

**2023 SENATE APPROPRIATIONS**

**SB 2008**

**Department 408 - Public Service Commission**  
**Senate Bill No. 2008**

**Executive Budget Comparison to Base Level**

	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
2023-25 Executive Budget	\$7,631,372	\$13,988,625	\$21,619,997
2023-25 Base Level	6,425,687	13,347,095	19,772,782
Increase (Decrease)	\$1,205,685	\$641,530	\$1,847,215

**Selected Budget Changes Recommended in the Executive Budget**

	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
1. Adds funding for state employee salary and benefits increases, of which \$710,485 is for salary increases and \$216,032 is for health insurance increases	\$546,042	\$380,475	\$926,517
2. Adds 1 FTE environmental scientist position	\$77,962	\$138,602	\$216,564
3. Adds funding for a new Capitol space rent model	\$221,067	\$0	\$221,067
4. Adds funding for a Federal Energy Regulatory Commission (FERC) contractor	\$120,000	\$0	\$120,000
5. Adjusts funding for ongoing operating expenses	\$83,600	(\$30,042)	\$53,558
6. Adds <b>one-time funding</b> for shortfall of indirect cost recovery	\$101,700	\$0	\$101,700

A summary of the executive budget changes to the agency's base level appropriations is attached as an appendix.

A copy of the draft appropriations bill containing the executive budget recommendations is attached as an appendix.

**Selected Bill Sections Recommended in the Executive Budget**

**Beginning farmer revolving loan fund** - Section 3 would authorize a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.

**Railroad safety program** - Section 4 would amend North Dakota Century Code Section 57-43.2-19 to increase the deposit from \$297,362 to \$332,327 per year from special fuels taxes into the rail safety fund through June 30, 2027.

**Salary of commissioners** - Section 5 would provide the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,667, effective July 1, 2023, and to \$129,654, effective July 1, 2024, to reflect the 6 percent and 4 percent recommended salary increase.

**Continuing Appropriations**

**Siting process expense recovery fund** - Section 49-22-22 - Siting process application fees received are deposited in the siting process expense recovery fund to pay expenses incurred in the siting process.

**Performance assurance fund** - Section 49-21-31 - Money received by the Public Service Commission under a performance assurance plan is to be deposited in the performance assurance fund until the balance equals \$100,000. The money in the fund may be used by the Public Service Commission to monitor the operation and effect of the performance assurance plan.

**Utility valuation expense recovery** - Section 49-05-04 - Any public utility requesting an increase in its rates above the maximum approved or prescribed by the commission shall furnish the commission the required documents and an application fee in the amount of \$175,000. Upon request of the commission and with the approval of the Emergency Commission, the applicant shall pay such additional fees as are reasonably necessary for completion of the application process by the commission. The commission shall pay the expenses of investigating a rate increase application under this section from the application fee paid by the public utility in accordance with Section 49-02-02. The commission may waive or reduce the fee.

**Deficiency Appropriations**

There are no deficiency appropriations for this agency.

**Significant Audit Findings**

There are no significant audit findings for this agency.

**Major Related Legislation**

**House Bill No. 1063** - Relates to tariff rate filing fee requirements.

**House Bill No. 1064** - Relates to the definition of excavation.

**House Bill No. 1067** - Relates to the powers of the Public Service Commission.

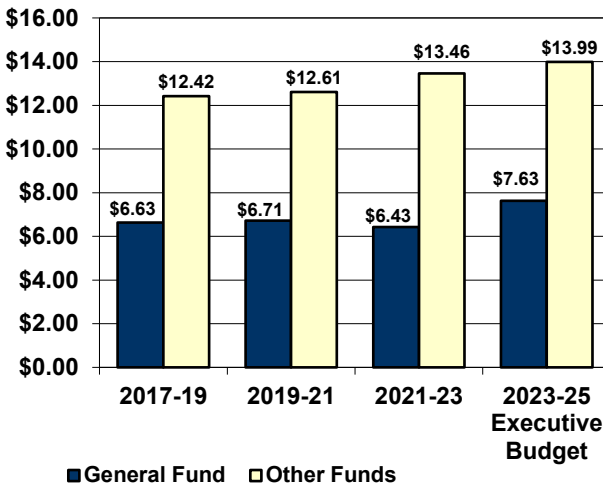
**House Bill No. 1096** - Relates to permit fees for registered service companies and registered service persons.

**House Bill No. 1097** - Relates to the definitions of utility-scale energy storage, route adjustment for electric transmission lines, and an electric energy conversion facility.

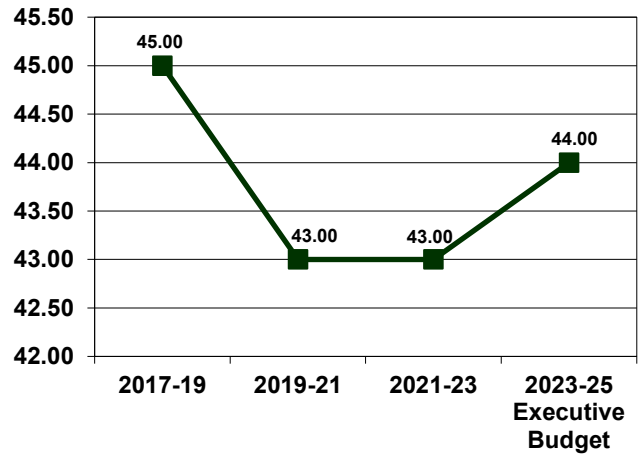
# Historical Appropriations Information

## Agency Appropriations and FTE Positions

Agency Funding (Millions)



FTE Positions



### Ongoing General Fund Appropriations

	2015-17	2017-19	2019-21	2021-23	2023-25 Executive Budget
Ongoing general fund appropriations	\$7,175,827	\$6,630,762	\$6,714,928	\$6,425,687	\$7,527,872
Increase (decrease) from previous biennium	N/A	(\$545,065)	\$84,166	(\$289,241)	\$1,102,185
Percentage increase (decrease) from previous biennium	N/A	(7.6%)	1.3%	(4.3%)	17.2%
Cumulative percentage increase (decrease) from 2015-17 biennium	N/A	(7.6%)	(6.4%)	(10.5%)	4.9%

### Major Increases (Decreases) in Ongoing General Fund Appropriations

#### 2017-19 Biennium

1. Removed 2 FTE undesignated positions (\$286,240)
2. Reduced salaries and wages in anticipation of savings from vacant positions and employee turnover (\$250,000)
3. Reduced funding for operating expenses (\$47,736)
4. Reduced funding for capital assets to provide a total of \$10,000 (\$16,400)
5. Removed funding from the general fund for specialized legal services (\$56,000)

#### 2019-21 Biennium

1. Transferred 2 FTE grain warehouse inspectors (\$317,725) and related operating expenses (\$71,000) to the Department of Agriculture (\$388,725)
2. Added funding for the reclassification of an existing underfunded FTE position as an accounting budget specialist position (\$165,493) and related operating expenses \$170,493

#### 2021-23 Biennium

1. Changed the funding source for a portion of salaries and wages from the general fund to the Public Service Commission program fund (\$625,000)
2. Added funding for the reclassification of an existing underfunded FTE position as a natural gas pipeline inspector position \$167,547

#### 2023-25 Biennium (Executive Budget Recommendation)

1. Adds funding for a new Capitol space rent model \$221,067
2. Adds funding for a FERC contractor \$120,000

- 3. Adds funding for ongoing operating expenses, of which \$52,000 is for supplies - IT software to provide a total of \$224,500, and \$31,600 is for professional development to provide a total of \$132,400 \$83,600
- 4. Adds 1 FTE for an environmental scientist position \$77,962

**One-Time General Fund Appropriations**

	<b>2015-17</b>	<b>2017-19</b>	<b>2019-21</b>	<b>2021-23</b>	<b>2023-25 Executive Budget</b>
One-time general fund appropriations	\$239,624	\$0	\$0	\$5,400	\$103,500

**Major One-Time General Fund Appropriations**

**2017-19 Biennium**

None \$0

**2019-21 Biennium**

None \$0

**2021-23 Biennium**

- 1. Replace real time kinematic equipment \$5,400

**2023-25 Biennium (Executive Budget Recommendation)**

- 1. Shortfall of indirect cost recovery \$101,700
- 2. Drone \$1,800

**Public Service Commission - Budget No. 408**  
**Senate Bill No. 2008**  
**Base Level Funding Changes**

	<b>Executive Budget Recommendation</b>			
	<b>FTE Positions</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
<b>2023-25 Biennium Base Level</b>	43.00	\$6,425,687	\$13,347,095	\$19,772,782
<b>2023-25 Ongoing Funding Changes</b>				
Cost to continue salaries		\$53,472	\$27,589	\$81,061
Salary increase		419,766	290,719	710,485
Health insurance increase		126,276	89,756	216,032
Adds funding for temporary salaries and the railroad safety program			106,706	106,706
Adds 1 FTE environmental scientist position	1.00	77,962	138,602	216,564
Adds funding for ITD rate increase		42		42
Adjusts funding for operating expenses		83,600	(30,042)	53,558
Adds funding for a new Capitol space rent model		221,067		221,067
Adds funding for a FERC contractor		120,000		120,000
<b>Total ongoing funding changes</b>	<b>1.00</b>	<b>\$1,102,185</b>	<b>\$623,330</b>	<b>\$1,725,515</b>
<b>One-time funding items</b>				
Adds one-time funding for shortfall of indirect cost recovery		\$101,700		\$101,700
Adds one-time funding for a drone		1,800	\$18,200	20,000
<b>Total one-time funding changes</b>	<b>0.00</b>	<b>\$103,500</b>	<b>\$18,200</b>	<b>\$121,700</b>
<b>Total Changes to Base Level Funding</b>	<b>1.00</b>	<b>\$1,205,685</b>	<b>\$641,530</b>	<b>\$1,847,215</b>
<b>2023-25 Total Funding</b>	<b>44.00</b>	<b>\$7,631,372</b>	<b>\$13,988,625</b>	<b>\$21,619,997</b>
<i>Federal funds included in other funds</i>			<i>\$11,673,971</i>	
<i>Total ongoing changes as a percentage of base level</i>	<i>2.3%</i>	<i>17.2%</i>	<i>4.7%</i>	<i>8.7%</i>
<i>Total changes as a percentage of base level</i>	<i>2.3%</i>	<i>18.8%</i>	<i>4.8%</i>	<i>9.3%</i>

**Other Sections in Public Service Commission - Budget No. 408**

	<b>Executive Budget Recommendation</b>
Beginning farmer revolving loan fund	Section 3 would authorize a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.
Railroad safety program	Section 4 would amend Section 57-43.2-19 to increase the deposit from \$297,362 to \$332,327 per year from special fuels taxes into the rail safety fund through June 30, 2027.
Salary of commissioners	Section 5 would provide the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,667, effective July 1, 2023, and to \$129,654 effective July 1, 2024, to reflect the 6 percent and 4 percent recommended salary increase.

**SENATE BILL NO. 2008  
(Governor's Recommendation)**

Introduced by

Appropriations Committee

(At the request of the Governor)

A bill for an act to provide an appropriation for defraying the expenses of the public service commission; to amend and reenact sections 57-43.2-19, 49-01-05, of the North Dakota Century Code, relating to the salary of public service commissioners, and to authorize a transfer.

**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 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 public service commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2023 and ending June 30, 2025, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and Wages	\$ 9,991,488	\$ 1,362,618	\$ 11,354,106
Operating Expenses	1,801,570	394,667	2,196,237
Capital Assets	25,000	20,000	45,000
Grants	20,000	0	20,000
Abandoned Mined Lands Contractual	6,000,000	0	6,000,000
Rail Rate Complaint Case	900,000	0	900,000
Railroad Safety Program	614,724	69,930	684,654
Specialized Legal Services	<u>420,000</u>	<u>0</u>	<u>420,000</u>
Total All Funds	\$19,772,782	\$1,847,215	\$21,619,997
Less Estimated Income	<u>13,347,095</u>	<u>641,530</u>	<u>13,988,625</u>
Total General Fund	\$ 6,425,687	\$1,205,685	\$ 7,631,372
Full-Time Equivalent Positions	43.00	1.00	44.00

**SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-NINTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the 2023-25 one-time funding items included in the appropriation in section 1 of this Act:

<u>One Time Funding Description</u>	<u>2021-23</u>	<u>2023-25</u>
Indirect Cost Recovery Shortfall	\$0	\$101,700
One-Time Equipment	<u>120,000</u>	<u>20,000</u>
Total All Funds	\$120,000	\$121,700
Total Special Funds	<u>120,000</u>	<u>18,200</u>
Total General Fund	\$ 0	\$ 103,500

**SECTION 3. TRANSFER AND REPAYMENT - BEGINNING FARMER REVOLVING LOAN FUND.** The Bank of North Dakota shall transfer from the beginning farmer revolving loan fund to the public service commission the sum of \$900,000, or so much of the sum as may be necessary, included in the estimated income line item in section 1 of this Act to pay for costs associated with a rail rate complaint case. Transfers must be made during the biennium beginning July 1, 2023 and ending June 30, 2025, upon order of the commission. If any amounts are spent pursuant to this section, the public service commission shall reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case.

**SECTION 4. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. Transfer, deposit, and distribution of funds. (Effective through June 30, ~~2025~~, 2027)**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to ~~two three hundred ninety-seven~~ thirty-two thousand three hundred ~~sixty-two~~ twenty-seven dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

Transfer, deposit, and distribution of funds. (Effective after June 30, ~~2025~~ 2027) All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

**SECTION 5. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**49-01-05. Salary of commissioners.** The annual salary of a commissioner is ~~one hundred seventeen thousand six hundred ten dollars through June 30, 2023,~~ one hundred twenty-four thousand six hundred sixty seven dollars through June 30, 2024 and one hundred twenty-nine thousand six hundred fifty-four dollars, thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state.



# 2023 SENATE STANDING COMMITTEE MINUTES

## Appropriations

Rough Rider Room, State Capitol

SB 2008

1/9/2023

A bill relating to defraying the expenses of the Public Service Commission and to provide for a transfer
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9:04 am Chairman Bekkedahl called the meeting to order.

Senators Bekkedahl, Burkhard, Davison, Dever, Ebele, Krebsbach, Kreun, Mathern, Meyer, Schaible, Sorvaag, Vedaa, and Wanzek are present. Senators Roers and Dwyer are absent this morning.

### Discussion Topics:

- Economic investments in transmission and reclamation
- Budget priorities
- Federal recovery funding
- Major components of base budget
- Requested enhancements to base budget
- Energy cost and telecommunications
- Operating money for ongoing operations
- Legal assistant
- Federal Energy Regulatory Commission
- One-time funding requests
- Agency collections
- Funding source for rail rate complaint case
- Federal funding for 2023-2025 biennium
- Self-funding agency – fixed and variable sources

9:04 am Randy Christmann, Chairman of the Public Service Commission, introduced SB 2008 and testified affirmatively for it. #12592

Chairman Bekkedahl assigned the bill to the Government Operations Division

### Additional Testimony: #21234

Committee. 10:10 am Chairman Bekkedahl closed the meeting

*Carol Thompson, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Appropriations - Government Operations Division Red River Room, State Capitol

SB 2008  
1/19/2023

An appropriation for defraying the expenses of the public service commission; and to provide for a transfer.
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9:43 AM Chairman Wanzek opened the meeting.

Senators Wanzek, Roers, Dwyer, Erbele, and Vedaa were present.

### Discussion Topics:

- Program expansion
- Federal jurisdictions expansion
- RTO monitors
- Energy grid reliability
- Transmission upgrades
- FTEs
- One-time funding costs
- Transmission organization
- Backup credit
- Federal expansion consequences

9:44 AM Randy Christmann, Chairman of the Public Service Commission, testified affirmatively. Testimony #14299

10:12 AM Jean Schafer, Senior Legislative Representative, Basin Electric, testified in support of SB 2008. (No written testimony)

10:20 AM Todd Steinwand, President and CEO of the Bank of North Dakota testified. Testimony #14276

10:23 AM Jason Bohrer of Lignite Energy Council testified in support of this bill. (No written testimony)

10:28 AM Randy Christmann concluded his testimony. Testimony #14554

### Additional Testimony: #23779

10:31 AM Vice Chair Erbele closed the meeting.

*Carol Thompson, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Appropriations - Government Operations Division Red River Room, State Capitol

SB 2008  
2/7/2023

An appropriation for defraying the expenses of the Public Service Commission; and to provide for a transfer.
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2:48 PM Senator Wanzek called the meeting to order.  
Senators Wanzek, Erbele, Roers, Dwyer, and Vedaa are present.

### Discussion Topics:

- Public utilities division duties
- Regional Transmission Organizations
- Grid reliability
- Southwest Power Pool (SPP)
- Midcontinent Independent System Operator (MISO)
- Federal Energy Regulatory Commission (FERC)
- Environmental Protection Agency (EPA)
- Transport Rule
- Legal needs
- Full time employees (FTEs)
- Weights and measures
- 2015 Copier
- Retirement transitions
- Rail safety
- Temporary salaries
- Environmental scientist
- Federal/state fund split
- FERC contractor
- Drone applications

2:50 PM Randy Christmann, Public Service Commissioner, testified affirmatively.  
Testimony #14299

3:30 PM Toby Mertz, LC Fiscal Analyst, testified. Testimony #23862, #21236

4:08 PM Jill Kringstead, Power Service Commission Budget Analyst, testified. Neutral (No written testimony)

4:12 PM Chairman Wanzek closed the meeting.

*Carol Thompson, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Appropriations - Government Operations Division Red River Room, State Capitol

SB 2008  
2/8/2023

An appropriation for defraying the expenses of the Public Service Commission; and to provide for a transfer.

8:36 AM Chairman Wanzek called the meeting to order.  
Senators Wanzek, Erbele, Roers, Dwyer, and Vedaa are present.

### Discussion Topics:

- Salaries and wages
- Environmental scientist
- Salary equity for elected officials
- Legal assistant
- Operating expenses/dues/travel
- Indirect costs/retirements
- Drone
- Weights and measures equipment

8:38 AM Toby Mertz, LC Fiscal Analyst (#21235), reviewed 23.0262.01001  
Testimony #19842, #19843

8:54 AM Senator Dwyer moved to adopt the amendments to SB 2008.  
Senator Roers seconded the motion.

Senators	Vote
Senator Terry M. Wanzek	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Jim P. Roers	Y
Senator Shawn Vedaa	Y

Motion passed 5-0-0

8:55 AM Senator Erbele moved a Do Pass as Amended recommendation for SB 2008.  
Senator Vedaa seconded the motion.

Senators	Vote
Senator Terry M. Wanzek	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Jim P. Roers	Y
Senator Shawn Vedaa	Y

Motion passed 5- 0- 0

Senator Dwyer will carry the bill.

8:57 AM Chairman Wanzek closed the hearing.

*Carol Thompson, Committee Clerk*

# 2023 SENATE STANDING COMMITTEE MINUTES

## Appropriations Committee Roughrider Room, State Capitol

SB 2008  
2/9/2023

Relating to the salaries of the public service commissioners and the transfer and distribution of funds in the highway tax distribution fund; and to provide for a report.

**11:31 AM Chairman Bekkedahl** opened meeting.

**Members present:** Senators Bekkedahl, Krebsbach, Burckhard, Davison, Dever, Dwyer, Erbele, Kreun, Meyer, Roers, Schaible, Sorvaag, Vedaa, Wanzek, Rust, and Mathern.

**Discussion Topics:**

- Committee action

**11:40 AM Senator Dwyer** moved to adopt an amendment. LC 23.0262.01001

**11:40 Senator J. Roers** seconded.

Senators	Vote
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	N
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator Donald Schaible	Y
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	Y
Senator Terry M. Wanzek	Y
Senator David S. Rust	Y

Motion passed 15-1-0

**11:41 AM Senator Dwyer** moved a Do Pass as amended.

**11:41 AM Senator Wanzek** seconded motion.

<b>Senators</b>	<b>Vote</b>
Senator Brad Bekkedahl	Y
Senator Karen K. Krebsbach	Y
Senator Randy A. Burckhard	Y
Senator Kyle Davison	N
Senator Dick Dever	Y
Senator Michael Dwyer	Y
Senator Robert Erbele	Y
Senator Curt Kreun	Y
Senator Tim Mathern	Y
Senator Scott Meyer	Y
Senator Jim P. Roers	Y
Senator Donald Schaible	Y
Senator Ronald Sorvaag	Y
Senator Shawn Vedaa	Y
Senator Terry M. Wanzek	Y
Senator David S. Rust	Y

Motion passed 15-1-0

**11:42 AM Senator Dwyer** will carry.

**11:43 AM Chairman Bekkedahl** adjourned meeting.

*Kathleen Hall, Committee Clerk*

*DR*  
*184*  
*2-9-23*

PROPOSED AMENDMENTS TO SENATE BILL NO. 2008

Page 1, line 2, replace "and to provide for a transfer" with "to amend and reenact sections 57-43.2-19 and 49-01-05 of the North Dakota Century Code, relating to the salaries of the public service commissioners and the transfer and distribution of funds in the highway tax distribution fund; and to provide a report"

Page 1, replace lines 10 through 24 with:

"	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,991,488	\$1,956,555	\$11,948,043
Operating expenses	1,801,570	296,167	2,097,737
Capital assets	25,000	100,000	125,000
Grants	20,000	0	20,000
Abandoned mined lands contractual services	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	614,724	61,274	675,998
Specialized legal services	<u>420,000</u>	<u>0</u>	<u>420,000</u>
Total all funds	\$19,772,782	\$2,413,996	\$22,186,778
Less estimated income	<u>13,347,095</u>	<u>641,306</u>	<u>13,988,401</u>
Total general fund	\$6,425,687	\$1,772,690	\$8,198,377
Full-time equivalent positions	43.00	4.00	47.00"

Page 2, line 1, after "FUNDING" insert "- EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-NINTH LEGISLATIVE ASSEMBLY"

Page 2, line 2, after "biennium" insert "and the 2023-25 one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace lines 4 through 7 with:

"Real-time kinematic equipment	\$120,000	\$0
Indirect cost recovery shortfall	0	101,700
Drone	0	20,000
Weights and measures equipment	0	70,000
Copier replacement	<u>0</u>	<u>10,000</u>
Total all funds	\$120,000	\$201,700
Total other funds	<u>114,600</u>	<u>18,200</u>
Total general fund	\$5,400	\$183,500

The 2023-25 biennium one-time funding amounts are not a part of the entity's base budget for the 2025-27 biennium. The public service commission shall report to the appropriations committees of the sixty-ninth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2023, and ending June 30, 2025."

Page 2, replace lines 8 through 16 with:

**"SECTION 3. BANK OF NORTH DAKOTA - LINE OF CREDIT.** The Bank of North Dakota shall extend a line of credit to the public service commission to provide funding to pay costs associated with a rail rate complaint case. The line of credit may

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2-9-23

not exceed \$900,000, and the interest rate associated with the line of credit must be the prevailing interest rate charged to North Dakota governmental entities. The public service commission shall repay the line of credit from amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case. If moneys available on June 30, 2025, are not sufficient to repay the line of credit, the public service commission shall request from the legislative assembly a deficiency appropriation to repay the line of credit.

**SECTION 4. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. Transfer, deposit, and distribution of funds. (Effective through June 30, 2025)**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to ~~two~~three hundred ~~ninety-seven~~thirty-two thousand three hundred ~~sixty-two~~twenty-seven dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

~~**Transfer, deposit, and distribution of funds. (Effective after June 30, 2025)**~~  
All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

**SECTION 5. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**49-01-05. Salary of commissioners.**

The annual salary of a commissioner is one hundred ~~fifteen~~twenty-four thousand ~~three~~eight hundred ~~four~~ dollars through June 30, ~~2022~~2024, and one hundred ~~seventeen~~twenty-nine thousand ~~six~~seven hundred ~~ten~~ninety-two dollars thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2008 - Public Service Commission - Senate Action**

	Base Budget	Senate Changes	Senate Version
Salaries and wages	\$9,991,488	\$1,956,555	\$11,948,043
Operating expenses	1,801,570	296,167	2,097,737
Capital assets	25,000	100,000	125,000
Grants	20,000		20,000
Abandoned mined lands	6,000,000		6,000,000
contractual services			
Rail rate complaint case	900,000		900,000
Railroad safety program	614,724	61,274	675,998



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Specialized legal services	420,000		420,000
Total all funds	\$19,772,782	\$2,413,996	\$22,186,778
Less estimated income	13,347,095	641,306	13,988,401
General fund	\$6,425,687	\$1,772,690	\$8,198,377
FTE	43.00	4.00	47.00

**Department 408 - Public Service Commission - Detail of Senate Changes**

	Adjusts Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Salary and Benefit Increases <sup>2</sup>	Adds Funding for Temporary Salaries and Railroad Safety Program <sup>3</sup>	Adds 4 FTE Positions <sup>4</sup>	Adds Salary Equity Funding for Elected Officials <sup>5</sup>	Adds Funding for ITD Increases <sup>6</sup>
Salaries and wages	\$71,888	\$715,983	\$129,648	\$919,018	\$18,318	
Operating expenses				21,500		\$42
Capital assets						
Grants						
Abandoned mined lands contractual services						
Rail rate complaint case						
Railroad safety program	9,173	37,043	15,058			
Specialized legal services						
Total all funds	\$81,061	\$753,026	\$144,706	\$940,518	\$18,318	\$42
Less estimated income	27,589	309,523	106,706	209,330	0	0
General fund	\$53,472	\$443,503	\$38,000	\$731,188	\$18,318	\$42
FTE	0.00	0.00	0.00	4.00	0.00	0.00

	Adds Funding for Operating Expenses <sup>7</sup>	Adds Funding for Capitol Space Rent Model <sup>8</sup>	Adds One-Time Funding for Shortfall of Indirect Cost Recovery <sup>9</sup>	Adds One-Time Funding for Capital Assets <sup>10</sup>	Total Senate Changes
Salaries and wages			\$101,700		\$1,956,555
Operating expenses	\$53,558	\$221,067			296,167
Capital assets				\$100,000	100,000
Grants					
Abandoned mined lands contractual services					
Rail rate complaint case					
Railroad safety program					61,274
Specialized legal services					
Total all funds	\$53,558	\$221,067	\$101,700	\$100,000	\$2,413,996
Less estimated income	(30,042)	0	0	18,200	641,306
General fund	\$83,600	\$221,067	\$101,700	\$81,800	\$1,772,690
FTE	0.00	0.00	0.00	0.00	4.00

<sup>1</sup> Funding is added for the cost to continue salary increases.

<sup>2</sup> The following funding is added for 2023-25 biennium salary adjustments of 4 percent on July 1, 2023, and 4 percent on July 1, 2024, and increases in health insurance from \$1,429 to \$1,648 per month:

	General Fund	Other Funds	Total
Salary Increases	\$314,322	\$217,702	\$532,024
Health insurance increase	129,181	91,821	\$221,002
Total	\$443,503	\$309,523	\$753,026

<sup>3</sup> Funding is increased for temporary salaries and the railroad safety program.

<sup>4</sup> Funding of \$940,518, including \$731,188 from the general fund and \$209,330 from other funds, is added for 4 FTE positions and related operating expenses:

	<u>FTE</u>	<u>Salaries and Wages</u>	<u>Operating Expenses</u>	<u>Total</u>
Environmental scientist	1.00	\$216,564	\$0	\$216,564
Legal assistant	1.00	164,482	3,000	167,482
Analyst and engineer	<u>2.00</u>	<u>537,972</u>	<u>18,500</u>	<u>556,472</u>
Total	4.00	\$919,018	\$21,500	\$940,518

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<sup>5</sup> Funding is added for providing a salary equity increase for the Public Service Commissioners. The Public Service Commissioners' annual salaries are increased from the current level of \$117,610 to \$124,800 (6 percent) effective July 1, 2023. This funding is in addition to the funding added for the general 4 percent annual salary increases for state employees.

<sup>6</sup> Funding is added for Information Technology Department rate increases.

<sup>7</sup> Funding for operating expenses is increased by \$83,600 from the general fund and decreased by \$30,042 from federal funds for dues and memberships.

<sup>8</sup> Funding is added from the general fund for a new Capitol space rent model.

<sup>9</sup> One-time funding is added for a shortfall of indirect cost recovery due to decreased federal indirect cost rates.

<sup>10</sup> One-time funding of \$100,000 is added for a drone (\$20,000), weights and measures equipment (\$70,000), and copier replacement (\$10,000).

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This amendment also adds sections to:

- Provide for a line of credit at the Bank of North Dakota of \$900,000 to pay costs associated with a rail rate complaint case. The section authorizing a \$900,000 transfer from the beginning farmer revolving loan fund is removed.
- Amend North Dakota Century Code Section 57-43.2-19 to increase the deposit from special fuel taxes into the rail safety fund and to remove the sunset date.
- Provide the statutory changes necessary to increase the Public Service Commissioners' annual salaries to \$124,800 (6 percent) effective July 1, 2023, and to \$129,792 (4 percent) effective July 1, 2024.

**REPORT OF STANDING COMMITTEE**

**SB 2008: Appropriations Committee (Sen. Bekkedahl, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). SB 2008 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Page 1, line 2, replace "and to provide for a transfer" with "to amend and reenact sections 57-43.2-19 and 49-01-05 of the North Dakota Century Code, relating to the salaries of the public service commissioners and the transfer and distribution of funds in the highway tax distribution fund; and to provide a report"

Page 1, replace lines 10 through 24 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,991,488	\$1,956,555	\$11,948,043
Operating expenses	1,801,570	296,167	2,097,737
Capital assets	25,000	100,000	125,000
Grants	20,000	0	20,000
Abandoned mined lands contractual services	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	614,724	61,274	675,998
Specialized legal services	<u>420,000</u>	<u>0</u>	<u>420,000</u>
Total all funds	\$19,772,782	\$2,413,996	\$22,186,778
Less estimated income	<u>13,347,095</u>	<u>641,306</u>	<u>13,988,401</u>
Total general fund	\$6,425,687	\$1,772,690	\$8,198,377
Full-time equivalent positions	43.00	4.00	47.00"

Page 2, line 1, after "FUNDING" insert "- EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-NINTH LEGISLATIVE ASSEMBLY"

Page 2, line 2, after "biennium" insert "and the 2023-25 one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace lines 4 through 7 with:

"Real-time kinematic equipment	\$120,000	\$0
Indirect cost recovery shortfall	0	101,700
Drone	0	20,000
Weights and measures equipment	0	70,000
Copier replacement	<u>0</u>	<u>10,000</u>
Total all funds	\$120,000	\$201,700
Total other funds	<u>114,600</u>	<u>18,200</u>
Total general fund	\$5,400	\$183,500

The 2023-25 biennium one-time funding amounts are not a part of the entity's base budget for the 2025-27 biennium. The public service commission shall report to the appropriations committees of the sixty-ninth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2023, and ending June 30, 2025."

Page 2, replace lines 8 through 16 with:

**"SECTION 3. BANK OF NORTH DAKOTA - LINE OF CREDIT.** The Bank of North Dakota shall extend a line of credit to the public service commission to provide funding to pay costs associated with a rail rate complaint case. The line of credit may not exceed \$900,000, and the interest rate associated with the line of credit must be the prevailing interest rate charged to North Dakota governmental entities. The public service commission shall repay the line of credit from amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case. If moneys available on June 30, 2025, are not sufficient to repay the

line of credit, the public service commission shall request from the legislative assembly a deficiency appropriation to repay the line of credit.

**SECTION 4. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. Transfer, deposit, and distribution of funds. (~~Effective through June 30, 2025~~)**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to ~~two~~ three hundred ~~ninety-seventy-two~~ thousand three hundred ~~sixty-two~~ twenty-seven dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

~~Transfer, deposit, and distribution of funds. (Effective after June 30, 2025) All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.~~

**SECTION 5. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**49-01-05. Salary of commissioners.**

The annual salary of a commissioner is one hundred ~~fifteen~~ twenty-four thousand ~~three~~ eight hundred ~~four~~ dollars through June 30, ~~2022~~ 2024, and one hundred ~~seventy~~ twenty-nine thousand ~~six~~ seven hundred ~~ten~~ ninety-two dollars thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2008 - Public Service Commission - Senate Action**

	Base Budget	Senate Changes	Senate Version
Salaries and wages	\$9,991,488	\$1,956,555	\$11,948,043
Operating expenses	1,801,570	296,167	2,097,737
Capital assets	25,000	100,000	125,000
Grants	20,000		20,000
Abandoned mined lands contractual services	6,000,000		6,000,000
Rail rate complaint case	900,000		900,000
Railroad safety program	614,724	61,274	675,998
Specialized legal services	420,000		420,000
Total all funds	\$19,772,782	\$2,413,996	\$22,186,778
Less estimated income	13,347,095	641,306	13,988,401
General fund	\$6,425,687	\$1,772,690	\$8,198,377
FTE	43.00	4.00	47.00

Department 408 - Public Service Commission - Detail of Senate Changes

	Adjusts Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Salary and Benefit Increases <sup>2</sup>	Adds Funding for Temporary Salaries and Railroad Safety Program <sup>3</sup>	Adds 4 FTE Positions <sup>4</sup>	Adds Salary Equity Funding for Elected Officials <sup>5</sup>	Adds Funding for ITD Increases <sup>5</sup>
Salaries and wages	\$71,888	\$715,983	\$129,648	\$919,018	\$18,318	
Operating expenses				21,500		\$42
Capital assets						
Grants						
Abandoned mined lands contractual services						
Rail rate complaint case						
Railroad safety program	9,173	37,043	15,058			
Specialized legal services						
<b>Total all funds</b>	<b>\$81,061</b>	<b>\$753,026</b>	<b>\$144,706</b>	<b>\$940,518</b>	<b>\$18,318</b>	<b>\$42</b>
Less estimated income	27,589	309,523	106,706	209,330	0	0
General fund	\$53,472	\$443,503	\$38,000	\$731,188	\$18,318	\$42
FTE	0.00	0.00	0.00	4.00	0.00	0.00

	Adds Funding for Operating Expenses <sup>4</sup>	Adds Funding for Capitol Space Rent Model <sup>8</sup>	Adds One-Time Funding for Shortfall of Indirect Cost Recovery <sup>8</sup>	Adds One-Time Funding for Capital Assets <sup>10</sup>	Total Senate Changes
Salaries and wages			\$101,700		\$1,956,555
Operating expenses	\$53,558	\$221,067			296,167
Capital assets				\$100,000	100,000
Grants					
Abandoned mined lands contractual services					
Rail rate complaint case					
Railroad safety program					61,274
Specialized legal services					
<b>Total all funds</b>	<b>\$53,558</b>	<b>\$221,067</b>	<b>\$101,700</b>	<b>\$100,000</b>	<b>\$2,413,996</b>
Less estimated income	(30,042)	0	0	18,200	641,306
General fund	\$83,600	\$221,067	\$101,700	\$81,800	\$1,772,690
FTE	0.00	0.00	0.00	0.00	4.00

<sup>1</sup> Funding is added for the cost to continue salary increases.

<sup>2</sup> The following funding is added for 2023-25 biennium salary adjustments of 4 percent on July 1, 2023, and 4 percent on July 1, 2024, and increases in health insurance from \$1,429 to \$1,648 per month:

	General Fund	Other Funds	Total
Salary Increases	\$314,322	\$217,702	\$532,024
Health insurance increase	129,181	91,821	\$221,002
Total	\$443,503	\$309,523	\$753,026

<sup>3</sup> Funding is increased for temporary salaries and the railroad safety program.

<sup>4</sup> Funding of \$940,518, including \$731,188 from the general fund and \$209,330 from other funds, is added for 4 FTE positions and related operating expenses:

	FTE	Salaries and Wages	Operating Expenses	Total
Environmental scientist	1.00	\$216,564	\$0	\$216,564
Legal assistant	1.00	164,482	3,000	167,482
Analyst and engineer	2.00	537,972	18,500	556,472
Total	4.00	\$919,018	\$21,500	\$940,518

<sup>5</sup> Funding is added for providing a salary equity increase for the Public Service Commissioners. The Public Service Commissioners' annual salaries are increased from the current level of \$117,610 to \$124,800 (6 percent) effective July 1, 2023. This funding is in addition to the funding added for the general 4 percent annual salary increases for state

employees.

<sup>6</sup> Funding is added for Information Technology Department rate increases.

<sup>7</sup> Funding for operating expenses is increased by \$83,600 from the general fund and decreased by \$30,042 from federal funds for dues and memberships.

<sup>8</sup> Funding is added from the general fund for a new Capitol space rent model.

<sup>9</sup> One-time funding is added for a shortfall of indirect cost recovery due to decreased federal indirect cost rates.

<sup>10</sup> One-time funding of \$100,000 is added for a drone (\$20,000), weights and measures equipment (\$70,000), and copier replacement (\$10,000).

This amendment also adds sections to:

- Provide for a line of credit at the Bank of North Dakota of \$900,000 to pay costs associated with a rail rate complaint case. The section authorizing a \$900,000 transfer from the beginning farmer revolving loan fund is removed.
- Amend North Dakota Century Code Section 57-43.2-19 to increase the deposit from special fuel taxes into the rail safety fund and to remove the sunset date.
- Provide the statutory changes necessary to increase the Public Service Commissioners' annual salaries to \$124,800 (6 percent) effective July 1, 2023, and to \$129,792 (4 percent) effective July 1, 2024.

**2023 HOUSE APPROPRIATIONS**

**SB 2008**

**Department 408 - Public Service Commission**  
**Senate Bill No. 2008**

**First Chamber Comparison to Base Level**

	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
2023-25 First Chamber Version	\$8,198,377	\$13,988,401	\$22,186,778
2023-25 Base Level	6,425,687	13,347,095	19,772,782
Increase (Decrease)	\$1,772,690	\$641,306	\$2,413,996

**First Chamber Changes**

A summary of the first chamber's changes to the agency's base level appropriations and the executive budget is attached as an appendix.

**Selected Bill Sections Included in the First Chamber Version**

**Bank of North Dakota - Line of credit** - Section 3 provides for a line of credit at the Bank of North Dakota of \$900,000 to pay costs associated with a rail rate complaint case. The section authorizing a \$900,000 transfer from the beginning farmer revolving loan fund is removed.

**Railroad safety program** - Section 4 amends North Dakota Century Code Section 57-43.2-19 to increase the deposit from special fuels taxes into the rail safety fund and to remove the sunset date.

**Salary of commissioners** - Section 5 provides the statutory changes increasing the Public Service Commissioners' salary. Each Public Service Commissioner's annual salary is increased from the current level of \$117,610 to \$124,800 (6 percent), effective July 1, 2023, and to \$129,792 (4 percent) effective July 1, 2024.

**Continuing Appropriations**

**Siting process expense recovery fund** - Section 49-22-22 - Siting process application fees received are deposited in the siting process expense recovery fund to pay expenses incurred in the siting process.

**Performance assurance fund** - Section 49-21-31 - Money received by the Public Service Commission under a performance assurance plan is to be deposited in the performance assurance fund until the balance equals \$100,000. The money in the fund may be used by the Public Service Commission to monitor the operation and effect of the performance assurance plan.

**Utility valuation expense recovery** - Section 49-05-04 - Any public utility requesting an increase in its rates above the maximum approved or prescribed by the commission shall furnish the commission the required documents and an application fee in the amount of \$175,000. Upon request of the commission and with the approval of the Emergency Commission, the applicant shall pay such additional fees as are reasonably necessary for completion of the application process by the commission. The commission shall pay the expenses of investigating a rate increase application under this section from the application fee paid by the public utility in accordance with Section 49-02-02. The commission may waive or reduce the fee.

**Deficiency Appropriations**

There are no deficiency appropriations for this agency.

**Significant Audit Findings**

There are no audit findings for this agency.

**Major Related Legislation**

**House Bill No. 1063** - Removes the \$50 tariff rate filing fee requirement.

**House Bill No. 1096** - Relates to permit fees for registered service companies and registered service persons.

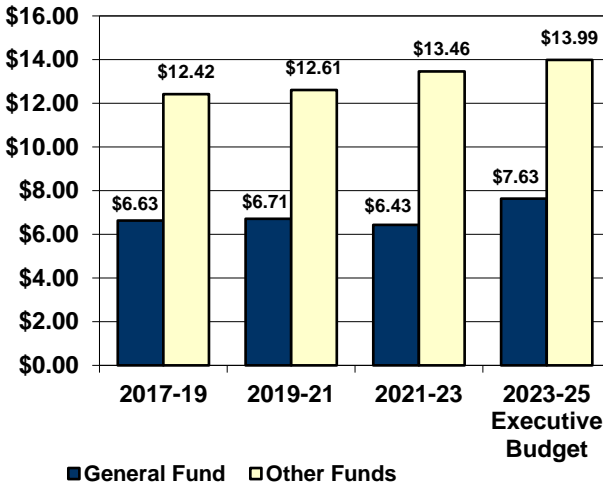
**House Bill No. 1191** - Changes the responsibility for licensing and registering auctioneers and clerks from the Public Service Commission to the Secretary of State.



# Historical Appropriations Information

## Agency Appropriations and FTE Positions

Agency Funding (Millions)



FTE Positions



### Ongoing General Fund Appropriations

	2015-17	2017-19	2019-21	2021-23	2023-25 Executive Budget
Ongoing general fund appropriations	\$7,175,827	\$6,630,762	\$6,714,928	\$6,425,687	\$7,527,872
Increase (decrease) from previous biennium	N/A	(\$545,065)	\$84,166	(\$289,241)	\$1,102,185
Percentage increase (decrease) from previous biennium	N/A	(7.6%)	1.3%	(4.3%)	17.2%
Cumulative percentage increase (decrease) from 2015-17 biennium	N/A	(7.6%)	(6.4%)	(10.5%)	4.9%

### Major Increases (Decreases) in Ongoing General Fund Appropriations

#### 2017-19 Biennium

1. Removed 2 FTE undesignated positions (\$286,240)
2. Reduced salaries and wages in anticipation of savings from vacant positions and employee turnover (\$250,000)
3. Reduced funding for operating expenses (\$47,736)
4. Reduced funding for capital assets to provide a total of \$10,000 (\$16,400)
5. Removed funding from the general fund for specialized legal services (\$56,000)

#### 2019-21 Biennium

1. Transferred 2 FTE grain warehouse inspectors (\$317,725) and related operating expenses (\$71,000) to the Department of Agriculture (\$388,725)
2. Added funding for the reclassification of an existing underfunded FTE position as an accounting budget specialist position (\$165,493) and related operating expenses (\$5,000) \$170,493

#### 2021-23 Biennium

1. Changed the funding source for a portion of salaries and wages from the general fund to the Public Service Commission program fund (\$625,000)
2. Added funding for the reclassification of an existing underfunded FTE position as a natural gas pipeline inspector position \$167,547

#### 2023-25 Biennium (Executive Budget Recommendation)

1. Adds funding for a new Capitol space rent model \$221,067
2. Adds funding for a Federal Energy Regulatory Commission (FERC) contractor \$120,000

- 3. Adds funding for ongoing operating expenses, of which \$52,000 is for supplies - IT software to provide a total of \$224,500, and \$31,600 is for professional development to provide a total of \$132,400 \$83,600
- 4. Adds 1 FTE for an environmental scientist position \$77,962

**One-Time General Fund Appropriations**

	<b>2015-17</b>	<b>2017-19</b>	<b>2019-21</b>	<b>2021-23</b>	<b>2023-25 Executive Budget</b>
One-time general fund appropriations	\$239,624	\$0	\$0	\$5,400	\$103,500

**Major One-Time General Fund Appropriations**

**2017-19 Biennium**

None \$0

**2019-21 Biennium**

None \$0

**2021-23 Biennium**

Replace real time kinematic equipment \$5,400

**2023-25 Biennium (Executive Budget Recommendation)**

- 1. Shortfall of indirect cost recovery \$101,700
- 2. Drone \$1,800

**Public Service Commission - Budget No. 408**  
**Senate Bill No. 2008**  
**Base Level Funding Changes**

	Executive Budget Recommendation				Senate Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2023-25 Biennium Base Level</b>	43.00	\$6,425,687	\$13,347,095	\$19,772,782	43.00	\$6,425,687	\$13,347,095	\$19,772,782
<b>2023-25 Ongoing Funding Changes</b>								
Cost to continue salaries		\$53,472	\$27,589	\$81,061		\$53,472	\$27,589	\$81,061
Salary increase		419,766	290,719	710,485		314,322	217,702	532,024
Health insurance increase		126,276	89,756	216,032		129,181	91,821	221,002
Adds funding for temporary salaries and the railroad safety program			106,706	106,706		38,000	106,706	144,706
Adds 1 FTE environmental scientist position	1.00	77,962	138,602	216,564	1.00	77,962	138,602	216,564
Adds salary equity funding for elected officials			0	0		18,318	0	18,318
Adds 1 FTE legal assistant position			0	0	1.00	96,754	70,728	167,482
Adds 2 FTE public utility positions			0	0	2.00	556,472	0	556,472
Adds funding for Information Technology Department rate increase		42	0	42		42	0	42
Adjusts funding for operating expenses		83,600	(30,042)	53,558		83,600	(30,042)	53,558
Adds funding for a new Capitol space rent model		221,067	0	221,067		221,067	0	221,067
Adds funding for a FERC contractor		120,000	0	120,000		0	0	0
Total ongoing funding changes	1.00	\$1,102,185	\$623,330	\$1,725,515	4.00	\$1,589,190	\$623,106	\$2,212,296
<b>One-Time Funding Items</b>								
Adds one-time funding for shortfall of indirect cost recovery		\$101,700	0	\$101,700		\$101,700	0	\$101,700
Adds one-time funding for a drone		1,800	\$18,200	20,000		1,800	\$18,200	20,000
Adds one-time funding for weights and measures equipment		0	0	0		70,000	0	70,000
Adds one-time funding for copier		0	0	0		10,000	0	10,000
Total one-time funding changes	0.00	\$103,500	\$18,200	\$121,700	0.00	\$183,500	\$18,200	\$201,700
<b>Total Changes to Base Level Funding</b>	1.00	\$1,205,685	\$641,530	\$1,847,215	4.00	\$1,772,690	\$641,306	\$2,413,996
<b>2023-25 Total Funding</b>	44.00	\$7,631,372	\$13,988,625	\$21,619,997	47.00	\$8,198,377	\$13,988,401	\$22,186,778
<i>Federal funds included in other funds</i>			\$11,673,971				\$11,682,403	
<i>Total ongoing changes as a percentage of base level</i>	2.3%	17.2%	4.7%	8.7%	9.3%	24.7%	4.7%	11.2%
<i>Total changes as a percentage of base level</i>	2.3%	18.8%	4.8%	9.3%	9.3%	27.6%	4.8%	12.2%

**Other Sections in Public Service Commission - Budget No. 408**

	Executive Budget Recommendation	Senate Version
Beginning farmer revolving loan fund	Section 3 would authorize a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.	Section 3 establishes a line of credit to the Public Service Commission to provide funding to pay costs associated with a rail rate complaint case. The line of credit may not exceed \$900,000, and the Public Service Commission shall repay the line of credit from amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case.
Railroad safety program	Section 4 would amend Section 57-43.2-19 to increase the deposit from \$297,362 to \$332,327 per year from special fuels taxes into the rail safety fund through June 30, 2027.	Section 4 amends Section 57-43.2-19 to increase the deposit from \$297,362 to \$332,327 per year from special fuels taxes into the rail safety fund for the 2023-25 biennium.

