

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the agriculture
 2 commissioner; to provide for a transfer; to amend and reenact sections 4.1-01-02 ~~and~~
 3 4.1-01-17, ~~and 54-12-08~~ of the North Dakota Century Code, relating to the salary of the
 4 agriculture commissioner ~~and~~, the pipeline restoration and reclamation oversight program, ~~and~~
 5 the ability of state agencies to employ attorney positions; to amend and reenact section 7 of
 6 chapter 34 of the 2019 Session Laws, relating to the waterbank program; to provide for a report;
 7 and to provide for a legislative management study.

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 the
 13 agriculture commissioner, for the biennium beginning July 1, 2021, and ending June 30, 2023.

	Adjustments or		
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
16 Salaries and wages	\$14,232,746	\$1,487,555	\$15,720,301
17 Operating expenses	6,592,780	255,272	6,848,052
18 Capital assets	15,000	0	15,000
19 Grants	8,823,774	708,000	9,531,774
20 Environmental impact mitigation	5,000,000	(5,000,000)	0
21 Agricultural products utilization	1,760,417	2,700,000	4,460,417
22 —commission			
23 North Dakota trade office	0	1,600,000	1,600,000
24 Board of animal health	865,718	0	865,718

Sixty-seventh
Legislative Assembly

1	Wildlife services	1,457,400	0	1,457,400
2	Pipeline restoration and reclamation	200,000	0	200,000
3	—oversight program			
4	Crop harmonization board	75,000	0	75,000
5	Total all funds	\$39,022,835	\$1,750,827	\$40,773,662
6	Less estimated income	28,322,406	(1,007,568)	27,314,838
7	Total general fund	\$10,700,429	\$2,758,395	\$13,458,824
8	Full-time equivalent positions	78.00	1.00	79.00
9	Salaries and wages	\$14,232,746	\$1,484,380	\$15,717,126
10	Operating expenses	6,592,780	255,272	6,848,052
11	Capital assets	15,000	0	15,000
12	Grants	8,823,774	908,000	9,731,774
13	Environmental impact mitigation	5,000,000	(5,000,000)	0
14	Agricultural products utilization	1,760,417	2,700,000	4,460,417
15	—commission			
16	North Dakota trade office	0	1,600,000	1,600,000
17	Board of animal health	865,718	0	865,718
18	Wildlife services	1,457,400	0	1,457,400
19	Pipeline restoration and reclamation	200,000	0	200,000
20	—oversight program			
21	Crop harmonization board	75,000	0	75,000
22	Total all funds	\$39,022,835	\$1,947,652	\$40,970,487
23	Less estimated income	28,322,406	(811,631)	27,510,775
24	Total general fund	\$10,700,429	\$2,759,283	\$13,459,712
25	Full-time equivalent positions	78.00	1.00	79.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO

SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the one-time funding items included in the appropriation in section 1 of this Act:

One-Time Funding Description	2019-21	2021-23
Master customer database	\$110,000	\$0

1	Grain insolvency litigation	100,000	0
2	Agricultural products utilization commission	2,000,000	2,700,000
3	Soil health grants	0	500,000
4	Total all funds	\$2,210,000	\$3,200,000
5	Less estimated income	2,000,000	3,200,000
6	Total general fund	\$210,000	\$0
7	Soil health grants	0	700,000
8	Total all funds	\$2,210,000	\$3,400,000
9	Less estimated income	2,000,000	3,400,000
10	Total general fund	\$210,000	\$0

11 The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget
 12 for the 2023-25 biennium. The agriculture commissioner shall report to the appropriations
 13 committees of the sixty-eighth legislative assembly on the use of this one-time funding for the
 14 biennium beginning July 1, 2021, and ending June 30, 2023.

15 **SECTION 3. APPROPRIATION - TRANSFER - GENERAL FUND TO BIOSCIENCE**
 16 **INNOVATION GRANT FUND - ONE-TIME FUNDING.** There is appropriated out of any moneys
 17 in the general fund in the state treasury, not otherwise appropriated, the sum of \$5,500,000, or
 18 so much of the sum as may be necessary, which the office of management and budget shall
 19 transfer to the bioscience innovation grant fund for the biennium beginning July 1, 2021, and
 20 ending June 30, 2023. The agriculture commissioner shall use these funds for providing
 21 bioscience innovation grants. This funding is considered a one-time funding item.

22 **SECTION 4. APPROPRIATION - TRANSFER - GENERAL FUND TO FEDERAL**
 23 **ENVIRONMENTAL LAW IMPACT REVIEW FUND - ONE-TIME FUNDING.** There is
 24 appropriated out of any moneys in the general fund in the state treasury, not otherwise
 25 appropriated, the sum of \$5,000,000, or so much of the sum as may be necessary, which the
 26 office of management and budget shall transfer to the federal environmental law impact review
 27 fund for the biennium beginning July 1, 2021, and ending June 30, 2023. The agriculture
 28 commissioner shall use these funds for defraying costs associated with federal environmental
 29 legislation or regulations which detrimentally impact or potentially impact the state's agricultural,
 30 energy, or oil production sectors. This funding is considered a one-time funding item.

