

Introduced by

Appropriations Committee

(At the request of the Governor)

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

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

9 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
10 as may be necessary, are appropriated out of any moneys in the general fund in the state  
11 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
12 other income, to the agriculture commissioner for the purpose of defraying the expenses of that  
13 agency, for the biennium beginning July 1, 2011, and ending June 30, 2013, as follows:

	Adjustments or		
	Base Level	Enhancements	Appropriation
14			
15			
16	<del>Salaries and wages</del>	<del>\$8,566,196</del>	<del>\$9,303,178</del>
17	<del>Operating expenses</del>	<del>6,094,603</del>	<del>6,548,199</del>
18	<u>Salaries and wages</u>	<u>\$8,566,196</u>	<u>\$9,384,828</u>
19	<u>Operating expenses</u>	<u>6,094,603</u>	<u>6,368,661</u>
20	Capital assets	5,000	17,000
21	<del>Grants</del>	<del>2,969,825</del>	<del>3,095,828</del>
22	<del>State board of animal health</del>	<del>2,563,325</del>	<del>1,949,052</del>
23	<del>Wildlife services</del>	<del>1,067,400</del>	<del>1,067,400</del>
24	<u>Grants</u>	<u>2,969,825</u>	<u>3,170,828</u>

1	<u>State board of animal health</u>	<u>2,563,325</u>	<u>(414,273)</u>	<u>2,149,052</u>
2	<u>Wildlife services</u>	<u>1,067,400</u>	<u>350,000</u>	<u>1,417,400</u>
3	Crop harmonization board	<u>50,000</u>	<u>0</u>	<u>50,000</u>
4	<del>Total all funds</del>	<del>\$21,316,349</del>	<del>\$714,308</del>	<del>\$22,030,657</del>
5	<del>Less estimated income</del>	<del>14,094,466</del>	<del>(448,543)</del>	<del>13,645,923</del>
6	<del>Total general fund</del>	<del>\$7,221,883</del>	<del>\$1,162,851</del>	<del>\$8,384,734</del>
7	<del>Full-time equivalent positions</del>	<del>74.50</del>	<del>0.00</del>	<del>74.50</del>
8	<u>Total all funds</u>	<u>\$21,316,349</u>	<u>\$1,241,420</u>	<u>\$22,557,769</u>
9	<u>Less estimated income</u>	<u>14,094,466</u>	<u>271,457</u>	<u>14,365,923</u>
10	<u>Total general fund</u>	<u>\$7,221,883</u>	<u>\$969,963</u>	<u>\$8,191,846</u>
11	<u>Full-time equivalent positions</u>	<u>74.50</u>	<u>0.50</u>	<u>75.00</u>

12       **SECTION 2. ONE-TIME FUNDING.** The following amounts reflect the one-time funding  
13 items approved by the sixty-first legislative assembly for the 2009-11 biennium:

14	<u>One-Time Funding Description</u>	<u>2009-11</u>	<u>2011-13</u>
15	Johne's disease	<u>\$245,500</u>	<u>\$0</u>
16	Total general fund	<u>\$245,500</u>	<u>\$0</u>

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

22       **SECTION 4. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION**

23 **FUND.** The estimated income line item in section 1 of this Act includes the sum of  
24 ~~\$4,257,709~~\$4,627,709, or so much of the sum as may be available, from the environment and  
25 rangeland protection fund for the purpose of defraying the expenses of various agriculture  
26 department programs, for the biennium beginning July 1, 2011, and ending June 30, 2013.

27       **SECTION 5. ANHYDROUS AMMONIA STORAGE INSPECTION FUND.** The estimated  
28 income line item in section 1 of this Act includes the sum of \$40,000, or so much of the sum as  
29 may be available, from the anhydrous ammonia storage inspection fund for the purpose of  
30 defraying the expenses of regulating anhydrous ammonia storage facilities, for the biennium  
31 beginning July 1, 2011, and ending June 30, 2013.

1       **SECTION 6. ESTIMATED INCOME - GAME AND FISH FUND.** The estimated income line  
2 item in section 1 of this Act includes the sum of ~~\$968,264~~\$1,068,261, or so much of the sum as  
3 may be necessary, from the game and fish department operating fund for the purpose of  
4 defraying the expenses of various agriculture department programs, for the biennium beginning  
5 July 1, 2011, and ending June 30, 2013.

6       **SECTION 7. AMENDMENT.** Section 4-01-21 of the North Dakota Century Code is amended  
7 and reenacted as follows:

8       **4-01-21. Salary of agriculture commissioner.**

9       The annual salary of the agriculture commissioner is ~~eighty-five~~ninety-two thousand eight  
10 hundred ~~thirty~~twenty-six dollars through June 30, ~~2010~~2012, and ~~ninety~~ninety-five thousand  
11 ~~onesix~~hundred twenty-twoten dollars thereafter.

