

2013 HOUSE APPROPRIATIONS

HB 1008

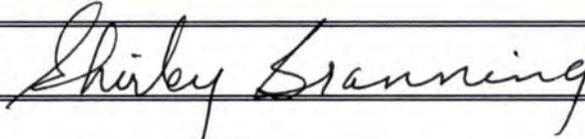
2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Roughrider Room, State Capitol

HB 1008
January 14, 2013
17149

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission; to amend and reenact section 49.01.05 of the North Dakota Century Code, relating to the salary of public service commissioners; and to authorize a transfer.

Minutes:

Attachment 1, 2

Chairman Skarphol: Called the committee to order to hear HB 1008. Representative Delzer will talk about this budget and his thoughts about how we should potentially analyze it. This budget will be handled uniquely.

Rep. Delzer: A companion bill is HB 1148 with an amendment. It gives you a different way to look at the bill that is the same as what we passed at the end of last session. The Governor's proposals are all listed as pre set proposals in an amendment. It doesn't take the power of the Governor away, the legislature always changes last time's budget. We are changing last time's budget. The Highway Patrol is being done by the Senate. It gives this section a chance to look at it this time, it was in Government Operations last time. We will take both to the floor but we will probably only pass one. It gives you a different way to look at it.
Questions were invited.

Chairman Skarphol: It changes how the presentation on the floor would likely take place. Is there another companion bill in the Senate with the same type of?

Rep. Delzer: It doesn't change.

Chairman Skarphol: What was put in in the Senate last time?

Rep. Delzer: Nothing and that is why I asked the Senate to do it.

Chairman Skarphol: It does not change the presentation today, it is more about committee discussion later on and whether we prefer one aspect or another.
I sent you an email with a link for the budget in bars. The Budget number for the Public Service Commission (PSC) is 408.

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Brian Kalk, Chairman of the PSC: Introduced HB 1008 and introduced Randy Christmann and Julie Fedorchak, Commissioner. Reviewed was the Attached testimony See, attachment # 1 PP. 1-4.

11.46

Chairman Skarphol: Enlighten us on what the requirements are on natural gas common carrier with regard to inspection of their lines.

Kalk: There is a protocol that is laid out for the number of inspections that you have to do. It has been hard to keep an individual because they like to move on to the private sector where they get more pay. It would be good to have more staff to keep up with the inspection protocol as the number of gas lines in the state increases. A second position with someone fully trained to keep on board in case we lose one and end up stopping the program.

Chairman Skarphol: You have had the authorization for one employee. Is your request for a second employee in here?

What type of inspections are we referring to? Do they have to have internal x ray machines run through them. What is required?

Kalk: I will have to get back to you on the specific questions. The most inspections are federal requirements dealing with the miles of pipeline you have with the frequency that they have to be inspected, much of it is annual or 18 months. Different requirements for different areas, such as meters. Most of the state requirements are those we've adopted from the federal level.

Chairman Skarphol: These are the Federal Energy Regulatory Commission (FERC) requirements?

Kalk: Yes, that's where a second position was recommended and it is included in our testimony. The gas companies in the state do a good job of making sure that they have their infrastructure in place, making sure that they have to do. Our staff has to review the documentation. We have 19 enforcement actions in the last two years and none before that time.

Chairman Skarphol: Provide us with the changes that FERC has required.

Kalk: That information will be provided. The Federal Pipeline and Hazardous Materials Safety Administration (PHMSA) came out and asked for a list of all clay piping, and we don't have any. They can be a problem when there is a disaster.

Vice Chairman Monson: You said there is an FTE in your optional request or is it the Governor's request?

Kalk: It is our request as well as the Governor's request.
Continuing with P. 5 and attachments 2 and 3.

18:14

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Chairman Skarphol: That is not included in the green sheet.

Kalk: Continuing with testimony.

Chairman Skarphol: What was the Governor's recommendation regarding the weights and measures?

Kalk: We could shift to a quality control program to privatizing of inspections.

Chairman Skarphol: Is there a more local resource for weights and measures?

Kalk: With service companies, there is the cost question. We should transition to an oversight program.

Chairman Skarphol: Have you put together a proposal to do that?

Kalk: We need to continue work on that.

Chairman Skarphol: Would you certify that company?

Kalk: We would.

23:07

With regard to legal operating fees and continuing with Attachment # 4 and describing each case. See PP. 6-8. We have attorneys on staff that take care of the cases. The Attorney General's Office takes care of these cases.

Questions?

Rep. Boe: What is AML?

26:25

Kalk: It is Abandoned Mines Lands, Bureau of Reclamation program. Continuing with the Weights and Measures Program PP. 9-

Chairman Skarphol: You collect about \$410,000 and the cost is about \$900,000.

Kalk: Yes, if all four inspectors are doing their job in a full biennium. We are at around \$250,000 collections because we have one less inspector.

Chairman Skarphol: If you were to adjust your fees so they would cover your costs, it would be more than a doubling of your fees to the parties affected.

Kalk: Yes. We have seen a migration to these service companies in areas where they are available. Discussing calibration, The big companies do it all the time but in areas where the service is not available it is a problem.

Chairman Skarphol: If you were to double your fees, how would that compare to private entities out there doing this work?

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Kalk: If we were to double we would still be about 1/4th of what the companies charge.

Chairman Skarphol: Could the private sector handle this area?

Kalk: If we need changes and there is a need to transfer to service providers.

Chairman Skarphol: You brought forward what the Governors recommendation is and do you have an optional package that you would like to have us consider? Are you leaving it as is within the budget?

Kalk: I would recommend that it stay in our recommended budget. We will continue to shift more and more of the inspections, we will shift to where we have a higher emphasis on a quality control so the owners are able to see what is coming their way?

Chairman Skarphol: Could you provide us with a transitional proposal?

Kalk: Yes.

Chairman Skarphol: We could inform the public of the proposed change.

Kalk: If that could be accomplished that fourth position in weights and measures would not be hired but we would continue to give more of a quality assurance with those three.

Vice Chairman Monson: I haven't found your three FTE, I found where you added the paralegal but where are you shifting that one from?

Kalk: We have asked for three FTEs.,the paralegal, pipeline safety, and a public utility analyst. The Governor's budget recommended two of those, but not the paralegal position. If we can get the \$300,000 for the paralegal needs we have, we will be fully staffed.

Chairman Skarphol: The front of the green sheet will provide clarification. Under # 2 it will clear up what is happening.
When I suggested a transitional period it could up to four years.

35:00

Kalk: Continuing with testimony, see PP. 11-12 The gas Safety Program.

Chairman Skarphol: Useful information for us would be what is required by the Feds and who has the oversight and what is your responsibility with the inspections?

Kalk: With inspections, I can't speak for the gathering lines exactly. The gathering lines are getting so big and we have to work with the companies.

Chairman Skarphol: You have requirements on pipelines such as the wall thickness of that pipe or the inspection that has taken place. Are there any on which you have very little oversight?

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Kalk: My concern is the emergency capability at the county level. It is 50-50. We don't have emergency response capability. I cannot answer definitively. At the county level, information is available.

Chairman Skarphol: There is some legislation proposed that would limit the number of trucks out there. Maybe your agencies should have discussions to see if something would be useful to have oversight.

Kalk: We could do that to meet the challenges. Power lines are becoming more of a challenge than pipelines.

42:45

Continuing with testimony, PP.12-20, Public utilities.

Chairman Skarphol:

What was the cost of that legal issue?

Kalk: We shifted that over to the sighting dollars. The current cases that we are dealing with, there are about \$50,000 of legal; fees that have been incurred since the beginning and that is our best guess for right now.

Chairman Skarphol: When you prevailed, who paid your legal costs? The Supreme Court did not assess costs against the agency that sued you?

Kalk: We did.

Chairman Skarphol: Has your agency been subject to any consent decrees?

Kalk: In the case of the Sierra Club and the Salazar case the PSC wasn't named in that case, we did request intervention in that case immediately.

48:57

Continuing with testimony PP.21-

Chairman Skarphol: Is there any way to make that bonding depended upon the percentage of the accounts payable versus normal annual operating?

Kalk: Yes, We can do financial auditing of the elevator and base the bonding on that amount rather than a straight line.

Chairman Skarphol: The bonding level would see a decrease or an increase in the bonding level.

Kalk: Most likely an increase, we tend to be on a low side of the bonding level as it is now. It might require more people to do that, because we have two full time inspectors right now.

Chairman Skarphol: Are there indicators that could predict potential problems that you could utilize in your bonding requirements?

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Kalk: Our inspectors could tell us which top ten elevators in the state are having low level insolvencies. We are tracking one right now, we want to work with elevators that are having problems.

Rep. Williams: You are staying static with 43 employees; you have added two gas pipelines and deleted two weights and measures. What is the rationale for deleting that?

Kalk: We have an increase in federal oversight, workload, miles of pipeline for the gas pipeline safety position and the public utilities position workload, making sure we have the right resources to process rate cases.

Rep. Williams: You cut two weight and measures inspectors.

Kalk: That was not our recommendation, that came back in the Governor's recommended budget. We wanted to add three positions, the Governor's recommended budget approved adding two and also taking away two of our positions. We will submit a transitional proposal to this committee and see how that plays out with future weights and measures inspectors.

Chairman Skarphol: Going to the green sheet, item 1, an additional \$17,900. Part of that is federal funds? That is a cost share deal.

Moving on to Item 3 adds funding for increased travel costs, addressing MS Peterson. You reflect a reduced amount for travel of \$106,000. The numbers don't work when you reflect an increase and you recommend a reduction.

Sheila Peterson, OMB Analyst: The green sheet is Legislative Council the question should be directed to Brittani. One program may have a decrease where others have an increase.

Kalk: In explaining the difference, there is a significant amount of travel that goes with that and could cause the number disparity.

Chairman Skarphol: If the requested budget and the present budget are the same, but the Governor's recommendation is down by \$106,927 according to Budget Analysis and Reporting System (BARS) and the green sheet are not compliant, \$66,000 which is federal.

Going on to item # 4 and 5 while Brittani figures that out. Looking at additional legal fees to grain elevators insolvency cases, so you are expecting additional revenue from the feds on that?

Kalk: There will be a federal match on that for the reclamation portion of that.

Chairman Skarphol: Item 5 provides funding for state employee salary increases. That is the Governor's recommendation for employees within the agency and some is federal..

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Brittani Reim, Legislative Council Analyst: It is related to the gas pipeline safety inspectors increased travel costs.

Chairman Skarphol: Item 3 would be related to increased travel costs related to the gas pipeline safety inspectors. Number 3 would be related to the increased employees added in item 2.

Reim: In IBARS it does say additional travel budget request based on increased state fleet rates for the 2013-2015 biennium.

Peterson: Notes from Tad Torgerson state that \$66,155 of which of which \$54,956 is from the general fund and \$11,195 from federal funds for increased travel costs as a result of increased state fleet rates. The agency request was for \$176,155. However, \$110,000 was related to the weights and measures program which would not be needed as a result of reducing the program to enforcement only.

Rep. Streyle: Why are the temporary salaries and overtime, why is that so much higher if there is not much demand? Why is there not an FTE instead of paying overtime to a bunch of temporary salaries?

Kalk: We have our seasonal inspectors for the Trans media Pipeline Company also called the A and R Company and we will do everything we can to avoid creating an FTE.

Rep. Streyle: Has there been an analysis on what these costs are comparing hiring FTE to what you are doing? That is \$22,000 plus dollars.

Kalk: We have not done an analysis on that, but could do that in the long term.

Rep. Streyle: That may not be necessary but it just seemed like a large number.

Kalk: It is getting the right people to come in and getting the right skill sets. We try not to ask for anymore FTEs. I have no other comments.

Randy Christmann, Public Service Commissioner: Introduced himself. One comment regarding AML, there is some confusion between reclamation and AML, we do active oversight over reclamation and the AML is a federal program and every coal mine pays a fee per ton and we get a good part of the funding for this from the federal government. It has to do with old abandoned mines from 1977 or earlier. That keeps the cave-ins from causing dangers.

Chairman Skarphol: How much does the federal government keep for indirect costs when they take these fees in and send it back?

Christmann: They do send enough out to pay for most of the cost of the program.

Chairman Skarphol: We are interested in what they keep.

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Christmann: If we could get what they keep we would be better off than what they send back.

MS Fedorchack: I am the most junior by one day. Commissioner Kalk covered our budget very well, Randy and didn't have much to do with the creation of this budget but in this last week, I think the budget is very strong it is just a little less than a 3% increase and the work load is increasing and the public is confident in what is going on and the hold even on FTEs and a slight increase is reasonable.

Todd Kranda, Attorney and Lobbist: Appearing for Alliance Pipeline, distributing testimony of Tony Straquadine, Manager. See Attachment # 2.
We believe that it is important and critical that they have that FTE fulfilled as the PSC has safety requirements.

Chairman Skarphol: Hearing no further testimony, **the meeting is adjourned.**

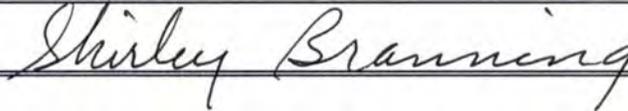
2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Roughrider Room, State Capitol

HB 1008
January 22, 2013
17495

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission; to amend and reenact section 49-01-05 of the North Dakota Century Code, relating to the salary of public service commissioners; and to authorize a transfer.

Minutes:

You may make reference to "attached testimony." **1**

Chairman Skarphol: Called the Committee to order to hear HB 1008. Because three of the committee members are absent and one of the absent members will likely be appointed to carry this bill on the floor, we will postpone this work until a later date.

Meeting Adjourned until further notice.

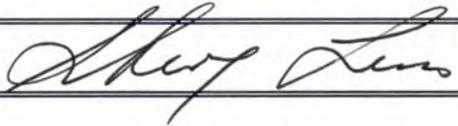
2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Roughrider Room, State Capitol

HB 1008
February 1, 2013
Recording Job# 18147

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission; to amend and reenact section 49-01-05 of the North Dakota Century Code, relating the to the salary of public service commissioners; and to authorize a transfer.

Minutes:

Chairman Skarphol: Called the committee to order to discuss personnel issues. All members are present. Referring to a handout presented by Brittani Reim, Attachment # 1.

Brittani Reim, Fiscal Analyst, ND Legislative Council: Explained attachment 1.

03:57

Representative Grande: If I look at the second one for Office of Management and Budget, human resource officer II; it says it was vacated on 12-12, vacant for 12 months and yet filed on 12-28. Am I misreading this somehow?

Laurie Steriotti-Hammeren, Director, Human Resource Management Services, ND Office of Management and Budget: That human resource officer II position was another comp analyst to support Ken Purdy's function; and it was vacated in December 2011. We advertised three times and we were able to finally fill it this year.

Ken Purdy, Compensation Manager, Human Resource Management Services, ND Office of Management and Budget: See attachments 2 and 3.

10:48

Chairman Skarphol: Is this an attempt to get to 100%?

Ken Purdy: The process uses that market policy point as the control point in the range. It doesn't mean that we want to pay all of our employees at market policy point. It means that that is the reasonable market level and employees should be dispersed from minimum to that point based on their hiring, progressing, gaining experience and performance should be the primary basis for moving beyond the market policy point.

Chairman Skarphol: That is a change to go to that goal of 100%.

Ken Purdy: We've had midpoints at 95%.

Vice Chairman Monson: Are there instances where they are higher than 100%? If so, where do they show up on here?

Ken Purdy: There are instances where we've had to approve a hiring rate above the midpoint. The administrative code provides that agencies are encouraged to hire in the first quarter of the range, they're allowed the authority up to the midpoint of the range. If they need to go beyond the midpoint, they need approval from our office.

Representative Grande: In the instance where you have a long term employee with a high range, do you pay replacement at the level at which she retires?

Ken Purdy: If you're hiring someone from outside with extensive experience, you have to take that into consideration. That's one of the things we look at; if an agency requests to hire beyond midpoint or market policy point.

Representative Grande: Do we require them to hire from inside first?

Ken Purdy: That's not a requirement; we do encourage it.

Ken Purdy continued with his explanation.

17:59

Chairman Skarphol: If you compare PSC to all categories, PSC has been in a better position than the average state government agency. Is that correct?

Ken Purdy: I think some of their turnovers have allowed some promotions and opportunities for them to get employees moved into the range; they also have some of their engineering, science, utility analyst positions, where they've had to be pretty aggressive and competitive.

Chairman Skarphol: It is a fair statement to say that the PSC does represent an above entity compared to the rest of them.

Ken Purdy: They're better in the first quartile than the average; but, in effect they have 78% below the market policy point, where the statewide average is 73%.

Chairman Skarphol: We suggestions that the decision to go to 100% is something that we should be reconsidering. Could you prepare a document with six columns that would reflect the effects of being at 95% versus 100% on an agency for us?

Ken Purdy: It can be done. If the ranges were set going forward at 95% of market, we would have 63% below the market policy point. But again, there would still be 73% of employees below the market point.

