

## **CHAPTER 4.1-01 AGRICULTURE COMMISSIONER**

### **4.1-01-01. Definitions.**

As used in this title, unless otherwise provided:

1. "Commissioner" means the agriculture commissioner or the designee or authorized representative of the commissioner.
2. "Department" means the North Dakota department of agriculture.

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

The annual salary of the agriculture commissioner is one hundred sixteen thousand eight hundred thirty-six dollars through June 30, 2020, and one hundred nineteen thousand seven hundred fifty-seven dollars after that date.

### **4.1-01-03. Compelling attendance of witnesses and production of books and papers.**

The commissioner may compel the attendance of persons at hearings before the commissioner, and the production of books and papers. The commissioner may examine witnesses under oath and may administer oaths. The commissioner's office must file and preserve any testimony taken by the commissioner.

### **4.1-01-04. Exhibits at fairs.**

The commissioner shall have charge of the exhibits of products or resources of the state which are shown at any fair or exposition in the United States. The commissioner shall cooperate with any railroad company doing business in the state, and with any person interested in securing an exhibit at any fair or exposition in the United States.

### **4.1-01-05. Cooperation with federal agencies in destruction of predatory animals, destructive birds, and injurious field rodents.**

1. The commissioner may cooperate with the United States department of agriculture, animal and plant health inspection service, or other appropriate federal agency, in the control and destruction of:
  - a. Fur-bearers and field rodents that are injurious to:
    - (1) Livestock;
    - (2) Poultry; or
    - (3) Big and small game.
  - b. Big game threatening human health or domestic livestock; and
  - c. Birds causing crop damage or substantial economic loss or threatening human health.
2. The control and destruction of animals must be approved by the director of the game and fish department. The commissioner may enter written agreements with the animal and plant health inspection service or other appropriate federal agency, and the director of the game and fish department to determine:
  - a. The methods and procedures for the control and destruction of the birds and animals;
  - b. The extent of supervision required by the commissioner and the animal and plant health inspection service or other appropriate federal agency; and
  - c. The use and expenditure of the funds appropriated by the legislative assembly for the control and destruction of the animals.
3. The commissioner, in cooperation with the animal and plant health inspection service or other appropriate federal agency, may enter agreements with other governmental agencies and with counties, associations, corporations, limited liability companies, or individuals for control and destruction of birds and animals under this section.

**4.1-01-06. Expenditures authorized - Who to approve vouchers - Qualifications of hunters and trappers hired - When bounties not payable.**

The commissioner may authorize expenditures from funds available for equipment, supplies, and other expenses, including expenditures for personal services of hunters and trappers, as may be necessary to execute the functions of the commissioner under section 4.1-01-05. Hunters and trappers employed under section 4.1-01-05 must be state residents. Hunters and trappers employed under section 4.1-01-05 are not entitled to bounty provided by state laws for the killing or extermination of birds and animals under that section. All vouchers for expenditures made by the commissioner under this section must be approved by the duly authorized agent of the animal and plant health inspection service or other appropriate federal agency.

**4.1-01-07. Disposition of proceeds of furs, skins, and specimens taken.**

All furs, skins, and specimens taken by hunters and trappers paid out of funds appropriated to carry out section 4.1-01-05 must be disposed of in a manner the commissioner determines is in the best interest of the state. If furs, skins, or specimens are sold, the net proceeds of the sales, up to fifteen thousand dollars per biennium, must be used by the United States department of agriculture wildlife services to fund program activities benefiting the state's livestock producers.

**4.1-01-08. Marketing bureau.**

The commissioner shall establish and maintain a marketing bureau to gather and disseminate statistical information on any agricultural marketing problems of the state and to engage in marketing services of agricultural products. Any moneys received or generated by the pride of Dakota program must be deposited in the agriculture department operating fund in the state treasury.

**4.1-01-09. Certified beef program.**

The commissioner may collaborate with the state board of animal health, the North Dakota stockmen's association, North Dakota state university beef systems, and the United States secretary of agriculture to develop a source-verified and process-verified beef marketing program known as the certified beef program.

