

**Fifty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 9, 2001**

HOUSE BILL NO. 1009
(Appropriations Committee)
(At the request of the Governor)

AN ACT to provide an appropriation for defraying the expenses of the agriculture commissioner; to provide project safe send user fees; and to amend and reenact sections 4-01-21, 19-18-02.1, and 19-18-04 of the North Dakota Century Code and to amend and reenact the new section to chapter 4-35 of the North Dakota Century Code as created by section 3 of House Bill No. 1328, as approved by the fifty-seventh legislative assembly, relating to the salary of the agriculture commissioner, the membership of the crop protection product harmonization and registration board, uses of the environment and rangeland protection fund, and pesticide registration fees.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the agriculture commissioner for the purpose of defraying the expenses of the commissioner of agriculture, for the biennium beginning July 1, 2001, and ending June 30, 2003, as follows:

Salaries and wages	\$3,513,495
Operating expenses	1,338,864
Equipment	30,400
Grants	161,700
Board of animal health	538,614
Ag mediation	1,075,808
Ag in the classroom	96,000
State meat inspection	631,750
Waterbank program	900,000
Pride of Dakota	157,050
Wildlife services	779,694
Safe send	599,369
Noxious weeds	<u>1,346,836</u>
Total all funds	\$11,169,580
Less estimated income	<u>6,798,184</u>
Total general fund appropriation	\$4,371,396

SECTION 2. AMENDMENT. Section 4-01-21 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

4-01-21. Salary of agriculture commissioner. The annual salary of the agriculture commissioner is ~~fifty-eight~~ sixty-six thousand ~~two~~ five hundred ~~sixty-two~~ nine dollars through ~~June 30, 2000~~ December 31, 2001, ~~fifty-nine~~ sixty-eight thousand ~~four~~ five hundred ~~twenty-eight~~ four dollars through ~~December 31, 2000~~ June 30, 2002, and ~~sixty-four~~ sixty-nine thousand ~~five~~ eight hundred ~~sixty-nine~~ seventy-four dollars thereafter.

SECTION 3. AMENDMENT. The new section to chapter 4-35 of the North Dakota Century Code as created by section 3 of House Bill No. 1328, as approved by the fifty-seventh legislative assembly, is amended and reenacted as follows:

Crop protection product harmonization and registration board - Duties - Grants.

1. The crop protection product harmonization and registration board consists of:
 - a. ~~the~~ The governor or the governor's designee; ;
 - b. ~~the~~ The agriculture commissioner; or the commissioner's designee;
 - c. ~~the~~ The chairman of the house agriculture committee; or the chairman's designee;
 - d. ~~the~~ The chairman of the senate agriculture committee; ~~one crop protection product manufacturing industry representative appointed by the chairman of the legislative council, and two consumers~~ or the chairman's designee;
 - e. A member of the house or senate agriculture committee who is not a member of the faction in which the committee chairman is a member, appointed by the legislative council chairman;
 - f. A crop protection product dealer in the state appointed by the governor from a list of three nominees submitted by the North Dakota agricultural association;
 - g. A consumer of crop protection products appointed by the governor from a list of three nominees submitted by the North Dakota grain growers association;
 - h. A consumer of crop protection products appointed by the governor from a list of three nominees submitted by the North Dakota oilseed council;
 - i. A representative of the crop protection product manufacturing industry appointed by the chairman of the legislative council; and
 - j. The director of the North Dakota state university agricultural experiment station.
2. The representative of the crop protection product manufacturing industry and the director of the agricultural experiment station shall serve as nonvoting members. The governor or the governor's designee shall serve as chairman of the board.
3. The board shall:
 - a. Identify and prioritize crop protection product labeling needs;
 - b. Explore the extent of authority given to this state under the federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136a];
 - c. Identify the data necessary to enable registration of a use to occur in a timely manner;
 - d. Determine what research, if any, is necessary to fulfill data requirements for activities listed in this section;
 - e. Request the agriculture commissioner to pursue specific research funding options from public and private sources;
 - f. Request the North Dakota state university agricultural experiment station to pursue specific research to coordinate registration efforts; and
 - g. Pursue any opportunities to make more crop protection product options available to agricultural producers in this state through any means the board determines advisable.
- 2- 4. The board may contract with a consultant to conduct studies or provide research or information regarding crop protection product registration and labeling needs.