Representative Dosch: Can you give me an example. If there is a position and the salary range is \$40,000-\$50,000; would the midpoint be \$45,000 and what would be market policy point?

Ken Purdy: The midpoint is simply the middle of the range. The study recommended a variation of that and suggested changing the terminology to market policy. At the same time, the study recommended that our minimums should be 80% of the market policy point. Our past practice has been that our minimums have been 75% of the midpoint.

Chairman Skarphol: So market policy point would be the \$45,000 that used to be the midpoint. Is that correct?

Ken Purdy: At the present time it is. Our ranges have been from 75% of midpoint to 125% of midpoint in the past.

Chairman Skarphol: So with the new reference of market policy point, it's 80%. What's the upper one?

Ken Purdy: One hundred twenty-five percent.

Chairman Skarphol: So the top still stays at 125%.

Ken Purdy: They recommended keeping the top at 125%. Now as we implemented it, on July 1 2012, we couldn't afford to go to 80%; so they are still 75%. At the present time, the ranges are still 75% of the market policy point and the market policy point is also the midpoint.

Chairman Skarphol: If you could afford to go to 100% versus 95%, why was that doable; but, the shift from 75% to 80% was not?

Ken Purdy: Because of those 73% or more in the bottom half of the range, many are very close to the minimum. So raising the minimum another 5% would have cost a lot more to comply with the new ranges July 1, 2012.

Chairman Skarphol: But had you stayed at 95%, what would have been the effect of going to 80%?

Ken Purdy: It would have been a wash.

Representative Dosch: What are we saying if we say, the goal is 100%? Does that mean 100% of the people are going to be at \$45,000.00 or 100% at \$50,000.00? Using this example, what is 100%?

Sheila Peterson, Fiscal Analyst, ND Office of Management and Budget: In order for \$45,000.00 to be the market policy point, the bottom has to be \$33,750.00 and the top of the range at 125% needs to be \$56,250.00.

Representative Dosch: So if our goal is to be at 100%, what number is 100%?

Sheila Peterson: \$45,000.00 is the market. To pay people throughout the range based on their years of experience, performance and that type of thing; we're trying to compare them to where the market is, which is the \$45,000.00

Representative Dosch: In this scenario, if you say this agency, their average score is 100%; it would mean that their average of what everyone is making would be \$45,000.00.

Ken Purdy: If they were all in the same range, yes.

Chairman Skarphol: You could say all of them would be at the midrange or market policy point at every other quartile? Would you say that's 100% then?

Ken Purdy: That would mean that red and green lines would top out at 50%; and the purple and blue would extend down to the 50%. So 50% of your employees would be below and 50% above approximately.

Representative Grande: So we don't care when we're setting salary, qualification, years; we throw that out; and we just do 50%.

Ken Purdy: Not at all. The market policy point gives us a measuring point to determine what's an appropriate level of pay. The goal is to hire someone in the lower half of the range; preferably the lower quarter. As they gain experience we want to move them to the market policy point. They may reach that market policy point; movement beyond that point is only based on performance exceeding standards.

Chairman Skarphol: The recommended goal is 80%. There are a lot of employees in the 75% to 80% range.

Lori Sterioti-Hammeren: There are fewer people in that 3rd quartile; we have 73% below the market policy point.

Chairman Skarphol: Does that take into account strictly the salary they're paid; without any consideration to benefits?

Lori Sterioti-Hammeren: No, absolutely not. The Hay group did a review of benefits as well as salary.

Chairman Skarphol: Based on a policy that some people might think conservative; was the comparison apples to apples, as far as the benefits package?

Ken Purdy: The Hay Group used some of their standard methodology in measuring markets to apply the analysis of benefits. The Hay Group did make the statement that the benefits are very close to market.

Chairman Skarphol: One other aspect of the benefit package I haven't heard you mention is job security. Typically, if you go to work in state government, if you do your job; you're pretty secure in that job. Was it a topic of discussion?

Ken Purdy: I don't think it's a component that looked at. I don't know how you would quantify that; and there are at least 82 people in 2012 that would question the job security.

Representative Grande: They said our retirement plan is equal to the private sector's retirement plan?

Ken Purdy: Yes.

Representative Grande: The Hay Group has said that defined benefit is equal to or the same as 401K?

Ken Purdy: In their analysis of the value of the benefits.

Representative Streyle: In the retirement plan for the state, they're paying 2%. So to say those aren't benefits, it's almost laughable.

Ken Purdy: I don't think the comment was that they aren't benefits; but, I think in their overall analysis of market, they found the benefits comparable.

Representative Streyle: The whole premise of the Hay study; leaving that out makes this a moot point as far as the market. I'm not going to support any of it.

Ken Purdy: The compensation study did not leave it out. They conducted their standard analysis and those were their findings.

Ken Purdy went on to explain Attachment 3.

Chairman Skarphol: You reference the first and second quartile; you don't reference the 3rd and 4th quartile. Am I correct in assuming it's anticipated that the people in the 3rd and 4th quartile will realize either a 3-5% increase; and that the people in the 1st and 2nd could get to the 3-5% if they've really been successful? Could they get more than that based on exceptional service?

Ken Purdy: An employee who's in the 1st quartile could get 4%; if they're a superior employee they could get an additional 5%, so they could get 9%.

Chairman Skarphol: Those individuals in the 3rd and 4th quartile should not expect more than 5%?

Ken Purdy: Correct.

Representative Grande: You've had a high achiever in the 4th quartile, now what happens to me?

Ken Purdy: Unfortunately, even if you're a superior performer, all you're eligible for would be the 3% that the structure adjusts. At 125% of your market value, you're being well compensated. So, there does reach a maximum value.

Representative Grande: Unless a change to a new job above and beyond?

Ken Purdy: Correct.

Representative Grande: So we're trying to get as many of them to the \$36,000.00?

Ken Purdy: We're trying to get to a point where we're centered the \$4,500.00. Where an employee with good experience, fully learned the job, fully proficient in the job and doing everything that's expected of them; would hang around that \$4,500.00 mark. Newer employees and lesser performing employees would probably lag below that; the superior performers would move into that \$4,500.00 to \$5,250.00.

Representative Grande: What's the 80% at that \$36,000.00?

Ken Purdy: The 80% was the recommendation of the study as the starting point instead 75%.

Representative Boe: What is the benefit of moving up the 85%? There will be difficulties advancing these employees in that range aren't we?

Ken Purdy: With a 75% starting point you are handicapping the hiring process. There are many agencies that aren't able to hire at that 75% mark; they're trying to hire further into the range. That's causing issues with their experienced employees; issues with fairness and equity. Our calculations don't cover, in the coming biennium, moving that minimum to 80%. I think we're going to have to live with 75% for now.

Representative Boe: If we would leave the range as the same as 75% and the 125%; and just move the \$45,000.00 up, that's what we were talking about that it was too expensive? We can't do that?

Ken Purdy: It reflects that. The setting of the salary ranges isn't creating the compression; the salary ranges reflecting the market and the market is causing the compression.

Chairman Skarphol: If you were in a perfect situation and able to do what the Hay study recommended; you would go to the 100% and the 80% as the minimum? Is that what you're suggesting to us? If you were to do that the cost associated with it was too high; therefore, you had choose one or the other as the most highly prioritized and you chose the 100% reference versus the 95% and left the minimum at 75%.

Ken Purdy: Exactly.

Vice Chairman Monson: What moves that \$45,000.00? Every July 1 those numbers jump by 3%. Did you say that? So you're not really looking at the market?

Ken Purdy: We are not redoing the entire market study every year. Standard practice is to do that periodically; and in the interim adjusting to cover the movement in the market. Discussion with the Hay Group suggested the movement around the nation is 3% but less

than 1% in government nationwide. They felt we should mirror the national market; because of the aggressive economy in North Dakota.

Vice Chairman Monson: When the economy declines does that midpoint ever come down or do we always ratchet it up by 3%?

Ken Purdy: I've never seen a situation with the reduction. Colorado had a very strict statute of more direct match to market; job by job, which was a horrendous maintenance issue. In some cases, they lowered ranges. If it's not justified the range wouldn't move.

Representative Williams: The Hay study only works if you have the dollars to make it run.

Ken Purdy: This is a confirmation that we have been chasing the market for many years. This is a significant move forward. If the market does stabilize, the left hand side of the table would reduce; at the same time, the right hand side would reduce. Those numbers in that table will vary depending on the analysis of the situation; and the specific situation that we're in at the time.

Representative Streyle: On OMB's website, under state employee benefits, if you put in \$50,000.00 salary, 12 hours a month; which would be about a 10 year employee, the percentage of the benefit cost is 48% of the salary. It lays it out line by line. Why can't we incorporate what we think is a benefit into this and then massage these numbers a little; as opposed to saying this is what the Hay Group said.

Ken Purdy: That's your policy decision.

Vice Chairman Monson: The Hay Group didn't give it the full value in my estimation.

Ken Purdy: I don't think they discounted the value of that retirement package. I certainly recognize the value of our retirement package; but, they measured it against other employers. We compete against a wide range of employers; and those engineering firms, the energy companies are part of our market also. We can't discount the value of the benefit packages they provide.

Chairman Skarphol: Recessed the hearing.

Chairman Skarphol: Reopened the hearing.

Ken Purdy: Further explained attachment 3.

Chairman Skarphol: This agency is at 97%, you're projecting that they'll 100% and then 101%?

Ken Purdy: That's part of the focus of this process; the compensation philosophy passed and implementation statute passed last session in HB1031. This bill directed the identification of agency's relationship to market. We're identifying that and finding the agencies that furthest from their market, those closest to market and the allocation is varying among the agencies.

Chairman Skarphol: The allocation is intended among the agencies to get them in 2013 to the 100% mark?

Ken Purdy: Closer.

Chairman Skarphol: In 2014 is it the intention to have them at 100%; for those that don't make in 2013?

Ken Purdy: The proposal in the budget won't get all the agencies to that point.

Ken Purdy continued with his explanation.

Chairman Skarphol: On this chart they would be in the green section?

Ken Purdy: Correct.

Chairman Skarphol: This document is provided to the agency and this is what the agency can do?

Ken Purdy: Yes.

Chairman Skarphol: Do they file a document similar to this that tells you what they did do?

Ken Purdy: The reporting on what they did do would come through the payroll system and the coding into the July 1 increases.

Chairman Skarphol: Do you just retrieve that to make sure that things have been properly reported to you?

Ken Purdy: It's not unlike what we've given the agencies in the past; market equity pools, they have made slight modifications where appropriate. As we've worked through that with the agencies, they work those models appropriately. Our experience has been very good in this process.

Chairman Skarphol: You said you adjust by 3% the market policy on an annual basis. If that were 2%, that ratio of .94 would be higher because the market policy point would be lower.

Ken Purdy: Correct.

Chairman Skarphol: What provides for someone that an Administrative Assistant II to go to the Administrative Assistant III category?

Ken Purdy: That requires an increase in job responsibilities.

Chairman Skarphol: That's a decision the agency makes?

Ken Purdy: That's a decision that the agency and we make. We assign the classifications based on the duties and responsibilities of the job.

Vice Chairman Monson: Asking for clarification on Administrative Assistant II and III on lines 2 and 3.

Chairman Skarphol: The 4% market policy position increase indicated here; is that because they're low in their compact ratio or is that because they're performing well?

Ken Purdy: It's because they're low.

Chairman Skarphol: So the farther they from that midpoint/market policy point, the higher percentage of increase they'll get if they're in the first or second quartile.

Ken Purdy: Yes.

Chairman Skarphol: Closed the hearing.

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Roughrider Room, State Capitol

HB 1008
February 7, 2013
18480

Conference Committee

Jocelyn Gallagher

Explanation or reason for introduction of bill/resolution:

Minutes:

Handout 1

Chairman Skarphol: They (PSC) has three IT people?

Rep. Streyle: I have no issues; it is such a small staff some of the bigger agencies are of more concern.

Chairman Skarphol: You wanted to talk about this weights and measures thing?

Rep. Streyle: (4:20) Discussed weights and measures thing. He provided the document they presented to him.

Chairman Skarphol: (6:03) We have the issue of not wanting to add FTEs to state government. Anyone remember more about the public utility analyst than I do?

Sheila Peterson: (8:00) She provided narrative in terms of public utility analyst. Discussion follows within the committee.

Rep. Monson: Does 900,000, waiting in wings if there is a need of rail complaint issue does it needs to be re-authorized?

Chairman Skarphol: (10:48) this is the budget we have the other version of 1148. This is how we may want to do budgets. Are you comfortable with the budget as presented other than the discussion about the potential lack of enough work force?

Rep. Streyle: My other concern is not enough in legal fund if 900,000 for a RR I think we should have at least .5 million sitting in the fund for all this other stuff or consolidate the two and say it can be used for both.

Rep. Monson: (12:33) Discussion on the amount of money reflected on sheets to cover law suits and if one fund for all.

Chairman Skarphol: (17:20) What do we want to put in there for legal?

Rep. Monson: We need some substantial money set aside, not necessarily spend it just have it sitting there.

Chairman Skarphol: Is there a logical source of revenue sitting in a coal trust fund that could be available?

Sheila Peterson: We do have some coal impact funds do not know parameters are of those dollars.

Rep. Boe: Should we be looking at putting fund in AGs office?

Chairman Skarphol: (22:08) I don't know how we can accomplish without making the money just a big pool of funds accessible. Any thoughts on that? Under whose purview do we leave it?

Rep. Dosch: The AGs office would be the at logical spot for that.

Chairman Skarphol: Brittani, why don't you check with other entities out there and we should look at consolidating into a single fund that would be under the AG office and give them some authority to access those dollars.

Rep. Monson: I would like to have someone from the PSC to weigh in on that too.

Chairman Skarphol: Anything else on this?

Chairman Skarphol: Brittani, you're making notes to what we want on amendments?

Chairman Skarphol: (26:53) Discussion and thoughts on Park and Rec. in regards to the dock.

Rep. Dosch: If we authorize purchase such this, Parks and Rec should provide business plan that says what their intentions are if they purchase it for 450,000?

Chairman Skarphol: Not out of line to ask for a business plan.

Rep. Martinson: Can we have those amendments drafted, for appraised value but not more than 450,000?

Chairman Skarphol: Call it good for today.

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Roughrider Room, State Capitol

HB 1008
February 11, 2013
Job18727

Conference Committee

Kirstie Hetzler

Explanation or reason for introduction of bill/resolution:

Public Service Commission.

Minutes:

Chairman Skarpol: Opens. Public Service memorandum reviewed, what are they suggesting in this document (ended 8:30)

Rep Streyle: What I understood was for it to go to quality assurance on the large scale, simply go and oversee and not really be doing any of it and stay with the small scale.

Chairman Skarpol: In other words to oversee the private contractors for the large scale stuff and stay with the small?

Rep Streyle: I understand it would be difficult to do the small and the large, the State is doing a large percentage of the small ones.

Chairman Skarpol: Reviews green sheet.

Rep Streyle: The top part is the existing system that they have right now, and what the cost is to the general fund or to their budget. The bottom part is increasing fees to \$23 for the small and going to quality assurance for the large. (4:15)

Chairman Skarpol: I am not clear on the numbers they have here?

Sheila: It is going from 4 FTE down to 3 and increasing some of the fees.

Chairman Skarpol: I am not getting the math to work, what is the 394 at the very bottom?

Rep Streyle: The top part is the cost and increase in the fees on the revenue side that would be the estimated revenue. So the net cost of the general fund would be 394 under the current budget, it 667 thousand so you would be cutting that. But we need to compare this to what the Governors recommendation is for 2 without the revenue increase.

Chairman Skarpol: What is the current cost per device, this is going to increase it to 25, what is the current cost?

Rep Streyle: The current cost is \$11 for the small ones and they are proposing to go to \$23 which would cover the positions and if we go to \$25 it would also cover the administrative support half time.

Chairman Skarpol: What are the thoughts of the committee?

Rep Streyle: I don't see a problem with the two new employees.

Rep Grande: I think it is all over the board. Should we consider a pool that all the agencies take from or are we going to keep putting pockets all over the place?

Chairman Skarpol: What is the source of the 64 thousand listed as other funds?

Rep Boe: How much is going and to which entity is it going to and shouldn't some of the bonding cover these legal costs (12:

Sheila: The \$64,000 is federal funds so my guess would be for the abandoned mine land since that is federally funded.

Chairman Skarpol: What about Christmans testimony?

Rep Grande: Page 3 of the Christman's testimony (14:12)

Chairman Skarpol: Listing of lawsuits is on the last page.

Britany: Referrals to an email sent to Chairman. There has been no formal discussion about a pool of money in the Attorney Generals budget.

Chairman Skarpol: From last Friday?

Rep Grande: It would be good to know what we have set aside in all the various budgets if we are going to pool it.

Rep Martinson: It was mentioned that taking all the abortion bills to the Supreme Court would be 5 to 15 million.