**Other Sections in Public Service Commission - Budget No. 408**

Salary of commissioners

**Executive Budget Recommendation**

Section 5 would provide the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,667, effective July 1, 2023, and to \$129,654 effective July 1, 2024, to reflect the 6 percent and 4 percent recommended salary increase.

**Senate Version**

Section 5 provides the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,800, effective July 1, 2023, and to \$129,792 effective July 1, 2024, to reflect the equity and 4 percent recommended salary increase.

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Appropriations - Government Operations Division Brynhild Haugland Room, State Capitol

SB 2008  
3/10/2023

A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission; and to provide for a transfer.
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**8:30 AM Chairman Monson** called the meeting to order.

**Members present: Chairman Monson, Vice Chair Brandenburg, Rep. Bellew, Rep. Kempenich, Rep. Meier, Rep. Pyle, Rep. Mock**

### **Discussion Topics:**

- Department Overview
- Energy Cost
- Rail Safety Update
- Organizational Chart

**Randy Christmann, Chairman of ND Public Service Commission**, testified in favor of the bill. Testimony (#23498) (#23618) (#23499)

**Jason Bohrer, ND Lignite Energy Council** spoke in favor of the bill.

**Kelvin Hullet - Chief Business Development Director, Bank of ND**, spoke in favor of the bill.

**10:47 AM Chairman Monson**, closed the meeting.

*Amy Liepke, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Appropriations - Government Operations Division Brynhild Haugland Room, State Capitol

SB 2008  
3/21/2023

A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission; and to provide for a transfer.

Chairman Monson opened the meeting at 3:02 PM

**Members present: Chairman Monson, Vice Chair Brandenburg, Rep. Bellew, Rep. Kempenich, Rep. Meier, Rep. Pyle, Rep. Mock**

### **Discussion Topics:**

- EV Charging Stations
- High- flow testing equipment
- 5-to-100-gallon testing machine
- Budget 408

Randy Christmann, Chairman of the ND Public Service Commission answered questions for the committee. (#26160)

Legislative Council, Budget 408 (#26158)

Randy Christmann, answered questions for the committee, explanation of Siting Administration Fee (#26179)

Jill Kringstad, Management of Business Operations, ND PSC, answered questions for the committee.

Chairman Monson closed the hearing at 4:40 PM

*Leah Kuball, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Appropriations - Government Operations Division Brynhild Haugland Room, State Capitol

SB 2008  
3/29/2023

A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission; and to provide for a transfer.
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Chairman Monson opened the meeting at 3:00 PM

**Members present: Chairman Monson, Vice Chair Brandenburg, Rep. Bellew, Rep. Kempenich, Rep. Meier, Rep. Pyle, Rep. Mock**

### **Discussion Topics:**

- General funding
- Additional FTE's
- Coal and Wind energy
- New Drone
- New Copier

Randy Christmann, Chairman of the ND Public Service Commission answered questions for the committee

Chairman Monson closed the hearing at 4:05 PM

*Leah Kuball, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Appropriations - Government Operations Division Brynhild Haugland Room, State Capitol

SB 2008  
4/4/2023

A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission; and to provide for a transfer.

Chairman Monson opened the meeting at 3:56 PM

**Members present: Chairman Monson, Vice Chair Brandenburg, Rep. Kempenich, Rep. Meier, Rep. Pyle, Rep. Mock**

**Members Absent: Rep. Bellew**

### Discussion Topics:

- Amendments (23.0262.02002)
- Additional FTE's
- Emergency Clauses

Randy Christmann, Chairman of the public service commission, answers questions for the committee (#27287) (23.0262.02002)

Representative Pyle Moved to adopt (23.0262.02002)

Representative Mock Seconded motion

Roll call vote:

<b>Representatives</b>	<b>Vote</b>
Representative David Monson	Y
Representative Mike Brandenburg	Y
Representative Larry Bellew	AB
Representative Keith Kempenich	Y
Representative Lisa Meier	Y
Representative Corey Mock	Y
Representative Brandy Pyle	Y

Motion carries: 6-0-1

Representative Pyle moved to further amend by adding Emergency Clauses to sections 6 and 7.

Representative Mock Seconds motion



Roll call vote:

<b>Representatives</b>	<b>Vote</b>
Representative David Monson	Y
Representative Mike Brandenburg	Y
Representative Larry Bellew	AB
Representative Keith Kempenich	Y
Representative Lisa Meier	Y
Representative Corey Mock	Y
Representative Brandy Pyle	Y

Motion carries: 6-0-1

Representative Pyle moves a DO PASS as amended.

Representative Mock Seconds motion

Roll call vote:

<b>Representatives</b>	<b>Vote</b>
Representative David Monson	Y
Representative Mike Brandenburg	Y
Representative Larry Bellew	AB
Representative Keith Kempenich	Y
Representative Lisa Meier	Y
Representative Corey Mock	Y
Representative Brandy Pyle	Y

Motion carries: 6-0-1

Bill carrier: Representative Pyle

Chairman Monson closed the hearing at 4:19 PM

*Leah Kuball, Committee Clerk*

# 2023 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee Brynhild Haugland Room, State Capitol

SB 2008  
4/7/2023

A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission; and to provide for a transfer.

**10:33 AM Chairman Vigesaa** Called the meeting to order and roll call was taken-

**Members Present;** Chairman Vigesaa, Representative Kempenich, Representative Bellew, Representative Brandenburg, Representative Hanson, Representative Kreidt, Representative Martinson, Representative Meier, Representative Mock, Representative Monson, Representative Nathe, Representative J. Nelson, Representative O'Brien, Representative Pyle, Representative Richter, Representative Sanford, Representative Schatz, Representative Schobinger, Representative Strinden, Representative G. Stemen and Representative Swiontek.

**Members not Present-** Representative B. Anderson and Representative Mitskog

### Discussion Topics:

- Amendment
- Committee Action

**Representative Pyle-** Give the statement of purpose and amendment 23.0262.02003 (Testimony #27382)

**Representative Pyle** Move to adopt amendment 23.0262.02003

**Representative Monson** Seconds the motion.

Committee Discussion- Roll call vote

Representatives	Vote
Representative Don Vigesaa	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	A
Representative Larry Bellew	N
Representative Mike Brandenburg	Y
Representative Karla Rose Hanson	Y
Representative Gary Kreidt	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	A
Representative Corey Mock	Y
Representative David Monson	Y
Representative Mike Nathe	Y

Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Mike Schatz	N
Representative Randy A. Schobinger	Y
Representative Greg Stemen	Y
Representative Michelle Strinden	Y
Representative Steve Swiontek	Y

**Motion Carries 19-2-2**

**Representative Pyle** Move for a Do Pass as Amended

**Representative Monson** Seconds the motion.

Committee Discussion- Roll call vote

<b>Representatives</b>	<b>Vote</b>
Representative Don Vigesaa	Y
Representative Keith Kempenich	Y
Representative Bert Anderson	A
Representative Larry Bellew	N
Representative Mike Brandenburg	Y
Representative Karla Rose Hanson	Y
Representative Gary Kreidt	Y
Representative Bob Martinson	Y
Representative Lisa Meier	Y
Representative Alisa Mitskog	A
Representative Corey Mock	Y
Representative David Monson	Y
Representative Mike Nathe	Y
Representative Jon O. Nelson	Y
Representative Emily O'Brien	Y
Representative Brandy Pyle	Y
Representative David Richter	Y
Representative Mark Sanford	Y
Representative Mike Schatz	N
Representative Randy A. Schobinger	Y
Representative Greg Stemen	Y
Representative Michelle Strinden	Y
Representative Steve Swiontek	Y

**Motion Carries 19-2-2 Representative Pyle will carry the bill**

**10:56 AM Chairman Vigesaa** Closed the meeting for SB 2008

House Appropriations Committee  
SB 2008  
April 7, 2023  
Page 3

*Risa Berube, Committee Clerk*

AG  
4-7-23  
(1-5)

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 1, line 2, replace "sections 57-43.2-19 and" with "section"

Page 1, line 2, after "49-01-05" insert ", subsection 4 of section 49-22-22, and sections 49-22.1-21 and 57-43.2-19"

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

Page 1, line 4, after "fund" insert ", and siting process administrative fees"

Page 1, line 4, replace "and to provide for a report" with "to provide a transfer; and to declare an emergency"

Page 1, remove lines 14 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$9,991,488	\$930,538	\$10,922,026
Operating expenses	1,801,570	403,917	2,205,487
Capital assets	25,000	100,000	125,000
Grants	20,000	0	20,000
Abandoned mined lands contractual services	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	614,724	54,594	669,318
Specialized legal services	420,000	0	420,000
Total all funds	\$19,772,782	\$1,489,049	\$21,261,831
Less estimated income	13,347,095	377,026	13,724,121
Total general fund	\$6,425,687	\$1,112,023	\$7,537,710
Full-time equivalent positions	43.00	2.00	45.00"

Page 2, after line 19, insert:

**"SECTION 3. 2021-23 BIENNIUM APPROPRIATION - TRANSFER - PUBLIC SERVICE COMMISSION PROGRAM FUND.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$60,000, which the office of management and budget shall transfer to the public service commission program fund for the purpose of establishing a balance in the public service commission program fund, during the period beginning with the effective date of this Act, and ending June 30, 2023."

Page 2, remove lines 29 and 30

Page 3, remove lines 1 through 13

Page 3, line 17, replace "twenty-four" with "thirty"

Page 3, line 17, remove "eight"

Page 3, line 18, overstrike the first "hundred"

Page 3, line 18, replace "twenty-nine" with "thirty-five"

Page 3, line 19, replace "seven" with "two"

Page 3, line 19, remove "ninety-two"

Page 3, after line 22, insert:

AG  
4-7-23  
(25)

**"SECTION 6. AMENDMENT.** Subsection 4 of section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

4. Every applicant under this chapter shall pay to the commission an administrative fee equal to ~~one~~two hundred dollars for each one million dollars of original investment, not to exceed ~~twenty-five~~fifty thousand dollars. The administrative fee must be deposited in the public service commission program fund.

**SECTION 7. AMENDMENT.** Section 49-22.1-21 of the North Dakota Century Code is amended and reenacted as follows:

**49-22.1-21. Siting process expense recovery - Deposit in special fund - Continuing appropriation.**

1. Every applicant under this chapter shall pay to the commission an application fee:
  - a. An applicant for a certificate of site compatibility shall pay an amount equal to five hundred dollars for each one million dollars of investment in the facility.
  - b. An applicant for a certificate of corridor compatibility shall pay an amount equal to five thousand dollars for each one million dollars of investment in the facility.
  - c. An applicant for a waiver shall pay the amount that would be required for an application for a certificate of site or corridor compatibility for the proposed facility. If a waiver is not granted for a proposed facility, the application fee paid must be allowed as a credit against fees payable under this section in connection with an application under this chapter for a certificate or permit for the proposed facility.
  - d. An applicant for a transfer of a certificate or permit shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
  - e. An applicant requesting an amendment to a certificate or permit, or certifying to the commission under subsection 3 of section 49-22.1-01 or obtaining siting authority under subdivision b of subsection 2 or subdivision c of subsection 4 of section 49-22.1-15, shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
  - f. The application fee under subdivision a, b, or c may not be less than ten thousand dollars nor more than one hundred thousand dollars.
  - g. ~~If an application fee is less than twenty-five thousand dollars, an~~An applicant may agree to pay additional fees that are reasonably necessary for completion of the site, corridor, or route evaluation and designation process.

2. At if an applicant does not agree to pay additional fees reasonably necessary for completion of the site, corridor, or route evaluation and designation process, at the request of the commission and with the approval of the emergency commission, the applicant shall pay any additional fees as are reasonably necessary for completion of the gas or liquid energy conversion facility site, gas or liquid transmission facility corridor, or gas or liquid transmission facility route evaluation and designation process by the commission. The application fee under subsection 1 and any additional fees required of the applicant under this subsection may not exceed an amount equal to one thousand dollars for each one million dollars of investment in a proposed energy conversion facility or ten thousand dollars for each one million dollars of investment in a proposed gas or liquid transmission facility.
3. A siting process expense recovery fund is established in the state treasury. The commission shall deposit payments received under subsections 1 and 2 in the siting process expense recovery fund. All moneys deposited in the fund are appropriated on a continuing basis to the commission to pay expenses incurred in the siting process. The commission shall specify the time and method of payment of any fees and shall refund the portion of fees collected under subsections 1 and 2 which exceeds the expenses incurred for the evaluation and designation process.
4. Every applicant for a certificate of site compatibility, certificate of corridor compatibility and route permit, and transfer of a certificate or permit under this chapter shall pay to the commission an administrative fee equal to ~~one~~two hundred dollars for each one million dollars of original investment, not to exceed ~~twenty-five~~ fifty thousand dollars. The administrative fee must be deposited into the public service commission program fund.

AG  
4-7-23  
(3-5)

**SECTION 8. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. Transfer, deposit, and distribution of funds. (~~Effective through June 30, 2025~~)**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to ~~two~~three hundred ~~ninety-seven~~thirty-two thousand three hundred ~~sixty-two~~twenty-seven dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

~~**Transfer, deposit, and distribution of funds. (Effective after June 30, 2025)**~~  
All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

**SECTION 9. EMERGENCY.** Sections 3, 6, and 7 of this Act are declared to be an emergency measure."

Renumber accordingly

AG  
4-7-23  
(4-5)

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2008 - Public Service Commission - House Action**

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$9,991,488	\$11,948,043	(\$1,026,017)	\$10,922,026
Operating expenses	1,801,570	2,097,737	107,750	2,205,487
Capital assets	25,000	125,000		125,000
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	6,000,000	6,000,000		6,000,000
Rail rate complaint case	900,000	900,000		900,000
Railroad safety program	614,724	675,998	(6,680)	669,318
Specialized legal services	420,000	420,000		420,000
<b>Total all funds</b>	<b>\$19,772,782</b>	<b>\$22,186,778</b>	<b>(\$924,947)</b>	<b>\$21,261,831</b>
Less estimated income	13,347,095	13,988,401	(264,280)	13,724,121
General fund	\$6,425,687	\$8,198,377	(\$660,667)	\$7,537,710
FTE	43.00	47.00	(2.00)	45.00

**Department 408 - Public Service Commission - Detail of House Changes**

	Adds Funding for Salary and Benefit Increases <sup>1</sup>	Adds Salary Equity Funding for Elected Officials <sup>2</sup>	Remove Funding for FTE positions <sup>3</sup>	Removes Salary Funding for Funding Pool <sup>4</sup>	Adds Funding for FERC Contractor <sup>5</sup>	Total House Changes
Salaries and wages	\$164,835	\$20,520	(\$415,386)	(\$795,986)		(\$1,026,017)
Operating expenses			(12,250)		\$120,000	107,750
Capital assets						
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	8,656			(15,336)		(6,680)
Specialized legal services						
<b>Total all funds</b>	<b>\$173,491</b>	<b>\$20,520</b>	<b>(\$427,636)</b>	<b>(\$811,322)</b>	<b>\$120,000</b>	<b>(\$924,947)</b>
Less estimated income	70,952	0	(70,728)	(264,504)	0	(264,280)
General fund	\$102,539	\$20,520	(\$356,908)	(\$546,818)	\$120,000	(\$660,667)
FTE	0.00	0.00	(2.00)	0.00	0.00	(2.00)

<sup>1</sup> Salaries and wages funding is adjusted to provide for the 2023-25 biennium salary increases of 6 percent on July 1, 2023, and 4 percent on July 1, 2024, and for adjustments to health insurance premium rates as follows:

	General Fund	Other Funds	Total
Salary increase	\$105,444	\$73,017	\$178,461
Health insurance adjustment	(2,905)	(2,065)	(4,970)
Total	\$102,539	\$70,952	\$173,491

The Senate provided salary adjustments of 4 percent on July 1, 2023, and July 1, 2024.

<sup>2</sup> Funding is added for providing a salary equity increase for the Public Service Commissioners. The Public Service Commissioners' annual salaries are increased from the current level of \$117,610 to \$130,000 (10.5 percent) effective July 1, 2023. This funding is in addition to the funding of 6 percent added by the Senate.

<sup>3</sup> Funding of \$427,636, including \$356,908 from the general fund and \$70,728 from other funds, is removed for 2 FTE positions and related operating expenses:



	<u>FTE</u>	<u>Salaries and Wages</u>	<u>Operating Expenses</u>	<u>Total</u>
Legal assistant	(1.00)	(\$164,482)	(\$3,000)	(\$167,482)
Public utility analyst	(1.00)	(250,904)	(9,250)	(260,154)
Total	(2.00)	(\$415,386)	(\$12,250)	(\$427,636)

AGC  
4-7-23  
(5-5)

<sup>4</sup> Funding for new FTE positions and estimated savings from vacant FTE positions is removed as shown below. These amounts are available to the agency if needed by submitting a request to the Office of Management and Budget for a transfer from the new and vacant FTE funding pool.

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
New FTE positions	(\$365,030)	(\$138,602)	(\$503,632)
Vacant FTE positions	(181,788)	(125,902)	(307,690)
Total	(\$546,818)	(\$264,504)	(\$811,322)

<sup>5</sup> Funding of \$120,000 is added from the general fund for a Federal Energy Regulatory Commission (FERC) contractor to ensure reliable, safe, secure, and economically efficient energy for consumers at a reasonable cost.

This amendment also:

- Adds sections to change Sections 49-22-22(4) and 49-22.1-21 to increase the administrative siting fee from \$100 to \$200 for each \$1 million of original investment and increase the maximum from \$25,000 to \$50,000.
- Adds a section to transfer \$60,000 from the general fund to the Public Service Commission program fund during the 2021-23 biennium.
- Adds a section to provide an emergency clause related to the \$60,000 transfer to the Public Service Commission program fund.

**REPORT OF STANDING COMMITTEE**

**SB 2008, as engrossed: Appropriations Committee (Rep. Vigesaa, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 2 NAYS, 2 ABSENT AND NOT VOTING). Engrossed SB 2008 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "sections 57-43.2-19 and" with "section"

Page 1, line 2, after "49-01-05" insert ", subsection 4 of section 49-22-22, and sections 49-22.1-21 and 57-43.2-19"

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

Page 1, line 4, after "fund" insert ", and siting process administrative fees"

Page 1, line 4, replace "and to provide for a report" with "to provide a transfer; and to declare an emergency"

Page 1, remove lines 14 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$9,991,488	\$930,538	\$10,922,026
Operating expenses	1,801,570	403,917	2,205,487
Capital assets	25,000	100,000	125,000
Grants	20,000	0	20,000
Abandoned mined lands contractual services	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	614,724	54,594	669,318
Specialized legal services	<u>420,000</u>	<u>0</u>	<u>420,000</u>
Total all funds	\$19,772,782	\$1,489,049	\$21,261,831
Less estimated income	<u>13,347,095</u>	<u>377,026</u>	<u>13,724,121</u>
Total general fund	\$6,425,687	\$1,112,023	\$7,537,710
Full-time equivalent positions	43.00	2.00	45.00"

Page 2, after line 19, insert:

**"SECTION 3. 2021-23 BIENNIUM APPROPRIATION - TRANSFER - PUBLIC SERVICE COMMISSION PROGRAM FUND.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$60,000, which the office of management and budget shall transfer to the public service commission program fund for the purpose of establishing a balance in the public service commission program fund, during the period beginning with the effective date of this Act, and ending June 30, 2023."

Page 2, remove lines 29 and 30

Page 3, remove lines 1 through 13

Page 3, line 17, replace "twenty-four" with "thirty"

Page 3, line 17, remove "eight"

Page 3, line 18, overstrike the first "hundred"

Page 3, line 18, replace "twenty-nine" with "thirty-five"

Page 3, line 19, replace "seven" with "two"

Page 3, line 19, remove "ninety-two"

Page 3, after line 22, insert:

**"SECTION 6. AMENDMENT.** Subsection 4 of section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

4. Every applicant under this chapter shall pay to the commission an administrative fee equal to ~~one~~two hundred dollars for each one million dollars of original investment, not to exceed ~~twenty-five~~fifty thousand dollars. The administrative fee must be deposited in the public service commission program fund.

**SECTION 7. AMENDMENT.** Section 49-22.1-21 of the North Dakota Century Code is amended and reenacted as follows:

**49-22.1-21. Siting process expense recovery - Deposit in special fund - Continuing appropriation.**

1. Every applicant under this chapter shall pay to the commission an application fee:
  - a. An applicant for a certificate of site compatibility shall pay an amount equal to five hundred dollars for each one million dollars of investment in the facility.
  - b. An applicant for a certificate of corridor compatibility shall pay an amount equal to five thousand dollars for each one million dollars of investment in the facility.
  - c. An applicant for a waiver shall pay the amount that would be required for an application for a certificate of site or corridor compatibility for the proposed facility. If a waiver is not granted for a proposed facility, the application fee paid must be allowed as a credit against fees payable under this section in connection with an application under this chapter for a certificate or permit for the proposed facility.
  - d. An applicant for a transfer of a certificate or permit shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
  - e. An applicant requesting an amendment to a certificate or permit, or certifying to the commission under subsection 3 of section 49-22.1-01 or obtaining siting authority under subdivision b of subsection 2 or subdivision c of subsection 4 of section 49-22.1-15, shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
  - f. The application fee under subdivision a, b, or c may not be less than ten thousand dollars nor more than one hundred thousand dollars.
  - g. ~~If an application fee is less than twenty-five thousand dollars, an~~An applicant may agree to pay additional fees that are reasonably necessary for completion of the site, corridor, or route evaluation and designation process.
2. ~~At~~If an applicant does not agree to pay additional fees reasonably necessary for completion of the site, corridor, or route evaluation and designation process, at the request of the commission and with the approval of the emergency commission, the applicant shall pay any additional fees as are reasonably necessary for completion of the gas or liquid energy conversion facility site, gas or liquid transmission facility

corridor, or gas or liquid transmission facility route evaluation and designation process by the commission. The application fee under subsection 1 and any additional fees required of the applicant under this subsection may not exceed an amount equal to one thousand dollars for each one million dollars of investment in a proposed energy conversion facility or ten thousand dollars for each one million dollars of investment in a proposed gas or liquid transmission facility.

3. A siting process expense recovery fund is established in the state treasury. The commission shall deposit payments received under subsections 1 and 2 in the siting process expense recovery fund. All moneys deposited in the fund are appropriated on a continuing basis to the commission to pay expenses incurred in the siting process. The commission shall specify the time and method of payment of any fees and shall refund the portion of fees collected under subsections 1 and 2 which exceeds the expenses incurred for the evaluation and designation process.
4. Every applicant for a certificate of site compatibility, certificate of corridor compatibility and route permit, and transfer of a certificate or permit under this chapter shall pay to the commission an administrative fee equal to ~~one~~two hundred dollars for each one million dollars of original investment, not to exceed ~~twenty-five~~fifty thousand dollars. The administrative fee must be deposited into the public service commission program fund.

**SECTION 8. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. Transfer, deposit, and distribution of funds. (~~Effective through June 30, 2025~~)**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to ~~two~~three hundred ~~ninety-seven~~thirty-two thousand three hundred ~~sixty-two~~twenty-seven dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

~~**Transfer, deposit, and distribution of funds. (Effective after June 30, 2025)** All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.~~

**SECTION 9. EMERGENCY.** Sections 3, 6, and 7 of this Act are declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2008 - Public Service Commission - House Action**

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$9,991,488	\$11,948,043	(\$1,026,017)	\$10,922,026
Operating expenses	1,801,570	2,097,737	107,750	2,205,487
Capital assets	25,000	125,000		125,000
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	6,000,000	6,000,000		6,000,000

Rail rate complaint case	900,000	900,000		900,000
Railroad safety program	614,724	675,998	(6,680)	669,318
Specialized legal services	420,000	420,000		420,000
Total all funds	\$19,772,782	\$22,186,778	(\$924,947)	\$21,261,831
Less estimated income	13,347,095	13,988,401	(264,280)	13,724,121
General fund	\$6,425,687	\$8,198,377	(\$660,667)	\$7,537,710
FTE	43.00	47.00	(2.00)	45.00

**Department 408 - Public Service Commission - Detail of House Changes**

	Adds Funding for Salary and Benefit Increases <sup>1</sup>	Adds Salary Equity Funding for Elected Officials <sup>2</sup>	Remove Funding for FTE positions <sup>3</sup>	Removes Salary Funding for Funding Pool <sup>4</sup>	Adds Funding for FERC Contractor <sup>5</sup>	Total House Changes
Salaries and wages	\$164,835	\$20,520	(\$415,386)	(\$795,986)		(\$1,026,017)
Operating expenses			(12,250)		\$120,000	107,750
Capital assets						
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	8,656			(15,336)		(6,680)
Specialized legal services						
Total all funds	\$173,491	\$20,520	(\$427,636)	(\$811,322)	\$120,000	(\$924,947)
Less estimated income	70,952	0	(70,728)	(264,504)	0	(264,280)
General fund	\$102,539	\$20,520	(\$356,908)	(\$546,818)	\$120,000	(\$660,667)
FTE	0.00	0.00	(2.00)	0.00	0.00	(2.00)

<sup>1</sup> Salaries and wages funding is adjusted to provide for the 2023-25 biennium salary increases of 6 percent on July 1, 2023, and 4 percent on July 1, 2024, and for adjustments to health insurance premium rates as follows:

	General Fund	Other Funds	Total
Salary increase	\$105,444	\$73,017	\$178,461
Health insurance adjustment	(2,905)	(2,065)	(4,970)
Total	\$102,539	\$70,952	\$173,491

The Senate provided salary adjustments of 4 percent on July 1, 2023, and July 1, 2024.

<sup>2</sup> Funding is added for providing a salary equity increase for the Public Service Commissioners. The Public Service Commissioners' annual salaries are increased from the current level of \$117,610 to \$130,000 (10.5 percent) effective July 1, 2023. This funding is in addition to the funding of 6 percent added by the Senate.

<sup>3</sup> Funding of \$427,636, including \$356,908 from the general fund and \$70,728 from other funds, is removed for 2 FTE positions and related operating expenses:

	FTE	Salaries and Wages	Operating Expenses	Total
Legal assistant	(1.00)	(\$164,482)	(\$3,000)	(\$167,482)
Public utility analyst	(1.00)	(250,904)	(9,250)	(260,154)
Total	(2.00)	(\$415,386)	(\$12,250)	(\$427,636)

<sup>4</sup> Funding for new FTE positions and estimated savings from vacant FTE positions is removed as shown below. These amounts are available to the agency if needed by submitting a request to the Office of Management and Budget for a transfer from the new and vacant FTE funding pool.

	General Fund	Other Funds	Total
New FTE positions	(\$365,030)	(\$138,602)	(\$503,632)
Vacant FTE positions	(181,788)	(125,902)	(307,690)
Total	(\$546,818)	(\$264,504)	(\$811,322)

<sup>5</sup> Funding of \$120,000 is added from the general fund for a Federal Energy Regulatory

Commission (FERC) contractor to ensure reliable, safe, secure, and economically efficient energy for consumers at a reasonable cost.

This amendment also:

- Adds sections to change Sections 49-22-22(4) and 49-22.1-21 to increase the administrative siting fee from \$100 to \$200 for each \$1 million of original investment and increase the maximum from \$25,000 to \$50,000.
- Adds a section to transfer \$60,000 from the general fund to the Public Service Commission program fund during the 2021-23 biennium.
- Adds a section to provide an emergency clause related to the \$60,000 transfer to the Public Service Commission program fund.

**TESTIMONY**

**SB 2008**

## **Senate Bill 2008**

**Presented by:** Randy Christmann, Chairman  
Public Service Commission

**Before:** Senate Appropriations Committee  
Honorable Brad Bekkedahl, Chairman

**Date:** January 9, 2023

### **TESTIMONY**

Mr. Chair and members of the committee, I'm Commissioner Randy Christmann, Chairman of the Public Service Commission, here to present our 2023-2025 biennial budget request. Commissioners Julie Fedorchak and Sheri Haugen-Hoffart are also in attendance today and available for any questions you may have. Thank you for the opportunity to present our budget bill and explain why we feel it benefits the State of North Dakota. I look forward to answering any questions you may have at the end of my testimony.

### **Introductions and Responsibilities:**

The Public Service Commission (PSC) is a constitutional agency with varying degrees of statutory authority over the following areas:

- Coal mining and reclamation;
- Abandoned mine lands;
- Siting of energy conversion, transmission and generation facilities;
- Pipeline safety of intrastate natural gas pipelines;



- Electric, gas and telephone public utility regulation;
- Damage prevention (enforcement of the One-Call Law);
- Commercial scales and measuring devices;
- Railroad safety;
- Auctioneers and auction clerks.

Attachment A will provide you with a summary of each program, including citations to the applicable North Dakota Century Code chapter(s) associated with that program, major statutory responsibilities, and current biennium accomplishments.

The work at the Commission continues at a brisk pace. This biennium to date we have sited 91.2 miles of pipelines, 1.5 miles of electric transmission lines crossing the Missouri River on the north end of Bismarck/Mandan, and 251.6 MW of wind generation. This represents more than \$515 million of economic investment in North Dakota. Biennium to date, the PSC has received two general utility rate cases. We also review on an annual basis rate riders where each of the electric IOUs recover expenses for transmission, generation and renewable resource investments.

The Reclamation Division currently has more than 132,000 acres permitted for mining activities under 22 permits at 8 mines and more than 6,000 acres are proposed to be added during the current biennium. They also completed final bond release on 948 acres and are currently reviewing 6 bond release applications that total 1,204 acres. The Abandoned Mine Lands Program completed 8 projects and approximately 280 dangerous sinkholes were filled in the past two years. Both the

Reclamation and Abandoned Mine Lands Program continue to receive excellent evaluation reports from the federal Office of Surface Mining.

Our Compliance Division continues to educate about the importance of Call Before You Dig and have received 52 complaints for this biennium to date, which resulted in \$67,900 in fines which were deposited into the general fund. The Commission also licenses 303 auctioneers, 144 auction clerks, and inspects and tests more than 5,100 commercial weighing devices in the state. We also verify the work of commercial testers. Since the start of the Railroad Safety Program in 2015, inspectors have completed more than 1,900 inspections finding more than 13,000 defects and 157 violations. The Commission was proud to announce that one of our rail inspectors is now dual certified, meaning they can inspect two different specialized disciplines.

The following information provides details regarding the PSC's budget priorities for the upcoming biennium and addresses the information requested in Legislative Council's letter dated December 19, 2022.

### **2019-21 Audit Findings:**

The Commission's 2019-21 audit did not identify any areas of concern.

### **Federal Recovery Funding:**

The Commission did not receive any federal recovery funding from the November 2021 special legislative session.

## **One-Time Funding-Current Biennium:**

### Capital Assets:

The Commission received one-time funding last session to purchase capital assets to replace existing equipment in the federal Abandoned Mine Lands (AML) and Coal Reclamation Programs. The total one-time funding is \$120,000 with 96% being federal funds. The funds were used to replace the current real-time kinematic survey equipment, which saves time, energy and manpower resources for surveying, allowing more work to get done with extremely accurate results and fewer man hours used as one person can survey when necessary. The previous equipment was purchased over ten years ago and reliability and support were becoming an issue. This purchase came in under budget as we received trade-in value for the old equipment.

The second piece of equipment that was intended to be replaced was the borehole camera for the AML program. This camera helps inspectors understand the condition of underground mines and estimate the type and amount of fill material needed to reclaim the mine. It is also important for safety when looking into very large sinkholes with horizontal subsidence. While the current equipment was purchased over ten years ago and support is no longer available, there is currently not a good replacement available. The camera has been temporarily repaired and we are evaluating modern technology alternatives, including if an out-right equipment purchase or rental as needed would be most advantageous for the state.

## Major Funding Components in the Base Budget (2021-23):

The following line items make up the major components of our base level:

Appropriation	General Funds	Federal Funds	Special Funds	TOTAL
Salaries and Wages	\$5,282,887	\$4,083,601	\$625,000	\$9,991,488
Operating	\$1,097,800	\$578,770	\$125,000	\$1,801,570
Capital Assets	\$25,000			\$25,000
Grants		\$20,000		\$20,000
AML Contractual		\$6,000,000		\$6,000,000
Rail Rate Complaint Case			\$900,000	\$900,000
Railroad Safety Program		\$20,000	\$594,724	\$614,724
Specialized Legal Services*	\$20,000	\$400,000		\$420,000
<b>TOTAL</b>	<b>\$6,425,687</b>	<b>\$11,102,371</b>	<b>\$2,244,724</b>	<b>\$19,772,782</b>

\*Federal funds are only available for rare and specific federal cases and must be approved by the applicable federal agency. As a result, the Commission relies on state general fund appropriation for this line item.

In the last four budget cycles, the Public Service Commission has undergone significant reorganization in order to meet the increasing demands of the industries we regulate. This includes the utility industries that are undergoing major transformations driven by new technology, aging infrastructure and policy changes, as well as the significant growth of North Dakota's oil and gas industry. Our agency has worked hard to meet these needs by restructuring staff, increasing the use of technology, and improving administrative efficiencies.

The Commission has reorganized over the course of the last several biennia resulting in greater efficiencies and additional focus in certain areas. We created the Compliance Division by consolidating licensing, weights and measures, rail safety, pipeline safety and risk management under one director, which allowed for

a more efficient and effective approach to regulatory enforcement and compliance with these programs. In addition, the director of economic regulation position was eliminated and we organized our Public Utilities Division under one director. We have also streamlined our administrative group to better align and serve our newly organized divisions.

As we look forward, the state is projecting to have historic turnover in the next five years, resulting in loss of efficiency and critical institutional knowledge. However, due to numerous retirements of long-term employees, the PSC is already ahead of this turnover trend. Since Jan. 2019, 80 percent of PSC employees are new or have been hired into a new or expanded role. It has been a challenge to manage this turnover while maintaining the level of service expected throughout all of our programs and finding a way to effectively pass on institutional knowledge. This places an increased burden on experienced staff who spend a large portion of their time training and mentoring new employees while still performing their full-time job duties. Sadly, there are limited ways to recognize and compensate veteran employees for their increased workload.

Recruitment has also been a tremendous challenge as current state compensation levels are drastically behind the private sector. This is compounded due to the energy industry interacting with and competing for many of our people. While being able to offer fully paid health insurance and offer a defined benefit plan are valuable benefits, this does not make up for the shortfall in salaries. Many positions at the Commission are extremely technical and specialized with a limited applicant pool to draw from. Fortunately, our current employees have been strong

advocates for our agency and have helped us recruit a number of key individuals to fill our vacant positions. However, often we have had to provide new hires the same or higher compensation as current employees. This has led to several equity problems throughout our agency. While we are proud of how we have handled this transition within our agency, we still have equity issues to correct. We've been fortunate to recruit and hire well educated, talented people but due to compensation levels, struggled to attract applicants with experience. While we have hired excellent recruits, their limited experience will require extensive training to be as effective and efficient as previous employees with many years of experience.

Maintaining professional, trained staff and minimizing turnover whenever possible is critical to the smooth functioning of our agency. Competitive salary and benefit packages are a key part of recruitment and retention. The Commission is supportive of the Governor's proposed compensation increases for employees and would encourage the legislature to consider even higher salary increases to keep up with inflation.

## **Requested Enhancements to Legislative Base Budget:**

### Railroad Safety Program:

First, as recommended in the Governor's budget, we request that "temporary status" of the Railroad Safety Program be eliminated and the program be established as a normal part of the Commission's biennial budget. This program involves direct inspection and compliance efforts that reduce the potential for

injuries, death and property damage in and along North Dakota's substantial railroad system. The Railroad Safety Program is funded not with general funds, but with an existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements.

The Railroad Safety Program was approved by the 2015 Legislative Assembly to supplement federal oversight of rail safety. Nationally, the Federal Railroad Administration (FRA) only has resources to inspect 0.2 percent of railroad operations. Federally certified state inspectors, like ours, are critical to ensuring safe rail operations and are an important commitment from North Dakota to do our part to support safe transport of products like crude oil and anhydrous ammonia that originate from and pass through our state. A summary of accomplishments is included in attachment B.

Eliminating the temporary status improves the stability of the program and sends an important message to the highly skilled employees who dedicate their careers to this important work.

Environmental Scientist Position:

The Reclamation Division carries out the Surface Mining Control and Reclamation Act of 1977 (SMCRA) in a partnership effort between the State of ND and the U.S. Department of Interior's Office of Surface Mining (OSM). The Reclamation Division evaluates surface mining permit, permit revision and renewal applications, makes recommendations to the Commissioners regarding permit

issuance, and carries out inspections of coal mines to ensure compliance with the program's requirements.

Since the inception of the program in the 1970s, the state has operated at the minimum staffing required to maintain the state program. Due to the complexities of this program, it requires at least three years of on-the-job training before the full breadth of rules, laws, and processes are understood.

In addition to the changing workforce, the coal mining industry is also having challenges retaining employees due to industry perception and in some cases, companies filing for bankruptcy. This adds additional work to already limited staff. An additional position would allow effective cross training, aid in succession planning, and provide a backstop from the federal government stepping in to take over the administration of this program if we cannot maintain minimum staffing and appropriate program support. We are currently overseeing the reclamation of a mine that has gone through bankruptcy and is no longer producing coal with 8,778 permitted acres.

We are requesting 1 FTE to hire an Environmental Scientist. No operating funding is needed as all training will be covered by OSM. The federal government will cover 64% of the salaries and benefit costs through an ongoing federal grant with the remaining 36% being funded by matching general funds.

This position protects the environment and property owners while being responsive to needs of the mining industry. Without this position, our ability to succession plan and transfer institutional knowledge is limited and we continue to



be at risk of losing the primacy of the program to the federal government if we cannot maintain minimum staffing and meet federal requirements.

Public Utility Analyst and Electrical Engineer:

The Public Utility Division covers a wide breadth of services to the citizens of North Dakota including:

- Engaging and monitoring Regional Transmission Organizations (RTOs) and the Federal Energy Regulatory Commission (FERC) both regionally and nationally to ensure North Dakota's interests and voices are being heard in the discussions on energy generation mix, resource planning and pricing, and grid reliability.
- Conducting a thorough and meaningful review of rate cases, advanced determinations of prudence, certificates of public convenience and necessity requests, and other miscellaneous economic regulation applications of seven, multi-billion-dollar, investor-owned retail electric and gas utility operators to ensure fair, just, and reasonable rates.
- Siting energy generation, electrical power transmission and transmission pipeline infrastructure.
- Limited regulation of telecommunications.

All of this work is covered by three analysts and a director. Due to the rapid and dynamic changes happening in the energy industry locally, regionally and nationally, this is no longer sufficient staff to cover these critical areas.

We are requesting 2 FTEs – one Public Utility Analyst and one Electrical Engineer. We also are requesting operating funds to cover professional development. The entire funding request is general fund, however we could explore the possibility of self-funding a portion of this request. Self-funding would require an additional assessment on utilities, which is passed to consumers.

It cannot be stressed enough how much the evolution of RTOs has impacted our agency with the required time and resources it takes to be effectively engaged. To further complicate things, we have two RTO's to cover – both MISO and SPP are integrated throughout our entire state. Some states have 2 to 3 full-time employees working with each respective RTO; comparatively, we have 4 analysts for the entire PUD Division. Decisions being made at the RTO level include changes to reliability that effect energy generation make up and the rate at which different types of resources are being retired. The way renewable and traditional energy resources are dispatched, incentivized and reimbursed for cost are also determined at the RTO level. All these decisions have a significant economic and reliability impact for our state, its citizens and businesses. These complex issues are being compounded by FERC attempting to extend federal authority and jurisdiction.

The Commission is involved in leadership roles within these multi-jurisdictional organizations, and we need adequate staffing to maintain, to become more involved in order to keep up with this complex system, and most importantly to ensure North Dakota has a voice in the long-term reliability and affordability of energy. Without these positions, we will be unable to effectively intervene on behalf

of N.D. citizens and industry in front of FERC and influence RTO decisions effecting reliability, cost, and resource mix. This will impact North Dakota's power production and consumers for years to come.

Another area of regulation our Public Utilities Division is responsible for is telecommunications. This is another industry that is evolving and changing with new technologies being used and adequate staff is needed to respond to emerging issues. One example is the efforts taken in the past biennium to preserve North Dakota's seven-digit dialing. Due to the new Suicide Prevention Hotline of 988, states needed to ensure that 988 is not used as a prefix for any phone numbers, or the state would be required to switch to ten-digit dialing. Public Utilities staff worked with providers using this prefix and they were able to transition those customers to a different prefix, clearing North Dakota from the list required to transition to 10-digit dialing.

Staff has also worked hard to implement processes that utilize phone numbers more efficiently and sparingly, allowing North Dakota to remain with only one area code.

#### Operating Money for Ongoing Operations:

We are requesting additional operating funding for various divisions to continue and enhance ongoing operations and keep up on industry standards and education. Last biennium we were assigned the task of conducting a more in-depth review and analysis of Integrated Resource Plans submitted to the Commission. The Commission is requesting funding for the same modeling software used by

utilities for load forecasts, generation resource selections, and economic results. Having access to the same modeling system utilized by the utilities we regulate will allow staff to more effectively analyze and validate the assumptions and outcomes of those plans. We are also requesting additional funding for:

- Professional development and travel so staff can maintain professional certifications like CPAs, JDs, and PE,
- Third-party support costs in order to extend the life of current equipment instead of purchasing new equipment as a replacement, and
- Funds to cover increased membership dues for NARUC.

Legal Assistant:

As a quasi-judicial agency, legal processes are engrained in everything we do. We are requesting a legal assistant to be a dedicated resource to the legal division to assist with tracking open cases filed at the PSC, FERC, and FCC, and to coordinate with PSC General Counsel to execute open record and open meeting requirements, administrative rulemaking, and administrative appeals. The Legal Assistant would also assist with preparing records and exhibits, scheduling, and hearing organization and preparation. This will help shorten the amount of administrative time for the attorneys so they can engage further in the growing federal, regional, and multistate interactions and respond accordingly.

