

**Agriculture Commissioner
Budget No. 602
House Bill No. 1009; Senate Bill No. 2245**

| | FTE Positions | General Fund | Other Funds | Total |
|--|----------------------|---------------------|---------------------|---------------------|
| 2021-23 legislative appropriations | 79.00 | \$23,959,712 | \$34,510,775 | \$58,470,487 |
| 2021-23 base budget | 78.00 | 10,700,429 | 28,322,406 | 39,022,835 |
| Legislative increase (decrease) to base budget | 1.00 | \$13,259,283 | \$6,188,369 | \$19,447,652 |

ONGOING AND ONE-TIME GENERAL FUND APPROPRIATIONS

| | Ongoing General Fund Appropriation | One-Time General Fund Appropriation | Total General Fund Appropriation |
|---|---|--|---|
| 2021-23 legislative appropriations | \$13,459,712 | \$10,500,000 | \$23,959,712 |
| 2019-21 legislative appropriations | 10,700,429 | 210,000 | 10,910,429 |
| 2021-23 legislative increase (decrease) to 2019-21 appropriations | \$2,759,283 | \$10,290,000 | \$13,049,283 |
| Percentage increase (decrease) to 2019-21 appropriations | 25.8% | 4,900.0% | 119.6% |

**SUMMARY OF LEGISLATIVE CHANGES TO THE BASE BUDGET AND MAJOR FUNDING ITEMS
Changes to Base Budget**

| | FTE Positions | General Fund | Other Funds | Total |
|---|----------------------|---------------------|--------------------|--------------|
| The legislative action: | | | | |
| Added funding to provide employee salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100 and 2.0 percent on July 1, 2022 | | \$189,106 | \$152,531 | \$341,637 |
| Added funding for employee health insurance premiums to reflect a revised premium estimate of \$1,428.77 per month | | 2,146 | 1,603 | 3,749 |
| Added funding for the cost to continue salary increases given to employees in the 2 nd year of the 2019-21 biennium | | 69,207 | 55,860 | 125,067 |
| Added funding to address employee salary compression concerns | | 369,866 | 332,634 | 702,500 |
| Added 1 FTE grain inspector position, of which \$152,670 is for salaries and \$30,729 is for related operating expenses | 1.00 | 183,399 | | 183,399 |
| Added funding to fully fund a previously underfunded FTE meat inspector position, of which \$90,478 is for salaries and \$15,980 is for operating expenses | | 106,458 | | 106,458 |

| | | | |
|--|-----------|-------------|-------------|
| Added funding to reclassify a program coordinator position to an attorney position | 68,279 | | 68,279 |
| Added funding for operating expenses, including \$36,250 from the Agriculture Commissioner's operating fund for the industrial hemp program, \$43,500 from the general fund for public warehouse and grain buyer license costs, and \$120,000 for the North Dakota Mediation Service program | 163,500 | 36,250 | 199,750 |
| Added funding for Microsoft Office 365 license expenses | 7,322 | 1,491 | 8,813 |
| Added federal funding for the specialty crop block grant program to provide total federal funding of \$5,758,000 | | 158,000 | 158,000 |
| Added funding from the environment and rangeland protection fund for noxious weed grants to provide a total of \$1,425,274, of which \$90,000 is from federal funds and \$1,335,274 is from the environment and rangeland protection fund | | 50,000 | 50,000 |
| Removed federal funding relating to the environmental impact mitigation fund. The Agriculture Commissioner has an existing continuing appropriation from the fund to provide grants to political subdivisions for the mitigation of environmental impacts. | | (5,000,000) | (5,000,000) |
| Transferred the North Dakota Trade Office program from the Department of Commerce to the Agriculture Commissioner | 1,600,000 | | 1,600,000 |
| Added one-time funding for a soil health cover crop grant program, of which \$300,000 is from Bank of North Dakota profits and \$400,000 is from federal and special funds the Agriculture Commissioner may receive during the biennium for the program | | 700,000 | 700,000 |
| Added one-time funding from the strategic investment and improvements fund for a grasslands grazing grant program, which requires \$1 of matching funds for every \$4 of state funds | | 5,000,000 | 5,000,000 |
| Added one-time funding from Bank of North Dakota profits for the Agricultural Products Utilization Commission (APUC) | | 2,700,000 | 2,700,000 |
| Added one-time funding for the bioscience innovation grant program | 5,500,000 | | 5,500,000 |
| Added one-time funding to defray the costs associated with federal environmental legislation or regulations which detrimentally impact or potentially detrimentally impact North Dakota | 5,000,000 | | 5,000,000 |