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

14       **4-01-23. (Effective July 1, 2011) Sustainably grown in North Dakota - Application -**  
15 **Logo - Promotion of commodities.**

- 16       1. The agriculture commissioner ~~shall~~may implement a program to promote agricultural  
17 commodities that are sustainably grown in North Dakota.
- 18       2. If a program referenced in subsection 1 is implemented, the program must require  
19 that a producer may apply to file an application with the commissioner~~and upon~~  
20 demonstrating. If the producer demonstrates that the producer's growing practices  
21 with respect to a particular commodity meet the commissioner's established criteria for  
22 sustainability, the commissioner shall authorize the producer to label and market the  
23 commodity as being sustainably grown in North Dakota.
- 24       3. The commissioner ~~shall~~may develop and make available for the use of authorized  
25 producers a logo indicating that the commodity is sustainably grown in North Dakota.  
26 The commissioner ~~shall~~may actively support and promote the sale and use of  
27 products identified as sustainably grown in North Dakota.
- 28       4. The commissioner may establish and charge producers a fee for participating in the  
29 program. The commissioner shall forward all fees collected under this section to the  
30 state treasurer for deposit in the general fund.

1       5. The agriculture commissioner may engage in research and provide education to  
2       members of the public regarding agricultural commodities that are sustainably grown  
3       in this state.

4       6. For purposes of this section, "sustainably grown" means that a crop is grown using  
5       research-based practices that result in:

- 6       a. Increased efficiencies in soil and nutrient preservation;
- 7       b. Decreased reliance on tillage and other soil-depleting practices;
- 8       c. Increased efficiencies in the use of water;
- 9       d. Increased efficiencies in the use of other necessary and measurable agricultural
- 10       inputs;
- 11       e. Increased yield efficiencies; and
- 12       f. Greater economic benefit to producers.

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

15       2. A domestic winery may sell wine produced by that winery at on sale or off sale, in retail  
16       lots, and not for resale, and may sell or direct ship its wine to persons inside or outside  
17       of the state in a manner consistent with the laws of the place of the sale or delivery in  
18       total quantities not in excess of twenty-five thousand gallons [94625 liters] in a  
19       calendar year; glassware; wine literature and accessories; and cheese, cheese  
20       spreads, and other snack food items. A licensee may dispense free samples of the  
21       wines offered for sale. Subject to local ordinance, sales at on sale and off sale may be  
22       made on Sundays between twelve noon and twelve midnight. The state tax  
23       commissioner may issue special events permits for not more than twenty days per  
24       calendar year to a domestic winery allowing the winery, subject to local ordinance, to  
25       give free samples of its wine and to sell its wine by the glass or in closed containers, at  
26       a designated trade show, convention, festival, or a similar event approved by the state  
27       tax commissioner. In addition, the agriculture commissioner may issue special events  
28       permits to promote the wine industry in this state. A domestic winery may not engage  
29       in any wholesaling activities. All sales and deliveries of wines to any other retail  
30       licensed premises in this state may be made only through a licensed North Dakota  
31       liquor wholesaler. For any month in which a domestic winery has made sales to a

1 North Dakota wholesaler, that domestic winery shall file a report with the state tax  
2 commissioner no later than the last day of each calendar month reporting sales made  
3 during the preceding calendar month. When the last day of the calendar month falls on  
4 a Saturday, Sunday, or legal holiday, the due date is the first working day thereafter.

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

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

1 during the preceding calendar month shall file a report with the tax commissioner  
2 reporting those sales.

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

5 **19-20.1-03. Registration.**

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

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

22 **19-20.1-03.1. License required - Penalty.**

23 A person may not distribute any fertilizer, soil amendment, or plant amendment in this state  
24 without first obtaining a distributor's license from the commissioner. However, a distributor's  
25 license is not required for those distributors selling only specialty fertilizers. A license must be  
26 obtained for each location or mobile mechanical unit used by a distributor in the state. The  
27 application for the license must be submitted on a form furnished by the commissioner and  
28 must be accompanied by a fee of one hundred dollars. A license covers a two-year period  
29 beginning July first and ending June thirtieth of every even-numbered year. License renewal  
30 applications received after July thirty-first may be assessed a penalty fee of twenty dollars.  
31 Licenses are not transferable, and each license must be conspicuously posted at each location

1 and must accompany each mobile mechanical unit operating in the state. The agriculture  
2 commissioner shall forward all fees received under this section to the state treasurer for deposit  
3 in the environment and rangeland protection fund.

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

6 **19-20.1-06. Inspection fees and tonnage reports.**

7 There must be paid to the commissioner for all fertilizers, soil amendments, or plant  
8 amendments distributed in this state an inspection fee at the rate of twenty cents per ton  
9 [907.18 kilograms]. The inspection fee may not be less than ten dollars. Sales to manufacturers  
10 or exchanges between them are exempt from the inspection fee. Fees collected under this  
11 section must be ~~used for the payment of the costs of inspection, sampling, and analysis, and~~  
12 ~~other expenses necessary for the administration of this chapter~~ forwarded to the state treasurer  
13 for deposit in the environment and rangeland protection fund.

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

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

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