Rep Grande: You never know, every piece of legislation we pass could go into litigation.

Rep Streyle: I think maybe a pool of 5 to 10 million should be the way to go but I don't know what type of language would be needed.

Chairman Skarpol: Britany, could we see if Alan Knutson would be available to comment to us on that concept. We will leave it has is but revisit soon.

Rep Boe: I understand most of this money would go to the abandoned mine?

Chairman Skarpol: I don't disagree with you. The eventual settlement of the State employees salary issue needs to be discussed also.

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Roughrider Room, State Capitol

HB 1008
February 13, 2013
18908

Conference Committee

Deborah Gallagher

Explanation or reason for introduction of bill/resolution:

"Click here to type reason for introduction of bill/resolution"

Minutes:

Discussion on Public Service Commission

There have been no formal proposed amendments.

Chairman Skarphol: Sheila and Brittani, we will make the assumption that you will make the appropriate line item changes required based on the salary package that we approved yesterday as far as the number of employees roll up and you will reflect that on that cheat sheet that you're going to prepare for the carrier of the bill.

Sheila Sandness, LC: It would be on the amendment, the statement of purpose of amendment. If after you see the statement and there are questions we can put together some additional information.

Chairman Skarphol: Went over information with various documents in regards to discussion on the PSC. One issue to discuss is whether or not we deem it appropriate to take the two people away with regard to weights and measures or do we wish to do what was suggested by the PSC.

Rep. Streyle: They seemed fairly concerned the two won't be able to adequately do it and not knowing if they can make it work with two or not. I don't care either way on the deal.

Chairman Skarphol: When we take these bills to the floor, we have required the agencies address whether or not they are in compliance with their audit reports. I think it would be appropriate if the outset of any budget brought forward on our part to comment on whether or not they've complied with those audit recommendations. In case of PSC, I feel it is appropriate that we comment on it because it is a dictate of our assembly that we address any audit findings.

Rep. Grande: What we were going to do with their fund that they were asking for, the Governor has 150, they were asking for 300 but there was also comment to a million

dollars for this lawsuit fund and if we are going to move to a pooling process or deal with it at a later time?

Chairman Sharphol: That is a decision we have to make whether or not we want to change the governor's recommendation or simply comment on it in the presentation and leave it as it is. Do we want to take any action to change that, increase that?

Rep. Streyle: I think it is low but makes more sense to create a pool.

Chairman Skarphol: We can do that in the second half.

Rep. Boe: They don't need enough \$ to bring to these cases to fruition just enough to get it going. I think a pooling idea is worth investigating.

Chairman Skarphol: Don't recall a number of suits PSC was involved in. Total amount may be significant, don't know what they need access to.

Rep. Streyle: There is 9 of them as of Jan 18, does this someone from suing? If having a pool of money was a deterrent, I would support putting it in the actual budget.

Chairman Skarphol: No reason why that can't be a discussion when this bill is presented to the full committee. Let's just leave the existing number in place and discuss in full committee as to the appropriateness of adding our creating that pool.

Chairman Skarphol: Continued discussion on PSC items; one-time funding, loss of federal funds, emergency clause, anybody have an issue with that?

Rep. Streyle: We can put emergency clause on that specific just one line item for that?

Chairman Skarphol: If emergency clause fails on the floor it just goes away. Sheila, we can do that, can we not?

Sheila Sandness: You can reference a specific line item to be declared an emergency.

Chairman Skarphol: The rest of the bill would not be an emergency just that particular item.

Rep. Streyle: I think that's appropriate then.

Chairman Skarphol: So we want an amendment to do that.

Rep. Streyle: I'll adopt for an amendment that they shall transfer their hardware or servers to the data center.

Chairman Skarphol: I think the terminology we need is to transfer it to ITD secured data center. That is the correct terminology for purposes of that amendment.

Chairman Skarphol: We have a motion to make that transfer, second by Rep. Dosch.

Rep. Martinson: What costs are involved with taking a server out and moving it to another building?

Rep. Streyle: No, they will incur a little bit of fee for rental of space.

Chairman Skarphol: We have a motion to require that PSC move their hardware to the ITD secured data center, we have a second. All in favor, say I, opposed same sign, motion carries.

Chairman Skarphol: So we have that motion on this budget, we need a motion with regard to the public employees pay package.

Rep. Martinson: If we adopted that in the full committee do we need to put it on every single one of these bills?

Sheila Sandness: I'm not really sure but I guess I'm thinking if the full house adopted that it would be fine not to have to go through it on each one of these.

Chairman Skarphol: Can you check on that, what we did was put it on OMB and I'm not sure the motion was it would be applied to every budget, so we need to verify if that's the case otherwise we can do it in this subsection, just make a single motion and it would be applied to all the budgets we move out of this subsection.

Chairman Skarphol: We have the movement of the ITD equipment, any other issue with regard to this budget? We decided we're going to leave the FTE issue alone as far as the weights and measures. I don't have any other notes. Sheila do you have anything?

Sheila Sandness: Was there a vote on the emergency clause or was that something she was supposed to draft?

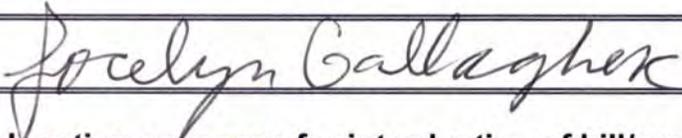
Chairman Skarphol: We did a voice vote.

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Roughrider Room, State Capitol

HB 1008
February 18, 2013
19137

Conference Committee



Explanation or reason for introduction of bill/resolution:

Public Service Commission

Minutes:

Attachments 1, 2

Chairman Skarphol: We did make some changes on this one.

Brady Larson, LC: Brittani did make a notation that there was an amendment passed to transfer servers to an ITD secure data center.

Rep. Streyle: We talked about adding the emergency clause on the FTE for the pipeline inspector.

Chairman Skarphol: Yes, we didn't take action on it. Do you want to make a motion to do that?

Rep. Streyle: I make a motion we put the emergency clause on that section of the bill, the hiring of the gas pipeline safety inspector. Second, Rep. Monsoon. Voice vote, motion carries.

Chairman Skarphol: All of you should have a copy of amendment 1001. We talked about the civil penalties assessed because we increased them in here. I asked we look at civil penalties. I asked Legislative Council to draft this amendment so we get a better impression of where and how those civil penalties are assessed. I would ask we change the amendment to say shall consider studying rather than shall study.

Chairman Skarphol: We have a motion by Rep. Martinson to amend for the study and have it say shall consider studying the civil penalties. Second by Rep. Streyle.

Rep. Grande: Is this a good place to consider putting increasing the law suit money?

Chairman Skarphol: The right place to have that discussion is in full committee and probably in AG budget. Let's take care of this motion first. Voice vote, motion carries.

Chairman Skarphol: I asked you to carry this Rep. Streyle. You did get us some information with regards to the weights and measures situation. Would you rather wait with that discussion with the Senate?

Rep. Streyle: Yes. (4:43) Provided information on the situation.

Chairman Skarphol: Anything else on this budget, pretty much unchanged. Did you want to do anything in regard to the request, did they not leave the legal fee fund at 150 and didn't he ask for 300, is that correct?

Sheila Peterson, OMB: Yes, they asked for 300 and it was left at 150.

Rep. Monson: Found notes on pooling money for legal fee and filing law suits.

Chairman Skarphol: A better venue maybe in full committee on the AGs budget.

Rep. Monson: (7:07) Discussion on notes he found on about having a 2nd FTE in regards to Brian Kalk's testimony, gas safety program.

Sheila Peterson: (8:32) the only discussion relative to federal dollars was that they were thinking perhaps there would be additional law suits or legal action relative to the abandon mines but those legal fees would be paid for with federal dollars.

Chairman Skarphol: (9:13) This is where we have 1148 (meant 1008) as well and when we take action on this bill we could just as well take action on 1148 so we get that cleared off our agenda as well. Any more on PSC? If not do we have a motion.

Rep. Streyle: In the capital assets they had some disk upgrades, is that something we want to take out? Maybe that would allow for some of that equipment to be moved into ITD as well.

Chairman Skarphol: Did you find that in the letter we received from Ms. Ilena, is that where you saw that, Rep. Streyle?

Rep. Streyle: I think that was in page 2 of Randy Chrisman's testimony. This would've been on HB 1148 though.

Chairman Skarphol: (10:40) looked at testimony; those 4 items reflected are all IT equipment? (attachment 1)

Rep. Streyle: I make motion we move the disc upgrade and GIS server out of there.

Chairman Skarphol: Do we have a motion to remove 37,500 dollars from their capital assets. Second by Rep. Monson. Voice vote, motion carries.

Rep. Streyle: Do pass as amended, second by Rep. Grande.

Chairman Skarphol: Motion passes, 8-0-0

A vote on HB 1148 is at 14 minutes, 21 seconds on this recording

Chairman Skarphol: HB 1148 obviously we can't pass two budgets. Streyle is carrying PSC. We need a motion on 1148.

Rep. Streyle: I move a do not pass.

Chairman Skarphol: A motion for a do not pass, second Rep. Monson, discussion. We'll have to have continuing conversation about the format.

Chairman Skarphol: We'll have the clerk take the roll on a do not pass on HB 1148. 8-0-0.

Rep. Streyle: Would you want me to carry that as well and stack those, is that your plan?

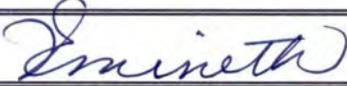
Chairman Skarphol: That's what we'll do is put them together.

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Committee Roughrider Room, State Capitol

HB 1008
2/25/13
19420

Conference Committee



Relating to the salary of public service commissioner and to authorize a transfer.

Minutes:



Chairman Delzer: This is the same budget as 1148. I have got 1002 HB 1008. We'll do them both on the floor, send with do pass we may need to have this killed because we don't need the senate over the senate. We will explain what we do on the floor.

Rep. Streyle: I move HB 1008 to HB 1002

Rep. Skarphol: seconded amendment 1002, the amendment is the same of course, introduces the amendment.

Chairman Delzer: Are those general funded or by fees?

Rep. Streyle: Partially by fees that was one of the concerns that the fees were to low.

Chairman Delzer: Did it make the adjustment, if they went down or did it leave them at the same split as when they were 4?

Rep. Streyle: I'm not sure.

Sheila Peterson: The fees that are collected go into the general fund and the weight and measures section is funded from the general fund.

Rep. Skarphol: If you have half as many people and do half as much work and collect half as many fees so the ratio will not change as to the level of special funding for those employees. The dept. would like to have one more we anticipating that the senate will do that which would be an issue in the conference committee to be resolved along with how to adjust the fees.

Chairman Delzer: These are the same ones that do the gas stations, as well as the elevators?

Rep. Skarphol: Yes, they stop everywhere and do all scales, with the exception of the larger contractors that do the larger scales.

Rep. Streytle: Their proposal for the third one would be to increase the fee and then go on the large scale to the equality insurance.

Chairman Delzer: Right now any of the large ones can hire some else to do it.

Rep. Pollert: At a higher price.

Rep. Nelson: In some situations they have community owned livestock scales that the commission does not certify if it was installed by an out of state firm.

Chairman Delzer: That is surprising.

Rep. Nelson: It's something to bring up to the commission.

Chairman Delzer: Most of them are Fairbanks----- and others which are all out of state.

Rep. Nelson: It is the installation of the scales.

Chairman Delzer: It was probably a firm that had not gotten permission to work in N.D. from the PSC.

Rep. Kempenich: I think the Public Service in this area is not really Public Service anymore.

Rep. Brandenburg: Oversight on the larger scales, what does that mean?

Rep. Pollert: For a grain elevator, the PSC used to come in and certify the scales.... We have the option to have an outside person come in and they have an agreement with the PSC that they would send in their scale tests and if you pass the scale tests then everything is fine. It will cost the elevator more money.

Rep. Skarphol: The commission does the limited capabilities and they would rather provide the over site over the large scales since they do not repair them to begin with. It is a situation where if your scale is fine, you'll pay more.

Chairman Delzer: Is there further discussion on motion to amend HB 1008 to 01002?
Voice vote carries.

Rep. Hawken: The eight million dollars, is that something that has been there in the past?

Rep. Skarphol: That is federal dollars for abandoned mines it has been there
It's the same as in the past.

Chairman Delzer: Have you covered everything?

Rep. Streytle: I have covered most of the green sheet.

Rep. Skarphol: We did not get into an analysis of those; the PSC receives funds from a lot of different special entities.

Chairman Delzer: Didn't you ask about the level of credit sales and contracts?

Rep. Skarphol: We did not.

Chairman Delzer: Wasn't some of it used in the last couple of years? I'm sure there is money to cover it there. Further discussion

Rep. Streyle: I move a do pass as amended.

Rep. Delzer: We have a motion for a do pass as amended and a second from Rep. Skarphol.

Rep. Dosch: When you look at these two different bill formats the one before us now shows that we are decreasing wages and salaries by \$402,000 the previous amendment from HB 1008 shows that we are increasing the wages and salaries. That is value off of the base budget.

Chairman Delzer: That one would really show the difference in the human service budget.

Rep. Skarphol: If you really want to demonstrate the difference to the chamber I think it would be very useful to do what Rep. Dosch said and have a sheet prepared to see the purpose of amendments.

Chairman Delzer: Becky can you develop that for us? Motion Carries.

Yes 21 No 1 Absent 0 Carrier: Rep. Streyle

February 22, 2013

VK
2/25/13
142

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1008

Page 1, line 3, after the semicolon insert "to provide for a legislative management study;"

Page 1, line 3, remove "and"

Page 1, line 3, after "transfer" insert "; and to declare an emergency"

Page 1, replace line 12 with:

"Salaries and wages	\$7,482,074	\$774,551	\$8,256,625
Accrued leave payments	0	168,278	168,278"

Page 1, replace line 14 with:

"Capital assets	53,000	(1,835)	51,165"
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Page 1, replace lines 18 through 20 with:

"Total all funds	\$18,423,646	\$949,819	\$19,373,465
Less estimated income	<u>12,403,431</u>	<u>591,828</u>	<u>12,995,259</u>
Total general fund	\$6,020,215	\$357,991	\$6,378,206"

Page 2, line 16, replace "ninety-nine" with "ninety-eight"

Page 2, line 17, replace "thirty-five" with "seventy-nine"

Page 2, line 17, replace "three" with "one"

Page 2, line 18, replace "twelve" with "thirty-three"

Page 2, after line 21, insert:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY. The legislative management shall consider studying, during the 2013-14 interim, civil penalties assessed and collected by state agencies, including a review of the funds into which the collections are deposited and the appropriateness of the use of funds collected. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 5. INFORMATION TECHNOLOGY HARDWARE - TRANSFER TO SECURE DATA CENTER. The public service commission shall transfer all appropriate information technology hardware to the information technology department secure data center during the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 2, after line 30, insert:

"SECTION 7. LEGISLATIVE INTENT - GAS PIPELINE SAFETY INSPECTOR. It is the intent of the legislative assembly that the public service commission proceeds in the hiring process of a gas pipeline safety inspector position that has been repurposed in the commission's 2013-15 biennium budget from the weights and measures program prior to June 30, 2013.

2022

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

Date: 2-18-13
 Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. ~~1008~~ 1008

House Education and Environment Division Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Streyle Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Robert Skarphol			Rep. Clark Williams		
Vice Chairman David Monson			Rep. Tracy Boe		
Rep. Bob Martinson					
Rep. Roscoe Streyle					
Rep. Mark Dosch					
Rep. Bette Grande					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice vote

Emergency Clause for gas
 inspector motion carries

Date: 2-18-13
Roll Call Vote #: 2

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. ~~1008~~ 1008

House Education and Environment Division Committee

Check here for Conference Committee

Legislative Council Amendment Number 01001

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep Martinson Seconded By Rep. Streyle

Representatives	Yes	No	Representatives	Yes	No
Chairman Robert Skarphol			Rep. Clark Williams		
Vice Chairman David Monson			Rep. Tracy Boe		
Rep. Bob Martinson					
Rep. Roscoe Streyle					
Rep. Mark Dosch					
Rep. Bette Grande					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Voice Vote
change shall study to shall
consider studying on amendment
01001.
motion carries

Date: 2-18-13
 Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. ~~HB~~ 1008

House Education and Environment Division Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Streyle Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Robert Skarphol			Rep. Clark Williams		
Vice Chairman David Monson			Rep. Tracy Boe		
Rep. Bob Martinson					
Rep. Roscoe Streyle					
Rep. Mark Dosch					
Rep. Bette Grande					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent: Voice Vote
to remove \$37,500 from capital assets.
Motion carries

Date: 2-18-13
 Roll Call Vote #: 4

2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. ~~948~~ 1008

House Education and Environment Division Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Streyle Seconded By Rep. Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Robert Skarphol	✓		Rep. Clark Williams	✓	
Vice Chairman David Monson	✓		Rep. Tracy Boe	✓	
Rep. Bob Martinson	✓				
Rep. Roscoe Streyle	✓				
Rep. Mark Dosch	✓				
Rep. Bette Grande	✓				

Total (Yes) 8 No 0

Absent 0

Floor Assignment Rep. Streyle

If the vote is on an amendment, briefly indicate intent:

Date: 2/25/13
Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1008**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number .01002

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Streyle Seconded By Rep. Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					

Total Yes _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

voice vote carries

Date: 2/25/13
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1008**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep Streyle Seconded By Rep Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Rep. Streyle	X	
Vice Chairman Kempenich	X		Rep. Thoreson	X	
Rep. Bellew	X		Rep. Wieland	X	
Rep. Brandenburg	X				
Rep. Dosch	X				
Rep. Grande	X		Rep. Boe	X	
Rep. Hawken	X		Rep. Glassheim	X	
Rep. Kreidt	X		Rep. Guggisberg	X	
Rep. Martinson	X		Rep. Holman	X	
Rep. Monson	X		Rep. Williams	X	
Rep. Nelson	X				
Rep. Pollert		X			
Rep. Sanford	X				
Rep. Skarphol	X				

Total Yes 21 No 1

Absent 0

Floor Assignment Rep. Streyle

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1008: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (21 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). HB 1008 was placed on the Sixth order on the calendar.

