Larson:** Yes, it has.

**Chairman Skarphol:** It involves beaver therefore; the Water Commission would be responsible?

**Larson:** Yes, that was the consensus.

**Chairman Skarphol:** so the federal wildlife service suggested that the proportion of time they spend on the various types of wildlife should be distributed this way or was this the conclusion of the Senate?

Answer inaudible due to audience member not stepping up to the podium

**Rep. Monson:** Federal people still have their jobs but people on the ground lost their jobs. If we step up as a state and take that over, we are giving our money to the feds to tell them how they can spend it.

**Chairman Skarphol:** Funding, how much is federal?

**Larson:** It has been made available and I will provide it to this committee.

**Chairman Skarphol:** It ties three budgets together. If we are going to take the money out of the state water commission budget, do we have a responsibility to put money back in here? I don't see why we have the feds involved because they don't contribute anything.

**Rep. Monson:** If we put \$1M into it, we should take total charge and tell the congressman you can save some money by getting rid of the office that runs the thing. If we are going to do, we'll do it with the state program. This is a lot of money to be turning over to the feds and saying now you run it.

**Chairman Skarphol:** Rep. Thoreson (chairman of the GO section) will be asked to speak to this issue since his subcommittee heard the wild life bill.

(Recorder gap - break)

**Chairman Skarphol:** Representatives from the House Appropriations Government Operations subsection in audience as well and asked to speak. Chairman informed these individuals what had been discussed thus far.

**Rep. Klein, speaking from the Government Operations Sub Section:** When we had our hearing the other day, we visited with a representative from the federal system. Because his money got cut from the federal side, he ended up letting all his field people on administrative leave. At this time of year, when it's the lambing and calving season, we haven't got anybody out there to shoot the coyotes, trap the beavers, do whatever needs to be done. The way I understand it, the federal money right now is a little over \$1M. Between

what we put in, the ag dept, and the fish and wildlife, is pretty close to that number, so we are funding half of that roughly. Currently, we haven't got anybody out there and we don't know what it looks like going downstream for money. The representative, when we asked him, seem to feel it would probably be cut some more.

**Chairman Skarphol:** Referring to **attachment # 1**, in this biennium, we're scheduled for \$1.067M and the total amount would be in excess of \$3.3M. Is the FY10 budget year, one year they are talking about – that's how the federal dollars are utilized on a yearly basis?

**Rep. Klein:** Yes. The timing is such that the numbers don't relate.

**Chairman Skarphol:** who is actually employing the staff? How does this work?

**Joe Morrisette, OMB Analyst:** They are federal employees, but there's a cooperative agreement between the state and this federal agency where we reimburse them for these salary costs.

**Chairman Skarphol:** we had this discussion last time. You got frustrated with the whole situation. You talked to SD. They got an exemption.

**Rep. Klein:** They were the only state that got federal money into their domain (Game and Fish) and they did all of the control. In talking to the federal representative, they have taken back the airplane part and that has gone back to the federal (shooting coyotes from the airplane). But the rest of it is still in the state domain.

**Chairman Skarphol:** They furloughed the field staff. Are they going to pay for that field staff? If they aren't out there hunting, why should we be paying for them? How can they furlough them?

**Rep. Klein:** the last time when we put some additional money in, the money went for salaries (office staff more so) and not for increasing the number of field people.

**Joe Morrisette, OMB Analyst:** from testimony from govt ops, the director said they would furlough employees in April through the end of May and that was to avoid paying salaries for that amount of time so that they could finish this fiscal year within their budget. The field people are federal employees reimbursed through the state by a cooperative agreement.

**Chairman Skarphol:** when they furlough these employees, are they not collecting a salary?

**Morrisette:** that's the point. If they didn't furlough they would spend more than what they are going to have available from the state.

**Rep. Klein:** they basically put them on leave without pay.

**Chairman Skarphol:** is the pay they're not getting, all state dollars?



**Rep. Klein:** We have the audit report and the money is intermingled. What we pay them ends up for their use.

**Chairman Skarphol:** The \$200,000 for this biennium...what bill is that in?

**Larson:** This money is in two departments...it's in the Game and Fish dept to be transferred to the ag commissioner and then it's also in strictly Game and Fish.

**Chairman Skarphol:** spending authority is ag but the money is in Game Fish?

**Rep. Klein:** Ag also puts the money in there.

**Larson:** the additional \$200,000 for this biennium is Game and Fish funds only. It's transferred from the Game and Fish dept to the ag commissioner to be paid to Wildlife Services – section 3 in this bill.

**Rep. Klein:** the blackbird money (**attachment # 3**) is producers that put that money in there so that comes out...there's \$190,000 that's also given to them but that's strictly for blackbird control.

**Chairman Skarphol:** is that money accumulated from state?

**Rep. Klein:** No, it's pulse growers and ND sunflower association (and other groups) – it's more money we give to the federal.

**Rep. Mike Brandenburg, Dist. 28:** More federal funds are being cut and more state money is being asked to pick up the needs are out there. We have to sort out how important these programs are and whether we want to do that or not. There are beaver problems like the water being backed up and you have water backed up over roads. There are coyote attacks all the time thus affecting calving. These programs are needed.

**Chairman Skarphol:** was it indicated in your testimony that you got that there was a \$140,000 decline anticipated in this upcoming biennium?

**Brandenburg:** Yes. That is the reason for drastic measures.

**Rep. Monson:** When does the federal budget year end?

**Dolan:** September 30<sup>th</sup> is the last day and the beginning is October 1<sup>st</sup>

**Rep. Monson:** they have been working at the federal level without a budget for the last...how long...and if they do get a budget they are running three weeks at a time.

**Chairman Skarphol:** Why do federal people hunt versus the Game and Fish?

**Rep. Brandenburg:** there's \$26M in that Game and Fish fund and it's probably going to get taken down to \$22M, but they are going to reduce the number of hunting tags because they think there's not deer out there (I don't agree with that). Thus they are going to have less revenue for the next biennium. That is my opinion.

**Chairman Skarphol:** Why can't game wardens help with predator control?

**Rep. Brandenburg:** they have agreements that they work with and everyone has their area that they work in. Why doesn't the Game and Fish go out and shoot some of these deer (deer deprivation)? This could be resolved by those people – the game wardens.

**Rep. Monson:** Our frustrations seem to be the same. If the state is going to have the pick up a bigger and bigger share of this, we should be in charge of it. We should make these people state employees, whether they be from the ag dept or from the Game and Fish. We can argue about that. I'm thinking that we should just cut the feds out of this program and run it ourselves.

**Rep. Brandenburg:** that day may be coming because that money may dry up anyway and then we are there doing it ourselves.

**Chairman Skarphol:** Who is the agreement between? The United States of America Fish and Wildlife Service and the Ag Dept? Or is it with Game and Fish?

**Rep. Brandenburg:** I believe it is Game and Fish because they are under their budget – Wildlife Services is part of Game and Fish.

**Dolan:** the agreement is with ag dept. and Game and Fish.

**Chairman Skarphol:** If Game and Fish is going to appropriate another \$200,000 for this biennium, by the time it gets available, the damage is done. There's no logic for putting another \$200,000 out there for this biennium. I wonder if the \$250,000 out of the Water Commission ought to be bounties on coyotes and beavers and let the private sector do a little killing.

**Rep. Brandenburg:** I think the reason that they are looking at the Water Commission is because by getting rid of these beaver dams, it does help keep the water moving which is an impact on the water commission.

**Chairman Skarphol:** I wonder if we are going to get people laid off right during prime time.

**Rep. Monson:** can we get Rep. Brandenburg's opinion on ERP funding?

**Rep. Brandenburg:** There are some important things coming through with EPA and ND running their own program versus EPA coming to the state. You are referring to the tonnage fees, the \$800,000, going into the ERP fund. The EPA has come out with guidelines that you are going to have to have setbacks for being able to spray wherever there is water like spraying around ponds, streams and potholes and being 150 feet away. Most of these farmers have no idea that, that's even out there. There's also some talk about implementing having to obtain a spraying permit from the health dept. for this year. I believe we should put up our own state program, implemented through the ag dept, and keep the EPA out of the state. It probably has to happen this session.

**Chairman Skarphol:** Where is it going to happen?

**Rep. Brandenburg:** I could answer better after our meeting this afternoon. My answer to that would be that EPA comes out here and if you live beside a city where there's a big airport, EPA is going to go anywhere from 20 miles out of the city and anybody 20 miles around Bismarck, for instance, will be impacted and receive potential fines.

**Rep. Klein:** The response to farmers is frustrating and cumbersome.

**Chairman Skarphol:** stated the representatives from govt ops division should come back later this afternoon to discuss this further. Addressing OMB, how many hunt out of the field staff? If 6 of them are hunters, perhaps we need to pay their salary and have them take their orders from someone other than the United States of America wildlife service. If they're employed to mitigate wild life damages....OMB, find out specifics so if we want to break the state money out and actually employ 6-7 state employees to do this that we are going to have to work year round for the whole biennium, that we can actually get it accomplished.

**Rep. Monson:** In the ag department's budget, is there anything that specifies that the ag dept would take over what Rep. Bradenburg was just talking about with that EPA business and they spraying? That would be Jim Grave.

**Larson:** I am not aware of anything specifically in this budget that would relate to the dept of ag enforcing EPA regulations.

**Chairman Skarphol:** Please find that information out. We will break for lunch and reconvene after floor session.

**Job Recorder: 15909**

**Chairman Skarphol:** (resumed discussion on SB 2009), we are wondering about making changes such as whether or not we make them state employees and we direct them as to what they are suppose to do

**Ken Junkert, Deputy Commissioner, Agriculture Department:** Rep. Brandenburg was up in our office addressing concerns about anhydrous ammonia. Office of Management and Budget (Tammy Dolan) informed us that you would be wanting the cost to turn Wildlife Services field staff into state personnel. I put together figures and e-mailed them to Tammy. Currently, we have 9 trappers and 1 pilot that we would consider field staff members that are federal employees. We put together a cost estimate based on Tammy's question. We looked at 9 employees at grade 9 which would be at a midpoint of \$3,516 a month. With our benefit package, that would equate to \$1.78533M per biennium for salaries (for the trappers). We looked at a grade 12 pilot and 1 employee for a biennium would be \$150,112. The salary package would be \$1.22864 per biennium for those 10 members that we would consider in the field for Wildlife Services. We also have an operating estimate based on figures that we received from Wildlife Services which would be about \$40,000 per employee and \$400,000 per biennium. The field portion of this program would be \$1,628,645 per biennium to assume the field operations.

**Chairman Skarphol:** If we were to consider what is being proposed in this biennium in state money to support wildlife services, we come up with \$1.4M.

**Junkert:** that would be right. The other issue to be brought up is aircraft expense. The plane is currently owned by Wildlife Services. The plane is used for aerial hunting. We would look towards aircraft expense. Game and Fish might have availability to their plane, but there is an unknown expense about aircraft purchase or lease. At one time there were organizations that pitched in for the purchase of the previous plane. We asked for donations from groups that used that. The service life of that plane ran out and then it was upgraded.

**Chairman Skarphol:** In looking at **attachment # 1**, at the bottom, there is \$191,390 that's contributed by the ND Sunflower Growers and somebody else. That would be different people than the hunters that you are referring to (those 8 temporary staff would be different from the 9 field staff referred to in the upper portion)?

**Junkert:** Yes, that would be additional costs.

**Chairman Skarphol:** How do you think the feds would react if we said we are going to put up the \$1.628M and we are going to own those 100. They are going to be state employees and we're going to direct them.

**Wayne Carlson, Director of Livestock Services:** Wildlife Services has a program in nearly every state. If we took over this program, there would be other issues. We have to get licensed as for cyanide as there is federal licensing in place now. We'd have to get the permits that they have through blackbird management.

**Chairman Skarphol:** we'll leave that alone and let them do the blackbirds.

**Carlson:** another issue would be the management, thus another cost.

**Rep. Dosch:** I think we could manage these issues. They have two people to manage ten people. That doesn't add up. Another question; have you ever looked at the program as offering a reward for the pallets of beavers where you encourage hunters to go out and do this?

**Carlson:** The problem is availability when people need them. A hunter will hunt when he wants to, as these trappers are there when they need them; when there is deprivation. WLS targets the ones that are doing the damage where a hunter might get the 3 out of the 10 pack that isn't doing the damage and not get the 2 that do.

**Rep. Williams:** The Senate added \$350,000 to WLS – what does that \$350,000 cover?

**Carlson:** That is the increased cost to salaries that we have not been paying for. The state has been paying a certain percentage of the trappers' salaries and it has not been covering the full expenses of the trappers. That \$350,000 will cover the shortfall.

**Rep. Williams:** Federal funds have not kept up.

**Carlson:** Federal funds have been flat for the past three years on this program and will be flat again this year.

**Rep. Williams:** When things are flat, basically we are carrying the general funds.

**Carlson:** It was flat, but they have had some increase for salaries, thus it's not completely flat.

**Rep. Monson:** On the federal and state level there has been a trend of cut backs. Is it a matter of time before we have to take this program over and fund it anyway?

**Carlson:** That is a big question for the federal government as far as looking at all programs that they've started and asking whether they are going to be maintained. It has been very popular and they seem to get funding every year (support from different organizations i.e. Ranchers, Livestock producers). I don't know for sure and they are going to take their share of the cuts too.

**Rep. Monson:** The organizations that benefit from this could kick in and the state could take it over?

**Carlson:** You could ask them as they are around here. I don't want to answer for those organizations. I can say that different states have different funding mechanisms; some are from states, some are from organizations, some are fees thus there is a wide variety of funding mechanisms as far as a match with the federal govt.

**Chairman Skarphol:** When do you renew the contract with the feds?

**Carlson:** Every two years (July 1) and have a work plan every year.

**Chairman Skarphol:** If we choose to appropriate the \$1.6M and tell you to hire the folks, I suspect your contract negotiations would be really different.

**Carlson:** It would be very different.

**Rep. Monson:** when does Federal new fiscal year start?

**Carlson:** Oct 1 and runs through September. That is one of big issues; tracking their funding and determining how much they are going to have. They are on a continuing resolution right now. It puts a crimp in trying to plan on what their budget is going to be and what our budget is.

**Rep. Monson:** there are certain seasons where there is not a big demand for these people to go out and hunt coyotes. The big problem seems to be during lambing and calving and with the beaver, it would be summertime events. Could you hire them part time or do you hire them part time?

**Carlson:** It's hard to hire part time. To find the skills necessary for the job and with the oil boom, part time is difficult to come by. The coyote season is from Feb 1 to early June. Then it's the beaver season and there are coyote problems in the pasture so they're working on

that too. Then there is sunflower in the fall and coyotes again. Thus it is pretty much busy most of the year.

**Rep. Dosch:** Do you keep statistics on the number of calls (animals) taken every year?

**Carlson:** they give us a rundown of how many calls, how many visits, etc. every quarter and we get a final report at the end of our contract.

**Rep. Dosch:** could we get a copy of that?

**Carlson:** Yes

**Chairman Skarphol** called on Representatives Kempenich, Klein and Brandenburg to share their thoughts on these issues.

**Rep. Klein:** last time we asked the auditor to perform a performance audit. He presented document on the Performance Audit on the Wildlife Services Program, **attachment # 4**. He read over recommendation #11, action taken (pg 9 of **attachment # 4**). This illustrates part of our frustrations.

**Rep. Kempenich:** At one time we didn't have any money. We have to figure out a way to make things work right or we have to find a different model.

**Chairman Skarphol:** we are going to let Rep. Martinson negotiate this with Rep. Porter.

**Rep. Brandenburg:** provided and went over **attachment # 5**, which addresses the fertilizer tonnage tax (breakdown of the tonnage fees-- one dealing with dry fertilizer (non-anhydrous), goes into general fund and the other with anhydrous ammonia tonnage fees, goes into the insurance department for boiler inspector costs associated with that inspection, this is being moved from the insurance dept to the ag dept because there's issues coming with bulletins concerning EPA and things that need to be taken with agriculture) and proposed EARP fund deposits as well as fertilizer fee description.

**Chairman Skarphol:** there have to be workload and FTEs associated. Items 1 and 2 on the green sheet (**attachment # 2**) address adding 1 FTE and then removing 1 FTE.

**Rep. Brandenburg:** These people are not on the green sheet.

**Chairman Skarphol:** are there additional people involved somewhere else?

**Rep. Brandenburg:** this money has to be moved before these additional people can be brought on. The net gain of 2 people is in HB 1321.

**Dolan:** Those positions are not anywhere. They use to be in HB 1321, but that was amended out before it was passed. If they need those positions in the dept, they would need to be added into this budget.

**Chairman Skarphol:** What is the status of HB 1321 in the Senate?

**Jim Gray, Pesticide, Feed and Fertilizer Division Director:** HB 1321 passed out of Senate Agriculture committee today (DPA on floor) and it has been re-referred to Senate Appropriations.

**Chairman Skarphol:** Does it have money in it?

**Gray:** No it does not

**Chairman Skarphol:** Why is it in appropriations?

**Gray:** Those latest amendments triggered a fiscal note dealing with effective dates when different sections of that bill would actually kick in. It is pending in Senate appropriations.

**Chairman Skarphol:** We will have to tie this together in the end.

**Rep. Brandenburg:** they are talking about 2 inspectors and they would be able to create efficiencies and better serve for inspections for anhydrous ammonia as well as dealing with EPA under the clean air and gathering fertilizer samples. We need to take care of the programs in the state rather than have the federal govt come and take over these programs and run them. Gray and Junkert have worked hard to keep EPA out of the state. I am defending these positions.

**Rep. Monson:** HB 1321 has no money in it. How much added money would it be if we add the 2 FTEs in here?

**Rep. Brandenburg:** \$410,000.

**Gray:** Distributed **attachment # 6**, stating HB 1321 is written in a way that the Ag Dept would take on 2 new areas of responsibility. This is described in **attachment # 6**. HB 1321 gets rid of a special fund where the anhydrous ammonia tonnage fees go. Currently, the Ag Dept has appropriated \$40,000 out of that fund to do our base work on anhydrous like licensing facilities, doing safety education and outreach, etc. The insurance dept is allocated around \$80,000. If 1321 passes in its present form and gets rid of that special fund, we would lose \$40,000 that was previously appropriated for our anhydrous licensing program. There would be \$40,000 shortfall that we would have to make up some other place.

**Rep. Monson:** Your dept loses \$40,000, but who gets the \$80,000?

**Gary:** the insurance dept gets some of those special funds as well to pay for salaries for those boiler inspectors.

**Rep. Monson:** If you take that on, we should be able to let that lapse. They shouldn't need the \$80,000 that they are getting and there should be a couple of inspectors available so we should be able to reduce the budget.

**Gray:** In terms of that extra \$80,000, the way 1321 is written right now, this entire \$101,000 (out of that special fund) would go into the EARP. It would be a special fund transfer to special fund transfer. Then the legislature has that money in the EARP and they

can use that money for whatever they want. In terms of those boiler inspectors that are currently doing the anhydrous work, I will say that when I was asked what it would take for us to take on those duties, I estimated I would require 2 new positions and roughly \$410,000. I didn't say where those FTEs and cash would come from. I'm just saying that's what I would need.

**Chairman Skarphol:** the response from the insurance dept is going to be they have all these new boilers they have inspect and all these drilling rigs and we can't conceivably have less employees because of that demand.

**Rep. Kempenich:** Speaking to the insurance; these anhydrous vessels are inspected every 5 years. They indicated that it's 1/5 to 1/4 of the time of their FTEs to do this. The insurance dept said they've seen increased demands due to the boiler inspector.

**Rep. Monson:** The EPA program in the spray business, what is that going to take? Is that going to be able to be absorbed by you, Mr. Gray, and we can tell the EPA we're going to run our own program? Do you need more funds and more people for that?

**Gray:** In terms of the pesticide spray issue, our pesticide program administers a variety of pesticide programs, one of the being our field enforcement program. As part of that, we enforce state and federal law and we also weigh in with EPA under doing federal policy work. Currently, we do have adequate resources to run that part. One thing that was changed in our base budget was to change my salary to 100% state funded which does free me up to do certain things that I wasn't free to do in the past. The pesticide issue, I think we are okay. The anhydrous EPA issue, risk management plan, is where no agency in the state is currently doing that so all the field verification of that is done by federal staff. That is where those large fines came out of.

**Rep. Monson:** Are you prepared to do anything different there or is the EPA still going to be doing that program?

**Gray:** 1321 creates legal authority for the Ag Commissioner to take on that risk management plan program under the Clean Air Act for those facilities. We would have to ask EPA to delegate that program down. They said they are anxious to do that. If we can document that we have legal authority to access the necessary records, follow up if we find violations, and that we have adequate resources to run that program. If 1321 passes and we receive the resources that I've laid out, we would request that EPA delegate that program to us and we would have complete ownership of it.

**Carlson:** I started building a bulleted list of issues that I think all tie into SB 2009. I could provide that in the morning to describe the bills that are out there and where we think the issues are. I will e-mail it to you, Chairman Skarphol.

**Chairman Skarphol** closed hearing on SB 2009, to reconvene tomorrow morning (Thursday March 24<sup>th</sup>).



# 2011 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Sakakawea Room, State Capitol

SB 2009

3/24/11

15921, 15925, 15967

☐ Conference Committee

Committee Clerk Signature

*Julia Geisler*

## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the agriculture commissioner; to amend and reenact sections 4-01-21 and 4-01-23, subsection 2 of section 5-01-17, subsection 2 of section 5-01-19, and sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 of the North Dakota Century Code, relating to the salary of the agriculture commissioner, the promotion of sustainably grown commodities, domestic wineries and domestic distilleries, and fertilizer distribution registration, licensing, and inspection fees; and to declare an emergency.

## Minutes:

**Chairman Skarphol** brought the committee to order to discuss SB 2009 and called on Daniel Rouse to discuss sections 8 and 9 of the SB 2009.

**Daniel Rouse, Legal Counsel to the North Dakota State Tax Department:** On March 9<sup>th</sup>, we asked this committee to remove sections 9 and 10 from engrossed SB 2009. The reason for this was to remove the language that was intended to be added to the engrossed bill related to special events that would be approved by the ag commissioner because you all gave the tax dept the responsibility for administering the alcohol industry on the wholesale and manufacturing level (title 5). One of the requirements that the legislative assembly has given us is the opportunity to approve special events. It was well intentioned effort by Rep. Matthew Klein who had been approached to enhance the capabilities of domestic wineries to participate in special events; however it was a misplaced effort because it should have never gone into the ag dept's list of responsibilities. It should have come to the tax dept. We offered an amendment to remove that language and simultaneously, we found a compatible bill (HB 1099). In HB 1099, we added in language that went beyond what was asked for in 2009. In 1099, we changed the ability of domestic wineries to participate in special events from 20 days per year to 20 events per year. The reason being that a Pride of Dakota event could be 4 days and if a person does that 3-4 times, you've eaten up your 20 days. We've been taking baby steps with this industry because it is an exception to the three tier system. Out of an abundance of caution, you all decided to move this forward incrementally so we went from 5 days to 30 days. HB 1099 did pass out of the full Senate unanimously. In 1099, we said all Pride of Dakota events don't even count for the 20 event limit, so none of the events that the ag dept does through its Pride of Dakota program would count towards the 20 event limit (provided proposed amendment, **attachment # 2**).

**Rep. Hawken:** An issue I see if that Rod (part of the winery group) does not feel that there is an adequate definition of what an event is and I would think that it would be in everybody's best interest for the two of you to sit down and come up with that definition and come back to us. Otherwise, we'll do it and then it will be a real mess.

**Rouse:** We will do that.

**Rep. Martinson:** If you define it, it could limit opportunities.

**Rouse:** The issue come up once in the time that we have administered this. When we went back and looked at that requirement that you could participate in a special event, we were confounded because the statute isn't as clear as it could be. It reads, *they can participate at designated trade shows, conventions, festivals, or similar events*. We looked at the legislative history and we found the events also specified events where the public was invited to attend, not private events (parties, barmitvahs, etc.). What has happened over the years is that one time, a domestic winery was asked to appear and present its wine for sampling and for sale at a wedding and because of the way it had been presented to the legislative assembly (public), we said no because of the nature of the request. We do have a guideline that we sat down a year and a half ago with the domestic winery. We took the statutes and we thought we could fix a lot of these things. Unfortunately, we decided we could not fix it and decided to keep it as the statute is, even though it is not clear.

**Chairman Skarphol:** We will take this up later when you and Rob have a chance to talk about how you want to define special events.

**Rouse:** Is there a sense as to how you want this to come out?

**Rouse** confirmed (due to **Chairman Skarphol's** question) that sections 9 and 10 can be removed based on the outcome of 1099.

**Rep. Martinson:** Move to Remove Sections 9 and 10 of the bill to SB 2009

**Rep. Monson:** Second

**Voice Vote carries and amendment adopted**

**Chairman Skarphol:** Let's discuss the Wildlife Services issue (WLS). For 11-13, there's \$1.4M for WLS appropriated in here (\$868,800 from Game and Fish funds, \$298,600 from general funds, and \$250,000 from the state Water Commission). The Ag Commissioner's office said that the 9 employees that are grade 9 and the 1 employee who is a pilot would amount to \$1.628M+ (operating costs), thus it would take an additional \$228,000. The feds would be responsible for the cat tail spraying and be left with their staff.

**Rep. Dosch:** if you do you math off of the numbers that were given (referring to Green Sheet, **attachment # 1**), it's about 5,081 animals. We have a budget of \$1.6M. That means for each beaver that they shot or coyote they got rid of, it cost us \$314 per animal. Why can't the ND Game and Fish go out and offer a \$20 stipend per pelt that anyone brings in

(or even \$50) and farmers can call in and if they have issues, it goes on a website, and taken from there.

**Rep. Monson:** Terry Steinwand was asked about this and he said that they probably wouldn't get them out there as quick and they probably wouldn't get the right animals because there are certain animals that seem to have that taste for lamb or beef, and they might shoot 30 other critters and that all they ate was gophers or prairie dogs and the ones that are doing the damage are the ones that they don't get.

**Chairman Skarphol:** This problem comes back every year. The ranchers are the ones that are most affected. I don't know how you get the right animals with a bounty.

**Rep. Monson:** We have a pilot but we don't have a plane, so one of the things that Mr. Steinwand mentioned as to contract and as you need a pilot, hire them with their plane. Thus, we would build in a pool of money to be put away for contract hunting.

**Rep. Martinson:** can a person go shoot beaver if they're on your property?

**Rep. Monson:** there's a specific season

**Chairman Skarphol:** the professional hunters can hunt whenever though

**Rep. Dosch:** If we offer everyone \$25 per pelt, the bounty money would be about \$125,000. (Upon speaking with friends who are avid hunters, they would do it for \$20). In addition to the \$125,000, we provide another couple hundred thousand dollars to contract for professionals, if there are more serious issues.

**Rep. Monson:** A barrier to do that for \$25 would be the potential of fleas

**Chairman Skarphol:** There are 5 pilots across the state who has requested to hunt by air. One is even 81 years old and doesn't get any compensation for doing it. Thus, we could look at doing a combination of the two ideas.

**Rep. Hawken:** It does not appear that a study will be necessary. Do we have to get a release from the federal govt?

**Chairman Skarphol:** the issue with the feds is that poisoning the animals would require permits. We would leave the blackbird issue with the feds because there are issues with the poisons used there. The bill on bounties in the Senate failed, but it's worth a shot to put this in there for conference committee.

**Rep. Williams:** I spoke to a friend who hunts and he got \$60 a pelt (coyote) if it was white or excellent quality and \$8 a pelt for the rest.

**Rep. Hawken:** it looks like HB 1454 is still alive about shooting animals on your property

**Chairman Skarphol:** If the grade 9 employees were \$1.78M, operating costs were \$360,000 total, that's \$1.4M thus we are close, if we take the 9 and leave the pilot because

we don't have the plane anyway. (referring to the green sheet, p. 5, **attachment # 1**). The employees would be \$1.438M as suggested to us by the ag dept and we have \$1.4M to work with now. It wouldn't leave anything for the bounty aspect.

**Morrisette:** Are you contemplating where these would be Ag Dept or Game and Fish employees?

**Chairman Skarphol:** Ag Dept

**Rep. Hawken:** The other bill you were referring to is SB 2224 (Senator Jerry Klein's bill) and it did fail. It had \$20,000 in it to WLS for bounties.

**Chairman Skarphol:** We could not change the dollars at all and tell ag dept to no longer contract with WLS for hunting for livestock deprivation and to use these dollars to hire 6 employees and the balance of the dollars to be used for contracting purposes with pilots or other hunters. That way they don't have to hire all 9 of them.

**Rep. Monson:** Terry mentioned the possibility of getting more money from the commodity groups (the stockman's).

**Chairman Skarphol:** we talked about giving them the option of matching some of this money in order to increase the number of people, if they so desire. That way their organization could decide whether or not it was worth enough to them to have skin in the game,

**Rep. Monson:** We can't force them but suggest or make an incentive for them to step up.

**Rep. Dosch:** I was thinking that we'd take all of it out and put back in \$250,000 to cover the cost of the bounties and another \$250,000 to cover the costs of contracting; \$.5M and put up the bounties and 2 years we could take a look at it again and see if it worked. Game and Fish could provide an information collecting point where if a farmer's having issues they could call and get assistance that way.

**Chairman Skarphol:** how about we just do the \$.5M and give the ag dept the option of whether they want to do bounties or contracts, thus they'd have the flexibility to adjust from one year to the next if the bounties didn't work, for instance, they could move to contracting.

**Rep. Monson:** The issue with having the people (hunters) do the job that enjoy it is the dependability issue. When it needs to get done, it needs to get one, and the hunter might not want to get up on a Saturday morning early for instance (issue with bounties). Contracting sounds good, but you aren't going to find part time people that are going to be able to be at the disposal of doing this job.

**Chairman Skarphol:** Rod Ballinger is here so we'll switch gears.

**Rep. Martinson:** We are wondering about the definition of a special event. When I owned a sport bar and we want an event, like on a Sunday, to be there, the City Commission

determined what a special event was. To define it can be a positive thing, but I could see a circumstance come up where a bar might feel this is definitely a special event, however it might not be defined in the code. For me, it wouldn't matter whether it was private or public.

**Rod Ballinger, Chairman of the Grape and Wine Producers Industry:** I came late

**Rep. Hawken** informed Mr. Ballinger about the discussion that was held between Mr. Rouse and the committee earlier this morning (see above)

**Chairman Skarphol:** Is providing for an event that is private, like a wedding, an issue for you and your organization?

**Ballinger:** We've been trying to talk to the Tax Dept about this. We do special events, including private events. For instance, we had the health clinic in Fargo that had a private event and they asked us to serve the wine with the food that was catered there and my understanding is that was part of what we'd be able to do. Certainly, a wedding, even though it is private, should qualify under these festival days that we are about to ask for. We talked about this when these festival days went in and that was our understanding of the wineries that these would be included.

**Chairman Skarphol:** In the events that you are allowed, you would want them to include private and public?

**Ballinger:** Yes. There is a mechanism to do such. We do have a set of guidelines that we just wanted a clarification of what this is because we've had questions in the past of what would qualify and we assumed that these would qualify as we've done them in the past and have had approval for those.

**Chairman Skarphol:** You sell your product at these events?

**Ballinger:** Yes. That is subject to local rules. We have to get the city's or county's approval, but as far as the state goes regarding festival days, that is true.

Mr. Rouse arrived and **Chairman Skarphol** explained the recent exchange between Mr. Ballinger and the committee. Why would it make a difference whether it is public or private, other than legislative intent? In other words, if legislative intent wasn't an issue, why would the tax dept have an objection to it?

**Rouse:** It came down to what was legislative intent because of the nature of the events were that were listed in the statute list. We would like to visit with Mr. Ballinger. Perhaps the time has come for us to change this area of law to say, off premises events. There is a strong argument made to limit the amount of events and the ability to monitor these off premises events. Mr. Ballinger can certainly provide free samples, sell bottles, etc. at his winery because that's his business. The idea behind having off premises events is to characterize the event. Perhaps we can say 20 events off premise versus naming the special events.

**Chairman Skarphol** instructed Mr. Rouse and Mr. Ballinger to discuss and come back to the committee with what they come up with.

**Rep. Martinson:** Let's give the wineries flexibility to do their business.

**Rep. Williams:** Do you have any hang up with private or public?

**Rouse:** It doesn't matter, if we go down the road of saying off premises events.

**Chairman Skarphol:** Let's get back to WLS, coyotes and beaver

**Rep. Monson:** How much money have we got in this game now? \$1,066,000?

**Chairman Skarphol:** \$1.4M

**Joe Morrisette:** The Senate added \$100,000.

**Chairman Skarphol:** There is also \$200,000 this biennium to take these guys off furlough. We have \$1.4M now and Rep. Dosch suggested we go to \$.5M and leave it flexible for the dept to either contract or offer bounty. We could take the general fund money and a portion of Game and Fish and leave the state Water Commission. There is a connection between water and beavers.

**Rep. Dosch:** \$886,000 is Game and Fish and that is special funds. Would this be something that Game and Fish would rather have or Ag Dept?

**Chairman Skarphol:** Game and Fish does not want it and they would rather have it in Ag Dept.

**Rep. Dosch:** Game and Fish issues a license for fur bearers. Can we direct that this \$500,000 come out of Game and Fish? We could take the general fund money out, reduce Game and Fish nearly back from what they were last biennium, keep the money from the state Water Commission and end up \$500,000.

**Chairman Skarphol:** we could take 4 from Game and Fish and the 100 from the Water Commission.

**Rep. Dosch:** I make a **motion** that we provide the Agriculture Department with \$500,000 of which \$100,000 come from the Water Commission, \$400,000 come from Game and Fish, and give them the authority to manage wildlife depredation as they see fit, with either contracted employees or bounties.

**Rep. Martinson: Second**

**Rep. Monson:** Ag isn't putting anything in, however Ag is going to be running it and getting the most benefit from it, so are we going to have Ag kicking something into this too? They are the ones who negotiate it and will probably go to the livestock association or the other commodity groups that might have a stake in this and should be stepping up to the

plate probably in the biggest way. I don't think we have enough money in this yet or the right combination. I'm okay with where you are at so far, but I think we need more.

**Rep. Dosch:** Ag's contribution would be the administration of this and perhaps part of the direction would be that they contact these other groups and these other groups can provide the salary for the individual to manage the program. Right now, what is our contribution?

**Joe Morrisette:** the general fund appropriation is to the Ag Dept so it is part of their general fund authority currently.

**Chairman Skarphol:** we should add to motion is the ability for the commodity groups to provide a dollar for dollar match to increase the amount of dollars available – perhaps \$1M appropriation authority with \$500,000 input, so that if the stockmen's association wants to put some money together to match \$250,000 of it in order to increase the number of bounties or the number of people they can contract with, they'd have the capability to do it.

**Rep. Williams:** You did not set a bounty figure, right?

**Rep. Dosch:** the bounty is important and perhaps Legislative Council has input on this. Do we want to look at \$30-35?

**Rep. Martinson:** Let's give them flexibility with this, versus limiting.

**Rep. Williams:** I'm concerned they wouldn't make the bounty worthwhile and use it other ways.

**Joe Morrisette** confirmed that it's all contract and no FTE associated with it.

**Voice Vote Carried** proposed amendment

**Chairman Skarphol:** switching gears again, wasn't this anhydrous issue handled somewhere else?

**Brady Larson, Legislative Council Representative:** HB 1321 does address the anhydrous issue; however, the appropriation authority to the Ag Commissioner to administer the program is not addressed in the bill which is where that \$410,000 comes into play.

**Chairman Skarphol:** We need to put authorization in here for 2 FTE?

**Larson:** That is correct.

**Rep. Hawken:** Is there going to be any reduction at all in the insurance commission for having done this? Where do they get cell phones for \$24 a month?

**Chairman Skarphol:** There are not going to see any reduction in workforce because they are saying they have all these additional boilers they have to expect on all these drilling rigs. The insurance commissioner's budget is sitting in Govt Operations Division (House

Appropriations), so if you think there should be a reduction, talk to Rep. Thoerson. Office of Management and Budget or Legislative Council can look into the cell phone question. Do we have a motion to put this \$410,328 in for those FTEs to do the anhydrous inspectors?

**Rep. Dosch:** I make a motion to put in the \$410,328 for those FTEs.

**Rep. Hawken: Second**

**Voice Vote Carries**

**Rep. Dosch:** Number 6, page 2 of green sheet (**attachment # 1**), we are supplanting some federal funds there, is that for sure what we want to do? What is the reserve for veterinary?

**Larson:** There are some veterinarians that work with the state veterinary and the state board of animal health to respond to emergencies. In this case it would be replacing the federal reduction of federal funds. These are the individuals that do animal inspections on a contract basis in emergency situations.