We are requesting 1 FTE for a Legal Assistant and minimal operating funds to cover professional development. This position will be eligible for indirect cost

recovery, so 57% of funding will be general fund and the remaining 43% is supported with federal funds.

FERC Contractor:

The Commission continues to increase engagement with the Federal Energy Regulatory Commission (FERC) to ensure reliable, safe, secure, and economically efficient energy for consumers at a reasonable cost. If we are unable to secure in-house resources through additional staffing, we would use this money as a backstop to retain a consultant to assist with tracking FERC cases, advising the Commission on critical issues and drafting comments for Commission review and submission. FERC cases are as numerous as are the filings within them. Ensuring we have adequate staff or resources to review those cases and filings and make recommendations for comments that North Dakota should file in those cases is important and necessary to maintaining state's rights.

If we are able to obtain the 2 FTEs and resources requested for the Public Utility Analyst and Electrical Engineer, we do not believe this funding will be necessary. However, just as we are seeing RTOs develop regional energy transmission policies that have an impact on ND, FERC is taking up many topics that will have an impact on our state. Engaging in FERC cases and filing meaningful comments is necessary to ensure our voice is heard and our citizens are protected from the added costs and reduced reliability that will result from the absence of our engagements.

## **One-Time Funding Requests:**

### Indirect Cost Recovery:

The PSC has an indirect cost agreement with the federal government that allows the agency to negotiate an indirect cost percentage and apply this percentage to federal salary and benefit costs involving the Reclamation, AML and Pipeline Safety programs. This indirect cost recovery is used to support employee salary costs for critical positions that support the entire agency which subsequently reduces the need for general funds. This indirect cost agreement is based on actual expenditures negotiated every two years. Our indirect cost agreement in the 2021-23 budget request was 30.50%. Due to reduced actual expenditures, primarily due to the extensive turnover of staff, we project the indirect cost agreement for the 2023-25 budget to be 26.50%. This anticipated 4% rate reduction will lead to additional general fund needs of approximately \$101,700 to support base salaries of current staff. We expect this to be a one-time issue.

### Drone for Reclamation and AML:

We are requesting a drone that would be used by two divisions at the PSC, the Reclamation Division and the Abandoned Mine Lands Division. The Reclamation division could use the drone when mine access is restricted or hazardous; to create timely aerial imagery when adding acres to a new or existing permit, at bond release, at end of the year, for landowner complaints about land impacts, and immediately following Notice of Violations (NOVs). It would also be useful to create timely digital surface models (DSM)s to estimate mine reclamation

progress, estimate earthwork volumes, identify surface water flow paths, identify surface water ponding, and find erosional features.

The Abandoned Mine Lands (AML) division would use the drone to inspect areas where access is limited or terrain presents challenges on foot. Images collected can be used to make maps, monitor progress and collaborate with other AML staff, contractors, landowners and the public. Autonomous flight missions would allow AML to create digital elevation models of existing ground conditions much faster than traditional survey methods. This would help AML compute earthwork volumes more efficiently and accurately for reclamation projects.

We are requesting one-time funding to purchase a U.S. Department of Defense cleared drone. Most of this funding will be provided by the federal grants supporting each program.

Weights and Measures Equipment:

The Commission currently does not have the ability to test high-flow devices, verify the work of registered service companies or technicians who certify high-flow diesel dispensers, or respond to complaints on these devices. These devices are used at truck stops to dispense diesel fuel into semis and other large over the road vehicles. This funding would be used to purchase a prover trailer to allow the PSC to test these devices and provide increased driving safety for our inspectors and reduced wear and tear on vehicles.

### Copier Replacement:

The Commission is looking to replace a copier purchased in June 2015. We could continue to use the current copier until it gives out, but ongoing service maintenance costs will continue to rise on this aging machine. At some point maintenance may no longer be available due to the age of the machine. We anticipate saving around 35% on service maintenance costs with a new machine.

### Temporary Salary Funding:

While we have had significant turnover within our agency, we still anticipate upcoming retirements in a handful of critical positions in the next biennium. These upcoming retiring employees have specialized skill sets and we would like the ability to bring them back if necessary in a temporary capacity to assist the agency with training during the transition. The Commission has been able to utilize this model in the current biennium and it has been exceptionally successful.



**Current Biennium Appropriation  
Compared to Next Biennium Recommendation**

Appropriation	2021-23 Biennium Appropriation	2023-25 Governor's Recommendation
Salaries and Wages	\$9,991,488	\$11,354,106
Operating Expenses	\$1,801,570	\$2,196,237
Capital Assets	\$145,000	\$45,000
Grants	\$20,000	\$20,000
Abandoned Mine Lands Contractual	\$6,000,000	\$6,000,000
Rail Rate Complaint Case	\$900,000	\$900,000
Railroad Safety Program	\$614,724	\$684,654
Specialized Legal Services	\$420,000	\$420,000
FTEs	43	44
General Funds	\$6,431,087	\$7,631,372

## **Requested Changes to the Executive Recommendation (one-pager)**

The Commission requests the following changes to the Executive

Recommendation:

- Two FTEs and applicable funding for a Public Utility Analyst and an Electrical Engineer
- One FTE and applicable funding for a Legal Assistant
- Purchase liquid fuels prover trailer
- Funding for copier replacement
- Funding for temporary salaries

**Comparison of Major Budget Requests to Governor's  
Recommendation (one-pager)**

<b>Description</b>	<b>Executive Recommendation</b>	<b>Comments</b>
Environmental Scientist	Included	This position is critical to maintain state primacy from federal government.
Public Utility Analyst and Electrical Engineer	Not Included	We believe it is critical to receive these positions and could explore self-funding a portion
Indirect Cost Recovery	Included	One-time funding to address shortfall in the 2023-25 biennium
Operating Money for Ongoing Operations	Included	Includes NARUC funding, training, travel, third-party support costs, and public utilities modeling software subscription
Legal Assistant	Not Included	Dedicated resource for the legal division
Drone for Reclamation and AML	Included	Most funding will be provided by federal grants supporting each program
Weights and Measures Equipment	Not Included	Purchase of liquid fuels prover trailer
Copier Replacement	Not Included	Cost savings will be achieved through reduced maintenance and operating costs
FERC Contractor	Included	May not be needed if we can secure in-house resources through additional staffing
Temporary Salary Funding	Not Included	Aid in knowledge transfer and succession planning

## **Agency Collections:**

### General Fund Collections:

- Public Utility filing fees – \$50 fee assessed on filings submitted to the Commission by regulated entities. HB 1063 proposes to eliminate this fee. The PSC is supportive of this change.
- Auctioneer/Auction Clerk licensing fees – There will be a bill to remove Commission oversight by creating a Board of Auctioneers. The PSC is supportive of this change.
- Various fines – The Commission has the authority to assess fines for noncompliance with laws and rules. No anticipated changes in 2021-23 biennium or upcoming 2023-25 biennium.
- Fees assessed for new coal mining permits – No anticipated changes in 2021-23 biennium or upcoming 2023-25 biennium.

## **Other Sections to be Included in Appropriation Bill:**

### Funding Source for Rail Rate Complaint Case:

Since 2005, the PSC receives funding for a possible rail rate complaint case from the Beginning Farmers Revolving Loan Fund at the Bank of North Dakota. While the PSC has not incurred any expenses related to a rail rate complaint case since 2005-2007, this is a valuable deterrent for railroad companies to charge unjust rates to producers. The Bank of North Dakota has indicated they will need all funding available in the Beginning Farmers Revolving Loan Fund and have proposed to extend a line of credit, with deficiency appropriation if necessary, to

the PSC to provide funding. The PSC and Bank of North Dakota are supportive of this change and will be presenting appropriate amendment language.

## **Federal Funding for 2023-25 Biennium:**

The PSC has numerous programs that receive federal funding including:

- Reclamation
- AML
- Pipeline Safety
- Rail Safety
- Damage Prevention (ND One-Call)

These funds are long-standing, reoccurring (usually on an annual basis) to support program objectives and costs. The 2022 Bipartisan Infrastructure Law (BIL) does include an additional \$3 million in funding for the AML program. We have submitted a grant application for the first year of funding, however we are still evaluating if we will continue to apply for this funding going forward and determining resource and budget needs. At this point, the federal government has not adopted rules and guidance for this program after 2023.

## **Self-Funding**

Last biennium, the Legislature implemented a self-funding model at our agency to self-fund a small portion of our Public Utility and Weights and Measures Divisions. The total amount budgeted to be self-funded is \$625,000 and is made

up of fixed and variable funding sources. As you can see from the following report, the emergency clause implemented by the Legislature was helpful to get the funds started. However, we are concerned if we will receive enough siting applications this biennium to meet the budgeted amount for the siting admin fee.

Variable Funding Sources (as of Nov. 30, 2022):

	Emergency Clause 19-21 Biennium	21-23 Revenue as of Nov. 30, 2022	Total Fund Balance as of Nov. 30, 2022	21-23 Biennium to Date Budget	Difference	Total Budget
Interest		80	80			
W&M - Scale Inspection Fees	14,468	109,396	123,864			
W&M - Registered Service Companies		22,210	22,210			
<b>Total W&amp;M</b>	14,468	<b>131,606</b>	146,074	123,958	22,116	175,000
Siting Admin. Fee		<b>97,356</b>	97,356	106,250	(8,894)	150,000

Fixed Funding Sources:

The PSC will receive \$300,000 per biennium from an economic regulation assessment that is proportionally assessed based on each electric and gas utility's respective gross operating revenues from the retail sale of gas and electric service within the state.

**SUMMARY:**

The Commission has been able to operate within its appropriation for the current biennium during a time of ongoing and in many ways unprecedented change locally, regionally and nationally in the industries we regulate. Challenges in the oil and gas and coal mining and reclamation industry are constant. That, combined with the revolution occurring in the electric industry, demands that we

have a strong and able staff of high-quality professionals who can be full players advocating in multistate and federal arenas for the interests of North Dakota citizens and rate payers.

We have an attitude of continual improvement and innovation in our agency. We embrace technology and are constantly seeking ways to be more responsive to the public and the industries we regulate, to recognize the burden we place on business and reduce unnecessary red tape, while also recognizing the important oversight role North Dakota citizens count on us to fulfill.

This budget proposal continues our tradition of operating efficiently while offering innovative solutions to the constant challenges we face. We stand ready to work with you in coming weeks and months to design the best possible budget solution for the Public Service Commission. Thank you Mr. Chair and I look forward to answering questions from you and your committee.

## **Department Overview**

### **Reclamation Division (64% Federal Funds plus Indirect Cost Reimbursement)**

The Reclamation Division of the Public Service Commission is responsible for administering and enforcing the state's reclamation law for minimizing the environmental effects of surface coal mining and ensuring mined lands are properly reclaimed. Under N.D.C.C § 38-14-1, the PSC administers a comprehensive program that consists of permitting and inspection and enforcement responsibilities. There are 7 active surface coal mining operations (5 lignite and 2 leonardite mines) operating in the state.

- Approximately 132,584 acres are currently permitted for mining activities under 22 mine permits.
- During the current biennium, approximately 6,021 acres are proposed to be added to existing permit areas and are under review by the Reclamation Division.
- To date, approximately 17,360 acres have received final bond release (met all the requirements of the reclamation law) and Commission jurisdiction has ended.
- During the current biennium, an informal conference was held on a pending revision application for the Coyote Creek Mine.
- An adjacent surface owner to the Freedom Mine filed a citizen's complaint in 2019. The Commission responded to the complaint and informed the



## Attachment A – Department Overview

surface owner of his options to request an informal conference or formal hearing. In 2022, the surface owner requested a formal hearing and the hearing was held.

- Staff continued monitoring the Westmoreland bankruptcy and reviewed the permit transfer documents. The permit transfers to the new post-bankruptcy company were approved by the Commission.
- Two program Amendments to North Dakota Coal Regulatory Program were submitted to the Office of Surface Mining Reclamation and Enforcement.
- Staff worked extensively with the Falkirk Mine, Rainbow Energy, and other state agencies to replace Falkirk’s performance bonds prior to the sale of the Coal Creek Station from Great River Energy to Rainbow Energy.
- During this biennium, the Commission approved and adopted the updated Revegetation Success Guidelines document that had been under review for several years.
- The Reclamation Division lost over 100 years of experience in 2021 due to retirements. The division became fully staffed again on February 1, 2022. We are currently in the process of training the entire division as each employee is either newly hired or in a new position since the end of 2019.
- The PSC’s coal regulatory and Abandoned Mine Lands programs continue to receive excellent annual evaluation reports from the federal Office of Surface Mining (OSM), which concluded that no issues or concerns were raised. In their report they stated that the Reclamation Division “continues to implement the program in a professional, cooperative, and fair manner.

## Attachment A – Department Overview

The NDPSC has the necessary technical expertise for carrying out its functions to ensure that all requirements are met.” In their report of the AML Program, OSM stated that “the state administers an excellent program in full compliance with their approved plan.” Additional statements included “The NDPSC continues to administer an efficient and successful AML program. These projects have reduced the likelihood of death or injury to property owners and the public.”

### **Abandoned Mine Lands (100% Federal Funds plus Indirect Cost Reimbursement)**

The goal of the Abandoned Mine Lands (AML) Program is to eliminate hazards related to coal mining that occurred prior to the enactment of the 1977 Surface Mining Control and Reclamation Act (SMCRA). Under N.D.C.C. § 38-14.2, the PSC is authorized to develop and administer an abandoned mine reclamation plan on lands adversely affected by pre-SMCRA mining. N.D.C.C. § 38-14.2 also created a state abandoned mine reclamation fund to collect funds pursuant to title IV of Public Law 95-87 [91 Stat. 456; 30 U.S.C.1231 et seq.] and to disburse funds for the reclamation and restoration of land and water resources adversely affected by past mining as defined by section 38-14.2-06. PSC staff in the AML Program design and manage the reclamation projects. Private contractors, selected by competitive bidding, conduct the construction work. A federal fee assessed on coal production funds the AML Program. These funds are distributed as federal grants

## Attachment A – Department Overview

to AML programs in 28 states and tribes, including North Dakota. North Dakota typically receives about \$3 million annually.

The Office of Surface Mining Reclamation and Enforcement's AML fee collection authority was extended through September 30, 2034, as part of the Infrastructure Investment and Jobs Act, commonly known as the Bipartisan Infrastructure Law (BIL), that was signed into law on November 15, 2021. The BIL reduced the reclamation fee rate for lignite coal from eight cents per ton to 6.4 cents per ton and extended the annual AML grant distributions to eligible states and tribes by 13 years. In addition to the extension of AML fee collections and mandatory AML grant distributions, \$11.293 billion in new funding was authorized to expand investment in the AML program over a 15-year period. North Dakota recently submitted our first BIL grant application for \$3,101,700. Response time from the federal government is unpredictable.

- In the current biennium, 8 abandoned mine land reclamation projects were completed.
- About 280 dangerous sinkholes caused by the collapse of underground mine workings were filled in the past two years.
- Since 1982, 193 primary reclamation projects and 35 emergency projects have been conducted to eliminate hazardous conditions, totaling over \$62.5 million.
- More than 40 miles of dangerous surface mine highwalls have been eliminated and over 1,500 acres of subsidence issues have been addressed since the AML reclamation program began.

## Attachment A – Department Overview

- We have records of more than 1,500 abandoned coal mine sites in North Dakota. At the current rate of federal funding, we estimate it will take at least 15 years and over \$35 million to address the highest priority AML problems in our state.

### **Regulation of electric, natural gas, and telephone utilities**

Telecommunications: The Commission continued and refocused its efforts on telecommunications regulation. During the past biennium, the Commission collaborated with telecommunications companies operating in North Dakota to reassign numbers associated with the 701-988 prefix. This effort was necessitated by the new 988 three-digit code that was set to be implemented for suicide prevention. Absent our efforts to reassign the phone numbers in that prefix, the entire state would have been forced to utilize ten-digit rather than seven-digit dialing. As a point of reference, 35 other states and 82 area codes were forced to utilize ten-digit dialing as a result of this. We furthered our efforts in this area to collaborate not only with telecommunication companies, but also other states in our efforts to save numbering resources in our lone area code of 701.

As many may not be aware, North Dakota is one of a small number of states who retain a single area code across the entire state. However, this will not be the case in perpetuity. At present we are forecasted to exhaust the available numbers in the 701 area code by the second quarter of 2028. Absent the Commission's efforts to utilize phone numbers more efficiently and sparingly, we would already be looking to add another area code to our state.

## Attachment A – Department Overview

During the past biennium we joined other states such as Maine, New Hampshire and Montana in filings before the Federal Communications Commission that would permit us to grant numbering resources to telecommunications companies in smaller blocks, thereby pushing our exhaust date out by many years.

Electric and Natural Gas: North Dakota continues to have among the lowest residential electric and natural gas utility rates in the nation, as shown in the charts on page A9. Biennium to date, the PSC has received two general rate cases for Montana-Dakota Utilities Co.'s electric operations and Northern States Power Company's natural gas operations.

Consistent with the Commission's least-cost standard, the PSC has made two advanced determinations of prudence. One concerning 200 megawatts of new wind generation to be added to Northern States Power Company's system, and the other concerning a new advanced metering infrastructure to be added to Otter Tail Power Company's system. In accordance with N.D.C.C. § 49-05-16, the investor-owned electric utilities operating in North Dakota may request an advance determination of prudence for certain major capital investments.

The Commission continues to participate as a member of the organization of MISO States and Southwest Power Pool (SPP), which are both Regional Transmission Organizations (RTOs). MISO began operating a regional energy market in 2005 that continues to serve the loads of all MISO participants, including the three jurisdictional investor-owned electric utilities providing service in North

## Attachment A – Department Overview

Dakota (Montana-Dakota Utilities Co, Northern States Power Company, and Otter Tail Power Company). The SPP operates a similar regional energy market that serves Basin Electric Power Cooperative and its member Cooperatives. Both provide a centralized generating unit dispatch procedure that co-optimizes the energy and ancillary services markets to ensure that the lowest-cost generators are always being used throughout the regions regardless of utility control area boundaries. The markets establish Locational Marginal Prices (LMP's) for electric energy at specific local pricing nodes. All energy must be provided through the markets. Producers are paid the LMP for their energy at the time and node where it enters the market. The load pays the LMP at the time and node where the energy is delivered.

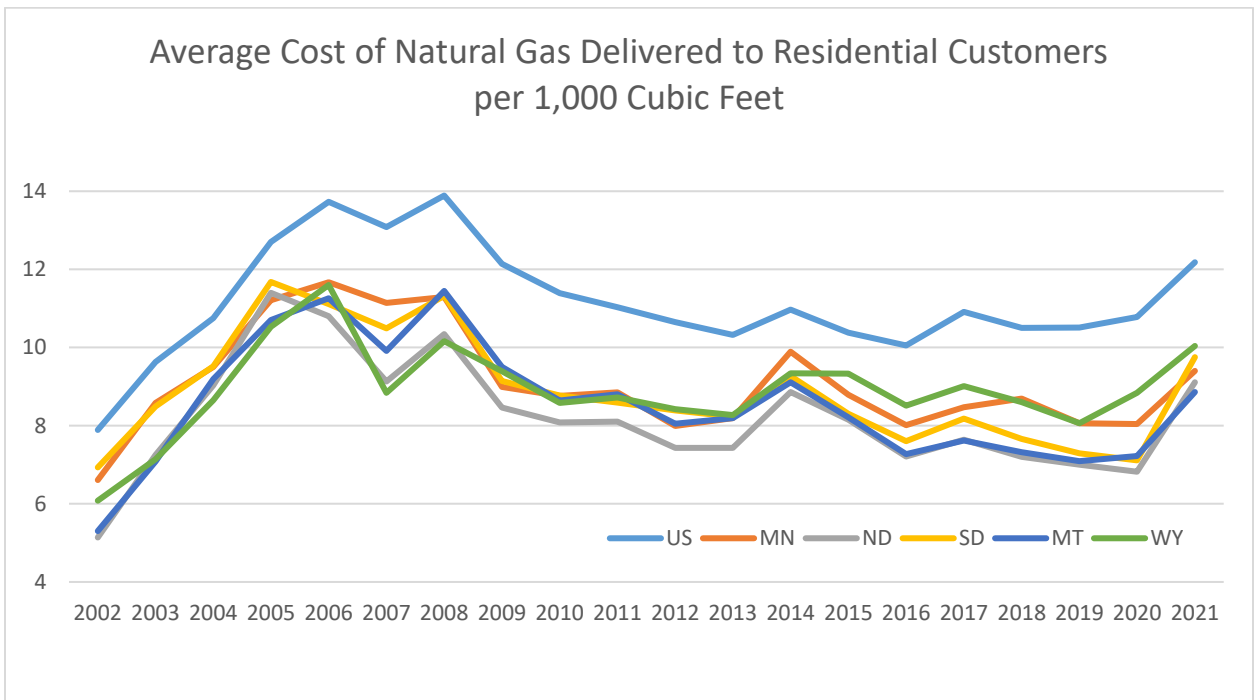
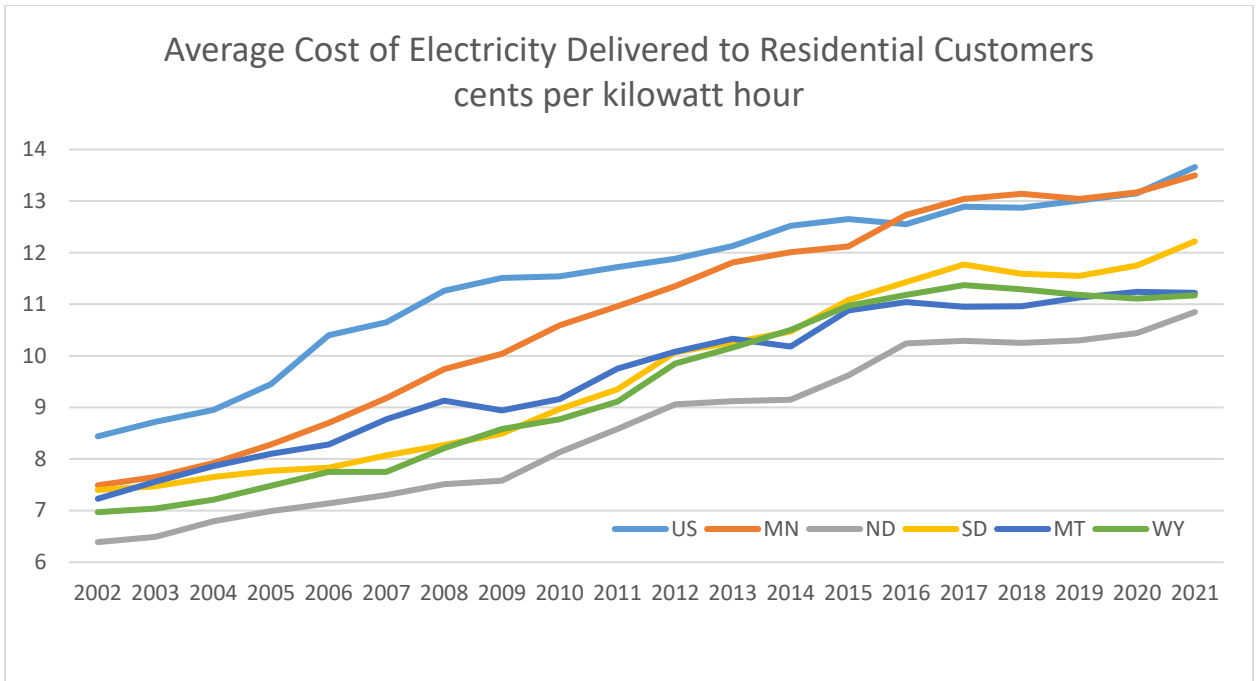
Collaborating with MISO and SPP while representing North Dakota's interests in addressing gaps in an electric resource's ability to show up during times of need and to properly incentivize those resources for doing so will be increasingly important for a fleet undergoing significant change. Continuing to work with MISO and SPP to balance the cost and need for interstate transmission lines under federal jurisdiction with the cost and need for resources under local jurisdiction is critical to ensuring ratepayers are served with affordable and reliable electricity. Such transmission investments are forecasted to be significant, and the Commission must ensure both local and regional industries are working to advance ratepayers interests. Becoming more and more involved and keeping up with this complex system takes increased staff time and specific staff expertise.

## Attachment A – Department Overview

Participation in these regional groups is becoming more important as decisions they make impact all North Dakota utilities. States are ultimately responsible for resource adequacy. However, due to the interconnected nature of the power grid, steps that North Dakota takes to ensure its own reliability will not be considered when the entire grid is in need (just as we saw with winter storm Uri in February 2021). The Commission is involved in leadership roles within these organizations, but having adequate staffing to become more involved and keeping up with this complex system is necessary to ensure North Dakota has a voice in our long-term reliability and affordability of energy. In order to ensure that North Dakota's interests are represented in decisions that are made by MISO and SPP, the challenge will be finding resources to assign to these important tasks.

In addition to the RTOs, another critical area for North Dakota is the Federal Energy Regulatory Commission (FERC). Just as we are seeing RTOs develop regional energy and transmission policies that have an impact on North Dakota, FERC is taking up many topics that will have an impact on North Dakota. Therefore, engaging in FERC cases and filing impactful comments is necessary to ensure that our voice is heard, and our citizens are protected from the added costs and reduced reliability that will result from the absence of our engagement. FERC cases are numerous, as are the filings within them. We must ensure we have adequate staff to review FERC cases and filings, make recommendations for comments, and take the appropriate steps to file comments.

Attachment A – Department Overview





**Siting (current biennium) – N.D.C.C. § 49-22 and 49-22.1**

**Pipelines**

Description	Miles	County	Est. Project Cost
Montana-Dakota Utilities Co.	.5	Morton	1,600,000
Hiland Crude, LLC	2.9	Williams	5,400,000
Dakota Gasification Company	6.8	Mercer	25,000,000
Bridger Pipeline LLC	81	McKenzie & Golden Valley	122,000,000
Total	91.2		154,000,000

**Electric Transmission**

Description	Miles	County	Est. Project Cost
Montana-Dakota Utilities Co.	1.5	Morton	1,300,000
Total	1.5		1,300,000

**Wind Generation**

Description	MW	County	Est. Project Cost
Badger Wind, LLC	251.6	Logan & McIntosh	360,000,000
Total	251.6		360,000,000

Note: 4,249 MW of total wind generation in service as of December 20, 2022.

**These tables represent completion of the complex siting process of 91.2 miles of pipelines, 1.5 miles of electric transmission line, and 251.6 MW of wind generation. It represents over \$515 million of economic investment in North Dakota.**

**Licensed Auctioneers and Auction Clerks**

Applicable N.D.C.C. Chapters include 3-05, 9-06, and 51-05.1. Commission statutory responsibilities include:

- Issuing and renewing auctioneer, auction clerk, and bank auction clerk licenses.
- Investigation of auction related complaints.

The Commission currently licenses 303 auctioneers and 144 clerks.

## **Weights and Measures**

Applicable North Dakota Century Code Chapters include 64-01, 64-02, 64-03, and 64-04.

The Weights and Measures Program, comprised of three full-time inspectors, is designed to meet the needs of both the buyer and seller in the commercial marketplace. This is accomplished through the enforcement of the state's weights and measures laws by the inspection and testing of commercial weighing and measuring devices such as supermarket scales, grain elevator truck scales, dockage scales, livestock scales, gas station pumps, liquified petroleum gas meters, and medical marijuana packaging scales, to name a few. Some of the accomplishments and work of the program include:

- Testing and inspecting 5,155 commercial devices from July 1, 2021, thru June 30, 2022, by PSC inspectors.
- Conducting quality control testing and monitoring the documentation of 19,978 weighing or measuring devices installed or serviced by registered service companies from July 1, 2021, thru June 30, 2022.
- Creating and implementing a quality assurance feedback process to ensure issues identified by inspections are communicated back to Registered Service Companies and Registered Service Persons.

Additionally, the Commission is continuing work on the heavy-scale quality assurance program. This program has allowed the PSC to review the work of registered service companies and addresses concerns with their operations along

## Attachment A – Department Overview

with responding to heavy-scale complaints. From July 1, 2021, thru June 30, 2022, the PSC has conducted quality assurance inspections on 118 heavy scales, of which 33 failed the inspection.

The Weights and Measures Program is minimally staffed with much of the work being done with private contractors and oversight being done by the Public Service Commission. Workload requirements for light duty inspectors does not allow for much, if any, quality assurance inspections on light duty devices (gas pumps, grocery store scales, etc.). Additional staffing would allow for increased quality assurance inspections. Additionally, the program does not currently have the necessary equipment to test high flow meters, such as diesel fuel pumps. In order to conduct our own high flow testing, the program has made a request for funding to purchase the necessary equipment.

### **Railroad Safety and Regulation**

Applicable North Dakota Century Code Chapters include 24-09, 49-01, 49-02, 49-09, 49-09.1, 49-10.1, 49-11, 49-16, 49-17.1, and 60-06.

The Commission is the clearinghouse for rail service and safety issues statewide. As part of public engagement and outreach, the Commission hosts an annual meeting on service and safety for all the statewide stakeholders including ag producers, grain marketers, emergency responders, county, and city leaders to address issues with railroad representatives. This biennium to date, the PSC fielded complaints and intervened on behalf of 35 communities and citizens on rail-related issues.

## Attachment A – Department Overview

Since 2015, the PSC has operated a Rail Safety Program, which supplements federal rail safety oversight. The Federal Rail Administration (FRA) only has the resources to inspect 0.2 percent of railroad operations nationally each year. Federally certified state inspectors constitute 30 percent of the FRA's total inspection force and are critical to ensuring safe rail operations. Having state inspectors that are dedicated to North Dakota is a big benefit and helps to ensure adequate inspections in our state; whereas, federal inspectors have responsibility over multiple states. Funding for the state Rail Safety Program comes not from the general fund, but from existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements. The goal of the program is to reduce the number of accidents, derailments and other equipment failures in order to reduce fatalities, injuries, economic losses and environmental impacts. As one measure of the program's effectiveness, the number of defects found are decreasing after increasing for several years.

The Commission employs two certified inspectors, one of which is dual certified, meaning they can inspect two out of the six FRA inspection disciplines. The three inspection disciplines the Commission inspectors are certified in are 1) Track and 2) Motive Power & Equipment (Mechanical) / Hazardous Materials (HAZMAT). The remaining three FRA inspection disciplines are Operating Practices, Signal and Train Control, and Grade Crossing Safety and Trespasser Prevention. The state inspectors coordinate with and complement the federal inspectors to maximize coverage but are autonomous and entirely accountable to the Public Service Commission.

## Attachment A – Department Overview

There are many advantages and efficiencies gained for the inspectors to carry dual certifications in these categories such as:

- Inspectors are already present in locations which offer the opportunity for a dual inspection such as Mechanical inspector is in rail yards and hazardous material trans-loading facilities.
- Allows the rail safety program to utilize existing resources to provide additional oversight and safety to North Dakotans.
- Offers opportunities for the inspector to interact directly with the public through grade crossing safety and trespasser prevention initiatives and programs.
- Offers opportunities for the inspector to interact with loaders and shippers of HAZMAT materials to ensure proper sealing, inspection, and shipment of hazardous materials at origin and destination points.

Since the start of the program, the track inspector has conducted 942 inspections, noting 5,621 defects, and has issued 47 violations with civil penalties. The mechanical inspector has conducted 968 inspections, noting 7,654 defects, and has issued 98 violations with civil penalties in addition to 61 HAZMAT inspections, noting 41 defects, and has issued 12 violations with civil penalties.

### **Gas Pipeline Safety (Approx. 50% Federal Funds plus Indirect Cost Reimbursement)**

Applicable North Dakota Century Code Chapters include 49-02 and 49-07.

On behalf of the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Commission conducts a Pipeline Safety Program in North Dakota

## Attachment A – Department Overview

involving intrastate natural gas transmission, gathering, and distribution systems, intrastate liquified natural gas (LNG) facilities, and a propane distribution system. Furthermore, in November 2021, PHMSA published a final rule bringing previously unregulated natural gas gathering systems under the jurisdiction of PHMSA and thereby the Commission. Thus far, the number of regulated operators has increased from 22 to 23 with more expected. The number of regulated gas pipeline miles is anticipated to increase by thousands. The number of newly regulated operators and additional gathering line mileage will be reported to PHMSA in March 2023.

The goal of the program is to enhance public safety by enforcing state laws governing gas pipeline safety through inspections and enforcement regarding qualification of pipeline personnel, pipeline components, design, construction, integrity management, operations, maintenance, public awareness, damage prevention programs, and emergency response.

Commission inspectors perform audits of four natural gas distribution system operators, one liquefied petroleum gas distribution system operator, ten transmission system operators, and seven gathering system operators.

Gas pipeline safety inspectors conduct inspections dealing with records audits, compliance follow-up, design/testing and construction, gas incidents, on-site operator training, operator qualifications, control-room management, drug and alcohol testing, damage prevention, public awareness, operations and maintenance, and integrity management.

## Attachment A – Department Overview

Staff for the program includes one program manager/inspector and two full-time inspectors. Biennium to date, Gas Pipeline Safety Inspectors completed a total of 351.5 inspection/audit days.

### **Damage Prevention**

Applicable North Dakota Century Code Chapter includes 49-23.

The Commission is charged with enforcement of the state's One-Call Excavation Notice System law also known as 811 or Call Before You Dig.

The goal of the law is to prevent damage to underground infrastructure. This biennium to date, the Commission has processed 52 complaints regarding alleged violations of the One-Call law. As a result of these proceedings, the Commission has levied fines totaling \$67,900. These fines are deposited directly into the general fund.

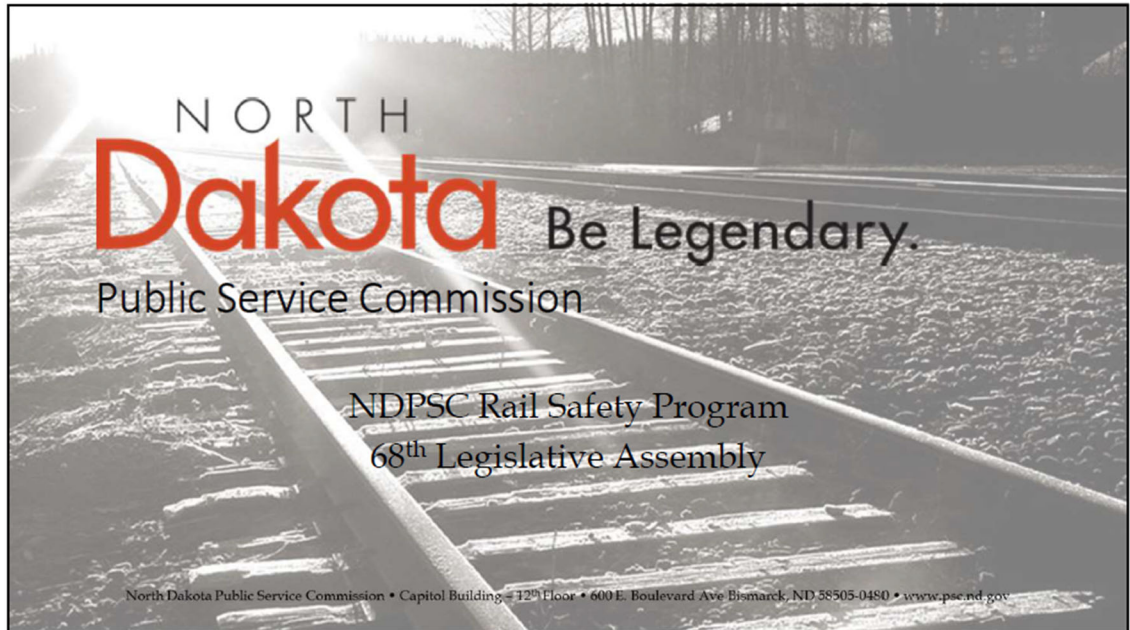
#### **Damage Prevention Cases Processed:**

2009-2011	1
2011-2013	18
2013-2015	58
2015-2017	52
2017-2019	64
2019-2021	51
2021-2023	52 to date

## Attachment A – Department Overview

In total, the Commission has levied 181 fines totaling \$399,250 since beginning enforcement of the program in 2009. Since inception, the Commission has not been given any additional resources to process these cases. The workload has fallen to existing staff.





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## Rail Safety Program Mission

Implementing inspection and compliance programs that:

- Reduce the potential for injuries, deaths, and property damage in and along North Dakota railroads and communities.
- Reduce the number of accidents, derailments and other equipment failures experienced within the state of North Dakota.
- Reduce fatalities and injuries in addition to economic losses and environmental impacts.

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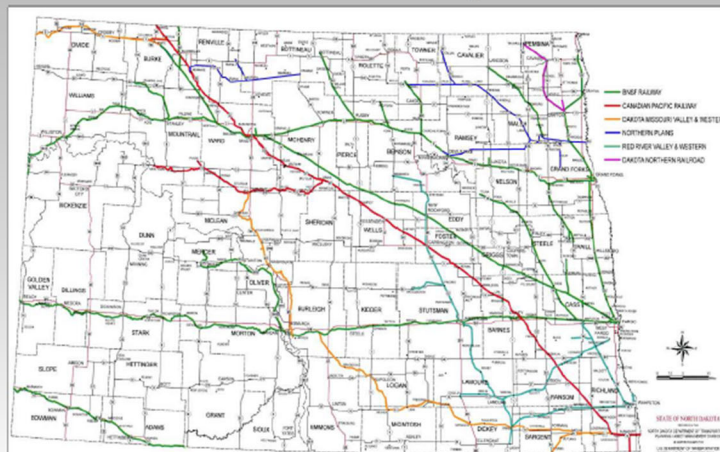
## Rail Safety Program Priorities

- Expand safety inspections of track infrastructure to include main line, sidings and industrial spurs, railroad equipment and cars.
- Use enforcement actions to include education, notification, and penalties regarding compliance with safety standards.
- Work with railroads and shippers to upgrade safety and community relations.
- Ensure crude oil/HAZMAT routes are inspected regularly, as well as components and equipment used to transport/carry commodities.
- Serve as a safety resource and provide guidance regarding federal and state laws.

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3

## North Dakota Rail System



3,532 Miles of  
Main Line Track

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## Communities Impacted by Railroads

- 290 communities intersect or are in close proximity to the railroad, many of which the Commission has inspected at:

Absaraka, Adams, Alsen, Amenia, Ambrose, Aneta, Anamoose, Ardoch, Argusville, Arvilla, Ayr, Balfour, Baldwin, Barney, Barton, Beach, Belfield, Benedict, Bergen, Berlin, Berthold, Beulah, Bisbee, Bismarck, Blaisdell, Bordulac, Bottineau, Bowbells, Bowman, Braddock, Bremen, Buchanan, Bucyrus, Buffalo, Burlington, Butte, Buxton, Calvin, Cando, Canton City, Carpio, Carrington, Casselton, Cathay, Cavalier, Cayuga, Chaffee, Churchs Ferry, Cleveland, Clifford, Cogswell, Coleharbor, Colfax, Conway, Coulee, Courtenay, Crary, Crosby, Crystal, Cuba, Cummings, Dahlen, Davenport, Dawson, Des Lacs, Devils Lake, Dickinson, Donnybrook, Douglas, Drake, Drayton, Driscoll, Dwight, Doyon, Eckelson, Edgeley, Edinburg, Egeland, Eldridge, Elliot, Emerado, Emrick, Enderlin, Englevale, Epping, Erie, Fairdale, Fairmount, East Fairview, Fargo, Fessenden, Fingal, Finley, Flaxton, Fordville, Forest River, Forman, Fortuna, Foxholm, Fredonia, Fryburg, Fullerton, Galesburg, Gardner, Garrison, Gascayne, Gladstone, Glen Ullin, Glenfield, Gilby, Grace City, Grafton, Grand Forks, Grandin, Grano, Granville, Gwinner, Hamberg, Hankinson, Hannaford, Harmon, Harvey, Harwood, Hatton, Havana, Haynes, Hazen, Hebron, Hensler, Heimdal, Hettinger, Hillsboro, Hoople, Hope, Horace, Jamestown, Juanita, Judson, Karlsruhe, Kelso, Kenaston, Kenmare, Kensal, Kindred, Kintyre, Kief, Knox, Kulm, Lakota, LaMoure, Langdon, Lankin, Lansford, Larimore, Larson, Leal, Leeds, Lehr, Lemmon, Leonard, Lidgerwood, Lignite, Lisbon, Logan, Lucca, Luverne, Maddock, Makoti, Mandan, Manfred, Mantador, Manvel, Mapleton, Marmarth, Martin, Mayville, Max, McKenzie, McLeod, McVile, Medina, Medora, Menoken, Michigan, Milnor, Milton, Minto, Minot, Moffit, Mohall, Mooreton, Munich, Nash, Napoleon, Nekoma, New Rockford, New Salem, New Town, Niagara, Niobe, Nolan, Noonan, Norma, Northgate, Northwood, Norwich, Oakes, Oberon, Oriska, Osabrock, Palermo, Page, Park River, Parshall, Pekin, Perth, Petersburg, Pillsbury, Pingree, Pisek, Plaza, Portal, Portland, Powers Lake, Prosper, Ray, Reeder, Reile's Acres, Reynolds, Rhame, Richardton, Rogers, Rolla, Ross, Rugby, Ruso, Rutland, Ryder, Sanborn, Sawyer, Scranton, Selz, Sentinel Butte, Sharon, Sheldon, Sheyenne, Simcoe, South Heart, Spiritwood, Springbrook, Stanley, Stanton, Steele, Sterling, Stirum, Surrey, Sutton, Tappen, Taylor, Thompson, Tioga, Tolna, Tolley, Tower City, Towner, Trenton, Underwood, Valley City, Velsa, Verona, Voltaire, Walcott, Walhalla, Washburn, Wellsburg, West Fargo, Wahpeton, Wheatland, White Earth, Williston, Willow City, Wilton, Wimbledon, Windsor, Wishek, Wyndmere, York.

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## Inspection Data (Program Inception thru 12-31-2022)

- Inspector #1 (Track Inspector)
  - 942 Inspections
  - 18,939 Units
  - 5,621 Defects
  - 47 Violations
- Inspector # 2 (Dual Certified in Mechanical and HAZMAT Disciplines)
  - Mechanical
    - 968 Inspections
    - 186,994 Units
    - 7,654 Defects
    - 98 Violations
  - HAZMAT (Inspector certified 09-15-2021)
    - 61 Inspections
    - 1,403 Units
    - 41 Defects
    - 12 Violations

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## Top Track Defects and Violations

Category	Description	Defects	Violations
Continuous Welded Rail	Continuous welded rail is track joined together by welding sections together rather than being bolted together using joint bars.	249	4
Rail Joints	Rail joints are the places where two sections of track are joined together using bolts and the appropriate joint bars.	1,320	13
Turnouts and Crossings	Turnouts are the portion of a switch that connects to another track and crossings refers to roadway grade crossings.	2,007	0
Switches	Track switches are equipment that enables trains to transfer from one track to another.	273	1
Ballast	Ballast is the rock that securely holds rail ties in place and supports the massive amount of weight transferred from passing trains.	163	3

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## Top Mechanical Defects and Violations

Category	Description	Defects	Violations
Railroad Freight Car Standards	This section includes the mechanical components of a freight car (wheels, axles, suspension, etc.). These defects cause the most frequent and severe mechanically related derailments.	2202	42
Reflectorization of Rail Freight Rolling Stock	Reflectorization of rail cars increases visibility and reduces highway-rail grade crossing accidents, deaths, injuries, and property damage.	341	0
Railroad Locomotive Safety Standards	Minimum Federal safety standards for all locomotives, except those propelled by steam power.	56	0
Railroad Safety Appliance Standards	This section includes handbrakes, handholds, ladders, sill steps and platforms. These defects lead to personnel safety hazards/injuries.	3363	50
Brake System Standards	This section includes brake test requirements, brake system effectiveness, head end and end of train devices.	1676	11

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## Top HAZMAT Defects and Violations

Category	Description	Defects	Violations
Carriage by Rail	This section pertains to railroads regarding operating, handling and transportation of hazardous materials in rail transportation.	21	12
Training and Security	This section pertains to shippers/revceivers of hazardous materials regarding training of HM employees and security.	5	0
Tank Car Inspection (Limited & Complete)	Inspection of the physical tank car while in transportation.	4	0
Loading /Unloading	The unloading and or loading of hazardous material, not yet in transportation.	4	0

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## MP&E Defects



- March 4, 2022
- Tank car at a facility had several defects relating to safety appliances. It was found that during a repair the safety appliances were welded instead of being secure with the proper mechanical fasteners.
- 49 CFR 231.136(c)(1)

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## Mechanical Violation

- Minot, ND 6/28/22
  - TILX 292811 tank car, not placarded located in the Minot CP Yard
  - 215.103(F)(1)(ii) L1 wheel with shelling greater than 3 inches in length
  - This wheel also had other shelled spots several adjoining that were greater than 2 ½ inches in length
  - Previous mechanical inspections completed in Alyth, AB Canada on 6/17/22, built in train and moved to Minot, ND.