Page 1, line 3, after the semicolon insert "to provide for a legislative management study;"

Page 1, line 3, remove "and"

Page 1, line 3, after "transfer" insert "; and to declare an emergency"

Page 1, replace line 12 with:

"Salaries and wages	\$7,482,074	\$774,551	\$8,256,625
Accrued leave payments	0	168,278	168,278"

Page 1, replace line 14 with:

"Capital assets	53,000	(1,835)	51,165"
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Page 1, replace lines 18 through 20 with:

"Total all funds	\$18,423,646	\$949,819	\$19,373,465
Less estimated income	<u>12,403,431</u>	<u>591,828</u>	<u>12,995,259</u>
Total general fund	\$6,020,215	\$357,991	\$6,378,206"

Page 2, line 16, replace "ninety-nine" with "ninety-eight"

Page 2, line 17, replace "thirty-five" with "seventy-nine"

Page 2, line 17, replace "three" with "one"

Page 2, line 18, replace "twelve" with "thirty-three"

Page 2, after line 21, insert:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY. The legislative management shall consider studying, during the 2013-14 interim, civil penalties assessed and collected by state agencies, including a review of the funds into which the collections are deposited and the appropriateness of the use of funds collected. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 5. INFORMATION TECHNOLOGY HARDWARE - TRANSFER TO SECURE DATA CENTER. The public service commission shall transfer all appropriate information technology hardware to the information technology department secure data center during the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 2, after line 30, insert:

"SECTION 7. LEGISLATIVE INTENT - GAS PIPELINE SAFETY INSPECTOR. It is the intent of the legislative assembly that the public service commission proceeds in the hiring process of a gas pipeline safety inspector position that has been repurposed in the commission's 2013-15 biennium budget from the weights and measures program prior to June 30, 2013.

SECTION 8. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2013 SENATE APPROPRIATIONS

HB 1008

2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1008
March 6, 2013
Job # 19521

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

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

Minutes:

Testimony attached # 1-5

Legislative Council - Brittani Reim
OMB - Laney Herauf

Chairman Holmberg opened the hearing on HB 1008 and commented that there was no subcommittee last session because **Senator Christmann** carried the PSC budget by himself and now is sitting on the other side.

Brian Kalk, Public Service Commissioner

Power Point testimony attached # 1.
Written testimony attached # 2.

(8:29) **Chairman Holmberg**: Do we focus too much on the nitpicking aspects of this case and that case? Would we be better off or would it be a step backwards if we were to just give a line item in the attorney general's for these kinds of cases that might arise through our issues with the federal government. Or are we better off from the standpoint of you as a regulator by having the money in there for the railroad issue - the \$900,000?

Brian Kalk: The commission has the ability to go to the emergency commission if we need extra funding. It would be helpful for us, for planning purposes, if that was in the commission's budget so we wouldn't have to go somewhere else to ask permission to use those funds. If the money was parked in the AGs budget and we had access to it directly, that is something we could work with. But it would be easier for the commission to manage if it was in our budget.

Chairman Holmberg: The emergency commission can authorize the expenditure of money, but they have access to only \$700K in this budget as far as their emergency kitty.

Brian Kalk: Commissioner **Christmann** and Commissioner **Fedorchak** might have some additional thoughts on that. When we put forth this budget, we wanted to make sure we

could fully justify the money we put forward, but speaking for them, we say it's not enough money.

(13:22) **Senator Robinson:** You talk about the need to increase the fees. Give us an example. How far off base are we compared to where you think we need to be?

Brian Kalk: An example would be a grain elevator truck scale. The commissions charges roughly \$170. The private sector costs would be over \$600. We are quite a ways out of the range, but more inspectors go out there and they can't fix it. They can say that it's not in calibration, but then they have to call one of the service providers to come out and fix the scale. The service providers are giving more service for that fee, but it does seem like our fees are pretty low comparatively.

Senator Robinson: When was the last time the fees were raised?

Brian Kalk: I can't answer that, but I know it has not been within the last six years.

(23:27) **Chairman Holmberg:** The President announced a new head of the Environmental Protection Agency (EPA) and a new energy secretary. The reports that were written in the New York Times seem to suggest that they had specific agendas regarding coal. What are your thoughts.

Brian Kalk: I would agree with you one hundred percent that the current administration has a goal to reduce fossil fuels, particularly coal. Everything that deals with coal has litigation, more grievances. It's their right but we need to make sure we follow all of our processes going forward. There is still no solution to base load better than a good old fashioned coal plant. In ND, if we don't continue to defend our coal resources, and develop our natural gas and wind, we have the lowest cost of electricity in the country right now which makes business friendly to come here. If we don't do the right job defending these coal resources, before long we have no advantages to bringing industry to ND. I see our jobs as doing a good job on the commission, but also to be an advocate for ND industries to make sure we can keep our costs low. We got up in front of the cap and trade debate because we said that was a huge impact to ND consumers.

Chairman Holmberg said he just sent the NY Times article by email to all of the committee members. (Attached #3)

Senator Robinson: Commented about the sensitivities of those with environmental concerns. He wondered how much of the pressure is from the administration versus the mood of the country. Because of statements he heard about "dirty coal", he said that in the minds of a lot of people, all coal is created equal. He said we need to tell the story of how our coal industry has led the nation in terms of scrubbing and clean coal technology. It's a big job, but we need to get the story out.

Brian Kalk: I would agree with you. The country has different moods on fossil fuels. When you get PSC from several states together, they understand that if they don't have base load power, such as coal, we're not going to have reliability and will have rolling blackouts. I would critique the coal industry and said perhaps they have back off a little bit

in telling their story. This has to be a constant. If you choose to do all wind, then you're not going to have power 50% of the time. We need to continue to educate consumers, but also the individuals who own these industries cannot stop the fight.

Senator Robinson said we are the model in the eyes of many, but the challenge is to do much better. That's going to take money and a lot of research.

(continuing with testimony)

(30:11) **Senator Warner** asked if he could outline the division of responsibility between the PSC and OSHA with regard to arbitrating inspections. Who does safety? Who does forensic accounting? Who does exactly what?

Brian Kalk: It's my understanding that we don't have any jurisdiction in OSHA's safety standards. To my knowledge, all the jurisdiction is dealing with the grain that comes in, making sure the tickets are converted, making sure the scales are calibrated. We would not have any jurisdiction on safety.

Senator Warner: You don't do financial audits?

Brian Kalk: Typically the commission would not go through financials unless there was a reason, such as insolvencies.

(32:22) **Chairman Holmberg:** You have your 4 items that you'd like us to consider regarding your budget and there will be a subcommittee.

Senator Robinson: In staffing and turnover, you mentioned we pay \$40,000 and they go out and double their salary by accepting a job elsewhere. What will it take for us to recruit and retain folks? Do we have to go to twice that level? What are you projecting in the budget?

Brian Kalk: It's not our job to compete with the private sector. We realize that we're going to be losing people that have specialized expertise to the private sector. We're comfortable with what the legislature decides what is appropriate for pay raises. Our goal is to make sure we have a good work place and make sure people like what they're doing.

Senator Robinson: If you're constantly training, that's not good either. My other question has to do with IT. How current and up to date are we with our IT systems in the Public Service Commission? Are we able to maintain current state of the art equipment?

Brian Kalk: By the commission retaining its own assets, we're saving the state money because we're able to share software with the federal government. We're able to use our own ingenuity to go out and purchase just the right thing. We're able to own those assets. Trying to forecast at the state level what all the agencies might need, they would constantly be in a rebuilding, restructuring mode. We can lay out our budget and say we want to make these changes in the next two years, so this is what we ask for. Then the next cycle we do the same thing. I understand the arguments of consolidation but right now, we have a pretty good operation.

Senator Carlisle: On page 23 of the testimony, section 6 on the continuation of the \$900,000 for the agriculture rail rate. That's never been used has it? How many years has it been in effect and has it ever been used?

Brian Kalk: I don't know how many years it's been around, but it's been there at least the six years I've been involved. How many times has it been used? To my knowledge, not at all.

Senator Carlisle: Then why is it in there?

Brian Kalk: To my understanding, it is a deterrent for those who would choose to raise our rail rates arbitrarily. \$900,000 is not enough to take on the Service Transportation Board. Maybe I'm bluffing, but if we didn't have some amount of money in there, it would be very hard to have those discussions with the railroads.

Senator Carlisle: This has been around several years and it's never been used.

Brian Kalk: With the increase of crude oil being moved by rail, we're seeing a huge input of grain shippers having no access. In areas where they were going to lose rail service are not going to lose it now.

Chairman Holmberg: I think the discussion over the years is that it has been a deterrent. There's no way to prove one way or another whether or not it's worked. We haven't had any cases, so you can't argue that it worked. We could argue that.

V.Chairman Bowman: I believe that came from 6-8 years ago when you could actually ship grain to the west coast cheaper from Jamestown than you could from Dickinson. That got to be a pretty heated battle, and that's when we decided we better get prepared for some sort of lawsuit. The money was set aside for that and it would be wonderful if we never had to use it, but it's there just in case.

Senator Wanzek: You mentioned that you recently issued a cease and desist order?

Brian Kalk: Yes, it was an organic elevator in the Harvey area. We've got an up and coming work session to decide if we're going to open an insolvency or just exactly what we're going to do.

Senator Warner: In the state radio budget, we had discussion that the new GIS and the state base map had such precision that put them within nine inches. Does that fit in with your map or are they duplicated maps?

Brian Kalk: My IT group says there is a way we can interact with them and it works fine.

(42:28) **Randy Christmann, Public Service Commissioner**
No written testimony.

He said he'd like to add one thing to what has been said and that is the money that is needed for legal work. The previous commission that presented the budget asked for

\$300,000. It would primarily go to dealing with elevator issues where there is no one else to bill it to and for the lawsuits which are filed against us which are becoming more and more frequent. There are lawsuits from people who disrespect the ability of NDs elected regulators to regulate and disrespect the ability of NDs elected policy makers to set policy. They would much prefer to see our policies, especially in relation to the energy industry, decided in federal courts. I think it's important to keep North Dakota decision making to be done here and prevail in these lawsuits. People in population centers far away, who don't vote here and don't live here, are able to help fund lawsuits against us. Frankly they're probably going to fund lawsuits against the energy industry somewhere. The question you need to ask yourself is do you want them filed against ND or somewhere else? If we want them filed against ND, the best thing would be to do would be to look like we're not prepared to defend ourselves.

The previous commission, when they asked for \$300,000 which in the former bill was \$150,000, basically was asking for just enough to get through the current situation. What that will do is get us through the current situation and entice many more lawsuits. There was some discussion about the rail rate money. It's a classic example. We put \$900,000 aside for litigation and since it's there, things have changed. I hope you will continue to leave it there again after this session. It's not like every penny that we try to project in revenues for the next two years is going to be spent. At the end of the day, the legislature will do a good job of having a good ending balance. It would be wise to have a myriad or two of that ending balance sitting right here, much like the rail rate case, so that the people from outside ND that want to attack the fossil fuels industry in general, know that they might be better off filing their lawsuits against another state other than ND. When we arm ourselves, we do well. I would hope we will be at or well above the \$300,000 level.

V.Chairman Bowman: Talking about the various lawsuits, would it be appropriate to have a flex legal fund? It would be for anyone who was sued and would be able to have access to this fund. Then we wouldn't have to go through this with different budgets. If we set aside a certain percentage of our money that would be flexible for any groups, we'd have a fund to handle that.

Randy Christmann: I think budget experts and lawyers would have to be involved to figure out how that would work, but the important thing is that we have to defend NDs sovereignty.

Senator Robinson: I think most of the threat is outside the state. The number of folks in eastern ND that don't have the understanding of what is happening out here is mind boggling to me. The Lignite Energy Council has sponsored many educational seminars, but questions that I have received are when are we going to clean up our coal? People are just ill informed. We have a story to tell. The industry works hard at research and development, but maybe our state needs to do a better job of telling our story such as building a curriculum. There's a need in education. When folks go on a tour, they come back and are in awe of the industry: the scrubbers, the sophistication of the industry, it's impressive.

Randy Christmann: The Lignite Energy Council has teacher training programs where they bring teachers from around the state. They get great reviews from the public school teachers and they are very appreciative of all the knowledge gained. It will be an ongoing project to educate people at how far we've come with clean dependable coal. The reason it's an ongoing battle is because there are people from the outside that are doing everything they can to get the message out of how bad everything is.

Senator Robinson talked to a young woman who works in the west. She said we have a challenge. She said she has a family. We live and work here. We want clean air too. The people who live there are ND citizens and we want to do everything we can to ensure high standards.

Julie Fedorchak, Public Service Commissioner

No written testimony.

I want to echo Commissioner Kalk's budget presentation and Commissioner Christmann's comments about the legal funds. The PSC is an interesting place. We are in between industry and the public in all that is going on in ND today. Everything we do, whether it citing, pipeline safety, licensing, weights and measures, public utilities or mining. That's our job is to make sure industry is doing a good job and that the public interest is protected.

We take that balance very seriously. We want to insure that the environmental, cultural, people's quality of life are being protected while at the same time being responsive to industry. We want to move things through on a timely basis and making sure we aren't creating any unnecessary red tape. Staffing is a key to achieving a good balance in that goal. I feel you have a modest request from an agency with a growing work demand. It's straightforward and a pretty pragmatic budget. I think it's around a 4% overall increase and it will provide us with the support we need in moving forward for the next two years. I encourage you to support it.

(54:44) Mike Kennedy, Capital Scale Company

Testified in favor of HB 1008.

Testimony attached # 4.

He supported the Weights and Measures and stated that it is in the best interest of the consumers of ND to have a regulatory department. In our fast growing state, a service company does not have the authority to see if a business is in compliance with honest scales. Everyone in the state is touched by weights & measures whether buying gas, meat at the grocery store, or a package of macaroni. That's all weighed and someone needs to keep track.

(56:22) Lisa Feldner, State CIO, ITD

Testimony attached # 5 - Cyber Attacks on Energy Sector "Alarming"

I'm here because of what the House did and I'd like to offer some comments. On the IT portion of this budget, ITD was not involved in any of the House machinations on the IT piece here. We want to say that we support the exemption that the PSC has to maintain and run their own equipment, however, we have one caveat that we were planning to bring up with them later in the biennium, but the House seems to have beat us to it. As part of

our data center remodel, partially done because of the power outage from last biennium, we put several million dollars into the data center for heating and cooling. In addition, we built an agency data center. It's a smaller data center within a data center that's secure with cameras and other equipment which houses the equipment of the legislative council and the courts. We had been planning to go to the members of the PSC later this biennium and suggest they might want to move their equipment there. We don't want to run it. We don't want to maintain it. We don't want to own it. That's why you need to restore their money. The reason we are saying that is because of the intrusion of cyber-attacks in the energy sector. Hackers are attacking infrastructure. They're attacking energy infrastructure, meaning transmission lines and electrical grids. What we have in the data center are very expensive intrusion detection devices. They are \$80,000 each that we put in front of the data center that we do not have in other parts of the building. We can see and detect things that we can't see other places on the network. We have detected that a computer in Dickinson was compromised by the Russians. It controlled their HVAC controls. It was compromised, taken over by Russian hackers. That was just last week and we were able to disable it. We are putting in place security in the data center that we don't have other places. Security is very expensive, so if you can confine your assets to a smaller area, it is more easily secured and it's more cost effective. I'm suggesting that you restore their budget and Pam Sharp was here to say that we support their exemption, however, my wish is that they would be open to moving their equipment into the data center.

Chairman Holmberg appointed a subcommittee of Senators Carlisle, Wanzek and O'Connell.