**Chairman Skarphol:** How much money is in the program in total? This is to replace the federal funds that are being lost.

**Larson:** I do not have the total funding for that program. // There are references in the Ag Dept bill for the anhydrous ammonia storage inspection fund. That fund is being eliminated in HB 1321 so I would take the reference out of this bill and put that funding authority into the EARP fund where the funds are being transferred to now. Additionally, for the WLS funding for the 09-11 biennium, is it also the intent of this committee that, that extra \$200,000 deficiency appropriation be removed? They would not be spending the money because they are furloughing their employees.

**Chairman Skarphol:** If we leave it in and this budget doesn't get signed until mid April, first of May, they would have the \$200,000 to hire those employees back?

**Larson:** Yes, until the end of the biennium.

**Rep. Dosch:** Because there would be transition here, it's probably a good idea to provide the deficiency funding for them.

**Rep. Monson:** there's \$500,000 for bounties (not set amount) and/or they could go out and contract with hunters, but no full time employees and no state general funds going in. they have the authority to match the \$500,000 from the commodity groups they so desire. They could turn that into whatever match program they want so they'd have total flexibility if they'd did a 3 for 1 or 1 for 1.

**Larson:** I put \$1M as the total and that would be based on the \$1 for \$ match from commodity groups.

**Rep. Monson:** It will get discussion. I am not sold on the idea.



**Chairman Skarphol:** it's an effort to get WLS on the federal level to try to come to the table and be a little bit more reasonable in how they conduct business. We will take a break and reconvene later when we have more information.

**Job Recorder Number: 15925**

**Rouse:** In addition to the amendment we proposed this morning (**attachment # 2**), we would like to present an additional amendment which came about from discussion with Mr. Ballinger. There are two different worlds that they live in. There are on premises worlds which are private except to the laws of the city and the state for that, so what happens when they go off premise for events? Taking the lead from Rep. Hawken and Rep. Martinson, we suggest that all of the language be struck which reads as follows: a designated trade show, festival, convention, or similar event approved by the state tax commissioner. The law would read (if you approve the amendment): *the state tax commissioner may issue special events permits for not more than 20 events per calendar year to a domestic winery, allowing the winery subject to local ordinates to give free samples of its wine and to sell its wine by the glass or in closed containers at off premises events.* It doesn't matter if it's private or public.

**Ballinger:** I appreciate the cooperation from the committee and the state tax dept. The language fits into exactly what we need.

**Rep. Martinson:** I move to pass this amendment

**Rep. Hawken: Second**

**Rep. Dosch:** when you say 20 events, are you specifying the length of the event?

**Rouse:** No. In our history of administering this, the longest event that's ever been out there is the State Fair which is 9 days and we don't anticipate any event taking longer.

**Voice Vote Carries**

**Rouse:** I will get that amendment to Legislative Council (Larson) to draft it

**Job Recorder Number: 15967**

**Chairman Skarphol** reviewed the Proposed Amendments to Engrossed SB 2009 composed by the Tax Commissioner. I thought we were going to take sections 9 and 10 out of the bill and he is amending these sections.

**Rep. Monson:** I move to reconsider action taken on Sections 9 and 10, to add the sections back into the bill

**Rep. Hawken: Second**

**Voice Vote Carries**

**Rep. Hawken:** I move the proposed amendments to SB 2009 as presented by the ND State Tax Commissioner (**attachment # 2** as well as indicate about by Mr. Dan Rouse)

**Rep. Monson: Second**

**Voice Vote Carries**

**Rep. Monson:** I move for a **Do Pass** as **amended** for SB 2009

**Rep. Hawken: Second**

Roll call vote taken resulting in 6 yes, 0 no, and 0 absent – Rep. Monson was assigned to be the carrier of the bill.

**Chairman Skarphol** closed hearing on SB 2009.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

SB 2009  
3/29/11  
16110

☐ Conference Committee

Committee Clerk Signature

*Meredith Tracholt*

### Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the agriculture commissioner; relating to the salary of the agriculture commissioner, the promotion of sustainably grown commodities, domestic wineries and domestic distilleries, and fertilizer distribution registration, licensing, and inspection fees; and to declare an emergency.

### Minutes:

You may make reference to "attached testimony."

**Chairman Delzer:** We'll do the ag department, SB 2009.

**Representative Monson:** I would move amend .02001.

**Representative Skarphol:** Second.

**Representative Monson:** Went through the amendment.

**Chairman Delzer:** Those additions are simply because of the two new FTEs?

**Representative Monson:** That is correct.

**Chairman Delzer:** What classification are they?

**Vice Chairman Kempenich:** They're an 11.

**Representative Monson:** Continued explanation of amendment.

**Chairman Delzer:** Questions by the committee? It looks like all your changes are special funds, with the exception of the 298?

**Representative Monson:** Correct.

**Chairman Delzer:** Most of it from game and fish, I would guess.

**Representative Monson:** A good portion of it, \$500,000, is authority. \$400,000 game and fish, \$100,000 water commission.

**Chairman Delzer:** In the authority do you have language along with that?

**Representative Monson:** It's just authority. It's explained in section 3 of the amendment, nothing goes into the bill.

**Representative Kroeber:** Is wildlife services now basically going to be run out of the ag department?

**Representative Monson:** That would be our intention.

**Representative Kroeber:** So if anyone has a problem they will be contacting the ag department, not game and fish.

**Representative Monson:** Correct.

**Representative Kroeber:** Does this preclude the ag department from doing any contracting with wildlife services, or not?

**Representative Monson:** They can contact these temporary employees, they can go anywhere they want. They could hire you if you're a good shot.

**Representative Kroeber:** This is a very big change. We've had a great deal of discussion in government operations division with wildlife services, and I don't think any of us realized this was going on. This is all new to us. Wildlife services then is basically on their own with the federal dollars they have to do whatever it is they want to do. Is this correct?

**Representative Skarphol:** There were nine employee hunters in wildlife services that were funded with state dollars. It is our intention that they're gone. We've created this option for the ag department to use to service the needs of our livestock individuals and whomever. As it stands today, the hunters are furloughed, right during the prime time that they're needed, because they're short of federal dollars. Rather than keep the hunters, they furlough them and keep the office staff. That's not exactly the solution we would look for in this environment, we want the coyotes to be getting shot. Obviously we expect this to go to conference committee. The wildlife services retains the blackbird depredation part of it because of the associated poison and permit issues. In order to try to get something moving to fix this problem, and they have a continuing trend of decline in their funding, we can either pick up the full tab for those hunters, or we can have a service that doesn't really provide a service.

**Representative Kroeber:** We've had many of the same discussions. It was my recollection that they were looking for a \$200,000 deficiency payment and this is what they were going to use to keep the hunters on and that they really had not been furloughed yet, but that if they did not get the payment, they would be. I don't have a big problem with everything that's going on here, but it is very new to us.

**Representative Monson:** We did not do anything with the \$200,000 that you were referring to for this biennium, this is for the new 11-13 biennium going forward.

**Vice Chairman Kempenich:** We had some incentive bills earlier. I think we really need to look at this. It doesn't work all the time, but there are ways to do it.

**Representative Monson:** We left it totally flexible. If they want to pursue using some of this funding for a bounty, or hire temporary or contract people through game and fish, they can do that. They can run the program however they wish.

**Chairman Delzer:** I'm sure this is something that will go to conference, this and game and fish. Further discussion on the motion to amend? Motion carries on voice vote.

**Representative Monson:** SB 2009 is pretty straightforward. You can look at the green sheet. I move Do Pass as Amended on 2009.

**Representative Skarphol:** Second.

**Chairman Delzer:** On the green sheet, it looks like you're adding in an FTE position that the Senate removed. Will you walk us through the green sheet?

**Representative Monson:** Went through the green sheet.

Recording error.

**Chairman Delzer:** We're replacing some federal funds on #6 for the veterinarian program?

**Representative Monson:** We didn't talk much about this. The governor added it, and it is just to make up federal funding.

**Chairman Delzer:** Was it for the program itself, or personnel in the program?

**Representative Skarphol:** It's for the veterinary inspections that are done in the state for incoming livestock. Federal government has typically funded that. It is considered by the ag department to be an essential aspect of what they do. It's not staff, it's a contract basis.

**Chairman Delzer:** Further discussion on the bill? We have a motion for a Do Pass as Amended, we'll call the roll. Motion carries 21-0-0. Representative Monson will carry the bill.

Date: 3/24/2011  
Roll Call Vote #: 1

**2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2009**

House Appropriations – Education and Environment Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Monson Seconded By Rep. Hawken

Representatives	Yes	No	Representatives	Yes	No
Chairman Bob Skarphol	X		Clark Williams	X	
Vice Chair Hawken	X				
Mark Dosch	X				
Rep. Martinson:	X				
David Monson	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Rep. Monson

If the vote is on an amendment, briefly indicate intent:

March 25, 2011

VR  
3/29/11  
143

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2009

Page 1, replace lines 16 and 17 with:

"Salaries and wages	\$8,566,196	\$1,146,168	\$9,712,364
Operating expenses	6,094,603	356,850	6,451,453"

Page 1, replace line 21 with:

"Wildlife services	1,067,400	(1,067,400)	0
Wildlife depredation	0	1,000,000	1,000,000"

Page 1, remove lines 23 and 24

Page 2, replace lines 1 and 2 with:

"Total all funds	\$21,316,349	\$1,234,348	\$22,550,697
Less estimated income	<u>14,094,466</u>	<u>562,985</u>	<u>14,657,451</u>
Total general fund	\$7,221,883	\$671,363	\$7,893,246
Full-time equivalent positions	74.50	2.50	77.00"

Page 2, line 14, replace "\$4,627,709" with "\$5,078,037"

Page 2, remove lines 18 through 22

Page 2, line 24, replace "\$1,068,261" with "\$599,461"

Page 2, after line 27, insert:

**"SECTION 6. WILDLIFE DEPREDATION.** The agriculture commissioner shall establish a program to assist in wildlife depredation control for the biennium beginning July 1, 2011, and ending June 30, 2013. The agriculture commissioner may use the funding included in the wildlife depredation line item in section 1 of this Act to contract with a private entity or hire temporary employees for wildlife depredation control and to establish a bounty program to mitigate wildlife depredation issues."

Page 4, overstrike line 18

Page 4, line 19, overstrike "tax commissioner" and insert immediately thereafter "off premises events"

Page 4, line 19, remove "In addition, the agriculture commissioner may issue special events"

Page 4, line 20, remove "permits to promote the wine industry in this state."

Page 5, line 14, overstrike "a designated trade show, convention, festival, or similar event"

Page 5, line 15, overstrike "approved by the tax commissioner" and insert immediately thereafter "off premises events"

Page 5, line 15, remove "In addition, the agriculture commissioner may"

Page 5, line 16, remove "issue special events permits to promote the spirits industry in this state."

Renumber accordingly

# STATEMENT OF PURPOSE OF AMENDMENT:

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

	Executive Budget	Senate Version	House Changes	House Version
Salaries and wages	\$9,303,178	\$9,384,828	\$327,536	\$9,712,364
Operating expenses	6,548,199	6,368,661	82,792	6,451,453
Capital assets	17,000	17,000		17,000
Grants	3,095,828	3,170,828		3,170,828
State Board of Animal Health	1,949,052	2,149,052		2,149,052
Wildlife Services	1,067,400	1,417,400	(1,417,400)	
Crop Harmonization Board	50,000	50,000		50,000
Wildlife depredation			1,000,000	1,000,000
Total all funds	\$22,030,657	\$22,557,769	(\$7,072)	\$22,550,697
Less estimated income	13,645,923	14,365,923	291,528	14,657,451
General fund	\$8,384,734	\$8,191,846	(\$298,600)	\$7,893,246
FTE	74.50	75.00	2.00	77.00

## Department No. 602 - Department of Agriculture - Detail of House Changes

	Adds Anhydrous Ammonia Inspection Positions <sup>1</sup>	Removes Funding for Wildlife Services <sup>2</sup>	Adds Funding for Wildlife Depredation Program <sup>3</sup>	Total House Changes
Salaries and wages	\$327,536			\$327,536
Operating expenses	82,792			82,792
Capital assets				
Grants				
State Board of Animal Health				
Wildlife Services		(1,417,400)		(1,417,400)
Crop Harmonization Board				
Wildlife depredation			1,000,000	1,000,000
Total all funds	\$410,328	(\$1,417,400)	\$1,000,000	(\$7,072)
Less estimated income	410,328	(1,118,800)	1,000,000	291,528
General fund	\$0	(\$298,600)	\$0	(\$298,600)
FTE	2.00	0.00	0.00	2.00

<sup>1</sup> Two anhydrous ammonia inspector positions and related operating expenses are added with funding from the environment and rangeland protection fund. House Bill No. 1321 transfers anhydrous ammonia inspection duties from the Insurance Commissioner to the Agriculture Commissioner.

<sup>2</sup> Funding for the Wildlife Services program is removed, including estimated income of \$868,800 from the Game and Fish Department and \$250,000 from the State Water Commission.

<sup>3</sup> Funding is added from the game and fish fund (\$400,000), from funding received from the State Water Commission (\$100,000), and from other income received (\$500,000) for wildlife depredation control. A section is added requiring the Agriculture Commissioner to establish a wildlife depredation program and



authoring the commissioner to contract with a private entity or hire temporary employees for wildlife depredation control and to establish a bounty program to mitigate wildlife depredation issues.

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This amendment also:

- Adjusts Section 4 regarding funding provided from the environment and rangeland protection fund.
- Removes Section 5 that provides \$40,000 from the anhydrous ammonia storage facility inspection fund to the Agriculture Commissioner. House Bill No. 1321 eliminates the anhydrous ammonia storage facility inspection fund and deposits fund revenues in the environment and rangeland protection fund.
- Adjusts Section 6 regarding funding provided from the game and fish fund. The amendments provide that \$599,461 is from the game and fish fund for wildlife depredation (\$400,000) and the State Board of Animal Health (\$199,461).
- Revises Sections 9 and 10 regarding special events permits for wine and spirits promotion.

Date: 3/29  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2009

House Appropriations Committee

Legislative Council Amendment Number 02001

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Monson Seconded By Rep. Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Representative Nelson		
Vice Chairman Kempenich			Representative Wieland		
Representative Pollert					
Representative Skarphol					
Representative Thoreson			Representative Glassheim		
Representative Bellew			Representative Kaldor		
Representative Brandenburg			Representative Kroeber		
Representative Dahl			Representative Metcalf		
Representative Dosch			Representative Williams		
Representative Hawken					
Representative Klein					
Representative Kreidt					
Representative Martinson					
Representative Monson					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:

voice vote carries

Date: 3/29  
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 2009

House Appropriations Committee

Legislative Council Amendment Number 02001

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Monson Seconded By Rep. Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Deizer	X		Representative Nelson	X	
Vice Chairman Kempenich	X		Representative Wieland	X	
Representative Pollert	X				
Representative Skarphol	X				
Representative Thoreson	X		Representative Glassheim	X	
Representative Bellew	X		Representative Kaldor	X	
Representative Brandenburg	X		Representative Kroeber	X	
Representative Dahl	X		Representative Metcalf	X	
Representative Dosch	X		Representative Williams	X	
Representative Hawken	X				
Representative Klein	X				
Representative Kreidt	X				
Representative Martinson	X				
Representative Monson	X				

Total (Yes) 21 No 0

Absent 0

Floor Assignment Rep. Monson

If the vote is on an amendment, briefly indicate intent:

**REPORT OF STANDING COMMITTEE**

**SB 2009, as engrossed: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (21 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2009 was placed on the Sixth order on the calendar.

Page 1, replace lines 16 and 17 with:

"Salaries and wages	\$8,566,196	\$1,146,168	\$9,712,364
Operating expenses	6,094,603	356,850	6,451,453"

Page 1, replace line 21 with:

"Wildlife services	1,067,400	(1,067,400)	0
Wildlife depredation	0	1,000,000	1,000,000"

Page 1, remove lines 23 and 24

Page 2, replace lines 1 and 2 with:

"Total all funds	\$21,316,349	\$1,234,348	\$22,550,697
Less estimated income	<u>14,094,466</u>	<u>562,985</u>	<u>14,657,451</u>
Total general fund	\$7,221,883	\$671,363	\$7,893,246
Full-time equivalent positions	74.50	2.50	77.00"

Page 2, line 14, replace "\$4,627,709" with "\$5,078,037"

Page 2, remove lines 18 through 22

Page 2, line 24, replace "\$1,068,261" with "\$599,461"

Page 2, after line 27, insert:

**"SECTION 6. WILDLIFE DEPREDAATION.** The agriculture commissioner shall establish a program to assist in wildlife depredation control for the biennium beginning July 1, 2011, and ending June 30, 2013. The agriculture commissioner may use the funding included in the wildlife depredation line item in section 1 of this Act to contract with a private entity or hire temporary employees for wildlife depredation control and to establish a bounty program to mitigate wildlife depredation issues."

Page 4, overstrike line 18

Page 4, line 19, overstrike "tax commissioner" and insert immediately thereafter "off premises events"

Page 4, line 19, remove "In addition, the agriculture commissioner may issue special events"

Page 4, line 20, remove "permits to promote the wine industry in this state."

Page 5, line 14, overstrike "a designated trade show, convention, festival, or similar event"

Page 5, line 15, overstrike "approved by the tax commissioner" and insert immediately thereafter "off premises events"

Page 5, line 15, remove "In addition, the agriculture commissioner may"

Page 5, line 16, remove "issue special events permits to promote the spirits industry in this state."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Executive Budget	Senate Version	House Changes	House Version
Salaries and wages	\$9,303,178	\$9,384,828	\$327,536	\$9,712,364
Operating expenses	6,548,199	6,368,661	82,792	6,451,453
Capital assets	17,000	17,000		17,000
Grants	3,095,828	3,170,828		3,170,828
State Board of Animal Health	1,949,052	2,149,052		2,149,052
Wildlife Services	1,067,400	1,417,400	(1,417,400)	
Crop Harmonization Board	50,000	50,000		50,000
Wildlife depredation			1,000,000	1,000,000
Total all funds	\$22,030,657	\$22,557,769	(\$7,072)	\$22,550,697
Less estimated income	13,645,923	14,365,923	291,528	14,657,451
General fund	\$8,384,734	\$8,191,846	(\$298,600)	\$7,893,246
FTE	74.50	75.00	2.00	77.00

**Department No. 602 - Department of Agriculture - Detail of House Changes**

	Adds Anhydrous Ammonia Inspection Positions <sup>1</sup>	Removes Funding for Wildlife Services <sup>2</sup>	Adds Funding for Wildlife Depredation Program <sup>3</sup>	Total House Changes
Salaries and wages	\$327,536			\$327,536
Operating expenses	82,792			82,792
Capital assets				
Grants				
State Board of Animal Health				
Wildlife Services		(1,417,400)		(1,417,400)
Crop Harmonization Board				
Wildlife depredation			1,000,000	1,000,000
Total all funds	\$410,328	(\$1,417,400)	\$1,000,000	(\$7,072)
Less estimated income	410,328	(1,118,800)	1,000,000	291,528
General fund	\$0	(\$298,600)	\$0	(\$298,600)
FTE	2.00	0.00	0.00	2.00

<sup>1</sup> Two anhydrous ammonia inspector positions and related operating expenses are added with funding from the environment and rangeland protection fund. House Bill No. 1321 transfers anhydrous ammonia inspection duties from the Insurance Commissioner to the Agriculture Commissioner.

<sup>2</sup> Funding for the Wildlife Services program is removed, including estimated income of \$868,800 from the Game and Fish Department and \$250,000 from the State Water Commission.

<sup>3</sup> Funding is added from the game and fish fund (\$400,000), from funding received from the State Water Commission (\$100,000), and from other income received (\$500,000) for wildlife depredation control. A section is added requiring the Agriculture Commissioner to establish a wildlife depredation program and authoring the commissioner to contract with a private entity or hire temporary employees for wildlife depredation control and to establish a bounty

program to mitigate wildlife depredation issues.

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This amendment also:

- Adjusts Section 4 regarding funding provided from the environment and rangeland protection fund.
- Removes Section 5 that provides \$40,000 from the anhydrous ammonia storage facility inspection fund to the Agriculture Commissioner. House Bill No. 1321 eliminates the anhydrous ammonia storage facility inspection fund and deposits fund revenues in the environment and rangeland protection fund.
- Adjusts Section 6 regarding funding provided from the game and fish fund. The amendments provide that \$599,461 is from the game and fish fund for wildlife depredation (\$400,000) and the State Board of Animal Health (\$199,461).
- Revises Sections 9 and 10 regarding special events permits for wine and spirits promotion.
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**2011 SENATE APPROPRIATIONS**

**CONFERENCE COMMITTEE**

**SB 2009**

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2009  
04-12-2011  
Job # 16512

☒ Conference Committee

Committee Clerk Signature

### Explanation or reason for introduction of bill/resolution:

A CONFERENCE COMMITTEE HEARING ON THE AGRICULTURE COMMISSIONER

### Minutes:

Discussion 

PERSONS PRESENT FOR THE CONFERENCE COMMITTEE ON SB 2009:

SENATE: Senator Christmann, Chair; Senator Wanzek, Senator O'Connell

HOUSE: Rep. Monson, Rep. Skarphol, Rep. Williams

OMB: Tammy R. Dolan; LEGISLATIVE COUNCIL: Brady Larson

**Chairman Christmann:** Let the record show all conferees are present.

**Rep. Monson:** We added two ammonia inspector positions and the related operating expenses and we funded it from ERP, it was necessary because House bill 1321 transferred operating expenses from the insurance commissioner to the agricultural commissioner. The wage and salary line item increased over the Senate version, operating expenses increased.

**Chairman Christmann:** We had talked about that and seen 1321 coming and planned for it, is this how we had it mapped out and gets it on track to what we intended?

**Senator Wanzek:** I am not quite up to speed. There might have been the anhydrous ammonia tonnage fees added in as well.

**Rep. Monson:** We ended up with ERP funding this one, our concern was not how it was going to play out on where it came from but we want this program controlled by the state instead of EPA, we were expecting that the government ops subsection governors would reduce that budget by 2 FTE's, it was going to be moved over to the AG department.

**Chairman Christmann:** Before the next meeting Ken can tell us if there is a big difference here.

**Rep. Monson:** As I understand the government ops did not reduce the insurance commissioner's count by the two FTE's. There is a lot more tank inspections needed in the oil



field and out west. There were 2 FTE's before doing this and we would continue with 2 FTE's in this budget, the money was for the salaries and operating expenses.

**Rep. Skarphol:** We did talk about the fertilizer tonnage fees and it did amount to 597,386 dollars that would go into ERP as a result of the actions on those two bills.

**Rep. Monson:** In the wildlife service's version that we passed we patched something together and we are open to ideas and working with you. He went over the dollar amounts that were removed from the various departments and what they added in. Their intention was that they would have one million dollars to run the program. He talked about the way he understood it would work. They didn't want to stick their money into a program like that.

**Chairman Christmann:** There are 9 of these guys out in the field but each have their own region and then there is a pilot that works with all of them. He said with the emergency money they were to keep them going through this biennium. Their administrative people don't just supervise these 10 they have other people that they work with wildlife etc. He continued to go over what they would be doing.

**Rep. Skarphol:** Just so I understand, you are saying that the federal administrators transferred in a federal employee from somewhere else to replace the retired person? He gave an example using trappers.

**Chairman Christmann:** He said he thought that was right. Salaries and benefits are together, then expenses and gas, one of them we pay and one the feds covers. Stated that he thought they paid the salaries and the feds paid the expenses. If they are not keeping up with their contracts then they furlough the employees.

**Rep. Skarphol:** What happens if we pay all the cost? Who makes the decision whether they get furloughed?

**Chairman Christmann:** As of now we don't pay the cost and with the cost of maintaining these ten people we are still paying half of the total cost. If we choose to go on our own we might be able to do it cheaper than the salaries and benefits of a federal employees but right now we are paying less than half I don't think we will get employees that much cheaper. When we talked about it on our side, I used the example of Medicaid how frustrating it is, at a drop of a hat, the feds share of Medicaid goes from almost seventy percent down to fifty five percent and we are paying hundreds of millions of dollars more. This is similar and I don't know if we can afford to lose that kind of a partner.

**Rep. Monson:** I am hoping that we can get some input from Doug and the Ag department on the way they can make this work. We are aware there are other things that the fed did, the M44 that has to be by a fed employee. We were made aware of things after the fact and we had made a very simplified program here that needs work. There is \$200,000 in your version that is funding through the biennium. There are other programs we did not touch this is just the coyote and the beaver.

**Chairman Christmann:** There are skunks and coons in town.

**Rep. Monson:** We are very aware of that and are willing to listen to the whole debate.

**Chairman Christmann:** He said he would like to ask Ken the commissioner to get us a simplified version of those salaries, and benefits, expenses and travel costs and who pays for it?

**Senator Wanzek:** There are certain operations and tools and techniques the feds can use and we won't be able to and 2<sup>nd</sup> it was revealed to us that there are a lot of things in there that if we do it on our own, it will be more expensive than we realize, using the plane, etc, this is still the most efficient way of accomplishing what we need to do.

**Rep Williams:** The term expense and participation, I have heard throughout this budget there have been substantial fed costs and in the Ag department in this program you are anticipating federal dollars in this area.

**Chairman Christmann:** We should check with wildlife services.

**Rep. Monson:** Went over the rest of the revisions on the bill. We knew there were other bills out there and this may end up having to wait so we can get this to coincide.

**Rep. Skarphol:** With the potential for decline in federal funding what are the implications to any action we now are we going to be anticipated by the contract that exists to pick up the additional costs?

**Chairman Christmann:** We ran into the shortfall this year and it wasn't because of a cut in federal funds, we left them underfunded. We never resolved it but it has been taken care of for this biennium.

**Rep. Skarphol:** We should be thinking hard how we want to move forward in the event that they are not going to be there to help us.

**Chairman Christmann:** We will reschedule

**Senator Wanzek:** About the insurance department and the FTE's with the inspectors, their issue is that this doesn't diminish their work load but I do recall they were providing some funding through the fire and tornado fund which hopefully won't be necessary now.

**Senator O'Connell:** We all look at the predator control as one of the top priorities.

**Chairman Christmann:** We're adjourned.

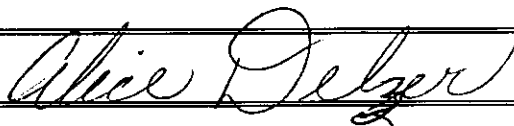
# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2009  
04-13-2011  
Job # 16560

☒ Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

A CONFERENCE COMMITTEE HEARING ON THE AGRICULTURE DEPARTMENT.

Minutes:

One Attachment

### MEMBERS ARE AS FOLLOWS:

**SENATE:** Senator Christmann, (Chair); Senator Wanzek, Senator O'Connell,

**HOUSE:** Rep. Monson, Rep. Skarphol, Rep. Williams

**OMB:** Tammy R. Dolan; **LEGISLATIVE COUNCIL:** Brady Larson

**Chairman Christmann** called the conference committee to order at 2:00 p.m. in reference to the Agriculture Commission. Let the record show that all conferees were present. We went through and I think the changes revolve around the changes in anhydrous and the inspections. We feel we have Wildlife Services funded about right. The plan would be to have the ag commissioner contract with Wildlife Services if House members are comfortable with that. I need explanation on the grape thing at the end. In the past there has been a provision in the ag commissioner's budget that authorizes transfer of money from the ERP fund to the minor use pesticide fund. We both neglected to do it but it has been done in the past.

**Representative Monson:** I guess we have looked at the second section, the wildlife depredation, we are not that far apart. We realize this one needed a lot of work on our end, the way you funded it is probably closer than what we had, after we talked to some of the people involved in the program and the Ag office, they are coming up with a plan, we are on the right page, yet off with some of the dollar amounts. You did say you needed more on the grape, the wine. What the House did is really quite simple, we left everything with the permits in the tax department, but promoting with Pride of Dakota and the wine industry, we did make a change in the off premises in there on page 4 of amend 02000 and on page 5, on line 17 – 19. What we did was cross it all off, and we have off premises put in there, all the language about “a designated trade show convention, festival, or similar event...” that came out, we just put in off premises event. We felt that took care of the problem where someone wanted to be part of a private event, for example someone from the wine industry coming to a wedding, they can't do it so this would fix that. The tax commissioner's office and the industry were on board with it. We had some discussion, this industry is growing, it's kind of important. One of the other things we wanted to do was to change it to events instead of days. The language in a previous biennium, it was 20 days, now it would be 20 events. Otherwise, if it was a 3 day event, they

biennium, it was 20 days, now it would be 20 events. Otherwise, if it was a 3 day event, they would burn 3 days of their 20 days right there. This industry is growing; the whole industry in ND, the wine industry, generates about \$5000 worth of taxes at this time. If it continues to grow we might have to look at other language.

**Chairman Christmann:** The commissioner did not have any problems with it?

**Representative Monson:** We have the blessing from both the tax and ag departments.

**Chairman Christmann:** It went through some changes. One other thing I forgot to mention yesterday, two years ago for John's we did about \$275,000 and they had stepped up to the plate that \$200,000 was all they needed. We had a senate bill in to do that. They stepped up and said it wasn't necessary, based on an assumption that what they had left over, that they could carry over, so the Stockmen's Assoc is asking for a provision to allow them to carry it over. That was the premise on which they based their need for the \$200,000 this time.

**Representative Skarphol:** We would need to add language to allow them to carry that forward. We wouldn't have an issue with that. I would make a motion to make that part of the amendment.

**Senator Wanzek:** Second.

**Senator Wanzek:** That will be added to the \$200,000 that is in the budget for this biennium?

**Chairman Christmann:** Right. All in favor say aye. All in agreement.

**Representative Monson:** The mention of the wine industry in the amendment, is everyone ok with that? Everyone is ok.

**Senator Monson:** version .02000 was the bill we sent out of our committee. Our amendment referred to .02000. .03000 has the house amendments included. Go back and find that.

**Senator Wanzek:** I was just wanting to clarify that.

**Chairman Christmann:** I think then if we can accept your changes on the anhydrous stuff, and you would accept our version of Wildlife Services we could get the amendments drafted up.

**Representative Williams:** Wildlife Services...I asked for clarification on what the federal money was. I believe you have some handouts?

**Doug Goehring,** North Dakota Commissioner of Agriculture, explained the Agriculture Commissioner's budget. See testimony attached #1. Addressing the question "Are there going to be some cuts, speaking with the USDA there were earmarks identified to be cut, and they are for blackbirds. It is approximately \$384,000. On the 2011-2013 budget you will see where we have salaries/benefits and operating in the federal part. The \$675,000 reflects the change in operating expenses. That brings the total down to just over \$2M. This has been identified in Washington and this will take place. This is coming out of the federal budget.

**Representative Skarphol:** I thought you said you had a negotiated contract for the next 2 years with US Fish and Wildlife for a price certain. Is that correct?

**Doug Goehring:** I visited with Bill Clay, the administrator of the USDA Wildlife Service program. We identified what the problem has been with the contract that is in place between ND and USDA's Wildlife Services was the way the contract was interpreted. How it had been interpreted is that we were responsible for salaries for federal employees. What we have interpreted it as the funds that go toward this program are for salaries, not to replace all those salaries. Once we identified that, what has happened is that it snowballed because they continued to be behind. Congress has not been appropriating salaries and benefits to their own employees in USDA Wildlife Services because they have been told that the interpretation is that the state of ND is responsible for those salaries. We did visit with the state administrator of Wildlife Services about this and said we are going to pursue a different contract. We have been in discussions with Legislative Council and OMB and the auditor's office about this. We need to look at a contract for services. With doing so I visited with Bill Clay about changing the contract because that contract will be up this year. By July 1<sup>st</sup> we want to have a contract in place that will be a 24 month contract for services rendered. We would be sure that those services are rendered to our citizens in the next 24 months.

**Representative Skarphol:** Whatever we appropriate for you and you go to negotiations and they tell you that is not enough. Then what do you do?

**Doug Goehring:** With my conversation with Bill Clay, I believe his word will be good, that we are going to resolve this. I do believe we will work it out for the next biennium. It's not in writing, but he is a man of character. We also believe the administrator here in ND will also work with us to make this happen.

**Representative Skarphol:** So if we give you \$2 and half, you'll be ok?

**Doug Goehring:** We have to come up with what's workable.

**Representative Skarphol:** If I look at the difference between what you had for a total this biennium, and the total for the next biennium, the difference is \$1,450,000M. That is what you are suggesting you would need. Is that a correct statement?

**Doug Goehring:** \$1.4M would get it pretty close to where it needs to be. There is a shortfall right now that is being addressed already but going into this next biennium if we had that figure to work with I think that is a respectable figure to make sure that services are rendered to the people of North Dakota.

**Representative Monson:** Looking at the bottom of the sheet, where does the other income of \$25,000 come from?

**Doug Goehring:** Mainly for services rendered to airports, to control bird activity around airports.

**Chairman Christmann:** Does that also include when they charge farmers for explosives?

**Doug Goehring:** I am not sure they would be allowed to give explosives away unless they are providing some extra service. They would actually go out and set an explosive.

**Chairman Christmann:** I can tell you it's free to blow a dam out for beavers. They can't let someone else do it, so they have to charge for that.

**Doug Goehring:** They can't let someone else do it but they do charge for it.

**Chairman Christmann:** Where the senate was at \$1.417M you are thinking was possibly even short?

**Doug Goehring:** When we came to an agreement as we discussed with the wildlife services, it seemed they would be satisfied and it would satisfy the needs for the next biennium.

**Representative Williams:** You could run the wildlife program the way you want to with senate version, correct?

**Doug Goehring:** The moneys that would come through our budget and go to Wildlife Services we have been assured that the Senate version would accomplish that for the next biennium.

**Representative Williams:** The moneys that go to the Wildlife Services, where is that money specifically coming from?

**Chairman Christmann:** \$298.6M is from the general fund, \$868.8M is from the Game and Fish, and they did \$768.8M the previous biennium. \$250M is from the Water Commission. It wasn't the first on their priority system, but they use Wildlife Services a lot and they didn't seem to oppose it.

**Senator Wanzek:** Another point that was brought out, if we were to have the department do the wildlife services on their own it would also be a need for one time funding for equipment, rifles, shell cases, boxes. I don't think that is included in this 3.4M. If we were to do it on our own, we would have to invest in equipment.

**Representative Williams:** When we sent this over with ours, our primary concern was that wildlife services had enough money because it was extremely important. If you are satisfied with this, that goes a long ways.

**Chairman Christmann:** We have to wrap up. In general are we ok with this?

**Representative Skarphol:** We are very close. It's a matter of whether or not the revenue sources we are talking about are what we want to work with.

**Chairman Christmann:** Senator Wanzek had an item he was wondering if we wanted to take up here regarding dust control.

**Senator Wanzek:** I said I at least would bring it up. But it is my understanding there are a number of EPA issues with dust and air quality control regarding agriculture. Our state dept

has been active in a number of EPA meetings. It is important to have our input at those meetings. We can make an impact. There is additional cost to get our people out to these meetings. I have been asked about putting a few more dollars to send our people out to those meeting. I do know that EPA policy is having a dramatic effect on our agriculture.

**Chairman Christmann:** Is there a desire by anyone else to have Senator Wanzek investigate that further?

**Representative Skarphol:** I would be interested to define "a few more dollars".

**Senator Wanzek:** The line item is \$50,000 currently.

**Chairman Christmann:** Should we get more info and dig into that?

**Representative Monson:** You brought it up; we can look at it.

**Chairman Christmann:** We are adjourned.

# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Appropriations Committee Harvest Room, State Capitol

SB 2009 Conference Committee  
April 14, 2011  
Job # 16614

☒ Conference Committee

Committee Clerk Signature

*Rose Lanning*

### Explanation or reason for introduction of bill/resolution:

This is a conference committee hearing on the Agriculture Commissioner.

### Minutes:

See attached testimony # 1-3.

### Conferees:

**Senator Christmann, Chair; Senator Wanzek and Senator O'Connell  
Representative Monson, Representative Skarphol, Representative Williams**

**Brady Larson – Legislative Council; Tammy R. Dolan - OMB**

**Brady Larson** handed out requested information on the ERP Fund (Environment and Rangeland Protection Fund) – see attached #1.

**Senator Christmann** called the committee hearing to order on SB 2009 and had Senator Wanzek explain the crop harmonization.