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## Hazmat Defects/Violations

- 48 Hour Rule
- 49 CFR 174.14(b)
  - (a) carrier must forward each shipment of hazardous materials promptly and within 48 hours (Saturdays, Sundays, and holidays excluded), after acceptance at the originating point or receipt at any yard, transfer station, or interchange point, except that where biweekly or weekly service only is performed, a shipment of hazardous materials must be forwarded on the first available train.
  - (b) A tank car loaded with any Division 2.1 (flammable gas), Division 2.3 (poisonous gas) or Class 3 (flammable liquid) material, may not be received and held at any point, subject to forwarding orders, so as to defeat the purpose of this section or of § 174.204 of this subchapter.
- March 23, 2022, it was found that 12 tank cars loaded with Anhydrous Ammonia (Class 2.3 Poisonous Gas) had been sitting with an excess of 48 hours dwell (approximately 240 hours of dwell)

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## Track Defects



- Culverts found in area of major derailment collapsed and plugged not allowing water to drain under roadbed.

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## Track Violations

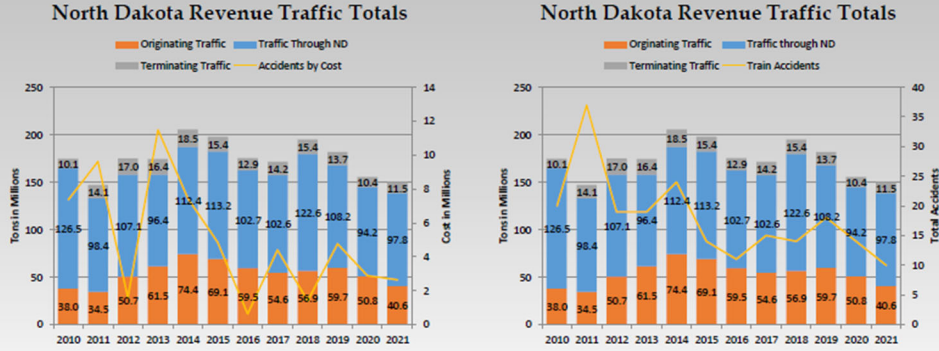


- Grand Forks, ND 6-14-22
- BNSF Grand Forks Subdivision main through Grand Forks

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## Traffic vs. Accidents



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## Other Safety Outreach and Education

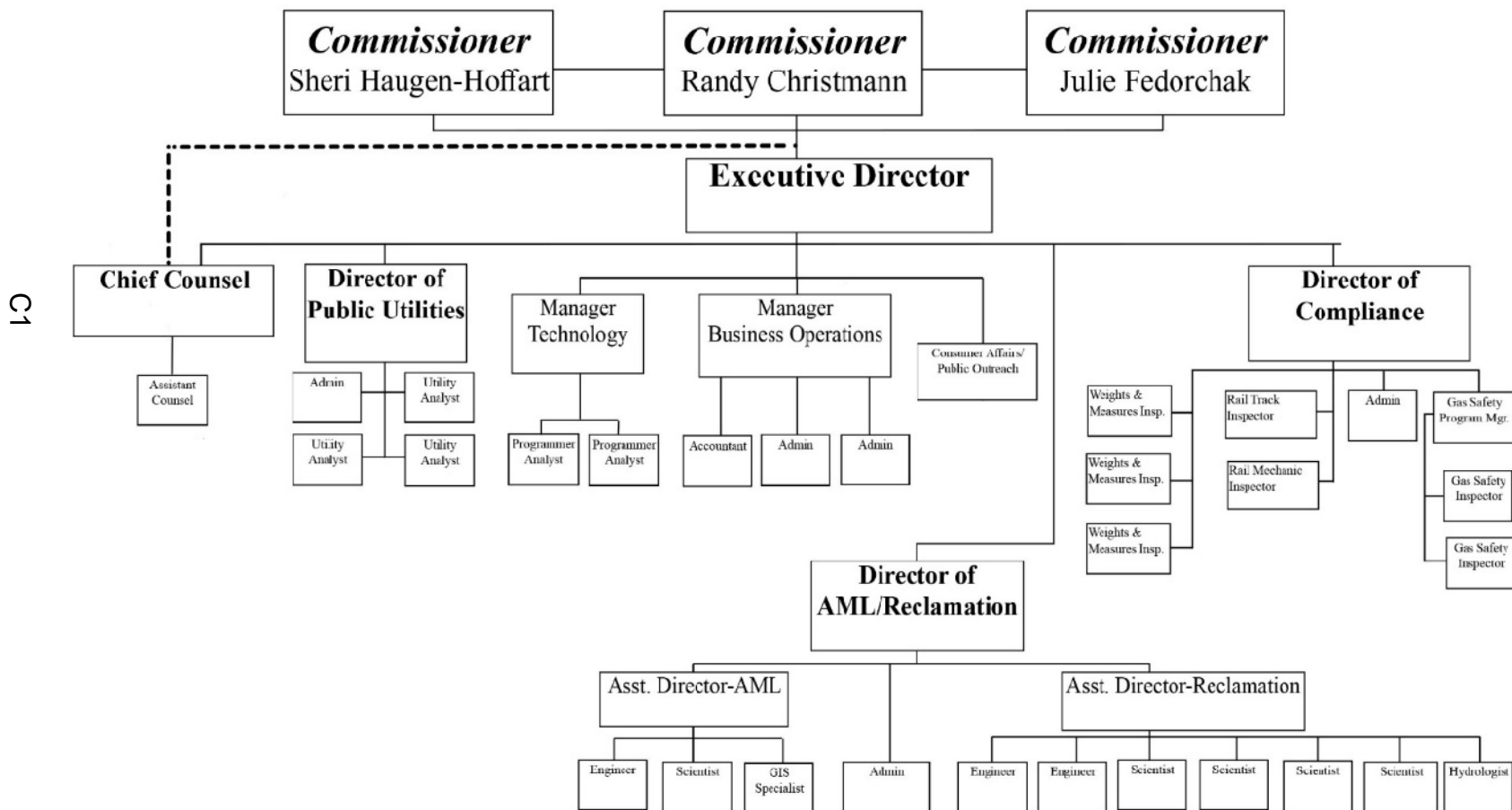
- Identified critical defect in maintenance and inspection electronic tracking and log program allowing data manipulation after entry. Program used by numerous Class I railroads.
- Worked with FRA to heighten national visibility of broken side bearings on crude oil trains. This was driven by inspections conducted by the PSC's inspector.
- Worked with railroad mechanical departments to ensure all mechanical inspections of crude oil trains are being conducted at the correct locations and proper intervals.
- Cleared blocked crossings on multiple occasions by working with railroads, local government and citizens.
- Served as liaison between railroad and landowners obtaining new or repairing existing livestock fences along railroad right-of-way.
- Presented at schools and expos on the importance of safety near trains and railroad tracks; Operation Livesaver.
- Working on dual inspection certification for inspectors (Mechanical to take on HAZMAT and Track to take on Grade Crossing Safety and Trespasser Prevention).
- Provided track inspection report to help local investors determine the merits of replacing the burned rail bridge which threatened line abandonment in northeast North Dakota.
- Work with North Dakota Department of Emergency Services to coordinate rail maintenance which has the possibility of causing brush fires; ensure first responders are aware of potential risks within their jurisdictions.

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# North Dakota Public Service Commission 2023



C1



PO BOX 5509, 1200 Memorial Hwy.  
Bismarck, ND 58506-5509

800.472.2166  
800.366.6888 TTY  
701.328.5600

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SB2008  
Senate Appropriations  
Government Operations Division  
January 19, 2023  
Todd Steinwand, President and CEO  
Bank of North Dakota

Mr. Chairman and members of the committee. My name is Todd Steinwand and I am the President of the Bank of North Dakota. I am here to ask your consideration of an amendment to move the \$900,000 in reserve funding for a potential rail case from the Beginning Farmer Revolving Loan fund to a line of credit at BND. For over a decade, the legislature has provided this appropriation to ensure funding should a rate case occur.

Appropriating funding as a reserve from the Beginning Farmer loan fund made sense in the past based on program demand. However, last session, the legislature changed the interest rate buydown period enabling loans to be financed for up to 10-years. The result, as intended, created demand for the program increasing the number of loans requested to 122 in 2022 as compared to 89 loans in 2021.

For the 2021-2023 biennium the legislature appropriated a total of \$8 million for this program from BND's earnings. In addition, the fund had an additional \$3 million in cash remaining in the fund that BND was authorized to utilize. As of today, all the funds except for the \$900,000 are expended.

Based on current circumstances, BND does recommend a line of credit as a more appropriate financing mechanism for the PSC. The bank did approach the PSC and requested this change as the demand for the Beginning Farmer Revolving Loan fund has increased significantly these past 2 years.

Thank you for consideration of this amendment and I'm please to stand for any questions.

Proposed Amendment --SB2008

Page 2

Delete lines 8 to 16.

Amend and reenact with a new section 3.

**SECTION 3. Bank of North Dakota – Line of credit.**

The Bank of North Dakota shall extend a line of credit to the public service commission to provide funding to pay costs associated with a rail rate complaint case. The line of credit may not exceed \$900,000, and the interest rate associated with the line of credit must be the prevailing interest rate charged to North Dakota governmental entities. The public service commission shall repay the line of credit from amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case. If the moneys available on June 30, 2025, are not sufficient to repay the line of credit, the public service commission shall request from the legislative assembly a deficiency appropriation to repay the line of credit.

## **Senate Bill 2008**

**Presented by:** Randy Christmann, Chairman  
Public Service Commission

**Before:** Senate Appropriations Committee  
Honorable Brad Bekkedahl, Chairman

**Date:** January 9, 2023

### **TESTIMONY**

Mr. Chair and members of the committee, I'm Commissioner Randy Christmann, Chairman of the Public Service Commission, here to present our 2023-2025 biennial budget request. Commissioners Julie Fedorchak and Sheri Haugen-Hoffart are also in attendance today and available for any questions you may have. Thank you for the opportunity to present our budget bill and explain why we feel it benefits the State of North Dakota. I look forward to answering any questions you may have at the end of my testimony.

### **Introductions and Responsibilities:**

The Public Service Commission (PSC) is a constitutional agency with varying degrees of statutory authority over the following areas:

- Coal mining and reclamation;
- Abandoned mine lands;
- Siting of energy conversion, transmission and generation facilities;
- Pipeline safety of intrastate natural gas pipelines;

- Electric, gas and telephone public utility regulation;
- Damage prevention (enforcement of the One-Call Law);
- Commercial scales and measuring devices;
- Railroad safety;
- Auctioneers and auction clerks.

Attachment A will provide you with a summary of each program, including citations to the applicable North Dakota Century Code chapter(s) associated with that program, major statutory responsibilities, and current biennium accomplishments.

The work at the Commission continues at a brisk pace. This biennium to date we have sited 91.2 miles of pipelines, 1.5 miles of electric transmission lines crossing the Missouri River on the north end of Bismarck/Mandan, and 251.6 MW of wind generation. This represents more than \$515 million of economic investment in North Dakota. Biennium to date, the PSC has received two general utility rate cases. We also review on an annual basis rate riders where each of the electric IOUs recover expenses for transmission, generation and renewable resource investments.

The Reclamation Division currently has more than 132,000 acres permitted for mining activities under 22 permits at 8 mines and more than 6,000 acres are proposed to be added during the current biennium. They also completed final bond release on 948 acres and are currently reviewing 6 bond release applications that total 1,204 acres. The Abandoned Mine Lands Program completed 8 projects and approximately 280 dangerous sinkholes were filled in the past two years. Both the

Reclamation and Abandoned Mine Lands Program continue to receive excellent evaluation reports from the federal Office of Surface Mining.

Our Compliance Division continues to educate about the importance of Call Before You Dig and have received 52 complaints for this biennium to date, which resulted in \$67,900 in fines which were deposited into the general fund. The Commission also licenses 303 auctioneers, 144 auction clerks, and inspects and tests more than 5,100 commercial weighing devices in the state. We also verify the work of commercial testers. Since the start of the Railroad Safety Program in 2015, inspectors have completed more than 1,900 inspections finding more than 13,000 defects and 157 violations. The Commission was proud to announce that one of our rail inspectors is now dual certified, meaning they can inspect two different specialized disciplines.

The following information provides details regarding the PSC's budget priorities for the upcoming biennium and addresses the information requested in Legislative Council's letter dated December 19, 2022.

### **2019-21 Audit Findings:**

The Commission's 2019-21 audit did not identify any areas of concern.

### **Federal Recovery Funding:**

The Commission did not receive any federal recovery funding from the November 2021 special legislative session.

## **One-Time Funding-Current Biennium:**

### Capital Assets:

The Commission received one-time funding last session to purchase capital assets to replace existing equipment in the federal Abandoned Mine Lands (AML) and Coal Reclamation Programs. The total one-time funding is \$120,000 with 96% being federal funds. The funds were used to replace the current real-time kinematic survey equipment, which saves time, energy and manpower resources for surveying, allowing more work to get done with extremely accurate results and fewer man hours used as one person can survey when necessary. The previous equipment was purchased over ten years ago and reliability and support were becoming an issue. This purchase came in under budget as we received trade-in value for the old equipment.

The second piece of equipment that was intended to be replaced was the borehole camera for the AML program. This camera helps inspectors understand the condition of underground mines and estimate the type and amount of fill material needed to reclaim the mine. It is also important for safety when looking into very large sinkholes with horizontal subsidence. While the current equipment was purchased over ten years ago and support is no longer available, there is currently not a good replacement available. The camera has been temporarily repaired and we are evaluating modern technology alternatives, including if an out-right equipment purchase or rental as needed would be most advantageous for the state.

## Major Funding Components in the Base Budget (2021-23):

The following line items make up the major components of our base level:

Appropriation	General Funds	Federal Funds	Special Funds	TOTAL
Salaries and Wages	\$5,282,887	\$4,083,601	\$625,000	\$9,991,488
Operating	\$1,097,800	\$578,770	\$125,000	\$1,801,570
Capital Assets	\$25,000			\$25,000
Grants		\$20,000		\$20,000
AML Contractual		\$6,000,000		\$6,000,000
Rail Rate Complaint Case			\$900,000	\$900,000
Railroad Safety Program		\$20,000	\$594,724	\$614,724
Specialized Legal Services*	\$20,000	\$400,000		\$420,000
<b>TOTAL</b>	<b>\$6,425,687</b>	<b>\$11,102,371</b>	<b>\$2,244,724</b>	<b>\$19,772,782</b>

\*Federal funds are only available for rare and specific federal cases and must be approved by the applicable federal agency. As a result, the Commission relies on state general fund appropriation for this line item.

In the last four budget cycles, the Public Service Commission has undergone significant reorganization in order to meet the increasing demands of the industries we regulate. This includes the utility industries that are undergoing major transformations driven by new technology, aging infrastructure and policy changes, as well as the significant growth of North Dakota's oil and gas industry. Our agency has worked hard to meet these needs by restructuring staff, increasing the use of technology, and improving administrative efficiencies.

The Commission has reorganized over the course of the last several biennia resulting in greater efficiencies and additional focus in certain areas. We created the Compliance Division by consolidating licensing, weights and measures, rail safety, pipeline safety and risk management under one director, which allowed for



a more efficient and effective approach to regulatory enforcement and compliance with these programs. In addition, the director of economic regulation position was eliminated and we organized our Public Utilities Division under one director. We have also streamlined our administrative group to better align and serve our newly organized divisions.

As we look forward, the state is projecting to have historic turnover in the next five years, resulting in loss of efficiency and critical institutional knowledge. However, due to numerous retirements of long-term employees, the PSC is already ahead of this turnover trend. Since Jan. 2019, 80 percent of PSC employees are new or have been hired into a new or expanded role. It has been a challenge to manage this turnover while maintaining the level of service expected throughout all of our programs and finding a way to effectively pass on institutional knowledge. This places an increased burden on experienced staff who spend a large portion of their time training and mentoring new employees while still performing their full-time job duties. Sadly, there are limited ways to recognize and compensate veteran employees for their increased workload.

Recruitment has also been a tremendous challenge as current state compensation levels are drastically behind the private sector. This is compounded due to the energy industry interacting with and competing for many of our people. While being able to offer fully paid health insurance and offer a defined benefit plan are valuable benefits, this does not make up for the shortfall in salaries. Many positions at the Commission are extremely technical and specialized with a limited applicant pool to draw from. Fortunately, our current employees have been strong

advocates for our agency and have helped us recruit a number of key individuals to fill our vacant positions. However, often we have had to provide new hires the same or higher compensation as current employees. This has led to several equity problems throughout our agency. While we are proud of how we have handled this transition within our agency, we still have equity issues to correct. We've been fortunate to recruit and hire well educated, talented people but due to compensation levels, struggled to attract applicants with experience. While we have hired excellent recruits, their limited experience will require extensive training to be as effective and efficient as previous employees with many years of experience.

Maintaining professional, trained staff and minimizing turnover whenever possible is critical to the smooth functioning of our agency. Competitive salary and benefit packages are a key part of recruitment and retention. The Commission is supportive of the Governor's proposed compensation increases for employees and would encourage the legislature to consider even higher salary increases to keep up with inflation.

## **Requested Enhancements to Legislative Base Budget:**

### Railroad Safety Program:

First, as recommended in the Governor's budget, we request that "temporary status" of the Railroad Safety Program be eliminated and the program be established as a normal part of the Commission's biennial budget. This program involves direct inspection and compliance efforts that reduce the potential for

injuries, death and property damage in and along North Dakota's substantial railroad system. The Railroad Safety Program is funded not with general funds, but with an existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements.

The Railroad Safety Program was approved by the 2015 Legislative Assembly to supplement federal oversight of rail safety. Nationally, the Federal Railroad Administration (FRA) only has resources to inspect 0.2 percent of railroad operations. Federally certified state inspectors, like ours, are critical to ensuring safe rail operations and are an important commitment from North Dakota to do our part to support safe transport of products like crude oil and anhydrous ammonia that originate from and pass through our state. A summary of accomplishments is included in attachment B.

Eliminating the temporary status improves the stability of the program and sends an important message to the highly skilled employees who dedicate their careers to this important work.

Environmental Scientist Position:

The Reclamation Division carries out the Surface Mining Control and Reclamation Act of 1977 (SMCRA) in a partnership effort between the State of ND and the U.S. Department of Interior's Office of Surface Mining (OSM). The Reclamation Division evaluates surface mining permit, permit revision and renewal applications, makes recommendations to the Commissioners regarding permit

issuance, and carries out inspections of coal mines to ensure compliance with the program's requirements.

Since the inception of the program in the 1970s, the state has operated at the minimum staffing required to maintain the state program. Due to the complexities of this program, it requires at least three years of on-the-job training before the full breadth of rules, laws, and processes are understood.

In addition to the changing workforce, the coal mining industry is also having challenges retaining employees due to industry perception and in some cases, companies filing for bankruptcy. This adds additional work to already limited staff. An additional position would allow effective cross training, aid in succession planning, and provide a backstop from the federal government stepping in to take over the administration of this program if we cannot maintain minimum staffing and appropriate program support. We are currently overseeing the reclamation of a mine that has gone through bankruptcy and is no longer producing coal with 8,778 permitted acres.

We are requesting 1 FTE to hire an Environmental Scientist. No operating funding is needed as all training will be covered by OSM. The federal government will cover 64% of the salaries and benefit costs through an ongoing federal grant with the remaining 36% being funded by matching general funds.

This position protects the environment and property owners while being responsive to needs of the mining industry. Without this position, our ability to succession plan and transfer institutional knowledge is limited and we continue to

be at risk of losing the primacy of the program to the federal government if we cannot maintain minimum staffing and meet federal requirements.

Public Utility Analyst and Electrical Engineer:

The Public Utility Division covers a wide breadth of services to the citizens of North Dakota including:

- Engaging and monitoring Regional Transmission Organizations (RTOs) and the Federal Energy Regulatory Commission (FERC) both regionally and nationally to ensure North Dakota's interests and voices are being heard in the discussions on energy generation mix, resource planning and pricing, and grid reliability.
- Conducting a thorough and meaningful review of rate cases, advanced determinations of prudence, certificates of public convenience and necessity requests, and other miscellaneous economic regulation applications of seven, multi-billion-dollar, investor-owned retail electric and gas utility operators to ensure fair, just, and reasonable rates.
- Siting energy generation, electrical power transmission and transmission pipeline infrastructure.
- Limited regulation of telecommunications.

All of this work is covered by three analysts and a director. Due to the rapid and dynamic changes happening in the energy industry locally, regionally and nationally, this is no longer sufficient staff to cover these critical areas.

We are requesting 2 FTEs – one Public Utility Analyst and one Electrical Engineer. We also are requesting operating funds to cover professional development. The entire funding request is general fund, however we could explore the possibility of self-funding a portion of this request. Self-funding would require an additional assessment on utilities, which is passed to consumers.

It cannot be stressed enough how much the evolution of RTOs has impacted our agency with the required time and resources it takes to be effectively engaged. To further complicate things, we have two RTO's to cover – both MISO and SPP are integrated throughout our entire state. Some states have 2 to 3 full-time employees working with each respective RTO; comparatively, we have 4 analysts for the entire PUD Division. Decisions being made at the RTO level include changes to reliability that effect energy generation make up and the rate at which different types of resources are being retired. The way renewable and traditional energy resources are dispatched, incentivized and reimbursed for cost are also determined at the RTO level. All these decisions have a significant economic and reliability impact for our state, its citizens and businesses. These complex issues are being compounded by FERC attempting to extend federal authority and jurisdiction.

The Commission is involved in leadership roles within these multi-jurisdictional organizations, and we need adequate staffing to maintain, to become more involved in order to keep up with this complex system, and most importantly to ensure North Dakota has a voice in the long-term reliability and affordability of energy. Without these positions, we will be unable to effectively intervene on behalf

of N.D. citizens and industry in front of FERC and influence RTO decisions effecting reliability, cost, and resource mix. This will impact North Dakota's power production and consumers for years to come.

Another area of regulation our Public Utilities Division is responsible for is telecommunications. This is another industry that is evolving and changing with new technologies being used and adequate staff is needed to respond to emerging issues. One example is the efforts taken in the past biennium to preserve North Dakota's seven-digit dialing. Due to the new Suicide Prevention Hotline of 988, states needed to ensure that 988 is not used as a prefix for any phone numbers, or the state would be required to switch to ten-digit dialing. Public Utilities staff worked with providers using this prefix and they were able to transition those customers to a different prefix, clearing North Dakota from the list required to transition to 10-digit dialing.

Staff has also worked hard to implement processes that utilize phone numbers more efficiently and sparingly, allowing North Dakota to remain with only one area code.

#### Operating Money for Ongoing Operations:

We are requesting additional operating funding for various divisions to continue and enhance ongoing operations and keep up on industry standards and education. Last biennium we were assigned the task of conducting a more in-depth review and analysis of Integrated Resource Plans submitted to the Commission. The Commission is requesting funding for the same modeling software used by

utilities for load forecasts, generation resource selections, and economic results. Having access to the same modeling system utilized by the utilities we regulate will allow staff to more effectively analyze and validate the assumptions and outcomes of those plans. We are also requesting additional funding for:

- Professional development and travel so staff can maintain professional certifications like CPAs, JDs, and PE,
- Third-party support costs in order to extend the life of current equipment instead of purchasing new equipment as a replacement, and
- Funds to cover increased membership dues for NARUC.

Legal Assistant:

As a quasi-judicial agency, legal processes are engrained in everything we do. We are requesting a legal assistant to be a dedicated resource to the legal division to assist with tracking open cases filed at the PSC, FERC, and FCC, and to coordinate with PSC General Counsel to execute open record and open meeting requirements, administrative rulemaking, and administrative appeals. The Legal Assistant would also assist with preparing records and exhibits, scheduling, and hearing organization and preparation. This will help shorten the amount of administrative time for the attorneys so they can engage further in the growing federal, regional, and multistate interactions and respond accordingly.

We are requesting 1 FTE for a Legal Assistant and minimal operating funds to cover professional development. This position will be eligible for indirect cost



recovery, so 57% of funding will be general fund and the remaining 43% is supported with federal funds.

FERC Contractor:

The Commission continues to increase engagement with the Federal Energy Regulatory Commission (FERC) to ensure reliable, safe, secure, and economically efficient energy for consumers at a reasonable cost. If we are unable to secure in-house resources through additional staffing, we would use this money as a backstop to retain a consultant to assist with tracking FERC cases, advising the Commission on critical issues and drafting comments for Commission review and submission. FERC cases are as numerous as are the filings within them. Ensuring we have adequate staff or resources to review those cases and filings and make recommendations for comments that North Dakota should file in those cases is important and necessary to maintaining state's rights.

If we are able to obtain the 2 FTEs and resources requested for the Public Utility Analyst and Electrical Engineer, we do not believe this funding will be necessary. However, just as we are seeing RTOs develop regional energy transmission policies that have an impact on ND, FERC is taking up many topics that will have an impact on our state. Engaging in FERC cases and filing meaningful comments is necessary to ensure our voice is heard and our citizens are protected from the added costs and reduced reliability that will result from the absence of our engagements.

## **One-Time Funding Requests:**

### Indirect Cost Recovery:

The PSC has an indirect cost agreement with the federal government that allows the agency to negotiate an indirect cost percentage and apply this percentage to federal salary and benefit costs involving the Reclamation, AML and Pipeline Safety programs. This indirect cost recovery is used to support employee salary costs for critical positions that support the entire agency which subsequently reduces the need for general funds. This indirect cost agreement is based on actual expenditures negotiated every two years. Our indirect cost agreement in the 2021-23 budget request was 30.50%. Due to reduced actual expenditures, primarily due to the extensive turnover of staff, we project the indirect cost agreement for the 2023-25 budget to be 26.50%. This anticipated 4% rate reduction will lead to additional general fund needs of approximately \$101,700 to support base salaries of current staff. We expect this to be a one-time issue.

### Drone for Reclamation and AML:

We are requesting a drone that would be used by two divisions at the PSC, the Reclamation Division and the Abandoned Mine Lands Division. The Reclamation division could use the drone when mine access is restricted or hazardous; to create timely aerial imagery when adding acres to a new or existing permit, at bond release, at end of the year, for landowner complaints about land impacts, and immediately following Notice of Violations (NOVs). It would also be useful to create timely digital surface models (DSM)s to estimate mine reclamation

progress, estimate earthwork volumes, identify surface water flow paths, identify surface water ponding, and find erosional features.

The Abandoned Mine Lands (AML) division would use the drone to inspect areas where access is limited or terrain presents challenges on foot. Images collected can be used to make maps, monitor progress and collaborate with other AML staff, contractors, landowners and the public. Autonomous flight missions would allow AML to create digital elevation models of existing ground conditions much faster than traditional survey methods. This would help AML compute earthwork volumes more efficiently and accurately for reclamation projects.

We are requesting one-time funding to purchase a U.S. Department of Defense cleared drone. Most of this funding will be provided by the federal grants supporting each program.

Weights and Measures Equipment:

The Commission currently does not have the ability to test high-flow devices, verify the work of registered service companies or technicians who certify high-flow diesel dispensers, or respond to complaints on these devices. These devices are used at truck stops to dispense diesel fuel into semis and other large over the road vehicles. This funding would be used to purchase a prover trailer to allow the PSC to test these devices and provide increased driving safety for our inspectors and reduced wear and tear on vehicles.

### Copier Replacement:

The Commission is looking to replace a copier purchased in June 2015. We could continue to use the current copier until it gives out, but ongoing service maintenance costs will continue to rise on this aging machine. At some point maintenance may no longer be available due to the age of the machine. We anticipate saving around 35% on service maintenance costs with a new machine.

### Temporary Salary Funding:

While we have had significant turnover within our agency, we still anticipate upcoming retirements in a handful of critical positions in the next biennium. These upcoming retiring employees have specialized skill sets and we would like the ability to bring them back if necessary in a temporary capacity to assist the agency with training during the transition. The Commission has been able to utilize this model in the current biennium and it has been exceptionally successful.

**Current Biennium Appropriation  
Compared to Next Biennium Recommendation**

Appropriation	2021-23 Biennium Appropriation	2023-25 Governor's Recommendation
Salaries and Wages	\$9,991,488	\$11,354,106
Operating Expenses	\$1,801,570	\$2,196,237
Capital Assets	\$145,000	\$45,000
Grants	\$20,000	\$20,000
Abandoned Mine Lands Contractual	\$6,000,000	\$6,000,000
Rail Rate Complaint Case	\$900,000	\$900,000
Railroad Safety Program	\$614,724	\$684,654
Specialized Legal Services	\$420,000	\$420,000
FTEs	43	44
General Funds	\$6,431,087	\$7,631,372

## **Requested Changes to the Executive Recommendation (one-pager)**

The Commission requests the following changes to the Executive

Recommendation:

- Two FTEs and applicable funding for a Public Utility Analyst and an Electrical Engineer
- One FTE and applicable funding for a Legal Assistant
- Purchase liquid fuels prover trailer
- Funding for copier replacement
- Funding for temporary salaries

**Comparison of Major Budget Requests to Governor's  
Recommendation (one-pager)**

<b>Description</b>	<b>Executive Recommendation</b>	<b>Comments</b>
Environmental Scientist	Included	This position is critical to maintain state primacy from federal government.
Public Utility Analyst and Electrical Engineer	Not Included	We believe it is critical to receive these positions and could explore self-funding a portion
Indirect Cost Recovery	Included	One-time funding to address shortfall in the 2023-25 biennium
Operating Money for Ongoing Operations	Included	Includes NARUC funding, training, travel, third-party support costs, and public utilities modeling software subscription
Legal Assistant	Not Included	Dedicated resource for the legal division
Drone for Reclamation and AML	Included	Most funding will be provided by federal grants supporting each program
Weights and Measures Equipment	Not Included	Purchase of liquid fuels prover trailer
Copier Replacement	Not Included	Cost savings will be achieved through reduced maintenance and operating costs
FERC Contractor	Included	May not be needed if we can secure in-house resources through additional staffing
Temporary Salary Funding	Not Included	Aid in knowledge transfer and succession planning

## **Agency Collections:**

### General Fund Collections:

- Public Utility filing fees – \$50 fee assessed on filings submitted to the Commission by regulated entities. HB 1063 proposes to eliminate this fee. The PSC is supportive of this change.
- Auctioneer/Auction Clerk licensing fees – There will be a bill to remove Commission oversight by creating a Board of Auctioneers. The PSC is supportive of this change.
- Various fines – The Commission has the authority to assess fines for noncompliance with laws and rules. No anticipated changes in 2021-23 biennium or upcoming 2023-25 biennium.
- Fees assessed for new coal mining permits – No anticipated changes in 2021-23 biennium or upcoming 2023-25 biennium.

## **Other Sections to be Included in Appropriation Bill:**

### Funding Source for Rail Rate Complaint Case:

Since 2005, the PSC receives funding for a possible rail rate complaint case from the Beginning Farmers Revolving Loan Fund at the Bank of North Dakota. While the PSC has not incurred any expenses related to a rail rate complaint case since 2005-2007, this is a valuable deterrent for railroad companies to charge unjust rates to producers. The Bank of North Dakota has indicated they will need all funding available in the Beginning Farmers Revolving Loan Fund and have proposed to extend a line of credit, with deficiency appropriation if necessary, to



the PSC to provide funding. The PSC and Bank of North Dakota are supportive of this change and will be presenting appropriate amendment language.

## **Federal Funding for 2023-25 Biennium:**

The PSC has numerous programs that receive federal funding including:

- Reclamation
- AML
- Pipeline Safety
- Rail Safety
- Damage Prevention (ND One-Call)

These funds are long-standing, reoccurring (usually on an annual basis) to support program objectives and costs. The 2022 Bipartisan Infrastructure Law (BIL) does include an additional \$3 million in funding for the AML program. We have submitted a grant application for the first year of funding, however we are still evaluating if we will continue to apply for this funding going forward and determining resource and budget needs. At this point, the federal government has not adopted rules and guidance for this program after 2023.

## **Self-Funding**

Last biennium, the Legislature implemented a self-funding model at our agency to self-fund a small portion of our Public Utility and Weights and Measures Divisions. The total amount budgeted to be self-funded is \$625,000 and is made

up of fixed and variable funding sources. As you can see from the following report, the emergency clause implemented by the Legislature was helpful to get the funds started. However, we are concerned if we will receive enough siting applications this biennium to meet the budgeted amount for the siting admin fee.

Variable Funding Sources (as of Nov. 30, 2022):

	Emergency Clause 19-21 Biennium	21-23 Revenue as of Nov. 30, 2022	Total Fund Balance as of Nov. 30, 2022	21-23 Biennium to Date Budget	Difference	Total Budget
Interest		80	80			
W&M - Scale Inspection Fees	14,468	109,396	123,864			
W&M - Registered Service Companies		22,210	22,210			
<b>Total W&amp;M</b>	14,468	<b>131,606</b>	146,074	123,958	22,116	175,000
Siting Admin. Fee		<b>97,356</b>	97,356	106,250	(8,894)	150,000

Fixed Funding Sources:

The PSC will receive \$300,000 per biennium from an economic regulation assessment that is proportionally assessed based on each electric and gas utility's respective gross operating revenues from the retail sale of gas and electric service within the state.

**SUMMARY:**

The Commission has been able to operate within its appropriation for the current biennium during a time of ongoing and in many ways unprecedented change locally, regionally and nationally in the industries we regulate. Challenges in the oil and gas and coal mining and reclamation industry are constant. That, combined with the revolution occurring in the electric industry, demands that we

have a strong and able staff of high-quality professionals who can be full players advocating in multistate and federal arenas for the interests of North Dakota citizens and rate payers.

We have an attitude of continual improvement and innovation in our agency. We embrace technology and are constantly seeking ways to be more responsive to the public and the industries we regulate, to recognize the burden we place on business and reduce unnecessary red tape, while also recognizing the important oversight role North Dakota citizens count on us to fulfill.

This budget proposal continues our tradition of operating efficiently while offering innovative solutions to the constant challenges we face. We stand ready to work with you in coming weeks and months to design the best possible budget solution for the Public Service Commission. Thank you Mr. Chair and I look forward to answering questions from you and your committee.

## **Department Overview**

### **Reclamation Division (64% Federal Funds plus Indirect Cost Reimbursement)**

The Reclamation Division of the Public Service Commission is responsible for administering and enforcing the state's reclamation law for minimizing the environmental effects of surface coal mining and ensuring mined lands are properly reclaimed. Under N.D.C.C § 38-14-1, the PSC administers a comprehensive program that consists of permitting and inspection and enforcement responsibilities. There are 7 active surface coal mining operations (5 lignite and 2 leonardite mines) operating in the state.

- Approximately 132,584 acres are currently permitted for mining activities under 22 mine permits.
- During the current biennium, approximately 6,021 acres are proposed to be added to existing permit areas and are under review by the Reclamation Division.
- To date, approximately 17,360 acres have received final bond release (met all the requirements of the reclamation law) and Commission jurisdiction has ended.
- During the current biennium, an informal conference was held on a pending revision application for the Coyote Creek Mine.
- An adjacent surface owner to the Freedom Mine filed a citizen's complaint in 2019. The Commission responded to the complaint and informed the

## Attachment A – Department Overview

surface owner of his options to request an informal conference or formal hearing. In 2022, the surface owner requested a formal hearing and the hearing was held.

- Staff continued monitoring the Westmoreland bankruptcy and reviewed the permit transfer documents. The permit transfers to the new post-bankruptcy company were approved by the Commission.
- Two program Amendments to North Dakota Coal Regulatory Program were submitted to the Office of Surface Mining Reclamation and Enforcement.
- Staff worked extensively with the Falkirk Mine, Rainbow Energy, and other state agencies to replace Falkirk’s performance bonds prior to the sale of the Coal Creek Station from Great River Energy to Rainbow Energy.
- During this biennium, the Commission approved and adopted the updated Revegetation Success Guidelines document that had been under review for several years.
- The Reclamation Division lost over 100 years of experience in 2021 due to retirements. The division became fully staffed again on February 1, 2022. We are currently in the process of training the entire division as each employee is either newly hired or in a new position since the end of 2019.
- The PSC’s coal regulatory and Abandoned Mine Lands programs continue to receive excellent annual evaluation reports from the federal Office of Surface Mining (OSM), which concluded that no issues or concerns were raised. In their report they stated that the Reclamation Division “continues to implement the program in a professional, cooperative, and fair manner.

## Attachment A – Department Overview

The NDPSC has the necessary technical expertise for carrying out its functions to ensure that all requirements are met.” In their report of the AML Program, OSM stated that “the state administers an excellent program in full compliance with their approved plan.” Additional statements included “The NDPSC continues to administer an efficient and successful AML program. These projects have reduced the likelihood of death or injury to property owners and the public.”

### **Abandoned Mine Lands (100% Federal Funds plus Indirect Cost Reimbursement)**

The goal of the Abandoned Mine Lands (AML) Program is to eliminate hazards related to coal mining that occurred prior to the enactment of the 1977 Surface Mining Control and Reclamation Act (SMCRA). Under N.D.C.C. § 38-14.2, the PSC is authorized to develop and administer an abandoned mine reclamation plan on lands adversely affected by pre-SMCRA mining. N.D.C.C. § 38-14.2 also created a state abandoned mine reclamation fund to collect funds pursuant to title IV of Public Law 95-87 [91 Stat. 456; 30 U.S.C.1231 et seq.] and to disburse funds for the reclamation and restoration of land and water resources adversely affected by past mining as defined by section 38-14.2-06. PSC staff in the AML Program design and manage the reclamation projects. Private contractors, selected by competitive bidding, conduct the construction work. A federal fee assessed on coal production funds the AML Program. These funds are distributed as federal grants

## Attachment A – Department Overview

to AML programs in 28 states and tribes, including North Dakota. North Dakota typically receives about \$3 million annually.

The Office of Surface Mining Reclamation and Enforcement's AML fee collection authority was extended through September 30, 2034, as part of the Infrastructure Investment and Jobs Act, commonly known as the Bipartisan Infrastructure Law (BIL), that was signed into law on November 15, 2021. The BIL reduced the reclamation fee rate for lignite coal from eight cents per ton to 6.4 cents per ton and extended the annual AML grant distributions to eligible states and tribes by 13 years. In addition to the extension of AML fee collections and mandatory AML grant distributions, \$11.293 billion in new funding was authorized to expand investment in the AML program over a 15-year period. North Dakota recently submitted our first BIL grant application for \$3,101,700. Response time from the federal government is unpredictable.

- In the current biennium, 8 abandoned mine land reclamation projects were completed.
- About 280 dangerous sinkholes caused by the collapse of underground mine workings were filled in the past two years.
- Since 1982, 193 primary reclamation projects and 35 emergency projects have been conducted to eliminate hazardous conditions, totaling over \$62.5 million.
- More than 40 miles of dangerous surface mine highwalls have been eliminated and over 1,500 acres of subsidence issues have been addressed since the AML reclamation program began.

## Attachment A – Department Overview

- We have records of more than 1,500 abandoned coal mine sites in North Dakota. At the current rate of federal funding, we estimate it will take at least 15 years and over \$35 million to address the highest priority AML problems in our state.

### **Regulation of electric, natural gas, and telephone utilities**

Telecommunications: The Commission continued and refocused its efforts on telecommunications regulation. During the past biennium, the Commission collaborated with telecommunications companies operating in North Dakota to reassign numbers associated with the 701-988 prefix. This effort was necessitated by the new 988 three-digit code that was set to be implemented for suicide prevention. Absent our efforts to reassign the phone numbers in that prefix, the entire state would have been forced to utilize ten-digit rather than seven-digit dialing. As a point of reference, 35 other states and 82 area codes were forced to utilize ten-digit dialing as a result of this. We furthered our efforts in this area to collaborate not only with telecommunication companies, but also other states in our efforts to save numbering resources in our lone area code of 701.

As many may not be aware, North Dakota is one of a small number of states who retain a single area code across the entire state. However, this will not be the case in perpetuity. At present we are forecasted to exhaust the available numbers in the 701 area code by the second quarter of 2028. Absent the Commission's efforts to utilize phone numbers more efficiently and sparingly, we would already be looking to add another area code to our state.



## Attachment A – Department Overview

During the past biennium we joined other states such as Maine, New Hampshire and Montana in filings before the Federal Communications Commission that would permit us to grant numbering resources to telecommunications companies in smaller blocks, thereby pushing our exhaust date out by many years.

Electric and Natural Gas: North Dakota continues to have among the lowest residential electric and natural gas utility rates in the nation, as shown in the charts on page A9. Biennium to date, the PSC has received two general rate cases for Montana-Dakota Utilities Co.'s electric operations and Northern States Power Company's natural gas operations.

Consistent with the Commission's least-cost standard, the PSC has made two advanced determinations of prudence. One concerning 200 megawatts of new wind generation to be added to Northern States Power Company's system, and the other concerning a new advanced metering infrastructure to be added to Otter Tail Power Company's system. In accordance with N.D.C.C. § 49-05-16, the investor-owned electric utilities operating in North Dakota may request an advance determination of prudence for certain major capital investments.

The Commission continues to participate as a member of the organization of MISO States and Southwest Power Pool (SPP), which are both Regional Transmission Organizations (RTOs). MISO began operating a regional energy market in 2005 that continues to serve the loads of all MISO participants, including the three jurisdictional investor-owned electric utilities providing service in North

## Attachment A – Department Overview

Dakota (Montana-Dakota Utilities Co, Northern States Power Company, and Otter Tail Power Company). The SPP operates a similar regional energy market that serves Basin Electric Power Cooperative and its member Cooperatives. Both provide a centralized generating unit dispatch procedure that co-optimizes the energy and ancillary services markets to ensure that the lowest-cost generators are always being used throughout the regions regardless of utility control area boundaries. The markets establish Locational Marginal Prices (LMP's) for electric energy at specific local pricing nodes. All energy must be provided through the markets. Producers are paid the LMP for their energy at the time and node where it enters the market. The load pays the LMP at the time and node where the energy is delivered.

