

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

	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 Position¹	Adds Marketing Specialist Position²	Removes Sustainable Agriculture Position³	Removes Transportation Research Funding⁴	Adds Funding for Honeybee Colony Research Grants⁵	Adds Funding for Johnes Disease Control⁶
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
	\$131,000	\$96,000	(\$294,888)	(\$50,000)	\$75,000	\$200,000

General fund						
FTE	1.00	0.50	(1.00)	0.00	0.00	0.00
	Adds Funding for Wildlife Services⁷	Adjusts Funding Sources⁸	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		

¹ 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).

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

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

⁴ Transportation research funding included in the executive budget is removed.

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

⁶ Funding for Johne's disease testing and control for livestock is added.

⁷ 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.

⁸ 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.