| | | | | |
|---|------|--------------|-------------|--------------|
| Added one-time funding from the federal Coronavirus Capital Projects Fund for an intermodal facility construction grant program (Senate Bill No. 2245) | | | 2,000,000 | 2,000,000 |
| Total | 1.00 | \$13,259,283 | \$6,188,369 | \$19,447,652 |

FTE Changes

The Legislative Assembly approved 79 FTE positions for the Agriculture Commissioner for the 2021-23 biennium, an increase of 1 FTE position from the 2019-21 biennium level of 78 FTE positions. The Legislative Assembly added 1 FTE grain inspector position.

One-Time Funding

The Legislative Assembly approved \$20.9 million of one-time funding for the Agriculture Commissioner for the 2021-23 biennium as follows:

| | General Fund | Other Funds | Total Funds |
|---|--------------|--------------|--------------|
| Soil health cover crop grant program | | \$700,000 | \$700,000 |
| Grasslands grazing grant program (strategic investment and improvements fund) | | 5,000,000 | 5,000,000 |
| APUC (Bank of North Dakota profits) | | 2,700,000 | 2,700,000 |
| Bioscience innovation grant program (Section 3 of House Bill No. 1009) | \$5,500,000 | | 5,500,000 |
| Federal environmental law impact review costs (Section 4 of House Bill No. 1009) | 5,000,000 | | 5,000,000 |
| Intermodal facility construction grant program (federal Coronavirus Capital Projects Fund) (Senate Bill No. 2245) | | 2,000,000 | 2,000,000 |
| Total | \$10,500,000 | \$10,400,000 | \$20,900,000 |

Federal COVID-19 Funding - 2019-21 Biennium

In House Bill No. 1394, the Legislative Assembly appropriated \$5.5 million from federal COVID-19 funds to the Agriculture Commissioner for the 2019-21 biennium, of which \$500,000 is for stress assistance programs to provide behavioral health services to agriculture producers and \$5 million is for specialty crop block grants to enhance the competitiveness of special crops, including fruits, vegetables, tree nuts, dried fruits, and horticulture and nursery crops.

In House Bill No. 1395, the Legislative Assembly appropriated \$13,407,550 of federal coronavirus relief funds to the Agriculture Commissioner for the 2019-21 biennium as follows:

| | Federal Coronavirus Relief Fund - 2019-21 Biennium |
|---|--|
| Meat processor cost-share program for meat processing plants to address increased demand for retail meat products and slaughter of livestock | \$6,199,979 |
| Purchase of database software to gather and organize animal health data to detect, contain, and eradicate outbreaks of dangerous animal diseases | 95,000 |
| Competitive grant program to North Dakota research companies for COVID-19 research | 4,990,802 |
| Grant program to provide organizations with proper storage equipment to store perishable food items | 2,000,000 |
| Grain inspection software upgrades, including automation of grain license software to provide electronic application processing for livestock auction and livestock dealer's licenses | 70,998 |
| Contracted service costs to upgrade local food access and Internet connectivity through local food maps and the department website | 50,771 |
| Total | \$13,407,550 |

Federal COVID-19 Funding - 2021-23 Biennium

In Senate Bill No. 2245, the Legislative Assembly appropriated \$2 million of one-time funding estimated to be received through the federal American Rescue Plan Act from the federal Coronavirus Capital Projects Fund to the Agriculture Commissioner for an intermodal facility construction grant program for capital construction projects that will expand rail capacity to support economic and workforce development and growth and enhance the value of agriculture and commercial products exported through an intermodal facility in North Dakota. Grants may be awarded only to an organization dedicated to the expansion of rail capacity at an existing

intermodal facility in the state connected to and served by a Class I railroad. Grant funds may be used only to pay for capital costs associated with engineering, labor, equipment, and materials related to rail track expansion. The funding may be spent only to the extent the Director of the Office of Management and Budget certifies to the Legislative Management that the use of this funding complies with federal guidelines for the federal Coronavirus Capital Projects Fund.