Chairman Holmberg closed the hearing on HB 1008.

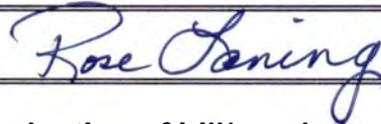
2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1008 subcommittee
March 20, 2013
Job # 20262

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

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

Minutes:

Testimony attached # 1.

Legislative Council - Brittani Reim
OMB - Sheila Peterson

Senator Carlisle opened the subcommittee hearing on HB 1008. **Senator Wanzek** and **Senator O'Connell** were also present.

Senator Jessica Unruh, District 33

Speaking on behalf of Coal Country, it is very important that the PSC has sufficient funds to properly defend the state in two current lawsuits and any other potential lawsuits. The other portion of the PSC budget is the ITD portion. She explained.

Randy Christmann, Public Service Commissioner: Explained the need for more study and input on IT. It is related to many agencies.

Lisa Feldner, CIO, ITD:

Sheila Peterson, OMB: This language is also showing up in AG budget, and water commission budget, and DPI.

Discussion is on the fact that it is not just one budget. Sheila Peterson gave a history on why it is the way it is today.

Senator Wanzek: Should we accept a study at this time.

(7:57) **Recording is very hard to understand.** Discussion followed on a study.

Brian Kalk, Public Service Commissioner: It's hard to access what impact they have on operations right now. IT snags could really slow things down.

Senator Carlisle: They would still operate.

Lisa Feldner: There are two data centers downstairs. They manage themselves. We have security in the data centers that we don't have in front of the servers.

Senator Wanzek: Any reason the House put that in?

Randy Christmann: Talked about the location of the equipment.

Senator O'Connell: Which floor would it be on?

Randy Christmann: Cafeteria

Discussion followed on capacity and the IT system and OSM (Office of Surface Mines).

Lisa Feldner: We agreed to the study. We looked at their existing system and they're not maxing it out.

Senator Carlisle: Weights and measures.

Senator Wanzek: Explained what the House did (12:17). Maybe we should consider putting 2 or more people back.

Brittani Reim, Legislative Council: The executive budget recommendation the weights and measures were re-purposed and not in the House. PSC had mentioned bringing back one FTE to the House. It was not accepted in the House.

Discussion followed on the need for the positions. Brian Kalk explained the need for them.

Julie Fedorchak, Public Service Commissioner: Did you happen to bring the list of legal expenses?

Randy Christmann: I did.

Julie Fedorchak: Presented the request for legal support and broke it down into two categories: Operating expenses and the other is an additional pool to help with excessive lawsuits that we aren't prepared for. We think we need \$300,000 the governor's budget reduced that to \$150,000. It came back from the House at \$300,000. She handed out and explained the Legal Increase Estimate (19:00). **Attachment #1**

Senator Carlisle: 60% of oil is moving by rail. I haven't heard anyone messing with rail. What if we move some of that from the coal folks???? (Very hard to hear... (21:00)

Randy Christmann: Disagreed. On the rail rate, that is for a different purpose and a different source from the Beginning Farmer Loan fund. We could bring a rail case to the Surface Transportation Board. Because of pricing, there are a lot of Ag people worried that so much oil is moving by rail that the elevator business is no big deal for the rail because they are oil carriers now. The land that they are on, that holds their rails, and all the property and mineral property that they own beside it was put in one time to set them

up to serve ND agriculture. The PSC has to continue to make sure they do serve Agriculture

Discussion followed on where the money should come from for these lawsuit Talked about being well armed to protect ND sovereignty.

Senator O'Connell: We can put \$500,000 in and have something to work with to fight.

Senator Wanzek: \$500,000 will look like peanuts for someone who wants to fight this case. We have to fund our fight.

Senator O'Connell: Are we on the right track?

Randy Christmann: Yes, if someone doesn't have money, those are the people they go after.

Senator Carlisle: Say we kick it up to \$500,000. What kind of line item in the budget.

Sheila Peterson: It's in the operating line item.

Discussion on having that money in the operating line item or having it in operating with intent language. (31:00)

Brian Kalk: Asked if the two permanent employees were approved could they have an emergency clause. (pipeline safety and public utility position.)

Senator Carlisle summarized and discussed strategies. (34:20)

Randy Christmann: Revisited the FTEs for Weights and Measures.

Senator Carlisle asked Mr. Christmann to put those thoughts in writing for the next meeting.

Discussed rate charges for testing and quality assurance.

Adjourned.

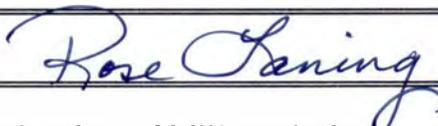
2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1008
March 21, 2013
Job # 20281

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission

Minutes:

Attachment

Senator Carlisle opened the subcommittee hearing on HB 1008. **Senator Wanzek** and **Senator O'Connell** were also present. Legislative Council - Brittani Reim and OMB - Sheila Peterson

Senator Carlisle: Said the plan today is to get the mechanics down so Brittani Reim can start drafting amendments. Let's start with weights and measures. Senator Wanzek what would you like in the amendment?

Senator Wanzek: I think we need to add one FTE. I think we need to at least provide it for the small scales, measures and weights. I like the idea of quality control for the larger scales. I think that would work a lot better.

Senator Carlisle: Is that the one with the emergency clause?

Randy Christmann, Public Service Commissioner: The emergency clause was for the public utility analyst. If we just add this FTE, the fact is that we already have that person in place. It is a reduction in force.

Senator Wanzek: We're really not adding one as far as weights and measures; we're still taking one away. We're going from four to three. **He moved to add one FTE to weights and measures for purpose of quality control.**

Randy Christmann: I don't know how they are laid out.

Brian Kalk, Public Service Commissioner: Is this in numbers, do we already have it? Are we adding it back from the house budget and the governor's recommended budget?

Sheila Peterson, OMB: I would say add to weights and measures a FTE.

Senator O'Connell: Seconded the motion.

Senator Carlisle: Asked Brittani Reim to read it back.

Brittani Reim, Legislative Council: What I had written up last night was add one weights and measures FTE position with the salary related operating cost and travel cost included.

Senator O'Connell: I'm having hard time with the wording. We're really not adding back.

Senator Wanzek: We have the ability before us, so were trying to put back the one FTE, for the record, one FTE that the house had taken out.

Senator Carlisle: All in favor - aye - motion carried.

Randy Christmann: I would ask to do two things. Eliminate the references to testing and the prices for testing on the large scales. On the small scales and gas pumps, we currently charge eleven dollars. We went to eleven dollars in 2003.

Senator Carlisle: Asked if everyone was comfortable with that, ten years on a rate increase.

Senator O'Connell: I've never voted for a fee increase in my life.

Randy Christmann: This is an auditor's complaint.

Senator Carlisle: What we can do, as the Commissioner said, put it in and when it goes to full appropriations we can pass it along.

Senator O'Connell: I like what you said just take it out.

Senator Wanzek: I understood what was said was we were going to take out the fees that are scheduled for the large scales. We at least want to do that if we're going to go to quality control on those scales. I'm still struggling with the fee increase.

Randy Christmann: As long as we keep pointing it out that we got that audit gig, I am fine with leaving it at eleven. (6:07-6:13)

Senator Wanzek: Moved to remove the language that reverences the fees for the large scales

Senator O'Connell: Seconded the motion.

Voice vote - Carried.

Julie Fedorchak, Public Service Commissioner: I was just talking with Josh on these salaries and operating expenses. He has some information for you guys. It's about \$98,000 for biennium for the position and then the operating depending on how much you want to provide for travel it's between \$100,000 and \$125,000 for operating.

Senator Carlisle: Is that consistent with the other two or is this the one we've been operating on?

Julie Fedorchak: Yes, this is based on taking on what we had for four positions and dividing it by three.

Senator Carlisle: We have to put in salary and benefits.

Julie Fedorchak: Yes, so it would be about \$125,000 for salary and benefits.

Senator Carlisle: Operating, remember we had one hundred and fifty and if we kick it to five hundred we won't get that over there but we need some room to work with.

Senator Wanzek: I would move to put \$350,000 into that plus the \$150,000.

Senator Carlisle: So five hundred then.

Brian Kalk: We have ten cases, two big ones. When I put the budget together \$300,000 was the bare minimum we had to have. It probably was low. I would support anything above that but we absolutely have to have the three hundred to do anything.

Senator O'Connell: If you don't use it, it all goes back into general fund.

Senator Wanzek: I like the idea of going higher but not sure if you'd be for it. As long as we make it clear that it's used as operating.

Senator O'Connell: I'd be comfortable with \$500,000 and then the additional \$150,000 that's in there.

Senator Carlisle: That would be \$650,000.

Brian Kalk: Most of that is federal dollars. Three hundred thousand dollars we asked for is an authorization of three hundred thousand and of that one hundred thousand is general fund money and two hundred thousand is federal money. So if you double that to six hundred thousand, it still is going to be two hundred thousand general fund and four hundred thousand federal fund match. We would have to go get that federal match but we could work that up. They think of us as the authorization.

Senator Wanzek: What you are saying with the one hundred and fifty is that the authorization that's one hundred and fifty or is it one hundred and fifty general funds?

Brian Kalk: That would be general funds and federal funds.

Senator Wanzek: If that's the case. I am thinking five hundred thousand general funds could be used to secure more federal funds. If we are just talking about authorization I have no problem going with a million. We're just not going to throw it in there so it can be used for whatever. (11:00-11:48)

Senator Carlisle: Asked Randy Christmann what he thought.

Randy Christmann: That would be great. I think it sends a strong message.

Senator Carlisle: It would be \$850,000 plus the additional \$150,000.

Brittani Reim: I need to meet with one of the commissioners for the intent language.

Brian Kalk: It would be the same as in the governor's recommended budget and the house budget because that is the way it broke out in the governor's budget. So we could mirror language in the governor's budget.

Brittani Reim: Is it already in century code?

Brian Kalk: I don't know if it's in century code but it's in the way we have to do the money business.

Randy Christmann: It should be in the bill just at the \$150,000 level instead of the million dollar level. The percentages would stay the same.

Senator Wanzek: We're talking about the AUTHORITY to spend up to a million dollars of which a significant part of that would be federal dollars, which would only be spent in the case of defending our state. We're not looking to spend it unless we are forced to spend it.

Senator Wanzek: I will make a motion to put in the budget the authority to spend up to a million dollars for legal purposes to defend us in the coal reclamation and the insolvencies as it is in the budget.

Senator O'Connell: Seconded the motion.

Sheila Peterson: Do you want it to be in a separate line item like the real rate complaint case. As a standalone line item would you like it to say litigation fees?

Senator Wanzek: I think that would be a good idea to put in a separate line. It signals to everyone that we don't want those dollars to be used for anything other than litigation.

Senator Carlisle: Wouldn't it more or less state in that, that's the sole purpose for those dollars. Salary and benefits will be done by Council.

Senator Wanzek: Ours will be a little higher because we're adding the FTE.

Senator Carlisle: If it's not used it reverts back.

Brittani Reim: Would you like me to remove the \$150,000 that's currently in their bill and place it in the litigation line item. I would reduce the operating line item and put it into the litigation line for a total of one million.

Randy Christmann: I don't see anything wrong with it but I would really like to talk to legal counsel to just double check.

Senator Carlisle: Coordinate with OMB and counsel.

Senator Wanzek: We need to have at least one more meeting.

Brittani Reim: It was brought to my attention that if we don't have it in a separate line item that only seventy-five percent could be spent by seventy-five percent of the biennium according to OMB.

Sheila Peterson: On salaries and operating a special line item you can spend it all.

Senator Carlisle: The other thing this IT, there are two other budgets we know of. If you want to look at a study we could put some language in for a study. There was DPI and Attorney General and who else?

Sheila Peterson: Water commission, PSC, AG budget.

Randy Christmann: I think the most important thing is removing this language of the transfer. Do you want to add a general study of moving technology things down there now or come to that conclusion in your conference committee?

Senator Wanzek: I would move that remove section 5 and leave the study as an option in the conference committees.

Senator Carlisle: Being the House put it in there. You know it's going to come up.

Senator Wanzek moved to remove section 5.

Senator O'Connell seconded

Voice vote carried.

Brittani Reim: To amend the North Dakota Century Code to remove large scales weights and measures language in fee schedule to allow the position of a quality assurance inspector. Add one large weights and measures FTE positions salary related operating cost and travel cost. (21:25-22:00)

Discussion continued on how the amendment should read and also on the fees (22:07-25:25)

Julie Fedorchak: On the changing of the fee schedules. I'd feel more comfortable that we had it in writing and feel better saying this is the policy. The state is underwriting these costs and it's in competition with the private sector and we were dinged on this on the audit.

Brian Kalk: Now that we do quality assurance program only with large scales, we won't be collecting any fees with large scales.

Julie Fedorchak: The one option is charging a certification fee to folks who are going out and doing certification of the scales. We can say you're licensed and they can say that the scales you are using are accurate. We could fund it ourselves or provide a service charge to private sector companies who are being certified by us.

Senator O'Connell: You can do that thru policy? I hate to see all that in code.

Discussion on the certification of the scales and fee schedule (28:20-30:40)

Randy Christmann: The metrology lab we fought over for three years and then eliminated. That's a fee we have imposed by eliminating the metrology services. He talked about the emails he has gotten because of the inconvenience of having to go to Minneapolis to have testing done.

Discussion on a new metrology lab and further discussion on the amendments, section seven and four (31:50-36:37)

Senator Wanzek moved to approve the amendments as they understand it.

Senator O'Connell seconded.

Senator Carlisle: Yes

Senator Wanzek: Yes

Senator O'Connell: Yes

Senator Carlisle: Asked for a sheet with bullet points. We need something to present once we've adopted the amendments.

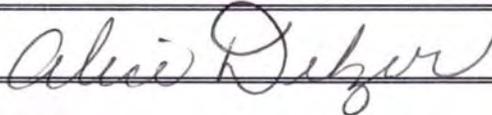
2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1008 Subcommittee
03-27-2013
Job # 20580

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A Subcommittee hearing on the PSC

Minutes:

You may make reference to "attached testimony."

Chairman Carlisle: Opened the subcommittee hearing in regards to HB 1008 on Wednesday, March 27, 2013 at 4:00 pm. Let the record show that all conferees were present: Senators Carlisle, Wanzek and O'Connell.

Brittani Reim- Legislative Council
Sheila Peterson - OMB

PSC members: Randy Christmann, Brian Kalk, Julie Fedorachak were present.

Brittani Reim: See Attachment #1 for proposed amendment. (Explained all of the amendments that have been done and referenced the statement of purpose)

(3:35)Senator Carlisle: Are the weights and measures going to work for you?

Senator Wanzek: I hope it works. I guess what we are going to do is quality control more or less and everyone who has the large scales, which includes myself, will have them inspected by a private company now; which, if I remember in visiting with some of the commissioners, I believe 70% of the people with these types of scales are already doing it with private companies. It is at least more than half. I think the quality control - there are a lot of them that have been doing it with private, which really never have been checked. Maybe quality control will provide some oversight in all these scales.

Randy Christmann: I just found out about an elevator that our guy checked and it had been a new scale put in in 2010. A company certified it but they did make a note on their certification that there was one more piece of equipment they should have. It did not have to do with accuracy but it is a rule, and it has been recertified by a private since then and they never made a note of that missing. This year it was up for inspection again and our guy noticed that it never was put on, but it has been approved by the privates. It is just evidence that maybe a quality control program more useful in protecting the public.

Senator Wanzek: Did that result in a faulty reading.

Randy Christmann: It was just the ones so the truckers can read it, but it is still a requirement.

Senator Carlisle: When we do get this the floor and someone has a question, I will defer to you. It's what you do.

Senator Wanzek: That is why in section 7 we are eliminating the fee schedule for the large scales. That is what I understand we are doing.

Senator Carlisle: Is everyone comfortable with italics 5?

Brian Kalk: The coal and the grain elevators, but the coal cases are the big ones that are in litigation now.

Senator Carlisle: With this combination of funding, I think we got an even shot of selling it to the other side.

(8:08) Senator Wanzek: It's in keeping in the spirit of Teddy Roosevelt. Carry a big stick but speak softly.

Senator O'Connell: What is the percentage of federal funds?

Brian Kalk: It is 64% federal and 36% general fund. The challenge will be to match that general fund. Without the authorization, we can't go after it. We make sure we spend federal and state matching until the federal gets spent down to zero. It will only be used for the purpose of litigation.

Senator Carlisle: Is everyone comfortable with the language?

Senator Wanzek: It is worth noting, in my opinion by putting it on a separate line item it does indicate that is the sole purpose, and if we don't need it and don't spend it, it will be there.

Senator O'Connell: Moved the amendment 13.7137.02001.

Senator Wanzek: Seconded.

Senator Carlisle: We want to be sure we are comfortable with the language. We understand if the term comes up about the quality control. (Asked for some talking points to be put together.)