**Senator Wanzek:** The crop harmonization plan has \$50,000 coming out of ERP fund and part of that money is used to leverage dollars with some of the commodity organizations. They bring people from EPA, regulators who regulate pesticide registration and herbicides and things that farmers use. These are people who regulate and have never been on a farm. It has proven to be a very effective program. Part of the funds also go to make sure we have North Dakota representation at national meetings. There are going to be EPA air and dust quality issues coming up that we want to make sure we have North Dakota people there to provide input. There are issues concerning pesticides – our state made an impact where they were proposing to require all farmers to get a permit every time before they go out to spray. We want to have ND people there representing us. They want to do one more e-tour. Some of the folks have ridden in a sprayer. This would give them a chance to do one more e-tour. If I didn't think it had merit I wouldn't suggest it.

**Senator Christmann:** So you are talking about taking the Crop harmonization board from \$50,000 from ERP to...



**Senator Wanzek:** I don't think 50,000 will make it. I think 25,000 could provide funds that would make a significant impact in assuring that we can get one more tour done and make sure we get people at some of these meetings.

**Representative Skarphol:** What kind of leverage did you get from the private sector?

**Senator Wanzek:** I can't recall exactly but ND Grain Growers had helped facilitate the project and helped provide some in kind. We have been able to defray some of their costs of travel and reimbursement. We also spent a great deal to get our pesticide experts to meetings where state folks have opportunities to provide input.

**Senator Christmann:** Was there another issue we needed to discuss regarding the Minor Use fund?

**Senator Wanzek:** The Minor Use fund are funds that are used to help defray the cost of efficacy and risk studies on pesticide or herbicide products for minor use crops. There might be a certain product that is labeled for a weed or a soybean crop that would work in a minor use crop like chick peas or safflower. These minor crops don't have enough critical mass, enough acres where the private companies will invest the money into doing those studies. Someone has to do them. So to help defray the cost someone will like oil producers or dry bean growers will contract with NDSU to do that research and then they are able to get that product labeled for If an herbicide might be effective when used for chickpeas, or safflower, the minor crops don't have enough acres where private companies will help with costs. Oil producers or dry bean will get that product labeled for that crop. Mostly it is to help North Dakota growers who are growing a minor use crop and to help them get the tools and products available to them and registered for their use to help fight weeds and pests.

**Senator Christmann:** They are currently getting \$150,000 from ERP. Is there a proposal to change that? —an additional \$50,000 to bring total to \$200,000.

**Senator O'Connell:** the \$50,000 from where?

**Senator Christmann:** From the ERP fund. Is that all the new, previously undiscussed changes we are looking at? \$50,000 from Minor Use and \$25,000 from crop harmonization fund?

**Senator Christmann:** It looks to me that in next biennium we are projecting a little over \$4.7M of revenue and over \$5.5M in expenditures. That is not a very good business plan. Are there any things in this biennium that are onetime things that are unlikely to come from this fund in the 13-15 biennium? Before 13-15 ends, this is empty and we're general funding some of these things.

**Senator Wanzek:** The only thing I might add, the dairy coalition was at one time funded out of general funds last time. So that is being funded out of ERP this time. The anhydrous ammonia fund was being inspected by the insurance commissioner. That is now being funded by the ERP fund. You are right, a good business plan would show sustainability. There are some other programs that used to be funded by general fund that are now being funded out of the ERP fund. It can't say what savings there might be in any of the other line items.

**Senator Christmann:** Any thoughts on any items not needed next time? Any discussion on positive or negative of either of these 2 adjustments?

**Representative Monson:** Unfortunately, this is a trend we will see continuing. It seems like some of these have grown because we're playing defense with EPA and the power of the federal government and now the reduction in some of the funding from the federal government. I'm not an expert on any one of these line items but I know that we are going to be continually having to step up to the plate if we are going to keep some kind of control in this farming industry in the state. We don't want the EPA and the federal government to run roughshod over us. I don't have an answer because it's not a healthy situation. When you go from \$1.3M balance at the beginning of this biennium to \$0.5M, that is \$800,000+ backwards.

**Senator Christmann:** How long have these pesticide registrations and fertilizer fees been the same? If we are going to spend like this do they need to be raised?

**Senator Wanzek:** (holding amendment # 11.8147.02004 – see attached # 2) I do remember a little bit of the history and when we set up the crop harmonization and the Minor Use fund, the pesticide registrants did agree to an increase 10 years ago or so. I don't think there has been an increase since. They agreed to that because the ag industry has an interest in the regulation of these products and how they impact our industry. That might be something to consider. Costs have gone up.

**Senator Christmann:** We know the direction this is going. Some things have to be general funded in the future, discontinued, or the fees will have to be raised.

**Representative Skarphol:** The rent and operating for the Ag Dept. for \$120,000 to me is a little bit of a stretch to take out of the ERP fund. It seems to me that is one we could consider moving to general funds in the future unless the rent is for some facility that has to do with the ERP fund initiative in some fashion. If it is just general operating I have some difficulty with leaving it there.

**Senator Christmann:** Is there general consensus that for this coming biennium that we're in favor of these 2 changes? The 25 for crop harmonization and the 50 for the Minor Use fund?

**Senator O'Connell:** I'm in favor of that for just a one time.

**Senator Christmann:** (receiving amendments from Legislative Council)

**Senator Christmann:** I just got this amendment. Brady, does this have The Water Commission and Game and Fish? Are the Minor Use and crop harmonization in here?

**Brady** – those levels have not changed.

**Senator Christmann** handed out amendment 11.8147.02005 (see attached # 3) and read from it. What we have here is the House version of anhydrous ammonia and also the wine and grape issue toward the end of the bill. The Senate version of wildlife services including the funding levels, the changes I was quizzing Brady about if you look 2/3 down the columns on

page 2. On the bottom of page 1, Section 7 covers the water commission. That is clarifying that this bill transfers those moneys to the Ag commissioner, the 250,000 from the water commission and the 860,000 some being transferred. It adds the part about the left over from the 2009-2011 John's money will be transferred over so they can continue doing that. The \$150,000 that was traditionally in the ag commissioner's bill for that Minor Use fund that we discussed is in there. What is the \$40,000, Brady?

**Brady Larson:** There is a reference in the footnotes of the SPA to a section being removed and that section had provided that \$40,000 from the anhydrous ammonia storage facility inspection fund could be used by the Ag commissioner. Because of the change in the anhydrous inspection duties being transferred from the Insurance commissioner to the ag commissioner that fund is actually being eliminated and it was eliminated in 1321. That funding is now deposited in the ERP fund so the reference in this bill to that fund had to be removed.

**Senator Christmann:** So it would be this amendment 11.8147.02005 plus the additional \$25,000 from ERP for crop harmonization fund plus the additional \$50,000 to that minor use fund. The motion would be that the House recede from their amendments and further amend. If there's discomfort with that we can get it drafted and meet again. If there is general consensus on that we could have that motion and I will send around a set of amendments for everyone to approve of before we put it on the floor.

**Representative Monson:** I am not finding all the language for the Wildlife Services and wildlife depredation. I am not finding the Game & Fish.

**Brady Larson:** That was in the engrossed version sent over from the Senate to the House and that is what these amendments work off of. In the engrossed version of the bill there is a section that states that there is a little more than \$1M from the Game and Fish fund that is included in this budget. That would be both for Wildlife Services and then there is an additional around \$200,000 for the board of animal health.

**Representative Monson:** Does this wildlife services and wildlife depredation also include blackbirds?

**Senator Christmann:** I think it's a completely separate program.

**Doug Goehring:** You are correct when you say blackbirds are a separate part. There was an earmark in the budget for blackbirds \$384,000. Unfortunately that will not be available for this next biennium. It is a costly program. We could try to work something out but I have nothing to offer at this time with blackbirds. The sunflower association is concerned about what goes forward as far as blackbird control.

**Senator Christmann:** What we basically have here is a continuation of the program with the pilot and 9 guys that are out there. The dollar amount is what we appropriated last time plus what we were short, plus increases to cover inflation.

**Senator O'Connell:** Does the commissioner need language to write the contract with the federal so we don't get stuck with the pay? What we had before? Can you do that or can you do that through policy?

**Doug Goehring:** We can move forward based on conversations that have already taken place.

**Representative Williams:** (to Goehring) earmark for blackbirds – if that was cut off we would have to make up a good portion of that amount. All of it, correct?

**Doug Goehring:** Yes, If we wish to have a blackbird program we will have to.

**Representative Skarphol:** In the salary figure increase that we are working through here for the wildlife depredation my question is whether or not that particular \$382,760 is a portion of that salary increase that we are talking about going to be used for blackbird control?

**Doug Goehring:** I don't believe any of that would have been tied to directly to blackbirds because it was a separate part of their program and they actually had part time temporary help that they hired for that.

**Representative Skarphol:** How are they going to do it without any money?

**Senator Christmann:** It's a federal program that is being discontinued. Right now we are making no provisions to continue it on our own.

**Representative Monson moved amendments .02004 and .02005.**

**Representative Skarphol: Seconded.**

**A Roll Call Vote was taken. Yea: 6 Nay: 0 Absent: 0**

**Senator Wanzek will carry the bill on the floor in the Senate.**

**Representative Monson will carry the bill on the floor of the House.**

# 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Senate Appropriations

Bill/Resolution No. SB 2009 as (re) engrossed

Date:                     

Roll Call Vote #:       

## Action Taken

- ☐ SENATE accede to House amendments  
☐ SENATE accede to House amendments and further amend  
☐ HOUSE recede from House amendments  
☐ HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s)       

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed)        was placed on the Seventh order of business on the calendar

Motion Made by:        Seconded by:       

Senators	<u>4/12</u>	<u>4/13</u>	Yes	No		Representatives	<u>4/12</u>	<u>4/13</u>	Yes	No
Senator Christmann	/	/				Rep. Monson	/	/		
Senator Wanzek	/	/				Rep. Skarphol	/	/		
Senator O'Connell	/	/				Rep. Williams	/	/		

Vote Count: Yes        No        Absent       

Senate Carrier        House Carrier       

LC Number        of amendment

LC Number        of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

April 14, 2011

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2009

That the House recede from its amendments as printed on pages 1120-1122 of the Senate Journal and pages 1209-1211 of the House Journal and that Engrossed Senate Bill No. 2009 be amended as follows:

Page 1, line 6, after "fees" insert "; to provide for a transfer; to provide an exemption"

Page 1, replace lines 16 and 17 with:

"Salaries and wages	\$8,566,196	\$1,146,168	\$9,712,364
Operating expenses	6,094,603	356,850	6,451,453"

Page 1, remove lines 23 and 24

Page 2, replace lines 1 and 2 with:

"Crop harmonization board	<u>50,000</u>	<u>25,000</u>	<u>75,000</u>
Total all funds	\$21,316,349	\$1,676,748	\$22,993,097
Less estimated income	<u>14,094,466</u>	<u>706,785</u>	<u>14,801,251</u>
Total general fund	\$7,221,883	\$969,963	\$8,191,846
Full-time equivalent positions	74.50	2.50	77.00"

Page 2, line 14, replace "\$4,627,709" with "\$5,103,037"

Page 2, replace lines 18 through 22 with:

**"SECTION 5. TRANSFER - ENVIRONMENT AND RANGELAND PROTECTION FUND - MINOR USE PESTICIDE FUND.** The agriculture commissioner shall transfer \$200,000 from the environment and rangeland protection to the minor use pesticide fund during the biennium beginning July 1, 2011, and ending June 30, 2013."

Page 2, after line 27, insert:

**"SECTION 7. EXEMPTION - JOHNE'S DISEASE CONTROL.** The amount appropriated for Johne's disease control in section 1 of chapter 61 of the 2009 Session Laws is not subject to section 54-44.1-11 and any unexpended appropriation may be continued into the biennium beginning July 1, 2011, and ending June 30, 2013."

Page 4, overstrike line 18

Page 4, line 19, overstrike "tax commissioner."

Page 4, line 19, remove "In addition, the agriculture commissioner may issue special events"

Page 4, line 20, replace "permits to promote the wine industry in this state" with "off premises events"

Page 5, line 14, overstrike "a designated trade show, convention, festival, or similar event"

Page 5, line 15, overstrike "approved by the tax commissioner."

Page 5, line 15, remove "In addition, the agriculture commissioner may"

Page 5, line 16, replace "issue special events permits to promote the spirits industry in this state" with "off premises events"

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

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

	Executive Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Salaries and wages	\$9,303,178	\$9,384,828	\$327,536	\$9,712,364	\$9,712,364	
Operating expenses	6,548,199	6,368,661	82,792	6,451,453	6,451,453	
Capital assets	17,000	17,000		17,000	17,000	
Grants	3,095,828	3,170,828		3,170,828	3,170,828	
State Board of Animal Health	1,949,052	2,149,052		2,149,052	2,149,052	
Wildlife Services	1,067,400	1,417,400		1,417,400		1,417,400
Crop Harmonization Board	50,000	50,000	25,000	75,000	50,000	25,000
Wildlife depredation					1,000,000	(1,000,000)
Total all funds	\$22,030,657	\$22,557,769	\$435,328	\$22,993,097	\$22,550,697	\$442,400
Less estimated income	13,645,923	14,365,923	435,328	14,801,251	14,657,451	143,800
General fund	\$8,384,734	\$8,191,846	\$0	\$8,191,846	\$7,893,246	\$298,600
FTE	74.50	75.00	2.00	77.00	77.00	0.00

#### Department No. 602 - Department of Agriculture - Detail of Conference Committee Changes

	Adds Anhydrous Ammonia Inspection Positions <sup>1</sup>	Adds Funding for Crop Harmonization Board <sup>2</sup>	Total Conference Committee Changes
Salaries and wages	\$327,536		\$327,536
Operating expenses	82,792		82,792
Capital assets			
Grants			
State Board of Animal Health			
Wildlife Services			
Crop Harmonization Board		25,000	25,000
Wildlife depredation			
Total all funds	\$410,328	\$25,000	\$435,328
Less estimated income	410,328	25,000	435,328
General fund	\$0	\$0	\$0
FTE	2.00	0.00	2.00

<sup>1</sup> Two anhydrous ammonia inspector positions and related operating expenses are added with funding from the environment and rangeland protection fund. House Bill No. 1321 transfers anhydrous ammonia inspection duties from the Insurance Commissioner to the Agriculture Commissioner. These positions were also added by the House.

<sup>2</sup> Funding from the environment and rangeland protection fund is added for expenses of the Crop

This amendment also:

- Adjusts Section 4 regarding funding provided from the environment and rangeland protection fund.
- Removes Section 5 that provides \$40,000 from the anhydrous ammonia storage facility inspection fund to the Agriculture Commissioner. House Bill No. 1321 eliminates the anhydrous ammonia storage facility inspection fund and deposits fund revenues in the environment and rangeland protection fund. This section was also removed by the House.
- Revises Sections 9 and 10 as provided in the House amendments regarding special events permits for wine and spirits promotion.
- Adds a section to authorize the Agriculture Commissioner to transfer \$200,000 from the environment and rangeland protection fund to the minor use pesticide fund.
- Adds a section to authorize funding for Johne's disease control provided in 2009 Senate Bill No. 2342 to be continued into the 2011-13 biennium.



11.8147.02005  
Title.  
Fiscal No. 1

Prepared by the Legislative Council staff for  
Senator Christmann  
April 14, 2011

**PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2009**

That the House recede from its amendments as printed on pages 1120-1122 of the Senate Journal and pages 1209-1211 of the House Journal and that Engrossed Senate Bill No. 2009 be amended as follows:

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Page 1, replace lines 16 and 17 with:

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Operating expenses	6,094,603	356,850	6,451,453"

Page 1, remove lines 23 and 24

Page 2, replace lines 1 and 2 with:

"Total all funds	\$21,316,349	\$1,651,748	\$22,968,097
Less estimated income	<u>14,094,466</u>	<u>681,785</u>	<u>14,776,251</u>
Total general fund	\$7,221,883	\$969,963	\$8,191,846
Full-time equivalent positions	74.50	2.50	77.00"

Page 2, line 14, replace "\$4,627,709" with "\$5,078,037"

Page 2, replace lines 18 through 22 with:

**"SECTION 5. TRANSFER - ENVIRONMENT AND RANGELAND PROTECTION FUND - MINOR USE PESTICIDE FUND.** The agriculture commissioner shall transfer \$150,000 from the environment and rangeland protection fund to the minor use pesticide fund during the biennium beginning July 1, 2011, and ending June 30, 2013."

Page 2, line 23, after "FUND" insert "- TRANSFER"

Page 2, line 24, remove ", or so much of the sum as may be"

Page 2, line 25, remove "necessary,"

Page 2, line 25, after "fund" insert "which the game and fish department shall transfer to the agriculture commissioner"

Page 2, after line 27, insert:

**"SECTION 7. ESTIMATED INCOME - STATE WATER COMMISSION - TRANSFER.** The estimated income line item in section 1 of this Act includes the sum of \$250,000 which the state water commission shall transfer to the agriculture commissioner for the wildlife services program, for the biennium beginning July 1, 2011, and ending June 30, 2013.

**SECTION 8. EXEMPTION - JOHNE'S DISEASE CONTROL.** The amount appropriated for Johne's disease control in section 1 of chapter 61 of the 2009 Session Laws is not subject to section 54-44.1-11 and any unexpended appropriations may be continued into the biennium beginning July 1, 2011, and ending June 30, 2013."

Page 4, overstrike line 18

Page 4, line 19, overstrike "tax commissioner."

Page 4, line 19, remove "In addition, the agriculture commissioner may issue special events"

Page 4, line 20, replace "permits to promote the wine industry in this state" with "off premises events"

Page 5, line 14, overstrike "a designated trade show, convention, festival, or similar event"

Page 5, line 15, overstrike "approved by the tax commissioner."

Page 5, line 15, remove "In addition, the agriculture commissioner may"

Page 5, line 16, replace "issue special events permits to promote the spirits industry in this state" with "off premises events"

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

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

	Executive Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Salaries and wages	\$9,303,178	\$9,384,828	\$327,536	\$9,712,364	\$9,712,364	
Operating expenses	6,548,199	6,368,661	82,792	6,451,453	6,451,453	
Capital assets	17,000	17,000		17,000	17,000	
Grants	3,095,828	3,170,828		3,170,828	3,170,828	
State Board of Animal Health	1,949,052	2,149,052		2,149,052	2,149,052	
Wildlife Services	1,067,400	1,417,400		1,417,400		1,417,400
Crop Harmonization Board	50,000	50,000		50,000	50,000	
Wildlife depredation					1,000,000	(1,000,000)
<b>Total all funds</b>	<b>\$22,030,657</b>	<b>\$22,557,769</b>	<b>\$410,328</b>	<b>\$22,968,097</b>	<b>\$22,550,697</b>	<b>\$417,400</b>
Less estimated income	13,645,923	14,365,923	410,328	14,776,251	14,657,451	118,800
<b>General fund</b>	<b>\$8,384,734</b>	<b>\$8,191,846</b>	<b>\$0</b>	<b>\$8,191,846</b>	<b>\$7,893,246</b>	<b>\$298,600</b>
FTE	74.50	75.00	2.00	77.00	77.00	0.00

#### Department No. 602 - Department of Agriculture - Detail of Conference Committee Changes

	Adds Anhydrous Ammonia Inspection Positions <sup>1</sup>	Total Conference Committee Changes
Salaries and wages	\$327,536	\$327,536
Operating expenses	82,792	82,792
Capital assets		
Grants		
State Board of Animal Health		
Wildlife Services		
Crop Harmonization Board		
Wildlife depredation		
<b>Total all funds</b>	<b>\$410,328</b>	<b>\$410,328</b>
Less estimated income	410,328	410,328

General fund

\$0

\$0

FTE

2.00

2.00

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<sup>1</sup> Two anhydrous ammonia inspector positions and related operating expenses are added with funding from the environment and rangeland protection fund. House Bill No. 1321 transfers anhydrous ammonia inspection duties from the Insurance Commissioner to the Agriculture Commissioner. These positions were also added by the House.

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This amendment also:

- Adjusts Section 4 regarding funding provided from the environment and rangeland protection fund.
- Removes Section 5 that provides \$40,000 from the anhydrous ammonia storage facility inspection fund to the Agriculture Commissioner. House Bill No. 1321 eliminates the anhydrous ammonia storage facility inspection fund and deposits fund revenues in the environment and rangeland protection fund. This section was also removed by the House.
- Adjusts Section 6 to require the Game and Fish Department to transfer funding to the Agriculture Commissioner for various Agriculture Department programs.
- Revises Sections 9 and 10 as provided in the House amendments regarding special events permits for wine and spirits promotion.
- Adds a section to authorize the Agriculture Commissioner to transfer \$150,000 from the environment and rangeland protection fund to the minor use pesticide fund.
- Adds a section to authorize funding for Johne's disease control provided in 2009 Senate Bill No. 2342 to be continued into the 2011-13 biennium.
- Adds a section to require the State Water Commission to transfer \$250,000 from the resources trust fund to the Agriculture Commissioner for the Wildlife Services program.

**PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2009**

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Page 1, replace lines 16 and 17 with:

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Operating expenses	6,094,603	356,850	6,451,453"

Page 1, remove lines 22 through 24

Page 2, replace lines 1 and 2 with:

"Crop harmonization board	<u>50,000</u>	<u>25,000</u>	<u>75,000</u>
Total all funds	\$21,316,349	\$1,676,748	\$22,993,097
Less estimated income	<u>14,094,466</u>	<u>706,785</u>	<u>14,801,251</u>
Total general fund	\$7,221,883	\$969,963	\$8,191,846
Full-time equivalent positions	74.50	2.50	77.00"

Page 2, line 14, replace "\$4,627,709" with "\$5,103,037"

Page 2, replace lines 18 through 22 with:

**"SECTION 5. TRANSFER - ENVIRONMENT AND RANGELAND PROTECTION FUND - MINOR USE PESTICIDE FUND.** The agriculture commissioner shall transfer \$200,000 from the environment and rangeland protection fund to the minor use pesticide fund during the biennium beginning July 1, 2011, and ending June 30, 2013."

Page 2, line 23, after "FUND" insert "- TRANSFER"

Page 2, line 24, remove ", or so much of the sum as may be"

Page 2, line 25, remove "necessary,"

Page 2, line 25, after "fund" insert "which the game and fish department shall transfer to the agriculture commissioner"

Page 2, after line 27, insert:

**"SECTION 7. ESTIMATED INCOME - STATE WATER COMMISSION - TRANSFER.** The estimated income line item in section 1 of this Act includes the sum of \$250,000 which the state water commission shall transfer to the agriculture commissioner for the wildlife services program, for the biennium beginning July 1, 2011, and ending June 30, 2013.

**SECTION 8. EXEMPTION - JOHNE'S DISEASE CONTROL.** The amount appropriated for Johne's disease control in section 1 of chapter 61 of the 2009 Session Laws is not subject to section 54-44.1-11 and any unexpended appropriations may be continued into the biennium beginning July 1, 2011, and ending June 30, 2013."

Page 4, overstrike line 18

Page 4, line 19, overstrike "tax commissioner."

Page 4, line 19, remove "In addition, the agriculture commissioner may issue special events"

Page 4, line 20, replace "permits to promote the wine industry in this state" with "off premises events"

Page 5, line 14, overstrike "at a designated trade show, convention, festival, or similar event"

Page 5, line 15, overstrike "approved by the tax commissioner."

Page 5, line 15, remove "In addition, the agriculture commissioner may"

Page 5, line 16, replace "issue special events permits to promote the spirits industry in this state" with "off premises events"

Renumber accordingly

#### STATEMENT OF PURPOSE OF AMENDMENT:

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

	Executive Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Salaries and wages	\$9,303,178	\$9,384,828	\$327,536	\$9,712,364	\$9,712,364	
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Capital assets	17,000	17,000		17,000	17,000	
Grants	3,095,828	3,170,828		3,170,828	3,170,828	
State Board of Animal Health	1,949,052	2,149,052		2,149,052	2,149,052	
Wildlife Services	1,067,400	1,417,400		1,417,400		1,417,400
Crop Harmonization Board	50,000	50,000	25,000	75,000	50,000	25,000
Wildlife depredation					1,000,000	(1,000,000)
Total all funds	\$22,030,657	\$22,557,769	\$435,328	\$22,993,097	\$22,550,697	\$442,400
Less estimated income	13,645,923	14,365,923	435,328	14,801,251	14,657,451	143,800
General fund	\$8,384,734	\$8,191,846	\$0	\$8,191,846	\$7,893,246	\$298,600
FTE	74.50	75.00	2.00	77.00	77.00	0.00

#### Department No. 602 - Department of Agriculture - Detail of Conference Committee Changes

	Adds Anhydrous Ammonia Inspection Positions <sup>1</sup>	Adds Funding for Crop Harmonization Board <sup>2</sup>	Total Conference Committee Changes
Salaries and wages	\$327,536		\$327,536
Operating expenses	82,792		82,792
Capital assets			
Grants			
State Board of Animal Health			
Wildlife Services			
Crop Harmonization Board		25,000	25,000
Wildlife depredation			
Total all funds	\$410,328	\$25,000	\$435,328
Less estimated income	410,328	25,000	435,328

General fund	\$0	\$0	\$0
FTE	2.00	0.00	2.00

<sup>1</sup> Two anhydrous ammonia inspector positions and related operating expenses are added with funding from the environment and rangeland protection fund. House Bill No. 1321 transfers anhydrous ammonia inspection duties from the Insurance Commissioner to the Agriculture Commissioner. These positions were also added by the House.

<sup>2</sup> Funding from the environment and rangeland protection fund is added for expenses of the Crop Harmonization Board.

This amendment also:

- Adjusts Section 4 regarding funding provided from the environment and rangeland protection fund.
- Removes Section 5 that provides \$40,000 from the anhydrous ammonia storage facility inspection fund to the Agriculture Commissioner. House Bill No. 1321 eliminates the anhydrous ammonia storage facility inspection fund and deposits fund revenues in the environment and rangeland protection fund. This section was also removed by the House.
- Adjusts Section 6 to require the Game and Fish Department to transfer \$1,068,261 of funding from the game and fish fund to the Agriculture Commissioner for various Department of Agriculture programs. The House provided the Agriculture Commissioner with \$599,461 of funding from the game and fish fund.
- Revises Sections 9 and 10 as provided in the House amendments regarding special events permits for wine and spirits promotion.
- Adds a section to authorize the Agriculture Commissioner to transfer \$200,000 from the environment and rangeland protection fund to the minor use pesticide fund.
- Adds a section to authorize funding for John's disease control provided in 2009 Senate Bill No. 2342 to be continued into the 2011-13 biennium.
- Adds a section to require the State Water Commission to transfer \$250,000 to the Agriculture Commissioner for the Wildlife Services program. The House provided the Agriculture Commissioner with \$100,000 of funding from the State Water Commission for wildlife depredation.

# 2011 SENATE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Senate Appropriations

Bill/Resolution No. SB 2009 as (re) engrossed

Date: 4-14-11

Roll Call Vote #: 1

- Action Taken**
- ☐ SENATE accede to House amendments
  - ☐ SENATE accede to House amendments and further amend
  - ☐ HOUSE recede from House amendments
  - ☐ HOUSE recede from House amendments and amend as follows

Senate/House Amendments on SJ/HJ page(s) 1120 - 1122

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) \_\_\_\_\_ was placed on the Seventh order of business on the calendar

Motion Made by: Monson Seconded by: Skarphol

Senators	4-14	Yes	No		Representatives	4-14	Yes	No
Senator Christmann	✓				Rep. Monson	✓		
Senator Wanzek	✓				Rep. Skarphol	✓		
Senator O'Connell	✓				Rep. Williams	✓		

Vote Count: Yes 6 No 0 Absent \_\_\_\_\_

Senate Carrier Wanzek House Carrier Monson

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

**REPORT OF CONFERENCE COMMITTEE**

**SB 2009, as engrossed:** Your conference committee (Sens. Christmann, Wanzek, O'Connell and Reps. Monson, Skarphol, Williams) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1120-1122, adopt amendments as follows, and place SB 2009 on the Seventh order:

That the House recede from its amendments as printed on pages 1120-1122 of the Senate Journal and pages 1209-1211 of the House Journal and that Engrossed Senate Bill No. 2009 be amended as follows:

Page 1, line 6, after "fees" insert "; to provide for a transfer; to provide an exemption"

Page 1, replace lines 16 and 17 with:

"Salaries and wages	\$8,566,196	\$1,146,168	\$9,712,364
Operating expenses	6,094,603	356,850	6,451,453"

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Page 2, line 25, remove "necessary,"

Page 2, line 25, after "fund" insert "which the game and fish department shall transfer to the agriculture commissioner"

Page 2, after line 27, insert:

**"SECTION 7. ESTIMATED INCOME - STATE WATER COMMISSION - TRANSFER.** The estimated income line item in section 1 of this Act includes the sum of \$250,000 which the state water commission shall transfer to the agriculture commissioner for the wildlife services program, for the biennium beginning July 1, 2011, and ending June 30, 2013.

**SECTION 8. EXEMPTION - JOHNE'S DISEASE CONTROL.** The amount appropriated for Johne's disease control in section 1 of chapter 61 of the 2009



Session Laws is not subject to section 54-44.1-11 and any unexpended appropriations may be continued into the biennium beginning July 1, 2011, and ending June 30, 2013."

Page 4, overstrike line 18

Page 4, line 19, overstrike "tax commissioner" and insert immediately thereafter "off premises events"

Page 4, line 19, remove "In addition, the agriculture commissioner may issue special events"

Page 4, line 20, remove "permits to promote the wine industry in this state."

Page 5, line 14, overstrike ", at a designated trade show, convention, festival, or similar event"

Page 5, line 15, overstrike "approved by the tax commissioner" and insert immediately thereafter "at off premises events"

Page 5, line 15, remove "In addition, the agriculture commissioner may"

Page 5, line 16, remove "issue special events permits to promote the spirits industry in this state."

Renumber accordingly

# STATEMENT OF PURPOSE OF AMENDMENT:

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

	Executive Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Salaries and wages	\$9,303,178	\$9,384,828	\$327,536	\$9,712,364	\$9,712,364	
Operating expenses	6,548,199	6,368,661	82,792	6,451,453	6,451,453	
Capital assets	17,000	17,000		17,000	17,000	
Grants	3,095,828	3,170,828		3,170,828	3,170,828	
State Board of Animal Health	1,949,052	2,149,052		2,149,052	2,149,052	
Wildlife Services	1,067,400	1,417,400		1,417,400		1,417,400
Crop Harmonization Board	50,000	50,000	25,000	75,000	50,000	25,000
Wildlife depredation					1,000,000	(1,000,000)
Total all funds	\$22,030,657	\$22,557,769	\$435,328	\$22,993,097	\$22,550,697	\$442,400
Less estimated income	13,645,923	14,365,923	435,328	14,801,251	14,657,451	143,800
General fund	\$8,384,734	\$8,191,846	\$0	\$8,191,846	\$7,893,246	\$298,600
FTE	74.50	75.00	2.00	77.00	77.00	0.00

## Department No. 602 - Department of Agriculture - Detail of Conference Committee Changes

	Adds Anhydrous Ammonia Inspection Positions <sup>1</sup>	Adds Funding for Crop Harmonization Board <sup>2</sup>	Total Conference Committee Changes
Salaries and wages	\$327,536		\$327,536
Operating expenses	82,792		82,792
Capital assets			
Grants			
State Board of Animal Health			
Wildlife Services			
Crop Harmonization Board		25,000	25,000
Wildlife depredation			
Total all funds	\$410,328	\$25,000	\$435,328
Less estimated income	410,328	25,000	435,328
	\$0	\$0	\$0

General fund			
FTE	2.00	0.00	2.00

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<sup>1</sup> Two anhydrous ammonia inspector positions and related operating expenses are added with funding from the environment and rangeland protection fund. House Bill No. 1321 transfers anhydrous ammonia inspection duties from the Insurance Commissioner to the Agriculture Commissioner. These positions were also added by the House.

<sup>2</sup> Funding from the environment and rangeland protection fund is added for expenses of the Crop Harmonization Board.

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This amendment also:

- Adjusts Section 4 regarding funding provided from the environment and rangeland protection fund.
- Removes Section 5 that provides \$40,000 from the anhydrous ammonia storage facility inspection fund to the Agriculture Commissioner. House Bill No. 1321 eliminates the anhydrous ammonia storage facility inspection fund and deposits fund revenues in the environment and rangeland protection fund. This section was also removed by the House.
- Adjusts Section 6 to require the Game and Fish Department to transfer \$1,068,261 of funding from the game and fish fund to the Agriculture Commissioner for various Department of Agriculture programs. The House provided the Agriculture Commissioner with \$599,461 of funding from the game and fish fund.
- Revises Sections 9 and 10 as provided in the House amendments regarding special events permits for wine and spirits promotion.
- Adds a section to authorize the Agriculture Commissioner to transfer \$200,000 from the environment and rangeland protection fund to the minor use pesticide fund.
- Adds a section to authorize funding for John's disease control provided in 2009 Senate Bill No. 2342 to be continued into the 2011-13 biennium.
- Adds a section to require the State Water Commission to transfer \$250,000 to the Agriculture Commissioner for the Wildlife Services program. The House provided the Agriculture Commissioner with \$100,000 of funding from the State Water Commission for wildlife depredation.

Engrossed SB 2009 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

SB 2009



NORTH DAKOTA

DEPARTMENT OF AGRICULTURE

DOUG GOEHRING, COMMISSIONER

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# BUDGET PRESENTATION

FOR THE

## 2011-2013 BIENNIUM

### SB 2009

January 13, 2011

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NORTH DAKOTA SENATE

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APPROPRIATIONS COMMITTEE  
THE HON. RAY HOLMBERG, CHAIRMAN

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## *The Department's Vision . . .*

To provide North Dakota agriculture with the services and leadership necessary to make North Dakota the trusted provider of the highest quality food in the world with prosperous family farms, thriving rural communities and world class stewardship of resources.

## *The Department's Mission . . .*

The North Dakota Department of Agriculture fosters the long-term well-being of North Dakota by promoting a healthy economic, environmental and social climate for agriculture and the rural community through leadership, advocacy, education, regulation and other services. To carry out its mandate, the Department of Agriculture is committed to the following responsibilities:

- Serving as an advocate for family farmers and for the rural community.
- Providing services that ensure safe, high-quality and marketable agricultural products.
- Developing and expanding markets for agricultural products.
- Reducing the risk of financial loss to agricultural producers and to buyers and sellers of agricultural commodities.
- Ensuring compliance with the law through understandable regulations, information, education and even-handed enforcement.
- Ensuring human safety and protecting the environment through proper use of pesticides.
- Providing services to reduce agricultural losses from noxious weeds, animal depredation, insects and diseases.
- Ensuring the quality and availability of pesticides, fertilizers, veterinary medicines and animal feeds through testing and registration.
- Protecting and improving the health, welfare, quality and marketability of livestock and other domestic animals.
- Gathering and disseminating information concerning agriculture to the general public.
- Providing fair and timely dispute resolution services to agricultural producers, creditors and others.

**AGRICULTURE COMMISSIONER**  
**Doug Goehring**

**ASSISTANT TO THE COMMISSIONER**  
**Jody Reinke**

**DEPUTY COMMISSIONER**  
**Bob Christman**

**ANIMAL HEALTH/STATE VETERINARIAN**  
**Dr. Susan Keller, State Veterinarian**

Deputy State Veterinarian  
Dr. Beth Carlson  
Assistant State Veterinarian  
Dr. Jesse Vollmer  
Livestock Field Investigator  
Justin Maddock  
Administrative Assistant  
Tammy Celley  
Office Assistants  
Kathy Hoffman  
Kimberly Spear

**ADMINISTRATIVE SERVICES**  
**Ken Junker, Director**

**FISCAL MANAGEMENT**  
Account Budget Specialist  
Lynette Baumiller  
Administrative Officer  
Jett Collins  
Account Technician  
Kelsey Boxrud  
**AGRICULTURAL MEDIATION SERVICE**  
Administrator  
Tom Silbernagel  
Negotiators  
Tony Wix  
Larry Smith  
Administrative Officer  
Betty Nelson

**PESTICIDE, FEED & FERTILIZER**  
**Jim Gray, Director**

Environmental Scientist  
Jessica Johnson  
Enforcement Supervisor  
Blake Schaan  
Feed Specialist  
Dave Phillips  
Ag Program Specialist  
Angela Keller  
Pesticide Outreach  
Jeremiah Lien  
Fertilizer Specialist  
Spencer Wagner  
Inspectors  
Sara Beaudrie  
Kevin Coufal  
Bryant Huso  
Administrative Assistant  
Vacant  
James Jeske  
Ken MacDonald  
Derrick Woehl

**LIVESTOCK DEVELOPMENT**  
**Wayne Carlson, Director**

**DAIRY INSPECTION**  
Milk Surveillance Officer  
John Ringsrud  
Dairy Inspectors  
Orville Payne  
Gary Molstad  
**STATE MEAT & POULTRY INSPECTION**  
Director  
Dr. Andrea Grondahl  
Senior Inspectors  
Shaun Quissell  
Compliance Officer  
David Slack  
Inspectors  
Heather Andersen  
Joshua Epperly  
Whitney Haux  
Cami Metzger  
Relief Inspector & Assistant  
Julie Nilges  
Cody Kreft  
Jerry Sauter  
Shawn Steffen  
Doug Tobkin

**PLANT INDUSTRIES**  
**Judy Carlson, Director**

**PLANT PROTECTION**  
State Entomologist  
David Nelson  
Plant Protection Specialists  
Charles Elhard  
Gwen Mars  
Carrie Larson  
**NOXIOUS WEEDS**  
GIS Mapping Specialist  
Jim Hansen  
Noxious Weed Specialist  
Vacant  
Rachel Selfert-Spilde  
Administrative Assistant  
Elaine Saylor

**ADMINISTRATIVE STAFF**

Program & Policy Analyst  
Dane Braun  
Public Information Officer  
Ted Quanrud  
Computer & Network Specialist  
Roberta Tjaden  
Administrative Assistants  
Bonnie Sundby  
Sheila Fryer

**BUSINESS DEVELOPMENT**  
**Chuck Fleming, Director**

Marketing Specialists  
Sara Kelsch  
Dana Pritschet  
Stephanie Sinner

Livestock Pollution Prevention Specialist  
Jason Wirtz  
Livestock Development Specialist  
Vacant  
Administrative Assistant  
Becky Gietzen  
**WILDLIFE SERVICES\***  
State Director  
Phil Mastrangelo

\* Wildlife Services is an agency of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, operating in North Dakota under a memorandum of agreement with the North Dakota Department of Agriculture and the North Dakota Game and Fish Department.