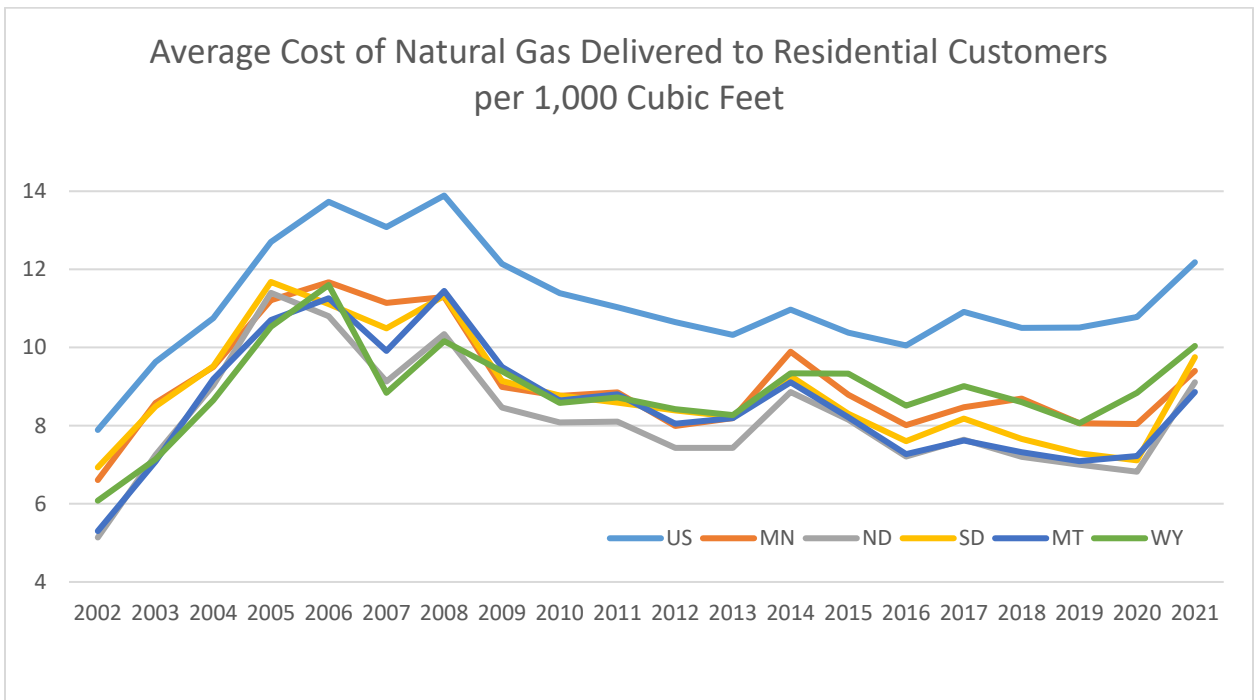
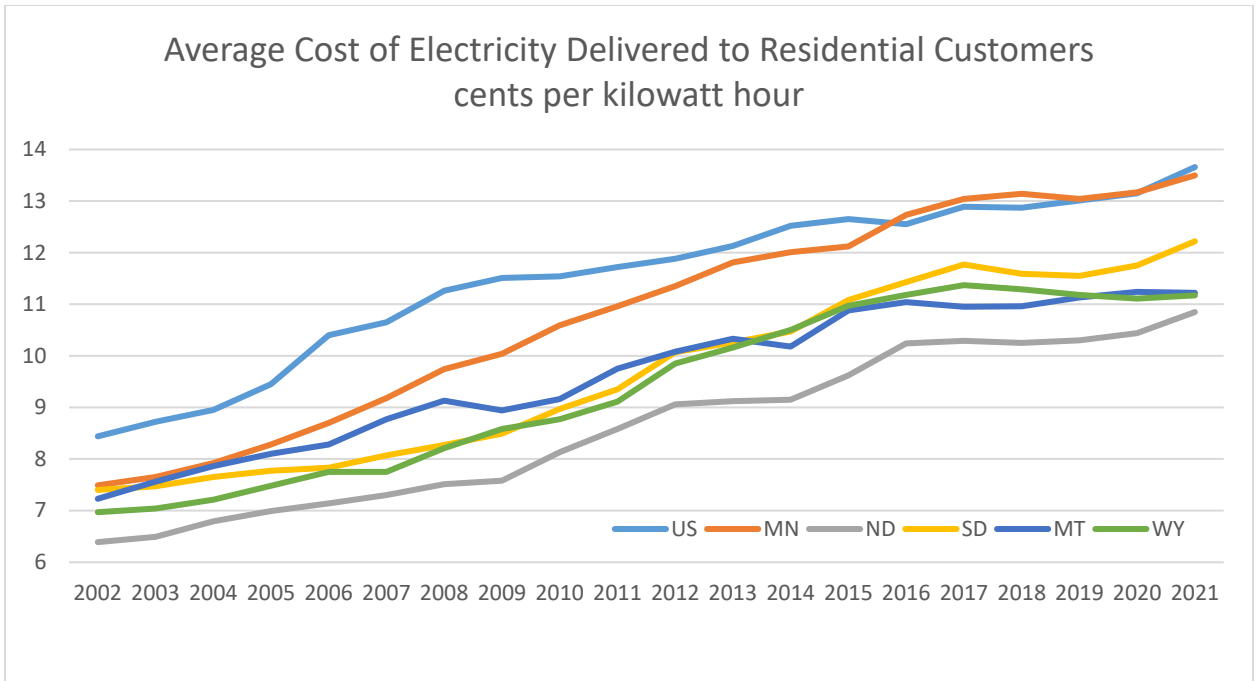
Collaborating with MISO and SPP while representing North Dakota's interests in addressing gaps in an electric resource's ability to show up during times of need and to properly incentivize those resources for doing so will be increasingly important for a fleet undergoing significant change. Continuing to work with MISO and SPP to balance the cost and need for interstate transmission lines under federal jurisdiction with the cost and need for resources under local jurisdiction is critical to ensuring ratepayers are served with affordable and reliable electricity. Such transmission investments are forecasted to be significant, and the Commission must ensure both local and regional industries are working to advance ratepayers interests. Becoming more and more involved and keeping up with this complex system takes increased staff time and specific staff expertise.

## Attachment A – Department Overview

Participation in these regional groups is becoming more important as decisions they make impact all North Dakota utilities. States are ultimately responsible for resource adequacy. However, due to the interconnected nature of the power grid, steps that North Dakota takes to ensure its own reliability will not be considered when the entire grid is in need (just as we saw with winter storm Uri in February 2021). The Commission is involved in leadership roles within these organizations, but having adequate staffing to become more involved and keeping up with this complex system is necessary to ensure North Dakota has a voice in our long-term reliability and affordability of energy. In order to ensure that North Dakota's interests are represented in decisions that are made by MISO and SPP, the challenge will be finding resources to assign to these important tasks.

In addition to the RTOs, another critical area for North Dakota is the Federal Energy Regulatory Commission (FERC). Just as we are seeing RTOs develop regional energy and transmission policies that have an impact on North Dakota, FERC is taking up many topics that will have an impact on North Dakota. Therefore, engaging in FERC cases and filing impactful comments is necessary to ensure that our voice is heard, and our citizens are protected from the added costs and reduced reliability that will result from the absence of our engagement. FERC cases are numerous, as are the filings within them. We must ensure we have adequate staff to review FERC cases and filings, make recommendations for comments, and take the appropriate steps to file comments.

Attachment A – Department Overview



**Siting (current biennium) – N.D.C.C. § 49-22 and 49-22.1**

**Pipelines**

Description	Miles	County	Est. Project Cost
Montana-Dakota Utilities Co.	.5	Morton	1,600,000
Hiland Crude, LLC	2.9	Williams	5,400,000
Dakota Gasification Company	6.8	Mercer	25,000,000
Bridger Pipeline LLC	81	McKenzie & Golden Valley	122,000,000
Total	91.2		154,000,000

**Electric Transmission**

Description	Miles	County	Est. Project Cost
Montana-Dakota Utilities Co.	1.5	Morton	1,300,000
Total	1.5		1,300,000

**Wind Generation**

Description	MW	County	Est. Project Cost
Badger Wind, LLC	251.6	Logan & McIntosh	360,000,000
Total	251.6		360,000,000

Note: 4,249 MW of total wind generation in service as of December 20, 2022.

**These tables represent completion of the complex siting process of 91.2 miles of pipelines, 1.5 miles of electric transmission line, and 251.6 MW of wind generation. It represents over \$515 million of economic investment in North Dakota.**

**Licensed Auctioneers and Auction Clerks**

Applicable N.D.C.C. Chapters include 3-05, 9-06, and 51-05.1. Commission statutory responsibilities include:

- Issuing and renewing auctioneer, auction clerk, and bank auction clerk licenses.
- Investigation of auction related complaints.

The Commission currently licenses 303 auctioneers and 144 clerks.

## **Weights and Measures**

Applicable North Dakota Century Code Chapters include 64-01, 64-02, 64-03, and 64-04.

The Weights and Measures Program, comprised of three full-time inspectors, is designed to meet the needs of both the buyer and seller in the commercial marketplace. This is accomplished through the enforcement of the state's weights and measures laws by the inspection and testing of commercial weighing and measuring devices such as supermarket scales, grain elevator truck scales, dockage scales, livestock scales, gas station pumps, liquified petroleum gas meters, and medical marijuana packaging scales, to name a few. Some of the accomplishments and work of the program include:

- Testing and inspecting 5,155 commercial devices from July 1, 2021, thru June 30, 2022, by PSC inspectors.
- Conducting quality control testing and monitoring the documentation of 19,978 weighing or measuring devices installed or serviced by registered service companies from July 1, 2021, thru June 30, 2022.
- Creating and implementing a quality assurance feedback process to ensure issues identified by inspections are communicated back to Registered Service Companies and Registered Service Persons.

Additionally, the Commission is continuing work on the heavy-scale quality assurance program. This program has allowed the PSC to review the work of registered service companies and addresses concerns with their operations along

## Attachment A – Department Overview

with responding to heavy-scale complaints. From July 1, 2021, thru June 30, 2022, the PSC has conducted quality assurance inspections on 118 heavy scales, of which 33 failed the inspection.

The Weights and Measures Program is minimally staffed with much of the work being done with private contractors and oversight being done by the Public Service Commission. Workload requirements for light duty inspectors does not allow for much, if any, quality assurance inspections on light duty devices (gas pumps, grocery store scales, etc.). Additional staffing would allow for increased quality assurance inspections. Additionally, the program does not currently have the necessary equipment to test high flow meters, such as diesel fuel pumps. In order to conduct our own high flow testing, the program has made a request for funding to purchase the necessary equipment.

### **Railroad Safety and Regulation**

Applicable North Dakota Century Code Chapters include 24-09, 49-01, 49-02, 49-09, 49-09.1, 49-10.1, 49-11, 49-16, 49-17.1, and 60-06.

The Commission is the clearinghouse for rail service and safety issues statewide. As part of public engagement and outreach, the Commission hosts an annual meeting on service and safety for all the statewide stakeholders including ag producers, grain marketers, emergency responders, county, and city leaders to address issues with railroad representatives. This biennium to date, the PSC fielded complaints and intervened on behalf of 35 communities and citizens on rail-related issues.

## Attachment A – Department Overview

Since 2015, the PSC has operated a Rail Safety Program, which supplements federal rail safety oversight. The Federal Rail Administration (FRA) only has the resources to inspect 0.2 percent of railroad operations nationally each year. Federally certified state inspectors constitute 30 percent of the FRA's total inspection force and are critical to ensuring safe rail operations. Having state inspectors that are dedicated to North Dakota is a big benefit and helps to ensure adequate inspections in our state; whereas, federal inspectors have responsibility over multiple states. Funding for the state Rail Safety Program comes not from the general fund, but from existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements. The goal of the program is to reduce the number of accidents, derailments and other equipment failures in order to reduce fatalities, injuries, economic losses and environmental impacts. As one measure of the program's effectiveness, the number of defects found are decreasing after increasing for several years.

The Commission employs two certified inspectors, one of which is dual certified, meaning they can inspect two out of the six FRA inspection disciplines. The three inspection disciplines the Commission inspectors are certified in are 1) Track and 2) Motive Power & Equipment (Mechanical) / Hazardous Materials (HAZMAT). The remaining three FRA inspection disciplines are Operating Practices, Signal and Train Control, and Grade Crossing Safety and Trespasser Prevention. The state inspectors coordinate with and complement the federal inspectors to maximize coverage but are autonomous and entirely accountable to the Public Service Commission.



## Attachment A – Department Overview

There are many advantages and efficiencies gained for the inspectors to carry dual certifications in these categories such as:

- Inspectors are already present in locations which offer the opportunity for a dual inspection such as Mechanical inspector is in rail yards and hazardous material trans-loading facilities.
- Allows the rail safety program to utilize existing resources to provide additional oversight and safety to North Dakotans.
- Offers opportunities for the inspector to interact directly with the public through grade crossing safety and trespasser prevention initiatives and programs.
- Offers opportunities for the inspector to interact with loaders and shippers of HAZMAT materials to ensure proper sealing, inspection, and shipment of hazardous materials at origin and destination points.

Since the start of the program, the track inspector has conducted 942 inspections, noting 5,621 defects, and has issued 47 violations with civil penalties. The mechanical inspector has conducted 968 inspections, noting 7,654 defects, and has issued 98 violations with civil penalties in addition to 61 HAZMAT inspections, noting 41 defects, and has issued 12 violations with civil penalties.

### **Gas Pipeline Safety (Approx. 50% Federal Funds plus Indirect Cost Reimbursement)**

Applicable North Dakota Century Code Chapters include 49-02 and 49-07.

On behalf of the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Commission conducts a Pipeline Safety Program in North Dakota

## Attachment A – Department Overview

involving intrastate natural gas transmission, gathering, and distribution systems, intrastate liquified natural gas (LNG) facilities, and a propane distribution system. Furthermore, in November 2021, PHMSA published a final rule bringing previously unregulated natural gas gathering systems under the jurisdiction of PHMSA and thereby the Commission. Thus far, the number of regulated operators has increased from 22 to 23 with more expected. The number of regulated gas pipeline miles is anticipated to increase by thousands. The number of newly regulated operators and additional gathering line mileage will be reported to PHMSA in March 2023.

The goal of the program is to enhance public safety by enforcing state laws governing gas pipeline safety through inspections and enforcement regarding qualification of pipeline personnel, pipeline components, design, construction, integrity management, operations, maintenance, public awareness, damage prevention programs, and emergency response.

Commission inspectors perform audits of four natural gas distribution system operators, one liquefied petroleum gas distribution system operator, ten transmission system operators, and seven gathering system operators.

Gas pipeline safety inspectors conduct inspections dealing with records audits, compliance follow-up, design/testing and construction, gas incidents, on-site operator training, operator qualifications, control-room management, drug and alcohol testing, damage prevention, public awareness, operations and maintenance, and integrity management.

## Attachment A – Department Overview

Staff for the program includes one program manager/inspector and two full-time inspectors. Biennium to date, Gas Pipeline Safety Inspectors completed a total of 351.5 inspection/audit days.

### **Damage Prevention**

Applicable North Dakota Century Code Chapter includes 49-23.

The Commission is charged with enforcement of the state's One-Call Excavation Notice System law also known as 811 or Call Before You Dig.

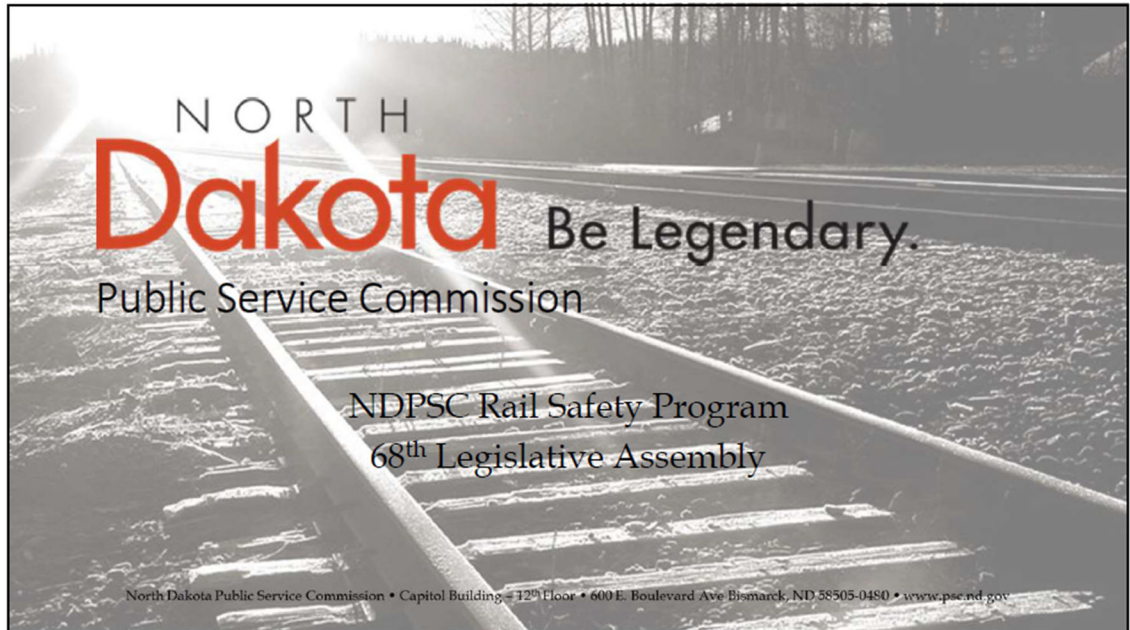
The goal of the law is to prevent damage to underground infrastructure. This biennium to date, the Commission has processed 52 complaints regarding alleged violations of the One-Call law. As a result of these proceedings, the Commission has levied fines totaling \$67,900. These fines are deposited directly into the general fund.

#### **Damage Prevention Cases Processed:**

2009-2011	1
2011-2013	18
2013-2015	58
2015-2017	52
2017-2019	64
2019-2021	51
2021-2023	52 to date

## Attachment A – Department Overview

In total, the Commission has levied 181 fines totaling \$399,250 since beginning enforcement of the program in 2009. Since inception, the Commission has not been given any additional resources to process these cases. The workload has fallen to existing staff.



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## Rail Safety Program Mission

Implementing inspection and compliance programs that:

- Reduce the potential for injuries, deaths, and property damage in and along North Dakota railroads and communities.
- Reduce the number of accidents, derailments and other equipment failures experienced within the state of North Dakota.
- Reduce fatalities and injuries in addition to economic losses and environmental impacts.

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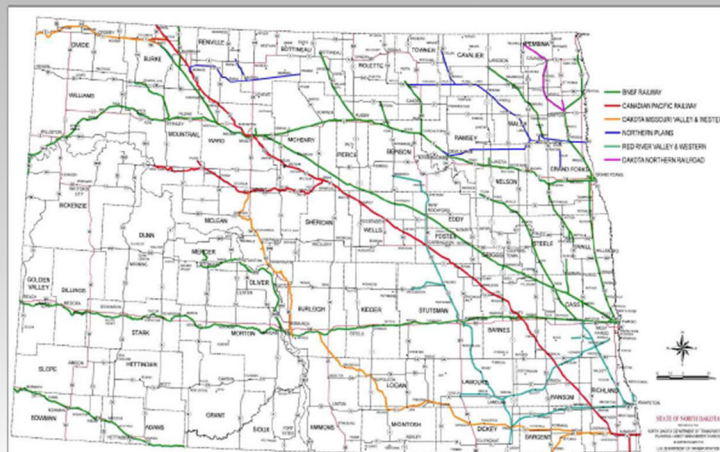
## Rail Safety Program Priorities

- Expand safety inspections of track infrastructure to include main line, sidings and industrial spurs, railroad equipment and cars.
- Use enforcement actions to include education, notification, and penalties regarding compliance with safety standards.
- Work with railroads and shippers to upgrade safety and community relations.
- Ensure crude oil/HAZMAT routes are inspected regularly, as well as components and equipment used to transport/carry commodities.
- Serve as a safety resource and provide guidance regarding federal and state laws.

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3

## North Dakota Rail System



3,532 Miles of  
Main Line Track

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## Communities Impacted by Railroads

- 290 communities intersect or are in close proximity to the railroad, many of which the Commission has inspected at:

Absaraka, Adams, Alsen, Amenia, Ambrose, Aneta, Anamoose, Ardoch, Argusville, Arvilla, Ayr, Balfour, Baldwin, Barney, Barton, Beach, Belfield, Benedict, Bergen, Berlin, Berthold, Beulah, Bisbee, Bismarck, Blaisdell, Bordulac, Bottineau, Bowbells, Bowman, Braddock, Bremen, Buchanan, Bucyrus, Buffalo, Burlington, Butte, Buxton, Calvin, Cando, Canton City, Carpio, Carrington, Casselton, Cathay, Cavalier, Cayuga, Chaffee, Churchs Ferry, Cleveland, Clifford, Cogswell, Coleharbor, Colfax, Conway, Coulee, Courtenay, Crary, Crosby, Crystal, Cuba, Cummings, Dahlen, Davenport, Dawson, Des Lacs, Devils Lake, Dickinson, Donnybrook, Douglas, Drake, Drayton, Driscoll, Dwight, Doyon, Eckelson, Edgeley, Edinburg, Egeland, Eldridge, Elliot, Emerado, Emrick, Enderlin, Englevale, Epping, Erie, Fairdale, Fairmount, East Fairview, Fargo, Fessenden, Fingal, Finley, Flaxton, Fordville, Forest River, Forman, Fortuna, Foxholm, Fredonia, Fryburg, Fullerton, Galesburg, Gardner, Garrison, Gascayne, Gladstone, Glen Ullin, Glenfield, Gilby, Grace City, Grafton, Grand Forks, Grandin, Grano, Granville, Gwinner, Hamberg, Hankinson, Hannaford, Harmon, Harvey, Harwood, Hatton, Havana, Haynes, Hazen, Hebron, Hensler, Heimdal, Hettinger, Hillsboro, Hoople, Hope, Horace, Jamestown, Juanita, Judson, Karlsruhe, Kelso, Kenaston, Kenmare, Kensal, Kindred, Kintyre, Kief, Knox, Kulm, Lakota, LaMoure, Langdon, Lankin, Lansford, Larimore, Larson, Leal, Leeds, Lehr, Lemmon, Leonard, Lidgerwood, Lignite, Lisbon, Logan, Lucca, Luverne, Maddock, Makoti, Mandan, Manfred, Mantador, Manvel, Mapleton, Marmarth, Martin, Mayville, Max, McKenzie, McLeod, McVile, Medina, Medora, Menoken, Michigan, Milnor, Milton, Minto, Minot, Moffit, Mohall, Mooreton, Munich, Nash, Napoleon, Nekoma, New Rockford, New Salem, New Town, Niagara, Niobe, Nolan, Noonan, Norma, Northgate, Northwood, Norwich, Oakes, Oberon, Oriska, Osabrock, Palermo, Page, Park River, Parshall, Pekin, Perth, Petersburg, Pillsbury, Pingree, Pisek, Plaza, Portal, Portland, Powers Lake, Prosper, Ray, Reeder, Reile's Acres, Reynolds, Rhame, Richardton, Rogers, Rolla, Ross, Rugby, Ruso, Rutland, Ryder, Sanborn, Sawyer, Scranton, Selz, Sentinel Butte, Sharon, Sheldon, Sheyenne, Simcoe, South Heart, Spiritwood, Springbrook, Stanley, Stanton, Steele, Sterling, Stirum, Surrey, Sutton, Tappen, Taylor, Thompson, Tioga, Tolna, Tolley, Tower City, Towner, Trenton, Underwood, Valley City, Velsa, Verona, Voltaire, Walcott, Walhalla, Washburn, Wellsburg, West Fargo, Wahpeton, Wheatland, White Earth, Williston, Willow City, Wilton, Wimbledon, Windsor, Wishek, Wyndmere, York.

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## Inspection Data (Program Inception thru 12-31-2022)

- Inspector #1 (Track Inspector)
  - 942 Inspections
  - 18,939 Units
  - 5,621 Defects
  - 47 Violations
- Inspector # 2 (Dual Certified in Mechanical and HAZMAT Disciplines)
  - Mechanical
    - 968 Inspections
    - 186,994 Units
    - 7,654 Defects
    - 98 Violations
  - HAZMAT (Inspector certified 09-15-2021)
    - 61 Inspections
    - 1,403 Units
    - 41 Defects
    - 12 Violations

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## Top Track Defects and Violations

Category	Description	Defects	Violations
Continuous Welded Rail	Continuous welded rail is track joined together by welding sections together rather than being bolted together using joint bars.	249	4
Rail Joints	Rail joints are the places where two sections of track are joined together using bolts and the appropriate joint bars.	1,320	13
Turnouts and Crossings	Turnouts are the portion of a switch that connects to another track and crossings refers to roadway grade crossings.	2,007	0
Switches	Track switches are equipment that enables trains to transfer from one track to another.	273	1
Ballast	Ballast is the rock that securely holds rail ties in place and supports the massive amount of weight transferred from passing trains.	163	3

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## Top Mechanical Defects and Violations

Category	Description	Defects	Violations
Railroad Freight Car Standards	This section includes the mechanical components of a freight car (wheels, axles, suspension, etc.). These defects cause the most frequent and severe mechanically related derailments.	2202	42
Reflectorization of Rail Freight Rolling Stock	Reflectorization of rail cars increases visibility and reduces highway-rail grade crossing accidents, deaths, injuries, and property damage.	341	0
Railroad Locomotive Safety Standards	Minimum Federal safety standards for all locomotives, except those propelled by steam power.	56	0
Railroad Safety Appliance Standards	This section includes handbrakes, handholds, ladders, sill steps and platforms. These defects lead to personnel safety hazards/injuries.	3363	50
Brake System Standards	This section includes brake test requirements, brake system effectiveness, head end and end of train devices.	1676	11

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## Top HAZMAT Defects and Violations

Category	Description	Defects	Violations
Carriage by Rail	This section pertains to railroads regarding operating, handling and transportation of hazardous materials in rail transportation.	21	12
Training and Security	This section pertains to shippers/revceivers of hazardous materials regarding training of HM employees and security.	5	0
Tank Car Inspection (Limited & Complete)	Inspection of the physical tank car while in transportation.	4	0
Loading /Unloading	The unloading and or loading of hazardous material, not yet in transportation.	4	0

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## MP&E Defects



- March 4, 2022
- Tank car at a facility had several defects relating to safety appliances. It was found that during a repair the safety appliances were welded instead of being secure with the proper mechanical fasteners.
- 49 CFR 231.136(c)(1)

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## Mechanical Violation

- Minot, ND 6/28/22
  - TILX 292811 tank car, not placarded located in the Minot CP Yard
  - 215.103(F)(1)(ii) L1 wheel with shelling greater than 3 inches in length
  - This wheel also had other shelled spots several adjoining that were greater than 2 ½ inches in length
  - Previous mechanical inspections completed in Alyth, AB Canada on 6/17/22, built in train and moved to Minot, ND.

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## Hazmat Defects/Violations

- 48 Hour Rule
- 49 CFR 174.14(b)
  - (a) carrier must forward each shipment of hazardous materials promptly and within 48 hours (Saturdays, Sundays, and holidays excluded), after acceptance at the originating point or receipt at any yard, transfer station, or interchange point, except that where biweekly or weekly service only is performed, a shipment of hazardous materials must be forwarded on the first available train.
  - (b) A tank car loaded with any Division 2.1 (flammable gas), Division 2.3 (poisonous gas) or Class 3 (flammable liquid) material, may not be received and held at any point, subject to forwarding orders, so as to defeat the purpose of this section or of § 174.204 of this subchapter.
- March 23, 2022, it was found that 12 tank cars loaded with Anhydrous Ammonia (Class 2.3 Poisonous Gas) had been sitting with an excess of 48 hours dwell (approximately 240 hours of dwell)

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12

## Track Defects



- Culverts found in area of major derailment collapsed and plugged not allowing water to drain under roadbed.

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13

## Track Violations

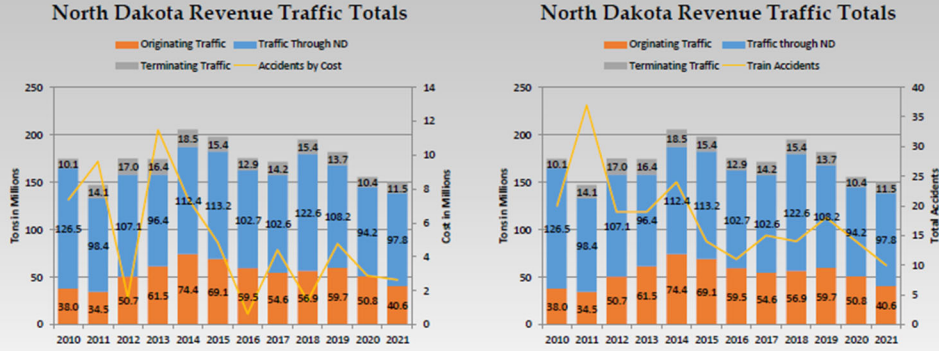


- Grand Forks, ND 6-14-22
- BNSF Grand Forks Subdivision main through Grand Forks

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14

## Traffic vs. Accidents



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15

## Other Safety Outreach and Education

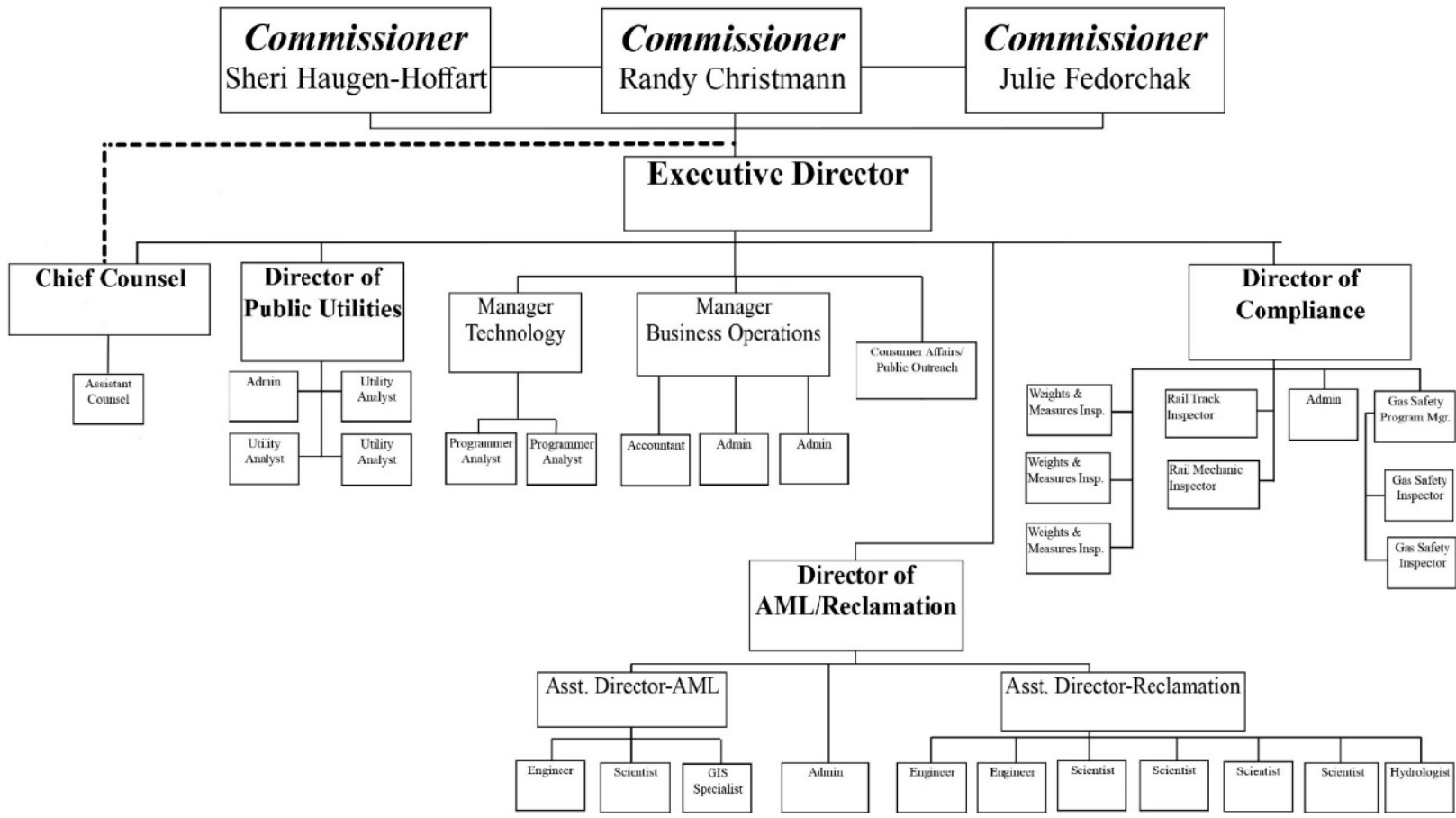
- Identified critical defect in maintenance and inspection electronic tracking and log program allowing data manipulation after entry. Program used by numerous Class I railroads.
- Worked with FRA to heighten national visibility of broken side bearings on crude oil trains. This was driven by inspections conducted by the PSC's inspector.
- Worked with railroad mechanical departments to ensure all mechanical inspections of crude oil trains are being conducted at the correct locations and proper intervals.
- Cleared blocked crossings on multiple occasions by working with railroads, local government and citizens.
- Served as liaison between railroad and landowners obtaining new or repairing existing livestock fences along railroad right-of-way.
- Presented at schools and expos on the importance of safety near trains and railroad tracks; Operation Livesaver.
- Working on dual inspection certification for inspectors (Mechanical to take on HAZMAT and Track to take on Grade Crossing Safety and Trespasser Prevention).
- Provided track inspection report to help local investors determine the merits of replacing the burned rail bridge which threatened line abandonment in northeast North Dakota.
- Work with North Dakota Department of Emergency Services to coordinate rail maintenance which has the possibility of causing brush fires; ensure first responders are aware of potential risks within their jurisdictions.

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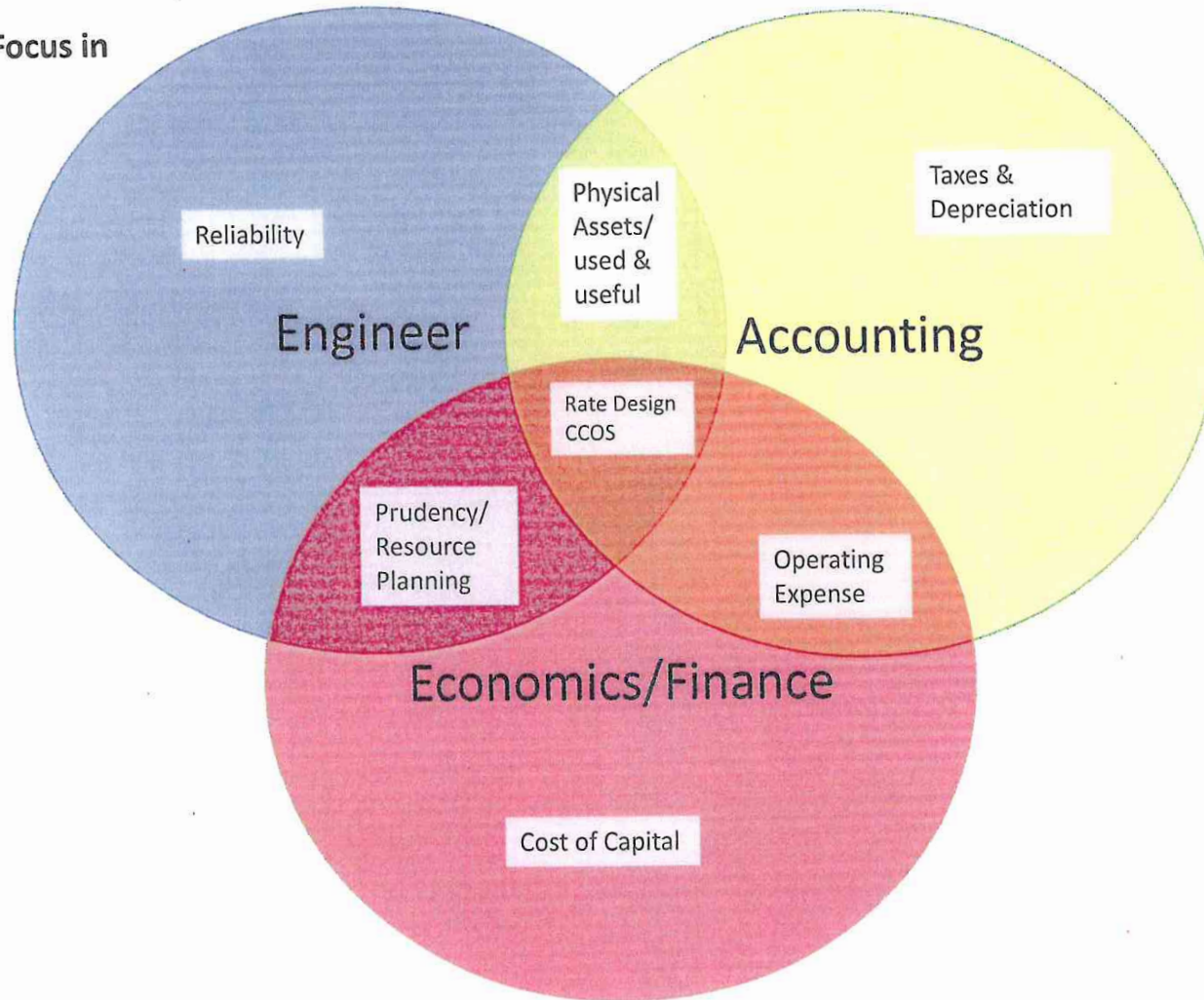
16

# North Dakota Public Service Commission 2023

C1



**PUD Areas of Focus in a Rate Case**



CHRISTMANN - ADD'L TESTIMONY

23.0262.01001  
Title.

Prepared by the Legislative Council staff for  
the Senate Appropriations - Government  
Operations Division Committee

Fiscal No. 1

February 7, 2023

PROPOSED AMENDMENTS TO SENATE BILL NO. 2008

Page 1, line 2, replace "and to provide for a transfer" with "to amend and reenact sections 57-43.2-19 and 49-01-05 of the North Dakota Century Code, relating to the salaries of the public service commissioners and the transfer and distribution of funds in the highway tax distribution fund; and to provide a report"

Page 1, replace lines 10 through 24 with:

"	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,991,488	\$1,956,555	\$11,948,043
Operating expenses	1,801,570	296,167	2,097,737
Capital assets	25,000	100,000	125,000
Grants	20,000	0	20,000
Abandoned mined lands contractual services	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	614,724	61,274	675,998
Specialized legal services	<u>420,000</u>	<u>0</u>	<u>420,000</u>
Total all funds	\$19,772,782	\$2,413,996	\$22,186,778
Less estimated income	<u>13,347,095</u>	<u>641,306</u>	<u>13,988,401</u>
Total general fund	\$6,425,687	\$1,772,690	\$8,198,377
Full-time equivalent positions	43.00	4.00	47.00"

Page 2, line 1, after "FUNDING" insert "- EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-NINTH LEGISLATIVE ASSEMBLY"

Page 2, line 2, after "biennium" insert "and the 2023-25 one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace lines 4 through 7 with:

"Real-time kinematic equipment	\$120,000	\$0
Indirect cost recovery shortfall	0	101,700
Drone	0	20,000
Weights and measures equipment	0	70,000
Copier replacement	<u>0</u>	<u>10,000</u>
Total all funds	\$120,000	\$201,700
Total other funds	<u>114,600</u>	<u>18,200</u>
Total general fund	\$5,400	\$183,500

The 2023-25 biennium one-time funding amounts are not a part of the entity's base budget for the 2025-27 biennium. The public service commission shall report to the appropriations committees of the sixty-ninth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2023, and ending June 30, 2025."

Page 2, replace lines 8 through 16 with:

**"SECTION 3. BANK OF NORTH DAKOTA - LINE OF CREDIT.** The Bank of North Dakota shall extend a line of credit to the public service commission to provide funding to pay costs associated with a rail rate complaint case. The line of credit may

not exceed \$900,000, and the interest rate associated with the line of credit must be the prevailing interest rate charged to North Dakota governmental entities. The public service commission shall repay the line of credit from amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case. If moneys available on June 30, 2025, are not sufficient to repay the line of credit, the public service commission shall request from the legislative assembly a deficiency appropriation to repay the line of credit.

**SECTION 4. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. Transfer, deposit, and distribution of funds. (Effective through June 30, 2025)**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to ~~two~~three hundred ~~ninety-seven~~thirty-two thousand three hundred ~~sixty-two~~twenty-seven dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

~~**Transfer, deposit, and distribution of funds. (Effective after June 30, 2025)**~~  
~~All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.~~

**SECTION 5. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**49-01-05. Salary of commissioners.**

The annual salary of a commissioner is one hundred ~~fifteen~~twenty-four thousand ~~three~~eight hundred ~~four~~ dollars through June 30, ~~2022~~2024, and one hundred ~~seventeen~~twenty-nine thousand ~~six~~seven hundred ~~ten~~ninety-two dollars thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2008 - Public Service Commission - Senate Action**

	Base Budget	Senate Changes	Senate Version
Salaries and wages	\$9,991,488	\$1,956,555	\$11,948,043
Operating expenses	1,801,570	296,167	2,097,737
Capital assets	25,000	100,000	125,000
Grants	20,000		20,000
Abandoned mined lands contractual services	6,000,000		6,000,000
Rail rate complaint case	900,000		900,000
Railroad safety program	614,724	61,274	675,998



Specialized legal services	420,000		420,000
Total all funds	\$19,772,782	\$2,413,996	\$22,186,778
Less estimated income	13,347,095	641,306	13,988,401
General fund	\$6,425,687	\$1,772,690	\$8,198,377
FTE	43.00	4.00	47.00

**Department 408 - Public Service Commission - Detail of Senate Changes**

	Adjusts Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Salary and Benefit Increases <sup>2</sup>	Adds Funding for Temporary Salaries and Railroad Safety Program <sup>3</sup>	Adds 4 FTE Positions <sup>4</sup>	Adds Salary Equity Funding for Elected Officials <sup>5</sup>	Adds Funding for ITD Increases <sup>6</sup>
Salaries and wages	\$71,888	\$715,983	\$129,648	\$919,018	\$18,318	
Operating expenses				21,500		\$42
Capital assets						
Grants						
Abandoned mined lands contractual services						
Rail rate complaint case						
Railroad safety program	9,173	37,043	15,058			
Specialized legal services						
Total all funds	\$81,061	\$753,026	\$144,706	\$940,518	\$18,318	\$42
Less estimated income	27,589	309,523	106,706	209,330	0	0
General fund	\$53,472	\$443,503	\$38,000	\$731,188	\$18,318	\$42
FTE	0.00	0.00	0.00	4.00	0.00	0.00

	Adds Funding for Operating Expenses <sup>7</sup>	Adds Funding for Capitol Space Rent Model <sup>8</sup>	Adds One-Time Funding for Shortfall of Indirect Cost Recovery <sup>9</sup>	Adds One-Time Funding for Capital Assets <sup>10</sup>	Total Senate Changes
Salaries and wages			\$101,700		\$1,956,555
Operating expenses	\$53,558	\$221,067			296,167
Capital assets				\$100,000	100,000
Grants					
Abandoned mined lands contractual services					
Rail rate complaint case					
Railroad safety program					61,274
Specialized legal services					
Total all funds	\$53,558	\$221,067	\$101,700	\$100,000	\$2,413,996
Less estimated income	(30,042)	0	0	18,200	641,306
General fund	\$83,600	\$221,067	\$101,700	\$81,800	\$1,772,690
FTE	0.00	0.00	0.00	0.00	4.00

<sup>1</sup> Funding is added for the cost to continue salary increases.

<sup>2</sup> The following funding is added for 2023-25 biennium salary adjustments of 4 percent on July 1, 2023, and 4 percent on July 1, 2024, and increases in health insurance from \$1,429 to \$1,648 per month:

	General Fund	Other Funds	Total
Salary Increases	\$314,322	\$217,702	\$532,024
Health insurance increase	129,181	91,821	\$221,002
Total	\$443,503	\$309,523	\$753,026

<sup>3</sup> Funding is increased for temporary salaries and the railroad safety program.

<sup>4</sup> Funding of \$940,518, including \$731,188 from the general fund and \$209,330 from other funds, is added for 4 FTE positions and related operating expenses:

	<u>FTE</u>	<u>Salaries and Wages</u>	<u>Operating Expenses</u>	<u>Total</u>
Environmental scientist	1.00	\$216,564	\$0	\$216,564
Legal assistant	1.00	164,482	3,000	167,482
Analyst and engineer	<u>2.00</u>	<u>537,972</u>	<u>18,500</u>	<u>556,472</u>
Total	4.00	\$919,018	\$21,500	\$940,518

<sup>5</sup> Funding is added for providing a salary equity increase for the Public Service Commissioners. The Public Service Commissioners' annual salaries are increased from the current level of \$117,610 to \$124,800 (6 percent) effective July 1, 2023. This funding is in addition to the funding added for the general 4 percent annual salary increases for state employees.

<sup>6</sup> Funding is added for Information Technology Department rate increases.

<sup>7</sup> Funding for operating expenses is increased by \$83,600 from the general fund and decreased by \$30,042 from federal funds for dues and memberships.

<sup>8</sup> Funding is added from the general fund for a new Capitol space rent model.

<sup>9</sup> One-time funding is added for a shortfall of indirect cost recovery due to decreased federal indirect cost rates.

<sup>10</sup> One-time funding of \$100,000 is added for a drone (\$20,000), weights and measures equipment (\$70,000), and copier replacement (\$10,000).

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This amendment also adds sections to:

- Provide for a line of credit at the Bank of North Dakota of \$900,000 to pay costs associated with a rail rate complaint case. The section authorizing a \$900,000 transfer from the beginning farmer revolving loan fund is removed.
- Amend North Dakota Century Code Section 57-43.2-19 to increase the deposit from special fuel taxes into the rail safety fund and to remove the sunset date.
- Provide the statutory changes necessary to increase the Public Service Commissioners' annual salaries to \$124,800 (6 percent) effective July 1, 2023, and to \$129,792 (4 percent) effective July 1, 2024.

23.0262.01001

Sixty-eighth  
Legislative Assembly  
of North Dakota

**SENATE BILL NO. 2008**

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the public service  
2 commission; ~~and to provide for a transfer~~ to amend and reenact sections 57-43.2-19 and  
3 49-01-05 of the North Dakota Century Code, relating to the salaries of the public service  
4 commissioners and the transfer and distribution of funds in the highway tax distribution fund;  
5 and to provide for a report.