**4.1-01-10. Sustainably grown in North Dakota - Application - Logo - Promotion of commodities.**

1. The commissioner may implement a program to promote agricultural commodities sustainably grown in North Dakota.
2. If a program under subsection 1 is implemented, the program must require a producer to file an application with the commissioner. If a producer demonstrates the producer's growing practices with respect to a particular commodity meet the commissioner's established criteria for sustainability, the commissioner shall authorize the producer to label and market the commodity as being sustainably grown in North Dakota.
3. The commissioner may develop, and make available for use by authorized producers, a logo indicating the commodity is sustainably grown in North Dakota. The commissioner may actively support and promote the sale and use of products identified as sustainably grown in North Dakota.
4. The commissioner may establish and charge producers a fee for participating in the program. The commissioner shall forward all fees collected under this section to the state treasurer for deposit in the general fund.
5. The commissioner may engage in research and educate members of the public regarding agricultural commodities that are sustainably grown in this state.
6. For purposes of this section, "sustainably grown" means a crop grown using research-based practices resulting in:
  - a. Increased efficiencies in soil and nutrient preservation;
  - b. Decreased reliance on tillage and other soil-depleting practices;

- c. Increased efficiencies in the use of water;
- d. Increased efficiencies in the use of other necessary and measurable agricultural inputs;
- e. Increased yield efficiencies; and
- f. Greater economic benefit to producers.

**4.1-01-11. Advisory committee on sustainable agriculture - Creation - Duties - Powers - Compensation - Report to legislative management - Continuing appropriation.**

1. The commissioner shall appoint an advisory committee on sustainable agriculture.
  - a. The committee must include:
    - (1) The chairman of the house agriculture committee or the chairman's designee;
    - (2) The chairman of the senate agriculture committee or the chairman's designee;
    - (3) The commissioner of the department of commerce or the commissioner's designee;
    - (4) The director of the North Dakota state university agricultural experiment station;
    - (5) An agricultural producer who utilizes innovative research-based technologies in farming operations;
    - (6) A representative of an international agricultural corporation; and
    - (7) An individual specializing in the domestic and international marketing of agricultural products.
  - b. If both houses of the legislative assembly are controlled by the same party, the committee also must include one member of the legislative assembly from the minority party, appointed by the chairman of the legislative management.
2. The committee shall:
  - a. Examine sustainability with respect to conventional farming practices and modern technology-based production practices;
  - b. Examine production practices that are efficient and able to meet current and future global food and nutritional needs;
  - c. Examine production practices that promote increased efficiencies in resource use, improve human health through access to safe and nutritious food, and enhance economic opportunities for individual producers;
  - d. Explore metric evaluations to measure the attainment, maintenance, and certification of sustainability;
  - e. Advise the commissioner regarding the development of a sustainability certification program and the marketing and packaging of products containing the certification;
  - f. Explore the standards held by international private sector certifying groups which have the potential to increase sales of North Dakota products; and
  - g. Report to the legislative management on the status of committee activities.
3. The committee may accept gifts, grants, and donations of money, property, and services. All moneys received as gifts, grants, or donations are appropriated on a continuing basis to the commissioner for the purpose of carrying out this section.
4. Each legislative member of the committee is entitled to receive per diem compensation in the amount established by subsection 1 of section 54-03-20 plus reimbursement for expenses as provided by law for state officers if the member is attending meetings or performing duties directed by the committee.

**4.1-01-12. Commodity groups - Agriculture commissioner - Meetings.**

1. The commissioner may participate, as a nonvoting member, in any regular or special meeting of a commodity group, including any executive session held by a commodity group.

2. Annually, the commissioner shall call a meeting of representatives from each commodity group to engage in collaborative efforts to promote and market agricultural commodities.
3. For purposes of this section, "commodity group" means the:
  - a. North Dakota barley council;
  - b. North Dakota beef commission;
  - c. North Dakota beekeepers association;
  - d. North Dakota corn utilization council;
  - e. North Dakota dairy promotion commission;
  - f. North Dakota dry bean council;
  - g. North Dakota dry pea and lentil council;
  - h. North Dakota oilseed council;
  - i. North Dakota potato council;
  - j. North Dakota soybean council;
  - k. North Dakota turkey federation; and
  - l. North Dakota wheat commission.