# ADMINISTRATIVE SERVICES

KEN JUNKERT, DIRECTOR

Administrative Services includes the fiscal management, agricultural mediation service, and the agriculture in the classroom program, in the North Dakota Department of Agriculture (NDDA).

## Fiscal Management

- Oversees the development and tracking of the department's budget.
- Processes payroll.
- Pays all bills and deposits all revenues.
- Reviews and approves contracts.
- Procurement.
- Ensures compliance with state and federal laws relating to the department's finances; including expenditure tracking and filing of required reports to federal agencies.
- Responsible for human resource activities.

## Information Technology

- Purchases and maintains the department's computers, printers, scanners and copiers.
- Maintains the department's network, email accounts and five websites.
- Maintains all desktop and wireless phones.
- Maintains all software licenses.
- Purchases furniture and other equipment.

## Agricultural Mediation Service

- Offers negotiation and mediation services to resolve differences among creditors, farmers and others.
- Offers assistance with beginning farmer loan applications and farm program paperwork.
- Provides financial counseling.

	2009-2011 Budget	Governor's Proposed 2011-13 Budget
Salaries	\$2,402,084	\$2,581,496
Operating	667,741	580,925
Capital assets	0	0
Grants	<u>632,600</u>	<u>480,000</u>
Total	\$3,702,425	\$3,642,421

## Sources

General funds	\$2,165,399	\$2,480,963
Federal funds	1,078,887	896,952
Special funds	<u>458,139</u>	<u>264,506</u>
Total	\$3,702,425	\$3,642,421

## Agriculture in the Classroom

- Administered in conjunction with the 20-member North Dakota Agriculture in the Classroom Council, the program helps K-12 teachers integrate agriculture information into science, math, social studies and language curricula.
- Supports Project Food, Land, & People which provides hands-on lessons to help students better understand the interrelationships among the world's environment, agriculture and people.
- Publishes the Ag Mag three times a year to 3rd, 4th, and 5th grade teachers at no charge. Each issues focuses on a North Dakota agricultural topic.
- Underwrites FFA Foundation mini-grants for agriculture-related projects, units, and lessons used for school-age children.



# PLANT INDUSTRIES

JUDY CARLSON, DIRECTOR

Plant Industries includes the noxious weeds, plant protection, apiary, waterbank and industrial hemp programs.

## Noxious Weeds

- Distributes state and federal funds for noxious weed control to weed boards.
- Manages federal grants for noxious and invasive weeds.
- Coordinates statewide biological weed control and obtains and distributes biological weed agents.
- Assists weed boards in field days and weed management.
- Assists the general public with weed identification and control.
- Trains and assists weed boards with GPS/GIS mapping technology.

## Apiary

- Licenses beekeepers.
- Registers apiary locations.
- Inspects bees and issues health certificates for migratory movement.
- Responds to bee complaints.
- Provides liaison with the public regarding beekeeping.

	2009-2011 Budget	Governor's Proposed 2011-13 Budget
Salaries	\$1,259,330	\$1,306,172
Operating	672,722	844,561
Capital assets	5,000	17,000
Grants	<u>1,712,225</u>	<u>1,375,274</u>
Total	\$3,649,277	\$3,543,007

## Sources

General funds	\$647,314	\$677,573
Federal funds	959,126	676,824
Special funds	<u>2,042,837</u>	<u>2,188,610</u>
Total	\$3,649,277	\$3,543,007

## Plant Protection

- Surveys for exotic pests that threaten North Dakota, such as exotic moths, nematodes and Emerald ash borer.
- Surveys for pests, such as various diseases, insects and nematodes, including Karnal bunt, dwarf bunt, cereal leaf beetle, soybean cyst nematode and potato cyst nematode, to enable export of agricultural products.
- Licenses and inspects nurseries.
- Provides export certification/phytosanitary services for export of agricultural products.
- Reviews biotechnology.

## Special programs

- State Waterbank program.
- Ginseng grower registration.
- Industrial hemp.

# LIVESTOCK DEVELOPMENT

WAYNE CARLSON, DIRECTOR

Livestock Services includes Livestock Licensing, Dairy/Poultry, State Meat and Poultry Inspection, Livestock Pollution Prevention, Beef Age and Source Verification and Wildlife Services.

## Livestock Licensing

- Licenses and establishes bonds for livestock dealers and auction markets.
- Conducts field investigations to monitor financial conditions of dealers and auction markets and to discover unlicensed dealers.

## Dairy

- Inspects dairy farms for sanitation of equipment, facilities, proper usage and storage of drugs, and water purity.
- Inspects dairy processing plants and milk transfer stations four or more times annually.
- Inspects distribution facilities, milk bulk trucks and samplers/haulers.
- Conducts Grade A survey work.
- Inspects manufacturing grade plants and transfer stations under agreement with the U.S. Food and Drug Administration.
- Inspects licensed commercial egg producers.
- Licenses and sets bond for hatcheries.

## Livestock Pollution Prevention

- Helps livestock producers install manure containment systems through cost-share funding assistance.
- Assists producers with nutrient management, project planning, regulatory explanation and manure containment advice.

## Wildlife Services

- Reduces destructive effects of wildlife on property. A federal program conducted by USDA Wildlife Services in cooperation with the North Dakota Department of Agriculture and N.D. Game and Fish Department.

	2009-2011 Budget	Governor's Proposed 2011-13 Budget
Salaries	\$2,508,631	\$2,812,597
Operating	2,249,439	\$2,376,669
Capital assets	0	0
Wildlife Services	1,067,400	1,067,400
Grants	<u>250,000</u>	<u>250,000</u>
Total	\$6,075,470	\$6,506,666

## Sources

General funds	\$2,634,032	\$2,772,973
Federal funds	2,543,137	2,810,510
Special funds	<u>898,301</u>	<u>923,183</u>
Total	\$6,075,470	\$6,506,666

## State Meat & Poultry Inspection

- Trains, certifies and inspects meat processing companies participating in the State Meat and Poultry Inspection Program.
- Inspects custom-exempt processing plants.
- Conducts country-of-origin labeling inspections at retail outlets.
- Grades livestock carcasses at official state and/or federal establishments as requested.
- Provides consultation and education to the meat and poultry industry.
- Ensures proper label use by the meat and poultry industry.
- Enforces regulations and laws pertaining to meat and poultry processing.

## Livestock Development

- Conducts an age source verification program.
- Assists livestock producers and processors in developing, expanding and promoting the state's livestock industry.
- Works with the North Dakota Dairy Coalition to expand the state's dairy industry.

# BUSINESS DEVELOPMENT

CHUCK FLEMING, DIRECTOR

Business Development provides education, promotion and market enhancement programs to increase sales of North Dakota agricultural commodities and value-added agricultural products in international, domestic and local markets.

The division administers the following programs:

- Pride of Dakota (POD)
- Trade Show Assistance
- POD Retail
- Wine Development and Promotion
- North Dakota Turkey Federation
- North Dakota Honey Promotion
- International Trade
- Food Export-Midwest
- School garden grants
- Local foods initiative
- Farm to school
- Mobile food processing unit
- Specialty Crop grants
- Livestock Feed Initiative
- Organics
- Organic Certification Reimbursement grants

The division also organizes:

- The annual meeting of the agriculture commissioner and the commodity councils.
- An annual Food Summit and Farmers Market Conference.
- Pride of Dakota annual meeting.

	2009-2011 Budget	Governor's Proposed 2011-13 Budget
Salaries	\$634,696	\$907,721
Operating	1,071,934	1,296,472
Capital assets	0	0
Grants	<u>375,000</u>	<u>990,554</u>
Total	\$2,081,630	\$3,194,747

## Sources

General funds	\$863,537	\$1,319,802
Federal funds	737,295	1,394,147
Special funds	<u>480,798</u>	<u>480,798</u>
Total	\$2,081,630	\$3,194,747

# ANIMAL HEALTH/STATE VETERINARIAN

DR. SUSAN KELLER, STATE VETERINARIAN

The Animal Health Division protects the health of domestic animals and non-traditional livestock of the state, and administers all rules and orders of the State Board of Animal Health (BOAH). Specifically, the division:

- Monitors and regulates animal imports and exports.
- Traces animal movements as part of disease investigations.
- Issues and maintains records of official USDA tags and official state certificates of veterinary inspection.
- Conducts a Johne's disease control program.
- Conducts scrapie eradication and surveillance programs.
- Investigates suspected cases of foreign animal diseases and emerging diseases.
- Responds to complaints of inhumane treatment of animals.
- Conducts tuberculosis, brucellosis and other disease investigations.
- Reviews testing information and granting status for tuberculosis-accredited herds, brucellosis-certified herds statuses, and Brucella ovis-free flocks.
- Administers non-traditional livestock and farmed elk regulations.
- Issues permits to possess, propagate or domesticate (PPD) for North Dakota Game and Fish Department.
- Provides chronic wasting disease testing training and oversight.
- Cooperates with North Dakota Game and Fish Department on health issues relevant to both domestic animals and wildlife.
- Oversees feral swine investigations.

	2009-2011 Budget	Governor's Proposed 2011-13 Budget
BOAH	<u>\$2,808,825</u>	<u>\$1,949,052</u>
Total	\$2,808,825	\$1,949,052

## Sources

General funds	\$1,125,240	\$1,133,423
Federal funds	1,431,422	562,005
Special funds	<u>252,163</u>	<u>253,624</u>
Total	\$2,808,825	\$1,949,052

- Cooperates with North Dakota Department of Health on zoonotic disease issues, notably rabies.
- Ensures proper carcass disposal.
- Inspects auction markets and approves veterinarians to provide market services.
- Licenses rendering facilities.
- Conducts avian influenza testing.
- Coordinates the National Poultry Improvement Plan in the state.
- Licenses and educates dealers of modified live vaccines.
- Trains and coordinates a Reserve Veterinary Corps to assist in emergency situations.
- Participates in animal emergency preparedness and response on state, regional and national levels.
- Cooperates with other state and federal animal health officials regionally and nationally to guide national animal health policy.
- Monitors and reports diseases on state and national levels.
- Provides education and outreach for practicing veterinarians and the livestock industry.

# PESTICIDE, FEED & FERTILIZER

JIM GRAY, DIRECTOR

The Pesticide, Feed and Fertilizer Division regulates pesticides, commercial feeds, pet foods, livestock medicines, fertilizers and anhydrous ammonia to protect human health and the environment.

## Pesticides

The division:

- Conducts annual inspections of pesticide dealers, users and repackaging facilities to ensure compliance with laws and regulations.
- Provides outreach to inform the public of state and federal pesticide requirements.
- Prepares and submits emergency exemption and general registration requests to ensure North Dakota producers have access to necessary pest management tools.
- Registers all pesticides – herbicides, fungicides, rodenticides, insecticides, avicides – sold in North Dakota.
- Works with the U.S. Environmental Protection Agency on national pesticide regulatory and policy issues.
- Administers Project Safe Send, a non-regulatory program to collect old and unusable pesticides from the public.
- Performs risk assessments to ensure pesticides do not negatively impact threatened or endangered species.
- Works with other agencies to protect groundwater and surface water from pesticide contamination.
- Investigates complaints of pesticide misuse and other violations.

## Feed

The division:

- Registers all pet food sold in the state.
- Maintains a label file of commercial feeds.

	2009-2011 Budget	Governor's Proposed 2011-13 Budget
Salaries	\$1,928,455	\$1,695,192
Operating	1,432,767	1,449,572
Capital assets	0	0
Harmonization	50,000	50,000
Grants	<u>0</u>	<u>0</u>
Total	\$3,411,222	\$3,194,764

## Sources

General funds	\$111,861	\$ 0
Federal funds	1,482,490	1,139,059
Special funds	<u>1,816,871</u>	<u>2,055,705</u>
Total	\$3,411,222	\$3,194,764

- Licenses commercial feed manufacturers and feed retailers.
- Samples feed products to ensure that nutritional content matches label claims.
- Works with U.S. Food & Drug Administration to inspect medicated feed plants.
- Inspects feed manufacturers and livestock producers to verify compliance with federal requirements to prevent introduction of bovine spongiform encephalopathy.

## Fertilizer

The division:

- Registers fertilizer products.
- Licenses fertilizer distributors.
- Samples fertilizer products to ensure content matches label claims.
- Licenses anhydrous ammonia facilities.
- Enforces anhydrous ammonia regulations.

# SUMMARY

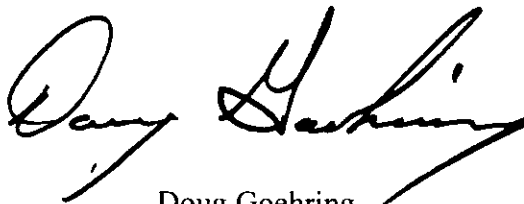
## Agriculture Commissioner's Budget

	2009-2011 Budget	Governor's Proposed 2011-13 Budget
	\$21,728,849	\$22,030,657
<b>Sources</b>		
General funds	7,547,383	8,384,734
Federal funds	8,232,357	7,479,497
Special funds	<u>5,949,109</u>	<u>6,166,426</u>
Total	\$21,728,849	\$22,030,657
 FTEs	 74.5	 74.5

This budget presentation was designed to help members of the North Dakota Legislature determine spending priorities for the 2011-2013 biennium. I believe that the work of the North Dakota Department of Agriculture is vital to our state's most important industry. Although the department is one of the smallest of its kind in the United States, its personnel administer and deliver a wide variety of programs and services for the benefit of the state's 30,000 family farmers and ranchers and all of our citizens.

My staff and I welcome the interest and questions of the Legislature and all North Dakota citizens, regarding the work of the North Dakota Department of Agriculture.

Sincerely,



Doug Goehring  
Agriculture Commissioner

Senate Bill No. 2009  
Agriculture Commissioner's Budget  
Additional Budget Requests

1 FTE – Research Analyst	
<ul style="list-style-type: none"><li>▪ Salary Line Request: \$131,000 (general funds)</li><li>▪ Operating Line Request: \$20,000 (general funds)</li><li>▪ Executive Recommendation: Provided \$50,000 of general funds in the operating line for contracting.</li></ul>	Provide general research support to the agriculture commissioner regarding state and federal policy and analyze federal rules and regulations that have an impact on agriculture and energy. Conduct research in energy, transportation and rural development.
<ul style="list-style-type: none"><li>▪ Total Request: \$131,000 in the salary line and reduce the operating line from \$50,000 to \$20,000. Net: \$101,000 (general funds).</li></ul>	
1 Full-time Temporary Employee – Outreach Specialist	
<ul style="list-style-type: none"><li>▪ Salary Line Request: \$88,000 (general funds)</li><li>▪ Operating Line Request: \$20,000 (general funds)</li></ul>	Assist in developing a social network plan within the department and foster better communication with the agriculture community and the general public. This position will also be responsible for maintaining the department website.
<ul style="list-style-type: none"><li>▪ Total Request: \$108,000 (general funds)</li></ul>	
.5 FTE – Marketing Specialist	
<ul style="list-style-type: none"><li>▪ Salary Line Request: \$71,000 (general funds)</li><li>▪ Operating Line Request: \$25,000 (general funds)</li><li>▪ Executive Recommendation: Provided .5 FTE and associated operating costs.</li></ul>	Provide increased marketing support for the specialty crop industry and the Pride of Dakota program. Assist Pride of Dakota companies in developing formal marketing plans and provide direct assistance to increase sales in companies having established business plans. *Note– Request is to increase from .5 FTE to 1 FTE
<ul style="list-style-type: none"><li>▪ Total Request: \$96,000 (general funds)</li></ul>	
1 Full-time Temporary Employee – Marketing Specialist	
<ul style="list-style-type: none"><li>▪ Salary Line Request: \$88,000 (general funds)</li><li>▪ Operating Line Request: \$34,378 (general funds)</li></ul>	Coordinate marketing efforts between commodity councils and expansion of farmer’s markets and local foods initiatives.
<ul style="list-style-type: none"><li>▪ Total Request: \$122,378 (general funds)</li></ul>	
1 FTE – Research Analyst – Agriculture Mediation Service	
<ul style="list-style-type: none"><li>▪ Salary Line Request: \$131,000 (general funds)</li><li>▪ Operating Line Request: \$20,000 (general funds)</li></ul>	Conduct research to support oil mediation services. *Note– Provided mediation services are expanded by law.
<ul style="list-style-type: none"><li>▪ Total Request: \$151,000 (general funds)</li></ul>	
Salary and Operating Enhancement – Agriculture Mediation Service	
<ul style="list-style-type: none"><li>▪ Salary Line Request: \$30,000 (general funds) for temporary employees</li><li>▪ Operating Line Request: \$20,000 (general funds)</li></ul>	To provide services such as oil mediation that are not allowed under the federal mediation grant. *Note– Provided mediation services are expanded by law.
<ul style="list-style-type: none"><li>▪ Total Request: \$50,000 (general funds)</li></ul>	

	If Agriculture Mediation Services are expanded by law to include oil mediation.	If Agriculture Mediation Services are <u>not</u> expanded by law to include oil mediation.
Total Additional Budget Request:	\$628,378 (general funds)	\$427,378 (general funds)

# FIELD SPECIALISTS FY 2011

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1-26-11

Specialist	Pay Scale	Amount
Specialist 1	GS 06/02	\$36,070
Specialist 5	GS 07/03	\$41,377
Specialist 10	GS 06/04	\$38,397
Specialist 6	GS 07/04	\$42,671
Specialist 4	GS 06/09	\$44,213
Specialist 2	GS 07/05	\$43,964
Specialist 9	GS 07/09	\$49,138
Specialist 3	GS 07/10	\$50,431
Specialist 8	GS 07/06	\$45,258
Pilot 7	GS 12/07	\$82,570



B

# **FY10 Federal Funds Applied to the Cooperative Agreement**

<b>State Funds 2009-2011 Biennium</b>	<b>Amount</b>	<b>Used for: Salaries/benefits 10 field staff</b>
ND Game & Fish	\$768,800	2009-2010 = \$606,581
General Funds	\$298,600	2010-2011= \$640,461 (projected)
<b>Total</b>	<b>\$1,067,400</b>	<b>Total= \$1,247,042</b>
<b>Federal Funds FY2010 Oct-Sept</b>		
Field Operations (10 field staff)	\$ 198,221	Travel: \$15,038 Vehicles & aircraft fuel/maintenance: \$102,719 Equipment & supplies: \$80,464
Aircraft Operations	\$ 63,739	Crewmember travel: \$2,834 Vehicle fuel/maintenance: \$580 Equipment/supplies: \$1,746 Salaries/benefits for crewmember staff: \$52,612 <b>Salaries/benefits for field staff: \$5,967</b>
Disease Surveillance	\$ 25,519	<b>Salary/benefits for field staff: \$25,519</b>
Office Operations	\$ 372,499	Travel: \$5,645 Vehicle fuel/maintenance : \$3,289 Salaries/benefits (4.5 FTE): \$359,745 <b>Salaries/benefits for field staff: \$3,821</b>
<b>FY10 Federal Funds Applied Total</b>	<b>\$ 659,978</b>	



United States  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

Wildlife  
Services

North Dakota  
State Office

2110 Miriam Circle  
Suite A  
Bismarck, ND  
58501-2502  
(701) 250-4405

**Subject:** Wildlife Services' Responses to Specific Recommendations Addressed  
In North Dakota Office of the State Auditor Report No. 3026.1

**Date:** January 25, 2011

**To:** Interested Parties

I received a copy of the Office of the State Auditor Report 3026.1 in early December, 2010. At the time I made a cursory review of the report and noted that of the original eleven recommendations made by the Auditor's Office, they determined that six had been fully implemented, four partially implemented, and one not implemented.

The report questions some of the actions taken by Wildlife Services so I felt it incumbent to provide comment. Please see the attachment for commentary on Recommendations #7, #8, #10, and #11.

Phil Mastrangelo  
State Director

*Safeguarding American Agriculture*

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The following are Wildlife Services' comments on four of the recommendations (#7, #8, #10, #11) detailed in the Office of the State Auditor Report No. 3026.1.

**Recommendation #7 and #8: Within these recommendations are concerns regarding Wildlife Services' filling a vacancy created by the retirement of one of the 9 field specialists:**

**Wildlife Services' Response:**

In December 2009 one of the 9 field specialists retired; that individual had been providing service to landowners within a 5 county area. Wildlife Services made the decision to fill that position in January 2010 in order to continue service to the all landowners within that multi-county area. The person hired was a 20 year veteran of Wildlife Services; that amount of experience provided a seamless transition of service to the 87 landowners who asked and received assistance in 2010. Had that position been left vacant in an attempt for salary savings, the existing 8 field Specialists would not have been able to provide service to anyone in that 5 county area because of their own excessive workloads. A less experienced person could have been hired at a lower grade level but the quality of service available to the landowners would have diminished. Therefore the decision was made to fill the vacancy with the more experienced person.

Issue has been taken with the amount of annual leave, compensatory leave, and sick leave that transferred with the new employee when he was hired. Federal regulations require that all leave transfers with an employee; this is addressed in the U.S. Department of Agriculture Department/APHIS/ MRPBS Human Resource Desk Guide; Subchapter 4630 Section B, Subsection F (Transfer of Annual Leave) and Subchapter 4630 Section C (Recredit of Sick Leave).

Another issue raised is the administrative leave that was provided to the new hire as part of his relocation to North Dakota. Federal regulations allow employees who transfer to new duty locations up to 80 hours of administrative leave to manage activities related to the relocation. U.S. Department of Agriculture Department Regulation 2300-002; Section 5, Subsection N is the guidance that was followed for the individual who was hired to fill the vacancy.

The Work/Financial Plan portion of the Cooperative Service Agreement states under Section VI *"Stipulations and Restrictions"* that *"APHIS will conduct program activities in accordance with its established operating policies and all applicable state and federal and WS regulations."*

Wildlife Services' handling of the leave transfer and granting of administrative leave for the new hire was compliant with the Cooperative Service Agreement and federal regulations.

**Recommendation #8 and #10: As noted in these recommendations, Wildlife Services acknowledged that the funding levels agreed upon in the Cooperative Service Agreement would be insufficient to cover the salaries and benefits for the 9 field specialists and pilot for the 2009-2011 biennium.**

**Wildlife Services' Response:**

The funding shortfall for the 2009-2011 biennium is the norm not the exception. Funding shortfalls are not an acute problem only occurring in the current biennium; they have been a chronic problem over the entire history of the past 5 biennium. Federal funds have always been

used to make up for these shortfalls, however that is no longer possible in the 2009-2011 biennium and beyond.

Wildlife Services has initiated a number of measures to minimize the impacts of the shortfalls in the 2009-2011 biennium and beyond. The following have been taken to reduce the expenditure of federal funds; these funds will instead be applied to the chronic shortfall of funds provided through the Cooperative Service Agreement:

- Each of the 9 field staff are under a travel restriction which limits their vehicle fuel expenditures to \$500/month.
- Restrictions have been placed on the purchases of field equipment/supplies
- Wildlife Services is acquiring used snowmobiles from other agencies instead of purchasing new models.
- A part-time FTE that had helped manage the excessive workload of the 9 field staff was not rehired; those federal funds have been used to offset the funding shortfalls.
- The need to expand the non-federal funding sources was identified during meetings with the ND Dept. of Agriculture and the ND Game and Fish Dept. The ND Water Resources District Association has taken the initiative and will be requesting additional funding from the ND Water Commission.

Other entities have approached Wildlife Services for separate contracts to address their specific wildlife issues, these potential contracts could help reduce the funding shortfalls in the 2009-2011 biennium and beyond. Further, Wildlife Services' District Supervisor has volunteered for a special assignment which would create savings of federal funds that would also be applied to the funding shortfalls in the 2009-2011 biennium and beyond. While the following 3 actions have not been formalized they are indicative of Wildlife Services' efforts to address the funding shortfalls.

- (1) **The Minot Air Force Base** has expressed interest in contracting with Wildlife Services to hire a full-time biologist whose primary responsibilities would be to develop and initiate a wildlife hazard management plan intended to minimize encounters between aircraft and wildlife. Minot AFB would fully fund this position and WS' intent is to transition one of the 9 field specialists into the position. Negotiations continue on this proposal, Minot AFB is trying to secure the necessary funding.

**Positive Implications:**

- A savings of approximately \$17,000 of the field specialist's salary/benefits that normally would be charged to the state for the last quarter of the 2009-2011 biennium.
- Approximately \$4,000 of the field specialist's operating costs that would be paid with federal funds during the last quarter of the 2009-2011 biennium would be applied the salaries/benefits of the other field staff for that same time frame.
- WS' supervision and administrative of this project would be charged to the Minot AFB contract creating a savings of approximately \$4,000 of federal funds that would be applied to the salaries/benefits of the field staff for the 2009-2011 biennium.
- **Total projected savings = \$25,000**

**Negative Implications:**

- Reduction of field staff by 1 FTE and therefore the elimination of service to the landowners residing in the 7 counties currently assigned to that field specialist.

- The \$8,000 savings of federal funds would have been utilized towards the purchase of vehicles, equipment, etc. to support the field staff personnel paid with state funds.
- (2) **The FAA** has expressed interest in contracting with WS to conduct a year-long wildlife hazard assessment at one of North Dakota's commercial airports. The FAA would fully fund this project and WS' intent is to transition one of the field specialists into the position for the 1 year project. Over the course of the year-long project the field specialist would devote half of his time to the airport project and the other half to his traditional work activities. Negotiations continue on this proposal, the FAA and the airport are trying to secure the necessary funding.

**Positive Implications:**

- A savings of approximately \$10,000 of the field specialist's salary/benefits that normally would be charged to the state for the last quarter of the 2009-2011 biennium.
- Approximately \$4,000 of the field specialist's one year operating costs that would be paid with federal funds would be applied the salaries/benefits of the field staff for the last quarter of the 2011-2013 biennium.
- WS' supervision and administrative of this project would be charged to the FAA contract creating a savings of approximately \$4,000 of federal funds that would be applied to the salaries/benefits of the field staff for the last quarter of the 2009-2011 biennium.
- **Total projected savings = \$18,000**

**Negative Implications:**

- Reduction of field staff by 1/2 FTE for one year; during that time frame there would be a 50% reduction of service to the landowners residing in the 6 counties assigned to the field specialist.
  - The \$8,000 savings of federal funds would have been utilized towards the purchase of vehicles, equipment, etc. to support the field staff personnel paid with state funds.
- (3) **The District Supervisor** who oversees the field staff has volunteered for a 6 month temporary assignment at an U.S. Air Force Base in either Iraq or Afghanistan to assist with the reduction of wildlife hazards to aircraft. The Air Force is fully funding WS for these projects.

**Positive Implications:**

- The savings of approximately \$32,000 of the District Supervisor's salary/benefits and associated operating expenses that would be paid with federal funds would be applied to the salaries/benefits of the field staff for the last quarter of the 2009-2011 biennium.
- **Total projected savings = \$32,000**

**Negative Implications:**

- the District Supervisor would be stationed in an active war zone for 6 months.

**Recommendation #11** - We recommend the Department of Agriculture monitor Field Specialists' time charged to office, bad weather, miscellaneous, or similar categories. Appropriate action should be taken if time charged to these categories is excessive.

**Wildlife Services' Response:**

Each of the 9 field specialists manage their own multi-county areas that are assigned to them. Each area is unique in the various wildlife conflicts that affect landowners, therefore each of the 9 field specialists are often working on uniquely different projects at different times of the year. Therefore there is often no consistency in the amount of time reported by each specialists for similar tasks conducted during similar times of the year.

The 9 field specialists and the pilot track their work efforts through Wildlife Services' Management Information System (MIS). The MIS is a system designed for the Wildlife Services program nationwide; it is not a system specific to North Dakota. Therefore Wildlife Services must work within the national guidelines when utilizing the MIS to report activities conducted in North Dakota. Currently, a work task such as "Equipment Repair and Maintenance" is used to report a multiple of the field specialists' activities such as trap repair & adjustment, trailer repair, cleaning firearms, cleaning vehicles, constructing capture devices, etc. The Wildlife Services program in North Dakota will continue to refine the MIS as much as possible to provide as much transparency to our program activities. For example:

- Wildlife Services' District Supervisor and MIS Data Tech are currently working to develop and recommend to Wildlife Services' National MIS Working Group Committee some new (less broad) codes for the 9 field specialists and pilot to utilize to better depict their specific activities for each day, rather than the "broad" codes currently used such as: Office Duties, Bad Weather Duties, Equipment Repair and Maintenance.
- An important component utilized by Wildlife Services to mitigate coyote depredations is the M-44 device. The M-44 is a restricted use pesticide highly regulated by the EPA; only Wildlife Services personnel can use the M-44 device in North Dakota. When deployed, the M-44 must be checked weekly, the only exception is when inclement weather prevents the weekly inspections. To be compliant with EPA regulations, the 9 field specialists rely upon the MIS code "Bad Weather Duties" when they are unable to check M-44s on a given day due to inclement weather conditions. Wildlife Services is working to modify the reporting of Bad Weather Duties to make it easier to interpret why this activity is reported.

Thank you for the opportunity to provide more detailed information regarding these various recommendations. Please don't hesitate to contact me if additional information is required.

Respectfully,

Phil Mastrangelo  
State Director

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# OFFICE OF THE STATE AUDITOR

## PERFORMANCE AUDIT FOLLOW-UP REPORT

Of the Status of Recommendations from

WILDLIFE SERVICES PROGRAM

October 6, 2010

Report No. 8026.1



Robert R. Peterson, State Auditor

STATE AUDITOR  
ROBERT R. PETERSON



Phone (701)328-2241  
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STATE OF NORTH DAKOTA  
**OFFICE OF THE STATE AUDITOR**  
STATE CAPITOL  
600 E. BOULEVARD AVENUE - DEPT 117  
BISMARCK, NORTH DAKOTA 58505

October 6, 2010

Honorable John Hoeven, Governor

Members of the North Dakota Legislative Assembly

A fundamental objective of the Office of the State Auditor's work is to bring about improvements through recommendations. To achieve this, our recommendations need to be timely and effectively implemented. The Legislative Audit and Fiscal Review Committee (LAFRC) has requested the Office of the State Auditor to perform follow-up work after presentation of performance audit reports to the Committee and to report those agencies which have not implemented audit recommendations.

The Office of the State Auditor conducted an audit follow-up on the performance audit of the Wildlife Services Program (report #3026) dated May 9, 2008. The objective of this follow-up audit was to determine the status of the 11 recommendations included in the performance audit report. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives. The audit period for which information was collected and reviewed was July 1, 2009 through June 30, 2010.

As a result of the follow-up review, 6 recommendations were determined to be fully implemented, 4 were determined to be partially implemented, and 1 was determined to be not implemented. We want to extend our appreciation to the Department of Agriculture for their assistance and cooperation during this follow-up audit.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bob Peterson".

Robert R. Peterson  
State Auditor



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Performance Audit No. 3026

Wildlife Services Program

Report Dated May 9, 2008

Transmittal Letter

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## Recommendations Fully Implemented

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### Recommendation #1

**We recommend the Department of Agriculture pay salaries of the Wildlife Services' Field Specialists and other cost(s) which can be verified in a timely manner.**

#### *Original Condition*

State funding for the Wildlife Services Program does not pay for all costs incurred by the federal entity administering the program. The program is administered by the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS). Federal funds to administer the program are provided to APHIS. In review of expenditure information, we identified state funds were used for expenditures which were not supported or were not reasonable.

#### *Action Taken*

An annual Work/Financial Plan identifying each party's responsibilities is entered into between APHIS, the North Dakota Department of Agriculture, and the North Dakota Game and Fish Department. The yearly Work/Financial Plan now identifies only salaries and benefits of the APHIS Field Specialists and the Pilot are reimbursable. Spreadsheets documenting time and work duties have been implemented by APHIS. These spreadsheets were reviewed and approved by the Department of Agriculture prior to implementation.

#### *Result of Implementation*

By paying only the salaries and benefits of the Wildlife Services' Field Specialists and Pilot for eligible tasks, the North Dakota Department of Agriculture has limited the costs to those which can be verified in a timely and efficient manner.

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### Recommendation #2

**We recommend the Department of Agriculture review the time of the pilot charged to the Wildlife Services Program and determine what percentage of the Pilot's salary will be paid by the state.**

#### *Original Condition*

APHIS is authorized and does conduct aerial hunting of coyotes in the state. In a review of information, we identified the Pilot spent a relatively minimal amount of time flying. The Pilot's salary was paid by the state for certain months regardless of the amount of time spent flying. We were informed when not flying, the pilot spent time in the shop doing maintenance work on equipment.

#### *Action Taken*

The Department of Agriculture identified spreadsheets are completed by APHIS which document the Pilot's time and work duties. These spreadsheets identify the number of hours performed on each specific task performed during the day. The Department determined the tasks performed by the Pilot while not flying are necessary to the implementation and success of the Wildlife Services program. We identified federal funds are being used to pay for the Pilot's salary and benefits when the Pilot is performing Certified Flight Instructor duties. All other time of the Pilot is paid by the state.

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**Chapter 1**  
**Recommendations Fully Implemented**

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*Result of Implementation*      The Department of Agriculture has determined eligible tasks of the Pilot for the Wildlife Services Program which will be paid for by the state.

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**Recommendation #3**      **We recommend the Department of Agriculture require travel time of the Wildlife Services' Field Specialists be adequately documented.**

*Original Condition*      The Wildlife Services' Field Specialists completed their time sheets every two weeks and identified their work time under the category of "regular time." The Field Specialists also document time in the Management Information System (MIS) and identify the time spent each day on certain categories. In review of documentation, the time sheet hours attributed to "regular time" did not equal the amount of time documented in MIS. The difference was identified as travel time. The travel time was not documented and/or supported by other documentation.

*Action Taken*      We identified spreadsheets documenting the Field Specialists' time and work duties, which includes travel time, have been implemented by APHIS. These spreadsheets define the number of hours performed on each specific task during the day. Also, the travel miles and time spent traveling are now documented in MIS.

*Result of Implementation*      The Department of Agriculture is able to adequately monitor the time charged to travel and can determine whether the time charged is appropriate.

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**Recommendation #4**      **We recommend the Department of Agriculture require the Wildlife Services' Field Specialists dedicate a certain amount of time in the fall to the state blackbird problem.**

*Original Condition*      Concerns related to the amount of damage blackbirds do to sunflowers were identified by various parties including the Department of Agriculture and the National Sunflower Association. Losses were incurred due to blackbirds sitting on the sunflower heads, causing the seeds to fall to the ground. The loss of revenue and economic impact due to blackbirds in sunflowers was estimated between \$14.1 million and \$17.6 million per year. Both the Department of Agriculture and the National Sunflower Association voiced concerns over the lack of commitment from personnel operating the Wildlife Services Program. In review of the purpose of the Wildlife Services Program, we identified problems associated with blackbirds was an area the program was intended to address.