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

7 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
8 as may be necessary, are appropriated out of any moneys in the general fund in the state  
9 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
10 other income, to the public service commission for the purpose of defraying the expenses of the  
11 public service commission, for the biennium beginning July 1, 2023, and ending June 30, 2025,  
12 as follows:

	<u>Governor's</u>		
	<u>Base Level</u>	<u>Recommendation</u>	<u>Appropriation</u>
<del>Salaries and wages</del>	<del>\$9,991,488</del>	<del>\$11,354,106</del>	<del>\$9,991,488</del>
<del>Operating expenses</del>	<del>1,801,570</del>	<del>2,196,237</del>	<del>1,801,570</del>
<del>Capital assets</del>	<del>25,000</del>	<del>45,000</del>	<del>25,000</del>
<del>Grants</del>	<del>20,000</del>	<del>20,000</del>	<del>20,000</del>
<del>Abandoned mined lands contractual</del>	<del>6,000,000</del>	<del>6,000,000</del>	<del>6,000,000</del>
<del>—services</del>			
<del>Rail rate complaint case</del>	<del>900,000</del>	<del>900,000</del>	<del>900,000</del>
<del>Railroad safety program</del>	<del>614,724</del>	<del>684,654</del>	<del>614,724</del>
<del>Specialized legal services</del>	<del>420,000</del>	<del>420,000</del>	<del>420,000</del>
<del>Total all funds</del>	<del>\$19,772,782</del>	<del>\$21,619,997</del>	<del>\$19,772,782</del>

Sixty-eighth  
Legislative Assembly

1	<del>Less estimated income</del>	<del>13,347,095</del>	<del>13,988,625</del>	<del>13,347,095</del>
2	<del>Total general fund</del>	<del>\$6,425,687</del>	<del>\$7,631,372</del>	<del>\$6,425,687</del>
3	<del>Full-time equivalent positions</del>	<del>43.00</del>	<del>44.00</del>	<del>43.00</del>
4		Adjustments or		
5		Base Level	Enhancements	Appropriation
6	Salaries and wages	\$9,991,488	\$1,956,555	\$11,948,043
7	Operating expenses	1,801,570	296,167	2,097,737
8	Capital assets	25,000	100,000	125,000
9	Grants	20,000	0	20,000
10	Abandoned mined lands contractual	6,000,000	0	6,000,000
11	services			
12	Rail rate complaint case	900,000	0	900,000
13	Railroad safety program	614,724	61,274	675,998
14	Specialized legal services	420,000	0	420,000
15	Total all funds	\$19,772,782	\$2,413,996	\$22,186,778
16	Less estimated income	13,347,095	641,306	13,988,401
17	Total general fund	\$6,425,687	\$1,772,690	\$8,198,377
18	Full-time equivalent positions	43.00	4.00	47.00

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

**SIXTY-NINTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the 2023-25 one-time funding items included in the appropriation in section 1 of this Act:

23	One-Time Funding Description	2021-23	2023-25
24	<del>Real-time kinematic equipment</del>	<del>\$120,000</del>	<del>\$0</del>
25	<del>Total all funds</del>	<del>\$120,000</del>	<del>\$0</del>
26	<del>Total other funds</del>	<del>114,600</del>	<del>0</del>
27	<del>Total general fund</del>	<del>\$5,400</del>	<del>\$0</del>
28	Real-time kinematic equipment	\$120,000	\$0
29	Indirect cost recovery shortfall	0	101,700
30	Drone	0	20,000
31	Weights and measures equipment	0	70,000

1	<u>Copier replacement</u>	<u>0</u>	<u>10,000</u>
2	<u>Total all funds</u>	<u>\$120,000</u>	<u>\$201,700</u>
3	<u>Total other funds</u>	<u>114,600</u>	<u>18,200</u>
4	<u>Total general fund</u>	<u>\$5,400</u>	<u>\$183,500</u>

5 The 2023-25 biennium one-time funding amounts are not a part of the entity's base budget  
6 for the 2025-27 biennium. The public service commission shall report to the appropriations  
7 committees of the sixty-ninth legislative assembly on the use of this one-time funding for the  
8 biennium beginning July 1, 2023, and ending June 30, 2025.

9 ~~— **SECTION 3. TRANSFER AND REPAYMENT -- BEGINNING FARMER REVOLVING LOAN**~~  
10 ~~**FUND.** The Bank of North Dakota shall transfer from the beginning farmer revolving loan fund to~~  
11 ~~the public service commission the sum of \$900,000, or so much of the sum as may be~~  
12 ~~necessary, included in the estimated income line item in section 1 of this Act to pay for the costs~~  
13 ~~associated with a rail rate complaint case. Transfers must be made during the biennium~~  
14 ~~beginning July 1, 2023, and ending June 30, 2025, upon order of the commission. If any~~  
15 ~~amounts are spent pursuant to this section, the public service commission shall reimburse the~~  
16 ~~beginning farmer revolving loan fund using amounts available from damages or proceeds~~  
17 ~~received, net of legal fees, from a successful outcome of a rail rate complaint case.~~

18 **SECTION 3. BANK OF NORTH DAKOTA - LINE OF CREDIT.** The Bank of North Dakota  
19 shall extend a line of credit to the public service commission to provide funding to pay costs  
20 associated with a rail rate complaint case. The line of credit may not exceed \$900,000, and the  
21 interest rate associated with the line of credit must be the prevailing interest rate charged to  
22 North Dakota governmental entities. The public service commission shall repay the line of credit  
23 from amounts available from damages or proceeds received, net of legal fees, from a  
24 successful outcome of a rail complaint case. If moneys available on June 30, 2025, are not  
25 sufficient to repay the line of credit, the public service commission shall request from the  
26 legislative assembly a deficiency appropriation to repay the line of credit.

27 **SECTION 4. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is  
28 amended and reenacted as follows:

1        **57-43.2-19. Transfer, deposit, and distribution of funds.** ~~(Effective through June 30,~~  
2 ~~2025)~~

3        All taxes, license fees, penalties, and interest collected under this chapter must be  
4 transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund,  
5 except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section  
6 57-43.2-03 of up to ~~two~~three hundred ~~ninety-seven~~thirty-two thousand three hundred  
7 ~~sixty-two~~twenty-seven dollars per year must be transferred to the state treasurer who shall  
8 deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed  
9 in the manner as prescribed by section 54-27-19.

10        ~~**Transfer, deposit, and distribution of funds. (Effective after June 30, 2025)** All taxes,~~  
11 ~~license fees, penalties, and interest collected under this chapter must be transferred to the state~~  
12 ~~treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax~~  
13 ~~distribution fund must be distributed in the manner as prescribed by section 54-27-19.~~

14        **SECTION 5. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16        **49-01-05. Salary of commissioners.**

17        The annual salary of a commissioner is one hundred ~~fifteen~~twenty-four thousand ~~three~~eight  
18 hundred ~~four~~ dollars through June 30, ~~2022~~2024, and one hundred ~~seventeen~~twenty-nine  
19 thousand ~~six~~seven hundred ~~ten~~ninety-two dollars thereafter. All fees received or charged by any  
20 commissioner for any act or service rendered in any official capacity must be accounted for and  
21 paid over by the commissioner monthly to the state treasurer and must be credited to the  
22 general fund of the state.

**Department 408 - Public Service Commission  
Senate Bill No. 2008**

**Executive Budget Comparison to Base Level**

	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
2023-25 Executive Budget	\$7,631,372	\$13,988,625	\$21,619,997
2023-25 Base Level	6,425,687	13,347,095	19,772,782
Increase (Decrease)	\$1,205,685	\$641,530	\$1,847,215

**Selected Budget Changes Recommended in the Executive Budget**

	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
1. Adds funding for state employee salary and benefits increases, of which \$710,485 is for salary increases and \$216,032 is for health insurance increases	\$546,042	\$380,475	\$926,517
2. Adds 1 FTE environmental scientist position	\$77,962	\$138,602	\$216,564
3. Adds funding for a new Capitol space rent model	\$221,067	\$0	\$221,067
4. Adds funding for a Federal Energy Regulatory Commission (FERC) contractor	\$120,000	\$0	\$120,000
5. Adjusts funding for ongoing operating expenses	\$83,600	(\$30,042)	\$53,558
6. Adds <b>one-time funding</b> for shortfall of indirect cost recovery	\$101,700	\$0	\$101,700

A summary of the executive budget changes to the agency's base level appropriations is attached as an appendix.

A copy of the draft appropriations bill containing the executive budget recommendations is attached as an appendix.

**Selected Bill Sections Recommended in the Executive Budget**

**Beginning farmer revolving loan fund** - Section 3 would authorize a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.

**Railroad safety program** - Section 4 would amend North Dakota Century Code Section 57-43.2-19 to increase the deposit from \$297,362 to \$332,327 per year from special fuels taxes into the rail safety fund through June 30, 2027.

**Salary of commissioners** - Section 5 would provide the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,667, effective July 1, 2023, and to \$129,654, effective July 1, 2024, to reflect the 6 percent and 4 percent recommended salary increase.

**Continuing Appropriations**

**Siting process expense recovery fund** - Section 49-22-22 - Siting process application fees received are deposited in the siting process expense recovery fund to pay expenses incurred in the siting process.

**Performance assurance fund** - Section 49-21-31 - Money received by the Public Service Commission under a performance assurance plan is to be deposited in the performance assurance fund until the balance equals \$100,000. The money in the fund may be used by the Public Service Commission to monitor the operation and effect of the performance assurance plan.

**Utility valuation expense recovery** - Section 49-05-04 - Any public utility requesting an increase in its rates above the maximum approved or prescribed by the commission shall furnish the commission the required documents and an application fee in the amount of \$175,000. Upon request of the commission and with the approval of the Emergency Commission, the applicant shall pay such additional fees as are reasonably necessary for completion of the application process by the commission. The commission shall pay the expenses of investigating a rate increase application under this section from the application fee paid by the public utility in accordance with Section 49-02-02. The commission may waive or reduce the fee.

**Deficiency Appropriations**

There are no deficiency appropriations for this agency.

**Significant Audit Findings**

There are no significant audit findings for this agency.

**Major Related Legislation**

**House Bill No. 1063** - Relates to tariff rate filing fee requirements.

**House Bill No. 1064** - Relates to the definition of excavation.

**House Bill No. 1067** - Relates to the powers of the Public Service Commission.

**House Bill No. 1096** - Relates to permit fees for registered service companies and registered service persons.

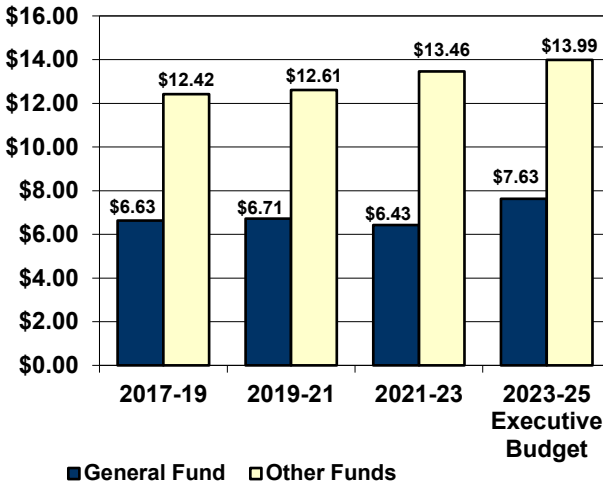
**House Bill No. 1097** - Relates to the definitions of utility-scale energy storage, route adjustment for electric transmission lines, and an electric energy conversion facility.



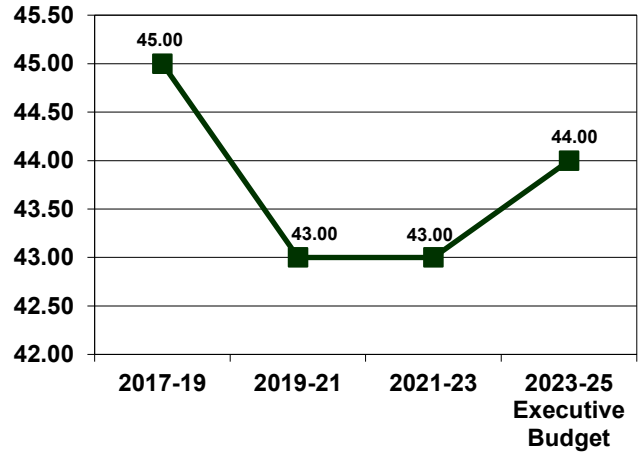
# Historical Appropriations Information

## Agency Appropriations and FTE Positions

Agency Funding (Millions)



FTE Positions



### Ongoing General Fund Appropriations

	2015-17	2017-19	2019-21	2021-23	2023-25 Executive Budget
Ongoing general fund appropriations	\$7,175,827	\$6,630,762	\$6,714,928	\$6,425,687	\$7,527,872
Increase (decrease) from previous biennium	N/A	(\$545,065)	\$84,166	(\$289,241)	\$1,102,185
Percentage increase (decrease) from previous biennium	N/A	(7.6%)	1.3%	(4.3%)	17.2%
Cumulative percentage increase (decrease) from 2015-17 biennium	N/A	(7.6%)	(6.4%)	(10.5%)	4.9%

### Major Increases (Decreases) in Ongoing General Fund Appropriations

#### 2017-19 Biennium

1. Removed 2 FTE undesignated positions (\$286,240)
2. Reduced salaries and wages in anticipation of savings from vacant positions and employee turnover (\$250,000)
3. Reduced funding for operating expenses (\$47,736)
4. Reduced funding for capital assets to provide a total of \$10,000 (\$16,400)
5. Removed funding from the general fund for specialized legal services (\$56,000)

#### 2019-21 Biennium

1. Transferred 2 FTE grain warehouse inspectors (\$317,725) and related operating expenses (\$71,000) to the Department of Agriculture (\$388,725)
2. Added funding for the reclassification of an existing underfunded FTE position as an accounting budget specialist position (\$165,493) and related operating expenses \$170,493

#### 2021-23 Biennium

1. Changed the funding source for a portion of salaries and wages from the general fund to the Public Service Commission program fund (\$625,000)
2. Added funding for the reclassification of an existing underfunded FTE position as a natural gas pipeline inspector position \$167,547

#### 2023-25 Biennium (Executive Budget Recommendation)

1. Adds funding for a new Capitol space rent model \$221,067
2. Adds funding for a FERC contractor \$120,000

- 3. Adds funding for ongoing operating expenses, of which \$52,000 is for supplies - IT software to provide a total of \$224,500, and \$31,600 is for professional development to provide a total of \$132,400 \$83,600
- 4. Adds 1 FTE for an environmental scientist position \$77,962

**One-Time General Fund Appropriations**

	<b>2015-17</b>	<b>2017-19</b>	<b>2019-21</b>	<b>2021-23</b>	<b>2023-25 Executive Budget</b>
One-time general fund appropriations	\$239,624	\$0	\$0	\$5,400	\$103,500

**Major One-Time General Fund Appropriations**

**2017-19 Biennium**

None \$0

**2019-21 Biennium**

None \$0

**2021-23 Biennium**

- 1. Replace real time kinematic equipment \$5,400

**2023-25 Biennium (Executive Budget Recommendation)**

- 1. Shortfall of indirect cost recovery \$101,700
- 2. Drone \$1,800

**Public Service Commission - Budget No. 408**  
**Senate Bill No. 2008**  
**Base Level Funding Changes**

	<b>Executive Budget Recommendation</b>			
	<b>FTE Positions</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
<b>2023-25 Biennium Base Level</b>	43.00	\$6,425,687	\$13,347,095	\$19,772,782
<b>2023-25 Ongoing Funding Changes</b>				
Cost to continue salaries		\$53,472	\$27,589	\$81,061
Salary increase		419,766	290,719	710,485
Health insurance increase		126,276	89,756	216,032
Adds funding for temporary salaries and the railroad safety program			106,706	106,706
Adds 1 FTE environmental scientist position	1.00	77,962	138,602	216,564
Adds funding for ITD rate increase		42		42
Adjusts funding for operating expenses		83,600	(30,042)	53,558
Adds funding for a new Capitol space rent model		221,067		221,067
Adds funding for a FERC contractor		120,000		120,000
<b>Total ongoing funding changes</b>	<b>1.00</b>	<b>\$1,102,185</b>	<b>\$623,330</b>	<b>\$1,725,515</b>
<b>One-time funding items</b>				
Adds one-time funding for shortfall of indirect cost recovery		\$101,700		\$101,700
Adds one-time funding for a drone		1,800	\$18,200	20,000
<b>Total one-time funding changes</b>	<b>0.00</b>	<b>\$103,500</b>	<b>\$18,200</b>	<b>\$121,700</b>
<b>Total Changes to Base Level Funding</b>	<b>1.00</b>	<b>\$1,205,685</b>	<b>\$641,530</b>	<b>\$1,847,215</b>
<b>2023-25 Total Funding</b>	<b>44.00</b>	<b>\$7,631,372</b>	<b>\$13,988,625</b>	<b>\$21,619,997</b>
<i>Federal funds included in other funds</i>			<i>\$11,673,971</i>	
<i>Total ongoing changes as a percentage of base level</i>	<i>2.3%</i>	<i>17.2%</i>	<i>4.7%</i>	<i>8.7%</i>
<i>Total changes as a percentage of base level</i>	<i>2.3%</i>	<i>18.8%</i>	<i>4.8%</i>	<i>9.3%</i>

**Other Sections in Public Service Commission - Budget No. 408**

	<b>Executive Budget Recommendation</b>
Beginning farmer revolving loan fund	Section 3 would authorize a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.
Railroad safety program	Section 4 would amend Section 57-43.2-19 to increase the deposit from \$297,362 to \$332,327 per year from special fuels taxes into the rail safety fund through June 30, 2027.
Salary of commissioners	Section 5 would provide the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,667, effective July 1, 2023, and to \$129,654 effective July 1, 2024, to reflect the 6 percent and 4 percent recommended salary increase.

**SENATE BILL NO. 2008  
(Governor's Recommendation)**

Introduced by

Appropriations Committee

(At the request of the Governor)

A bill for an act to provide an appropriation for defraying the expenses of the public service commission; to amend and reenact sections 57-43.2-19, 49-01-05, of the North Dakota Century Code, relating to the salary of public service commissioners, and to authorize a transfer.

**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 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 public service commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2023 and ending June 30, 2025, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and Wages	\$ 9,991,488	\$ 1,362,618	\$ 11,354,106
Operating Expenses	1,801,570	394,667	2,196,237
Capital Assets	25,000	20,000	45,000
Grants	20,000	0	20,000
Abandoned Mined Lands Contractual	6,000,000	0	6,000,000
Rail Rate Complaint Case	900,000	0	900,000
Railroad Safety Program	614,724	69,930	684,654
Specialized Legal Services	<u>420,000</u>	<u>0</u>	<u>420,000</u>
Total All Funds	\$19,772,782	\$1,847,215	\$21,619,997
Less Estimated Income	<u>13,347,095</u>	<u>641,530</u>	<u>13,988,625</u>
Total General Fund	\$ 6,425,687	\$1,205,685	\$ 7,631,372
Full-Time Equivalent Positions	43.00	1.00	44.00

**SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-NINTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the 2023-25 one-time funding items included in the appropriation in section 1 of this Act:

<u>One Time Funding Description</u>	<u>2021-23</u>	<u>2023-25</u>
Indirect Cost Recovery Shortfall	\$0	\$101,700
One-Time Equipment	<u>120,000</u>	<u>20,000</u>
Total All Funds	\$120,000	\$121,700
Total Special Funds	<u>120,000</u>	<u>18,200</u>
Total General Fund	\$ 0	\$ 103,500

**SECTION 3. TRANSFER AND REPAYMENT - BEGINNING FARMER REVOLVING LOAN FUND.** The Bank of North Dakota shall transfer from the beginning farmer revolving loan fund to the public service commission the sum of \$900,000, or so much of the sum as may be necessary, included in the estimated income line item in section 1 of this Act to pay for costs associated with a rail rate complaint case. Transfers must be made during the biennium beginning July 1, 2023 and ending June 30, 2025, upon order of the commission. If any amounts are spent pursuant to this section, the public service commission shall reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case.

**SECTION 4. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. Transfer, deposit, and distribution of funds. (Effective through June 30, ~~2025~~, 2027)**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to ~~two three hundred ninety-seven~~ thirty-two thousand three hundred ~~sixty-two~~ twenty-seven dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

Transfer, deposit, and distribution of funds. (Effective after June 30, ~~2025~~ 2027) All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

**SECTION 5. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**49-01-05. Salary of commissioners.** The annual salary of a commissioner is ~~one hundred seventeen thousand six hundred ten dollars through June 30, 2023,~~ one hundred twenty-four thousand six hundred sixty seven dollars through June 30, 2024 and one hundred twenty-nine thousand six hundred fifty-four dollars, thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state.

**Public Service Commission - Budget No. 408**  
**Senate Bill No. 2008**  
**Base Level Funding Changes**

	Executive Budget Recommendation				Senate Version				Senate Changes to Executive Budget Increase (Decrease) - Executive Budget			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2023-25 Biennium Base Level</b>	43.00	\$6,425,687	\$13,347,095	\$19,772,782	43.00	\$6,425,687	\$13,347,095	\$19,772,782	0.00	\$0	\$0	\$0
<b>2023-25 Ongoing Funding Changes</b>												
Cost to continue salaries		\$53,472	\$27,589	\$81,061		\$53,472	\$27,589	\$81,061				\$0
Salary increase		419,766	290,719	710,485		314,322	217,702	532,024		(105,444)	(73,017)	(178,461)
Health insurance increase		126,276	89,756	216,032		129,181	91,821	221,002		2,905	2,065	4,970
Adds funding for temporary salaries and the railroad safety program			106,706	106,706		38,000	106,706	144,706		38,000		38,000
Adds 1 FTE environmental scientist position	1.00	77,962	138,602	216,564	1.00	77,962	138,602	216,564				0
Adds salary equity funding for elected officials				0		18,318		18,318		18,318		18,318
Adds 1 FTE legal assistant position				0	1.00	96,754	70,728	167,482	1.00	96,754	70,728	167,482
Adds 2 FTE public utility positions				0	2.00	556,472		556,472	2.00	556,472		556,472
Adds funding for ITD rate increase		42		42		42		42				0
Adjusts funding for operating expenses		83,600	(30,042)	53,558		83,600	(30,042)	53,558				0
Adds funding for a new Capitol space rent model		221,067		221,067		221,067		221,067				0
Adds funding for a FERC contractor		120,000		120,000				0		(120,000)		(120,000)
Total ongoing funding changes	1.00	\$1,102,185	\$623,330	\$1,725,515	4.00	\$1,589,190	\$623,106	\$2,212,296	3.00	\$487,005	(\$224)	\$486,781
<b>One-Time Funding Items</b>												
Adds one-time funding for shortfall of indirect cost recovery		\$101,700		\$101,700		\$101,700		\$101,700				\$0
Adds one-time funding for a drone		1,800	18,200	20,000		1,800	18,200	20,000				0
Adds one-time funding for weights and measures equipment				0		70,000		70,000		70,000		70,000
Adds one-time funding for copier				0		10,000		10,000		10,000		10,000
Total one-time funding changes	0.00	\$103,500	\$18,200	\$121,700	0.00	\$183,500	\$18,200	\$201,700	0.00	\$80,000	\$0	\$80,000
<b>Total Changes to Base Level Funding</b>	1.00	\$1,205,685	\$641,530	\$1,847,215	4.00	\$1,772,690	\$641,306	\$2,413,996	3.00	\$567,005	(\$224)	\$566,781
<b>2023-25 Total Funding</b>	44.00	\$7,631,372	\$13,988,625	\$21,619,997	47.00	\$8,198,377	\$13,988,401	\$22,186,778	3.00	\$567,005	(\$224)	\$566,781
<i>Federal funds included in other funds</i>			\$11,673,971				\$11,682,403				\$8,432	
<i>Total ongoing changes as a percentage of base level</i>	2.3%	17.2%	4.7%	8.7%	9.3%	24.7%	4.7%	11.2%				
<i>Total changes as a percentage of base level</i>	2.3%	18.8%	4.8%	9.3%	9.3%	27.6%	4.8%	12.2%				

**Other Sections in Public Service Commission - Budget No. 408**

	Executive Budget Recommendation	Senate Version
Beginning farmer revolving loan fund	Section 3 would authorize a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.	Section 3 establishes a line of credit to the Public Service Commission to provide funding to pay costs associated with a rail rate complaint case. The line of credit may not exceed \$900,000, and the Public Service Commission shall repay the line of credit from amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case.
Railroad safety program	Section 4 would amend Section 57-43.2-19 to increase the deposit from \$297,362 to \$332,327 per year from special fuels taxes into the rail safety fund through June 30, 2027.	Section 4 amends Section 57-43.2-19 to increase the deposit from \$297,362 to \$332,327 per year from special fuels taxes into the rail safety fund for the 2023-25 biennium.

**Other Sections in Public Service Commission - Budget No. 408**

Salary of commissioners

**Executive Budget Recommendation**

Section 5 would provide the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,667, effective July 1, 2023, and to \$129,654 effective July 1, 2024, to reflect the 6 percent and 4 percent recommended salary increase.

**Senate Version**

Section 5 provides the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,800, effective July 1, 2023, and to \$129,792 effective July 1, 2024, to reflect the equity and 4 percent recommended salary increase.

**Public Service Commission - Budget No. 408**  
**Senate Bill No. 2008**  
**Base Level Funding Changes**

	Executive Budget Recommendation				Senate Version			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2023-25 Biennium Base Level</b>	43.00	\$6,425,687	\$13,347,095	\$19,772,782	43.00	\$6,425,687	\$13,347,095	\$19,772,782
<b>2023-25 Ongoing Funding Changes</b>								
Cost to continue salaries		\$53,472	\$27,589	\$81,061				\$0
Salary increase		419,766	290,719	710,485				0
Health insurance increase		126,276	89,756	216,032				0
Adds funding for temporary salaries and the railroad safety program			106,706	106,706				0
Adds 1 FTE environmental scientist position	1.00	77,962	138,602	216,564				0
Adds funding for ITD rate increase		42		42				0
Adjusts funding for operating expenses		83,600	(30,042)	53,558				0
Adds funding for a new Capitol space rent model		221,067		221,067				0
Adds funding for a FERC contractor		120,000		120,000				0
Total ongoing funding changes	1.00	\$1,102,185	\$623,330	\$1,725,515	0.00	\$0	\$0	\$0
<b>One-Time Funding Items</b>								
Adds one-time funding for shortfall of indirect cost recovery		\$101,700		\$101,700				\$0
Adds one-time funding for a drone		1,800	18,200	20,000				0
Total one-time funding changes	0.00	\$103,500	\$18,200	\$121,700	0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	1.00	\$1,205,685	\$641,530	\$1,847,215	0.00	\$0	\$0	\$0
<b>2023-25 Total Funding</b>	44.00	\$7,631,372	\$13,988,625	\$21,619,997	43.00	\$6,425,687	\$13,347,095	\$19,772,782
<i>Federal funds included in other funds</i>			\$11,673,971				\$11,102,371	
<i>Total ongoing changes as a percentage of base level</i>	2.3%	17.2%	4.7%	8.7%	0.0%	0.0%	0.0%	0.0%
<i>Total changes as a percentage of base level</i>	2.3%	18.8%	4.8%	9.3%	0.0%	0.0%	0.0%	0.0%

**Other Sections in Public Service Commission - Budget No. 408**

	Executive Budget Recommendation	Senate Version
Beginning farmer revolving loan fund	Section 3 would authorize a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.	
Railroad safety program	Section 4 would amend Section 57-43.2-19 to increase the deposit from \$297,362 to \$332,327 per year from special fuels taxes into the rail safety fund through June 30, 2027.	
Salary of commissioners	Section 5 would provide the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,667, effective July 1, 2023, and to \$129,654 effective July 1, 2024, to reflect the 6 percent and 4 percent recommended salary increase.	



## **Senate Bill 2008**

**Presented by:** Randy Christmann, Chairman  
Public Service Commission

**Before:** House Appropriations Committee  
Government Operations Division  
Honorable David Monson, Chairman

**Date:** March 10, 2023

### **TESTIMONY**

Mr. Chair and members of the committee, I'm Commissioner Randy Christmann, Chairman of the Public Service Commission, here to present our 2023-2025 biennial budget request. Commissioners Julie Fedorchak and Sheri Haugen-Hoffart are also in attendance today and available for any questions you may have. Thank you for the opportunity to present our budget bill and explain why we feel it benefits the State of North Dakota. I look forward to answering any questions you may have at the end of my testimony.

### **Introductions and Responsibilities:**

The Public Service Commission (PSC) is a constitutional agency with varying degrees of statutory authority over the following areas:

- Coal mining and reclamation;
- Abandoned mine lands;
- Siting of energy conversion, transmission and generation facilities;

- Pipeline safety of intrastate natural gas pipelines;
- Electric, gas and telephone public utility regulation;
- Damage prevention (enforcement of the One-Call Law);
- Commercial scales and measuring devices;
- Railroad safety;
- Auctioneers and auction clerks.

Attachment A will provide you with a summary of each program, including citations to the applicable North Dakota Century Code chapter(s) associated with that program, major statutory responsibilities, and current biennium accomplishments.

The work at the Commission continues at a brisk pace. This biennium to date we have sited 91.2 miles of pipelines, 1.5 miles of electric transmission lines crossing the Missouri River on the north end of Bismarck/Mandan, 580 MW of natural gas generation, and 460.3 MW of wind generation. This represents more than \$1.485 billion of economic investment in North Dakota. Biennium to date, the PSC has received two general utility rate cases. We also review on an annual basis rate riders where each of the electric IOUs recover expenses for transmission, generation and renewable resource investments.

The Reclamation Division currently has more than 132,000 acres permitted for mining activities under 22 permits at 8 mines and more than 6,000 acres are proposed to be added during the current biennium. They also completed final bond release on 948 acres and are currently reviewing 6 bond release applications that total 1,204 acres. The Abandoned Mine Lands Program completed 8 projects and

approximately 280 dangerous sinkholes were filled in the past two years. Both the Reclamation and Abandoned Mine Lands Program continue to receive excellent evaluation reports from the federal Office of Surface Mining.

Our Compliance Division continues to educate about the importance of Call Before You Dig and have processed 56 complaints this biennium to date, which resulted in \$67,900 in fines which were deposited into the general fund. The Commission also currently licenses 257 auctioneers, 124 auction clerks, and inspects and tests more than 5,100 commercial weighing devices in the state. We also verify the work of commercial testers. Since the start of the Railroad Safety Program in 2015, inspectors have completed more than 2,000 inspections finding more than 13,400 defects and 158 violations. This program involves direct inspection and compliance efforts that reduce the potential for injuries, death and property damage in and along North Dakota's substantial railroad system.

The Railroad Safety Program was approved by the 2015 Legislative Assembly to supplement federal oversight of rail safety. Nationally, the Federal Railroad Administration (FRA) only has resources to inspect 0.2 percent of railroad operations. Federally certified state inspectors, like ours, are critical to ensuring safe rail operations and are an important commitment from North Dakota to do our part to support safe transport of products like crude oil and anhydrous ammonia that originate from and pass through our state. The Commission was proud to announce that one of our rail inspectors is now dual certified, meaning they can inspect two different specialized disciplines. A summary of accomplishments is included in attachment B.

## **Requested Information and Budget Priorities**

### **2019-21 Audit Findings:**

The Commission's 2019-21 audit did not identify any areas of concern.

### **Federal Recovery Funding:**

The Commission did not receive any federal recovery funding from the November 2021 special legislative session.

### **One-Time Funding-Current Biennium:**

#### **Capital Assets:**

The Commission received one-time funding last session to purchase capital assets to replace existing equipment in the federal Abandoned Mine Lands (AML) and Coal Reclamation Programs. The total one-time funding is \$120,000 with 96% being federal funds. The funds were used to replace the current real-time kinematic survey equipment, which saves time, energy and manpower resources for surveying, allowing more work to get done with extremely accurate results and fewer man hours used as one person can survey when necessary. The previous equipment was purchased over ten years ago and reliability and support were becoming an issue. This purchase came in under budget as we received trade-in value for the old equipment.

The second piece of equipment that was intended to be replaced was the borehole camera for the AML program. This camera helps inspectors understand the condition of underground mines and estimate the type and amount of fill material needed to reclaim the mine. It is also important for safety when looking

into very large sinkholes with horizontal subsidence. While the current equipment was purchased over ten years ago and support is no longer available, there is currently not a good replacement available. The camera has been temporarily repaired and we are evaluating modern technology alternatives, including if an out-right equipment purchase or rental as needed would be most advantageous for the state.

### **Major Funding Components in the Base Budget (2021-23):**

The following line items make up the major components of our base level:

Appropriation	General Funds	Federal Funds	Special Funds	<b>TOTAL</b>
Salaries and Wages	\$5,282,887	\$4,083,601	\$625,000	\$9,991,488
Operating	\$1,097,800	\$578,770	\$125,000	\$1,801,570
Capital Assets	\$25,000			\$25,000
Grants		\$20,000		\$20,000
AML Contractual		\$6,000,000		\$6,000,000
Rail Rate Complaint Case			\$900,000	\$900,000
Railroad Safety Program		\$20,000	\$594,724	\$614,724
Specialized Legal Services*	\$20,000	\$400,000		\$420,000
<b>TOTAL</b>	<b>\$6,425,687</b>	<b>\$11,102,371</b>	<b>\$2,244,724</b>	<b>\$19,772,782</b>

\*Federal funds are only available for rare and specific federal cases and must be approved by the applicable federal agency. As a result, the Commission relies on state general fund appropriation for this line item.

In the last four budget cycles, the Public Service Commission has undergone significant reorganization in order to meet the increasing demands of the industries we regulate. This includes the utility industries that are undergoing major transformations driven by new technology, aging infrastructure and policy

changes, as well as the significant growth of North Dakota's oil and gas industry. Our agency has worked hard to meet these needs by restructuring staff, increasing the use of technology, and improving administrative efficiencies.

The Commission has reorganized over the course of the last several biennia resulting in greater efficiencies and additional focus in certain areas. We created the Compliance Division by consolidating licensing, weights and measures, rail safety, pipeline safety and risk management under one director, which allowed for a more efficient and effective approach to regulatory enforcement and compliance with these programs. In addition, the director of economic regulation position was eliminated and we organized our Public Utilities Division under one director. We have also streamlined our administrative group to better align and serve our newly organized divisions.

As we look forward, the state is projecting to have historic turnover in the next five years, resulting in loss of efficiency and critical institutional knowledge. However, due to numerous retirements of long-term employees, the PSC is already ahead of this turnover trend. Since Jan. 2019, 80 percent of PSC employees are new or have been hired into a new or expanded role. It has been a challenge to manage this turnover while maintaining the level of service expected throughout all of our programs and finding a way to effectively pass on institutional knowledge. This places an increased burden on experienced staff who spend a large portion of their time training and mentoring new employees while still performing their full-time job duties. Sadly, there are limited ways to recognize and compensate veteran employees for their increased workload.

Recruitment has also been a tremendous challenge as current state compensation levels are drastically behind the private sector. This is compounded due to the energy industry interacting with and competing for many of our people. While being able to offer fully paid health insurance is important, this does not make up for the shortfall in salaries. Many positions at the Commission are extremely technical and specialized with a limited applicant pool to draw from. Fortunately, our current employees have been strong advocates for our agency and have helped us recruit a number of key individuals to fill our vacant positions. However, we have often had to provide new hires the same or higher compensation as current employees. This has led to several equity problems throughout our agency. While we are proud of how we have handled this transition within our agency, we still have equity issues to correct. We've been fortunate to recruit and hire well-educated, talented people but due to compensation levels, struggled to attract applicants with experience. While we have hired excellent recruits, their limited experience will require extensive training to be as effective and efficient as previous employees with many years of experience.

Maintaining professional, trained staff and minimizing turnover whenever possible is critical to the smooth functioning of our agency. Competitive salary and benefit packages are a key part of recruitment and retention. The Commission is supportive of the Governor's proposed compensation increases for employees and would encourage the legislature to consider even higher salary increases to keep up with inflation.

## **Explanation of Engrossed SB 2008:**

### Environmental Scientist Position:

The Reclamation Division carries out the Surface Mining Control and Reclamation Act of 1977 (SMCRA) in a partnership effort between the State of ND and the U.S. Department of Interior's Office of Surface Mining (OSM). The Reclamation Division evaluates surface mining permit, permit revision and renewal applications, makes recommendations to the Commissioners regarding permit issuance, and carries out inspections of coal mines to ensure compliance with the program's requirements.

Since the inception of the program in the 1970s, the state has operated at the minimum staffing required to maintain the state program. Due to the complexities of this program, it requires at least three years of on-the-job training before the full breadth of rules, laws, and processes are understood.

In addition to the changing workforce, the coal mining industry is also having challenges retaining employees due to industry perception and in some cases, companies filing for bankruptcy. This adds additional work to already limited staff. An additional position would allow effective cross training, aid in succession planning, and provide a backstop from the federal government stepping in to take over the administration of this program if we cannot maintain minimum staffing and appropriate program support. We are currently overseeing the reclamation of a mine that has gone through bankruptcy and is no longer producing coal with 8,778 permitted acres.



SB 2008 includes 1 FTE to hire an Environmental Scientist. No operating funding is needed as all training will be covered by OSM. The federal government will cover 64% of the salaries and benefit costs through an ongoing federal grant with the remaining 36% being funded by matching general funds.

This position protects the environment and property owners while being responsive to needs of the mining industry. Without this position, our ability to succession plan and transfer institutional knowledge is limited and we continue to be at risk of losing the primacy of the program to the federal government if we cannot maintain minimum staffing and meet federal requirements.

Public Utility Analyst and Electrical Engineer:

The Public Utility Division covers a wide breadth of services to the citizens of North Dakota including:

- Engaging and monitoring Regional Transmission Organizations (RTOs) and the Federal Energy Regulatory Commission (FERC) both regionally and nationally to ensure North Dakota's interests and voices are being heard in the discussions on energy generation mix, resource planning and pricing, and grid reliability.
- Conducting a thorough and meaningful review of rate cases, advanced determinations of prudence, certificates of public convenience and necessity requests, and other miscellaneous economic regulation applications of seven, multi-billion-dollar, investor-owned retail electric and gas utility operators to ensure fair, just, and reasonable rates.

- Siting energy generation, electrical power transmission and transmission pipeline infrastructure.
- Limited regulation of telecommunications.

All of this work is covered by three analysts and a director. Due to the rapid and dynamic changes happening in the energy industry locally, regionally and nationally, this is no longer sufficient staff to cover these critical areas.

SB 2008 includes 2 FTEs – one Public Utility Analyst and one Electrical Engineer, as well as operating funds to cover professional development. The entire funding request is general fund.

It cannot be stressed enough how much the evolution of RTOs has impacted our agency with the required time and resources it takes to be effectively engaged. To further complicate things, we have two RTO's to cover – both MISO and SPP are integrated throughout our entire state. Some states have 2 to 3 full-time employees working with each respective RTO; comparatively, we have 4 analysts for the entire PUD Division. Decisions being made at the RTO level include changes to reliability that affect energy generation make up and the rate at which different types of resources are being retired. The way renewable and traditional energy resources are dispatched, incentivized and reimbursed for cost are also determined at the RTO level. All these decisions have a significant economic and reliability impact for our state, its citizens and businesses. These complex issues are being compounded by FERC attempting to extend federal authority and jurisdiction.

The Commission is involved in leadership roles within these multi-jurisdictional organizations, and we need adequate staffing to maintain, to become more involved in order to keep up with this complex system, and most importantly to ensure North Dakota has a voice in the long-term reliability and affordability of energy. Without these positions, we will be unable to effectively intervene on behalf of N.D. citizens and industry in front of FERC and influence RTO decisions affecting reliability, cost, and resource mix. This will impact North Dakota's power production and consumers for years to come.

Another area of regulation our Public Utilities Division is responsible for is telecommunications. This is another industry that is evolving and changing with new technologies being used and adequate staff is needed to respond to emerging issues. One example is the efforts taken in the past biennium to preserve North Dakota's seven-digit dialing. Due to the new Suicide Prevention Hotline of 988, states needed to ensure that 988 is not used as a prefix for any phone numbers, or the state would be required to switch to ten-digit dialing. Public Utilities staff worked with providers using this prefix and they were able to transition those customers to a different prefix, clearing North Dakota from the list required to transition to 10-digit dialing.

Staff have also worked hard to implement processes that utilize phone numbers more efficiently and sparingly, allowing North Dakota to remain with only one area code.

### Legal Assistant:

As a quasi-judicial agency, legal processes are engrained in everything we do. SB 2008 includes a legal assistant to be a dedicated resource to the legal division to assist with tracking open cases filed at the PSC, FERC, and FCC, and to coordinate with PSC General Counsel to execute open record and open meeting requirements, administrative rulemaking, and administrative appeals. The Legal Assistant would also assist with preparing records and exhibits, scheduling, and hearing organization and preparation. This will help shorten the amount of administrative time for the attorneys so they can engage further in the growing federal, regional, and multistate interactions and respond accordingly.

SB 2008 includes 1 FTE for a Legal Assistant and minimal operating funds to cover professional development. This position will be eligible for indirect cost recovery, so 57% of funding will be general fund and the remaining 43% is supported with federal funds.

### Operating Money for Ongoing Operations:

SB 2008 includes additional operating funding for various divisions to continue and enhance ongoing operations and keep up on industry standards and education. Last biennium we were assigned the task of conducting a more in-depth review and analysis of Integrated Resource Plans submitted to the Commission. A portion of this funding will be used to purchase the same modeling software used by utilities for load forecasts, generation resource selections, and economic results. Having access to the same modeling system utilized by the utilities we

regulate will allow staff to more effectively analyze and validate the assumptions and outcomes of those plans. The funding would also be used for:

- Professional development and travel so staff can maintain professional certifications like CPAs, JDs, and PE,
- Third-party support costs in order to extend the life of current equipment instead of purchasing new equipment as a replacement, and
- Funds to cover increased membership dues for NARUC.

## **One-Time Funding Requests in SB 2008:**

### Indirect Cost Recovery:

The PSC has an indirect cost agreement with the federal government that allows the agency to negotiate an indirect cost percentage and apply this percentage to federal salary and benefit costs involving the Reclamation, AML and Pipeline Safety programs. This indirect cost recovery is used to support employee salary costs for critical positions that support the entire agency which subsequently reduces the need for general funds. This indirect cost agreement is based on actual expenditures negotiated every two years. Our indirect cost agreement in the 2021-23 budget request was 30.50%. Due to reduced actual expenditures, primarily due to the extensive turnover of staff, we project the indirect cost agreement for the 2023-25 budget to be 26.50%. This anticipated 4% rate reduction will lead to additional general fund needs of approximately \$101,700 to support base salaries of current staff. We expect this to be a one-time issue.

### Drone for Reclamation and AML:

SB 2008 includes funding for a drone that would be used by two divisions at the PSC, the Reclamation Division and the Abandoned Mine Lands Division. The Reclamation division could use the drone when mine access is restricted or hazardous; to create timely aerial imagery when adding acres to a new or existing permit, at bond release, at end of the year, for landowner complaints about land impacts, and immediately following Notice of Violations (NOVs). It would also be useful to create timely digital surface models (DSM)s to estimate mine reclamation progress, estimate earthwork volumes, identify surface water flow paths, identify surface water ponding, and find erosional features.

The Abandoned Mine Lands (AML) division would use the drone to inspect areas where access is limited or terrain presents challenges on foot. Images collected can be used to make maps, monitor progress and collaborate with other AML staff, contractors, landowners and the public. Autonomous flight missions would allow AML to create digital elevation models of existing ground conditions much faster than traditional survey methods. This would help AML compute earthwork volumes more efficiently and accurately for reclamation projects.

The one-time funding would be used to purchase a U.S. Department of Defense cleared drone. Most of this funding will be provided by the federal grants supporting each program.

#### Weights and Measures Equipment:

The Commission currently does not have the ability to test high-flow fueling devices, verify the work of registered service companies or technicians who certify high-flow diesel dispensers, or respond to complaints on these devices. These devices are used at truck stops to dispense diesel fuel into semis and other large over the road vehicles. This funding would be used to purchase a prover trailer to allow the PSC to test these devices and provide increased driving safety for our inspectors and reduced wear and tear on vehicles.

#### Copier Replacement:

The Commission is looking to replace a copier purchased in June 2015. We could continue to use the current copier until it gives out, but ongoing service maintenance costs will continue to rise on this aging machine. At some point maintenance may no longer be available due to the age of the machine. We anticipate saving around 35% on service maintenance costs with a new machine.

#### Temporary Salary Funding:

While we have had significant turnover within our agency, we still anticipate upcoming retirements in a handful of critical positions in the next biennium. These upcoming retiring employees have specialized skill sets and we would like the ability to bring them back if necessary in a temporary capacity to assist the agency with training during the transition. The Commission has been able to utilize this model in the current biennium and it has been exceptionally successful.