Environment and Rangeland Protection Fund

The environment and rangeland protection fund was established by the 1991 Legislative Assembly in Senate Bill No. 2451 and enacted as North Dakota Century Code Section 19-18-02.1 then amended and reenacted by the 2017 Legislative Assembly as Section 4.1-39-07 as part of the agriculture law rewrite. The fund contains collections from pesticide registration fees, fertilizer registration, inspection, and tonnage fees, and weed seed free forage fees. Prior to the 2009-11 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. 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. Funding in the environment and rangeland protection fund is utilized for various Agriculture Commissioner programs. Please refer to the **TRUST FUND ANALYSES** section of this report for an analysis of the environment and rangeland protection fund.

Section 8 of House Bill No. 1009 transfers \$325,000 from the environment and rangeland protection fund to the minor use pesticide fund during the 2021-23 biennium.

Section 10 of House Bill No. 1009 identifies \$6,899,395 of funding from the environment and rangeland protection fund for Agriculture Commissioner programs.

Agricultural Products Utilization Commission

In Senate Bill Nos. 2009 and 2328 and House Bill No. 1018, the 2019 Legislative Assembly approved the transfer of the APUC program from the Department of Commerce to the Agriculture Commissioner beginning in the 2019-21 biennium. The following is a summary of recent funding for APUC in the Department of Commerce (2013-15 through 2017-19 bienniums) and Agriculture Commissioner (2019-21 and 2021-23 bienniums):

| Biennium | General Fund | APUC Fund ¹ | Bank of North Dakota Profits | Federal Funds | Total ² |
|---|--------------|------------------------|------------------------------|---------------|--------------------|
| 2013-15 | \$1,202,210 | \$1,738,284 | \$0 | \$300,000 | \$3,240,494 |
| 2015-17 (adjusted) ^{3,4} | 1,022,983 | 2,095,628 | 0 | 0 | 3,118,611 |
| 2017-19 ^{5,6} | 0 | 3,152,915 | 0 | 0 | 3,152,915 |
| 2019-21 ⁷ | | 1,760,417 | 2,000,000 | 0 | 3,760,417 |
| 2021-23 ⁷ | | 1,760,417 | 2,700,000 | 0 | 4,460,417 |
| Increase (decrease) from 2019-21 biennium | \$0 | \$0 | \$700,000 | \$0 | \$700,000 |

¹The 2013 Legislative Assembly renamed the agricultural fuel tax fund the agricultural products utilization fund. Section 19 of Senate Bill No. 2018 (2013) removed the requirement that two cents per gallon of the motor vehicle fuel tax refund for agricultural purposes be deposited in the agricultural products utilization fund. As a result of the change, the remaining funding sources for the agricultural products utilization fund are an annual transfer of 5 percent of the Mill and Elevator Association profits and one-half cent per gallon of the motor vehicle fuel tax refund for industrial purposes.

²These amounts do not include carryover authority.

³The 2015-17 general fund appropriation for APUC reflects a \$200,000 reduction made during the August 2016 special legislative session reductions.

⁴The 2015 Legislative Assembly provided an exemption for APUC in Section 17 of House Bill No. 1018 allowing unexpended funds from the 2013-15 biennium to continue during the 2015-17 biennium.

⁵Of the amount appropriated to the Department of Commerce through the agricultural products utilization fund for the 2017-19 biennium, approximately \$1.3 million is from the Mill and Elevator Association profits and approximately \$1,000 is from motor vehicle fuel tax refunds. The remaining amount is additional special fund spending authority from the agricultural products utilization fund if additional Mill and Elevator Association profits become available.

⁶The 2017 Legislative Assembly provided an exemption for APUC in Section 4 of Senate Bill No. 2018 allowing unexpended funds from the 2015-17 biennium to continue during the 2017-19 biennium.

⁷In addition to the funding provided to the Agriculture Commissioner in the APUC line item, funding for 1 FTE position is included from the general fund in the salaries and wages line item for the APUC program.

