

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1009

That the Senate recede from its amendments as printed on pages 1454-1457 of the House Journal and pages 1164-1167 of the Senate Journal and that Engrossed House Bill No. 1009 be amended as follows:

Page 1, line 2, replace the second "and" with a comma

Page 1, line 2, after "4.1-01-17" insert ", 4.1-83-22, 4.1-83-23, 4.1-83-28, and 54-12-08"

Page 1, line 3, after "Code" insert "and section 7 of chapter 34 of the 2019 Session Laws"

Page 1, line 3, replace "and" with a comma

Page 1, line 4, after "program" insert ", insolvency of livestock dealers, the ability of state agencies to employ attorney positions, and the waterbank program"

Page 1, line 4, remove "to amend and reenact section 7 of"

Page 1, line 5, remove " chapter 34 of the 2019 Session Laws, relating to the waterbank program;"

Page 1, line 6, remove "and"

Page 1, line 6, after "study" insert "; and to declare an emergency"

Page 1, remove lines 15 through 24

Page 2, replace lines 1 through 7 with:

"Salaries and wages	\$14,232,746	\$1,484,380	\$15,717,126
Operating expenses	6,592,780	255,272	6,848,052
Capital assets	15,000	0	15,000
Grants	8,823,774	5,908,000	14,731,774
Environmental impact mitigation	5,000,000	(5,000,000)	0
Agricultural products utilization commission	1,760,417	2,700,000	4,460,417
North Dakota trade office	0	1,600,000	1,600,000
Board of animal health	865,718	0	865,718
Wildlife services	1,457,400	0	1,457,400
Pipeline restoration and reclamation oversight program	200,000	0	200,000
Crop harmonization board	<u>75,000</u>	<u>0</u>	<u>75,000</u>
Total all funds	\$39,022,835	\$6,947,652	\$45,970,487
Less estimated income	<u>28,322,406</u>	<u>4,188,369</u>	<u>32,510,775</u>
Total general fund	\$10,700,429	\$2,759,283	\$13,459,712
Full-time equivalent positions	78.00	1.00	79.00"

Page 2, replace lines 16 through 19 with:

"Soil health grants	0	700,000
Grasslands grazing grants	<u>0</u>	<u>5,000,000</u>
Total all funds	\$2,210,000	\$8,400,000

Less estimated income	<u>2,000,000</u>	<u>8,400,000</u>
Total general fund	\$210,000	\$0"

Page 3, line 19, replace "- **OUTDOOR HERITAGE FUND**" with "**ADDITIONAL INCOME**"

Page 3, line 21, replace "\$500,000" with "\$700,000"

Page 3, line 22, remove "and the industrial commission shall transfer"

Page 3, line 23, remove "\$200,000 from the outdoor heritage fund"

Page 3, line 24, after "fund" insert "and \$400,000 is from federal or other funds available to the agriculture commissioner"

Page 3, line 25, after the period insert "During the 2021-23 biennium, the agriculture commissioner shall submit an application to the North Dakota outdoor heritage advisory board for funding from the outdoor heritage fund for the soil health cover crop grant program, which the North Dakota outdoor heritage advisory board shall consider pursuant to section 54-17.8-03."

Page 4, after line 4, insert:

**"SECTION 9. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND - GRASSLANDS GRAZING GRANT PROGRAM - ONE-TIME FUNDING - MATCHING FUNDS.** The estimated income line item in section 1 of this Act includes the sum of \$5,000,000 from the strategic investment and improvements fund for the purpose of 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 one dollar of matching funds from nonstate sources for every four dollars 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 shall 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 shall establish additional guidelines for the program."

Page 4, line 6, replace "\$6,900,301" with "\$6,899,395"

Page 4, line 28, replace "three" with "nine"

Page 4, line 28, replace "seventy-six" with "eighty-four"

Page 5, after line 16, insert:

**"SECTION 15. AMENDMENT.** Section 4.1-83-22 of the North Dakota Century Code is amended and reenacted as follows:

**4.1-83-22. Appointment of trustee.**

1. Upon the insolvency of a livestock dealer, the agriculture commissioner may apply to the district court of the county in which the dealer maintains its principal place of business for appointment as the trustee.

2. ~~Upon notice to the livestock dealer, as the court shall prescribe but not exceeding ten days, or upon a written waiver of notice by the dealer, the court shall hear and make a determination regarding the application in a summary manner.~~
3. ~~If the court determines that the livestock dealer is insolvent within the meaning of this chapter and that it would be in the best interest of persons holding claims against the dealer for the purchase price of livestock sold to the dealer or to the dealer's agent that the agriculture commissioner execute the trust, the court shall issue an order appointing the commissioner as the trustee, without bond.~~
4. ~~Upon being appointed as the trustee shall provide notice to the livestock dealer and may immediately suspend, close, or take control of assets held in the trust fund pursuant to section 4.1-83-21, or take any combination of these actions as the agriculture commissioner deems necessary to begin orderly liquidation of trust fund assets as set forth in this chapter.~~
2. Upon establishing the trust fund, the agriculture commissioner shall perform the duties of a trustee as set forth in this chapter.