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## Chapter 1

### Recommendations Fully Implemented

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#### *Action Taken*

The Work/Financial Plans for state fiscal years 2010 and 2011 identify blackbird work as an eligible activity with up to \$149,300 available in general funds to reimburse expenditures. We identified a performance measure for blackbird work has also been included in the Work/Financial Plans. The Department of Agriculture indicated it has received no complaints related to the work performed on the blackbird problem from producers or from the National Sunflower Association in the last year. We identified APHIS has increased the number of part-time employees, using federal earmarked funds for sunflower blackbird work, to assist producers with blackbird problems. APHIS has also used a number of the state paid Field Specialists to assist with blackbird work during the busy fall season.

#### *Result of Implementation*

The performance of work by APHIS on the blackbird problem has helped farmers in North Dakota to address the damage blackbirds cause to sunflowers.

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#### **Recommendation #5**

**We recommend the Department of Agriculture ensure appropriate changes are made to the Cooperative Service Agreements to address recommendations included in this audit report as well as to:**

- a) Approve or require information be provided for salary increases of Field Specialists prior to being effective;**
- b) Establish performance measures to evaluate the program;**
- c) Require only necessary reports or information regarding the program; and**
- d) Identify if, when, and where state funds are to be used for issues arising in urban areas.**

#### *Original Condition*

For the time period October 2003 through September 2007, the average Field Specialist salary increase was 18.5% with the highest increase being 28%. We identified raises were given to Field Specialists without Department of Agriculture approval or knowledge. In review of the Cooperative Service Agreements, it appeared the agreements did not contain measurable goals/objectives. We identified certain monitoring requirements in the agreements were unnecessary. Also, the agreements did not address work performed in urban areas.

#### *Action Taken*

In review of the Cooperative Service Agreements and Work/Financial Plans, we identified changes were made, including:

- The Department of Agriculture is notified of salaries at the beginning of Work/Financial Plan and receives a quarterly report of Field Specialist salaries.
- Performance measures are included in the Work/Financial Plan.
- Required reports are listed in the Work/Financial Plan.
- Urban work is addressed in the Work/Financial Plan as an ineligible activity. The Department of Agriculture indicated urban work is to be billed to the city or individual.

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## Chapter 1

### Recommendations Fully Implemented

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*Result of Implementation*      The Department of Agriculture receives additional information to allow it to monitor the Wildlife Services Program. Costs incurred for urban work should no longer be an expense of the state.

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**Recommendation #6**      We recommend the Department of Agriculture, with assistance from the Office of the Attorney General, review North Dakota Century Code requirements related to the Wildlife Services Program. Appropriate action should be taken to modify or clarify sections to make requirements clear and up-to-date.

*Original Condition*      State laws related to the Wildlife Services Program had not been updated since 1973 and were in need of review. North Dakota Century Code (NDCC) Section 4-01-17.1 was an example of a law which needed review. It stated the Department of Agriculture may cooperate with APHIS in the control and destruction of certain animals which were injurious to livestock, poultry, and big and small game; injurious field rodents in rural areas; and certain nongame species of birds causing crop damage or substantial economic loss. Work was being conducted in urban areas under the Wildlife Services Program and clarification was needed as to what areas the program was to serve and what animals were included as part of the program.

*Action Taken*      NDCC was reviewed by the Department of Agriculture prior to the 2009 Legislative Session. A bill was introduced and passed by the Legislature to address certain areas. Chapter 67 of the 2009 Session Law made applicable changes to state law.

*Result of Implementation*      Ambiguity regarding the purpose of the Wildlife Services Program has been clarified in state law.

## Recommendations Partially Implemented

### Recommendation #7

We recommend the Department of Agriculture periodically verify the Wildlife Services Program billed amounts are adequately supported and reasonable.

#### *Original Condition*

Based on a review of bills submitted to the Department of Agriculture, we identified bills consisted of a one page document with very little detail. Total cost amounts were identified by category such as salary, vehicle fuel, etc. The support for these bills was to be maintained by the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS). The Department of Agriculture did not review support maintained by APHIS to ensure amounts billed were supported and reasonable. In a review of 12 judgmentally selected bills, a number of concerns were identified. Examples included a lack of support for certain vehicle maintenance and aircraft fuel expenses as well as taxes being included in billed amounts.

#### *Action Taken*

To simplify billing, the yearly Work/Financial Plan was changed to indicate only salaries and benefits will be reimbursed. In review of the four quarterly billings sent to the Department of Agriculture from APHIS for state fiscal year 2010, we identified APHIS includes the salary and benefit amount to be reimbursed, detail on the amount by pay period and employee, and what amounts are eligible for North Dakota Game and Fish Department funds, Federal funds, or attributable to the North Dakota General Fund for blackbird work. The Department of Agriculture indicated they review all documentation sent by APHIS with the quarterly billing. However, no additional detailed support has been requested.

We requested and received detailed supporting documentation from APHIS for two quarters of state fiscal year 2010. Based on our review of documentation, we identified concerns with salaries. For example:

- We identified APHIS immediately hired an individual for a vacant Field Specialist position. This individual was transferred to North Dakota from another state and brought a significant amount of credit, comp, annual, and sick leave from another federal position (over 1,600 hours). This leave time now appears to be the responsibility of North Dakota even though it was earned elsewhere. Also, the employee was paid with state funds for over 40 hours of administrative leave for time related to the purchase of a new home. The Department of Agriculture indicated they were not aware of this information.
- In review of salary information, we identified an instance in which urban work was performed by a Field Specialist and charged to the State. Urban work is an ineligible activity according to the Work/Financial plan and is to be charged to the city or individual for whom the work is performed. APHIS indicated this was charged to the state in error. APHIS added the employee did not follow proper protocol in documenting the urban work and the problem would be addressed to prevent reoccurrence.

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**Chapter 2**  
**Recommendations Partially Implemented**

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*Management's Response  
and Future Action to be  
Taken*

We agree with the status of the recommendation. We will continue to review and monitor the billed amounts and periodically verify supporting documentation for billings.

**Recommendation #8**

**We recommend the Department of Agriculture improve monitoring of Cooperative Service Agreements to ensure requirements are complied with.**

*Original Condition*

Based on a review of Cooperative Service Agreements, we identified certain requirements in different biennium's were not fulfilled. For example, required discussions related to employment, salaries, expenses, and purchases were not held and information required to be submitted to the Department of Agriculture was not provided. The Department had established an informal monitoring process for the agreements and had relied on APHIS to comply with requirements.

*Action Taken*

A number of changes have been made to the Cooperative Service Agreements and the annual Work/Financial Plans. For example, reimbursable items include only salaries and benefits, performance measures have been established, and APHIS is required to submit certain information. The Department of Agriculture does review the information submitted with quarterly billings. However, the Department does not review additional supporting documentation maintained at the APHIS office. In a review of supporting documentation, we identified concerns related to salary information.

APHIS has indicated the agreed upon Cooperative Service Agreement will not be sufficient to cover the salaries and benefits of the Field Specialists and Pilot for the 2009-2011 biennium. In our review of information, we identified areas where changes could have occurred which could have reduced the impact of the shortfall of funds claimed by APHIS. For example, immediately filling a vacant position rather than leaving the position open for a certain time period resulted in no cost savings. In addition, the individual selected for this position came from another state and was hired at a significantly higher rate of pay due to years of experience. This individual also brought over 1,600 hours of credit, comp, annual, and sick leave from the prior position.

*Management's Response  
and Future Action to be  
Taken*

We agree with the status of the recommendation and will continue to review support submitted with quarterly billings. Also, we will periodically review additional supporting documents maintained at the APHIS office to ensure compliance with the Cooperative Service Agreement.

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## Chapter 2

### Recommendations Partially Implemented

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#### **Recommendation #9**

**We recommend the Department of Agriculture and the Game and Fish Department formally identify advantages and disadvantages of the current monitoring and funding of the Wildlife Services Program. A determination should be made as to whether the primary monitoring and/or primary funding of the program need changing.**

##### *Original Condition*

The Department of Agriculture had a Cooperative Service Agreement with APHIS and was responsible for the primary monitoring of the Wildlife Services Program by the State. However, the primary funding source for the Wildlife Services Program was the North Dakota Game and Fish Department. The Game and Fish Department relied on the Department of Agriculture to monitor the use of funds being provided and had very little, if any, input as to how the funds were to be used. We determined monitoring and funding of the program should be reviewed.

##### *Action Taken*

While representatives from both the Department of Agriculture and the Game and Fish Department indicated discussions have been held regarding the monitoring and funding of the Wildlife Services Program, a formal analysis has yet to be completed. A representative of the Department of Agriculture indicated reviews have been conducted on how other states are funding the Wildlife Services Program.

##### *Management's Response and Future Action to be Taken*

We agree with the status of the recommendation. The Department and the Game and Fish will continue our discussions regarding monitoring and funding of the Wildlife Services Program. We will formally identify advantages and disadvantages of the current process. We will jointly make a determination regarding changes, if any, in the primary monitoring and funding of the program. Recommendations will be made to the Legislature if changes are needed.

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#### **Recommendation #10**

**We recommend the Department of Agriculture obtain necessary federal budget and expenditure data for monitoring and budgeting purposes.**

##### *Original Condition*

The Wildlife Services Program is funded with general funds (through the North Dakota Department of Agriculture), special funds (through the North Dakota Game and Fish Department), and federal funds (through the U.S. Department of Agriculture). Information presented to appropriation committees during the 2007 Legislative Session appeared to be inconsistent and certain federal expenditure information was unverifiable. This appears to have led to confusion regarding the funding of the Wildlife Services Program. When APHIS determined additional funds were needed, the Department of Agriculture was unable to determine the reasonableness of the additional request for funding.



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## Chapter 2

### Recommendations Partially Implemented

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#### *Action Taken*

The Department of Agriculture receives a copy of the federal budget. The budget identifies the amount of federal funds for the North Dakota Wildlife Services Program. However, even with this budget information provided to the Department, apparently an issue of insufficient funds for the 2009-2011 biennium exists. It appears APHIS was aware of the budget shortfall before the biennium began. However, limited actions were taken by APHIS to compensate for the shortfall. The Department of Agriculture performs limited monitoring of the federal budget and expenditure data.

#### *Management's Response and Future Action to be Taken*

We agree with the status of the recommendation. The Department will continue to monitor Wildlife Service's federal budget and expenditures. Federal budgets and supporting documents will be required from the local and regional office to verify credibility and changes in federal funding.

## Recommendations Not Implemented

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**Recommendation #11** We recommend the Department of Agriculture monitor Field Specialists' time charged to office, bad weather, miscellaneous, or similar categories. Appropriate action should be taken if time charged to these categories is excessive.

*Original Condition*

In a review of the Field Specialists' time worked, we identified time charged to certain categories which appeared excessive. These categories included office duties, miscellaneous, and bad weather. Time charged to these relatively broad categories provided limited information as to what activities were actually performed or what was actually accomplished by the Field Specialists.

*Action Taken*

We identified spreadsheets, which document the Field Specialists' time and work duties, have been implemented by APHIS and clearly define the number of hours performed on each specific task during the day. These spreadsheets were reviewed and approved by the Department of Agriculture prior to implementation by APHIS.

The Department of Agriculture indicated the time charged to bad weather, office duties, and other similar categories is not monitored. While the Department of Agriculture requires APHIS to have the supporting documentation for time charged to these categories available, the Department does not request the documentation to verify the time charged was reasonable.

The time attributed each day to work categories is documented in the APHIS Management Information System (MIS). In review of MIS information for two quarters in fiscal year 2010, we identified time attributed to bad weather, office duties, equipment maintenance, and other similar categories was inconsistent. For example:

- One employee charged 33 hours to bad weather in one week. Two weeks prior, this same employee charged one hour to bad weather and 7 hours to comp time on the same day.
- One employee charged under 25 hours to equipment maintenance in one quarter, while another charged nearly 120 hours for the same quarter.
- APHIS indicated several employees have been using the MIS 2K and office duties categories interchangeably. MIS 2K duties include updating MIS to include time and work performed.

Although the Department of Agriculture has taken steps to improve APHIS documentation of certain categories of work time, the Department still performs little to no monitoring of the time charged to these categories. No action has been taken on excessive time charged to these categories.

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**Chapter 3**  
**Recommendations Not Implemented**

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*Management's Response  
and Future Action to be  
Taken*

We agree with the status of the recommendation. The Department will periodically verify the Wildlife Services Program billed amounts; reviewing field specialists' time spent as part of that process. Adjustments will be made if funds are used inappropriately.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2009

Page 1, line 2, remove the first "and"

Page 1, line 2, replace "section" with "sections"

Page 1, line 2, after "4-01-21" insert "and 4-01-23, subsection 2 of section 5-01-17, subsection 2 of section 5-01-19, and sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06"

Page 1, line 3, after "commissioner" insert ", the promotion of sustainably grown commodities, domestic wineries and domestic distilleries, and fertilizer distribution registration, licensing, and inspection fees; and to declare an emergency"

Page 1, replace lines 12 and 13 with

"Salaries and wages	\$8,566,196	\$818,632	\$9,384,828
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Operating expenses	6,094,603	274,058	6,368,661"
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Page 1, replace lines 15 through 17 with:

"Grants	2,969,825	201,003	3,170,828
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State board of animal health	2,563,325	(414,273)	2,149,052
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Wildlife services	1,067,400	350,000	1,417,400"
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Page 1, replace lines 19 through 22 with:

"Total all funds	\$21,316,349	\$1,241,420	\$22,557,769
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Less estimated income	<u>14,094,466</u>	<u>271,457</u>	<u>14,365,923</u>
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Total general fund	\$7,221,883	\$969,963	\$8,191,846
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Full-time equivalent positions	74.50	0.50	75.00"
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Page 2, after line 3, insert:

**"SECTION 3. APPROPRIATION - 2009-11 BIENNIUM - WILDLIFE SERVICES.**

There is appropriated out of any special funds received from the game and fish department, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of providing funding for the wildlife services program, for the period beginning with the effective date of this Act and ending June 30, 2011."

Page 2, line 5, replace "\$4,257,709" with "\$4,627,709"

Page 2, line 15, replace "\$968,261" with "\$1,068,261"

Page 2, after line 24, insert:

**"SECTION 8. AMENDMENT.** Section 4-01-23 of the North Dakota Century Code is amended and reenacted as follows:

**4-01-23. (Effective July 1, 2011) Sustainably grown in North Dakota - Application - Logo - Promotion of commodities.**

1. The agriculture commissioner ~~shall~~may implement a program to promote agricultural commodities that are sustainably grown in North Dakota.
2. Alf a program referenced in subsection 1 is implemented, the program must require that a producer may apply to file an application with the commissioner and upon demonstrating, If the producer demonstrates that the producer's growing practices with respect to a particular commodity meet the commissioner's established criteria for sustainability, the commissioner shall authorize the producer to label and market the commodity as being sustainably grown in North Dakota.
3. The commissioner ~~shall~~may develop and make available for the use of authorized producers a logo indicating that the commodity is sustainably grown in North Dakota. The commissioner ~~shall~~may actively support and promote the sale and use of products identified as sustainably grown in North Dakota.
4. The commissioner may establish and charge producers a fee for participating in the program. The commissioner shall forward all fees collected under this section to the state treasurer for deposit in the general fund.
5. The agriculture commissioner may engage in research and provide education to members of the public regarding agricultural commodities that are sustainably grown in this state.
6. For purposes of this section, "sustainably grown" means that a crop is grown using research-based practices that result in:
  - a. Increased efficiencies in soil and nutrient preservation;
  - b. Decreased reliance on tillage and other soil-depleting practices;
  - c. Increased efficiencies in the use of water;
  - d. Increased efficiencies in the use of other necessary and measurable agricultural inputs;
  - e. Increased yield efficiencies; and
  - f. Greater economic benefit to producers.

**SECTION 9. AMENDMENT.** Subsection 2 of section 5-01-17 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to persons inside or outside of the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year; glassware; wine literature and accessories; and cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on sale and off sale

may be made on Sundays between twelve noon and twelve midnight. The state tax commissioner may issue special events permits for not more than twenty days per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at a designated trade show, convention, festival, or a similar event approved by the state tax commissioner. In addition, the agriculture commissioner may issue special events permits to promote the wine industry in this state. A domestic winery may not engage in any wholesaling activities. All sales and deliveries of wines to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. For any month in which a domestic winery has made sales to a North Dakota wholesaler, that domestic winery shall file a report with the state tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.

**SECTION 10. AMENDMENT.** Subsection 2 of section 5-01-19 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year. Direct sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between twelve noon and twelve midnight. A domestic distillery may hold events inside and outside its premises, but only on contiguous property under common ownership, allowing free samples of its spirits and to sell its spirits by the glass or in closed containers. The tax commissioner may issue special events permits for not more than twenty days per calendar year to a domestic distillery allowing the domestic distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers, at a designated trade show, convention, festival, or similar event approved by the tax commissioner. In addition, the agriculture commissioner may issue special events permits to promote the spirits industry in this state. A domestic distillery may not engage in any wholesaling activities. All sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a domestic distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the domestic distillery by the domestic winery. No later than the last business day of a calendar month, a farm distillery that has made sales to a North Dakota wholesaler during the preceding calendar month shall file a report with the tax commissioner reporting those sales.

**SECTION 11. AMENDMENT.** Section 19-20.1-03 of the North Dakota Century Code is amended and reenacted as follows:

### **19-20.1-03. Registration.**

Each brand and grade of fertilizer, material, foliar fertilizer, micronutrient, specialty fertilizer, soil amendment, or plant amendment must be registered in the name of the person whose name appears upon the label before being offered for sale or distributed in this state. The application for registration must be submitted to the commissioner on a form furnished by the commissioner and must be accompanied by a fee of fifty dollars. Upon approval by the commissioner, a certificate of registration must be furnished to the applicant. Registrations cover a two-year period beginning July first and ending June thirtieth of every even-numbered year. Distribution of fertilizer products without prior registration or renewal received after July thirty-first must be assessed a penalty of twenty-five dollars per product. A distributor is not required to register any brand of fertilizer, soil amendment, or plant amendment that is already registered under this chapter by another person, providing the label complies with the issued registration. Compost that is transferred between parties without compensation is exempt from these requirements. The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

**SECTION 12. AMENDMENT.** Section 19-20.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **19-20.1-03.1. License required - Penalty.**

A person may not distribute any fertilizer, soil amendment, or plant amendment in this state without first obtaining a distributor's license from the commissioner. However, a distributor's license is not required for those distributors selling only specialty fertilizers. A license must be obtained for each location or mobile mechanical unit used by a distributor in the state. The application for the license must be submitted on a form furnished by the commissioner and must be accompanied by a fee of one hundred dollars. A license covers a two-year period beginning July first and ending June thirtieth of every even-numbered year. License renewal applications received after July thirty-first may be assessed a penalty fee of twenty dollars. Licenses are not transferable, and each license must be conspicuously posted at each location and must accompany each mobile mechanical unit operating in the state. The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

**SECTION 13. AMENDMENT.** Section 19-20.1-06 of the North Dakota Century Code is amended and reenacted as follows:

#### **19-20.1-06. Inspection fees and tonnage reports.**

There must be paid to the commissioner for all fertilizers, soil amendments, or plant amendments distributed in this state an inspection fee at the rate of twenty cents per ton [907.18 kilograms]. The inspection fee may not be less than ten dollars. Sales to manufacturers or exchanges between them are exempt from the inspection fee. Fees collected under this section must be ~~used for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for the administration of this chapter~~ forwarded to the state treasurer for deposit in the environment and rangeland protection fund.

Individual packages of fertilizers, soil amendments, or plant amendments sold exclusively in packages of twenty-five pounds [11.34 kilograms] or less are exempt

from the provisions of this section. If a person sells fertilizer, soil amendments, or plant amendments in packages of twenty-five pounds [11.34 kilograms] or less and in packages over twenty-five pounds [11.34 kilograms], that portion sold in packages over twenty-five pounds [11.34 kilograms] is subject to the same inspection fee of twenty cents per ton [907.18 kilograms], including the minimum ten dollar fee, as provided in this chapter.

Every licensed person who distributes a fertilizer, soil amendment, or plant amendment to a nonlicensed person in this state shall file with the commissioner, on forms furnished by the commissioner, an annual statement for the calendar year, setting forth the number of net tons [kilograms] of each fertilizer, soil amendment, or plant amendment so distributed in this state during the period. A licensed end user shall report all sales and purchases and pay the appropriate tonnage tax. The statement is due on or before January thirty-first of the following year. The person filing the statement shall pay the inspection fee at the rate stated in this section. If the tonnage statement is not filed and the payment of inspection fee is not made by January thirty-first, a collection fee amounting to ten percent, minimum ten dollars, of the amount must be assessed against the licensee, and the amount of fees due constitute a debt and become the basis of a judgment against the licensee.

**SECTION 14. EMERGENCY.** Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	<b>Executive Budget</b>	<b>Senate Changes</b>	<b>Senate Version</b>
Salaries and wages	\$9,303,178	\$81,650	\$9,384,828
Operating expenses	6,548,199	(179,538)	6,368,661
Capital assets	17,000		17,000
Grants	3,095,828	75,000	3,170,828
State Board of Animal Health	1,949,052	200,000	2,149,052
Wildlife Services	1,067,400	350,000	1,417,400
Crop Harmonization Board	50,000		50,000
Total all funds	<u>\$22,030,657</u>	<u>\$527,112</u>	<u>\$22,557,769</u>
Less estimated income	<u>13,645,923</u>	<u>720,000</u>	<u>14,365,923</u>
General fund	\$8,384,734	(\$192,888)	\$8,191,846
FTE	74.50	0.50	75.00

**Department No. 602 - Department of Agriculture - Detail of Senate Changes**

	<b>Adds Research Analyst FTE Position<sup>1</sup></b>	<b>Adds Marketing Specialist Position<sup>2</sup></b>	<b>Removes Sustainable Agriculture Position<sup>3</sup></b>	<b>Removes Transportati on Research Funding<sup>4</sup></b>	<b>Adds Funding for Honeybee Colony Research Grants<sup>5</sup></b>	<b>Adds Funding for John's Disease Control<sup>6</sup></b>
Salaries and wages	\$131,000	\$71,000	(\$120,350)			
Operating expenses	20,000	25,000	(174,538)	(50,000)		
Capital assets						
Grants					75,000	
State Board of Animal Health						200,000
Wildlife Services						



Crop Harmonization Board						
Total all funds	\$151,000	\$96,000	(\$294,888)	(\$50,000)	\$75,000	\$200,000
Less estimated income	20,000	0	0	0	0	0
General fund	\$131,000	\$96,000	(\$294,888)	(\$50,000)	\$75,000	\$200,000
FTE	1.00	0.50	(1.00)	0.00	0.00	0.00

	<b>Adds Funding for Wildlife Services<sup>7</sup></b>	<b>Adjusts Funding Sources<sup>8</sup></b>	<b>Total Senate Changes</b>
Salaries and wages			\$81,650
Operating expenses			(179,538)
Capital assets			
Grants			75,000
State Board of Animal Health			200,000
Wildlife Services	350,000		350,000
Crop Harmonization Board			
Total all funds	\$350,000	\$0	\$527,112
Less estimated income	350,000	350,000	720,000
General fund	\$0	(\$350,000)	(\$192,888)
FTE	0.00	0.00	0.50

<sup>1</sup> A research analyst FTE position is added with funding from the general fund for salaries (\$131,000) and funding from the environment and rangeland protection fund for operating expenses (\$20,000).

<sup>2</sup> Funding is added from the general fund for a .5 FTE marketing specialist position (\$71,000) and related operating expenses (\$20,000).

<sup>3</sup> Funding included in the executive budget recommendation for 1 FTE sustainable agriculture program specialist position and related expenses is removed.

<sup>4</sup> Transportation research funding included in the executive budget is removed.

<sup>5</sup> Additional funding is provided for grants to public and private entities engaging in research efforts focusing on honeybee colony health.

<sup>6</sup> Funding for Johnes's disease testing and control for livestock is added.

<sup>7</sup> Additional funding is added for the Wildlife Services program from the Game and Fish Department (\$100,000) and the State Water Commission (\$250,000) to provide total funding of \$1,417,400.

<sup>8</sup> The funding source for a portion of rent expense (\$100,000) and a grant to the dairy coalition (\$250,000) is changed from the general fund to the environment and rangeland protection fund.

This amendment also:

- Adds a section to provide additional 2009-11 biennium funding from the game and fish fund for the Wildlife Services program and the section is declared to be an emergency.
- Amends North Dakota Century Code Section 4-01-23 regarding the sustainable agriculture program.
- Amends Section 5-01-17(2) and Section 5-01-19(2) relating to special events permits for wine

and spirit promotion in the state.

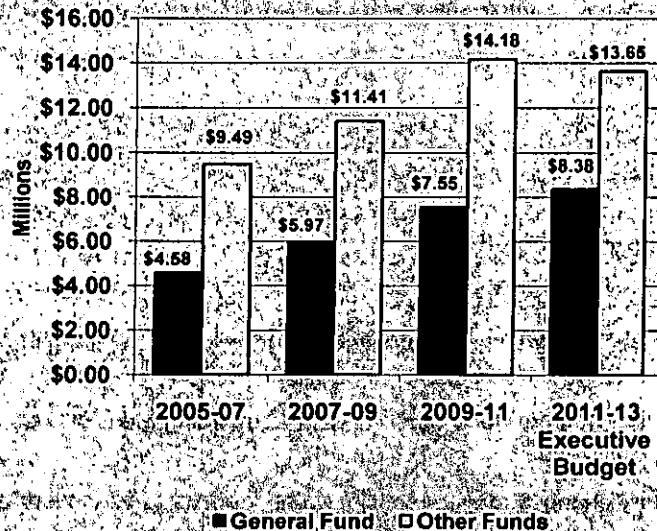
- Amends Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. This is estimated to reduce general fund revenues by \$785,000 for the 2011-13 biennium.

**Department 602 - Agriculture Commissioner**  
**Senate Bill No. 2009**

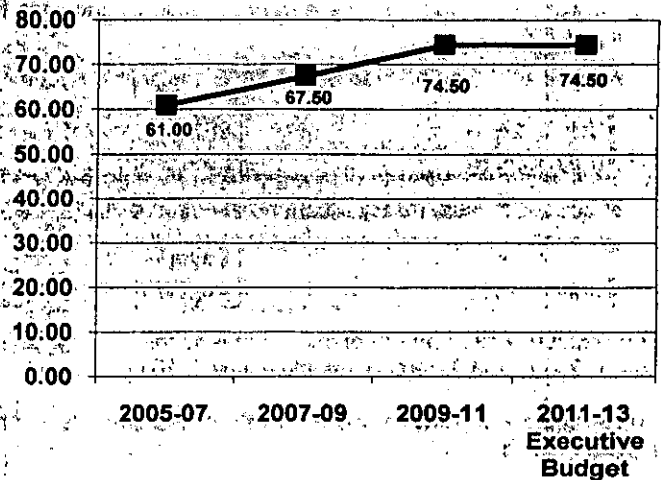
	FTE Positions	General Fund	Other Funds	Total
2011-13 Executive Budget	74.50	\$8,384,734	\$13,645,923	\$22,030,657
2009-11 Legislative Appropriations	74.50	7,547,383	14,181,466	21,728,849 <sup>1</sup>
Increase (Decrease)	0.00	\$837,351	(\$535,543)	\$301,808

<sup>1</sup>The 2009-11 appropriation amounts include \$167,000, \$80,000 of which is from the general fund, for the agency's share of the \$16 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for executive branch employees.

**Agency Funding**



**FTE Positions**



**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2011-13 Executive Budget	\$8,384,734	\$0	\$8,384,734
2009-11 Legislative Appropriations	7,547,383	0	7,547,383
Increase (Decrease)	\$837,351	\$0	\$837,351

**First House Action**

Attached is a summary of first house changes

**Executive Budget Highlights  
(With First House Changes in Bold)**

	General Fund	Other Funds	Total
1. Adds 1 FTE position (\$120,350) and related operating expenses (\$174,538) to support the sustainable agriculture program. <b>The Senate removed this FTE position and related funding.</b>	\$294,888		\$294,888
2. Removes 1 FTE pesticide registration specialist position and related operating expenses authorized by the 2009 Legislative Assembly for the 2009-11 biennium only	(\$140,000)		(\$140,000)
3. Adjusts funding for the Ag in the Classroom grant program to reflect estimated 2011-13 biennium total grant awards of \$130,000		(\$150,600)	(\$150,600)
4. Increases the estimated federal funding to be received for the specialty crop grant program to provide total grant funding of \$990,554		\$615,554	\$615,554
5. Adds funding for research regarding the transportation needs affecting the state's agriculture industry. <b>The Senate removed this funding.</b>	\$50,000		\$50,000

6. Adds funding from the general fund to maintain the reserve corps veterinarian program due to a reduction in federal funding for the program.
7. Removes funding provided in the 2009-11 biennium for the John's disease program. The Senate added \$200,000 from the general fund for John's disease control.

\$64,996

\$64,996

(\$275,500)

(\$275,500)

### Other Sections in Bill

**2009-11 Wildlife Services funding** - Section 3 provides \$200,000 from the game and fish fund for additional funding for Wildlife Services during the 2009-11 biennium.

**Game and fish funding** - Section 6 provides \$1,068,261 from the game and fish operating fund for the State Board of Animal Health (\$199,461) and Wildlife Services (\$868,800) for the 2011-13 biennium. The 2009-11 legislative appropriations from the game and fish fund for these programs were \$968,800.

**Agriculture Commissioner's salary** - Section 7 includes the statutory changes necessary to increase the commissioner's salary as follows:

Annual salary authorized by the 2009 Legislative Assembly:

July 1, 2009	\$85,830
July 1, 2010	\$90,122

Proposed annual salary recommended in the 2011-13 executive budget:

July 1, 2011	\$92,826
July 1, 2012	\$95,610

The executive recommendation provides funding for elected officials' salary increases equal to 3 percent of salaries effective July 1, 2011, and 3 percent effective July 1, 2012.

**Sustainable agriculture program** - Section 8 amends North Dakota Century Code Section 4-01-23 regarding the sustainable agriculture program.

**Wine and spirits promotion** - Sections 9 and 10 provide statutory changes to allow special events permits to be issued for wine and spirits promotion in the state.

**Fertilizer distribution registration, licensing, and inspection fees** - Sections 11, 12, and 13 provide statutory changes to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. This is estimated to reduce general fund revenues by \$785,000 for the 2011-13 biennium.

### Continuing Appropriations

**Turkey fund** - Chapter 4-1-12 - Commodity checkoff for market development for turkeys and turkey products.

**Honey promotion fund** - Chapter 4-1-08 - Commodity checkoff for market development for honey.

**Minor use pesticide fund** - Sections 4-35-06.2 and 4-35-06.3 - For studies, investigations, and evaluations regarding registration and use of pesticides.

### Major Related Legislation

**House Bill No. 1321** - Transfers anhydrous ammonia inspection duties from the Insurance Commissioner to the Agriculture Commissioner, eliminates the anhydrous ammonia storage facility inspection fund, and deposits anhydrous ammonia inspection fees in the environment and rangeland protection fund rather than the general fund.

**Senate Bill No. 2085** - Allows the Agriculture Commissioner to assess a civil penalty to a person distributing or selling noxious weeds and allows the Agriculture Commissioner to use up to \$50,000 of the Department of Agriculture appropriation from the environment and rangeland protection fund for invasive weed control for the 2011-13 biennium.

ATTACH:1

## STATEMENT OF PURPOSE OF AMENDMENT:

## Senate Bill No. 2009 - Funding Summary

	Executive Budget	Senate Changes	Senate Version
Department of Agriculture			
Salaries and wages	\$9,303,178	\$81,650	\$9,384,828
Operating expenses	6,548,199	(179,538)	6,368,661
Capital assets	17,000		17,000
Grants	3,095,828	75,000	3,170,828
State Board of Animal Health	1,949,052	200,000	2,149,052
Wildlife Services	1,067,400	350,000	1,417,400
Crop Harmonization Board	50,000		50,000
Total all funds	\$22,030,657	\$527,112	\$22,557,769
Less estimated income	13,645,923	720,000	14,365,923
General fund	\$8,384,734	(\$192,888)	\$8,191,846
FTE	74.50	0.50	75.00
Bill Total			
Total all funds	\$22,030,657	\$527,112	\$22,557,769
Less estimated income	13,645,923	720,000	14,365,923
General fund	\$8,384,734	(\$192,888)	\$8,191,846
FTE	74.50	0.50	75.00

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

	Executive Budget	Senate Changes	Senate Version
Salaries and wages	\$9,303,178	\$81,650	\$9,384,828
Operating expenses	6,548,199	(179,538)	6,368,661
Capital assets	17,000		17,000
Grants	3,095,828	75,000	3,170,828
State Board of Animal Health	1,949,052	200,000	2,149,052
Wildlife Services	1,067,400	350,000	1,417,400
Crop Harmonization Board	50,000		50,000
Total all funds	\$22,030,657	\$527,112	\$22,557,769
Less estimated income	13,645,923	720,000	14,365,923
General fund	\$8,384,734	(\$192,888)	\$8,191,846
FTE	74.50	0.50	75.00

## Department 602 - Department of Agriculture - Detail of Senate Changes

	Adds Research Analyst FTE Position <sup>1</sup>	Adds Marketing Specialist Position <sup>2</sup>	Removes Sustainable Agriculture Position <sup>3</sup>	Removes Transportation Research Funding <sup>4</sup>	Adds Funding for Honeybee Colony Research Grants <sup>5</sup>	Adds Funding for John's Disease Control <sup>6</sup>
Salaries and wages	131,000	71,000	(120,350)			
Operating expenses	20,000	25,000	(174,538)	(50,000)		
Capital assets						
Grants					75,000	
State Board of Animal Health						200,000
Wildlife Services						
Crop Harmonization Board						
<b>Total all funds</b>	<b>\$151,000</b>	<b>\$96,000</b>	<b>(\$294,888)</b>	<b>(\$50,000)</b>	<b>\$75,000</b>	<b>\$200,000</b>
Less estimated income:	20,000	0	0	0	0	0
<b>General fund</b>	<b>\$131,000</b>	<b>\$96,000</b>	<b>(\$294,888)</b>	<b>(\$50,000)</b>	<b>\$75,000</b>	<b>\$200,000</b>
FTE	1.00	0.50	(1.00)	0.00	0.00	0.00

	Adds Funding for Wildlife Services <sup>7</sup>	Adjusts Funding Sources <sup>8</sup>	Total Senate Changes
Salaries and wages			81,650
Operating expenses			(179,538)
Capital assets			
Grants			75,000
State Board of Animal Health			200,000
Wildlife Services	350,000		350,000
Crop Harmonization Board			
<b>Total all funds</b>	<b>\$350,000</b>	<b>\$0</b>	<b>\$527,112</b>
Less estimated income:	350,000	350,000	720,000
<b>General fund</b>	<b>\$0</b>	<b>(\$350,000)</b>	<b>(\$192,888)</b>
FTE	0.00	0.00	0.50

<sup>1</sup> A research analyst FTE position is added with funding from the general fund for salaries (\$131,000) and funding from the environment and rangeland protection fund for operating expenses (\$20,000).

<sup>2</sup> Funding is added from the general fund for a .5 FTE marketing specialist position (\$71,000) and related operating expenses (\$25,000).

<sup>3</sup> Funding included in the executive budget recommendation for 1 FTE sustainable agriculture program specialist position and related expenses is removed.

<sup>4</sup> Transportation research funding included in the executive budget is removed.

<sup>5</sup> Additional funding is provided for grants to public and private entities engaging in research efforts focusing on honeybee colony health.

<sup>6</sup> Funding for John's disease testing and control for livestock is added.

<sup>7</sup> Additional funding is added for the Wildlife Services program from the Game and Fish Department (\$100,000) and the State Water Commission (\$250,000) to provide total funding of \$1,417,400.

<sup>8</sup> The funding source for a portion of rent expense (\$100,000) and a grant to the dairy coalition (\$250,000) is changed from the general fund to the environment and rangeland protection fund.

This amendment also:

Adds a section to provide additional 2009-11 biennium funding from the game and fish fund for the Wildlife Services program, and the section is declared to be an emergency.

- Amends Section 4-01-23 regarding the sustainable agriculture program.
- Amends Sections 5-01-17(2) and 5-01-19(2) relating to special events permits for wine and spirit promotion in the state.
- Amends Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. This is estimated to reduce general fund revenues by \$785,000 for the 2011-13 biennium.