North Dakota Trade Office

The North Dakota Trade Office creates global partnerships to expand trade opportunities for North Dakota businesses through advocacy, education, and expertise. In Section 12 of House Bill No. 1009 (2021), the Legislative Assembly identified \$1.6 million appropriated in Section 1 from the general fund for the North Dakota Trade Office, which the Legislative Assembly transferred from the Department of Commerce to the Agriculture Commissioner in Senate Bill No. 2018 (2021).

The following is a summary of funding for the North Dakota Trade Office in the Department of Commerce (2003-05 through 2019-21 bienniums) and Agriculture Commissioner (2021-23 biennium):

| Biennium | General Fund | Other Funds | Total |
|---|--------------|-------------|-----------|
| 2003-05 ¹ | \$75,000 | | \$75,000 |
| 2005-07 ² | | \$700,000 | 700,000 |
| 2007-09 ³ | 1,500,000 | | 1,500,000 |
| 2009-11 ⁴ | 2,064,000 | | 2,064,000 |
| 2011-13 ⁵ | 2,613,400 | | 2,613,400 |
| 2013-15 ⁵ | 2,613,400 | | 2,613,400 |
| 2015-17 (adjusted) ^{5,6} | 2,556,694 | | 2,556,694 |
| 2017-19 ⁷ | 2,000,000 | | 2,000,000 |
| 2019-21 ⁷ | 1,600,000 | | 1,600,000 |
| 2021-23 ⁷ | 1,600,000 | | 1,600,000 |
| Increase (decrease) from 2019-21 biennium | \$0 | \$0 | \$0 |

¹Section 21 of House Bill No. 1019 (2003) required the Department of Commerce to establish a trade promotion authority for promoting North Dakota products and improving international trade for North Dakota products for the 2003-05 biennium. The department was to use \$75,000 from the general fund appropriated in its operating expenses line item for operating costs of the trade authority for the 2003-05 biennium. Section 22 of the bill provided that the department may spend any gifts, grants, or other income received by the authority pursuant to a continuing appropriation for the 2003-05 biennium.

²The 2005 Legislative Assembly provided funding of \$500,000 from the development fund and \$200,000 from the Mill and Elevator Association for costs associated with the North Dakota Trade Office. Matching funds of 50 percent were to be provided before this funding was made available.

³Section 10 of House Bill No. 1018 (2007) provided that the Department of Commerce may spend 50 percent of the funding without requiring any matching funds from the North Dakota Trade Office, and any additional amounts may be spent only to the extent that the North Dakota Trade Office provides \$1 of matching funds from private or other public sources for each \$1 provided by the Department of Commerce. Matching funds may include money spent by businesses or organizations to pay salaries to export assistants, provide training to export assistants, or buy computer equipment as part of the North Dakota Trade Office's export assistance program.

⁴Section 11 of Senate Bill No. 2018 (2009) provides that the Department of Commerce may spend 62.5 percent of the funding without requiring any matching funds from the North Dakota Trade Office, and any additional amounts may be spent only to the extent that the North Dakota Trade Office provides \$1 of matching funds from private or other public sources for each \$1 provided by the Department of Commerce. Matching funds may include money spent by businesses or organizations to pay salaries to export assistants, provide training to export assistants, or buy computer equipment as part of the North Dakota Trade Office's export assistance program.

⁵Section 26 of Senate Bill No. 2057 (2011), Section 31 of Senate Bill No. 2018 (2013), and Section 12 of House Bill No. 1018 (2015), provided the Department of Commerce may spend 70 percent of funding appropriated to the North Dakota Trade Office without requiring matching funds from the North Dakota Trade Office. Additional amounts may be spent only to the extent that the North Dakota Trade Office provides \$1 of matching funds from private or other public sources for each \$1 provided by the department. Matching funds may include money spent by businesses or organizations to pay salaries to export assistants, provide training to export assistants, or buy computer equipment as part of the North Dakota Trade Office's export assistance program.

⁶The 2015-17 biennium appropriation for the North Dakota Trade Office reflects a \$56,706 general fund reduction made as part of the August 2016 special legislative session reductions.