1 **SECTION 5. ESTIMATED INCOME - TRANSFER - BANK OF NORTH DAKOTA**

2 **PROFITS - AGRICULTURAL PRODUCTS UTILIZATION COMMISSION - ONE-TIME**

3 **FUNDING.** The estimated income line item in section 1 of this Act includes the sum of
4 \$2,700,000 which the Bank of North Dakota shall transfer from the Bank's current earnings and
5 undivided profits to the agriculture commissioner for deposit in the agricultural products
6 utilization commission fund for defraying the expenses of the agricultural products utilization
7 commission for the biennium beginning July 1, 2021, and ending June 30, 2023. This funding is
8 considered a one-time funding item.

9 **SECTION 6. ESTIMATED INCOME - TRANSFER - BANK OF NORTH DAKOTA**

10 **PROFITS ~~-OUTDOOR HERITAGE FUND~~ ADDITIONAL INCOME - SOIL HEALTH COVER**

11 **CROP GRANT PROGRAM - ONE-TIME FUNDING.** The estimated income line item in
12 section 1 of this Act includes the sum of ~~\$500,000~~ \$700,000, of which the Bank of North Dakota
13 shall transfer \$300,000 from the Bank's current earnings and undivided profits ~~and the industrial~~
14 ~~commission shall transfer \$200,000 from the outdoor heritage fund~~ to the agriculture
15 commissioner for deposit in the agriculture commissioner's operating fund and \$400,000 is from
16 federal or other funds available to the agriculture commissioner for defraying the expenses of
17 the soil health cover crop grant program for the biennium beginning July 1, 2021, and ending
18 June 30, 2023. The agriculture commissioner shall establish guidelines for the use of grant
19 funding provided for this program. This funding is considered a one-time funding item.

20 **SECTION 7. ESTIMATED INCOME - TRANSFER - STATE WATER COMMISSION.** The
21 estimated income line item in section 1 of this Act includes the sum of \$125,000 which the state
22 water commission shall transfer to the agriculture commissioner for the purpose of defraying the
23 expenses of the wildlife services program.

24 **SECTION 8. TRANSFER - ENVIRONMENT AND RANGELAND PROTECTION FUND -**
25 **MINOR USE PESTICIDE FUND.** The agriculture commissioner shall transfer \$325,000 from the
26 environment and rangeland protection fund to the minor use pesticide fund during the biennium
27 beginning July 1, 2021, and ending June 30, 2023.

28 **SECTION 9. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION**
29 **FUND.** The estimated income line item in section 1 of this Act includes the sum of
30 ~~\$6,900,304~~ \$6,899,395 from the environment and rangeland protection fund for the purpose of
31 defraying the expenses of various agriculture commissioner programs.

1 **SECTION 10. ESTIMATED INCOME - GAME AND FISH FUND.** The estimated income line
2 item in section 1 of this Act includes the sum of \$619,329 from the game and fish department
3 operating fund for the purpose of defraying the expenses of various agriculture commissioner
4 programs.

5 **SECTION 11. TRADE OFFICE - MATCHING FUND REQUIREMENT.** The North Dakota
6 trade office line item and the general fund appropriation in section 1 of this Act include
7 \$1,600,000 of funding related to the North Dakota trade office. The agriculture commissioner
8 may spend sixty percent of this amount without requiring any matching funds from the trade
9 office. Any additional amounts may be spent only to the extent the North Dakota trade office
10 provides one dollar of matching funds from private or other public sources for each one dollar
11 provided by the agriculture commissioner. Matching funds may include money spent by
12 businesses or organizations to pay salaries to export assistants, providing training to export
13 assistants, or to purchase computer equipment as part of the North Dakota trade office's export
14 assistant program.

15 **SECTION 12. AMENDMENT.** Section 4.1-01-02 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **4.1-01-02. Salary of agriculture commissioner.**

18 The annual salary of the agriculture commissioner is one hundred ~~sixteen~~twenty-one
19 thousand ~~eight~~five hundred ~~thirty-six~~fifty-three dollars through June 30, ~~2020~~2022, and one
20 hundred ~~nineteen~~twenty-three thousand ~~seven~~threenine hundred
21 ~~fifty-seven~~seventy-sixeighty-four dollars after that date.

22 **SECTION 13. AMENDMENT.** Section 4.1-01-17 of the North Dakota Century Code is
23 amended and reenacted as follows:

24 **4.1-01-17. Pipeline restoration and reclamation oversight ~~pilot~~ program - Generally.**

- 25 1. The commissioner shall establish a ~~pilot~~ program providing technical assistance and
26 support to surface owners and surface tenants on pipeline restoration and followup
27 support to surface owners and surface tenants on pipeline reclamation.
- 28 2. The commissioner may contract for ombudsmen to be a resource for technical
29 assistance and followup on pipeline issues. The ombudsmen may not investigate or
30 assist with any pipeline installed before January 1, 2006, or regulated by the public
31 service commission under title 49, and may not assist in easement negotiations.