**SECTION 16. AMENDMENT.** Section 4.1-83-23 of the North Dakota Century Code is amended and reenacted as follows:

**4.1-83-23. Possession of records and property - Notice to file claims.**

1. a. ~~Upon being appointed trustee~~establishing the trust fund, the agriculture commissioner shall take possession of all accounts and records pertaining to the livestock dealer's business. After reviewing the records, the agriculture commissioner may return to the dealer any records that are not necessary to the settlement of claims under this chapter.
- b. ~~Upon being appointed trustee~~establishing the trust fund, the agriculture commissioner shall take possession of all livestock purchased by the dealer under the dealer's license and remaining in the dealer's possession.
2. The agriculture commissioner, as trustee, shall publish a notice once each week for three consecutive weeks in the official newspaper of each county in which the livestock dealer was conducting business, directing any person having a claim against the dealer to file the claim and all supporting documentation with the commissioner no later than forty-five days from the last date of publication. Any person failing to meet the filing requirements set forth in the notice is barred from participating in any funds marshalled by the agriculture commissioner under this chapter.

**SECTION 17. AMENDMENT.** Section 4.1-83-28 of the North Dakota Century Code is amended and reenacted as follows:

**4.1-83-28. Report of amounts payable - Distribution of trust fund.**

1. Upon recovery of the trust fund, or so much of the fund as is recoverable or necessary to pay the outstanding claims, the agriculture commissioner shall file with the court ~~claimants~~ a report showing the amount payable on

each claim, after recognition of all proper liens, pledges, assignments, and deductions.

2. If the trust fund is insufficient to pay all claims in full, the agriculture commissioner shall prorate the fund among the claimants.
3. ~~The court shall notify the claimants by mail regarding the proposed distribution and direct that the claimants show cause why the report and distribution should not be approved.~~
4. After holding a hearing on the matter, the ~~court~~agriculture commissioner shall:
  - a. Approve or modify the report; and
  - b. Issue an order directing that the trust fund be distributed; ~~and~~
  - c. ~~Discharge the agriculture commissioner from all duties as trustee.~~

**SECTION 18. AMENDMENT.** Section 54-12-08 of the North Dakota Century Code is amended and reenacted as follows:

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

1. After consultation with the head of the state department or institution or with the state board, commission, committee, or agency affected, the attorney general may appoint assistant or special assistant attorneys general to represent the state board, commission, committee, or agency. A state officer, head of any state department, whether elected or appointed, or state department, board, commission, committee, or agency may not employ legal counsel, and no person may act as legal counsel in any matter, action, or proceeding in which the state or any state department, board, commission, committee, or agency is interested or is a party, except upon written appointment by the attorney general. Workforce safety and insurance, the department of transportation, the state tax commissioner, the public service commission, the insurance commissioner, the agriculture commissioner, and the securities commissioner may employ attorneys to represent them. These entities shall pay the salaries and expenses of the attorneys they employ within the limits of legislative appropriations. The attorneys that represent these entities must be special assistant attorneys general appointed by the attorney general pursuant to this section. Absent good cause, the attorney general shall appoint as special assistant attorneys general licensed attorneys selected by these entities. The attorney general may revoke the appointment only for good cause or upon the request of the entity. Good cause means an inadequate level of experience, competence, or ethical standards.
2. The powers conferred upon special assistant attorneys general are the same as are exercised by the regular assistant attorneys general, unless the powers are limited specifically by the terms of the appointment. Except as otherwise provided by this section, an appointment is revocable at the pleasure of the attorney general. The appointment may be made with or without compensation, and when compensation is allowed by the attorney

general for services performed, the compensation must be paid out of the funds appropriated therefor.

3. The attorney general may require payment for legal services rendered by any assistant or special assistant attorney general to any state official, board, department, agency, or commission and those entities shall make the required payment to the attorney general. Moneys received by the attorney general in payment for legal services rendered must be deposited into the attorney general's operating fund. General fund moneys may not be utilized for the payment of legal services provided by the attorneys employed by the attorney general, except for those payments required of the department of human services, state department of health, department of environmental quality, and the state hospital.
4. An assistant or special assistant attorney general appointed to represent the state board of higher education or an institution under the control of the state board of higher education may access and examine any record under the control of the state board of higher education. For purposes of reviewing records under the Family Educational Rights and Privacy Act [20 U.S.C. 1232g; 34 CFR 99] or any other federal privacy law, the assistant or special assistant attorney general is considered a state educational official authorized to access student records."