**Current Biennium Appropriation  
Compared to SB 2008**

Appropriation	2021-23 Biennium Appropriation	2023-25 Appropriation in SB 2008
Salaries and Wages	\$9,991,488	\$11,948,043
Operating Expenses	\$1,801,570	\$2,097,737
Capital Assets	\$145,000	\$125,000
Grants	\$20,000	\$20,000
Abandoned Mine Lands Contractual	\$6,000,000	\$6,000,000
Rail Rate Complaint Case	\$900,000	\$900,000
Railroad Safety Program	\$614,724	\$675,998
Specialized Legal Services	\$420,000	\$420,000
FTEs	43	47
General Funds	\$6,431,087	\$8,198,377

**Engrossed SB 2008 Budget Summary:**

**Budget by Fund**

General Funds	\$ 8,198,377	36.95%
Federal Funds	\$11,682,403	52.65%
Special Funds	<u>\$ 2,305,998</u>	10.39%
<b>Total</b>	<b>\$22,186,778</b>	



## **Requested Changes to Engrossed SB 2008:**

### FERC Contractor:

The Commission continues to increase engagement with the Federal Energy Regulatory Commission (FERC) to ensure reliable, safe, secure, and economically efficient energy for consumers at a reasonable cost. We would use this money as a backstop to retain a consultant to assist with tracking FERC cases, advising the Commission on critical issues and drafting comments for Commission review and submission. FERC cases are as numerous as are the filings within them. Ensuring we have adequate resources to review those cases and filings and make recommendations for comments that North Dakota should file in those cases is important and necessary to maintaining state's rights.

Similar to how we are seeing RTOs develop regional energy transmission policies that have an impact on ND, FERC also is taking up many topics that will have an impact on our state. Engaging in FERC cases and filing meaningful comments is necessary to ensure our voice is heard and our citizens are protected from the added costs and reduced reliability that will result from the absence of our engagements.

### Testing Equipment for EV Charging Stations:

The Commission is anticipating the growth of EV use across the state. The state has a plan for approved electric vehicle corridors and recent federal legislation such as the Infrastructure Investment and Jobs Act (IIJA) are providing substantial investment into electric vehicle charging infrastructure. Similar to

testing pumps at gas stations, the Commission will have jurisdiction through our Weights & Measures Program to test commercial charging stations to ensure a fair transaction. In order to conduct the tests, we are requesting a one-time Capital Asset appropriation of \$60,000 to purchase the testing equipment.

## **Requested Changes to the SB 2008 (one-pager)**

The Commission requests the following changes to SB Engrossed 2008:

- Funding for FERC Contractor
- One-time funding to purchase a test unit for electric vehicle charging stations

## **Agency Collections:**

### General Fund Collections:

- Public Utility filing fees – \$50 fee assessed on filings submitted to the Commission by regulated entities. HB 1063 proposes to eliminate this fee. The PSC is supportive of this change.
- Auctioneer/Auction Clerk licensing fees – HB 1191 would remove Commission oversight of auctioneers and auction clerks and alternatively require them to be registered with the Secretary of State. The PSC is supportive of this change.
- Various fines – The Commission has the authority to assess fines for noncompliance with laws and rules. No anticipated changes in 2021-23 biennium or upcoming 2023-25 biennium.
- Fees assessed for new coal mining permits – No anticipated changes in 2021-23 biennium or upcoming 2023-25 biennium.

## **Other Sections Included in Appropriation Bill:**

### Funding Source for Rail Rate Complaint Case:

Since 2005, the PSC receives funding for a possible rail rate complaint case from the Beginning Farmers Revolving Loan Fund at the Bank of North Dakota. While the PSC has not incurred any expenses related to a rail rate complaint case since 2005-2007, this is a valuable deterrent for railroad companies to charge

unjust rates to producers. The Bank of North Dakota has indicated they will need all funding available in the Beginning Farmers Revolving Loan Fund and have proposed to extend a line of credit, with deficiency appropriation if necessary, to the PSC to provide funding. The PSC and Bank of North Dakota are supportive of this change as reflected in Section 3.

### **Federal Funding for 2023-25 Biennium:**

The PSC has numerous programs that receive federal funding including:

- Reclamation
- AML
- Pipeline Safety
- Rail Safety
- Damage Prevention (ND One-Call)

These funds are long-standing, reoccurring (usually on an annual basis) to support program objectives and costs. The 2022 Bipartisan Infrastructure Law (BIL) does include an additional \$3 million in funding for the AML program. We have submitted a grant application for the first year of funding, however we are still evaluating if we will continue to apply for this funding going forward and determining resource and budget needs. At this point, the federal government has not adopted rules and guidance for this program after 2023.

## Self-Funding

Last biennium, the Legislature implemented a self-funding model at our agency to self-fund a small portion of our Public Utility and Weights and Measures Divisions. The total amount budgeted to be self-funded is \$625,000 and is made up of fixed and variable funding sources. As you can see from the following report, the emergency clause implemented by the Legislature was helpful to get the funds started. However, we are concerned if we will receive enough siting applications this biennium to meet the budgeted amount for the siting admin fee.

### Variable Funding Sources (as of Feb. 28, 2023):

	Emergency Clause 19-21 Biennium	21-23 Revenue as of <b>Feb. 28, 2023</b>	Total Fund Balance as of Feb. 28, 2023	21-23 Biennium to Date Budget	Difference	Total Budget
Interest		<b>137</b>	137			
W&M - Scale Inspection Fees	14,468	126,066	140,534			
W&M - Registered Service Companies		22,420	22,420			
<b>Total W&amp;M</b>	14,468	<b>148,486</b>	162,954	145,833	17,121	175,000
Siting Admin. Fee		<b>97,536</b>	97,536	125,000	<b>(27,464)</b>	150,000

### Fixed Funding Sources:

The PSC will receive \$300,000 per biennium from an economic regulation assessment that is proportionally assessed based on each electric and gas utility's respective gross operating revenues from the retail sale of gas and electric service within the state.

**SUMMARY:**

The Commission has been able to operate within its appropriation for the current biennium during a time of ongoing and in many ways unprecedented change locally, regionally and nationally in the industries we regulate. Challenges in the oil and gas and coal mining and reclamation industry are constant. That, combined with the revolution occurring in the electric industry, demands that we have a strong and able staff of high-quality professionals who can be full players advocating in multistate and federal arenas for the interests of North Dakota citizens and rate payers.

We have an attitude of continual improvement and innovation in our agency. We embrace technology and are constantly seeking ways to be more responsive to the public and the industries we regulate, to recognize the burden we place on business and reduce unnecessary red tape, while also recognizing the important oversight role North Dakota citizens count on us to fulfill.

This budget proposal continues our tradition of operating efficiently while offering innovative solutions to the constant challenges we face. We stand ready to work with you in coming weeks and months to design the best possible budget solution for the Public Service Commission. Thank you Mr. Chair and I look forward to answering questions from you and your committee.

## **Department Overview**

### **Reclamation Division (64% Federal Funds plus Indirect Cost Reimbursement)**

The Reclamation Division of the Public Service Commission is responsible for administering and enforcing the state's reclamation law for minimizing the environmental effects of surface coal mining and ensuring mined lands are properly reclaimed. Under N.D.C.C § 38-14-1, the PSC administers a comprehensive program that consists of permitting and inspection and enforcement responsibilities. There are 7 active surface coal mining operations (5 lignite and 2 leonardite mines) operating in the state.

- Approximately 132,584 acres are currently permitted for mining activities under 22 mine permits.
- During the current biennium, approximately 6,021 acres are proposed to be added to existing permit areas and are under review by the Reclamation Division.
- To date, approximately 17,360 acres have received final bond release (met all the requirements of the reclamation law) and Commission jurisdiction has ended.
- During the current biennium, an informal conference was held on a pending revision application for the Coyote Creek Mine.
- An adjacent surface owner to the Freedom Mine filed a citizen's complaint in 2019. The Commission responded to the complaint and informed the



## Attachment A – Department Overview

surface owner of his options to request an informal conference or formal hearing. In 2022, the surface owner requested a formal hearing and the hearing was held.

- Staff continued monitoring the Westmoreland bankruptcy and reviewed the permit transfer documents. The permit transfers to the new post-bankruptcy company were approved by the Commission.
- Two program Amendments to North Dakota Coal Regulatory Program were submitted to the Office of Surface Mining Reclamation and Enforcement.
- Staff worked extensively with the Falkirk Mine, Rainbow Energy, and other state agencies to replace Falkirk’s performance bonds prior to the sale of the Coal Creek Station from Great River Energy to Rainbow Energy.
- During this biennium, the Commission approved and adopted the updated Revegetation Success Guidelines document that had been under review for several years.
- The Reclamation Division lost over 100 years of experience in 2021 due to retirements. The division became fully staffed again on February 1, 2022. We are currently in the process of training the entire division as each employee is either newly hired or in a new position since the end of 2019.
- The PSC’s coal regulatory and Abandoned Mine Lands programs continue to receive excellent annual evaluation reports from the federal Office of Surface Mining (OSM), which concluded that no issues or concerns were raised. In their report they stated that the Reclamation Division “continues to implement the program in a professional, cooperative, and fair manner.

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The NDPSC has the necessary technical expertise for carrying out its functions to ensure that all requirements are met.” In their report of the AML Program, OSM stated that “the state administers an excellent program in full compliance with their approved plan.” Additional statements included “The NDPSC continues to administer an efficient and successful AML program. These projects have reduced the likelihood of death or injury to property owners and the public.”

### **Abandoned Mine Lands (100% Federal Funds plus Indirect Cost Reimbursement)**

The goal of the Abandoned Mine Lands (AML) Program is to eliminate hazards related to coal mining that occurred prior to the enactment of the 1977 Surface Mining Control and Reclamation Act (SMCRA). Under N.D.C.C. § 38-14.2, the PSC is authorized to develop and administer an abandoned mine reclamation plan on lands adversely affected by pre-SMCRA mining. N.D.C.C. § 38-14.2 also created a state abandoned mine reclamation fund to collect funds pursuant to title IV of Public Law 95-87 [91 Stat. 456; 30 U.S.C.1231 et seq.] and to disburse funds for the reclamation and restoration of land and water resources adversely affected by past mining as defined by section 38-14.2-06. PSC staff in the AML Program design and manage the reclamation projects. Private contractors, selected by competitive bidding, conduct the construction work. A federal fee assessed on coal production funds the AML Program. These funds are distributed as federal grants

## Attachment A – Department Overview

to AML programs in 28 states and tribes, including North Dakota. North Dakota typically receives about \$3 million annually.

The Office of Surface Mining Reclamation and Enforcement's AML fee collection authority was extended through September 30, 2034, as part of the Infrastructure Investment and Jobs Act, commonly known as the Bipartisan Infrastructure Law (BIL), that was signed into law on November 15, 2021. The BIL reduced the reclamation fee rate for lignite coal from eight cents per ton to 6.4 cents per ton and extended the annual AML grant distributions to eligible states and tribes by 13 years. In addition to the extension of AML fee collections and mandatory AML grant distributions, \$11.293 billion in new funding was authorized to expand investment in the AML program over a 15-year period. North Dakota submitted our first BIL grant application for \$3,101,700 and we received notice of the grant award on Jan. 12, 2023.

- In the current biennium, 8 abandoned mine land reclamation projects were completed.
- About 280 dangerous sinkholes caused by the collapse of underground mine workings were filled in the past two years.
- Since 1982, 193 primary reclamation projects and 35 emergency projects have been conducted to eliminate hazardous conditions, totaling over \$62.5 million.
- More than 40 miles of dangerous surface mine highwalls have been eliminated and over 1,500 acres of subsidence issues have been addressed since the AML reclamation program began.

## Attachment A – Department Overview

- We have records of more than 1,500 abandoned coal mine sites in North Dakota. At the current rate of federal funding, we estimate it will take at least 15 years and over \$35 million to address the highest priority AML problems in our state.

### **Regulation of electric, natural gas, and telephone utilities**

Telecommunications: The Commission continued and refocused its efforts on telecommunications regulation. During the past biennium, the Commission collaborated with telecommunications companies operating in North Dakota to reassign numbers associated with the 701-988 prefix. This effort was necessitated by the new 988 three-digit code that was set to be implemented for suicide prevention. Absent our efforts to reassign the phone numbers in that prefix, the entire state would have been forced to utilize ten-digit rather than seven-digit dialing. As a point of reference, 35 other states and 82 area codes were forced to utilize ten-digit dialing as a result of this. We furthered our efforts in this area to collaborate not only with telecommunication companies, but also other states in our efforts to save numbering resources in our lone area code of 701.

As many may not be aware, North Dakota is one of a small number of states who retain a single area code across the entire state. However, this will not be the case in perpetuity. At present we are forecasted to exhaust the available numbers in the 701 area code by the second quarter of 2028. Absent the Commission's efforts to utilize phone numbers more efficiently and sparingly, we would already be looking to add another area code to our state.

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During the past biennium we joined other states such as Maine, New Hampshire and Montana in filings before the Federal Communications Commission that would permit us to grant numbering resources to telecommunications companies in smaller blocks, thereby pushing our exhaust date out by many years.

Electric and Natural Gas: North Dakota continues to have among the lowest residential electric and natural gas utility rates in the nation, as shown in the charts on page A9. Biennium to date, the PSC has received two general rate cases for Montana-Dakota Utilities Co.'s electric operations and Northern States Power Company's natural gas operations.

Consistent with the Commission's least-cost standard, the PSC has made two advanced determinations of prudence. One concerning 200 megawatts of new wind generation to be added to Northern States Power Company's system, and the other concerning a new advanced metering infrastructure to be added to Otter Tail Power Company's system. In accordance with N.D.C.C. § 49-05-16, the investor-owned electric utilities operating in North Dakota may request an advance determination of prudence for certain major capital investments.

The Commission continues to participate as a member of the organization of MISO States and Southwest Power Pool (SPP), which are both Regional Transmission Organizations (RTOs). MISO began operating a regional energy market in 2005 that continues to serve the loads of all MISO participants, including the three jurisdictional investor-owned electric utilities providing service in North

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Dakota (Montana-Dakota Utilities Co, Northern States Power Company, and Otter Tail Power Company). The SPP operates a similar regional energy market that serves Basin Electric Power Cooperative and its member Cooperatives. Both provide a centralized generating unit dispatch procedure that co-optimizes the energy and ancillary services markets to ensure that the lowest-cost generators are always being used throughout the regions regardless of utility control area boundaries. The markets establish Locational Marginal Prices (LMP's) for electric energy at specific local pricing nodes. All energy must be provided through the markets. Producers are paid the LMP for their energy at the time and node where it enters the market. The load pays the LMP at the time and node where the energy is delivered.

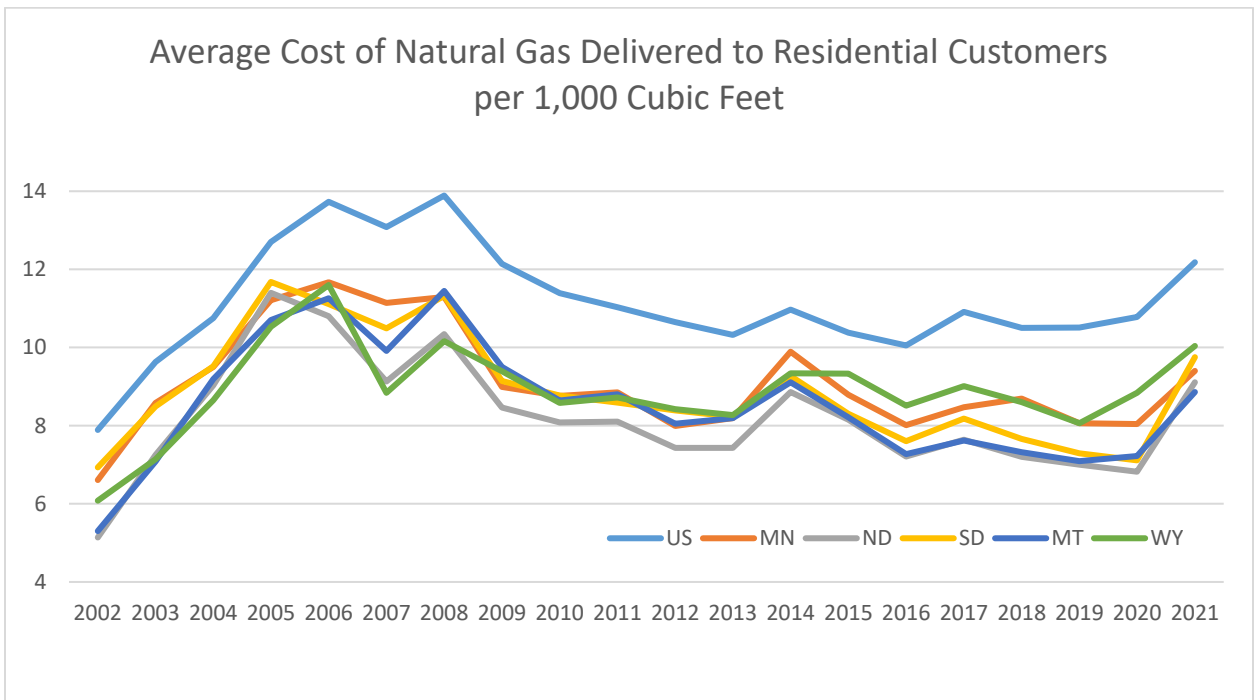
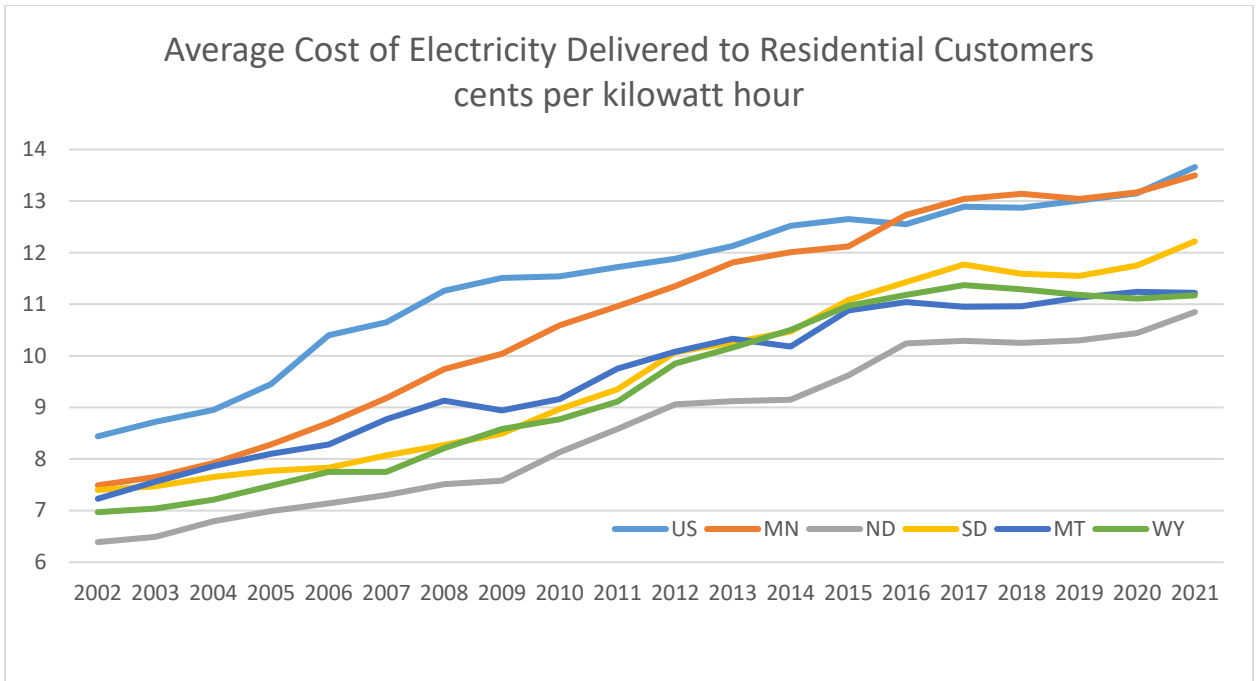
Collaborating with MISO and SPP while representing North Dakota's interests in addressing gaps in an electric resource's ability to show up during times of need and to properly incentivize those resources for doing so will be increasingly important for a fleet undergoing significant change. Continuing to work with MISO and SPP to balance the cost and need for interstate transmission lines under federal jurisdiction with the cost and need for resources under local jurisdiction is critical to ensuring ratepayers are served with affordable and reliable electricity. Such transmission investments are forecasted to be significant, and the Commission must ensure both local and regional industries are working to advance ratepayers interests. Becoming more and more involved and keeping up with this complex system takes increased staff time and specific staff expertise.

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Participation in these regional groups is becoming more important as decisions they make impact all North Dakota utilities. States are ultimately responsible for resource adequacy. However, due to the interconnected nature of the power grid, steps that North Dakota takes to ensure its own reliability will not be considered when the entire grid is in need (just as we saw with winter storm Uri in February 2021). The Commission is involved in leadership roles within these organizations, but having adequate staffing to become more involved and keeping up with this complex system is necessary to ensure North Dakota has a voice in our long-term reliability and affordability of energy. In order to ensure that North Dakota's interests are represented in decisions that are made by MISO and SPP, the challenge will be finding resources to assign to these important tasks.

In addition to the RTOs, another critical area for North Dakota is the Federal Energy Regulatory Commission (FERC). Just as we are seeing RTOs develop regional energy and transmission policies that have an impact on North Dakota, FERC is taking up many topics that will have an impact on North Dakota. Therefore, engaging in FERC cases and filing impactful comments is necessary to ensure that our voice is heard, and our citizens are protected from the added costs and reduced reliability that will result from the absence of our engagement. FERC cases are numerous, as are the filings within them. We must ensure we have adequate staff to review FERC cases and filings, make recommendations for comments, and take the appropriate steps to file comments.

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**Siting (current biennium) – N.D.C.C. § 49-22 and 49-22.1**

**Pipelines**

Description	Miles	County	Est. Project Cost
Montana-Dakota Utilities Co.	.5	Morton	1,600,000
Hiland Crude, LLC	2.9	Williams	5,400,000
Dakota Gasification Company	6.8	Mercer	25,000,000
Bridger Pipeline LLC	81	McKenzie & Golden Valley	122,000,000
Total	91.2		154,000,000

**Electric Transmission**

Description	Miles	County	Est. Project Cost
Montana-Dakota Utilities Co.	1.5	Morton	1,300,000
Total	1.5		1,300,000

**Natural Gas Generation**

Description	MW	County	Est. Project Cost
Basin Electric Power Cooperative	583	Williams	670,000,000
Total	583		670,000,000

**Wind Generation**

Description	MW	County	Est. Project Cost
Bowman Wind, LLC	208.7	Bowman	300,000,000
Badger Wind, LLC	251.6	Logan & McIntosh	360,000,000
Total	460.3		660,000,000

Note: 4,249 MW of total wind generation in service as of December 20, 2022.

**These tables represent completion of the complex siting process of 91.2 miles of pipelines, 1.5 miles of electric transmission line, 583 MW of natural gas generation and 460.3 MW of wind generation. It represents over \$1.485 billion of economic investment in North Dakota.**

**Licensed Auctioneers and Auction Clerks**

Applicable N.D.C.C. Chapters include 3-05, 9-06, and 51-05.1. Commission statutory responsibilities include:

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- Issuing and renewing auctioneer, auction clerk, and bank auction clerk licenses.
- Investigation of auction related complaints.

The Commission currently licenses 257 auctioneers and 124 clerks.

### **Weights and Measures**

Applicable North Dakota Century Code Chapters include 64-01, 64-02, 64-03, and 64-04.

The Weights and Measures Program, comprised of three full-time inspectors, is designed to meet the needs of both the buyer and seller in the commercial marketplace. This is accomplished through the enforcement of the state's weights and measures laws by the inspection and testing of commercial weighing and measuring devices such as supermarket scales, grain elevator truck scales, dockage scales, livestock scales, gas station pumps, liquified petroleum gas meters, and medical marijuana packaging scales, to name a few. Some of the accomplishments and work of the program include:

- Testing and inspecting 5,155 commercial devices from July 1, 2021, thru June 30, 2022, by PSC inspectors.
- Conducting quality control testing and monitoring the documentation of 19,978 weighing or measuring devices installed or serviced by registered service companies from July 1, 2021, thru June 30, 2022.
- Creating and implementing a quality assurance feedback process to ensure issues identified by inspections are communicated back to Registered Service Companies and Registered Service Persons.

## Attachment A – Department Overview

Additionally, the Commission is continuing work on the heavy-scale quality assurance program. This program has allowed the PSC to review the work of registered service companies and addresses concerns with their operations along with responding to heavy-scale complaints. From July 1, 2021, thru June 30, 2022, the PSC has conducted quality assurance inspections on 118 heavy scales, of which 33 failed the inspection.

The Weights and Measures Program is minimally staffed with much of the work being done with private contractors and oversight being done by the Public Service Commission. Workload requirements for light duty inspectors does not allow for much, if any, quality assurance inspections on light duty devices (gas pumps, grocery store scales, etc.). Additional staffing would allow for increased quality assurance inspections. Additionally, the program does not currently have the necessary equipment to test high flow meters, such as diesel fuel pumps. In order to conduct our own high flow testing, the program has made a request for funding to purchase the necessary equipment.

### **Railroad Safety and Regulation**

Applicable North Dakota Century Code Chapters include 24-09, 49-01, 49-02, 49-09, 49-09.1, 49-10.1, 49-11, 49-16, 49-17.1, and 60-06.

The Commission is the clearinghouse for rail service and safety issues statewide. As part of public engagement and outreach, the Commission hosts an annual meeting on service and safety for all the statewide stakeholders including ag producers, grain marketers, emergency responders, county, and city leaders to

## Attachment A – Department Overview

address issues with railroad representatives. This biennium to date, the PSC fielded complaints and intervened on behalf of 35 communities and citizens on rail-related issues.

Since 2015, the PSC has operated a Rail Safety Program, which supplements federal rail safety oversight. The Federal Rail Administration (FRA) only has the resources to inspect 0.2 percent of railroad operations nationally each year. Federally certified state inspectors constitute 30 percent of the FRA's total inspection force and are critical to ensuring safe rail operations. Having state inspectors that are dedicated to North Dakota is a big benefit and helps to ensure adequate inspections in our state; whereas, federal inspectors have responsibility over multiple states. Funding for the state Rail Safety Program comes not from the general fund, but from existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements. The goal of the program is to reduce the number of accidents, derailments and other equipment failures in order to reduce fatalities, injuries, economic losses and environmental impacts. As one measure of the program's effectiveness, the number of defects found are decreasing after increasing for several years.

The Commission employs two certified inspectors, one of which is dual certified, meaning they can inspect two out of the six FRA inspection disciplines. The three inspection disciplines the Commission inspectors are certified in are 1) Track and 2) Motive Power & Equipment (Mechanical) / Hazardous Materials (HAZMAT). The remaining three FRA inspection disciplines are Operating Practices, Signal and Train Control, and Grade Crossing Safety and Trespasser

## Attachment A – Department Overview

Prevention. The state inspectors coordinate with and complement the federal inspectors to maximize coverage but are autonomous and entirely accountable to the Public Service Commission.

There are many advantages and efficiencies gained for the inspectors to carry dual certifications in these categories such as:

- Inspectors are already present in locations which offer the opportunity for a dual inspection such as Mechanical inspector is in rail yards and hazardous material trans-loading facilities.
- Allows the rail safety program to utilize existing resources to provide additional oversight and safety to North Dakotans.
- Offers opportunities for the inspector to interact directly with the public through grade crossing safety and trespasser prevention initiatives and programs.
- Offers opportunities for the inspector to interact with loaders and shippers of HAZMAT materials to ensure proper sealing, inspection, and shipment of hazardous materials at origin and destination points.

Since the start of the program, the track inspector has conducted 967 inspections, noting 5,655 defects, and has issued 47 violations with civil penalties. The mechanical inspector has conducted 982 inspections, noting 7,749 defects, and has issued 98 violations with civil penalties in addition to 65 HAZMAT inspections, noting 48 defects, and has issued 13 violations with civil penalties.

**Gas Pipeline Safety  
(Approx. 50% Federal Funds plus Indirect Cost Reimbursement)**

Applicable North Dakota Century Code Chapters include 49-02 and 49-07.

On behalf of the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Commission conducts a Pipeline Safety Program in North Dakota involving intrastate natural gas transmission, gathering, and distribution systems, intrastate liquified natural gas (LNG) facilities, and a propane distribution system. Furthermore, in November 2021, PHMSA published a final rule bringing previously unregulated natural gas gathering systems under the jurisdiction of PHMSA and thereby the Commission. Thus far, the number of regulated operators has increased from 22 to 23 with more expected. The number of regulated gas pipeline miles is anticipated to increase by thousands. The number of newly regulated operators and additional gathering line mileage will be reported to PHMSA no later than March 15, 2023, and will be available to the Commission shortly thereafter.

The goal of the program is to enhance public safety by enforcing state laws governing gas pipeline safety through inspections and enforcement regarding qualification of pipeline personnel, pipeline components, design, construction, integrity management, operations, maintenance, public awareness, damage prevention programs, and emergency response.

Commission inspectors perform audits of four natural gas distribution system operators, one liquefied petroleum gas distribution system operator, ten transmission system operators, and seven gathering system operators.

Gas pipeline safety inspectors conduct inspections dealing with records audits, compliance follow-up, design/testing and construction, gas incidents, on-

## Attachment A – Department Overview

site operator training, operator qualifications, control-room management, drug and alcohol testing, damage prevention, public awareness, operations and maintenance, and integrity management.

Staff for the program includes one program manager/inspector and two full-time inspectors. Biennium to date, Gas Pipeline Safety Inspectors completed a total of 304.5 inspection/audit days.

### **Damage Prevention**

Applicable North Dakota Century Code Chapter includes 49-23.

The Commission is charged with enforcement of the state's One-Call Excavation Notice System law also known as 811 or Call Before You Dig.

The goal of the law is to prevent damage to underground infrastructure. This biennium to date, the Commission has processed 56 complaints regarding alleged violations of the One-Call law. As a result of these proceedings, the Commission has levied fines totaling \$67,900. These fines are deposited directly into the general fund.

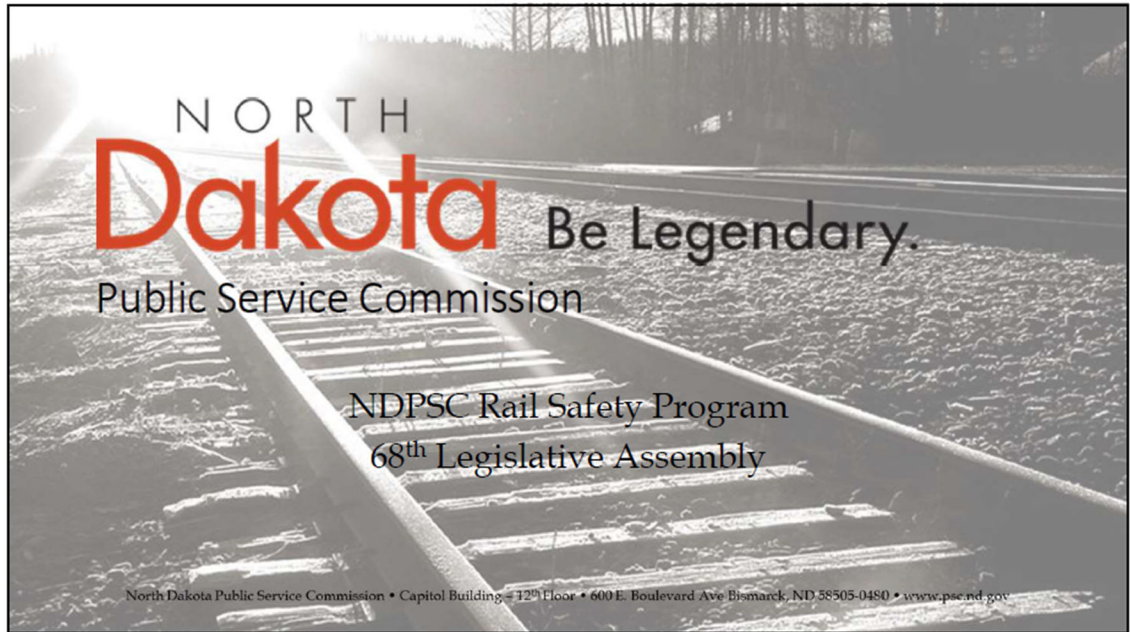
#### **Damage Prevention Cases Processed:**

2009-2011	1
2011-2013	18
2013-2015	58
2015-2017	52
2017-2019	64
2019-2021	51
2021-2023	56 to date

## Attachment A – Department Overview

In total, the Commission has levied 181 fines totaling \$399,250 since beginning enforcement of the program in 2009. Since inception, the Commission has not been given any additional resources to process these cases. The workload has fallen to existing staff.





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## Rail Safety Program Mission

Implementing inspection and compliance programs that:

- Reduce the potential for injuries, deaths, and property damage in and along North Dakota railroads and communities.
- Reduce the number of accidents, derailments and other equipment failures experienced within the state of North Dakota.
- Reduce fatalities and injuries in addition to economic losses and environmental impacts.

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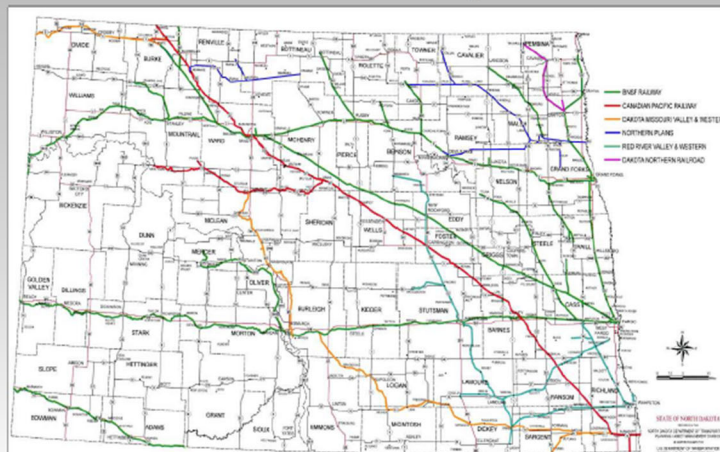
## Rail Safety Program Priorities

- Expand safety inspections of track infrastructure to include main line, sidings and industrial spurs, railroad equipment and cars.
- Use enforcement actions to include education, notification, and penalties regarding compliance with safety standards.
- Work with railroads and shippers to upgrade safety and community relations.
- Ensure crude oil/HAZMAT routes are inspected regularly, as well as components and equipment used to transport/carry commodities.
- Serve as a safety resource and provide guidance regarding federal and state laws.

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3

## North Dakota Rail System



3,532 Miles of  
Main Line Track

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## Communities Impacted by Railroads

- 290 communities intersect or are in close proximity to the railroad, many of which the Commission has inspected at:

Absaraka, Adams, Alsen, Amenia, Ambrose, Aneta, Anamoose, Ardoch, Argusville, Arvilla, Ayr, Balfour, Baldwin, Barney, Barton, Beach, Belfield, Benedict, Bergen, Berlin, Berthold, Beulah, Bisbee, Bismarck, Blaisdell, Bordulac, Bottineau, Bowbells, Bowman, Braddock, Bremen, Buchanan, Bucyrus, Buffalo, Burlington, Butte, Buxton, Calvin, Cando, Canton City, Carpio, Carrington, Casselton, Cathay, Cavalier, Cayuga, Chaffee, Churchs Ferry, Cleveland, Clifford, Cogswell, Coleharbor, Colfax, Conway, Coulee, Courtenay, Crary, Crosby, Crystal, Cuba, Cummings, Dahlen, Davenport, Dawson, Des Lacs, Devils Lake, Dickinson, Donnybrook, Douglas, Drake, Drayton, Driscoll, Dwight, Doyon, Eckelson, Edgeley, Edinburg, Egeland, Eldridge, Elliot, Emerado, Emrick, Enderlin, Englevale, Epping, Erie, Fairdale, Fairmount, East Fairview, Fargo, Fessenden, Fingal, Finley, Flaxton, Fordville, Forest River, Forman, Fortuna, Foxholm, Fredonia, Fryburg, Fullerton, Galesburg, Gardner, Garrison, Gascayne, Gladstone, Glen Ullin, Glenfield, Gilby, Grace City, Grafton, Grand Forks, Grandin, Grano, Granville, Gwinner, Hamberg, Hankinson, Hannaford, Harmon, Harvey, Harwood, Hatton, Havana, Haynes, Hazen, Hebron, Hensler, Heimdal, Hettinger, Hillsboro, Hoople, Hope, Horace, Jamestown, Juanita, Judson, Karlsruhe, Kelso, Kenaston, Kenmare, Kensal, Kindred, Kintyre, Kief, Knox, Kulm, Lakota, LaMoure, Langdon, Lankin, Lansford, Larimore, Larson, Leal, Leeds, Lehr, Lemmon, Leonard, Lidgerwood, Lignite, Lisbon, Logan, Lucca, Luverne, Maddock, Makoti, Mandan, Manfred, Mantador, Manvel, Mapleton, Marmarth, Martin, Mayville, Max, McKenzie, McLeod, McVile, Medina, Medora, Menoken, Michigan, Milnor, Milton, Minto, Minot, Moffit, Mohall, Mooreton, Munich, Nash, Napoleon, Nekoma, New Rockford, New Salem, New Town, Niagara, Niobe, Nolan, Noonan, Norma, Northgate, Northwood, Norwich, Oakes, Oberon, Oriska, Osabrock, Palermo, Page, Park River, Parshall, Pekin, Perth, Petersburg, Pillsbury, Pingree, Pisek, Plaza, Portal, Portland, Powers Lake, Prosper, Ray, Reeder, Reile's Acres, Reynolds, Rhame, Richardton, Rogers, Rolla, Ross, Rugby, Ruso, Rutland, Ryder, Sanborn, Sawyer, Scranton, Selz, Sentinel Butte, Sharon, Sheldon, Sheyenne, Simcoe, South Heart, Spiritwood, Springbrook, Stanley, Stanton, Steele, Sterling, Stirum, Surrey, Sutton, Tappen, Taylor, Thompson, Tioga, Tolna, Tolley, Tower City, Towner, Trenton, Underwood, Valley City, Velsa, Verona, Voltaire, Walcott, Walhalla, Washburn, Wellsburg, West Fargo, Wahpeton, Wheatland, White Earth, Williston, Willow City, Wilton, Wimbledon, Windsor, Wishek, Wyndmere, York.

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## Inspection Data (Program Inception thru 12-31-2022)

- Inspector #1 (Track Inspector)
  - 942 Inspections
  - 18,939 Units
  - 5,621 Defects
  - 47 Violations
- Inspector # 2 (Dual Certified in Mechanical and HAZMAT Disciplines)
  - Mechanical
    - 968 Inspections
    - 186,994 Units
    - 7,654 Defects
    - 98 Violations
  - HAZMAT (Inspector certified 09-15-2021)
    - 61 Inspections
    - 1,403 Units
    - 41 Defects
    - 12 Violations

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## Top Track Defects and Violations

Category	Description	Defects	Violations
Continuous Welded Rail	Continuous welded rail is track joined together by welding sections together rather than being bolted together using joint bars.	249	4
Rail Joints	Rail joints are the places where two sections of track are joined together using bolts and the appropriate joint bars.	1,320	13
Turnouts and Crossings	Turnouts are the portion of a switch that connects to another track and crossings refers to roadway grade crossings.	2,007	0
Switches	Track switches are equipment that enables trains to transfer from one track to another.	273	1
Ballast	Ballast is the rock that securely holds rail ties in place and supports the massive amount of weight transferred from passing trains.	163	3

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## Top Mechanical Defects and Violations

Category	Description	Defects	Violations
Railroad Freight Car Standards	This section includes the mechanical components of a freight car (wheels, axles, suspension, etc.). These defects cause the most frequent and severe mechanically related derailments.	2202	42
Reflectorization of Rail Freight Rolling Stock	Reflectorization of rail cars increases visibility and reduces highway-rail grade crossing accidents, deaths, injuries, and property damage.	341	0
Railroad Locomotive Safety Standards	Minimum Federal safety standards for all locomotives, except those propelled by steam power.	56	0
Railroad Safety Appliance Standards	This section includes handbrakes, handholds, ladders, sill steps and platforms. These defects lead to personnel safety hazards/injuries.	3363	50
Brake System Standards	This section includes brake test requirements, brake system effectiveness, head end and end of train devices.	1676	11

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## Top HAZMAT Defects and Violations

Category	Description	Defects	Violations
Carriage by Rail	This section pertains to railroads regarding operating, handling and transportation of hazardous materials in rail transportation.	21	12
Training and Security	This section pertains to shippers/revceivers of hazardous materials regarding training of HM employees and security.	5	0
Tank Car Inspection (Limited & Complete)	Inspection of the physical tank car while in transportation.	4	0
Loading /Unloading	The unloading and or loading of hazardous material, not yet in transportation.	4	0

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## MP&E Defects



- March 4, 2022
- Tank car at a facility had several defects relating to safety appliances. It was found that during a repair the safety appliances were welded instead of being secure with the proper mechanical fasteners.
- 49 CFR 231.136(c)(1)

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## Mechanical Violation

- Minot, ND 6/28/22
  - TILX 292811 tank car, not placarded located in the Minot CP Yard
  - 215.103(F)(1)(ii) L1 wheel with shelling greater than 3 inches in length
  - This wheel also had other shelled spots several adjoining that were greater than 2 ½ inches in length
  - Previous mechanical inspections completed in Alyth, AB Canada on 6/17/22, built in train and moved to Minot, ND.

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## Hazmat Defects/Violations

- 48 Hour Rule
- 49 CFR 174.14(b)
  - (a) carrier must forward each shipment of hazardous materials promptly and within 48 hours (Saturdays, Sundays, and holidays excluded), after acceptance at the originating point or receipt at any yard, transfer station, or interchange point, except that where biweekly or weekly service only is performed, a shipment of hazardous materials must be forwarded on the first available train.
  - (b) A tank car loaded with any Division 2.1 (flammable gas), Division 2.3 (poisonous gas) or Class 3 (flammable liquid) material, may not be received and held at any point, subject to forwarding orders, so as to defeat the purpose of this section or of § 174.204 of this subchapter.
- March 23, 2022, it was found that 12 tank cars loaded with Anhydrous Ammonia (Class 2.3 Poisonous Gas) had been sitting with an excess of 48 hours dwell (approximately 240 hours of dwell)

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## Track Defects



- Culverts found in area of major derailment collapsed and plugged not allowing water to drain under roadbed.