1 3. The pilot program may provide technical education, support, and outreach on
2 pipeline-related matters in coordination with other entities.

3 4. The commissioner may contract with local individuals, deemed trustworthy by the
4 surface owners and surface tenants, to be ombudsmen. The commissioner is not
5 subject to the provisions of chapter 54-44.4 when contracting for the services of
6 ombudsmen.

7 5. The names of surface owners and surface tenants who receive assistance under the
8 program are closed records as defined in section 44-04-17.1.

9 **SECTION 14. AMENDMENT.** Section 54-12-08 of the North Dakota Century Code is
10 amended and reenacted as follows:

11 **54-12-08. Assistant and special assistant attorneys general - Appointment -**
12 **Revocation - Compensation.**

- 13 1. After consultation with the head of the state department or institution or with the state
14 board, commission, committee, or agency affected, the attorney general may appoint
15 assistant or special assistant attorneys general to represent the state board,
16 commission, committee, or agency. A state officer, head of any state department,
17 whether elected or appointed, or state department, board, commission, committee, or
18 agency may not employ legal counsel, and no person may act as legal counsel in any
19 matter, action, or proceeding in which the state or any state department, board,
20 commission, committee, or agency is interested or is a party, except upon written
21 appointment by the attorney general. Workforce safety and insurance, the department
22 of transportation, the state tax commissioner, the public service commission, the
23 insurance commissioner, the agriculture commissioner, and the securities
24 commissioner may employ attorneys to represent them. These entities shall pay the
25 salaries and expenses of the attorneys they employ within the limits of legislative
26 appropriations. The attorneys that represent these entities must be special assistant
27 attorneys general appointed by the attorney general pursuant to this section. Absent
28 good cause, the attorney general shall appoint as special assistant attorneys general
29 licensed attorneys selected by these entities. The attorney general may revoke the
30 appointment only for good cause or upon the request of the entity. Good cause means
31 an inadequate level of experience, competence, or ethical standards.

- 1 2. The powers conferred upon special assistant attorneys general are the same as are
2 exercised by the regular assistant attorneys general, unless the powers are limited
3 specifically by the terms of the appointment. Except as otherwise provided by this
4 section, an appointment is revocable at the pleasure of the attorney general. The
5 appointment may be made with or without compensation, and when compensation is
6 allowed by the attorney general for services performed, the compensation must be
7 paid out of the funds appropriated therefor.
- 8 3. The attorney general may require payment for legal services rendered by any
9 assistant or special assistant attorney general to any state official, board, department,
10 agency, or commission and those entities shall make the required payment to the
11 attorney general. Moneys received by the attorney general in payment for legal
12 services rendered must be deposited into the attorney general's operating fund.
13 General fund moneys may not be utilized for the payment of legal services provided by
14 the attorneys employed by the attorney general, except for those payments required of
15 the department of human services, state department of health, department of
16 environmental quality, and the state hospital.
- 17 4. An assistant or special assistant attorney general appointed to represent the state
18 board of higher education or an institution under the control of the state board of
19 higher education may access and examine any record under the control of the state
20 board of higher education. For purposes of reviewing records under the Family
21 Educational Rights and Privacy Act [20 U.S.C. 1232g; 34 CFR 99] or any other federal
22 privacy law, the assistant or special assistant attorney general is considered a state
23 educational official authorized to access student records.

24 **SECTION 15. ESTIMATED INCOME - PIPELINE RESTORATION AND RECLAMATION.**

25 The estimated income line item in section 1 of this Act includes the sum of \$200,000 from the
26 abandoned oil and gas well plugging and site reclamation fund for the purpose of defraying the
27 expenses of the pipeline restoration and reclamation program.

28 **SECTION 16. AMENDMENT.** Section 7 of chapter 34 of the 2019 Session Laws is
29 amended and reenacted as follows:

30 **SECTION 7. WATERBANK PROGRAM - MATCHING FUNDS.** The salaries and
31 wages line item in section 1 of this Act includes up to \$50,000 from the general fund

1 for matching funds for the North Dakota outdoor heritage fund grant provided for the
2 waterbank program.

3 **SECTION 17. WATERBANK PROGRAM - MATCHING FUNDS.** The salaries and wages
4 line item in section 1 of this Act includes up to \$50,000 from the general fund for matching funds
5 for the North Dakota outdoor heritage fund grant provided for the waterbank program.

6 **SECTION 18. LEGISLATIVE MANAGEMENT STUDY - NORTH DAKOTA BEEF**
7 **COMMISSION.** During the 2021-22 interim, the legislative management shall consider studying
8 the North Dakota beef commission, including its operations and the selection of commission
9 members. The legislative management shall report its findings and recommendations, together
10 with any legislation required to implement the recommendations, to the sixty-eighth legislative
11 assembly.