Discussion: The committee proceeded to discuss with others in the room what all was being requested from the departments to bring for the full Appropriations Committee. The emergency clause was discussed.

(18:50)A Voice Vote Was Taken on the Amendment: All were in favor.

Motion Carries.

Senator Wanzek: Moved a Do Pass As Amended.

Senator O'Connell: Seconded.

A Roll Call Vote Was Taken: 3 yeas, 0 nays, 0 absent.

Motion Carries.

Chairman Carlisle: Closed the subcommittee hearing.

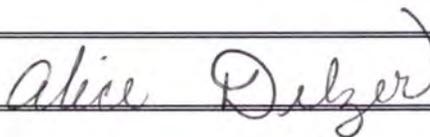
2013 SENATE STANDING COMMITTEE MINUTES

Senate Appropriations Committee Harvest Room, State Capitol

HB 1008
03-29-2013
Job # 20675

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for PSC (Do Pass as Amended)

Minutes:

You may make reference to "attached testimony."

Chairman Holmberg called the committee to order on Friday, March 29, 2013 in regards to HB 1008. All committee members were present.

Becky J. Keller and Brittani Reim - Legislative Council
Lori Laschkewitsch and Sheila Peterson - OMB

Senator Carlisle: Moved the amendment 13.8137.02001.

Senator Wanzek: Seconded.

Senator Carlisle: (Explained the amendment and the changes that the subcommittee looked at.)

(7:30)Chairman Holmberg: These are the historical background and this is a physiological issue with some folks. In DPI budget they wanted to transfer the folks that were kind of technical people over to IT, and that was done by an amendment in the House and there was no thought processes regarding what the cost might be. We found that it would be somewhat more expensive to do that. So, what we are in the process of looking at for your consideration is that DPI and Lisa Feldner sign an agreement about studying whether or not that should be done. I think we are recommending to you that we not do what the House did, but proceed with studying that issue for the next two years because jumping into these things without any study, which is what some of this is, is foolish.

(8:50)Senator Carlisle: There are 4 budgets that are affected by this and we should have some consistency. A study would certainly be in order. (Returns to amendment explanation)

(9:35)Senator Wanzek: (Adds comments from subcommittee on weights and measures portion of the changes)

(13:00)Chairman Holmberg: When you look at what the executive recommendation was regarding weights and measures. Are you trying to protect the manufacturers? Have things changed so much that they done need those two, but because we have had the four, we are going to protect something that may or not be needed anymore? You understand weights and measures, I don't.

Senator Wanzek: I feel on the large scale end of it, we are moving into the future. We are going to allow the private sector - it is going to be expected of me to hire a private sector individual and get my scale updated. The only thing that they are going to do in my case now is that I will be suspect to an inspection out of the clear blue to make sure that I am compliant with the law. With the amendment we are removing the fees for the larger scales because the state will not be doing it anymore and we are expecting the private sector to do it. We only monitor. On the smaller scales, part of the problem is that way less than 50% of them are done by private industry. There is a lot more limitation in the private industry. The small scales usually are not off.

(15.41) Chairman Holmberg: I think this legislature has to have a discussion at some point as to whether they are more inclined to go the direction of South Dakota that has a special line item for litigation fees. I am not opposed funding regarding the litigation. We should have a discussion on the big picture on that.

Senator Mathern: As long as you bring up the big picture, I wish we would reconsider having the lab. I think we should have the lab in North Dakota that we abandoned a biennium or two ago. Our state has changed dramatically and we have merchants going to the cities or Sioux Falls that I really think should be able to have that service right here. We had troubles updating the lab and it was during the time our economy was dead and we closed it. Things have changed now. Our businesses are booming and they are stopped because they have to drive to Minneapolis to get this done. It costs them a lot of money and it is a shame that we used to do right here in North Dakota. I'd rather we spend the money on a study on a new lab. That would be helpful to our businesses.

Senator Carlisle: The lab, it's about a \$4million price tag, but I appreciate the comments and if there is a way to look at it I don't have a problem with that. The Senator has a good point.

Chairman Holmberg: There are people here who will be on a conference committee and you might broach that; the idea of studying that over the next two year.

Senator Carlisle: On the \$1 million reversion practice, if we don't use it what happens?

Brittany Reim: It is one time funding. So if they do not use the litigation for reclamation and grain licensing, it will be turned back.

Senator O'Connell: On that \$500,000, that is a general fund, the federal government has a grant that theypick up 64%. That brings it up to \$1million dollars for that.

Chairman Holmberg: Asks for a voice vote of the amendments.

A Voice Vote Was Taken: All but one was in favor.

Motion was carried.

Senator Carlisle: Moved Do Pass As Amended.

Senator O'Connell: Seconded.

A Roll Call Vote Was Taken: 13 yeas.

Motion Carries.

Senator Carlisle: Carrier.

3/29/13
TW
1 of 4

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

Page 1, line 2, replace "section" with "sections"

Page 1, line 2, after "49-01-05" insert "and 64-02-10"

Page 1, line 3, after "commissioners" insert "and fees to test or calibrate weighing and measuring devices; to provide for a statement of legislative intent"

Page 1, line 4, remove "to authorize a transfer;"

Page 1, replace lines 13 through 16 with:

"Salaries and wages	\$7,482,074	\$1,298,673	\$8,780,747
Operating expenses	1,972,572	(39,510)	1,933,062
Capital assets	53,000	35,665	88,665"

Page 1, replace line 19 through 23 with:

"Rail rate complaint case	900,000	0	900,000
Reclamation and grain licensing litigation	0	1,000,000	1,000,000
Total all funds	\$18,423,646	\$2,298,828	\$20,722,474
Less estimated income	12,403,431	1,123,288	13,526,719
Total general fund	\$6,020,215	\$1,175,540	\$7,195,755
Full-time equivalent positions	43.00	1.00	44.00"

Page 2, replace line 7 though 10 with:

"Hydraulic soil probe	0	0	28,000
Reclamation and grain licensing litigation	0	0	1,000,000
Total all funds	\$658,217	\$658,217	\$1,028,000
Total special funds	658,217	658,217	517,920
Total general fund	\$0	\$0	\$510,080"

Page 2, line 18, replace "ninety-eight" with "ninety-nine"

Page 2, line 19, replace "seventy-nine" with "thirty-five"

Page 2, line 19, replace "one" with "three"

Page 2, line 20, replace "thirty-three" with "twelve"

Page 2, remove lines 30 and 31

Page 3, remove lines 1 and 2

Page 3, after line 11, insert:

"SECTION 6. AMENDMENT. Section 64-02-10 of the North Dakota Century Code is amended and reenacted as follows:

64-02-10. Fees to test or calibrate weighing and measuring devices.

The commission shall collect the following fees to:

1.	Test railroad track or truck scale	\$171.00
2.	Test livestock and vehicle scale	-171.00
3.	Test livestock scale if the sales ring or buying station scale owner transports to the scale and furnishes all test weights and manpower needed to properly test the scale	-96.00
4.	Test auxiliary beam on livestock, motor truck, and motor truck dump scale	-24.00
5.	Test overhead monorail, track, hopper, dormant, deck, and hanging scale <u>of 1,000 pounds [453 kilograms] or less capacity</u>	53.00
6.2.	Test movable platform scale	11.00
7.3.	Test counter or computing scale	11.00
8.4.	Test hanging scale of fifty pound [22.68 kilogram] capacity or less	11.00
9.5.	Test a retail motor fuel device	11.00
10.6.	Test or calibrate weighing and measuring standards, per metrologist, per quarter hour or fraction thereof	17.00
11.7.	Test mobile delivery gasoline and fuel oil meter	24.00
12.8.	Test gasoline, LPG, or fuel oil meter on common carrier pipelines, or any other meter used in loading railway cars, transports, or other conveyances	53.00
13.9.	Test propane, ag chemical, or liquid fertilizer meter	39.00
14.	Test crane scale	-107.00
15.10.	Test or calibrate weighing and measuring devices other than the above and those set by rule, per inspector per quarter hour or fraction thereof	11.00
16.11.	Witnessing any of the above tests	Fifty percent of the applicable fee

When a rejected weighing or measuring device has been reconditioned or replaced by new equipment, it must be retested and certified before being put into use except as otherwise provided by rule. The fee for retest and certification is the same as for the first test and certification.

When a test of a weighing or measuring device is required in addition to the regularly scheduled test, the commission shall charge a fee equal to the cost of operating the motor vehicle used in conducting the test. The mileage charges, as determined by the commission, must be in addition to the regular test fee and calculated to cover the costs of the additional travel. If a test has been requested and the person requesting it fails to appear or to have the weighing or measuring device ready for testing at the arranged time, there is a charge of ten dollars a quarter hour for the time between the arranged time and the time at which the test can begin."

Page 3, line 12, after "INSPECTOR" insert "AND PUBLIC UTILITY ANALYST"

Page 3, line 13, replace "proceeds" with "proceed"

Page 3, line 14, after "inspector" insert "and public utility analyst"

Page 3, line 14, replace "has" with "have"

Page 3, line 17, replace "This" with "Section 7 of this"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1008 - Public Service Commission - Senate Action

	Executive Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$8,659,244	\$8,256,625	\$524,122	\$8,780,747
Operating expenses	1,977,397	1,977,397	(44,335)	1,933,062
Capital assets	88,665	51,165	37,500	88,665
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	8,000,000	8,000,000		8,000,000
Rail rate complaint case	900,000	900,000		900,000
Accrued leave payments		168,278	(168,278)	
Reclamation & Grain Licensing Litigation			1,000,000	1,000,000
Total all funds	\$19,645,306	\$19,373,465	\$1,349,009	\$20,722,474
Less estimated income	13,082,083	12,995,259	531,460	13,526,719
General fund	\$6,563,223	\$6,378,206	\$817,549	\$7,195,755
FTE	43.00	43.00	1.00	44.00

Department No. 408 - Public Service Commission - Detail of Senate Changes

	Restores Executive Compensation Package ¹	Removes Separate Line Item for Accrued Leave Payments ²	Adds Funding for Weights and Measures FTE Position ³	Restores Funding for Capital Assets ⁴	Adds Funding for Litigation Costs ⁵	Total Senate Changes
Salaries and wages	\$257,681	\$168,278	\$98,163			\$524,122
Operating expenses			105,665		(150,000)	(44,335)
Capital assets				37,500		37,500
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Accrued leave payments		(168,278)				(168,278)
Reclamation & Grain Licensing Litigation					1,000,000	1,000,000
Total all funds	\$257,681	\$0	\$203,828	\$37,500	\$850,000	\$1,349,009
Less estimated income	95,460	0	0	0	436,000	531,460
General fund	\$162,221	\$0	\$203,828	\$37,500	\$414,000	\$817,549

4 of 4

FTE

0.00

0.00

1.00

0.00

0.00

1.00

¹ Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

² The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

³ This amendment adds one FTE weights and measures position and the related funding.

⁴ This amendment restores the funding removed by the House for disk upgrades and the GIS server.

⁵ A new line item of one-time funding is added for litigation costs. Funding of \$150,000, \$86,000 of which is from the general fund is transferred from the operating expenses line item and \$850,000, \$414,000 of which is from the general fund is added to provide a total of \$1,000,000, of which \$500,000 is from the general fund. The executive budget recommendation provided a total of \$150,000 for litigation funding, of which \$86,000 was from the general fund. The litigation line item includes funding for litigation costs relating to the enforcement of the Public Service Commission's Coal Mining and Reclamation Program; Abandoned Mine Lands Reclamation Program; and Grain Warehouse, Grain Buyer, and Hay Buyer Licensing and Insolvencies.

This amendment also:

- Amends North Dakota Century Code Section 64-02-10 relating to the fee schedule of the large scale weights and measures program. This change is estimated to result in a \$200,000 reduction of general fund revenue for the 2013-15 biennium.
- Removes Section 5 added by the House which required the Public Service Commission to transfer information technology equipment to the Information Technology Department.
- Adds provisions that the commission proceed in hiring the new public utility analyst position prior to July 1, 2013.
- The Public Service Commission's salaries are adjusted to provide the commissioners a 4 percent increase in salary on July 1, 2013, and a 4 percent increase on July 1, 2014, the same as the executive budget recommendation. The House provided for 3 percent annual increases.

Date: 3-27-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1008

Senate Appropriations Subcommittee Committee

Check here for Conference Committee

Legislative Council Amendment Number #13.8137.02001

Action Taken Adopt Amendment Do Pass
 Do Pass as Amended Do Not Pass

Motion Made By O'Connell Seconded By Wanzek

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg			Senator Tim Mathern		
Co-Vice Chairman Bill Bowman			Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer			Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele					
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Vote Carried

Date: 3-27-13

Roll Call Vote # 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1008

Senate Appropriations Subcommittee Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment Do Pass
 Do Pass as Amended Do Not Pass

Motion Made By Wanzek Seconded By O'Connell

Senators	Yes	No	Senator	Yes	No
Chairman Ray Holmberg			Senator Tim Mathern		
Co-Vice Chairman Bill Bowman			Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer			Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele					
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee					

Total (Yes) 3 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Date: 3-29-13

Roll Call Vote # 1

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1008

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number 13.8137 .02001

Action Taken Adopt Amendment Do Pass
 Do Pass as Amended Do Not Pass

Motion Made By Carlisle Seconded By Wanzek

Senators	Yes	No	Senator	Yes	No
Chariman Ray Holmberg			Senator Tim Mathern		
Co-Vice Chairman Bill Bowman			Senator David O'Connell		
Co-Vice Chair Tony Grindberg			Senator Larry Robinson		
Senator Ralph Kilzer			Senator John Warner		
Senator Karen Krebsbach					
Senator Robert Erbele					
Senator Terry Wanzek					
Senator Ron Carlisle					
Senator Gary Lee					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*Voice Vote
Carried*

Date: 3-29-13

Roll Call Vote # 2

2013 SENATE STANDING COMMITTEE
ROLL CALL VOTES

BILL/RESOLUTION NO. 1008

Senate Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendment Do Pass
 Do Pass as Amended Do Not Pass

Motion Made By Carlisle Seconded By O'Connell

Senators	Yes	No	Senator	Yes	No
Chariman Ray Holmberg	✓		Senator Tim Mathern	✓	
Co-Vice Chairman Bill Bowman	✓		Senator David O'Connell	✓	
Co-Vice Chair Tony Grindberg	✓		Senator Larry Robinson	✓	
Senator Ralph Kilzer	✓		Senator John Warner	✓	
Senator Karen Krebsbach	✓				
Senator Robert Erbele	✓				
Senator Terry Wanzek	✓				
Senator Ron Carlisle	✓				
Senator Gary Lee	✓				

Total (Yes) 13 No _____

Absent _____

Floor Assignment Carlisle

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1008, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1008 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "section" with "sections"

Page 1, line 2, after "49-01-05" insert "and 64-02-10"

Page 1, line 3, after "commissioners" insert "and fees to test or calibrate weighing and measuring devices; to provide for a statement of legislative intent"

Page 1, line 4, remove "to authorize a transfer;"

Page 1, replace lines 13 through 16 with:

"Salaries and wages	\$7,482,074	\$1,298,673	\$8,780,747
Operating expenses	1,972,572	(39,510)	1,933,062
Capital assets	53,000	35,665	88,665"

Page 1, replace line 19 through 23 with:

"Rail rate complaint case	900,000	0	900,000
Reclamation and grain licensing litigation	0	<u>1,000,000</u>	<u>1,000,000</u>
Total all funds	\$18,423,646	\$2,298,828	\$20,722,474
Less estimated income	<u>12,403,431</u>	<u>1,123,288</u>	<u>13,526,719</u>
Total general fund	\$6,020,215	\$1,175,540	\$7,195,755
Full-time equivalent positions	43.00	1.00	44.00"

Page 2, replace line 7 though 10 with:

"Hydraulic soil probe	0	28,000
Reclamation and grain licensing litigation	0	<u>1,000,000</u>
Total all funds	\$658,217	\$1,028,000
Total special funds	<u>658,217</u>	<u>517,920</u>
Total general fund	\$0	\$510,080"

Page 2, line 18, replace "ninety-eight" with "ninety-nine"

Page 2, line 19, replace "seventy-nine" with "thirty-five"

Page 2, line 19, replace "one" with "three"

Page 2, line 20, replace "thirty-three" with "twelve"

Page 2, remove lines 30 and 31

Page 3, remove lines 1 and 2

Page 3, after line 11, insert:

"SECTION 6. AMENDMENT. Section 64-02-10 of the North Dakota Century Code is amended and reenacted as follows:

64-02-10. Fees to test or calibrate weighing and measuring devices.

