

**SENATE BILL NO. 2009**

Introduced by

Appropriations Committee

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

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

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

	<u>Governor's</u>		
	<u>Base Level</u>	<u>Recommendation</u>	<u>Appropriation</u>
18 <del>Salaries and wages</del>	<del>\$15,717,126</del>	<del>\$17,331,419</del>	<del>\$15,717,126</del>
19 <del>Operating expenses</del>	<del>6,848,052</del>	<del>6,800,173</del>	<del>6,848,052</del>
20 <del>Capital assets</del>	<del>15,000</del>	<del>7,000</del>	<del>15,000</del>
21 <del>Grants</del>	<del>9,031,774</del>	<del>10,005,969</del>	<del>9,031,774</del>
22 <del>COVID-19 specialty grants</del>	<del>0</del>	<del>3,500,000</del>	<del>0</del>
23 <del>Bioscience innovation grants</del>	<del>0</del>	<del>5,500,000</del>	<del>0</del>
24 <del>Agricultural products utilization</del>	<del>1,760,417</del>	<del>5,110,417</del>	<del>1,760,417</del>

Sixty-eighth  
Legislative Assembly

1	<del>—commission</del>			
2	<del>North Dakota trade office</del>	<del>1,600,000</del>	<del>2,100,000</del>	<del>1,600,000</del>
3	<del>Board of animal health</del>	<del>865,718</del>	<del>695,218</del>	<del>865,718</del>
4	<del>Wildlife services</del>	<del>1,457,400</del>	<del>1,657,400</del>	<del>1,457,400</del>
5	<del>Pipeline restoration and reclamation</del>	<del>200,000</del>	<del>200,000</del>	<del>200,000</del>
6	<del>—oversight program</del>			
7	<del>Crop harmonization board</del>	<del>75,000</del>	<del>75,000</del>	<del>75,000</del>
8	<del>Total all funds</del>	<del>\$37,570,487</del>	<del>\$52,982,596</del>	<del>\$37,570,487</del>
9	<del>Less estimated income</del>	<del>24,110,775</del>	<del>37,205,188</del>	<del>24,110,775</del>
10	<del>Total general fund</del>	<del>\$13,459,712</del>	<del>\$15,777,408</del>	<del>\$13,459,712</del>
11	<del>Full-time equivalent positions</del>	<del>79.00</del>	<del>81.00</del>	<del>79.00</del>
12			Adjustments or	
13		Base Level	Enhancements	Appropriation
14	Salaries and wages	\$15,717,126	\$1,693,446	\$17,410,572
15	Operating expenses	6,848,052	588,121	7,436,173
16	Capital assets	15,000	(8,000)	7,000
17	Grants	9,031,774	1,922,195	10,953,969
18	Agricultural products utilization	1,760,417	3,350,000	5,110,417
19	<u>commission</u>			
20	North Dakota trade office	1,600,000	500,000	2,100,000
21	Board of animal health	865,718	0	865,718
22	Wildlife services	1,457,400	200,000	1,657,400
23	Pipeline restoration and reclamation	200,000	0	200,000
24	<u>oversight program</u>			
25	Crop harmonization board	75,000	0	75,000
26	Total all funds	\$37,570,487	\$8,245,762	\$45,816,249
27	Less estimated income	24,110,775	6,025,073	30,135,848
28	Total general fund	\$13,459,712	\$2,220,689	\$15,680,401
29	Full-time equivalent positions	79.00	2.00	81.00
30	<b>SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO</b>			
31	<b>SIXTY-NINTH LEGISLATIVE ASSEMBLY.</b> The following amounts reflect the one-time funding			

1 items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the  
2 one-time funding items included in the appropriation in section 1 of this Act:

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

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

23 **SECTION 3. TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND TO**  
24 **BIOSCIENCE INNOVATION FUND - BIOSCIENCE INNOVATION GRANT PROGRAM.** The  
25 office of management and budget shall transfer \$5,500,000 from the strategic investment and  
26 improvements fund to the bioscience innovation grant fund for the purpose of the bioscience  
27 innovation grant program under section 4.1-01-20.1 for the biennium beginning July 1, 2023,  
28 and ending June 30, 2025.

29 **SECTION 4. TRANSFER - LEGACY EARNINGS FUND TO BIOSCIENCE INNOVATION**  
30 **FUND - BIOSCIENCE INNOVATION GRANT PROGRAM.** Pursuant to the designation of  
31 funding for other legislative purposes under subdivision c of subsection 4 of section 21-10-13,

1 the office of management and budget shall transfer \$6,500,000 from the legacy earnings fund to  
2 the bioscience innovation grant fund for the purpose of the bioscience innovation grant program  
3 under section 4.1-01-20.1 for the biennium beginning July 1, 2023, and ending June 30, 2025.