⁷Section 11 of Senate Bill No. 2018 (2017) and Section 9 of House Bill No. 1018 (2019) provided the Department of Commerce and Section 12 of House Bill No. 1009 (2021) provided the Agriculture Commissioner may spend 60 percent of funding appropriated to the North Dakota Trade Office without requiring matching funds from the North Dakota Trade Office. Additional amounts may be spent only to the extent that the North Dakota Trade Office provides \$1 of matching funds from private or other public sources for each \$1 provided by the state. Matching funds may include money spent by businesses or organizations to pay salaries to export assistants, provide training to export assistants, or buy computer equipment as part of the North Dakota Trade Office's export assistance program.

Other Sections in House Bill No. 1009

Bioscience innovation grants - Section 3 includes a \$5.5 million one-time general fund appropriation for transfer to the bioscience innovation grant fund during the 2021-23 biennium. The Agriculture Commissioner has continuing appropriation authority for the bioscience innovation grant fund.

Federal environmental legislation and regulations - Section 4 includes a \$5 million one-time general fund appropriation for transfer to the federal environmental law impact review fund during the 2021-23 biennium. The Agriculture Commissioner is to use the funding for defraying the costs associated with federal environmental legislation or regulations which detrimentally impact or potentially detrimentally impact the state's agricultural, energy, or oil production sectors during the 2021-23 biennium. The Agriculture Commissioner has continuing appropriation authority for the federal environmental law impact review fund.

Agricultural Products Utilization Commission - Section 5 identifies one-time funding of \$2.7 million in the APUC line item from current earnings and undivided profits of the Bank of North Dakota, which must be transferred to the Agriculture Commissioner for deposit in the agricultural products utilization fund for defraying the expenses of the APUC program during the 2021-23 biennium.

Soil health cover crop grant program - Section 6 identifies one-time funding of \$700,000 in the estimated income line item, of which the Bank of North Dakota is required to transfer \$300,000 from its current earnings and undivided profits to the Agriculture Commissioner for deposit in the Agriculture Commissioner's operating fund for defraying the expenses of the soil health cover crop grant program during the 2021-23 biennium. The remaining \$400,000 is from other income derived from federal and special funds the Agriculture Commissioner may receive during the biennium for the program. The Agriculture Commissioner is required to submit an application to the North Dakota Outdoor Heritage Advisory Board for funding from the North Dakota outdoor heritage fund for the program, which the board shall consider pursuant to Section 54-17.8-03. The Agriculture Commissioner is required to establish guidelines for the use of grant funding provided for this program.

State Water Commission funding - Section 7 identifies \$125,000 in the estimated income line item, which the State Water Commission is required to transfer to the Agriculture Commissioner for the Wildlife Services Program for the 2021-23 biennium, the same as the 2019-21 biennium.

Grasslands grazing grant program - Section 9 identifies one-time funding of \$5 million in the estimated income line item from the strategic investment and improvements fund for providing grassland grazing grants to an organization representing cooperative grazing associations in the state. To be eligible for a grant under this program, an organization must provide \$1 of matching funds from nonstate sources for every \$4 of grant funding. An organization that receives a grant under this program may distribute the funding to cooperative grazing associations for eligible infrastructure projects, which must be located on national grasslands within the state. Eligible infrastructure projects include water development; fencing; conservation initiatives; compliance with federal permitting requirements, including fees for professional services; and other projects to enhance wildlife habitat, capture carbon, or increase the health of grasslands. Program participants are required to develop and implement a grazing land plan in compliance with local soil conservation district guidance and the plan must be approved by the local soil conservation district. The Agriculture Commissioner is required to establish additional guidelines for the program.

Game and fish funding - Section 11 identifies \$619,329 from the game and fish operating fund for the State Board of Animal Health (\$119,329) and Wildlife Services Program (\$500,000) for the 2021-23 biennium, an increase of \$4,899 from the 2019-21 biennium.

Salary of the Agriculture Commissioner - Section 13 includes the statutory changes necessary to increase the Agriculture Commissioner's salary. The Agriculture Commissioner's annual salary will increase from the current level of \$119,757 to \$121,553 (1.5 percent) effective July 1, 2021, and to \$123,984 (2 percent) effective July 1, 2022, to reflect salary adjustments consistent with 2021-23 biennium state employee salary increases.