PROPOSED AMENDMENTS TO SENATE BILL NO. 2009

Page 1, line 2, remove the first "and"

Page 1, line 2, replace "section" with "sections"

Page 1, line 2, after "4-01-21" insert "and 4-01-23, subsection 2 of section 5-01-17, subsection 2 of section 5-01-19, and sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06"

Page 1, line 3, after "commissioner" insert ", the promotion of sustainably grown commodities, domestic wineries and domestic distilleries, and fertilizer distribution registration, licensing, and inspection fees; and to declare an emergency"

Page 1, replace lines 12 and 13 with

"Salaries and wages	\$8,566,196	\$818,632	\$9,384,828
Operating expenses	6,094,603	274,058	6,368,661"

Page 1, replace lines 15 through 17 with:

"Grants	2,969,825	201,003	3,170,828
State board of animal health	2,563,325	(414,273)	2,149,052
Wildlife services	1,067,400	350,000	1,417,400"

Page 1, replace lines 19 through 22 with:

"Total all funds	\$21,316,349	\$1,241,420	\$22,557,769
Less estimated income	<u>14,094,466</u>	<u>271,457</u>	<u>14,365,923</u>
Total general fund	\$7,221,883	\$969,963	\$8,191,846
Full-time equivalent positions	74.50	0.50	75.00"

Page 2, after line 3, insert:

**"SECTION 3. APPROPRIATION - 2009-11 BIENNIUM - WILDLIFE SERVICES.**

There is appropriated out of any special funds received from the game and fish department, not otherwise appropriated, the sum of \$200,000, or so much of the sum as may be necessary, to the agriculture commissioner for the purpose of providing funding for the wildlife services program, for the period beginning with the effective date of this Act and ending June 30, 2011."

Page 2, line 5, replace "\$4,257,709" with "\$4,627,709"

Page 2, line 15, replace "\$968,261" with "\$1,068,261"

Page 2, after line 24, insert:

**"SECTION 8. AMENDMENT.** Section 4-01-23 of the North Dakota Century Code is amended and reenacted as follows:



**4-01-23. (Effective July 1, 2011) Sustainably grown in North Dakota - Application - Logo - Promotion of commodities.**

1. The agriculture commissioner ~~shall~~may implement a program to promote agricultural commodities that are sustainably grown in North Dakota.
2. Alf a program referenced in subsection 1 is implemented, the program must require that a producer may apply to file an application with the commissioner and upon demonstrating, If the producer demonstrates that the producer's growing practices with respect to a particular commodity meet the commissioner's established criteria for sustainability, the commissioner shall authorize the producer to label and market the commodity as being sustainably grown in North Dakota.
3. The commissioner ~~shall~~may develop and make available for the use of authorized producers a logo indicating that the commodity is sustainably grown in North Dakota. The commissioner ~~shall~~may actively support and promote the sale and use of products identified as sustainably grown in North Dakota.
4. The commissioner may establish and charge producers a fee for participating in the program. The commissioner shall forward all fees collected under this section to the state treasurer for deposit in the general fund.
5. The agriculture commissioner may engage in research and provide education to members of the public regarding agricultural commodities that are sustainably grown in this state.
6. For purposes of this section, "sustainably grown" means that a crop is grown using research-based practices that result in:
  - a. Increased efficiencies in soil and nutrient preservation;
  - b. Decreased reliance on tillage and other soil-depleting practices;
  - c. Increased efficiencies in the use of water;
  - d. Increased efficiencies in the use of other necessary and measurable agricultural inputs;
  - e. Increased yield efficiencies; and
  - f. Greater economic benefit to producers.

**SECTION 9. AMENDMENT.** Subsection 2 of section 5-01-17 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its wine to persons inside or outside of the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year; glassware; wine literature and accessories; and cheese, cheese spreads, and other snack food items. A licensee may dispense free samples of the wines offered for sale. Subject to local ordinance, sales at on sale and off sale

may be made on Sundays between twelve noon and twelve midnight. The state tax commissioner may issue special events permits for not more than twenty days per calendar year to a domestic winery allowing the winery, subject to local ordinance, to give free samples of its wine and to sell its wine by the glass or in closed containers, at a designated trade show, convention, festival, or a similar event approved by the state tax commissioner. In addition, the agriculture commissioner may issue special events permits to promote the wine industry in this state. A domestic winery may not engage in any wholesaling activities. All sales and deliveries of wines to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. For any month in which a domestic winery has made sales to a North Dakota wholesaler, that domestic winery shall file a report with the state tax commissioner no later than the last day of each calendar month reporting sales made during the preceding calendar month. When the last day of the calendar month falls on a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.

**SECTION 10. AMENDMENT.** Subsection 2 of section 5-01-19 of the North Dakota Century Code is amended and reenacted as follows:

2. A domestic distillery may sell spirits produced by that distillery at on sale or off sale, in retail lots, and not for resale, and may sell or direct ship its spirits to persons inside or outside the state in a manner consistent with the laws of the place of the sale or delivery in total quantities not in excess of twenty-five thousand gallons [94625 liters] in a calendar year. Direct sales within this state are limited to two and thirty-eight hundredths gallons [9 liters] or less per month per person for personal use and not for resale. The packaging must conform with the labeling requirements in section 5-01-16. A licensee may dispense free samples of the spirits offered for sale. Subject to local ordinance, sales at on sale and off sale may be made on Sundays between twelve noon and twelve midnight. A domestic distillery may hold events inside and outside its premises, but only on contiguous property under common ownership, allowing free samples of its spirits and to sell its spirits by the glass or in closed containers. The tax commissioner may issue special events permits for not more than twenty days per calendar year to a domestic distillery allowing the domestic distillery, subject to local ordinance, to give free samples of its product and to sell its product by the glass or in closed containers, at a designated trade show, convention, festival, or similar event approved by the tax commissioner. In addition, the agriculture commissioner may issue special events permits to promote the spirits industry in this state. A domestic distillery may not engage in any wholesaling activities. All sales and deliveries of spirits to any other retail licensed premises in this state may be made only through a licensed North Dakota liquor wholesaler. However, a domestic distillery may sell distilled spirits to a domestic winery if the distilled spirits were produced from products provided to the domestic distillery by the domestic winery. No later than the last business day of a calendar month, a farm distillery that has made sales to a North Dakota wholesaler during the preceding calendar month shall file a report with the tax commissioner reporting those sales.

**SECTION 11. AMENDMENT.** Section 19-20.1-03 of the North Dakota Century Code is amended and reenacted as follows:

### **19-20.1-03. Registration.**

Each brand and grade of fertilizer, material, foliar fertilizer, micronutrient, specialty fertilizer, soil amendment, or plant amendment must be registered in the name of the person whose name appears upon the label before being offered for sale or distributed in this state. The application for registration must be submitted to the commissioner on a form furnished by the commissioner and must be accompanied by a fee of fifty dollars. Upon approval by the commissioner, a certificate of registration must be furnished to the applicant. Registrations cover a two-year period beginning July first and ending June thirtieth of every even-numbered year. Distribution of fertilizer products without prior registration or renewal received after July thirty-first must be assessed a penalty of twenty-five dollars per product. A distributor is not required to register any brand of fertilizer, soil amendment, or plant amendment that is already registered under this chapter by another person, providing the label complies with the issued registration. Compost that is transferred between parties without compensation is exempt from these requirements. The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

**SECTION 12. AMENDMENT.** Section 19-20.1-03.1 of the North Dakota Century Code is amended and reenacted as follows:

#### **19-20.1-03.1. License required - Penalty.**

A person may not distribute any fertilizer, soil amendment, or plant amendment in this state without first obtaining a distributor's license from the commissioner. However, a distributor's license is not required for those distributors selling only specialty fertilizers. A license must be obtained for each location or mobile mechanical unit used by a distributor in the state. The application for the license must be submitted on a form furnished by the commissioner and must be accompanied by a fee of one hundred dollars. A license covers a two-year period beginning July first and ending June thirtieth of every even-numbered year. License renewal applications received after July thirty-first may be assessed a penalty fee of twenty dollars. Licenses are not transferable, and each license must be conspicuously posted at each location and must accompany each mobile mechanical unit operating in the state. The agriculture commissioner shall forward all fees received under this section to the state treasurer for deposit in the environment and rangeland protection fund.

**SECTION 13. AMENDMENT.** Section 19-20.1-06 of the North Dakota Century Code is amended and reenacted as follows:

#### **19-20.1-06. Inspection fees and tonnage reports.**

There must be paid to the commissioner for all fertilizers, soil amendments, or plant amendments distributed in this state an inspection fee at the rate of twenty cents per ton [907.18 kilograms]. The inspection fee may not be less than ten dollars. Sales to manufacturers or exchanges between them are exempt from the inspection fee. Fees collected under this section must be ~~used for the payment of the costs of inspection, sampling, and analysis, and other expenses necessary for the administration of this chapter~~ forwarded to the state treasurer for deposit in the environment and rangeland protection fund.

Individual packages of fertilizers, soil amendments, or plant amendments sold exclusively in packages of twenty-five pounds [11.34 kilograms] or less are exempt

from the provisions of this section. If a person sells fertilizer, soil amendments, or plant amendments in packages of twenty-five pounds [11.34 kilograms] or less and in packages over twenty-five pounds [11.34 kilograms], that portion sold in packages over twenty-five pounds [11.34 kilograms] is subject to the same inspection fee of twenty cents per ton [907.18 kilograms], including the minimum ten dollar fee, as provided in this chapter.

Every licensed person who distributes a fertilizer, soil amendment, or plant amendment to a nonlicensed person in this state shall file with the commissioner, on forms furnished by the commissioner, an annual statement for the calendar year, setting forth the number of net tons [kilograms] of each fertilizer, soil amendment, or plant amendment so distributed in this state during the period. A licensed end user shall report all sales and purchases and pay the appropriate tonnage tax. The statement is due on or before January thirty-first of the following year. The person filing the statement shall pay the inspection fee at the rate stated in this section. If the tonnage statement is not filed and the payment of inspection fee is not made by January thirty-first, a collection fee amounting to ten percent, minimum ten dollars, of the amount must be assessed against the licensee, and the amount of fees due constitute a debt and become the basis of a judgment against the licensee.

**SECTION 14. EMERGENCY.** Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	<b>Executive Budget</b>	<b>Senate Changes</b>	<b>Senate Version</b>
Salaries and wages	\$9,303,178	\$81,650	\$9,384,828
Operating expenses	6,548,199	(179,538)	6,368,661
Capital assets	17,000		17,000
Grants	3,095,828	75,000	3,170,828
State Board of Animal Health	1,949,052	200,000	2,149,052
Wildlife Services	1,067,400	350,000	1,417,400
Crop Harmonization Board	50,000		50,000
<b>Total all funds</b>	<b>\$22,030,657</b>	<b>\$527,112</b>	<b>\$22,557,769</b>
<b>Less estimated income</b>	<b>13,645,923</b>	<b>720,000</b>	<b>14,365,923</b>
<b>General fund</b>	<b>\$8,384,734</b>	<b>(\$192,888)</b>	<b>\$8,191,846</b>
<b>FTE</b>	<b>74.50</b>	<b>0.50</b>	<b>75.00</b>

**Department No. 602 - Department of Agriculture - Detail of Senate Changes**

	<b>Adds Research Analyst FTE Position<sup>1</sup></b>	<b>Adds Marketing Specialist Position<sup>2</sup></b>	<b>Removes Sustainable Agriculture Position<sup>3</sup></b>	<b>Removes Transportation Research Funding<sup>4</sup></b>	<b>Adds Funding for Honeybee Colony Research Grants<sup>5</sup></b>	<b>Adds Funding for Johne's Disease Control<sup>6</sup></b>
Salaries and wages	\$131,000	\$71,000	(\$120,350)			
Operating expenses	20,000	25,000	(174,538)	(50,000)		
Capital assets						
Grants					75,000	
State Board of Animal Health						200,000
Wildlife Services						

Crop Harmonization Board						
Total all funds	\$151,000	\$96,000	(\$294,888)	(\$50,000)	\$75,000	\$200,000
Less estimated income	20,000	0	0	0	0	0
General fund	\$131,000	\$96,000	(\$294,888)	(\$50,000)	\$75,000	\$200,000
FTE	1.00	0.50	(1.00)	0.00	0.00	0.00

	Adds Funding for Wildlife Services <sup>7</sup>	Adjusts Funding Sources <sup>8</sup>	Total Senate Changes
Salaries and wages			\$81,650
Operating expenses			(179,538)
Capital assets			
Grants			75,000
State Board of Animal Health			200,000
Wildlife Services	350,000		350,000
Crop Harmonization Board			
Total all funds	\$350,000	\$0	\$527,112
Less estimated income	350,000	350,000	720,000
General fund	\$0	(\$350,000)	(\$192,888)
FTE	0.00	0.00	0.50

<sup>1</sup> A research analyst FTE position is added with funding from the general fund for salaries (\$131,000) and funding from the environment and rangeland protection fund for operating expenses (\$20,000).

<sup>2</sup> Funding is added from the general fund for a .5 FTE marketing specialist position (\$71,000) and related operating expenses (\$20,000).

<sup>3</sup> Funding included in the executive budget recommendation for 1 FTE sustainable agriculture program specialist position and related expenses is removed.

<sup>4</sup> Transportation research funding included in the executive budget is removed.

<sup>5</sup> Additional funding is provided for grants to public and private entities engaging in research efforts focusing on honeybee colony health.

<sup>6</sup> Funding for Johne's disease testing and control for livestock is added.

<sup>7</sup> Additional funding is added for the Wildlife Services program from the Game and Fish Department (\$100,000) and the State Water Commission (\$250,000) to provide total funding of \$1,417,400.

<sup>8</sup> The funding source for a portion of rent expense (\$100,000) and a grant to the dairy coalition (\$250,000) is changed from the general fund to the environment and rangeland protection fund.

This amendment also:

- Adds a section to provide additional 2009-11 biennium funding from the game and fish fund for the Wildlife Services program and the section is declared to be an emergency.
- Amends North Dakota Century Code Section 4-01-23 regarding the sustainable agriculture program.
- Amends Section 5-01-17(2) and Section 5-01-19(2) relating to special events permits for wine

and spirit promotion in the state.

- Amends Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. This is estimated to reduce general fund revenues by \$785,000 for the 2011-13 biennium.



NORTH DAKOTA

DEPARTMENT OF AGRICULTURE

DOUG GOEHRING, COMMISSIONER

*SB 2009  
ag. Dept  
attachment #1  
3/7/11*

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# BUDGET PRESENTATION FOR THE 2011-13 BIENNIUM

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## SB 2009

March 7, 2011

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NORTH DAKOTA  
HOUSE OF REPRESENTATIVES

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APPROPRIATIONS COMMITTEE  
EDUCATION & ENVIRONMENT DIVISION

THE HON. ROBERT J. SKARPHOL, CHAIRMAN

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## *The Department's Vision . . .*

To provide North Dakota agriculture with the services and leadership necessary to make North Dakota the trusted provider of the highest quality food in the world with prosperous family farms, thriving rural communities and world class stewardship of resources.

## *The Department's Mission . . .*

The North Dakota Department of Agriculture fosters the long-term well-being of North Dakota by promoting a healthy economic, environmental and social climate for agriculture and the rural community through leadership, advocacy, education, regulation and other services. To carry out its mandate, the Department of Agriculture is committed to the following responsibilities:

- Serving as an advocate for family farmers and for the rural community.
- Providing services that ensure safe, high-quality and marketable agricultural products.
- Developing and expanding markets for agricultural products.
- Reducing the risk of financial loss to agricultural producers and to buyers and sellers of agricultural commodities.
- Ensuring compliance with the law through understandable regulations, information, education and even-handed enforcement.
- Ensuring human safety and protecting the environment through proper use of pesticides.
- Providing services to reduce agricultural losses from noxious weeds, animal depredation, insects and diseases.
- Ensuring the quality and availability of pesticides, fertilizers, veterinary medicines and animal feeds through testing and registration.
- Protecting and improving the health, welfare, quality and marketability of livestock and other domestic animals.
- Gathering and disseminating information concerning agriculture to the general public.
- Providing fair and timely dispute resolution services to agricultural producers, creditors and others.

# AGRICULTURE COMMISSIONER

Doug Goehring

ASSISTANT TO THE COMMISSIONER

Jody Reinke

## DEPUTY COMMISSIONER

Bob Christman

### ANIMAL HEALTH/STATE VETERINARIAN

Dr. Susan Keller, State Veterinarian

Deputy State Veterinarian  
Dr. Beth Carlson  
Assistant State Veterinarian  
Dr. Jesse Vollmer  
Livestock Field Investigator  
Justin Maddock  
Administrative Assistant  
Tammy Celley  
Office Assistants  
Kathy Hoffman  
Kimberly Spear

### ADMINISTRATIVE SERVICES

Ken Junkert, Director

#### FISCAL MANAGEMENT

Account Budget Specialist  
Lynette Baumiller  
Administrative Officer  
Jet Collins  
Account Technician  
Kelsey Boxrud

#### AGRICULTURAL MEDIATION SERVICE

Administrator  
Tom Silbernagel  
Negotiators  
Tony Wix  
Larry Smith  
Administrative Officer  
Betty Nelson

### PESTICIDE, FEED & FERTILIZER

Jim Gray, Director

Environmental Scientist  
Jessica Johnson  
Enforcement Supervisor  
Blake Schaan  
Feed Specialist  
Dave Phillips  
Ag Program Specialist  
Angela Keller  
Pesticide Outreach  
Jeremiah Lien  
Fertilizer Specialist  
Spencer Wagner  
Inspectors  
Sara Beaudrie  
Kevin Coufal  
Bryant Huso  
Administrative Assistant  
Amanda Hayen  
James Jeske  
Ken MacDonald  
Derrick Woehl

### LIVESTOCK DEVELOPMENT

Wayne Carlson, Director

#### DAIRY INSPECTION

Milk Surveillance Officer  
John Ringsrud  
Dairy Inspectors  
Orville Payne  
Gary Molstad

#### ADMINISTRATIVE ASSISTANT

Becky Gietzen

#### STATE MEAT & POULTRY INSPECTION

Director  
Dr. Andrea Grondahl  
Senior Inspectors  
Shaun Quissell  
Compliance Officer  
David Slack  
Inspectors  
Heather Andersen  
Joshua Epperly  
Whitney Haux  
Cami Metzger  
Relief Inspector & Assistant  
Julie Nilges  
Cody Kreft

### ADMINISTRATIVE STAFF

Program & Policy Analyst  
Dane Braun  
Public Information Officer  
Ted Quanrud  
Computer & Network Specialist  
Roberta Tjaden  
Administrative Assistants  
Bonnie Sundby  
Sheila Fryer

### BUSINESS DEVELOPMENT

Chuck Fleming, Director

Marketing Specialists  
Sara Kelsch  
Dana Pritschet  
Stephanie Sinner

### PLANT INDUSTRIES

Judy Carlson, Director

#### PLANT PROTECTION

State Entomologist  
David Nelson  
Plant Protection Specialists  
Charles Elhard  
Gwen Mars  
Carrie Larson

#### NOXIOUS WEEDS

GIS Mapping Specialist  
Jim Hansen  
Noxious Weed Specialist  
Vacant  
Administrative Assistant  
Elaine Saylor  
Rachel Seifert-Spilde

### LIVESTOCK POLLUTION PREVENTION

Program Specialist  
Jason Wirtz

### AGE-SOURCE VERIFICATION

Program Specialist  
Vacant

### WILDLIFE SERVICES\*

State Director  
Phil Mastrangelo

\* Wildlife Services is an agency of the Animal and Plant Health Inspection Service of the U.S. Department of Agriculture, operating in North Dakota under a memorandum of agreement with the North Dakota Department of Agriculture and the North Dakota Game and Fish Department.

# ADMINISTRATIVE SERVICES

KEN JUNKERT, DIRECTOR

Administrative Services includes the fiscal management, agricultural mediation service, and the agriculture in the classroom program, in the North Dakota Department of Agriculture (NDDA).

## Fiscal Management

- Oversees the development and tracking of the department's budget.
- Processes payroll.
- Pays all bills and deposits all revenues.
- Reviews and approves contracts.
- Procurement.
- Ensures compliance with state and federal laws relating to the department's finances; including expenditure tracking and filing of required reports to federal agencies.
- Responsible for human resource activities.

## Information Technology

- Purchases and maintains the department's computers, printers, scanners and copiers.
- Maintains the department's network, email accounts and five websites.
- Maintains all desktop and wireless phones.
- Maintains all software licenses.
- Purchases furniture and other equipment.

## Agricultural Mediation Service

- Offers negotiation and mediation services to resolve differences among creditors, farmers and others.
- Offers assistance with beginning farmer loan applications and farm program paperwork.
- Provides financial counseling.

	2009-2011 Budget	Senate Version 2011-13 Budget
Salaries	\$2,402,084	\$2,712,496
Operating	667,741	600,925
Capital assets	0	0
Grants	<u>632,600</u>	<u>480,000</u>
Total	\$3,702,425	\$3,793,421

## Sources

General funds	\$2,165,399	\$2,511,963
Federal funds	1,078,887	896,952
Special funds	<u>458,139</u>	<u>384,506</u>
Total	\$3,702,425	\$3,793,421

## Agriculture in the Classroom

- Administered in conjunction with the 20-member North Dakota Agriculture in the Classroom Council, the program helps K-12 teachers integrate agriculture information into science, math, social studies and language curricula.
- Supports Project Food, Land, & People which provides hands-on lessons to help students better understand the interrelationships among the world's environment, agriculture and people.
- Publishes the Ag Mag three times a year to 3rd, 4th, and 5th grade teachers at no charge. Each issue focuses on a North Dakota agricultural topic.
- Underwrites FFA Foundation mini-grants for agriculture-related projects, units, and lessons used for school-age children.

# PLANT INDUSTRIES

JUDY CARLSON, DIRECTOR

Plant Industries includes the noxious weeds, plant protection, apiary, waterbank and industrial hemp programs.

## Noxious Weeds

- Distributes state and federal funds for noxious weed control to weed boards.
- Manages federal grants for noxious and invasive weeds.
- Coordinates statewide biological weed control and obtains and distributes biological weed agents.
- Assists weed boards in field days and weed management.
- Assists the general public with weed identification and control.
- Trains and assists weed boards with GPS/GIS mapping technology.

## Apiary

- Licenses beekeepers.
- Registers apiary locations.
- Inspects bees and issues health certificates for migratory movement.
- Responds to bee complaints.
- Provides liaison with the public regarding beekeeping.

	2009-2011 Budget	Senate Version 2011-13 Budget
Salaries	\$1,259,330	\$1,306,172
Operating	672,722	844,561
Capital assets	5,000	17,000
Grants	<u>1,712,225</u>	<u>1,450,274</u>
Total	\$3,649,277	\$3,618,007

## Sources

General funds	\$647,314	\$752,573
Federal funds	959,126	676,824
Special funds	<u>2,042,837</u>	<u>2,188,610</u>
Total	\$3,649,277	\$3,618,007

## Plant Protection

- Surveys for exotic pests that threaten North Dakota, such as exotic moths, nematodes and Emerald ash borer.
- Surveys for pests, such as various diseases, insects and nematodes, including Karnal bunt, dwarf bunt, cereal leaf beetle, soybean cyst nematode and potato cyst nematode, to enable export of agricultural products.
- Licenses and inspects nurseries.
- Provides export certification/phytosanitary services for export of agricultural products.
- Reviews biotechnology.

## Special programs

- State Waterbank program.
- Ginseng grower registration.
- Industrial hemp.

# LIVESTOCK DEVELOPMENT

WAYNE CARLSON, DIRECTOR

Livestock Services includes Livestock Licensing, Dairy/Poultry, State Meat and Poultry Inspection, Livestock Pollution Prevention, Beef Age and Source Verification and Wildlife Services.

## Livestock Licensing

- Licenses and establishes bonds for livestock dealers and auction markets.
- Conducts field investigations to monitor financial conditions of dealers and auction markets and to discover unlicensed dealers.

## Dairy

- Inspects dairy farms for sanitation of equipment, facilities, proper usage and storage of drugs, and water purity.
- Inspects dairy processing plants and milk transfer stations four or more times annually.
- Inspects distribution facilities, milk bulk trucks and samplers/haulers.
- Conducts Grade A survey work.
- Inspects manufacturing grade plants and transfer stations under agreement with the U.S. Food and Drug Administration.
- Inspects licensed commercial egg producers.
- Licenses and sets bond for hatcheries.

## Livestock Pollution Prevention

- Helps livestock producers install manure containment systems through cost-share funding assistance.
- Assists producers with nutrient management, project planning, regulatory explanation and manure containment advice.

## Wildlife Services

- Reduces destructive effects of wildlife on property. A federal program conducted by USDA Wildlife Services in cooperation with the North Dakota Department of Agriculture and N.D. Game and Fish Department.

	2009-2011 Budget	Senate Version 2011-13 Budget
Salaries	\$2,508,631	\$2,812,597
Operating	2,249,439	\$2,376,669
Capital assets	0	0
Wildlife Services	1,067,400*	1,417,400
Grants	<u>250,000</u>	<u>250,000</u>
Total	\$6,075,470	\$6,856,666

## Sources

General funds	\$2,634,032	\$2,522,973
Federal funds	2,543,137	2,810,510
Special funds	<u>898,301*</u>	<u>1,523,183</u>
Total	\$6,075,470	\$6,856,666

\* Section 3 adds \$200,000 of Game and Fish special funds to this amount.

## State Meat & Poultry Inspection

- Trains, certifies and inspects meat processing companies participating in the State Meat and Poultry Inspection Program.
- Inspects custom-exempt processing plants.
- Conducts country-of-origin labeling inspections at retail outlets.
- Grades livestock carcasses at official state and/or federal establishments as requested.
- Provides consultation and education to the meat and poultry industry.
- Ensures proper label use by the meat and poultry industry.
- Enforces regulations and laws pertaining to meat and poultry processing.

## Livestock Development

- Conducts an age source verification program.
- Assists livestock producers and processors in developing, expanding and promoting the state's livestock industry.
- Works with the North Dakota Dairy Coalition to expand the state's dairy industry.

# BUSINESS DEVELOPMENT

CHUCK FLEMING, DIRECTOR

Business Development provides education, promotion and market enhancement programs to increase sales of North Dakota agricultural commodities and value-added agricultural products in international, domestic and local markets.

The division administers the following programs:

- Pride of Dakota (POD)
- Trade Show Assistance
- POD Retail
- Wine Development and Promotion
- North Dakota Turkey Federation
- North Dakota Honey Promotion
- International Trade
- Food Export-Midwest
- School garden grants
- Local foods initiative
- Farm to school
- Mobile food processing unit
- Specialty Crop grants
- Livestock Feed Initiative
- Organics
- Organic Certification Reimbursement grants

The division also organizes:

- The annual meeting of the agriculture commissioner and the commodity councils.
- An annual Food Summit and Farmers Market Conference.
- Pride of Dakota annual meeting.

	2009-2011 Budget	Senate Version 2011-13 Budget
Salaries	\$634,696	\$858,371
Operating	1,071,934	1,096,934
Capital assets	0	0
Grants	<u>375,000</u>	<u>990,554</u>
Total	\$2,081,630	\$2,945,859

## Sources

General funds	\$863,537	\$1,070,914
Federal funds	737,295	1,394,147
Special funds	<u>480,798</u>	<u>480,798</u>
Total	\$2,081,630	\$2,945,859

# ANIMAL HEALTH/STATE VETERINARIAN

DR. SUSAN KELLER, STATE VETERINARIAN

The Animal Health Division protects the health of domestic animals and non-traditional livestock of the state, and administers all rules and orders of the State Board of Animal Health (BOAH). Specifically, the division:

- Monitors and regulates animal imports and exports.
- Traces animal movements as part of disease investigations.
- Issues and maintains records of official USDA tags and official state certificates of veterinary inspection.
- Conducts a Johnne's disease control program.
- Conducts scrapie eradication and surveillance programs.
- Investigates suspected cases of foreign animal diseases and emerging diseases.
- Responds to complaints of inhumane treatment of animals.
- Conducts tuberculosis, brucellosis and other disease investigations.
- Reviews testing information and granting status for tuberculosis-accredited herds, brucellosis-certified herds statuses, and Brucella ovis-free flocks.
- Administers non-traditional livestock and farmed elk regulations.
- Issues permits to possess, propagate or domesticate (PPD) for North Dakota Game and Fish Department.
- Provides chronic wasting disease testing training and oversight.
- Cooperates with North Dakota Game and Fish Department on health issues relevant to both domestic animals and wildlife.
- Oversees feral swine investigations.

	2009-2011 Budget	Senate Version 2011-13 Budget
BOAH	<u>\$2,808,825</u>	<u>\$2,149,052</u>
Total	\$2,808,825	\$2,149,052

## Sources

General funds	\$1,125,240	\$1,333,423
Federal funds	1,431,422	562,005
Special funds	<u>252,163</u>	<u>253,624</u>
Total	\$2,808,825	\$2,149,052

- Cooperates with North Dakota Department of Health on zoonotic disease issues, notably rabies.
- Ensures proper carcass disposal.
- Inspects auction markets and approves veterinarians to provide market services.
- Licenses rendering facilities.
- Conducts avian influenza testing.
- Coordinates the National Poultry Improvement Plan in the state.
- Licenses and educates dealers of modified live vaccines.
- Trains and coordinates a Reserve Veterinary Corps to assist in emergency situations.
- Participates in animal emergency preparedness and response on state, regional and national levels.
- Cooperates with other state and federal animal health officials regionally and nationally to guide national animal health policy.
- Monitors and reports diseases on state and national levels.
- Provides education and outreach for practicing veterinarians and the livestock industry.

# PESTICIDE, FEED & FERTILIZER

JIM GRAY, DIRECTOR

The Pesticide, Feed and Fertilizer Division regulates pesticides, commercial feeds, pet foods, livestock medicines, fertilizers and anhydrous ammonia to protect human health and the environment.

## Pesticides

The division:

- Conducts annual inspections of pesticide dealers, users and repackaging facilities to ensure compliance with laws and regulations.
- Provides outreach to inform the public of state and federal pesticide requirements.
- Prepares and submits emergency exemption and general registration requests to ensure North Dakota producers have access to necessary pest management tools.
- Registers all pesticides – herbicides, fungicides, rodenticides, insecticides, avicides – sold in North Dakota.
- Works with the U.S. Environmental Protection Agency on national pesticide regulatory and policy issues.
- Administers Project Safe Send, a non-regulatory program to collect old and unusable pesticides from the public.
- Performs risk assessments to ensure pesticides do not negatively impact threatened or endangered species.
- Works with other agencies to protect groundwater and surface water from pesticide contamination.
- Investigates complaints of pesticide misuse and other violations.

## Feed

The division:

- Registers all pet food sold in the state.
- Maintains a label file of commercial feeds.

	2009-2011 Budget	Senate Version 2011-13 Budget
Salaries	\$1,928,455	\$1,695,192
Operating	1,432,767	1,449,572
Capital assets	0	0
Harmonization	50,000	50,000
Grants	<u>0</u>	<u>0</u>
Total	\$3,411,222	\$3,194,764

## Sources

General funds	\$111,861	\$ 0
Federal funds	1,482,490	1,139,059
Special funds	<u>1,816,871</u>	<u>2,055,705</u>
Total	\$3,411,222	\$3,194,764

- Licenses commercial feed manufacturers and feed retailers.
- Samples feed products to ensure that nutritional content matches label claims.
- Works with U.S. Food & Drug Administration to inspect medicated feed plants.
- Inspects feed manufacturers and livestock producers to verify compliance with federal requirements to prevent introduction of bovine spongiform encephalopathy.

## Fertilizer

The division:

- Registers fertilizer products.
- Licenses fertilizer distributors.
- Samples fertilizer products to ensure content matches label claims.
- Licenses anhydrous ammonia facilities.
- Enforces anhydrous ammonia regulations.



# SUMMARY

## Agriculture Commissioner's Budget

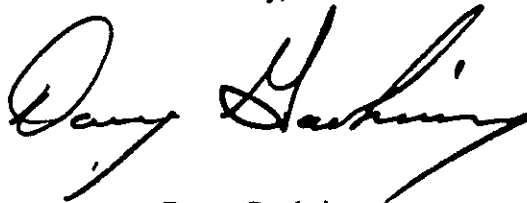
	2009-2011 Budget	Senate Version 2011-13 Budget
	\$21,728,849	\$22,557,769
<b>Sources</b>		
General funds	7,547,383	8,191,846
Federal funds	8,232,357	7,479,497
Special funds	<u>5,949,109*</u>	<u>6,886,426</u>
Total	\$21,728,849	\$22,557,769
 FTEs	 74.5	 75.0

\* Section 3 adds \$200,000 of Game and Fish special funds to this amount for Wildlife Services.

This budget presentation was designed to help members of the North Dakota Legislature determine spending priorities for the 2011-2013 biennium. I believe that the work of the North Dakota Department of Agriculture is vital to our state's most important industry. Although the department is one of the smallest of its kind in the United States, its personnel administer and deliver a wide variety of programs and services for the benefit of the state's 30,000 family farmers and ranchers and all of our citizens.

My staff and I welcome the interest and questions of the Legislature and all North Dakota citizens, regarding the work of the North Dakota Department of Agriculture.

Sincerely,



Doug Goehring  
Agriculture Commissioner

# Fertilizer Tonnage Tax: 2000-2009

Year	Non-Anhydrous Tonnage Fees*	Anhydrous Ammonia Tonnage Fees**	Total Fertilizer Tonnage Fees
2000	\$216,636.20	\$44,426.80	\$261,063.00
2001	\$234,005.20	\$44,722.80	\$278,728.00
2002	\$216,911.00	\$54,453.00	\$271,364.00
2003	\$241,125.60	\$46,977.40	\$288,103.00
2004	\$264,559.40	\$48,413.60	\$312,973.00
2005	\$273,429.80	\$50,787.20	\$324,217.00
2006	\$217,305.00	\$55,255.00	\$272,560.00
2007	\$220,992.00	\$53,948.00	\$274,940.00
2008	\$267,778.20	\$63,554.80	\$331,333.00
2009	\$238,298.00	\$43,356.00	\$281,654.00
<b>Annual Ave:</b>	<b>\$239,104.04</b>	<b>\$50,589.46</b>	<b>\$289,693.50</b>
<b>Per Biennium</b>	<b>\$478,208 *</b>	<b>\$101,178 **</b>	<b>\$579,386.00</b>

## Proposed EARP Fund Deposits

NDCC Sections Amended	Type of Fee	Deposits
19-20.1-03 & 19-20.1-03.1	Fertilizer Registration & License	\$ 306,792
19-20.1-06 & 19-20.2-08.1	Inspections Fees (tonnage)	\$ 579,386
	<b>TOTAL</b>	<b>\$ 886,178</b>

## Fertilizer Fee Description

Fee Description	NDCC Section	Fee Amount	Time Period
Fertilizer Registration	Section 19-20.1-03	\$50/registration	Two-year registration
Fertilizer Distribution License	Section 19-20.1-03.1	\$100/license	Two-year license
Inspection Fees	Section 19-20.1-06	\$ .20/ton or \$10 minimum	Annual
NH3 Storage Facility License	Section 19-20.2-04	\$25/storage & \$100/retail site	One-time fee

\* Currently Deposited to General Fund

\*\* Currently Deposited to Anhydrous Ammonia Storage Facility Inspection Fund

SB 2009  
Ag. Dept  
attachment # 3  
3/7/11

2009  
ag Dept  
attachment #2  
3/7/11

**Environment and Rangeland Protection Fund - Fund 376 (updated 2/23/2011)**

Balance: June 30, 2009 \$ 1,358,407

**Revenue: 2009-2011 Biennium**

Pesticide Registrations	\$ 3,960,000
Weed Seed Free Forage	\$ 10,000
<b>TOTAL</b>	<b>\$ 5,328,407</b>

**Actual Appropriations: 2009-2011 Biennium**

ND Health Department - Ground Water Program	\$ 222,310
ND Stockmens Association - Livestock Waste	\$ 50,000
ND Department of Agriculture - Livestock Waste	\$ 50,000
Pesticide Programs	\$ 908,976
Project Safe Send	\$ 605,699
Noxious Weeds	\$ 1,854,106
Weed Seed Free Forage	\$ 48,922
Crop Harmonization Board	\$ 50,000
Agriculture in the Classroom	\$ 110,000
Farmers Market	\$ 29,500
Endangered Species Protection	\$ 212,196
<b>TOTAL</b>	<b>\$ 4,141,709</b>
Projected Balance: June 30, 2011	\$ 1,186,698

**Projected Revenue: 2011-2013 Biennium**

Pesticide Registrations	\$ 3,885,000
Weed Seed Free Forage	\$ 48,922
Fertilizer Fees (SB 2009 & HB 1321)	\$ 886,178
<b>TOTAL</b>	<b>\$ 6,006,798</b>

**Pending Appropriations: 2011-2013 Biennium**

ND Health Department - Ground Water Program	\$ 222,310
ND Stockmens Association - Livestock Waste	\$ 50,000
ND Department of Agriculture - Livestock Waste	\$ 50,000
Pesticide Programs	\$ 1,212,401
Project Safe Send	\$ 591,732
Noxious Weeds	\$ 2,003,582
Weed Seed Free Forage	\$ 48,922
Crop Harmonization Board	\$ 50,000
Agriculture in the Classroom	\$ 110,000
Farmers Market	\$ 29,500
Endangered Species Protection	\$ 161,572
Minor Use Fund	\$ 150,000 *
SB 2009: Dairy Coalition & rent; Research Analyst operating	\$ 370,000
<b>TOTAL</b>	<b>\$ 5,050,019</b>
Projected Balance: June 30, 2013	\$ 956,779

**Pending Legislative Issues**

HB 1321 NH3 inspection moved to agriculture commissioner	\$ 410,328
HB 1321 repeals NH3 Inspection Fund	\$ 40,000 **
<b>TOTAL</b>	<b>\$ 450,328</b>

Revised Projected Balance: June 30, 2013 \$ 506,451

\* No appropriation in the 2009-2011 Biennium

\*\* Income built into SB 2009 out of NH3 inspection fund

SB 2009  
ag Dept.  
attachment # 4

Testimony of Allan W Tellmann  
Milk Producers Association of North Dakota  
In Support of Funding for ND Voluntary Bovine Johne's Disease Control Program  
S. B. 2009  
March 7, 2011

Mr. Chairman and committee members:

For the record, my name is Allan Tellmann. I am here today representing the Milk Producers Association of North Dakota. On behalf of the Milk Producers Association, I would encourage your support of funding for the ND Voluntary Bovine Johne's Disease Control Program.