4 **SECTION 5. TRANSFER - ENVIRONMENT AND RANGELAND PROTECTION FUND TO**  
5 **ENVIRONMENTAL IMPACT MITIGATION FUND - MITIGATION OF AGRICULTURAL LAND.**

6 The office of management and budget shall transfer \$250,000 from the environment and  
7 rangeland protection fund to the environmental impact mitigation fund for the purpose of  
8 mitigation of agricultural land under section 4.1-01-21.1 for the biennium beginning July 1, 2023,  
9 and ending June 30, 2025.

10 **SECTION 6. ESTIMATED INCOME - TRANSFER - ~~STATE WATER~~**

11 **~~COMMISSION~~ DEPARTMENT OF WATER RESOURCES.** The estimated income line item in  
12 section 1 of this Act includes the sum of \$125,000 which the ~~state-water commission~~department  
13 of water resources shall transfer to the agriculture commissioner for the purpose of defraying  
14 the expenses of the wildlife services program.

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

19 **SECTION 8. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION**  
20 **FUND.** The estimated income line item in section 1 of this Act includes the sum of  
21 ~~\$6,899,395~~\$7,344,029 from the environment and rangeland protection fund for the purpose of  
22 defraying the expenses of various agriculture commissioner programs.

23 **SECTION 9. ESTIMATED INCOME - GAME AND FISH FUND.** The estimated income line  
24 item in section 1 of this Act includes the sum of ~~\$619,329~~\$648,228 from the game and fish  
25 department operating fund for the purpose of defraying the expenses of various agriculture  
26 commissioner programs.

27 **SECTION 10. ESTIMATED INCOME - TRANSFER - BANK OF NORTH DAKOTA**  
28 **PROFITS - AGRICULTURAL PRODUCTS UTILIZATION COMMISSION.** The estimated  
29 income line item in section 1 of this Act includes the sum of \$3,000,000 which the Bank of North  
30 Dakota shall transfer from the Bank's current earnings and undivided profits to the agriculture  
31 commissioner for deposit in the agricultural products utilization fund for the purpose of defraying

1 the expenses of the agricultural products utilization commission for the biennium beginning  
2 July 1, 2023, and ending June 30, 2025.

3 **SECTION 11. ESTIMATED INCOME - PIPELINE RESTORATION AND-**  
4 **RECLAMATION ABANDONED OIL AND GAS WELL PLUGGING AND SITE RECLAMATION**  
5 **FUND.** The estimated income line item in section 1 of this Act includes the sum of  
6 ~~\$200,000~~\$700,000 from the abandoned oil and gas well plugging and site reclamation fund, of  
7 which \$200,000 is for the purpose of defraying the expenses of the pipeline restoration and  
8 reclamation program and \$500,000 is for the purpose of defraying the expenses of the  
9 post-production royalty oversight program.

10 **SECTION 12. TRADE OFFICE - MATCHING FUND REQUIREMENT.** The North Dakota  
11 trade office line item and the general fund appropriation in section 1 of this Act include  
12 ~~\$1,600,000~~\$2,100,000 of funding related to the North Dakota trade office. The agriculture  
13 commissioner may spend sixty percent of this amount without requiring any matching funds  
14 from the trade office. Any additional amounts may be spent only to the extent the North Dakota  
15 trade office provides one dollar of matching funds from private or other public sources for each  
16 one dollar provided by the agriculture commissioner. Matching funds may include money spent  
17 by businesses or organizations to pay salaries to export assistants, providing training to export  
18 assistants, or to purchase computer equipment as part of the North Dakota trade office's export  
19 assistant program.

20 **SECTION 13. WATERBANK PROGRAM - MATCHING FUNDS.** The salaries and wages  
21 line item in section 1 of this Act includes up to \$50,000 from the general fund for matching funds  
22 for the North Dakota outdoor heritage fund grant provided for the waterbank program.

23 **SECTION 14. AMENDMENT.** Section 4.1-01-02 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **4.1-01-02. Salary of agriculture commissioner.**

26 The annual salary of the agriculture commissioner is one hundred ~~twenty-one~~thirty  
27 thousand ~~five hundred fifty-three~~ dollars through June 30, ~~2022~~2024, and one hundred  
28 ~~twenty-three~~thirty-five thousand ~~nine~~two hundred ~~eighty-four~~ dollars after that date.

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

1 Post-production royalty oversight program.

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

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

11 **4.1-01-21.1. Environmental impact mitigation fund - Report to legislative management**  
12 **- Continuing appropriation.**

- 13 1. There is created in the state treasury the environmental impact mitigation fund. The  
14 fund consists of all moneys deposited in the fund under section 49-22-09.2. All  
15 moneys in the fund are appropriated to the commissioner on a continuing basis for  
16 ~~distribution~~disbursement by the agriculture commissioner ~~to landowners for the~~  
17 ~~mitigation of agricultural land impacted by development as set forth under subsection~~  
18 ~~2~~in accordance with this section.
- 19 2. ~~Funding~~Moneys in the fund may be used only for:
- 20 a. Contracting for consultation with environmental scientists or engineers for  
21 relevant services to implement mitigation required from the impact of  
22 development; and
- 23 b. Reclamation or mitigation of adverse impacts from development.
- 24 3. The commissioner is not subject to chapter 54-44.4 when contracting for services  
25 under this chapter.
- 26 4. The federal environmental law impact review committee shall establish criteria for  
27 disbursement of moneys in the environmental impact ~~fund~~mitigation fund.
- 28 5. The commissioner shall make disbursements of moneys in the environmental impact  
29 mitigation fund based upon the determinations made by the federal environmental law  
30 impact review committee.