The commission shall collect the following fees to:

1. ~~Test railroad track or truck scale~~ ~~\$171.00~~

2-	Test livestock and vehicle scale	—171.00
3-	Test livestock scale if the sales ring or buying station scale owner transports to the scale and furnishes all test weights and manpower needed to properly test the scale	—96.00
4-	Test auxiliary beam on livestock, motor truck, and motor truck dump scale	—24.00
5-	Test overhead monorail, track, hopper, dormant, deck, and hanging scale of <u>1,000 pounds [453 kilograms] or less capacity</u>	53.00
6-2.	Test movable platform scale	11.00
7-3.	Test counter or computing scale	11.00
8-4.	Test hanging scale of fifty pound [22.68 kilogram] capacity or less	11.00
9-5.	Test a retail motor fuel device	11.00
10-6.	Test or calibrate weighing and measuring standards, per metrologist, per quarter hour or fraction thereof	17.00
11-7.	Test mobile delivery gasoline and fuel oil meter	24.00
12-8.	Test gasoline, LPG, or fuel oil meter on common carrier pipelines, or any other meter used in loading railway cars, transports, or other conveyances	53.00
13-9.	Test propane, ag chemical, or liquid fertilizer meter	39.00
14-	Test crane scale	—107.00
15-10.	Test or calibrate weighing and measuring devices other than the above and those set by rule, per inspector per quarter hour or fraction thereof	11.00
16-11.	Witnessing any of the above tests	Fifty percent of the applicable fee

When a rejected weighing or measuring device has been reconditioned or replaced by new equipment, it must be retested and certified before being put into use except as otherwise provided by rule. The fee for retest and certification is the same as for the first test and certification.

When a test of a weighing or measuring device is required in addition to the regularly scheduled test, the commission shall charge a fee equal to the cost of operating the motor vehicle used in conducting the test. The mileage charges, as determined by the commission, must be in addition to the regular test fee and calculated to cover the costs of the additional travel. If a test has been requested and the person requesting it fails to appear or to have the weighing or measuring device

ready for testing at the arranged time, there is a charge of ten dollars a quarter hour for the time between the arranged time and the time at which the test can begin."

Page 3, line 12, after "INSPECTOR" insert "AND PUBLIC UTILITY ANALYST"

Page 3, line 13, replace "proceeds" with "proceed"

Page 3, line 14, after "inspector" insert "and public utility analyst"

Page 3, line 14, replace "has" with "have"

Page 3, line 17, replace "This" with "Section 7 of this"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1008 - Public Service Commission - Senate Action

	Executive Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$8,659,244	\$8,256,625	\$524,122	\$8,780,747
Operating expenses	1,977,397	1,977,397	(44,335)	1,933,062
Capital assets	88,665	51,165	37,500	88,665
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	8,000,000	8,000,000		8,000,000
Rail rate complaint case	900,000	900,000		900,000
Accrued leave payments		168,278	(168,278)	
Reclamation & Grain Licensing Litigation			1,000,000	1,000,000
Total all funds	\$19,645,306	\$19,373,465	\$1,349,009	\$20,722,474
Less estimated income	13,082,083	12,995,259	531,460	13,526,719
General fund	\$6,563,223	\$6,378,206	\$817,549	\$7,195,755
FTE	43.00	43.00	1.00	44.00

Department No. 408 - Public Service Commission - Detail of Senate Changes

	Restores Executive Compensation Package ¹	Removes Separate Line Item for Accrued Leave Payments ²	Adds Funding for Weights and Measures FTE Position ³	Restores Funding for Capital Assets ⁴	Adds Funding for Litigation Costs ⁵	Total Senate Changes
Salaries and wages	\$257,681	\$168,278	\$98,163			\$524,122
Operating expenses			105,665		(150,000)	(44,335)
Capital assets				37,500		37,500
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Accrued leave payments		(168,278)				(168,278)
Reclamation & Grain Licensing Litigation					1,000,000	1,000,000
Total all funds	\$257,681	\$0	\$203,828	\$37,500	\$850,000	\$1,349,009
Less estimated income	95,460	0	0	0	436,000	531,460
General fund	\$162,221	\$0	\$203,828	\$37,500	\$414,000	\$817,549
FTE	0.00	0.00	1.00	0.00	0.00	1.00

¹ Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

² The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

³ This amendment adds one FTE weights and measures position and the related funding.

⁴ This amendment restores the funding removed by the House for disk upgrades and the GIS server.

⁵ A new line item of one-time funding is added for litigation costs. Funding of \$150,000, \$86,000 of which is from the general fund is transferred from the operating expenses line item and \$850,000, \$414,000 of which is from the general fund is added to provide a total of \$1,000,000, of which \$500,000 is from the general fund. The executive budget recommendation provided a total of \$150,000 for litigation funding, of which \$86,000 was from the general fund. The litigation line item includes funding for litigation costs relating to the enforcement of the Public Service Commission's Coal Mining and Reclamation Program; Abandoned Mine Lands Reclamation Program; and Grain Warehouse, Grain Buyer, and Hay Buyer Licensing and Insolvencies.

This amendment also:

- Amends North Dakota Century Code Section 64-02-10 relating to the fee schedule of the large scale weights and measures program. This change is estimated to result in a \$200,000 reduction of general fund revenue for the 2013-15 biennium.
- Removes Section 5 added by the House which required the Public Service Commission to transfer information technology equipment to the Information Technology Department.
- Adds provisions that the commission proceed in hiring the new public utility analyst position prior to July 1, 2013.
- The Public Service Commission's salaries are adjusted to provide the commissioners a 4 percent increase in salary on July 1, 2013, and a 4 percent increase on July 1, 2014, the same as the executive budget recommendation. The House provided for 3 percent annual increases.

2013 CONFERENCE COMMITTEE

HB 1008

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Roughrider Room, State Capitol

HB 1008
April 18, 2013
Job # 21262

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

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

Minutes:

Chairman Streyle called the committee to order with a quorum present.

Sen. Carlisle: Went over the changes that the Senate made. We wanted to put together a litigation fund to protect coal in that area. They are after the coal industry so we used a series of funds so we are putting together a \$1 M defense fund to defend ourselves.

Rep. Dosch: Didn't we have dollars that account already?

Sen. Carlisle: We found out if the federal funds 60-40 they will kick in. We had funded a much smaller amount, but if we are going to have one with the railroad and the folks that ship grain to market in the present environment with EPA and the coal industry that was the idea.

Rep. Streyle: So the feds are going to pay us to turn around defend ourselves. How does that work?

Sen. O'Connell: There is a separate fund set aside for litigation and that is in the pool. It was first used on capture shippers. So that is where that \$900,000 came in and so this can be used as a big stick to deter them coming in with nit picking law suits like it did with the captured shippers.

Rep. Streyle: We didn't discuss it in committee so that was discussed in the House too.

Sen. Carlisle: The fund is a multipurpose fund.

Sen. Wanzek: It is our hope we don't have to spend that money. If we put a big enough stick on it we would send a message to some that think they will come in and use us as an example to promote some kind of legal effort and making a statement against coal that our state will fight back and not let you step all over us.

Rep. Boe: Was there a discussion that this was a proper place to have this money in a PFC versus the Attorney General's office?

Sen. Wanzek: There was a lot of discussion. There was a thought that being more specific we wanted to get a message to the folks that we want to hear the message.

Rep. Streyle: You said \$300,000; was that right off the top? Was that an estimate or immediate or what?

Sen. Wanzek: The \$300,000 would come out of this. We'll fund the actual demands they are going to have. Those are cases that have already been filed so they are still settling all those issues.

Rep. Streyle: It was the House's intent. There is a House list of 8 or 10 and there is a cost already for that and the PFC did want more money than the Governor actually appropriated.

Sen. Carlisle: I found a note that from PFC and they need by next biennium \$300,885.

Brittani Reim-LC: These are one time funds and if they are not used they will be turned back into the general fund.

Sen. Wanzek: This money might be used to get the attention of someone who might want to come into our state when they know that money is already set aside to take care of this.

Rep. Streyle: I think we have cleared that up.

Sen. Carlisle: If you would explain more on the budget. Senator Wanzek would talk about the weights and measures and then the pipeline safety position.

Sen. Wanzek: Explained the weights and measures changes. 11:19 We thought it would be better to have all scales be privately tested since 2/3 of them are already doing this.

Sen. O'Connell: When the state comes out and finds his is out of compliance he shut down right now. Then he has to make an appointment with these other guys to come out so he can lose two days or a week or whatever so the private people fix it right there and he doesn't lose any down time with customers too.

Sen. Wanzek: What we were going to allow more of an audit of a larger scale. The state will still have somebody go around and do audits confirming that the private scales out there are legal. Now there is no quality control out there. 13:00

Rep. Streyle: That is where we are just eliminating all that section.

Sen. Wanzek: Now on the there is more usage from the state especially on the small scales. It is way over 50%. It would cause a little more backlash so we left those the way they are.

Rep. Streyle: All the fees on the small scales; we did not raise those at all.

Sen. Carlisle: No.

Sen. Wanzek: Their discussion did come up to look into a metrology lab. I understand that the equipment we use for testing has to be tested and the only place available to do that is either the twin cities or Sioux Falls. We did discuss the possibility of a study and locating a metrology lab within the state here. 15:12

Sen. Carlisle: It is a \$2-\$3 M item.

Rep. Dosch: It seems to me that the PSC was happy to get rid of that function.

Sen. Wanzek: They thought maybe a study looking into that should be done. They must be getting a lot of feedback from the citizens that use that and the frustration of taking two days to have their equipment tested.

Sen. O'Connell: There was some competition between the private people and state being in business competing and some of the equipment was getting old and out dated. Now that is different.

Rep. Streyle: The reason they added the weights and measure one of them would be added to the large scales and the other two would stay in the small scales; was that the theory behind that?

Sen. Wanzek: We understood that person would float in the whole weights and measures department. If they are able to get their job done.

Rep. Dosch: if you want the state to get out of certifying of large scales; wouldn't that free up that person that we have in there now?

Sen. O'Connell: The state would use that one person just to cover the whole state for the audit purposes. They have two trucks at this time and they would leave one in the east and the west rather than taking one of these big trucks back and forth. 18:07

Sen. Wanzek: Right now there have been four people in the weights and measures. Two of them working on large scales so we are essentially proposing to take the one away and leave one. So they will actually be going from four to three. The Governor's budget said they could go to two and then add two new FTE's and repurpose them for the pipeline. We felt take one away and one can handle the large scale quality control and also help with the smaller scales if there is that opportunity to do so. 19:16

Sen. Carlisle: Further on the budget. We found four budgets; DPI was one; Attorney General's office; this one; and the Industrial Commission where you folks had changed in whether management comes up with some idea of who they want to do it. We got on PSC and IT to talk. I know there are some security issues and IT thinks they can handle it. The

next person says IT is going to charge more so I don't know what we would do on that.
20:45

Rep. Streyle: I was pushing on all those budgets to consolidate and I wouldn't be willing to put those back in if they don't locate them on a secure data center because the state spent all that money. It is our theory that we should have this equipment secure. There is a lot of confidential data and that is why we did it in a lot of different budgets. I am the CIO at that a bank so I do all the IT stuff. A lot of it is territorial. You don't need to have the server next to you. You can agree the AG. All this is saying is move your hardware to a secure data center. It is not moving any staff. I would be willing to do the disc upgrades on the GIS server if they located their equipment in the secure data center. 22:20

Sen. Carlisle: We picked up on the PFC about this security. The hardware goes into a secure area.

Rep. Streyle: It's more secure and they would have excess to it with a swipe card. I don't remember the last time I was in that server room in the bank. You don't need to be there and I don't think we have an issue with the emergency clause was probably the last issue.

Sen. Carlisle: On the pipeline safety position. Is that the one we put an emergency clause on that?

Rep. Streyle: Was there anything else?

Sen. Carlisle: The big thing was setting up that fund and then the weights and measures and that pipeline safety issue. We will note about the IT now.

Rep. Dosch: We have a certain program and the state spent a ton of money getting a secure server room for this reason so it is time we use them.

Closed.

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Roughrider Room, State Capitol

HB 1008
April 19, 2013
Job 21333

Conference Committee



Explanation or reason for introduction of bill/resolution:

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

Minutes:

Attachment 1.

Chairman Streyle called the committee to order. A quorum was present.

Chairman Streyle: I did have another question on the weights and measures. My understanding is that the Senate pulled out the large scales in there.

Senator Wanzek: From where the agency's been they've had 4 people doing the weights and measures. We're taking 1 away. There's more work and it's not like the work has gone away.

3:34 Representative Streyle: With taking the task away from that there is a difference by removing the large scales and adding the employee back in. I guess if they are at sixty percent and done by private, allowing them to do some privates would generate some revenue.

Senator Wanzek: Before I would make any changes I would like to visit with PSC. You're saying we added the FTE, in that area in my mind we cut 1 FTE, and adding 2 more for other reasons.

5:14 Representative Streyle: One of them isn't filled right now.

5:30 Senator O'Connell: I think that's good business certifying to see if the private person is doing it completely. Keep one person to cover the whole state is quite an undergoing situation.

Senator Wanzek: They didn't fill the open position because of this budget.

Representative Streyle: That makes sense. Senator Kalk what are your thoughts on just adding the 3rd just for audit only?

6:43 Commissioner Brian Kalk, PSC: The large scale is going more to the private sector. The small scale we are doing a lot of the work. The challenge is even though there are 3 people it's not like they are interchangeable. One person has large scale training and equipment and the other 2 are small scale.

8:09 Senator Carlisle: Should we remove the large scale, you're ability to charge for that or not?

Kalk: We are only doing quality assurance so that there won't be a charge for any large scale fees. Yes, through large scale we wouldn't be collecting any revenue. We would still collect on the small scale.

Senator Carlisle: I know this isn't a hearing but in light of what you do in your business on the ITD we've had this ongoing discussion between ITD and PSC. We would like to hear more about this.

9:56 Representative Streyle: I'll go through what this bill does as opposed to what ITD's budget does. There is plenty of room in there and full control. ITD is a little more expensive. I would support adding the equipment back in with the understanding that the hardware moves because there isn't any reason to have it up there.

10:49 Senator Carlisle: If I understood you said you hadn't been in your server room in 3 weeks, you were showing us on your phone.

11:56 Kalk: We'll work with whatever the committee decides.

12:24 Representative Streyle: They are totally separate issues. As far as moving the equipment, I don't think there will be issues with that.

13:16 Senator Wanzek: I'm trying to get a grasp on this. What do you mean when you are talking about equipment?

Representative Streyle: Explained the equipment he took a look at in the morning.

15:08 Senator Wanzek: What about the metrology lab? I know that they are looking at the idea of a study to research whether or not to put one of these labs back in Bismarck.

Representative Dosch: From what I recall the equipment would have to be updated.

16:30 Senator Carlisle: You have to go out of state now to that. If it would be amenable to study it for that kind of money and then if people aren't comfortable, let it lay.

Representative Streyle: I wouldn't have a problem with the study.

Senator Carlisle: You brought up a good point. There have been so many studies done.

Representative Streyle: Would you want to go through the litigation fund again?

18:00 Senator Carlisle: Page 4 of the amendment explains it. The thought process is to lay out a big stick for the potential of the EPA's rules.

19:58 Representative Streyle: So, is it correct to say that these are existing lawsuits?

Senator Wanzek: We think that coal is going to be under assault. This isn't meant to go look for a fight, but to prevent a fight.

Representative Streyle: Of the federal funded piece of that it would be \$500 general fund total out of the million dollars.

22:32 Senator Carlisle: That's correct. 64%. See Attachment 1.

24:29 Representative Streyle: Did you want to work on language on a study?

Senator Wanzek: We said that we may bring it out of conference committee.

Chairman Streyle adjourned the committee.

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Roughrider Room, State Capitol

HB 1008
April 22, 2013
Job 21403

Conference Committee

Committee Clerk Signature

David Hanson

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Amendment .02003

Chairman Streyle called the committee to order with all present except Senator O'Connell.

Chairman Streyle: We'll try to resolve some of these issues. I did get a document regarding the litigation funding. Stated what he thought should be in the bill. 2:00

Sen. Wanzek: One comment on the weights and measures, as far as removing the fees. It seems like it wouldn't be appropriate to charge these folks if they are going to be paying the private person to do the actual certification. 3:15

Chairman Streyle: I think we are in agreement with that. As for the litigation fund, are there any thoughts of reducing that fund slightly?

Sen. Carlisle: Asked what Chairman Streyle would be comfortable with.

Chairman Streyle: Yes. From my perspective I think that would be fine, because I don't think they'll raise that amount of federal money anyway.

Sen. Carlisle: Did you say anything on the metrology lab study?

Sen. Wanzek: Handed out amendment .02003. Referenced section 5. This would be a PSC study for a new metrology lab.

Rep. Boe: Is the PSC agreeable to this study?

Sen. Wanzek: I don't know for certain. There is a PSC commissioner here.

Chairman Streyle: The PSC shouldn't study it, but legislative management should. And it shouldn't be "shall study", but a "shall consider".