I am an owner-operator of a Grade A family dairy farm north of New Salem. Some years ago, after discovering we had a Johne's positive cow, we started a Johne's control program in our herd, with the help of our local veterinarian. With a protocol set up by the Johne's testing program, we developed a management and culling program that has enabled us to make considerable progress in eliminating Johne's in our herd—going from 8 positive in a 200-cow herd, to 1 positive in our testing last year. We feel we are on our way to being categorized as a Johne's-free herd.

The ND Johne's testing program offers valuable financial and educational incentives for dairy and all livestock producers. It introduces basic biosecurity awareness, and incorporates basic management practices that can be easily adapted to a livestock operation. The cost-share program serves as an incentive for participation, and is a valuable asset during these challenging times in the dairy and livestock industries.

The dairy industry of North Dakota appreciates your support and consideration of this program.  
Thank You.

SB 2009  
ag. Dept.  
attachment # 5  
3/7/11

***SB 2009 – Testimony to House Appropriations Committee***

Good morning, Mr. Chairman and House Appropriations Committee members. For the record, my name is Julie Ellingson and I represent the North Dakota Stockmen's Association.

The Stockmen's Association supports SB 2009, the budget bill for the North Dakota Department of Agriculture. We appreciate the excellent work the department does to promote our state's largest industry and the overall economy.

Of particular interest to our organization and the beef cattle industry are the following programs: the Board of Animal Health, the Livestock Division, Wildlife Services and noxious weed control.

These programs help ensure a healthy domestic herd, that livestock producers are paid in a timely manner and that devastating predators and noxious weeds are kept in check. They also provide new marketing opportunities for producers to verify the age and source of their North Dakota cattle and, hopefully, command a premium when they sell those livestock.

The Senate also included funding for the important Johne's Disease testing program in this bill as well. Since its inception, that program has aided many beef and dairy producers in testing their herds so as to identify possible infected animals, eliminate those animals and, ultimately, reduce the incidence of the disease here in North Dakota and the Upper Midwest. The program has also provided outreach materials to benefit even those whose cattle are not enrolled in the program. As you may know, the dollars for this program have been reduced as compared to those in the last biennium. There are, however, some remaining unexpended funds in the program due to a federal grant that was obtained following the state appropriation. In order to help keep the program whole and to bring it to as close to as par with funding from the current biennium, we'd ask that you give the Department of Agriculture authority to use these funds for the Johne's Disease program as well.

Again, the North Dakota Stockmen's Association supports SB 2009 and asks for your favorable consideration of it.



P.O. Box 2599  
Bismarck, ND 58502  
(701) 355-4458  
FAX (701) 223-4645

MEMBERS

AmeriFlax  
BNSF Railway Company  
Independent Beef Association  
of North Dakota  
Milk Producers Association  
of North Dakota, Inc.  
Minn-Dak Farmers Co-op  
North Dakota Ag Aviation Association  
North Dakota Ag Consultants  
North Dakota Agricultural Association  
North Dakota Agri-Women  
North Dakota Association  
of Agricultural Educators  
North Dakota Association  
of Soil Conservation Districts  
North Dakota Barley Council  
North Dakota Beef Commission  
North Dakota Corn Growers  
Association  
North Dakota Corn Utilization Council  
North Dakota Crop Improvement  
Seed Association  
North Dakota Department of  
Agriculture  
North Dakota Dry Bean Council  
North Dakota Dry Edible Bean  
Seed Growers  
North Dakota Elk Growers  
North Dakota Ethanol Council  
North Dakota Farm Bureau  
North Dakota Farm Credit Council  
North Dakota Farmers Union  
North Dakota Grain Dealers  
Association  
North Dakota Grain Growers  
Association  
North Dakota Lamb and Wool  
Producers Association  
North Dakota Oilseed Council  
North Dakota Pork Council  
North Dakota Soybean Council  
North Dakota Soybean Growers  
Association  
North Dakota State Seed  
Commission  
North Dakota Stockmen's Association  
North Dakota Wheat Commission  
North Dakota State University  
Agriculture and University Extension  
Northern Canola Growers Association  
Northern Food Grade Soybean  
Association  
Northern Plains Potato Growers  
Association  
Northern Pulse Growers Association  
Red River Valley Sugarbeet Growers

SB 2009  
Ag. Dept  
Attachment # 6  
3/7/11

**Testimony of Alexis Brinkman  
North Dakota Ag Coalition Administrator  
SB 2009  
March 7, 2011**

Mr. Chairman and members of the Committee, my name is Alexis Brinkman, and I am the administrator of the North Dakota Ag Coalition. On behalf of the Ag Coalition, I would encourage your support of SB 2009, specifically as it relates to Johne's Disease test funding.

The Ag Coalition has provided a unified voice for North Dakota agricultural interests for more than 25 years. Today, we represent more than 40 statewide organizations and associations that represent specific commodities or have a direct interest in agriculture. The Ag Coalition takes a position on a limited number of issues brought to us by our members that have significant impact on North Dakota's agriculture industry.

Johne's Disease can be economically detrimental to a producer if it is not monitored. The voluntary cost-share Johne's disease herd status program is important to controlling the disease and providing producers with reliable information on reducing the risk to their herds.

This program also allows veterinarians to educate participants about the disease and show them ways to run their operation more efficiently. Further, the education and certification of participating veterinarians is essential to ensuring that participating producers receive accurate and consistent information on testing and control.

Maintaining the health of North Dakota's dairy and beef herds is vital to the future growth and development of North Dakota's agriculture industry, therefore, we encourage your support of SB 2009.

SB 2009  
Ag. Dept.  
Attachment #7  
3/7/11

Testimony In Opposition to portions of SB 2009 re domestic winery and distillery event permits  
House Appropriations Committee  
Patrick J. Ward  
March 7, 2011

Good Morning Chairman Skarpohl and members of the committee. My name is Pat Ward. I represent the North Dakota Wholesale Liquor Dealers in opposition to Section 9 and 10 of this bill.

We ask this committee to delete references to Title 5 of the Century Code on Page 1, lines 2 and 3 of the bill title and sections 9 and 10 of the bill by removing Page 4, Line 5 through Page 5, Line 24.

We have several reasons for this objection. First, the tax commissioner presently controls sales of liquor and collects the taxes on those sales. He has authority now to grant 20 off-site events permits per year for off premises sales by these 10 or 11 wineries. The law also permits these entities to sell on and off sale at the winery, even on Sundays. They can also sell direct to consumers by shipping from the winery or distillery to citizens of this state and outside the state.

We do not believe the Ag commissioner has asked for this authority nor do we think this kind of duplication of powers is a good idea. As it stands right now the wineries can obtain an off sale event permit almost twice per month from the tax department.

Much has been done by this legislature to encourage this domestic wine industry. Last session in SB 2373 they were given a grant of \$250,000 for a grape and wine program fund for more research into grape varieties that will withstand our bitterly cold climate and for marketing their business. That money was taken from collections on out of state produced wines. In return, since 2007 the Tax Commissioner has only collected \$18,788.11 off sales of domestic wineries, an average of less than \$5000 per year.

We also have two house bills, 1339 and 1340, which expand further their powers and would allow them to sell "direct to retail" bypassing the wholesale tier in our long standing 3 tier system which has served the state well since prohibition was lifted in 1921. These types of favoritism shown domestic wineries violate the interstate commerce clause of the US Constitution and are ill advised as they could lead the state into expensive litigation to defend its policy. The US Supreme Court addressed the very issue of state laws favoring domestic wineries in the Granholm v. Heald case in May, 2005, holding provisions of New York and Michigan unconstitutional. This was just followed in a December, 2010 decision from the US Third Circuit Court of Appeals in Freeman v. Corzine which held a New Jersey farm winery law favoring in state wineries also unconstitutional.

We urge you to strip the domestic wineries and distilleries from this otherwise good bill. Thanks for your time and attention.

SB 2009  
ag. Dept.  
attachment #8  
3/7/11

*Prepared for the House Appropriations Committee  
by the North Dakota Office of State Tax Commissioner  
March 7, 2011*

**PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2009**

Page 1, line 5, remove "domestic wineries and"

Page 1, line 6, remove "domestic distilleries,"

Page 4, removes lines 5 through 31

Page 5, remove lines 1 through 24

Renumber accordingly



March 2011

**ENVIRONMENT AND RANGELAND PROTECTION FUND**

North Dakota Century Code Section 19-18-02.1, created by 1991 Senate Bill No. 2451, established the environment and rangeland protection fund. The section provides that the fund may be used for rangeland improvement projects and to address issues relating to harmonization of crop protection product standards. Rangeland improvement projects may include noxious weed control; ground water testing, analysis, protection, and improvement; analysis of food products for residues of pesticides and other materials; and analysis and disposal of unusable pesticides and pesticide containers.

The table below details estimated expenditures and transfers from the environment and rangeland protection fund since 2001:

Biennium	Estimated Expenditures and Transfers From the Environment and Rangeland Protection Fund
2009-11	\$4,160,888
2007-09	\$3,687,728
2005-07	\$3,457,885
2003-05	\$3,084,453
2001-03	\$3,076,815

An analysis of the environment and rangeland protection fund for the 2009-11 and 2011-13 bienniums reflecting legislative action through crossover is attached as an appendix.

ATTACH:1

# ANALYSIS OF THE ENVIRONMENT AND RANGELAND PROTECTION FUND FOR THE 2009-11 AND 2011-13 BIENNIUMS (REFLECTING LEGISLATIVE ACTION THROUGH CROSSOVER)

	2009-11 Biennium		2011-13 Biennium	
Beginning balance			\$1,358,407	\$1,186,698
Add estimated revenues				
Pesticide registration fees	\$3,960,000 <sup>1</sup>			\$3,885,000 <sup>1</sup>
Weed seed-free forage (2009 HB 1270; 2009 HB 1009; 2011 SB 2009)	10,000 <sup>2</sup>			48,922 <sup>2</sup>
Anhydrous ammonia storage facility inspection fees (2011 HB 1321)				101,178 <sup>3</sup>
Fertilizer distribution registration and inspection fees (2011 SB 2009)				785,000 <sup>4</sup>
Total estimated revenues		3,970,000		4,820,100
Total available		\$5,328,407		\$6,006,798
Less estimated expenditures and transfers				
Agriculture Commissioner				
Noxious weed control (2009 HB 1009; 2011 SB 2009)	\$1,854,106			\$2,003,582
Pesticide disposal project (Safe Send) (2009 HB 1009; 2011 SB 2009)	605,699			591,732
Pesticide programs (2009 HB 1009; 2011 SB 2009)	908,976			1,212,401
Agriculture in the Classroom program (2009 HB 1009; 2011 SB 2009)	110,000			110,000
Farmer's market	29,500			29,500
Endangered species (2009 HB 1009; 2011 SB 2009)	212,196			161,572
Livestock pollution prevention (2009 HB 1009; 2011 SB 2009)	50,000			50,000
Dairy Coalition grant (2011 SB 2009)				250,000 <sup>5</sup>
Rent expense (2011 SB 2009)				100,000 <sup>5</sup>
Research analyst FTE position operating expenses (2011 SB 2009)				20,000 <sup>5</sup>
Crop Protection Product Harmonization and Registration Board <sup>6</sup>				
Crop protection product registration, labeling, and grants (2009 HB 1009; 2011 SB 2009)	50,000			50,000
Minor use pesticide registration	0			150,000
Weed seed-free forage (2009 HB 1270; 2009 HB 1009; 2011 SB 2009)	48,922 <sup>2</sup>			48,922 <sup>2</sup>
State Department of Health				
Ground water testing (2009 SB 2004; 2011 HB 1004)	222,310			222,310
North Dakota Stockmen's Association environmental services program (2009 SB 2004; 2011 HB 1004)	50,000			50,000
Total estimated expenditures and transfers		4,141,709		5,050,019
Estimated ending balance		\$1,186,698		\$956,779 <sup>7</sup>

<sup>1</sup>The 1999 Legislative Assembly approved Senate Bill No. 2009, which included a provision increasing the biennial pesticide registration fee by \$50, from \$300 to \$350, only for the 1999-2001 biennium. The \$350 pesticide registration fee was extended for the 2001-03 biennium (2001 House Bill No. 1009), the 2003-05 biennium (2003 Senate Bill No. 2319), and the 2005-07 biennium (2005 House Bill No. 1009). The \$350 pesticide registration fee was continued, without an expiration date, by 2007 Senate Bill No. 2323. The 2009 Legislative Assembly approved House Bill No. 1009, which deposits all pesticide registration fees in the environment and rangeland protection fund rather than a portion in the general fund.

<sup>2</sup>House Bill No. 1270 (2009) allows the Agriculture Commissioner to certify forage acreage as being free of certain weeds and weed seed. The appropriation provided to the department for the program is the amount that is anticipated to be received from fees charged for certifications.

<sup>3</sup>House Bill No. 1321 (2011) repeals North Dakota Century Code Section 19-20.2-08.1 that deposits certain inspection fees in the anhydrous ammonia storage facility inspection fund. The bill provides that the fee collections, which are estimated to be \$101,178 during the 2011-13 biennium, are to be deposited in the environment and rangeland protection (EARP) fund.

<sup>4</sup>Senate Bill No. 2009 (2011) amends Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 to deposit fertilizer distribution registration, licensing, and inspection fees in the EARP fund rather than the general fund. The estimated fee collections for the 2011-13 biennium are \$785,000. House Bill No. 1321 (2011) also amends Section 19-20.1-06 to deposit a portion of fertilizer distribution inspection fees in the EARP fund rather than the general fund. The fees collected under this section include \$478,208 of the total estimated 2011-13 fee collections of \$785,000.

<sup>5</sup>Senate Bill No. 2009 (2011) changes the funding source for the Dairy Coalition grant and a portion of rent expense from the general fund to the EARP fund. The bill also provides funding from the EARP fund for the operating expenses associated with 1 new FTE research analyst position.

<sup>6</sup>Section 4-35-30, as created by 2001 House Bill Nos. 1009 and 1328, created the Crop Protection Product Harmonization and Registration Board. The duties of the board consist of:

- Identifying and prioritizing crop protection product labeling needs.
- Exploring the extent of authority given to North Dakota under the federal Insecticide, Fungicide, and Rodenticide Act.
- Identifying the data necessary to enable registration of a use to occur in a timely manner.
- Determining what research, if any, is necessary to fulfill data requirements for responsibilities of the board.
- Requesting the Agriculture Commissioner to pursue specific research funding options from public and private sources.
- Requesting the Agricultural Experiment Station to pursue specific research to coordinate registration efforts.
- Pursuing any opportunities to make more crop protection product options available to agricultural producers in this state through any means the board determines advisable.
- Administering a grant program through which agriculture commodity groups may apply for funds to be used to address issues related to the registration of crop protection products.

The members of the Crop Protection Product Harmonization and Registration Board consist of:

- The Governor or the Governor's designee (chairman).
- The Agriculture Commissioner or the commissioner's designee.
- The chairman of the House Agriculture Committee or the chairman's designee.
- The chairman of the Senate Agriculture Committee or the chairman's designee.
- A member of the House or Senate Agriculture Committee who is not a member of the faction in which the committee chairman is a member, appointed by the Legislative Management chairman.
- A crop protection product dealer in the state appointed by the Governor from a list of three nominees submitted by the North Dakota Agricultural Association.
- A consumer of crop protection products appointed by the Governor from a list of three nominees submitted by the North Dakota Grain Growers Association.
- A consumer of crop protection products appointed by the Governor from a list of three nominees submitted by the North Dakota Oilseed Council.
- A representative of the crop protection product manufacturing industry appointed by the chairman of the Legislative Management (nonvoting).
- The director of the Agricultural Experiment Station (nonvoting).

<sup>7</sup>House Bill No. 1321 (2011) transfers anhydrous ammonia storage facility inspection duties from the Insurance Commissioner to the Agriculture Commissioner and provides for anhydrous ammonia storage facility inspection fees to be deposited in the EARP fund. However, additional appropriation authority related to the inspection duties has not been provided. The estimated additional funding needed by the Agriculture Commissioner from the EARP fund to administer the inspection program during the 2011-13 biennium is \$410,328.

**FUNDATORY**

Section 19-18-02.1, created by 1991 Senate Bill No. 2451, establishes the environment and rangeland protection fund. The fund contains collections from pesticide registration fees. During the 2007-09 biennium, the biennial fee was \$350 per pesticide product registered in the state. Of this amount, \$300 was deposited in the environment and rangeland protection fund and \$50 in the general fund. Pursuant to provisions of 2009 House Bill No. 1009, beginning with the 2009-11 biennium, the entire pesticide registration fee is deposited in the environment and rangeland protection fund rather than a portion in the general fund.

*Does not include \$159,000 (EARP & Sunflower Council funds) appropriated for blackbird research.*

FY10 Federal Budget		
Name	Amount	Explanation
Base	\$817,081	Funds the State Director, District Supervisor, Budget Analyst, Office Support Assistant, MIS Data Tech (60%); plus \$156,000 for blackbird work; travel for office staff and 9 field staff, plus office office expenses and purchase of replacement vehicles and other equipment/supplies, fuel and maintenance for all vehicles, including aircraft.
Wildlife Disease	\$48,190	Funds 40% of Disease Biologist salary/benefits; plus related expenses
Avian Influenza	\$72,284	Funds 60% of Disease Biologist salary/benefits, plus related expenses
Blackbird	\$191,390	Funds portions of cattail spraying (chemical and pilot), 8 temporary staff, equipment, travel, etc. for temporary staff
Aviation	\$63,739	Funds portion of Pilot salary/benefits, 100% salary/benefits for crewmember and travel.

CATEGORY	Projected Expenditures for Agreement with NDDA & NDGHD			
	Year 1	Year 2	Year 1	Year 2
Salary / Benefits	614,023	674,276	696,974	718,712
9 field staff and 1 pilot				
GRAND TOTAL	2009 - 2011 Total		2010 - 2013 Total	
	\$1,288,299		\$1,415,686	

Biennium 2009 - 2011	
Projected Expenditures	\$1,288,299
Agreement Amount 2009 - 2011	\$1,067,400
Projected Deficit	-\$220,899

Biennium 2011 - 2013	
Projected Expenditures	\$1,415,686
Agreement Amount 2011 - 2013	\$1,067,400
Projected Deficit	-\$348,286

Federal funds used for salary / benefits not charged to Cooperative Agreement

2009 - 2011 Biennium	\$49,207
2007 - 2009 Biennium	\$150,422



Jr. es.  
Department of  
Agriculture

Animal and  
Plant Health  
Inspection  
Service

Wildlife Services

North Dakota  
State Office

2110 Miriam Circle  
Suite A  
Bismarck, ND 58501  
(701) 250-4405

Dear Wildlife Services' Stakeholder,

I need to inform you of some important issues facing the USDA/Wildlife Services program. As you may know, the assistance that our field staff provides to you is made possible through a cooperative agreement between Wildlife Services, the North Dakota Department of Agriculture, and the North Dakota Game and Fish Department. A combination of federal and state funds provided by the three agencies is used to deliver our various program activities to you.

Unfortunately, this program is facing some financial difficulties which may impact the level of service that you are accustomed to receiving. Our budget projections indicate that I may have to temporarily furlough our 9 field specialists and our pilot from April 1 through June 30, 2011 because of these funding shortages. This action may eliminate our delivery of service for the entire three month period.

Furthermore, if this funding shortage is not addressed with additional funding sources, beginning July 1, 2011, I may have to reduce our field staff from 9 to 6 employees. This measure will drastically reduce our ability to respond to requests for assistance with beaver, coyote, and other wildlife conflicts.

Agriculture Commissioner Doug Goehring and Game and Fish Director Terry Steinwand are both strong supporters of the efforts taken by our field staff to help resolve your specific wildlife problems and have worked with me to address this funding issue. However, in the event that these issues cannot be resolved, I felt that you should be informed in advance of the possibility of program changes.

I will continue to pursue a number of options to prevent these disruptions to the service that you're accustomed to receiving.

If you have any suggests or comments, please contact me at 701-250-4405.

Respectively,

Phil Mastrangelo  
State Director

**APHIS** Safeguarding American Agriculture



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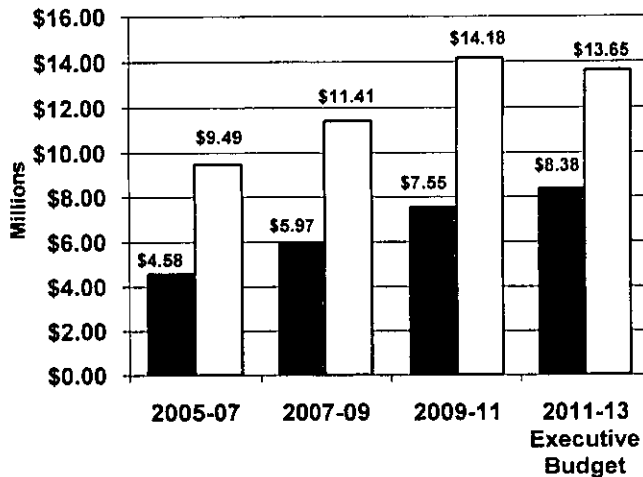
Department 602 - Agriculture Commissioner  
Senate Bill No. 2009

-3/23/11 - Attachment #2

	FTE Positions	General Fund	Other Funds	Total
2011-13 Executive Budget	74.50	\$8,384,734	\$13,645,923	\$22,030,657
2009-11 Legislative Appropriations	74.50	7,547,383	14,181,466	21,728,849 <sup>1</sup>
Increase (Decrease)	0.00	\$837,351	(\$535,543)	\$301,808

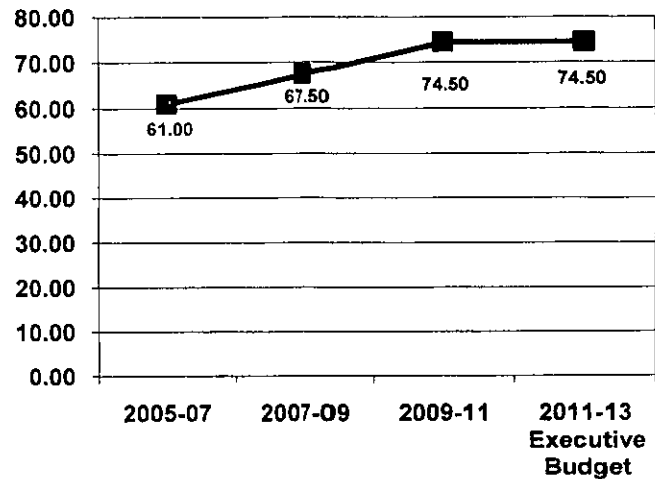
<sup>1</sup>The 2009-11 appropriation amounts include \$167,000, \$80,000 of which is from the general fund, for the agency's share of the \$16 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for executive branch employees.

Agency Funding



■ General Fund □ Other Funds

FTE Positions



Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2011-13 Executive Budget	\$8,384,734	\$0	\$8,384,734
2009-11 Legislative Appropriations	7,547,383	0	7,547,383
Increase (Decrease)	\$837,351	\$0	\$837,351

First House Action

Attached is a summary of first house changes.

Executive Budget Highlights  
(With First House Changes in Bold)

	General Fund	Other Funds	Total
1. Adds 1 FTE position (\$120,350) and related operating expenses (\$174,538) to support the sustainable agriculture program. The Senate removed this FTE position and related funding.	\$294,888		\$294,888
2. Removes 1 FTE pesticide registration specialist position and related operating expenses authorized by the 2009 Legislative Assembly for the 2009-11 biennium only	(\$140,000)		(\$140,000)
3. Adjusts funding for the Ag in the Classroom grant program to reflect estimated 2011-13 biennium total grant awards of \$130,000		(\$150,600)	(\$150,600)
4. Increases the estimated federal funding to be received for the specialty crop grant program to provide total grant funding of \$990,554		\$615,554	\$615,554
5. Adds funding for research regarding the transportation needs affecting the state's agriculture industry. The Senate removed this funding.	\$50,000		\$50,000



- |  |             |             |
|--|-------------|-------------|
| 6. Adds funding from the general fund to maintain the reserve corps veterinarian program due to a reduction in federal funding for the program                   | \$64,996    | \$64,996    |
| 7. Removes funding provided in the 2009-11 biennium for the John's disease program. The Senate added \$200,000 from the general fund for John's disease control. | (\$275,500) | (\$275,500) |

### Other Sections in Bill

**2009-11 Wildlife Services funding** - Section 3 provides \$200,000 from the game and fish fund for additional funding for Wildlife Services during the 2009-11 biennium.

**Game and fish funding** - Section 6 provides \$1,068,261 from the game and fish operating fund for the State Board of Animal Health (\$199,461) and Wildlife Services (\$868,800) for the 2011-13 biennium. The 2009-11 legislative appropriations from the game and fish fund for these programs were \$968,800.

**Agriculture Commissioner's salary** - Section 7 includes the statutory changes necessary to increase the commissioner's salary as follows:

Annual salary authorized by the 2009 Legislative Assembly:

July 1, 2009	\$85,830
July 1, 2010	\$90,122

Proposed annual salary recommended in the 2011-13 executive budget:

July 1, 2011	\$92,826
July 1, 2012	\$95,610

The executive recommendation provides funding for elected officials' salary increases equal to 3 percent of salaries effective July 1, 2011, and 3 percent effective July 1, 2012.

**Sustainable agriculture program** - Section 8 amends North Dakota Century Code Section 4-01-23 regarding the sustainable agriculture program.

**Wine and spirits promotion** - Sections 9 and 10 provide statutory changes to allow special events permits to be issued for wine and spirits promotion in the state.

**Fertilizer distribution registration, licensing, and inspection fees** - Sections 11, 12, and 13 provide statutory changes to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. This is estimated to reduce general fund revenues by \$785,000 for the 2011-13 biennium.

### Continuing Appropriations

**Turkey fund** - Chapter 4-1-12 - Commodity checkoff for market development for turkeys and turkey products.

**Honey promotion fund** - Chapter 4-1-08 - Commodity checkoff for market development for honey.

**Minor use pesticide fund** - Sections 4-35-06.2 and 4-35-06.3 - For studies, investigations, and evaluations regarding registration and use of pesticides.

### Major Related Legislation

**House Bill No. 1321** - Transfers anhydrous ammonia inspection duties from the Insurance Commissioner to the Agriculture Commissioner, eliminates the anhydrous ammonia storage facility inspection fund, and deposits anhydrous ammonia inspection fees in the environment and rangeland protection fund rather than the general fund.

**Senate Bill No. 2085** - Allows the Agriculture Commissioner to assess a civil penalty to a person distributing or selling noxious weeds and allows the Agriculture Commissioner to use up to \$50,000 of the Department of Agriculture appropriation from the environment and rangeland protection fund for invasive weed control for the 2011-13 biennium.

ATTACH:1

**STATEMENT OF PURPOSE OF AMENDMENT:****Senate Bill No. 2009 - Funding Summary**

	<b>Executive Budget</b>	<b>Senate Changes</b>	<b>Senate Version</b>
Department of Agriculture			
Salaries and wages	\$9,303,178	\$81,650	\$9,384,828
Operating expenses	6,548,199	(179,538)	6,368,661
Capital assets	17,000		17,000
Grants	3,095,828	75,000	3,170,828
State Board of Animal Health	1,949,052	200,000	2,149,052
Wildlife Services	1,067,400	350,000	1,417,400
Crop Harmonization Board	50,000		50,000
Total all funds	\$22,030,657	\$527,112	\$22,557,769
Less estimated income	13,645,923	720,000	14,365,923
General fund	\$8,384,734	(\$192,888)	\$8,191,846
FTE	74.50	0.50	75.00
Bill Total			
Total all funds	\$22,030,657	\$527,112	\$22,557,769
Less estimated income	13,645,923	720,000	14,365,923
General fund	\$8,384,734	(\$192,888)	\$8,191,846
FTE	74.50	0.50	75.00

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

	<b>Executive Budget</b>	<b>Senate Changes</b>	<b>Senate Version</b>
Salaries and wages	\$9,303,178	\$81,650	\$9,384,828
Operating expenses	6,548,199	(179,538)	6,368,661
Capital assets	17,000		17,000
Grants	3,095,828	75,000	3,170,828
State Board of Animal Health	1,949,052	200,000	2,149,052
Wildlife Services	1,067,400	350,000	1,417,400
Crop Harmonization Board	50,000		50,000
Total all funds	\$22,030,657	\$527,112	\$22,557,769
Less estimated income	13,645,923	720,000	14,365,923
General fund	\$8,384,734	(\$192,888)	\$8,191,846
FTE	74.50	0.50	75.00

## Department 602 - Department of Agriculture - Detail of Senate Changes

	Adds Research Analyst FTE Position <sup>1</sup>	Adds Marketing Specialist Position <sup>2</sup>	Removes Sustainable Agriculture Position <sup>3</sup>	Removes Transportation Research Funding <sup>4</sup>	Adds Funding for Honeybee Colony Research Grants <sup>5</sup>	Adds Funding for John's Disease Control <sup>6</sup>
Salaries and wages	131,000	71,000	(120,350)			
Operating expenses	20,000	25,000	(174,538)	(50,000)		
Capital assets						
Grants					75,000	
State Board of Animal Health						200,000
Wildlife Services						
Crop Harmonization Board						
<b>Total all funds</b>	<b>\$151,000</b>	<b>\$96,000</b>	<b>(\$294,888)</b>	<b>(\$50,000)</b>	<b>\$75,000</b>	<b>\$200,000</b>
Less estimated income	20,000	0	0	0	0	0
<b>General fund</b>	<b>\$131,000</b>	<b>\$96,000</b>	<b>(\$294,888)</b>	<b>(\$50,000)</b>	<b>\$75,000</b>	<b>\$200,000</b>
<b>FTE</b>	<b>1.00</b>	<b>0.50</b>	<b>(1.00)</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>

	Adds Funding for Wildlife Services <sup>7</sup>	Adjusts Funding Sources <sup>8</sup>	Total Senate Changes
Salaries and wages			81,650
Operating expenses			(179,538)
Capital assets			
Grants			75,000
State Board of Animal Health			200,000
Wildlife Services	350,000		350,000
Crop Harmonization Board			
<b>Total all funds</b>	<b>\$350,000</b>	<b>\$0</b>	<b>\$527,112</b>
Less estimated income	350,000	350,000	720,000
<b>General fund</b>	<b>\$0</b>	<b>(\$350,000)</b>	<b>(\$192,888)</b>
<b>FTE</b>	<b>0.00</b>	<b>0.00</b>	<b>0.50</b>

<sup>1</sup> A research analyst FTE position is added with funding from the general fund for salaries (\$131,000) and funding from the environment and rangeland protection fund for operating expenses (\$20,000).

<sup>2</sup> Funding is added from the general fund for a .5 FTE marketing specialist position (\$71,000) and related operating expenses (\$25,000).

<sup>3</sup> Funding included in the executive budget recommendation for 1 FTE sustainable agriculture program specialist position and related expenses is removed.

<sup>4</sup> Transportation research funding included in the executive budget is removed.

<sup>5</sup> Additional funding is provided for grants to public and private entities engaging in research efforts focusing on honeybee colony health.

<sup>6</sup> Funding for John's disease testing and control for livestock is added.

<sup>7</sup> Additional funding is added for the Wildlife Services program from the Game and Fish Department (\$100,000) and the State Water Commission (\$250,000) to provide total funding of \$1,417,400.

<sup>8</sup> The funding source for a portion of rent expense (\$100,000) and a grant to the dairy coalition (\$250,000) is changed from the general fund to the environment and rangeland protection fund.

is amendment also:

Adds a section to provide additional 2009-11 biennium funding from the game and fish fund for the Wildlife Services program, and the section is declared to be an emergency.

Amends Section 4-01-23 regarding the sustainable agriculture program.

- Amends Sections 5-01-17(2) and 5-01-19(2) relating to special events permits for wine and spirit promotion in the state.
- Amends Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. This is estimated to reduce general fund revenues by \$785,000 for the 2011-13 biennium.

SB 2009  
Agriculture Department  
3/23/11  
Attachment #4

# OFFICE OF THE STATE AUDITOR

## PERFORMANCE AUDIT FOLLOW-UP REPORT

Of the Status of Recommendations from

### WILDLIFE SERVICES PROGRAM

October 6, 2010

Report No. 3026.1

SB-2009



Robert R. Peterson, State Auditor

STATE AUDITOR  
ROBERT R. PETERSON



Phone (701)328-2241  
Fax (701)328-1406

STATE OF NORTH DAKOTA  
OFFICE OF THE STATE AUDITOR  
STATE CAPITOL  
600 E. BOULEVARD AVENUE - DEPT 117  
BISMARCK, NORTH DAKOTA 58505

October 6, 2010

Honorable John Hoeven, Governor

Members of the North Dakota Legislative Assembly

A fundamental objective of the Office of the State Auditor's work is to bring about improvements through recommendations. To achieve this, our recommendations need to be timely and effectively implemented. The Legislative Audit and Fiscal Review Committee (LAFRC) has requested the Office of the State Auditor to perform follow-up work after presentation of performance audit reports to the Committee and to report those agencies which have not implemented audit recommendations.

The Office of the State Auditor conducted an audit follow-up on the performance audit of the Wildlife Services Program (report #3026) dated May 9, 2008. The objective of this follow-up audit was to determine the status of the 11 recommendations included in the performance audit report. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives. The audit period for which information was collected and reviewed was July 1, 2009 through June 30, 2010.

As a result of the follow-up review, 6 recommendations were determined to be fully implemented, 4 were determined to be partially implemented, and 1 was determined to be not implemented. We want to extend our appreciation to the Department of Agriculture for their assistance and cooperation during this follow-up audit.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rob Peterson".

Robert R. Peterson  
State Auditor

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Performance Audit No. 3026

Wildlife Services Program

Report Dated May 9, 2008

Transmittal Letter

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## Recommendations Fully Implemented

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### Recommendation #1

We recommend the Department of Agriculture pay salaries of the Wildlife Services' Field Specialists and other cost(s) which can be verified in a timely manner.

#### *Original Condition*

State funding for the Wildlife Services Program does not pay for all costs incurred by the federal entity administering the program. The program is administered by the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS). Federal funds to administer the program are provided to APHIS. In review of expenditure information, we identified state funds were used for expenditures which were not supported or were not reasonable.

#### *Action Taken*

An annual Work/Financial Plan identifying each party's responsibilities is entered into between APHIS, the North Dakota Department of Agriculture, and the North Dakota Game and Fish Department. The yearly Work/Financial Plan now identifies only salaries and benefits of the APHIS Field Specialists and the Pilot are reimbursable. Spreadsheets documenting time and work duties have been implemented by APHIS. These spreadsheets were reviewed and approved by the Department of Agriculture prior to implementation.

#### *Result of Implementation*

By paying only the salaries and benefits of the Wildlife Services' Field Specialists and Pilot for eligible tasks, the North Dakota Department of Agriculture has limited the costs to those which can be verified in a timely and efficient manner.

---

### Recommendation #2

We recommend the Department of Agriculture review the time of the pilot charged to the Wildlife Services Program and determine what percentage of the Pilot's salary will be paid by the state.