- 1       6. For purposes of this section, the federal environmental law impact review committee
- 2       shall hold meetings as the chairman determines necessary at a time and place set by
- 3       the chairman. Upon written request of any four members, the presiding officer shall
- 4       call a special meeting of the committee.
- 5       7. The federal environmental law impact review committee shall make determinations for
- 6       the disbursement of environmental impact mitigation fund grants in accordance with
- 7       subsection 2 and provide those determinations to the commissioner.
- 8       8. The federal environmental law impact review committee shall provide a biennial report
- 9       of environmental impact mitigation fund disbursements to the legislative management.
- 10      9. For purposes of this section, the environmental impact mitigation fund is not subject to
- 11      subsection 2 of section 4.1-01-18.

12      **SECTION 17. AMENDMENT.** Section 49-22-09 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14      **49-22-09. Factors to be considered in evaluating applications and designation of**  
15 **sites, corridors, and routes.**

- 16      1. The commission shall be guided by, but is not limited to, the following considerations,  
17      where applicable, to aid the evaluation and designation of sites, corridors, and routes:
  - 18      a. Available research and investigations relating to the effects of the location,  
19      construction, and operation of the proposed facility on public health and welfare,  
20      natural resources, and the environment.
  - 21      b. The effects of new electric energy conversion and electric transmission  
22      technologies and systems designed to minimize adverse environmental effects.
  - 23      c. The potential for beneficial uses of waste energy from a proposed electric energy  
24      conversion facility.
  - 25      d. Adverse direct and indirect environmental effects that cannot be avoided should  
26      the proposed site or route be designated.
  - 27      e. Alternatives to the proposed site, corridor, or route which are developed during  
28      the hearing process and which minimize adverse effects.
  - 29      f. Irreversible and irretrievable commitments of natural resources should the  
30      proposed site, corridor, or route be designated.
  - 31      g. The direct and indirect economic impacts of the proposed facility.

- 1 h. Existing plans of the state, local government, and private entities for other
- 2 developments at or in the vicinity of the proposed site, corridor, or route.
- 3 i. The effect of the proposed site or route on existing scenic areas, historic sites
- 4 and structures, and paleontological or archaeological sites.
- 5 j. The effect of the proposed site or route on areas unique because of biological
- 6 wealth or because the areas are habitats for rare and endangered species.
- 7 k. Problems raised by federal agencies, other state agencies, and local entities.

8 l. Written comments from the agriculture commissioner.

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

12 **SECTION 18. AMENDMENT.** Section 49-22-09.2 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **49-22-09.2. Mitigating direct or indirect environmental impacts.**

- 15 1. An applicant ~~may elect to~~shall provide payment to mitigate any assessed adverse
- 16 direct or indirect environmental impacts of a proposed site, corridor, route, or facility.
- 17 The applicant ~~may elect to~~shall provide a minimum of fifty percent of the payment to
- 18 the agriculture commissioner.
- 19 2. The agriculture commissioner shall deposit any moneys paid to mitigate the adverse
- 20 environmental impacts of a proposed site, corridor, route, or facility ~~as follows:~~
- 21 ~~a. Fifty percent~~ into the environmental impact mitigation fund; ~~and~~
- 22 ~~b. Fifty percent into the federal environmental law impact review fund.~~

23 **SECTION 19. WILDLIFE SERVICES PROGRAM - INDIRECT COSTS.** The wildlife  
24 services line item in section 1 of this Act includes the sum of \$1,657,400 for the purpose of  
25 defraying the expenses of the wildlife services program during the biennium beginning July 1,  
26 2023, and ending June 30, 2025. The agriculture commissioner may not use funding  
27 appropriated for the program to pay indirect costs as part of the United States department of  
28 agriculture animal and plant health inspection service wildlife services program.

29 **SECTION 20. EXEMPTION - COVID-19 SPECIALTY CROP BLOCK GRANT PROGRAM.**  
30 The amount of \$5,000,000 appropriated from federal funds derived from COVID-19 funds for  
31 the specialty crop block grant program during the 2019-21 biennium in section 1 of chapter 27

1 and continued into the 2021-23 biennium in section 2 of chapter 27 of the 2021 Session Laws is  
2 not subject to section 54-44.1-11 and is available for the program during the biennium beginning  
3 July 1, 2023, and ending June 30, 2025.