- ~~3.~~ 5. The board may administer a grant program through which agriculture commodity groups ~~established under this title~~ may apply for funds to be used by the groups to address issues related to the registration of crop protection products. To be eligible for receipt of a grant, an applicant must submit an application to the board which requests a specific amount of funds, specifies the exact purposes for which the grant would be used, and provides a detailed timetable for the use of the grant funds. The board may impose any additional conditions it determines appropriate for grant recipients, including requiring periodic reports and furnishing of matching funds. The board may terminate funding of a previously approved grant at any time if the board is dissatisfied with the performance of the grant recipient.
- ~~4.~~ 6. The board may use not more than fifteen percent of the funds under its supervision for administrative purposes, including the cost of contracting for administrative services and reimbursement of board member expenses. The members of the board who are members of the legislative assembly are entitled to compensation from the legislative council for attendance at board meetings at the rate provided for members of the legislative assembly for attendance at interim committee meetings and are entitled to reimbursement for expenses incurred in attending the meetings in the amounts provided by law for other state officers.
- ~~5.~~ 7. The board may adopt rules to implement this section.

SECTION 4. AMENDMENT. Section 19-18-02.1 of the North Dakota Century Code is amended and reenacted as follows:

19-18-02.1. Environment and rangeland protection fund. The environment and rangeland protection fund is a special fund in the state treasury. The moneys in this fund may be used for rangeland improvement projects and to address issues relating to harmonization of crop protection product standards. ~~These~~ The rangeland improvement projects may include noxious weed control; ground water testing, analysis, protection, and improvement; analysis of food products for residues of pesticides and other materials; and analysis and disposal of unusable pesticides and pesticide containers.

SECTION 5. AMENDMENT. Section 19-18-04 of the 1999 Supplement to the North Dakota Century Code is amended and reenacted as follows:

19-18-04. (Effective through June 30, ~~2004~~ 2003) Registration - Fees.

1. Any person before selling or offering for sale any pesticide for use within this state shall file biennially with the commissioner an application for registration of the pesticide. The application must:
 - a. Give the name and address of each manufacturer or distributor.
 - b. Give the name and brand of each product registered.
 - c. Be accompanied by a current label of each product so registered.
 - d. Be accompanied by a registration fee of three hundred fifty dollars for each product registered. At the close of each calendar month, the commissioner shall transmit to the state treasurer all moneys received for the registrations. The state treasurer shall credit fifty dollars for each registered product to the general fund in the state treasury and the remainder of the registration fee for each registered product to the environment and rangeland protection fund.
 - e. Be accompanied by a material safety data sheet.
2. The commissioner may require an applicant or registrant to provide efficacy, toxicity, residue, and any other data necessary to determine if the pesticide will perform its

intended function without unreasonable adverse effects on the environment. If the commissioner finds that the application conforms to law, the commissioner shall issue to the applicant a certificate of registration of the product. If after public hearing before the commissioner the application is denied, the product may not be offered for sale.

3. Each registration covers a two-year period beginning January first and expiring December thirty-first of the following year. A certificate of registration may not be issued for a term longer than two years, and is not transferable from one person to another, or from the ownership to whom issued to another ownership, or from one place to another place or location. A penalty of fifty percent of the license or registration fee must be imposed if the license or certificate of registration is not applied for on or before January thirty-first following the expiration date, or within the same month the pesticides are first manufactured or sold within this state. Each product must go through a two-year discontinuance period in order to clear all outstanding products in the channel of trade.
4. This section does not apply to a pesticide sold by a retail dealer if the registration fee has been paid by the manufacturer, jobber, or any other person, as required by this section.