#### *Original Condition*

APHIS is authorized and does conduct aerial hunting of coyotes in the state. In a review of information, we identified the Pilot spent a relatively minimal amount of time flying. The Pilot's salary was paid by the state for certain months regardless of the amount of time spent flying. We were informed when not flying, the pilot spent time in the shop doing maintenance work on equipment.

#### *Action Taken*

The Department of Agriculture identified spreadsheets are completed by APHIS which document the Pilot's time and work duties. These spreadsheets identify the number of hours performed on each specific task performed during the day. The Department determined the tasks performed by the Pilot while not flying are necessary to the implementation and success of the Wildlife Services program. We identified federal funds are being used to pay for the Pilot's salary and benefits when the Pilot is performing Certified Flight Instructor duties. All other time of the Pilot is paid by the state.



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Chapter 1  
Recommendations Fully Implemented

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*Result of Implementation* The Department of Agriculture has determined eligible tasks of the Pilot for the Wildlife Services Program which will be paid for by the state.

---

**Recommendation #3** We recommend the Department of Agriculture require travel time of the Wildlife Services' Field Specialists be adequately documented.

*Original Condition* The Wildlife Services' Field Specialists completed their time sheets every two weeks and identified their work time under the category of "regular time." The Field Specialists also document time in the Management Information System (MIS) and identify the time spent each day on certain categories. In review of documentation, the time sheet hours attributed to "regular time" did not equal the amount of time documented in MIS. The difference was identified as travel time. The travel time was not documented and/or supported by other documentation.

*Action Taken* We identified spreadsheets documenting the Field Specialists' time and work duties, which includes travel time, have been implemented by APHIS. These spreadsheets define the number of hours performed on each specific task during the day. Also, the travel miles and time spent traveling are now documented in MIS.

*Result of Implementation* The Department of Agriculture is able to adequately monitor the time charged to travel and can determine whether the time charged is appropriate.

---

**Recommendation #4** We recommend the Department of Agriculture require the Wildlife Services' Field Specialists dedicate a certain amount of time in the fall to the state blackbird problem.

*Original Condition* Concerns related to the amount of damage blackbirds do to sunflowers were identified by various parties including the Department of Agriculture and the National Sunflower Association. Losses were incurred due to blackbirds sitting on the sunflower heads, causing the seeds to fall to the ground. The loss of revenue and economic impact due to blackbirds in sunflowers was estimated between \$14.1 million and \$17.6 million per year. Both the Department of Agriculture and the National Sunflower Association voiced concerns over the lack of commitment from personnel operating the Wildlife Services Program. In review of the purpose of the Wildlife Services Program, we identified problems associated with blackbirds was an area the program was intended to address.

---

**Chapter 1**  
**Recommendations Fully Implemented**

---

*Action Taken* The Work/Financial Plans for state fiscal years 2010 and 2011 identify blackbird work as an eligible activity with up to \$149,300 available in general funds to reimburse expenditures. We identified a performance measure for blackbird work has also been included in the Work/Financial Plans. The Department of Agriculture indicated it has received no complaints related to the work performed on the blackbird problem from producers or from the National Sunflower Association in the last year. We identified APHIS has increased the number of part-time employees, using federal earmarked funds for sunflower blackbird work, to assist producers with blackbird problems. APHIS has also used a number of the state paid Field Specialists to assist with blackbird work during the busy fall season.

*Result of Implementation* The performance of work by APHIS on the blackbird problem has helped farmers in North Dakota to address the damage blackbirds cause to sunflowers.

---

**Recommendation #5** We recommend the Department of Agriculture ensure appropriate changes are made to the Cooperative Service Agreements to address recommendations included in this audit report as well as to:

- a) Approve or require information be provided for salary increases of Field Specialists prior to being effective;
- b) Establish performance measures to evaluate the program;
- c) Require only necessary reports or information regarding the program; and
- d) Identify if, when, and where state funds are to be used for issues arising in urban areas.

*Original Condition* For the time period October 2003 through September 2007, the average Field Specialist salary increase was 18.5% with the highest increase being 28%. We identified raises were given to Field Specialists without Department of Agriculture approval or knowledge. In review of the Cooperative Service Agreements, it appeared the agreements did not contain measurable goals/objectives. We identified certain monitoring requirements in the agreements were unnecessary. Also, the agreements did not address work performed in urban areas.

*Action Taken* In review of the Cooperative Service Agreements and Work/Financial Plans, we identified changes were made, including:

- The Department of Agriculture is notified of salaries at the beginning of Work/Financial Plan and receives a quarterly report of Field Specialist salaries.
- Performance measures are included in the Work/Financial Plan.
- Required reports are listed in the Work/Financial Plan.
- Urban work is addressed in the Work/Financial Plan as an ineligible activity. The Department of Agriculture indicated urban work is to be billed to the city or individual.

---

Chapter 1  
Recommendations Fully Implemented

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*Result of Implementation* The Department of Agriculture receives additional information to allow it to monitor the Wildlife Services Program. Costs incurred for urban work should no longer be an expense of the state.

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**Recommendation #6** We recommend the Department of Agriculture, with assistance from the Office of the Attorney General, review North Dakota Century Code requirements related to the Wildlife Services Program. Appropriate action should be taken to modify or clarify sections to make requirements clear and up-to-date.

*Original Condition* State laws related to the Wildlife Services Program had not been updated since 1973 and were in need of review. North Dakota Century Code (NDCC) Section 4-01-17.1 was an example of a law which needed review. It stated the Department of Agriculture may cooperate with APHIS in the control and destruction of certain animals which were injurious to livestock, poultry, and big and small game; injurious field rodents in rural areas; and certain nongame species of birds causing crop damage or substantial economic loss. Work was being conducted in urban areas under the Wildlife Services Program and clarification was needed as to what areas the program was to serve and what animals were included as part of the program.

*Action Taken* NDCC was reviewed by the Department of Agriculture prior to the 2009 Legislative Session. A bill was introduced and passed by the Legislature to address certain areas. Chapter 67 of the 2009 Session Law made applicable changes to state law.

*Result of Implementation* Ambiguity regarding the purpose of the Wildlife Services Program has been clarified in state law.

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## Recommendations Partially Implemented

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### Recommendation #7

We recommend the Department of Agriculture periodically verify the Wildlife Services Program billed amounts are adequately supported and reasonable.

#### *Original Condition*

Based on a review of bills submitted to the Department of Agriculture, we identified bills consisted of a one page document with very little detail. Total cost amounts were identified by category such as salary, vehicle fuel, etc. The support for these bills was to be maintained by the United States Department of Agriculture, Animal and Plant Health Inspection Service (APHIS). The Department of Agriculture did not review support maintained by APHIS to ensure amounts billed were supported and reasonable. In a review of 12 judgmentally selected bills, a number of concerns were identified. Examples included a lack of support for certain vehicle maintenance and aircraft fuel expenses as well as taxes being included in billed amounts.

#### *Action Taken*

To simplify billing, the yearly Work/Financial Plan was changed to indicate only salaries and benefits will be reimbursed. In review of the four quarterly billings sent to the Department of Agriculture from APHIS for state fiscal year 2010, we identified APHIS includes the salary and benefit amount to be reimbursed, detail on the amount by pay period and employee, and what amounts are eligible for North Dakota Game and Fish Department funds, Federal funds, or attributable to the North Dakota General Fund for blackbird work. The Department of Agriculture indicated they review all documentation sent by APHIS with the quarterly billing. However, no additional detailed support has been requested.

We requested and received detailed supporting documentation from APHIS for two quarters of state fiscal year 2010. Based on our review of documentation, we identified concerns with salaries. For example:

- We identified APHIS immediately hired an individual for a vacant Field Specialist position. This individual was transferred to North Dakota from another state and brought a significant amount of credit, comp, annual, and sick leave from another federal position (over 1,600 hours). This leave time now appears to be the responsibility of North Dakota even though it was earned elsewhere. Also, the employee was paid with state funds for over 40 hours of administrative leave for time related to the purchase of a new home. The Department of Agriculture indicated they were not aware of this information.
- In review of salary information, we identified an instance in which urban work was performed by a Field Specialist and charged to the State. Urban work is an ineligible activity according to the Work/Financial plan and is to be charged to the city or individual for whom the work is performed. APHIS indicated this was charged to the state in error. APHIS added the employee did not follow proper protocol in documenting the urban work and the problem would be addressed to prevent reoccurrence.

---

**Chapter 2**  
**Recommendations Partially Implemented**

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*Management's Response  
and Future Action to be  
Taken*

We agree with the status of the recommendation. We will continue to review and monitor the billed amounts and periodically verify supporting documentation for billings.

---

**Recommendation #8**

**We recommend the Department of Agriculture improve monitoring of Cooperative Service Agreements to ensure requirements are complied with.**

*Original Condition*

Based on a review of Cooperative Service Agreements, we identified certain requirements in different biennium's were not fulfilled. For example, required discussions related to employment, salaries, expenses, and purchases were not held and information required to be submitted to the Department of Agriculture was not provided. The Department had established an informal monitoring process for the agreements and had relied on APHIS to comply with requirements.

*Action Taken*

A number of changes have been made to the Cooperative Service Agreements and the annual Work/Financial Plans. For example, reimbursable items include only salaries and benefits, performance measures have been established, and APHIS is required to submit certain information. The Department of Agriculture does review the information submitted with quarterly billings. However, the Department does not review additional supporting documentation maintained at the APHIS office. In a review of supporting documentation, we identified concerns related to salary information.

APHIS has indicated the agreed upon Cooperative Service Agreement will not be sufficient to cover the salaries and benefits of the Field Specialists and Pilot for the 2009-2011 biennium. In our review of information, we identified areas where changes could have occurred which could have reduced the impact of the shortfall of funds claimed by APHIS. For example, immediately filling a vacant position rather than leaving the position open for a certain time period resulted in no cost savings. In addition, the individual selected for this position came from another state and was hired at a significantly higher rate of pay due to years of experience. This individual also brought over 1,600 hours of credit, comp, annual, and sick leave from the prior position.

*Management's Response  
and Future Action to be  
Taken*

We agree with the status of the recommendation and will continue to review support submitted with quarterly billings. Also, we will periodically review additional supporting documents maintained at the APHIS office to ensure compliance with the Cooperative Service Agreement.

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Chapter 2  
Recommendations Partially Implemented

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**Recommendation #9** We recommend the Department of Agriculture and the Game and Fish Department formally identify advantages and disadvantages of the current monitoring and funding of the Wildlife Services Program. A determination should be made as to whether the primary monitoring and/or primary funding of the program need changing.

*Original Condition* The Department of Agriculture had a Cooperative Service Agreement with APHIS and was responsible for the primary monitoring of the Wildlife Services Program by the State. However, the primary funding source for the Wildlife Services Program was the North Dakota Game and Fish Department. The Game and Fish Department relied on the Department of Agriculture to monitor the use of funds being provided and had very little, if any, input as to how the funds were to be used. We determined monitoring and funding of the program should be reviewed.

*Action Taken* While representatives from both the Department of Agriculture and the Game and Fish Department indicated discussions have been held regarding the monitoring and funding of the Wildlife Services Program, a formal analysis has yet to be completed. A representative of the Department of Agriculture indicated reviews have been conducted on how other states are funding the Wildlife Services Program.

*Management's Response and Future Action to be Taken* We agree with the status of the recommendation. The Department and the Game and Fish will continue our discussions regarding monitoring and funding of the Wildlife Services Program. We will formally identify advantages and disadvantages of the current process. We will jointly make a determination regarding changes, if any, in the primary monitoring and funding of the program. Recommendations will be made to the Legislature if changes are needed.

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**Recommendation #10** We recommend the Department of Agriculture obtain necessary federal budget and expenditure data for monitoring and budgeting purposes.

*Original Condition* The Wildlife Services Program is funded with general funds (through the North Dakota Department of Agriculture), special funds (through the North Dakota Game and Fish Department), and federal funds (through the U.S. Department of Agriculture). Information presented to appropriation committees during the 2007 Legislative Session appeared to be inconsistent and certain federal expenditure information was unverifiable. This appears to have led to confusion regarding the funding of the Wildlife Services Program. When APHIS determined additional funds were needed, the Department of Agriculture was unable to determine the reasonableness of the additional request for funding.

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## Chapter 2

### Recommendations Partially Implemented

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#### *Action Taken*

The Department of Agriculture receives a copy of the federal budget. The budget identifies the amount of federal funds for the North Dakota Wildlife Services Program. However, even with this budget information provided to the Department, apparently an issue of insufficient funds for the 2009-2011 biennium exists. It appears APHIS was aware of the budget shortfall before the biennium began. However, limited actions were taken by APHIS to compensate for the shortfall. The Department of Agriculture performs limited monitoring of the federal budget and expenditure data.

#### *Management's Response and Future Action to be Taken*

We agree with the status of the recommendation. The Department will continue to monitor Wildlife Service's federal budget and expenditures. Federal budgets and supporting documents will be required from the local and regional office to verify credibility and changes in federal funding.

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## Recommendations Not Implemented

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**Recommendation #11** We recommend the Department of Agriculture monitor Field Specialists' time charged to office, bad weather, miscellaneous, or similar categories. Appropriate action should be taken if time charged to these categories is excessive.

*Original Condition*

In a review of the Field Specialists' time worked, we identified time charged to certain categories which appeared excessive. These categories included office duties, miscellaneous, and bad weather. Time charged to these relatively broad categories provided limited information as to what activities were actually performed or what was actually accomplished by the Field Specialists.

*Action Taken*

We identified spreadsheets, which document the Field Specialists' time and work duties, have been implemented by APHIS and clearly define the number of hours performed on each specific task during the day. These spreadsheets were reviewed and approved by the Department of Agriculture prior to implementation by APHIS.

The Department of Agriculture indicated the time charged to bad weather, office duties, and other similar categories is not monitored. While the Department of Agriculture requires APHIS to have the supporting documentation for time charged to these categories available, the Department does not request the documentation to verify the time charged was reasonable.

The time attributed each day to work categories is documented in the APHIS Management Information System (MIS). In review of MIS information for two quarters in fiscal year 2010, we identified time attributed to bad weather, office duties, equipment maintenance, and other similar categories was inconsistent. For example:

- One employee charged 33 hours to bad weather in one week. Two weeks prior, this same employee charged one hour to bad weather and 7 hours to comp time on the same day.
- One employee charged under 25 hours to equipment maintenance in one quarter, while another charged nearly 120 hours for the same quarter.
- APHIS indicated several employees have been using the MIS 2K and office duties categories interchangeably. MIS 2K duties include updating MIS to include time and work performed.

Although the Department of Agriculture has taken steps to improve APHIS documentation of certain categories of work time, the Department still performs little to no monitoring of the time charged to these categories. No action has been taken on excessive time charged to these categories.



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Chapter 3  
Recommendations Not Implemented

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*Management's Response  
and Future Action to be  
Taken*

We agree with the status of the recommendation. The Department will periodically verify the Wildlife Services Program billed amounts; reviewing field specialists' time spent as part of that process. Adjustments will be made if funds are used inappropriately.

SB 2009  
Dept of Agriculture  
3/23/11  
attachment # 4

**Resource Needs for ND Department of Agriculture (NDDA) to  
Absorb Anhydrous Ammonia Inspection Duties**

**Assumptions:** NDDA would assume anhydrous ammonia inspection responsibilities under N.D.C.C. 19-20.2 from the ND Insurance Department. To create efficiencies and better serve the regulated public, inspectors would also verify compliance with anhydrous ammonia risk management plans (RMPs) from EPA under the Clean Air Act and gather fertilizer samples under the authority in N.D.C.C. 19-20.1.

Staffing Needs: Two inspectors (Grade 11)

**Salary:**

Salary + benefits for each inspector: \$163,768  
Salary plus benefits for two inspectors: \$327,536

**Operating:**

Mileage: \$51,600

- Each inspector 30,000 miles/yr or 60,000 miles/biennium
- 120,000 total miles X \$0.43/mi = \$51,600

Lodging: \$13,440

- Each inspector four hotel stays per month (48 stays/year or 96 stays/biennium)
- 192 total hotel stays X \$70 per night = \$13,440

Meals: \$9,600

- \$200/month X 24 months X 2 inspectors = \$9,600

Information Technology: \$5,152

- \$2,000 for computer, monitor, etc X 2 = \$4,000
- Cell phone: \$24/month X 24 months X 2 inspectors = \$1,152

Training, safety equipment = \$3,000

- Includes safety gear, annual training

**Totals:**

Salary + Benefits	\$327,536
Operating	\$82,792
Mileage: \$51,600	
Lodging: \$13,440	
Meals: \$9,600	
IT: \$5,152	
Training, Equipment: \$3,000	
<b>Total</b>	<b>\$410,328</b>

SB 2009 3/23/11  
Dept. of Agriculture  
attachment # 5

**USDSA/APHIS/Wildlife Services Performance Measure Report  
for the  
First Year of the 2009-2011 Biennium (July 1, 2009 – June 30, 2010)**

Performance measures for the first year of the 2009-2011 State Biennium were established in the Work/Financial Plan that accompanied Cooperative Service Agreement Number 2009-89. The performance measures focused on the numbers of landowners assisted and the work tasks directed to selected wildlife:

Established Performance Measures and Accomplishments				
Species	Goals: Number of Landowners Assisted	Accomplished	Goals: Number of Work Tasks/Landowner	Accomplished
Beaver	250	295	1175	1543
Coyote	450	481	2925	3366
Raccoon	30	27	60	65
Badger	5	16	10	30
Red Fox	5	20	12	77
Blackbird	250	326	600	853

SB 2009  
Department of Agriculture  
3/23/11  
Attachment # 3

**USDSA/APHIS/Wildlife Services Performance Measure Report  
for the  
First Year of the 2009-2011 Biennium (July 1, 2009 – June 30, 2010)**

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Red Fox	5	20	12	77
Blackbird	250	326	600	853

# Fertilizer Tonnage Tax: 2000-2009

Year	Non-Anhydrous Tonnage Fees*	Anhydrous Ammonia Tonnage Fees**	Total Fertilizer Tonnage Fees
2000	\$216,636.20	\$44,426.80	\$261,063.00
2001	\$234,005.20	\$44,722.80	\$278,728.00
2002	\$216,911.00	\$54,453.00	\$271,364.00
2003	\$241,125.60	\$46,977.40	\$288,103.00
2004	\$264,559.40	\$48,413.60	\$312,973.00
2005	\$273,429.80	\$50,787.20	\$324,217.00
2006	\$217,305.00	\$55,255.00	\$272,560.00
2007	\$220,992.00	\$53,948.00	\$274,940.00
2008	\$267,778.20	\$63,554.80	\$331,333.00
2009	\$238,298.00	\$43,356.00	\$281,654.00
<b>Annual Ave:</b>	<b>\$239,104.04</b>	<b>\$50,589.46</b>	<b>\$289,693.50</b>
<b>Per Biennium</b>	<b>\$478,208 *</b>	<b>\$101,178 **</b>	<b>\$579,386.00</b>

## Proposed EARP Fund Deposits

NDCC Sections Amended	Type of Fee	Deposits	Transfer Legislation
19-20.1-03 & 19-20.1-03.1	Fertilizer Registration & License	\$ 306,792	SB 2009
19-20.1-06 & 19-20.2-08.1	Inspections Fees (tonnage)	\$ 579,386	HB 1321
	<b>TOTAL</b>	<b>\$ 886,178</b>	

## Fertilizer Fee Description

Fee Description	NDCC Section	Fee Amount	Time Period
Fertilizer Registration	Section 19-20.1-03	\$50/registration	Two-year registration
Fertilizer Distribution License	Section 19-20.1-03.1	\$100/license	Two-year license
Inspection Fees	Section 19-20.1-06	\$20/ton	Annual
NH3 Storage Facility License	Section 19-20.2-04	\$25/storage & \$100/retail site	One-time fee*

\* Currently Deposited to General Fund

\*\* Currently Deposited to Anhydrous Ammonia Storage Facility Inspection Fund

SB 2009  
Dept. of Agriculture  
3/23/11  
attachment #5

- SB 2009  
- Dept. of Agriculture  
- Attachment # 6  
- 3/23/11

**Resource Needs for ND Department of Agriculture (NDDA) to  
Absorb Anhydrous Ammonia Inspection Duties**

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**Totals:**

Salary + Benefits	\$327,536
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<b>Total</b>	<b>\$410,328</b>

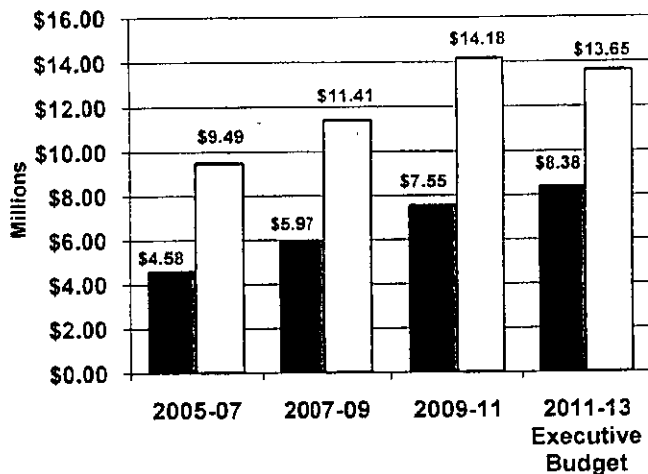
Department 602 - Agriculture Commissioner  
Senate Bill No. 2009

-3/24/11  
- Attachment #2

	FTE Positions	General Fund	Other Funds	Total
2011-13 Executive Budget	74.50	\$8,384,734	\$13,645,923	\$22,030,657
2009-11 Legislative Appropriations	74.50	7,547,383	14,181,466	21,728,849 <sup>1</sup>
Increase (Decrease)	0.00	\$837,351	(\$535,543)	\$301,808

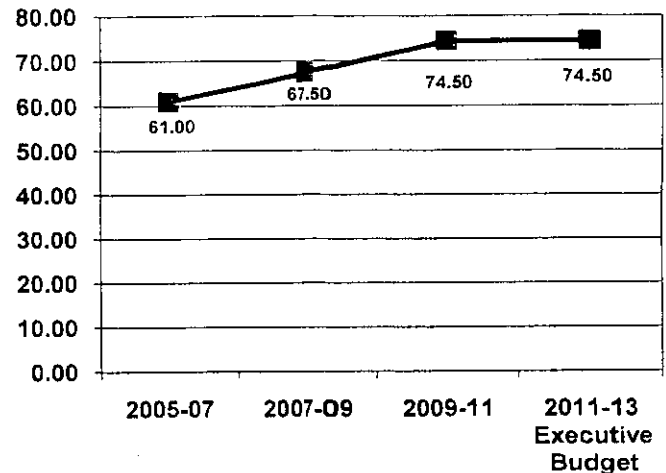
<sup>1</sup>The 2009-11 appropriation amounts include \$167,000, \$80,000 of which is from the general fund, for the agency's share of the \$16 million funding pool appropriated to the Office of Management and Budget for special market equity adjustments for executive branch employees.

Agency Funding



■ General Fund □ Other Funds

FTE Positions



Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2011-13 Executive Budget	\$8,384,734	\$0	\$8,384,734
2009-11 Legislative Appropriations	7,547,383	0	7,547,383
Increase (Decrease)	\$837,351	\$0	\$837,351

First House Action

Attached is a summary of first house changes.

Executive Budget Highlights  
(With First House Changes in Bold)

	General Fund	Other Funds	Total
1. Adds 1 FTE position (\$120,350) and related operating expenses (\$174,538) to support the sustainable agriculture program. The Senate removed this FTE position and related funding.	\$294,888		\$294,888
2. Removes 1 FTE pesticide registration specialist position and related operating expenses authorized by the 2009 Legislative Assembly for the 2009-11 biennium only	(\$140,000)		(\$140,000)
3. Adjusts funding for the Ag in the Classroom grant program to reflect estimated 2011-13 biennium total grant awards of \$130,000		(\$150,600)	(\$150,600)
4. Increases the estimated federal funding to be received for the specialty crop grant program to provide total grant funding of \$990,554		\$615,554	\$615,554
5. Adds funding for research regarding the transportation needs affecting the state's agriculture industry. The Senate removed this funding.	\$50,000		\$50,000

- |  |             |             |
|--|-------------|-------------|
| 6. Adds funding from the general fund to maintain the reserve corps veterinarian program due to a reduction in federal funding for the program                   | \$64,996    | \$64,996    |
| 7. Removes funding provided in the 2009-11 biennium for the John's disease program. The Senate added \$200,000 from the general fund for John's disease control. | (\$275,500) | (\$275,500) |

### Other Sections in Bill

**2009-11 Wildlife Services funding** - Section 3 provides \$200,000 from the game and fish fund for additional funding for Wildlife Services during the 2009-11 biennium.

**Game and fish funding** - Section 6 provides \$1,068,261 from the game and fish operating fund for the State Board of Animal Health (\$199,461) and Wildlife Services (\$868,800) for the 2011-13 biennium. The 2009-11 legislative appropriations from the game and fish fund for these programs were \$968,800.

**Agriculture Commissioner's salary** - Section 7 includes the statutory changes necessary to increase the commissioner's salary as follows:

Annual salary authorized by the 2009 Legislative Assembly:

July 1, 2009	\$85,830
July 1, 2010	\$90,122

Proposed annual salary recommended in the 2011-13 executive budget:

July 1, 2011	\$92,826
July 1, 2012	\$95,610

The executive recommendation provides funding for elected officials' salary increases equal to 3 percent of salaries effective July 1, 2011, and 3 percent effective July 1, 2012.

**Sustainable agriculture program** - Section 8 amends North Dakota Century Code Section 4-01-23 regarding the sustainable agriculture program.

**Wine and spirits promotion** - Sections 9 and 10 provide statutory changes to allow special events permits to be issued for wine and spirits promotion in the state.

**Fertilizer distribution registration, licensing, and inspection fees** - Sections 11, 12, and 13 provide statutory changes to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. This is estimated to reduce general fund revenues by \$785,000 for the 2011-13 biennium.

### Continuing Appropriations

**Turkey fund** - Chapter 4-1-12 - Commodity checkoff for market development for turkeys and turkey products.

**Honey promotion fund** - Chapter 4-1-08 - Commodity checkoff for market development for honey.

**Minor use pesticide fund** - Sections 4-35-06.2 and 4-35-06.3 - For studies, investigations, and evaluations regarding registration and use of pesticides.

### Major Related Legislation

**House Bill No. 1321** - Transfers anhydrous ammonia inspection duties from the Insurance Commissioner to the Agriculture Commissioner, eliminates the anhydrous ammonia storage facility inspection fund, and deposits anhydrous ammonia inspection fees in the environment and rangeland protection fund rather than the general fund.

**Senate Bill No. 2085** - Allows the Agriculture Commissioner to assess a civil penalty to a person distributing or selling noxious weeds and allows the Agriculture Commissioner to use up to \$50,000 of the Department of Agriculture appropriation from the environment and rangeland protection fund for invasive weed control for the 2011-13 biennium.

ATTACH:1



**STATEMENT OF PURPOSE OF AMENDMENT:****Senate Bill No. 2009 - Funding Summary**

	<b>Executive Budget</b>	<b>Senate Changes</b>	<b>Senate Version</b>
Department of Agriculture			
Salaries and wages	\$9,303,178	\$81,650	\$9,384,828
Operating expenses	6,548,199	(179,538)	6,368,661
Capital assets	17,000		17,000
Grants	3,095,828	75,000	3,170,828
State Board of Animal Health	1,949,052	200,000	2,149,052
Wildlife Services	1,067,400	350,000	1,417,400
Crop Harmonization Board	50,000		50,000
<b>Total all funds</b>	<b>\$22,030,657</b>	<b>\$527,112</b>	<b>\$22,557,769</b>
Less estimated income	13,645,923	720,000	14,365,923
<b>General fund</b>	<b>\$8,384,734</b>	<b>(\$192,888)</b>	<b>\$8,191,846</b>
FTE	74.50	0.50	75.00
<b>Bill Total</b>			
<b>Total all funds</b>	<b>\$22,030,657</b>	<b>\$527,112</b>	<b>\$22,557,769</b>
Less estimated income	13,645,923	720,000	14,365,923
<b>General fund</b>	<b>\$8,384,734</b>	<b>(\$192,888)</b>	<b>\$8,191,846</b>
FTE	74.50	0.50	75.00

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

	<b>Executive Budget</b>	<b>Senate Changes</b>	<b>Senate Version</b>
Salaries and wages	\$9,303,178	\$81,650	\$9,384,828
Operating expenses	6,548,199	(179,538)	6,368,661
Capital assets	17,000		17,000
Grants	3,095,828	75,000	3,170,828
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Wildlife Services	1,067,400	350,000	1,417,400
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<b>Total all funds</b>	<b>\$22,030,657</b>	<b>\$527,112</b>	<b>\$22,557,769</b>
Less estimated income	13,645,923	720,000	14,365,923
<b>General fund</b>	<b>\$8,384,734</b>	<b>(\$192,888)</b>	<b>\$8,191,846</b>
FTE	74.50	0.50	75.00

## Department 602 - Department of Agriculture - Detail of Senate Changes

	Adds Research Analyst FTE Position <sup>1</sup>	Adds Marketing Specialist Position <sup>2</sup>	Removes Sustainable Agriculture Position <sup>3</sup>	Removes Transportation Research Funding <sup>4</sup>	Adds Funding for Honeybee Colony Research Grants <sup>5</sup>	Adds Funding for John's Disease Control <sup>6</sup>
Salaries and wages	131,000	71,000	(120,350)			
Operating expenses	20,000	25,000	(174,538)	(50,000)		
Capital assets						
Grants					75,000	
State Board of Animal Health						200,000
Wildlife Services						
Crop Harmonization Board						
<b>Total all funds</b>	<b>\$151,000</b>	<b>\$96,000</b>	<b>(\$294,888)</b>	<b>(\$50,000)</b>	<b>\$75,000</b>	<b>\$200,000</b>
Less estimated income	20,000	0	0	0	0	0
<b>General fund</b>	<b>\$131,000</b>	<b>\$96,000</b>	<b>(\$294,888)</b>	<b>(\$50,000)</b>	<b>\$75,000</b>	<b>\$200,000</b>
<b>FTE</b>	<b>1.00</b>	<b>0.50</b>	<b>(1.00)</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>

	Adds Funding for Wildlife Services <sup>7</sup>	Adjusts Funding Sources <sup>8</sup>	Total Senate Changes
Salaries and wages			181,650
Operating expenses			(179,538)
Capital assets			
Grants			75,000
State Board of Animal Health			200,000
Wildlife Services	350,000		350,000
Crop Harmonization Board			
<b>Total all funds</b>	<b>\$350,000</b>	<b>\$0</b>	<b>\$527,112</b>
Less estimated income	350,000	350,000	720,000
<b>General fund</b>	<b>\$0</b>	<b>(\$350,000)</b>	<b>(\$192,888)</b>
<b>FTE</b>	<b>0.00</b>	<b>0.00</b>	<b>0.50</b>

<sup>1</sup> A research analyst FTE position is added with funding from the general fund for salaries (\$131,000) and funding from the environment and rangeland protection fund for operating expenses (\$20,000).

<sup>2</sup> Funding is added from the general fund for a .5 FTE marketing specialist position (\$71,000) and related operating expenses (\$25,000).

<sup>3</sup> Funding included in the executive budget recommendation for 1 FTE sustainable agriculture program specialist position and related expenses is removed.

<sup>4</sup> Transportation research funding included in the executive budget is removed.

<sup>5</sup> Additional funding is provided for grants to public and private entities engaging in research efforts focusing on honeybee colony health.

<sup>6</sup> Funding for John's disease testing and control for livestock is added.

<sup>7</sup> Additional funding is added for the Wildlife Services program from the Game and Fish Department (\$100,000) and the State Water Commission (\$250,000) to provide total funding of \$1,417,400.

<sup>8</sup> The funding source for a portion of rent expense (\$100,000) and a grant to the dairy coalition (\$250,000) is changed from the general fund to the environment and rangeland protection fund.

This amendment also:

Adds a section to provide additional 2009-11 biennium funding from the game and fish fund for the Wildlife Services program, and the section is declared to be an emergency.

Amends Section 4-01-23 regarding the sustainable agriculture program.

- Amends Sections 5-01-17(2) and 5-01-19(2) relating to special events permits for wine and spirit promotion in the state.
- Amends Sections 19-20.1-03, 19-20.1-03.1, and 19-20.1-06 to deposit fertilizer distribution registration, licensing, and inspection fees in the environment and rangeland protection fund rather than the general fund. This is estimated to reduce general fund revenues by \$785,000 for the 2011-13 biennium.

SB 2009  
Dept. of agriculture  
3/24/11  
attachment #2

*Prepared for the House Appropriations Committee  
by the North Dakota Office of State Tax Commissioner  
March 7, 2011*

**PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2009**

Page 1, line 5, remove "domestic wineries and"

Page 1, line 6, remove "domestic distilleries,"

Page 4, removes lines 5 through 31

Page 5, remove lines 1 through 24

Re-number accordingly

at Conf Com 4-13-11

**SB 2009 - Agriculture Commissioner's Budget**

**Wildlife Services/Wildlife Depredation Line Item**

Legislative Version	General Funds	Game & Fish	Water Commission	Ag Community	Total
Executive Recommendation	\$ 298,600	\$ 768,800	\$ -	\$ 1,067,400	
Senate Version	\$ 298,600	\$ 868,800	\$ 250,000	\$ 1,417,400	
House Version	\$ -	\$ 400,000	\$ 100,000	\$ 500,000	\$ 1,000,000

**Response to questions posed by Conference Committee (April 12, 2011)**

**2009-2011 Wildlife Services' Budget**

Line Item Expenses	Federal	State	Other Income	Total
Salaries/Benefits	\$ 1,327,396	\$ 1,067,400	\$ -	\$ 2,394,796
Operating	\$ 1,057,972	\$ -	\$ 25,022	\$ 1,082,994
Total	\$ 2,385,368	\$ 1,067,400	\$ 25,022	\$ 3,477,790

**Projected 2011-2013 Wildlife Services' Budget**

Line Item Expenses	Federal *	State	Other Income	Total
Salaries/Benefits	\$ 1,327,396	\$ ?	\$ -	\$ 1,327,396
Operating	\$ 675,192	\$ ?	\$ 25,000	\$ 700,192
Total	\$ 2,002,588	\$ ?	\$ 25,000	\$ 2,027,588

\* Assuming a flat federal budget with a reduction in operating funds earmarked for blackbird damage management (\$191,390/federal fiscal year)

#1

**Environment and Rangeland Protection Fund - Fund 376 (updated 4/14/2011)**

Balance: June 30, 2009 \$ 1,358,407

**Revenue: 2009-2011 Biennium**

Pesticide Registrations	\$	3,960,000
Weed Seed Free Forage	\$	10,000
<b>TOTAL</b>	<b>\$</b>	<b>5,328,407</b>

**Actual Appropriations: 2009-2011 Biennium**

ND Health Department - Ground Water Program	\$	222,310
ND Stockmens Association - Livestock Waste	\$	50,000
ND Department of Agriculture - Livestock Waste	\$	50,000
Pesticide Programs	\$	908,976
Project Safe Send	\$	605,699
Noxious Weeds	\$	1,854,106
Weed Seed Free Forage	\$	48,922
Crop Harmonization Board	\$	50,000
Agriculture in the Classroom	\$	110,000
Farmers Market	\$	29,500
Endangered Species Protection	\$	212,196
<b>TOTAL</b>	<b>\$</b>	<b>4,141,709</b>

**Projected Balance: June 30, 2011 \$ 1,186,698**

**Projected Revenue: 2011-2013 Biennium**

Pesticide Registrations	\$	3,885,000
Weed Seed Free Forage	\$	48,922
Fertilizer Fees (SB 2009 & HB 1321)	\$	886,178
<b>TOTAL</b>	<b>\$</b>	<b>6,006,798</b>

**Actual Appropriations: 2011-2013 Biennium**

ND Health Department - Ground Water Program	\$	222,310
ND Stockmens Association - Livestock Waste	\$	50,000
ND Department of Agriculture - Livestock Waste	\$	50,000
Pesticide Programs	\$	1,212,401
Project Safe Send	\$	591,732
Noxious Weeds	\$	2,003,582
Weed Seed Free Forage	\$	48,922
Crop Harmonization Board	\$	50,000
Agriculture in the Classroom	\$	110,000
Farmers Market	\$	29,500
Endangered Species Protection	\$	161,572
Minor Use Fund	\$	150,000 *
ND Department of Agriculture - Rent and Operating	\$	120,000
Anhydrous Ammonia	\$	450,328
Dairy Coalition	\$	250,000
<b>TOTAL</b>	<b>\$</b>	<b>5,500,347</b>

**Projected Balance: June 30, 2013 \$ 506,451**

\* No appropriation in the 2009-2011 Biennium