**4.1-01-13. Publicly owned land - Noxious weed control or eradication.**

1. The commissioner shall arrange a noxious weed control or eradication program with all state and federal agencies owning, controlling, or having jurisdiction over land within the state.
2. Each weed control officer shall arrange a noxious weed control or eradication program with political subdivisions owning or controlling public land within the weed control officer's jurisdiction.
3. If a federal agency does not control or eradicate noxious weeds on land under its jurisdiction and does not develop a management plan for controlling or eradicating the noxious weeds, the appropriate weed control office shall notify the agency of the failure to control or eradicate the noxious weeds. The federal agency shall provide a report to the weed control authorities detailing the methods used by the federal agency and showing cause why the federal agency is not controlling or eradicating the noxious weeds. The commissioner may specify the forms on which the federal agency report must be submitted.
4. Upon being notified by a weed board of the federal agency's failure to control or eradicate noxious weeds, the commissioner may hold a public hearing to determine the reason for the failure.

**4.1-01-14. Equine slaughter - Establishments.**

The commissioner shall monitor federal statutory and regulatory actions related to the slaughter of horses, mules, and other equines, and in particular, actions pertaining to the establishments in which the slaughter and preparation of the carcasses may take place. The commissioner may pursue or support federal legislative, regulatory, or contractual avenues allowing for the slaughter and processing of horses, mules, and other equines in this state, without the restriction that the slaughter or product preparation be conducted in establishments separate from any in which cattle, sheep, swine, or goats are slaughtered or their products are prepared.

**4.1-01-15. Agricultural wetland credits - Database.**

The commissioner shall create and maintain an electronic database of wetland credits available for purchase by an agricultural landowner.

**4.1-01-16. Grape and wine advisory committee - Membership.**

The commissioner shall appoint a grape and wine advisory committee. The committee must include:

1. Two individuals who are grape producers;
2. One individual who is the producer of a fruit, other than grapes, used in vinification;

3. Two individuals who own wineries located in this state; and
4. One representative of the North Dakota grape and wine association.

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

1. The commissioner shall establish a pilot program providing technical assistance and support to surface owners and surface tenants on pipeline restoration and followup support to surface owners and surface tenants on pipeline reclamation.
2. The commissioner may contract for ombudsmen to be a resource for technical assistance and followup on pipeline issues. The ombudsmen may not investigate or assist with any pipeline installed before January 1, 2006, or regulated by the public service commission under title 49, and may not assist in easement negotiations.
3. The pilot program may provide technical education, support, and outreach on pipeline-related matters in coordination with other entities.
4. The commissioner may contract with local individuals, deemed trustworthy by the surface owners and surface tenants, to be ombudsmen. The commissioner is not subject to the provisions of chapter 54-44.4 when contracting for the services of ombudsmen.

**4.1-01-18. Federal environmental law impact review committee.**

1. The federal environmental law impact review committee consists of:
  - a. The commissioner, who shall serve as the chairman;
  - b. The governor or the governor's designee;
  - c. The majority leader of the house of representatives, or the leader's designee;
  - d. The majority leader of the senate, or the leader's designee;
  - e. One member of the legislative assembly from the minority party, selected by the chairman of the legislative management;
  - f. One individual appointed by the North Dakota corn growers association;
  - g. One individual appointed by the North Dakota grain growers association;
  - h. One individual appointed by the North Dakota soybean growers association;
  - i. One individual appointed by the North Dakota stockmen's association;
  - j. One individual appointed by the North Dakota farm bureau;
  - k. One individual appointed by the North Dakota farmers union;
  - l. The chairman of the public service commission or the chairman's designee;
  - m. The state engineer or the state engineer's designee;
  - n. The director of the game and fish department, or the director's designee;
  - o. The director of the department of transportation, or the director's designee;
  - p. The director of the department of environmental quality, or the director's designee;
  - q. One representative of an investor-owned utility company;
  - r. One representative from the North Dakota association of rural electric cooperatives; and
  - s. Two individuals from the energy community appointed by the commissioner.
2. The committee shall review federal environmental legislation and regulations detrimentally impacting or potentially detrimentally impacting the state's agricultural, energy, or oil production sectors. The committee shall confer with the attorney general with respect to participation in administrative or judicial processes pertaining to the legislation or regulations.
3.
  - a. Any member of the legislative assembly serving on the committee is entitled to compensation at the rate provided for attendance at interim committee meetings and reimbursement for expenses, as provided by law for state officers, if the member is attending meetings of the committee or performing duties directed by the committee.
  - b. The compensation and reimbursement of expenses, as provided for in this subsection, are payable by the legislative council.