(Effective July 1, 2004 2003) Registration - Fees. Any person before selling or offering for sale any pesticide for use within this state shall file biennially with the commissioner an application for registration of the pesticide. The application must:

1. Give the name and address of each manufacturer or distributor.
2. Give the name and brand of each product registered.
3. Be accompanied by a current label of each product so registered.
4. Be accompanied by a registration fee of three hundred dollars for each product registered. At the close of each calendar month, the commissioner shall transmit to the state treasurer all moneys received for the registrations. The state treasurer shall credit fifty dollars for each registered product to the general fund in the state treasury and the remainder of the registration fee for each registered product to the environment and rangeland protection fund.
5. Be accompanied by a material safety data sheet.

The commissioner may require an applicant or registrant to provide efficacy, toxicity, residue, and any other data necessary to determine if the pesticide will perform its intended function without unreasonable adverse effects on the environment. If the commissioner finds that the application conforms to law, the commissioner shall issue to the applicant a certificate of registration of the product. If after public hearing before the commissioner the application is denied, the product may not be offered for sale.

Each registration covers a two-year period beginning January first and expiring December thirty-first of the following year. A certificate of registration may not be issued for a term longer than two years, and is not transferable from one person to another, or from the ownership to whom issued to another ownership, or from one place to another place or location. A penalty of fifty percent of the license or registration fee must be imposed if the license or certificate of registration is not applied for on or before January thirty-first following the expiration date, or within the same month the pesticides are first manufactured or sold within this state. Each product must go through a two-year discontinuance period in order to clear all outstanding products in the channel of trade.

This section does not apply to a pesticide sold by a retail dealer if the registration fee has been paid by the manufacturer, jobber, or any other person, as required by this section.

SECTION 6. ESTIMATED INCOME - ENVIRONMENT AND RANGELAND PROTECTION FUND. The estimated income line item in section 1 of this Act includes the sum of \$2,341,815, or so

much of the sum as may be necessary, from the environment and rangeland protection fund for the purpose of defraying the expenses of various agriculture department programs, for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 7. ESTIMATED INCOME - ANHYDROUS AMMONIA STORAGE INSPECTION FUND. The estimated income line item in section 1 of this Act includes the sum of \$139,775, or so much of the sum as may be necessary, from the anhydrous ammonia storage inspection fund for the purpose of defraying the expenses of regulating anhydrous ammonia storage facilities, for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 8. ESTIMATED INCOME - GAME AND FISH FUND. The estimated income line item in section 1 of this Act includes the sum of \$668,000, or so much of the sum as may be necessary, from the game and fish department operating fund for the purpose of defraying the expenses of various agriculture department programs for the biennium beginning July 1, 2001, and ending June 30, 2003.

SECTION 9. SAFE SEND PESTICIDE AND PESTICIDE CONTAINER COLLECTION - USER FEES. The agriculture commissioner, in consultation with the advisory board for the safe send pesticide and pesticide container disposal program, shall charge a fee for collection of rinsate during the biennium beginning July 1, 2001, and ending June 30, 2003. The fees must be established at a level that will generate enough revenues to cover the cost of disposal associated with the rinsate collected for the biennium beginning July 1, 2001, and ending June 30, 2003. Collections from this fee must be deposited in the environment and rangeland protection fund.

SECTION 10. SAFE SEND PESTICIDE AND PESTICIDE CONTAINER COLLECTION - RECYCLING. The agriculture commissioner, in consultation with the advisory board for the safe send pesticide and pesticide container disposal program, shall research the potential of recycling select products collected during the biennium beginning July 1, 2001, and ending June 30, 2003.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Fifty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1009.

House Vote: Yeas 77 Nays 20 Absent 1

Senate Vote: Yeas 41 Nays 7 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2001.

Approved at _____ M. on _____, 2001.

Governor

Filed in this office this _____ day of _____, 2001,

at _____ o'clock _____ M.

Secretary of State