Page 6, after line 4, insert:

**"SECTION 23. EMERGENCY.** Sections 15, 16, and 17 of this Act are declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1009 - Department of Agriculture - Conference Committee Action**

	Base Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$14,232,746	\$15,720,301	(\$3,175)	\$15,717,126	\$15,717,126	
Operating expenses	6,592,780	6,848,052		6,848,052	6,848,052	
Capital assets	15,000	15,000		15,000	15,000	
Grants	8,823,774	9,531,774	5,200,000	14,731,774	9,731,774	\$5,000,000
State Board of Animal Health	865,718	865,718		865,718	865,718	
Wildlife services	1,457,400	1,457,400		1,457,400	1,457,400	
Crop Harmonization Board	75,000	75,000		75,000	75,000	
Pipeline restoration and reclamation	200,000	200,000		200,000	200,000	
Ag. Products Utilization Commission	1,760,417	4,460,417		4,460,417	4,460,417	
Mitigation of environmental impacts	5,000,000					
Bioscience innovation grants		5,500,000		5,500,000	5,500,000	
Environmental law impact review		5,000,000		5,000,000	5,000,000	
North Dakota trade office		1,600,000		1,600,000	1,600,000	
<b>Total all funds</b>	<b>\$39,022,835</b>	<b>\$51,273,662</b>	<b>\$5,196,825</b>	<b>\$56,470,487</b>	<b>\$51,470,487</b>	<b>\$5,000,000</b>
Less estimated income	28,322,406	27,314,838	5,195,937	32,510,775	27,510,775	5,000,000
General fund	\$10,700,429	\$23,958,824	\$888	\$23,959,712	\$23,959,712	\$0
FTE	78.00	79.00	0.00	79.00	79.00	0.00

**Department 602 - Department of Agriculture - Detail of Conference Committee Changes**

	Adjusts Funding for Salary and Benefit Increases <sup>1</sup>	Adjusts One- Time Funding for a Soil Health Grant Program <sup>2</sup>	Adds One- Time Funding for Grassland Grazing Grants <sup>3</sup>	Total Conference Committee Changes
Salaries and wages	(\$3,175)			(\$3,175)
Operating expenses				
Capital assets				
Grants		\$200,000	\$5,000,000	5,200,000
State Board of Animal Health				
Wildlife services				
Crop Harmonization Board				
Pipeline restoration and reclamation				
Ag. Products Utilization Commission				
Mitigation of environmental impacts				
Bioscience innovation grants				
Environmental law impact review				
North Dakota trade office				
<b>Total all funds</b>	<b>(\$3,175)</b>	<b>\$200,000</b>	<b>\$5,000,000</b>	<b>\$5,196,825</b>
Less estimated income	(4,063)	200,000	5,000,000	5,195,937
General fund	\$888	\$0	\$0	\$888
FTE	0.00	0.00	0.00	0.00

<sup>1</sup> Salaries and wages funding is adjusted for 2021-23 biennium salary increases of 1.5 percent on July 1, 2021, with a minimum monthly increase of \$100 and 2 percent on July 1, 2022, the same as provided by the Senate. The House provided salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250.

<sup>2</sup> One-time funding is increased by \$200,000 for a soil health cover crop grant program to provide a total of \$700,000 for the program, of which \$300,000 is from Bank of North Dakota profits and \$400,000 is from other funds derived from federal and special funds the Agriculture Commissioner may receive during the biennium for the program, the same as provided by the Senate. The House approved a total of \$500,000 for the program, of which \$300,000 was from Bank profits and \$200,000 was from the outdoor heritage fund.

<sup>3</sup> One-time funding of \$5 million is added from the strategic investment and improvements fund for the purpose of providing grassland grazing grants to an organization representing cooperative grazing associations in the state. A separate section is added to the bill to provide eligibility requirements for the funding, including requiring successful applicants to provide \$1 of matching funds from nonstate sources for every \$4 of grant funding.

This amendment also:

- Amends a section to require the Agriculture Commissioner to submit an application to the North Dakota Outdoor Heritage Advisory Board for funding from the outdoor heritage fund for the soil health cover crop grant program, which the North Dakota Outdoor Heritage Advisory Board shall consider pursuant to North Dakota Century Code Section 54-17.8-03. This requirement was not included in the Senate version.
- Amends a section related to the Agriculture Commissioner's salary provided for in statute to reflect salary increases of 1.5 percent and 2 percent approved for the 2021-23 biennium, the same as provided by the Senate.
- Adds three sections to 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. These sections are declared emergency measures. These sections were not included in the Senate or House versions.
- Adds a section to amend Section 54-12-08 to add the Agriculture Commissioner to the list of agencies allowed to employ an attorney position. The Senate included this section.