#### **4.1-01-19. Environmental impact - Cost of participation.**

1. Any expenses incurred by the commissioner or by the federal environmental law impact review committee in meeting the requirements of section 4.1-01-18 must be paid by the commissioner from the federal environmental law impact fund.
2. If the attorney general elects to participate in an administrative or judicial process pertaining to federal environmental legislation or regulations, which detrimentally impact or potentially detrimentally impact the state's agricultural, energy, or oil production sectors, any expenses incurred by the attorney general in the participation must be paid by the commissioner from the federal environmental law impact review fund.
3. For purposes of this section, "expenses" include administrative costs, consulting fees, research costs, expert witness fees, attorney fees, and travel costs.

#### **4.1-01-20. Gifts - Grants - Donations.**

The commissioner may accept gifts, grants, and donations for the purposes set forth in section 4.1-01-19, provided the commissioner posts the amount and source of any gifts, grants, and donations on the department's website. Any moneys received in accordance with this section must be deposited in the federal environmental law impact review fund.

#### **4.1-01-20.1. Bioscience innovation grant program - Continuing appropriation.**

1. The commissioner shall collaborate with a local association having bioscience experience to develop and administer a bioscience innovation grant program through the bioscience innovation grant fund. The commissioner shall collaborate with the department of commerce when awarding bioscience innovation grants to coordinate the management of the commissioner's bioscience innovation grant program and the department of commerce's biotechnology grant program.
2. The commissioner shall collaborate with the committee established under subsection 5 to adopt rules and criteria necessary to administer the bioscience innovation grant program. The rules must include criteria for program eligibility, including requiring a bioscience business that receives funding through the program match up to fifty percent of the amount of the grant received.
3. The bioscience innovation grant fund is a special fund created in the state treasury. Moneys in the fund are appropriated on a continuing basis to the commissioner to award grants to:
  - a. Support biotechnology innovation and commercialization in areas including crop genetics, biofuels, biomaterials, biosensors, and biotechnology in relation to food, nutrition, animals, humans, equipment, medical and health products and services, medical diagnostics, medical therapeutics, and farm-based pharmaceuticals;
  - b. Promote the creation of bioscience jobs in the state to be filled by graduates from institutions under the control of the state board of higher education;
  - c. Encourage the development of new bioscience technologies and bioscience startup companies in the state;
  - d. Leverage the agriculture industry in the state to support the development of bioscience technologies impacting livestock operations and crop production;
  - e. Promote bioscience research and development at institutions under the control of the state board of higher education; and
  - f. Encourage coordination and collaboration among other entities and programs in the state to promote bioscience innovation goals.
4. A bioscience business operating in the state is eligible to receive a grant under the program if the business:
  - a. Employs at least two employees;
  - b. Has documented annual sales of less than two million five hundred thousand dollars; and
  - c. Is a corporation, partnership, limited liability company, limited partnership, or limited liability partnership registered in the state.

5. The bioscience innovation program shall award grant funding through a committee consisting of:
  - a. One representative from the department of agriculture appointed by the agriculture commissioner;
  - b. One representative from the bioscience association of North Dakota appointed by the board of the bioscience association of North Dakota; and
  - c. One representative from the department of commerce appointed by the commissioner of the department of commerce.
6. Grant funds awarded under this section may not be used for capital improvements, academic programming or curriculum, or workforce training.

**4.1-01-21. Federal environmental law impact review fund - Continuing appropriation.**

1. The federal environmental law impact review fund consists of:
  - a. Any moneys appropriated or transferred for the purposes set forth in section 4.1-01-19; and
  - b. Any gifts, grants, and donations forwarded to the commissioner for the purposes set forth in section 4.1-01-19.
2. All moneys in the federal environmental law impact review fund are appropriated to the commissioner on a continuing basis for the purposes set forth in section 4.1-01-19.