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## Track Violations



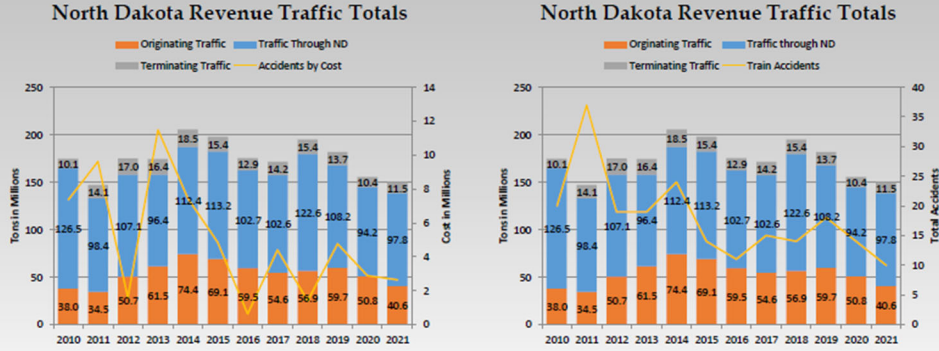
- Grand Forks, ND 6-14-22
- BNSF Grand Forks Subdivision main through Grand Forks

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## Traffic vs. Accidents



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## Other Safety Outreach and Education

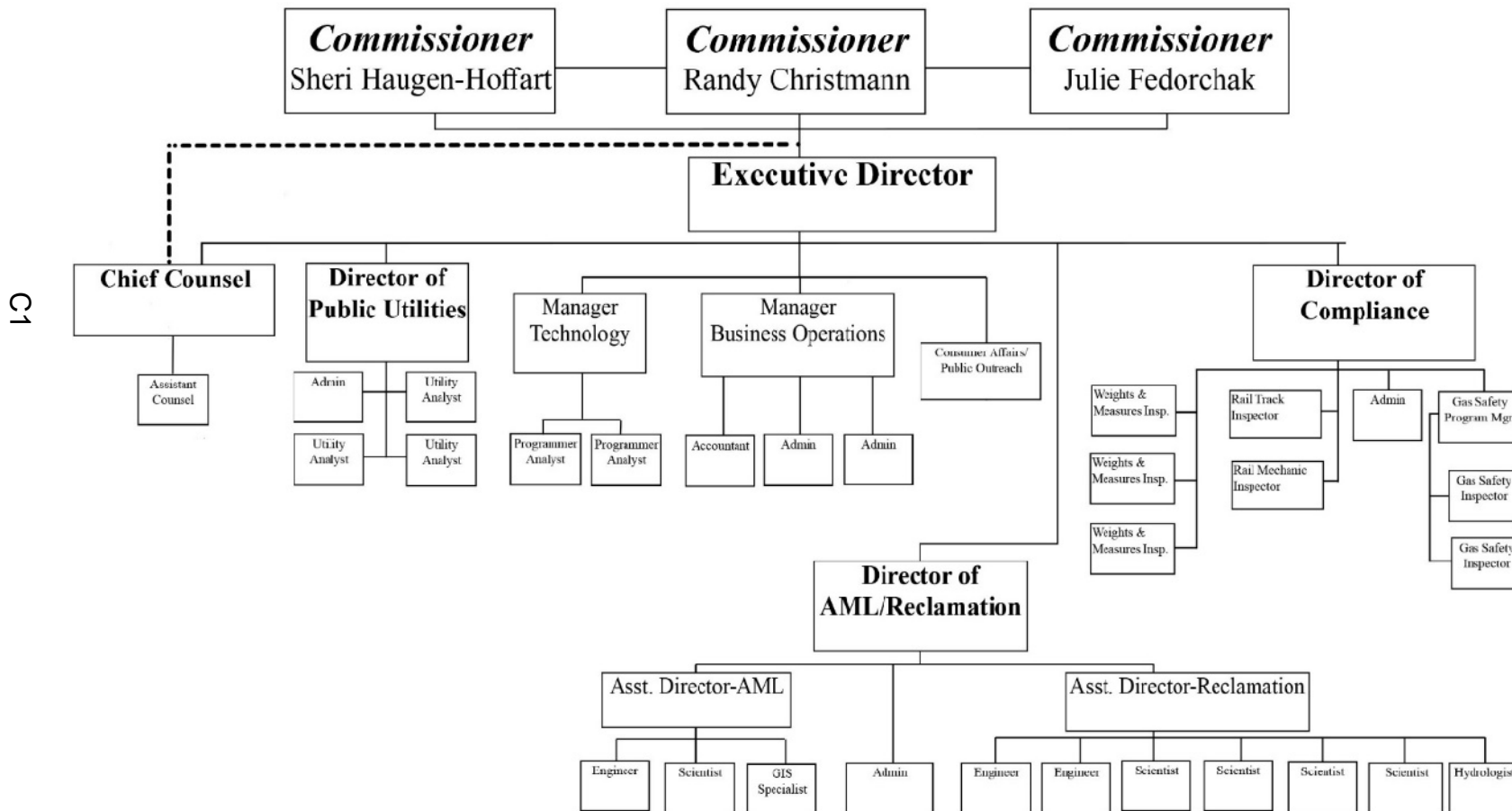
- Identified critical defect in maintenance and inspection electronic tracking and log program allowing data manipulation after entry. Program used by numerous Class I railroads.
- Worked with FRA to heighten national visibility of broken side bearings on crude oil trains. This was driven by inspections conducted by the PSC's inspector.
- Worked with railroad mechanical departments to ensure all mechanical inspections of crude oil trains are being conducted at the correct locations and proper intervals.
- Cleared blocked crossings on multiple occasions by working with railroads, local government and citizens.
- Served as liaison between railroad and landowners obtaining new or repairing existing livestock fences along railroad right-of-way.
- Presented at schools and expos on the importance of safety near trains and railroad tracks; Operation Livesaver.
- Working on dual inspection certification for inspectors (Mechanical to take on HAZMAT and Track to take on Grade Crossing Safety and Trespasser Prevention).
- Provided track inspection report to help local investors determine the merits of replacing the burned rail bridge which threatened line abandonment in northeast North Dakota.
- Work with North Dakota Department of Emergency Services to coordinate rail maintenance which has the possibility of causing brush fires; ensure first responders are aware of potential risks within their jurisdictions.

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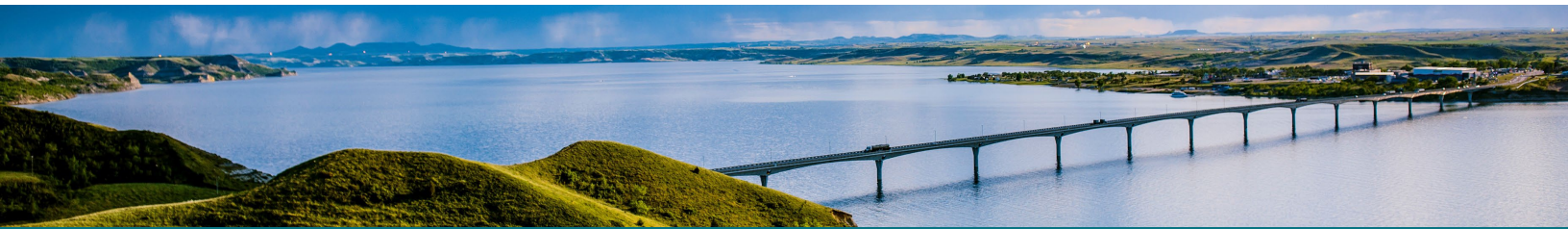
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# North Dakota Public Service Commission 2023



C1



# Public Service Commission

## WHO WE ARE

43

Full-time Team Members

2-3

Seasonal Team Members

## WHAT WE'RE ABOUT

**Mission:** Protecting consumers, the public interest and the environment

**Our Values:**

- **Balance:** Balancing public and private interest affecting each decision.
- **Collaboration:** Tackling work challenges as a team to harness expertise and achieve better outcomes with greater impact.
- **Continuous Improvement:** Building a workplace that fosters growth, excellence and diversity.
- **Creativity:** Generating solutions by turning new and imaginative ideas into sound policies and regulations that protect citizens and promote orderly development.
- **Responsiveness:** Taking action to address the needs of industry and the public.

## WHAT WE DO



### Economic Regulation

Evaluate rate increase requests and other rate recovery mechanisms from three multi-million-dollar utility monopolies to protect consumers and ensure safe and reliable service at reasonable rates.



### Telecommunications

Protect consumers by regulating essential telecommunication services.



### RTO Energy Markets

Participate as a member of MISO and SPP on issues related to the reliable and efficient operation of regional electric transmission grids.



### Damage Prevention

Protect public safety by enforcing the state's One-Call laws.



### Siting

Evaluate site permits for energy conversion and transmission facilities including electric generation, gas processing, oil refining, pipelines, electric transmission lines, and wind.



### Railroads

Regulate the safety of railroads through track, mechanical equipment, and HAZMAT inspection programs.



### Weights and Measures

Ensure the equitable operation of all weighing and measuring devices used in commerce through inspections, audits, and quality assurance testing.



### Gas Pipeline Safety

Regulate the safety of intrastate natural gas, propane, and liquefied natural gas gathering, transmission and distribution pipeline systems.



### Auctioneers & Auction Clerks

Protect the interests of auction customers through licensing, bonding, and investigating auctioneer and auction clerk complaints.



### Coal Mining Reclamation

Ensure mining operations minimize impacts to the environment, protect rights of property owners and the public, return mined lands to beneficial uses, and restore productivity of mined lands.



### Abandoned Mine Lands (AML)

Enhance public safety by reclaiming abandoned coal mine sites that pose health, safety, and general welfare hazards.

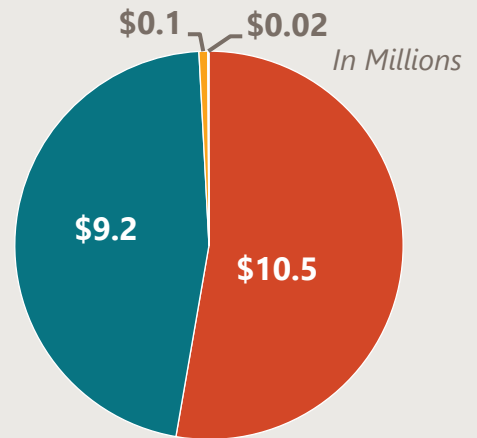
# Public Service Commission

## HOW WE DO IT

### Total Agency Budget: \$19,892,782

- General: \$6,431,087
- Special: \$2,244,724
- Federal: \$11,216,971

- Salary - \$10.5
- Operating - \$9.2
- Capital - \$0.1
- Grants - \$0.02



## WHAT WE'RE PROUD OF

### Recognized as 'Gold Standard'

The Reclamation and AML programs consistently receive exceptional marks from our federal oversight agencies. The North Dakota way of effectively administering federal programs is looked to as the "gold standard."

### Impact on Regional Reliability

The Commissioners and staff have obtained leadership roles within the RTO Energy Markets to ensure North Dakota's concerns and solutions regarding reliability and cost are considered in regional and national dialogue.

### Preserved 7-digit dialing

Coordinated with ND telecom companies to manage available numbers and avoid premature conversion to statewide 10-digit dialing. Had the PSC not acted, we would have joined 82 area codes in 35 states that had to adopt 10-digit dialing after implementation of "988" Suicide Prevention service.

**134,282**

Acres under permit for coal mining, among the top in the nation.

Provide safety oversight on  
**4,100**  
miles of regulated gas pipeline.

**55%**  
reduction in railroad accidents during five years of Rail Safety Program.

**9,200**  
inspections and audits to ensure every gallon of gas, bushel of grain, and pound of beef is equitable.

## HOW WE MEASURE SUCCESS

### Low Energy Rates

North Dakota's average rate was 33% lower than the national average for residential natural gas customers and 20% lower than the national average for residential electric customers.

### High Energy Reliability

North Dakota had 25% fewer electricity outages than the national average in 2020.

### Preserving ND's Unique Landscape

Deployed innovative tools to protect North Dakota's landscape during energy development including a wind farm reclamation program and requirements for light mitigation technology on wind farms.

### Keep ND Growing

Timely permitting of \$14 billion in infrastructure development in North Dakota during the past decade, growing the state's industry and economy.

### Major Funding Components in Engrossed HB 2008:

Appropriation	General Funds	Federal Funds	Special Funds	TOTAL
Salaries and Wages	\$6,647,568	\$4,675,475	\$625,000	\$11,948,043
Operating	\$1,424,009	\$548,728	\$125,000	\$2,097,737
Capital Assets	\$106,800	\$18,200		\$125,000
Grants		\$20,000		\$20,000
AML Contractual		\$6,000,000		\$6,000,000
Rail Rate Complaint Case			\$900,000	\$900,000
Railroad Safety Program		\$20,000	\$655,998	\$675,998
Specialized Legal Services*	\$20,000	\$400,000		\$420,000
<b>TOTAL</b>	<b>\$8,198,377</b>	<b>\$11,682,403</b>	<b>\$2,305,998</b>	<b>\$22,186,778</b>

\*Federal funds are only available for rare and specific federal cases and must be approved by the applicable federal agency. As a result, the Commission relies on state general fund appropriation for this line item.

**Public Service Commission - Budget No. 408**  
**Senate Bill No. 2008**  
**Base Level Funding Changes**

	<u>Executive Budget Recommendation</u>			
	<u>FTE Positions</u>	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
<b>2023-25 Biennium Base Level</b>	43.00	\$6,425,687	\$13,347,095	\$19,772,782
<b>2023-25 Ongoing Funding Changes</b>				
Cost to continue salaries		\$53,472	\$27,589	\$81,061
Salary increase		419,766	290,719	710,485
Health insurance increase		126,276	89,756	216,032
Adds funding for temporary salaries and the railroad safety program			106,706	106,706
Adds 1 FTE environmental scientist position	1.00	77,962	138,602	216,564
Adds funding for ITD rate increase		42		42
Adjusts funding for operating expenses		83,600	(30,042)	53,558
Adds funding for a new Capitol space rent model		221,067		221,067
Adds funding for FERC contractor		120,000		120,000
<b>Total ongoing funding changes</b>	<u>1.00</u>	<u>\$1,102,185</u>	<u>\$623,330</u>	<u>\$1,725,515</u>
<b>One-time funding items</b>				
Adds one-time funding for shortfall of indirect cost recovery		\$101,700		\$101,700
Adds one-time funding for a drone		1,800	\$18,200	20,000
<b>Total one-time funding changes</b>	<u>0.00</u>	<u>\$103,500</u>	<u>\$18,200</u>	<u>\$121,700</u>
<b>Total Changes to Base Level Funding</b>	<u>1.00</u>	<u>\$1,205,685</u>	<u>\$641,530</u>	<u>\$1,847,215</u>
<b>2023-25 Total Funding</b>	<u>44.00</u>	<u>\$7,631,372</u>	<u>\$13,988,625</u>	<u>\$21,619,997</u>
<i>Federal funds included in other funds</i>			\$11,673,971	
<i>Total ongoing changes as a percentage of base level</i>	2.3%	17.2%	4.7%	8.7%
<i>Total changes as a percentage of base level</i>	2.3%	18.8%	4.8%	9.3%

**Other Sections in Public Service Commission - Budget No. 408**

	<u>Executive Budget Recommendation</u>
Beginning farmer revolving loan fund	Section 3 would authorize a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.
Railroad safety program	Section 4 would amend Section 57-43.2-19 to increase the deposit from \$297,362 to \$332,327 per year from special fuels taxes into the rail safety fund through June 30, 2027.
Salary of commissioners	Section 5 would provide the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,667, effective July 1, 2023, and to \$129,654 effective July 1, 2024, to reflect the 6 percent and 4 percent recommended salary increase.

**Public Service Commission - Budget No. 408**  
**Senate Bill No. 2008**  
**Base Level Funding Changes**

	Executive Budget Recommendation				Senate Version				Senate Changes to Executive Budget Increase (Decrease) - Executive Budget			
	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
		\$	\$	\$		\$	\$	\$		\$	\$	\$
<b>2023-25 Biennium Base Level</b>	43.00	\$6,425,687	\$13,347,095	\$19,772,782	43.00	\$6,425,687	\$13,347,095	\$19,772,782	0.00	\$0	\$0	\$0
<b>2023-25 Ongoing Funding Changes</b>												
Cost to continue salaries		\$53,472	\$27,589	\$81,061		\$53,472	\$27,589	\$81,061				\$0
Salary increase		419,766	290,719	710,485		314,322	217,702	532,024		(105,444)	(73,017)	(178,461)
Health insurance increase		126,276	89,756	216,032		129,181	91,821	221,002		2,905	2,065	4,970
Adds funding for temporary salaries and the railroad safety program			106,706	106,706				0			(106,706)	(106,706)
Adds 1 FTE environmental scientist position	1.00	77,962	138,602	216,564				0	(1.00)	(77,962)	(138,602)	(216,564)
Adds funding for ITD rate increase		42		42				0		(42)		(42)
Adjusts funding for operating expenses		83,600	(30,042)	53,558				0		(83,600)	30,042	(53,558)
Adds funding for a new Capitol space rent model		221,067		221,067		221,067		221,067				0
Adds funding for a FERC contractor		120,000		120,000				0		(120,000)		(120,000)
Total ongoing funding changes	1.00	\$1,102,185	\$623,330	\$1,725,515	0.00	\$718,042	\$337,112	\$1,055,154	(1.00)	(\$384,143)	(\$286,218)	(\$670,361)
<b>One-Time Funding Items</b>												
Adds one-time funding for shortfall of indirect cost recovery		\$101,700		\$101,700				\$0		(\$101,700)		(\$101,700)
Adds one-time funding for a drone		1,800	18,200	20,000				0		(1,800)	(18,200)	(20,000)
Total one-time funding changes	0.00	\$103,500	\$18,200	\$121,700	0.00	\$0	\$0	\$0	0.00	(\$103,500)	(\$18,200)	(\$121,700)
<b>Total Changes to Base Level Funding</b>	1.00	\$1,205,685	\$641,530	\$1,847,215	0.00	\$718,042	\$337,112	\$1,055,154	(1.00)	(\$487,643)	(\$304,418)	(\$792,061)
<b>2023-25 Total Funding</b>	44.00	\$7,631,372	\$13,988,625	\$21,619,997	43.00	\$7,143,729	\$13,684,207	\$20,827,936	(1.00)	(\$487,643)	(\$304,418)	(\$792,061)
<i>Federal funds included in other funds</i>			\$11,673,971				\$11,398,209				(\$275,762)	
<i>Total ongoing changes as a percentage of base level</i>	2.3%	17.2%	4.7%	8.7%	0.0%	11.2%	2.5%	5.3%				
<i>Total changes as a percentage of base level</i>	2.3%	18.8%	4.8%	9.3%	0.0%	11.2%	2.5%	5.3%				

**Other Sections in Public Service Commission - Budget No. 408**

	Executive Budget Recommendation	Senate Version
Beginning farmer revolving loan fund	Section 3 would authorize a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.	
Railroad safety program	Section 4 would amend Section 57-43.2-19 to increase the deposit from \$297,362 to \$332,327 per year from special fuels taxes into the rail safety fund through June 30, 2027.	
Salary of commissioners	Section 5 would provide the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,667, effective July 1, 2023, and to \$129,654 effective July 1, 2024, to reflect the 6 percent and 4 percent recommended salary increase.	Section 5 would provide the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,800, effective July 1, 2023, and to \$129,792 effective July 1, 2024, to reflect the equity and 4 percent recommended salary increase.

Public Service Commission - Budget No. 408
Senate Bill No. 2008
Base Level Funding Changes

Table with columns: Executive Budget Recommendation, Senate Version, and Senate Changes to Executive Budget. Rows include: 2023-25 Biennium Base Level, 2023-25 Ongoing Funding Changes (Cost to continue salaries, Salary increase, Health insurance increase, etc.), One-Time Funding Items, Total Changes to Base Level Funding, and 2023-25 Total Funding.

Other Sections in Public Service Commission - Budget No. 408

Table with columns: Executive Budget Recommendation and Senate Version. Rows include: Beginning farmer revolving loan fund and Railroad safety program, with detailed descriptions of funding mechanisms and amounts.

Other Sections in Public Service Commission - Budget No. 408

Salary of commissioners

**Executive Budget Recommendation**

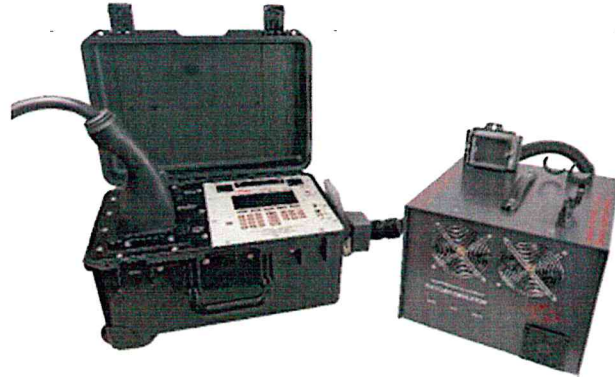
Section 5 would provide the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,667, effective July 1, 2023, and to \$129,654 effective July 1, 2024, to reflect the 6 percent and 4 percent recommended salary increase.

**Senate Version**

Section 5 provides the statutory changes increasing the Public Service Commissioners' salaries. The Public Service Commissioners' annual salary would increase from the current level of \$117,610 to \$124,800, effective July 1, 2023, and to \$129,792 effective July 1, 2024, to reflect the equity and 4 percent recommended salary increase.



## Testing Equipment for EV Charging Stations – Test Unit and Load Emulator



### II. Specifications

#### T4000:

<b>AC VOLTAGE:</b>	(60V to 650v), 0.04% of reading (3 Phase)
<b>AC CURRENT:</b>	(0.5A to 80A), 0.04% of reading (3 Phase)
<b>AC ACTIVE ENERGY:</b>	0.08% of reading
<b>DC VOLTAGE:</b>	(60V to 1000V), 0.05% of reading
<b>DC CURRENT:</b>	(5.0A to 200A), 0.05% of reading
<b>DC ACTIVE ENERGY:</b>	0.1% of reading
<b>OPERATING TEMPERATURE:</b>	-20°C to 50°C (-4°F to 122°F)
<b>STORAGE TEMPERATURE:</b>	-22°C to 60°C (-22°F to 140°F)
<b>DIMENSIONS:</b>	21.2" x 16" x 10.6" (53.8 x 40.6 x 26.9 cm)
<b>WEIGHT:</b>	Approx. 45 lbs. (configuration dependent)

#### PL4000:

<b>VOLTAGE:</b>	28A at 120V   50A at 208V   58A at 240V   28A at 480V
<b>OPERATING TEMPERATURE:</b>	-20°C to 50°C (-4°F to 122°F)
<b>STORAGE TEMPERATURE:</b>	-22°C to 60°C (-22°F to 140°F)
<b>DIMENSIONS :</b>	16.9" x 16.3" x 26" (42.9 x 41.4 x 66 cm)
<b>WEIGHT:</b>	Approx. 64 lbs.

## High-flow testing Equipment – Weights and Measures



### **SIDE ACCESS PROVERS ON A TRAILER, WITH THREE (3) 5 GALLON VRP PROVERS, (1) 100 GALLON STAINLESS STEEL PROVER AND THREE (3) 110 GALLON STAINLESS STEEL HOLDING TANKS - WITH PUMP-OFF**

- (3) 5-Gallon VRP® or VEP® S/S Provers
- (1) 50 Gallon, 60 Gallon or 100 Gallon Series "J" SS Heavy Duty Prover
- Provers are built to conform with NIST Handbook 105-3 OIML R-120, Measurement Canada and API Manual of Petroleum Measurement Standards Chapter 4

Trailer unit that has:

- Three 5-gallon provers (used for low-flow Retail Motor Fuel (RMF) pumps)
- One 100-Gallon prover (used for high-flow RMF pumps)
- Three 110-gallon holding tanks
- Offloading pump and hose reel
- Foldup prover protection cover.

SB 2008 - PSC Budget  
Siting Administration Fee - Additional Info.

Case	Case/Project Description	Total Investment	Siting Admin Fee Received	Fee if no \$25k Maxium
Hiland Crude, LLC	2.9 Mile Crude Oil Pipeline - Williams Cty	\$ 5,400,000	\$ 540.00	
OEE XXXI LLC	Dickison Diesel Facility Wind Project - Startk Cty	\$ 24,000,000	\$ 2,400.00	
Great River Energy/Rainbow Energy Center, LLC	Transfer Certificate #1 and Permit #3	\$ 3,000,000	\$ 300.00	
Great River Energy/Nexus Line, LLC	Transfer Certificate #2 and Permit #1	\$ 26,311,000	\$ 2,631.10	
Montana-Dakota Utilities Co.	12-inch water pipeline project - Morton Cty	\$ 1,600,000	\$ 160.00	
Caliber North Dakota LLC	2.62-Mile Natural Gas Pipeline - McKenzie Cty	\$ 5,700,000	\$ 570.00	
Badger Wind, LLC	251.6 MW Badger Wind Project - Logan & McIntosh	\$ 360,000,000	\$ 25,000.00	\$ 36,000.00
Continental Resources, Inc.	8-inch NG Buddy Domindgo Pipeline - Williams Cty	\$ 3,550,000	\$ 355.00	
Ashtabula Wind III, LLC/ Otter Tail Power	Transfer - Certificate #17	\$ 140,000,000	\$ 14,000.00	
Basin Electric Power Cooperative	Pioneer Generation Station Ph IV -Transfer Certificate #150 & Permit #161	\$ 670,000,000	\$ 25,000.00	\$ 67,000.00
SCS Carbon Transport LLC	Midwest Carbon Express CO2 Pipeline Project	\$ 898,000,000	\$ 25,000.00	\$ 89,800.00
Tesoro High Plains Pipeline/Bakken Oil Express	Transfer - Certificate #150 & Permit #161	\$ 14,000,000	\$ 1,400.00	
Caliber Midstream Partners/Caliber ND	Transfer - Certificate #164 & Permit #176	\$ 1,800,000	\$ 180.00	
			<b>\$ 97,536.10</b>	

Target Budget Amount: 150,000  
Difference: (52,464)

\*Per NDCC 49.22.1-21 (4) & 49-22-22 (4)

- Every applicant under this chapter shall pay to the commission an administrative fee equal to one hundred dollars for each one million dollars of original investment, not to exceed twenty-five thousand dollars. The administrative fee must be deposited in the public service commission program fund.

**Solutions:**

- One time payment into the PSC program fund (emergency clause to create a beginning balance. Per NDCC 49-01-01.1 (3), once fund balance reaches \$1.1 million it will go to general fund)
- Increase the administrative fee amount (currently at \$100 for each \$1 million of original investment)
- Increase the \$25,000 maximum

23.0262.02002  
Title.

Prepared by the Legislative Council staff for  
the House Appropriations - Government  
Operations Division Committee  
April 4, 2023

Fiscal No. 1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 1, line 2, replace "sections 57-43.2-19 and" with "section"

Page 1, line 2, after "49-01-05" insert ", subsection 4 of section 49-22-22, and sections 49-22.1-21 and 57-43.2-19"

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

Page 1, line 4, after "fund" insert ", and siting process administrative fees"

Page 1, line 4, replace "and to provide for a report" with "to provide a transfer; and to declare an emergency"

Page 1, remove lines 14 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$9,991,488	\$930,538	\$10,922,026
Operating expenses	1,801,570	403,917	2,205,487
Capital assets	25,000	100,000	125,000
Grants	20,000	0	20,000
Abandoned mined lands contractual services	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	614,724	54,594	669,318
Specialized legal services	<u>420,000</u>	<u>0</u>	<u>420,000</u>
Total all funds	\$19,772,782	\$1,489,049	\$21,261,831
Less estimated income	<u>13,347,095</u>	<u>377,026</u>	<u>13,724,121</u>
Total general fund	\$6,425,687	\$1,112,023	\$7,537,710
Full-time equivalent positions	43.00	2.00	45.00"

Page 2, after line 19, insert:

**"SECTION 3. 2021-23 BIENNIUM APPROPRIATION - TRANSFER - PUBLIC SERVICE COMMISSION PROGRAM FUND.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$60,000, which the office of management and budget shall transfer to the public service commission program fund for the purpose of establishing a balance in the public service commission program fund, during the period beginning with the effective date of this Act, and ending June 30, 2023."

Page 2, remove lines 29 and 30

Page 3, remove lines 1 through 13

Page 3, line 17, replace "twenty-four" with "thirty"

Page 3, line 17, remove "eight"

Page 3, line 18, overstrike the first "hundred"

Page 3, line 18, replace "twenty-nine" with "thirty-five"

Page 3, line 19, replace "seven" with "two"

Page 3, line 19, remove "ninety-two"

Page 3, after line 22, insert:

**"SECTION 6. AMENDMENT.** Subsection 4 of section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

4. Every applicant under this chapter shall pay to the commission an administrative fee equal to ~~one~~two hundred dollars for each one million dollars of original investment, not to exceed ~~twenty-five~~fifty thousand dollars. The administrative fee must be deposited in the public service commission program fund.

**SECTION 7. AMENDMENT.** Section 49-22.1-21 of the North Dakota Century Code is amended and reenacted as follows:

**49-22.1-21. Siting process expense recovery - Deposit in special fund - Continuing appropriation.**

1. Every applicant under this chapter shall pay to the commission an application fee:
  - a. An applicant for a certificate of site compatibility shall pay an amount equal to five hundred dollars for each one million dollars of investment in the facility.
  - b. An applicant for a certificate of corridor compatibility shall pay an amount equal to five thousand dollars for each one million dollars of investment in the facility.
  - c. An applicant for a waiver shall pay the amount that would be required for an application for a certificate of site or corridor compatibility for the proposed facility. If a waiver is not granted for a proposed facility, the application fee paid must be allowed as a credit against fees payable under this section in connection with an application under this chapter for a certificate or permit for the proposed facility.
  - d. An applicant for a transfer of a certificate or permit shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
  - e. An applicant requesting an amendment to a certificate or permit, or certifying to the commission under subsection 3 of section 49-22.1-01 or obtaining siting authority under subdivision b of subsection 2 or subdivision c of subsection 4 of section 49-22.1-15, shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
  - f. The application fee under subdivision a, b, or c may not be less than ten thousand dollars nor more than one hundred thousand dollars.
  - g. ~~If an application fee is less than twenty-five thousand dollars, an~~An applicant may agree to pay additional fees that are reasonably necessary for completion of the site, corridor, or route evaluation and designation process.

2. Atf an applicant does not agree to pay additional fees reasonably necessary for completion of the site, corridor, or route evaluation and designation process, at the request of the commission and with the approval of the emergency commission, the applicant shall pay any additional fees as are reasonably necessary for completion of the gas or liquid energy conversion facility site, gas or liquid transmission facility corridor, or gas or liquid transmission facility route evaluation and designation process by the commission. The application fee under subsection 1 and any additional fees required of the applicant under this subsection may not exceed an amount equal to one thousand dollars for each one million dollars of investment in a proposed energy conversion facility or ten thousand dollars for each one million dollars of investment in a proposed gas or liquid transmission facility.
3. A siting process expense recovery fund is established in the state treasury. The commission shall deposit payments received under subsections 1 and 2 in the siting process expense recovery fund. All moneys deposited in the fund are appropriated on a continuing basis to the commission to pay expenses incurred in the siting process. The commission shall specify the time and method of payment of any fees and shall refund the portion of fees collected under subsections 1 and 2 which exceeds the expenses incurred for the evaluation and designation process.
4. Every applicant for a certificate of site compatibility, certificate of corridor compatibility and route permit, and transfer of a certificate or permit under this chapter shall pay to the commission an administrative fee equal to ~~one~~two hundred dollars for each one million dollars of original investment, not to exceed ~~twenty-five~~fifty thousand dollars. The administrative fee must be deposited into the public service commission program fund.

**SECTION 8. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. Transfer, deposit, and distribution of funds. (~~Effective through June 30, 2025~~)**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to ~~two~~three hundred ~~ninety-seven~~thirty-two thousand three hundred ~~sixty-two~~twenty-seven dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

~~**Transfer, deposit, and distribution of funds. (Effective after June 30, 2025)**~~  
~~All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.~~

**SECTION 9. EMERGENCY.** Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2008 - Public Service Commission - House Action**

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$9,991,488	\$11,948,043	(\$1,026,017)	\$10,922,026
Operating expenses	1,801,570	2,097,737	107,750	2,205,487
Capital assets	25,000	125,000		125,000
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	6,000,000	6,000,000		6,000,000
Rail rate complaint case	900,000	900,000		900,000
Railroad safety program	614,724	675,998	(6,680)	669,318
Specialized legal services	420,000	420,000		420,000
<b>Total all funds</b>	<b>\$19,772,782</b>	<b>\$22,186,778</b>	<b>(\$924,947)</b>	<b>\$21,261,831</b>
Less estimated income	13,347,095	13,988,401	(264,280)	13,724,121
General fund	\$6,425,687	\$8,198,377	(\$660,667)	\$7,537,710
FTE	43.00	47.00	(2.00)	45.00

**Department 408 - Public Service Commission - Detail of House Changes**

	Adds Funding for Salary and Benefit Increases <sup>1</sup>	Adds Salary Equity Funding for Elected Officials <sup>2</sup>	Remove Funding for FTE positions <sup>3</sup>	Removes Salary Funding for Funding Pool <sup>4</sup>	Adds Funding for FERC Contractor <sup>5</sup>	Total House Changes
Salaries and wages	\$164,835	\$20,520	(\$415,386)	(\$795,986)		(\$1,026,017)
Operating expenses			(12,250)		\$120,000	107,750
Capital assets						
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	8,656			(15,336)		(6,680)
Specialized legal services						
<b>Total all funds</b>	<b>\$173,491</b>	<b>\$20,520</b>	<b>(\$427,636)</b>	<b>(\$811,322)</b>	<b>\$120,000</b>	<b>(\$924,947)</b>
Less estimated income	70,952	0	(70,728)	(264,504)	0	(264,280)
General fund	\$102,539	\$20,520	(\$356,908)	(\$546,818)	\$120,000	(\$660,667)
FTE	0.00	0.00	(2.00)	0.00	0.00	(2.00)

<sup>1</sup> Salaries and wages funding is adjusted to provide for the 2023-25 biennium salary increases of 6 percent on July 1, 2023, and 4 percent on July 1, 2024, and for adjustments to health insurance premium rates as follows:

	General Fund	Other Funds	Total
Salary increase	\$105,444	\$73,017	\$178,461
Health insurance adjustment	(2,905)	(2,065)	(4,970)
Total	\$102,539	\$70,952	\$173,491

The Senate provided salary adjustments of 4 percent on July 1, 2023, and July 1, 2024.

<sup>2</sup> Funding is added for providing a salary equity increase for the Public Service Commissioners. The Public Service Commissioners' annual salaries are increased from the current level of \$117,610 to \$130,000 (10.5 percent) effective July 1, 2023. This funding is in addition to the funding of 6 percent added by the Senate.

<sup>3</sup> Funding of \$427,636, including \$356,908 from the general fund and \$70,728 from other funds, is removed for 2 FTE positions and related operating expenses:

	<u>FTE</u>	<u>Salaries and Wages</u>	<u>Operating Expenses</u>	<u>Total</u>
Legal assistant	(1.00)	(\$164,482)	(\$3,000)	(\$167,482)
Public utility analyst	(1.00)	(250,904)	(9,250)	(260,154)
Total	(2.00)	(\$415,386)	(\$12,250)	(\$427,636)

<sup>4</sup> Funding for new FTE positions and estimated savings from vacant FTE positions is removed as shown below. These amounts are available to the agency if needed by submitting a request to the Office of Management and Budget for a transfer from the new and vacant FTE funding pool.

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
New FTE positions	(\$365,030)	(\$138,602)	(\$503,632)
Vacant FTE positions	(181,788)	(125,902)	(307,690)
Total	(\$546,818)	(\$264,504)	(\$811,322)

<sup>5</sup> Funding of \$120,000 is added from the general fund for a Federal Energy Regulatory Commission (FERC) contractor to ensure reliable, safe, secure, and economically efficient energy for consumers at a reasonable cost.

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This amendment also:

- Adds sections to change Sections 49-22-22(4) and 49-22.1-21 to increase the administrative siting fee from \$100 to \$200 for each \$1 million of original investment and increase the maximum from \$25,000 to \$50,000.
- Adds a section to transfer \$60,000 from the general fund to the Public Service Commission program fund during the 2021-23 biennium.
- Adds a section to provide an emergency clause related to the \$60,000 transfer to the Public Service Commission program fund.



23.0262.02003  
Title.

Prepared by the Legislative Council staff for  
the House Appropriations - Government  
Operations Division Committee  
April 4, 2023

Fiscal No. 1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 1, line 2, replace "sections 57-43.2-19 and" with "section"

Page 1, line 2, after "49-01-05" insert ", subsection 4 of section 49-22-22, and sections 49-22.1-21 and 57-43.2-19"

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

Page 1, line 4, after "fund" insert ", and siting process administrative fees"

Page 1, line 4, replace "and to provide for a report" with "to provide a transfer; and to declare an emergency"

Page 1, remove lines 14 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$9,991,488	\$930,538	\$10,922,026
Operating expenses	1,801,570	403,917	2,205,487
Capital assets	25,000	100,000	125,000
Grants	20,000	0	20,000
Abandoned mined lands contractual services	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	614,724	54,594	669,318
Specialized legal services	<u>420,000</u>	<u>0</u>	<u>420,000</u>
Total all funds	\$19,772,782	\$1,489,049	\$21,261,831
Less estimated income	<u>13,347,095</u>	<u>377,026</u>	<u>13,724,121</u>
Total general fund	\$6,425,687	\$1,112,023	\$7,537,710
Full-time equivalent positions	43.00	2.00	45.00"

Page 2, after line 19, insert:

**"SECTION 3. 2021-23 BIENNIUM APPROPRIATION - TRANSFER - PUBLIC SERVICE COMMISSION PROGRAM FUND.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$60,000, which the office of management and budget shall transfer to the public service commission program fund for the purpose of establishing a balance in the public service commission program fund, during the period beginning with the effective date of this Act, and ending June 30, 2023."

Page 2, remove lines 29 and 30

Page 3, remove lines 1 through 13

Page 3, line 17, replace "twenty-four" with "thirty"

Page 3, line 17, remove "eight"

Page 3, line 18, overstrike the first "hundred"

Page 3, line 18, replace "twenty-nine" with "thirty-five"

Page 3, line 19, replace "seven" with "two"

Page 3, line 19, remove "ninety-two"

Page 3, after line 22, insert:

**"SECTION 6. AMENDMENT.** Subsection 4 of section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

4. Every applicant under this chapter shall pay to the commission an administrative fee equal to ~~one~~two hundred dollars for each one million dollars of original investment, not to exceed ~~twenty-five~~fifty thousand dollars. The administrative fee must be deposited in the public service commission program fund.

**SECTION 7. AMENDMENT.** Section 49-22.1-21 of the North Dakota Century Code is amended and reenacted as follows:

**49-22.1-21. Siting process expense recovery - Deposit in special fund - Continuing appropriation.**

1. Every applicant under this chapter shall pay to the commission an application fee:
  - a. An applicant for a certificate of site compatibility shall pay an amount equal to five hundred dollars for each one million dollars of investment in the facility.
  - b. An applicant for a certificate of corridor compatibility shall pay an amount equal to five thousand dollars for each one million dollars of investment in the facility.
  - c. An applicant for a waiver shall pay the amount that would be required for an application for a certificate of site or corridor compatibility for the proposed facility. If a waiver is not granted for a proposed facility, the application fee paid must be allowed as a credit against fees payable under this section in connection with an application under this chapter for a certificate or permit for the proposed facility.
  - d. An applicant for a transfer of a certificate or permit shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
  - e. An applicant requesting an amendment to a certificate or permit, or certifying to the commission under subsection 3 of section 49-22.1-01 or obtaining siting authority under subdivision b of subsection 2 or subdivision c of subsection 4 of section 49-22.1-15, shall pay an amount to be determined by the commission to cover anticipated expenses of processing the application.
  - f. The application fee under subdivision a, b, or c may not be less than ten thousand dollars nor more than one hundred thousand dollars.
  - g. ~~If an application fee is less than twenty-five thousand dollars, an~~An applicant may agree to pay additional fees that are reasonably necessary for completion of the site, corridor, or route evaluation and designation process.

2. At if an applicant does not agree to pay additional fees reasonably necessary for completion of the site, corridor, or route evaluation and designation process, at the request of the commission and with the approval of the emergency commission, the applicant shall pay any additional fees as are reasonably necessary for completion of the gas or liquid energy conversion facility site, gas or liquid transmission facility corridor, or gas or liquid transmission facility route evaluation and designation process by the commission. The application fee under subsection 1 and any additional fees required of the applicant under this subsection may not exceed an amount equal to one thousand dollars for each one million dollars of investment in a proposed energy conversion facility or ten thousand dollars for each one million dollars of investment in a proposed gas or liquid transmission facility.
3. A siting process expense recovery fund is established in the state treasury. The commission shall deposit payments received under subsections 1 and 2 in the siting process expense recovery fund. All moneys deposited in the fund are appropriated on a continuing basis to the commission to pay expenses incurred in the siting process. The commission shall specify the time and method of payment of any fees and shall refund the portion of fees collected under subsections 1 and 2 which exceeds the expenses incurred for the evaluation and designation process.
4. Every applicant for a certificate of site compatibility, certificate of corridor compatibility and route permit, and transfer of a certificate or permit under this chapter shall pay to the commission an administrative fee equal to ~~one~~two hundred dollars for each one million dollars of original investment, not to exceed ~~twenty-five~~fifty thousand dollars. The administrative fee must be deposited into the public service commission program fund.

**SECTION 8. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. Transfer, deposit, and distribution of funds. (~~Effective through June 30, 2025~~)**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to ~~two~~three hundred ~~ninety-seven~~thirty-two thousand three hundred ~~sixty-two~~twenty-seven dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

~~**Transfer, deposit, and distribution of funds. (Effective after June 30, 2025)**~~  
~~All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.~~

**SECTION 9. EMERGENCY.** Sections 3, 6, and 7 of this Act are declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**Senate Bill No. 2008 - Public Service Commission - House Action**

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$9,991,488	\$11,948,043	(\$1,026,017)	\$10,922,026
Operating expenses	1,801,570	2,097,737	107,750	2,205,487
Capital assets	25,000	125,000		125,000
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	6,000,000	6,000,000		6,000,000
Rail rate complaint case	900,000	900,000		900,000
Railroad safety program	614,724	675,998	(6,680)	669,318
Specialized legal services	420,000	420,000		420,000
<b>Total all funds</b>	<b>\$19,772,782</b>	<b>\$22,186,778</b>	<b>(\$924,947)</b>	<b>\$21,261,831</b>
Less estimated income	13,347,095	13,988,401	(264,280)	13,724,121
General fund	\$6,425,687	\$8,198,377	(\$660,667)	\$7,537,710
FTE	43.00	47.00	(2.00)	45.00

**Department 408 - Public Service Commission - Detail of House Changes**

	Adds Funding for Salary and Benefit Increases <sup>1</sup>	Adds Salary Equity Funding for Elected Officials <sup>2</sup>	Remove Funding for FTE positions <sup>3</sup>	Removes Salary Funding for Funding Pool <sup>4</sup>	Adds Funding for FERC Contractor <sup>5</sup>	Total House Changes
Salaries and wages	\$164,835	\$20,520	(\$415,386)	(\$795,986)		(\$1,026,017)
Operating expenses			(12,250)		\$120,000	107,750
Capital assets						
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	8,656			(15,336)		(6,680)
Specialized legal services						
<b>Total all funds</b>	<b>\$173,491</b>	<b>\$20,520</b>	<b>(\$427,636)</b>	<b>(\$811,322)</b>	<b>\$120,000</b>	<b>(\$924,947)</b>
Less estimated income	70,952	0	(70,728)	(264,504)	0	(264,280)
General fund	\$102,539	\$20,520	(\$356,908)	(\$546,818)	\$120,000	(\$660,667)
FTE	0.00	0.00	(2.00)	0.00	0.00	(2.00)

<sup>1</sup> Salaries and wages funding is adjusted to provide for the 2023-25 biennium salary increases of 6 percent on July 1, 2023, and 4 percent on July 1, 2024, and for adjustments to health insurance premium rates as follows:

	General Fund	Other Funds	Total
Salary increase	\$105,444	\$73,017	\$178,461
Health insurance adjustment	(2,905)	(2,065)	(4,970)
Total	\$102,539	\$70,952	\$173,491

The Senate provided salary adjustments of 4 percent on July 1, 2023, and July 1, 2024.

<sup>2</sup> Funding is added for providing a salary equity increase for the Public Service Commissioners. The Public Service Commissioners' annual salaries are increased from the current level of \$117,610 to \$130,000 (10.5 percent) effective July 1, 2023. This funding is in addition to the funding of 6 percent added by the Senate.

<sup>3</sup> Funding of \$427,636, including \$356,908 from the general fund and \$70,728 from other funds, is removed for 2 FTE positions and related operating expenses:

	<u>FTE</u>	<u>Salaries and Wages</u>	<u>Operating Expenses</u>	<u>Total</u>
Legal assistant	(1.00)	(\$164,482)	(\$3,000)	(\$167,482)
Public utility analyst	(1.00)	(250,904)	(9,250)	(260,154)
Total	(2.00)	(\$415,386)	(\$12,250)	(\$427,636)

<sup>4</sup> Funding for new FTE positions and estimated savings from vacant FTE positions is removed as shown below. These amounts are available to the agency if needed by submitting a request to the Office of Management and Budget for a transfer from the new and vacant FTE funding pool.

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
New FTE positions	(\$365,030)	(\$138,602)	(\$503,632)
Vacant FTE positions	(181,788)	(125,902)	(307,690)
Total	(\$546,818)	(\$264,504)	(\$811,322)

<sup>5</sup> Funding of \$120,000 is added from the general fund for a Federal Energy Regulatory Commission (FERC) contractor to ensure reliable, safe, secure, and economically efficient energy for consumers at a reasonable cost.

This amendment also:

- Adds sections to change Sections 49-22-22(4) and 49-22.1-21 to increase the administrative siting fee from \$100 to \$200 for each \$1 million of original investment and increase the maximum from \$25,000 to \$50,000.
- Adds a section to transfer \$60,000 from the general fund to the Public Service Commission program fund during the 2021-23 biennium.
- Adds a section to provide an emergency clause related to the \$60,000 transfer to the Public Service Commission program fund.