Pipeline restoration and reclamation surface owners and tenants- Section 14 amends Section 4.1-01-17 to exempt the names of surface owners and surface tenants who receive assistance from the pipeline restoration and reclamation program from open records request laws.

Livestock dealers insolvency - Sections 15, 16, and 17 amend Sections 4.1-83-22, 4.1-83-23, and 4.1-83-28, related to livestock dealer insolvency cases being overseen by the Agriculture Commissioner rather than the courts, similar to grain insolvency cases. Section 23 declares these sections to be an emergency measure.

Attorney position authorization - Section 18 amends Section 54-12-08 to add the Agriculture Commissioner to the list of agencies allowed to employ an attorney position.

Pipeline restoration and reclamation funding - Section 19 identifies \$200,000 in the estimated income line item as from the abandoned oil and gas well plugging and site reclamation fund for the pipeline restoration and reclamation program during the 2021-23 biennium, the same as the 2019-21 biennium.

Waterbank program - 2019-21 biennium - Section 20 amends Section 7 of Chapter 34 of the 2019 Session Laws to allow the Agriculture Commissioner to use "up to" \$50,000 of the 2019-21 biennium salaries and wages line item as matching funds for the North Dakota outdoor heritage fund grant for the waterbank program.

Waterbank program - 2021-23 biennium - Section 21 provides that of the amount appropriated in the salary and wages line item in Section 1, the Agriculture Commissioner may use up to \$50,000 from the general fund for matching funds for the North Dakota outdoor heritage fund grant provided for the waterbank program.

Legislative Management study - North Dakota Beef Commission - Section 22 provides for a Legislative Management study of the North Dakota Beef Commission, including its operations and the selection of commission members.

Related Legislation

House Bill No. 1026 - Grain programs - This bill combines state warehouse and facility-based grain buyer licenses and creates a new grain processor and broker license.

House Bill No. 1045 - Industrial hemp - This bill allows the Agriculture Commissioner to charge a fee of up to \$125 to inspect, sample, and test hemp, which must be deposited in the Agriculture Commissioner's operating fund.

House Bill No. 1158 - Mitigation of environmental impacts - This bill requires the Agriculture Commissioner to deposit 50 percent of funding paid to mitigate the adverse environmental impacts of a proposed site, corridor, route, or facility into the environmental impact mitigation fund and the remaining 50 percent in the federal environmental law impact review fund, rather than depositing 100 percent of available funding into the environmental impact mitigation fund.

House Bill No. 1394 - Federal COVID-19 funding - This bill provides a 2019-21 biennium appropriation of \$5.5 million to the Agriculture Commissioner from federal funds received as a result of the COVID-19 pandemic, of which \$500,000 is for COVID-19 stress assistance program operating expenses and \$5 million is for COVID-19 specialty crop block grants. Section 2 of the bill provides an exemption for the Agriculture Commissioner to continue the funding into the 2021-23 biennium.

House Bill No. 1395 - Federal COVID-19 funding - This bill provides a 2019-21 biennium appropriation of \$13,407,550 of federal funding to the Agriculture Commissioner from the state's allocation from the federal Coronavirus Relief Fund for various programs in response to the COVID-19 pandemic.

House Bill No. 1475 - Agriculture diversification and development program - This bill creates an agriculture diversification and development fund, provides the Bank of North Dakota a continuing appropriation from the fund, and provides for a \$10 million transfer from the general fund to the agriculture diversification and development fund. The agriculture diversification and development committee includes the Agriculture Commissioner. Section 3 of the bill provides provisions to authorize APUC access to records of the agriculture diversification and development fund grants program.

Senate Bill No. 2018 - North Dakota Trade Office - Section 10 of this bill adds a new section to Chapter 4.1-01 to establish the North Dakota Trade Office, also known as the International Business and Trade Office, in the Agriculture Commissioner's chapter. Section 13 of the bill repeals Section 54-60-16 related to the North Dakota Trade Office in the Department of Commerce chapter.