**4.1-01-21.1. Environmental impact mitigation fund - Report to legislative management - Continuing appropriation.**

1. There is created in the state treasury the environmental impact mitigation fund. The fund consists of all moneys deposited in the fund under section 49-22-09.2. All moneys in the fund are appropriated to the commissioner on a continuing basis for distribution by the agriculture commissioner to landowners for the mitigation of agricultural land impacted by development as set forth under subsection 2.
2. Funding may be used only for:
  - a. Contracting for consultation with environmental scientists or engineers for relevant services to implement mitigation required from the impact of development; and
  - b. Reclamation or mitigation of adverse impacts from development.
3. The commissioner is not subject to chapter 54-44.4 when contracting for services under this chapter.
4. The federal environmental law impact review committee shall establish criteria for disbursement of environmental impact funds.
5. The commissioner shall make disbursements based upon the determinations made by the federal environmental law impact review committee.
6. For purposes of this section, the federal environmental law impact review committee shall hold meetings as the chairman determines necessary at a time and place set by the chairman. Upon written request of any four members, the presiding officer shall call a special meeting of the committee.
7. The federal environmental law impact review committee shall make determinations for the disbursement of grants in accordance with subsection 2 and provide those determinations to the commissioner.
8. The federal environmental law impact review committee shall provide a biennial report to the legislative management.
9. For purposes of this section, the environmental impact mitigation fund is not subject to subsection 2 of section 4.1-01-18.

**4.1-01-22. Agriculture in the classroom program.**

1. The agriculture commissioner shall administer an agriculture in the classroom program with the advice of the agriculture in the classroom council.
2. The agriculture in the classroom council consists of seven individuals. The agriculture commissioner shall appoint six council members. The seventh council member is the

- superintendent of public instruction or the superintendent's designee. Annually, the council shall elect one of its members to serve as the chairman.
3. At the call of the chairman, the council shall meet at least twice each year, to confer with and advise the agriculture commissioner regarding issues related to the agriculture in the classroom program.
  4. The agriculture commissioner may award grants and contract with any person for the provision of an agriculture in the classroom program, the development of agricultural curriculum activities applicable to students from kindergarten through grade twelve, and the training of teachers in agricultural curriculum activities.
  5. The agriculture commissioner may:
    - a. Consult and work with the superintendent of public instruction, the department of career and technical education, the United States department of agriculture, and any other public or nonpublic entities to provide and promote an agriculture in the classroom program;
    - b. Prepare instructional, informational, and reference publications on the North Dakota agricultural economy and rural lifestyles;
    - c. Provide training programs for public school teachers in agricultural curriculum activities;
    - d. Encourage research on and identification of new instructional, informational, and reference publications relating to this state's agricultural economy and rural lifestyles; and
    - e. Monitor the quality and condition of the agriculture in the classroom program.
  6. The agriculture commissioner may accept and expend gifts, grants, and donations in support of the agriculture in the classroom program. If any gifts, grants, or donations are designated for a specific purpose, the commissioner shall honor the purpose provided the purpose is consistent with this chapter.
  7. Members of the agriculture in the classroom council may not receive any compensation for their services on the council, but are entitled to be reimbursed for their expenses incurred in performing their duties in the amounts provided by law for state employees.

**4.1-01-23. Wind energy restoration and reclamation oversight program.**

1. The agriculture commissioner shall establish a program that provides technical assistance, support, and outreach to property owners on wind property restoration and followup support to property owners on wind property reclamation.
2. The agriculture commissioner may contract for ombudsmen for purposes of being a resource for technical assistance and followup on wind property issues. The ombudsmen may not investigate or assist in any easement negotiations.
3. The agriculture commissioner may contract with local individuals, deemed trustworthy by property owners, to be ombudsmen. The agriculture commissioner is not subject to chapter 54-44.4 when contracting for the services of ombudsmen.
4. The agriculture commissioner shall work in cooperation with the public service commission to carry out the duties described in this section.