Commissioner Randy Christmann-PSC: As for the study, it should be legislative management. He addressed the need of a metrology lab and it would be good to look into. 9:55

Chairman Streyle: Is there any objection to a "shall consider" a study and everyone is amenable to the \$900,000 with \$400,000 being federal? Listed other parts of the bill that there was no objection. 11:10

Sen. Carlisle: Would you be amenable to anymore information?

Chairman Streyle: No. It's simply moving it to where it should be.

Sen. Wanzek: How will this fit into the ITD budget? Section 5 in ITD that asks to the same thing?

Chairman Streyle: That's the exact same thing.

Sen. Wanzek: I respect your knowledge of the subject area. There are other people that have raised some concerns, observing other states that have consolidated. There might be need to have another meeting. 13:10

Chairman Streyle: I think their concern is with section 8 of ITD. ITD would not control this.

Sen. Wanzek: It would be good if the whole committee would go down and see the secure location that we are talking about.

Chairman Streyle: I think it would be good if we saw it.

Sen. Carlisle: Do you see any agency jurisdiction problems?

Chairman Streyle: I don't see an issue with that.

Chairman Streyle adjourned the committee.

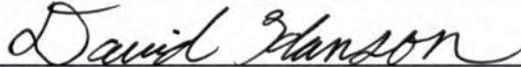
2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Roughrider Room, State Capitol

HB 1008
April 24, 2013
Job 21471

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

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

Minutes:

Chairman Streyle called the committee to order with a quorum present.

Chairman Streyle: Has the Senate decided on the offer that we made?

Sen. Carlisle: Senator Wanzek might have some comments being that he is on the IT committee. And I think we are having a tour today?

Chairman Streyle: That is correct.

Sen. Wanzek: I haven't had a chance to visit with the other senators, but I don't think we've resolved it for the purposes of moving it forward here. I think that it is going to be settled in the ITD budget one way or another. We are going to have to correlate the two or if we move this one out we'll have to deal with it in the other budget. I'll leave that up to you as the chairman.

Chairman Streyle: We'll wait until after the tour until to see if that clarifies anything.

Chairman Streyle recessed the committee.

2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division
Roughrider Room, State Capitol

HB 1008
April 26, 2013
Job 21541

Conference Committee

Jocelyn Gallagher

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission; to amend and reenact sections 49-01-05 and 64-02-10 of the North Dakota Century Code, relating to the salary of public service commissioners and fees to test or calibrate weighing and measuring devices; to provide for a statement of legislative intent; to provide for a legislative management study; and to declare an emergency.

Minutes:

You may make reference to "attached testimony."

Chairman Streyle: Everyone present. I ask if the Senate has any thoughts on the movement and equipment or server and disk upgrades.

Sen. Carlisle: We designate Sen. Wanzek to let us know.

Sen. Wanzek: I'm going to propose is what if we were to take that language out. We know it's going to be settled in the ITD budget. We are dealing with the same issue. If we're going to do, we will do it in there. To move this budget it seems we're in agreement on everything else, it's just that section that we're still in contention over.

Chairman Streyle: I would agree to that if we not add back the disk and GIS servers. They can find that in another operating line.

Sen. Wanzek: I don't have my folder, can you point that out?

Chairman Streyle: its bullet point 4, we removed it, you guys put it back in. I would agree to remove that section out to require the transfer but not add back the servers. They can find that amount in their budget if they want to do that already. We've given everything; we haven't gotten anything the house did so they can find the money in their budget.

Sen. Carlisle: So what we are agreeing on at this point is the 900 thousand on the litigation fund, the metrology lab with the appropriate language, "the legislative management shall consider studying", correct? Ok, and the salaries and the pay package, and you folks are okay with weights and measures. So it's a little bit of give and take on 37?

Chairman Streyle: No. There isn't a single thing left in here that we didn't agree to basically remove. They can find the money if it's truly a need.

Sen. Wanzek: Would that soften you up on 2021?

Chairman Streyle: No.

Recess for 5 minutes (4:04)

Chairman Streyle: Back to order

Sen. Wanzek: We would be willing to go along with that and allow them to find that in their budget. The only problem is it's a capital asset line item so would you object to if we take that amount of money out, we take it out of the operating line instead? They would have the flexibility within their operating to find that additional money to meet operating needs and we leave it in the capital asset line.

Chairman Streyle: We're just reducing the operating line by equal amounts.

Sen. Wanzek: I know you stated they could find that within their budget but if you remove from the capital asset line they really can't go to operating line and utilize it. We will give up the money but take it out of the operating line.

Chairman Streyle: That's fine. Let's make a motion and wrap this up.

Sen. Wanzek: I move that the Senate recedes from its amendments and amend with all the agreements we made. The new compensation package agreement, the 900 thousand, the additional FTE for the weights and measures, the elimination of the large scale fees, and what am I forgetting?

Sen. Carlisle: Under the metrology labs study, we are changing the language so the legislative management shall consider

Sen. Wanzek: I would include in all those amendments the 37,500 reduction in the operating line. I was going to talk about the removing of the servers and that but the Senate amendments removed them. We would want to include that in this motion that would remove that language out of 1008.

Sen. Carlisle: You folks are going to figure it out in the IT budget?

Chairman Streyle: Yes, we have that in section 5.

Sen. Wanzek: The record can show where we're moving it because we believe it's going to be addressed in a different budget.

Chairman Streyle: Correct. We need a second. Okay, we have a motion and second by Rep. Dosch. Clerk will call the roll.

Sen. O'Connell: That's on the whole bill not just the amendments?

Chairman Streyle: Just the amendments I think right now, then we do the bill?

Sen. Wanzek: No, that's based on the motion to recede and to further amend with all those amendments. It is usually all one concise package.

Chairman Streyle: This is my first time, so thank you.

Sen. O'Connell: The reason I'm asking the question if we're going on each amendment because I'm not for the last amendment myself. I will support the bill but not the one amendment.

Sen. Wanzek: Okay, can we at least have the right to review those amendments when they come down, because we're throwing it all out there.

Chairman Streyle: Senator, did you want that separated?

Sen. O'Connell: No, go ahead.

Chairman Streyle: Call the roll.

6-0-0

Sen. Carlisle: When we get the amendments done, Brittani can get each of us a hard copy to look.

Sen. Wanzek: The only thing I might add is are we just going to have an option to look and review them, we're not going to meet again necessarily. But if anybody sees something on there they think is wrong, just let you know?

Chairman Streyle: Yes.

VR
4/29/13
1 of 5

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

That the Senate recede from its amendments as printed on pages 1203-1206 of the House Journal and pages 964-967 of the Senate Journal and that Engrossed House Bill No. 1008 be amended as follows:

Page 1, line 2, replace "section" with "sections"

Page 1, line 2, after "49-01-05" insert "and 64-02-10"

Page 1, line 3, after "commissioners" insert "and fees to test or calibrate weighing and measuring devices"

Page 1, line 3, remove "a"

Page 1, line 4, replace "study" with "studies"

Page 1, line 4, after the second semicolon insert "to provide a statement of legislative intent;"

Page 1, replace lines 13 through 23 with:

"Salaries and wages	\$7,482,074	\$1,024,630	\$8,506,704
Accrued leave payments	0	168,278	168,278
Operating expenses	1,972,572	(77,010)	1,895,562
Capital assets	53,000	35,665	88,665
Grants	16,000	4,000	20,000
Abandoned mined lands contractual	8,000,000	0	8,000,000
Rail rate complaint case	900,000	0	900,000
Reclamation and grain licensing litigation	0	900,000	900,000
Total all funds	\$18,423,646	\$2,055,563	\$20,479,209
Less estimated income	12,403,431	984,038	13,387,469
Total general fund	\$6,020,215	\$1,071,525	\$7,091,740
Full-time equivalent positions	43.00	1.00	44.00"

Page 2, after line 6, insert:

"Reclamation and grain licensing litigation 0 750,000"

Page 2, replace lines 8 through 10 with:

"Total all funds	\$658,217	\$778,000
Total special funds	658,217	353,920
Total general fund	\$0	\$424,080"

Page 2, line 18, replace "ninety-eight" with "ninety-nine"

Page 2, line 19, replace "seventy-nine" with "thirty-five"

Page 2, line 19, replace the second "one" with "two"

Page 2, line 20, replace "thirty-three" with "eighteen"

Page 2, line 24, after "**STUDY**" insert "**- CIVIL PENALTIES**"

Page 2, remove lines 30 and 31

Page 3, replace lines 1 and 2 with:

"SECTION 5. LEGISLATIVE MANAGEMENT STUDY - METROLOGY LABORATORY. The legislative management shall consider studying, during the 2013-14 interim, the feasibility and desirability of constructing a new metrology laboratory. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

SECTION 6. AMENDMENT. Section 64-02-10 of the North Dakota Century Code is amended and reenacted as follows:

64-02-10. Fees to test or calibrate weighing and measuring devices.

The commission shall collect the following fees to:

1.	Test railroad track or truck scale	\$171.00
2.	Test livestock and vehicle scale	171.00
3.	Test livestock scale if the sales ring or buying station scale owner transports to the scale and furnishes all test weights and manpower needed to properly test the scale	96.00
4.	Test auxiliary beam on livestock, motor truck, and motor truck dump scale	24.00
5.	Test overhead monorail, track, hopper , dormant, deck, and hanging scale of <u>one thousand pounds [453 kilograms] or less capacity</u>	53.00
6-2.	Test movable platform scale	11.00
7-3.	Test counter or computing scale	11.00
8-4.	Test hanging scale of fifty pound [22.68 kilogram] capacity or less	11.00
9-5.	Test a retail motor fuel device	11.00
10-6.	Test or calibrate weighing and measuring standards, per metrologist, per quarter hour or fraction thereof	17.00
11-7.	Test mobile delivery gasoline and fuel oil meter	24.00
12-8.	Test gasoline, LPG, or fuel oil meter on common carrier pipelines, or any other meter used in loading railway cars, transports, or other conveyances	53.00

- ~~43-9.~~ Test propane, ag chemical, or liquid fertilizer meter 39.00
- ~~14.~~ ~~Test crane scale~~ ~~107.00~~
- ~~45-10.~~ Test or calibrate weighing and measuring devices other than the above and those set by rule, per inspector per quarter hour or fraction thereof 11.00
- ~~46-11.~~ Witnessing any of the above tests Fifty percent of the applicable fee

When a rejected weighing or measuring device has been reconditioned or replaced by new equipment, it must be retested and certified before being put into use except as otherwise provided by rule. The fee for retest and certification is the same as for the first test and certification.

When a test of a weighing or measuring device is required in addition to the regularly scheduled test, the commission shall charge a fee equal to the cost of operating the motor vehicle used in conducting the test. The mileage charges, as determined by the commission, must be in addition to the regular test fee and calculated to cover the costs of the additional travel. If a test has been requested and the person requesting it fails to appear or to have the weighing or measuring device ready for testing at the arranged time, there is a charge of ten dollars a quarter hour for the time between the arranged time and the time at which the test can begin."

Page 3, line 12, after "INSPECTOR" insert "AND PUBLIC UTILITY ANALYST"

Page 3, line 13, replace "proceeds" with "proceed"

Page 3, line 14, replace "a" with "the"

Page 3, line 14, replace "position" with "and public utility analyst positions"

Page 3, line 14, replace "has" with "have"

Page 3, line 17, replace "This" with "Section 8 of this"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1008 - Public Service Commission - Conference Committee Action

	Executive Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$8,659,244	\$8,256,625	\$250,079	\$8,506,704	\$8,780,747	(\$274,043)
Operating expenses	1,977,397	1,977,397	(81,835)	1,895,562	1,933,062	(37,500)
Capital assets	88,665	51,165	37,500	88,665	88,665	
Grants	20,000	20,000		20,000	20,000	
Abandoned mined lands contractual	8,000,000	8,000,000		8,000,000	8,000,000	
Rail rate complaint case	900,000	900,000		900,000	900,000	
Accrued leave payments		168,278		168,278		168,278
Reclamation & Grain Licensing Litigation			900,000	900,000	1,000,000	(100,000)
Total all funds	\$19,645,306	\$19,373,465	\$1,105,744	\$20,479,209	\$20,722,474	(\$243,265)
Less estimated income	13,082,083	12,995,259	392,210	13,387,469	13,526,719	(139,250)
General fund	\$6,563,223	\$6,378,206	\$713,534	\$7,091,740	\$7,195,755	(\$104,015)

4 of 5

FTE 43.00 43.00 1.00 44.00 44.00 0.00

Department No. 408 - Public Service Commission - Detail of Conference Committee Changes

	Removes House Changes to Executive Compensation Package ¹	Adjusts State Employee Compensation and Benefits Package ²	Adds Funding for Weights and Measures FTE Position ³	Adjusts Line Item Funding ⁴	Adjusts Funding for Litigation Costs ⁵	Total Conference Committee Changes
Salaries and wages	\$257,681	(\$105,765)	\$98,163			\$250,079
Operating expenses			105,665	(37,500)	(150,000)	(81,835)
Capital assets				37,500		37,500
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Accrued leave payments						
Reclamation & Grain Licensing Litigation					900,000	900,000
Total all funds	\$257,681	(\$105,765)	\$203,828	\$0	\$750,000	\$1,105,744
Less estimated income	95,460	(39,250)	0	0	336,000	392,210
General fund	\$162,221	(\$66,515)	\$203,828	\$0	\$414,000	\$713,534
FTE	0.00	0.00	1.00	0.00	0.00	1.00

¹ Changes made by the House to the executive compensation package are removed.

² This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 3 to 5 percent for the first year of the biennium and 2 to 4 percent for the second year of the biennium.
- Reduces the market component from 2 to 4 percent per year to 1 to 2 percent per year for employees below the midpoint of their salary range.
- Reduces funding for retirement contribution increases to provide for a 1 percent state and 1 percent employee increase beginning in January 2014 and no increase in January 2015.

³ This amendment adds 1 FTE weights and measures position and the related funding, the same as the Senate version.

⁴ This amendment does not restore the funding removed by the House for geographic information system and disk upgrades; however, it does adjust which line item the funding is removed from. The House removed the funding from the capital assets line item. The Senate restored the funding to the capital assets line item. The conference committee amendment restores the funding to the capital assets line item and removes it from the operating expenses line item.

⁵ A new line item is added for litigation costs. Funding of \$150,000, \$86,000 of which is from the general fund, is transferred from the operating expenses line item and \$750,000, \$414,000 of which is from the general fund, is added to provide a total of \$900,000, of which \$500,000 is from the general fund. The executive budget recommendation provided a total of \$150,000 for litigation funding, of which \$86,000 was from the general fund. The litigation line item includes funding for litigation costs relating to the enforcement of the Public Service Commission's coal mining and reclamation program; abandoned mine lands reclamation program; and grain warehouse, grain buyer, and hay buyer licensing and insolvencies. The \$750,000 of additional funds is one-time funding. The Senate added \$850,000, of which \$414,000 is from the general fund. The conference committee reduced the additional federal funds to \$364,000 to provide a total of \$900,000 for litigation costs.

This amendment also:

- Amends Section 64-02-10 relating to the fee schedule of the large scale weights and measures program. This change is estimated to result in a \$200,000 reduction of general fund revenue for the 2013-15 biennium, the same as the Senate version.

- Removes Section 5 added by the House which required the Public Service Commission to transfer information technology equipment to the Information Technology Department, the same as the Senate version.
- Adds provisions that the commission proceed in hiring the new public utility analyst position prior to July 1, 2013, the same as the Senate version.
- Changes Section 3 to reduce the Public Service Commissioners' salary increases from a 4 percent annual increase to a 4 percent increase on July 1, 2013, and a 3 percent increase on July 1, 2014. The House provided annual salary increases of 3 percent. The Senate provided annual salary increases of 4 percent, the same as the executive recommendation.
- Provides for a Legislative Management study of the feasibility and desirability of the construction of a metrology laboratory.

2013 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: Appropriations Education and Environment

Bill/Resolution No. HB 1008 as (re) engrossed

Date: Apr. 26, 2013

Roll Call Vote #: 1

- Action Taken**
- HOUSE accede to Senate amendments
 - HOUSE accede to Senate amendments and further amend
 - SENATE recede from Senate amendments
 - SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on (H/J/SJ) page(s) 1203 -- 1206

- Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) HB 1008 was placed on the Seventh order of business on the calendar

Motion Made by: Sen. Wanzek Seconded by: Rep. Dosch

Representatives	4/24	4/26	Yes	No		Senators	4/24	4/26	Yes	No
Chairman Roscoe Streyle	X	X	X			Senator Ron Carlisle	X	X	X	
Rep. Mark Dosch	X	X	X			Senator Terry Wanzek	X	X	X	
Rep. Tracy Boe	X	X	X			Senator David O'Connell	X	X	X	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier Rep. Streyle Senate Carrier Sen. Carlisle

LC Number _____ . 02004 _____ of amendment

LC Number _____ . _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

To remove bullet point 4.

REPORT OF CONFERENCE COMMITTEE

HB 1008, as engrossed: Your conference committee (Sens. Carlisle, Wanzek, O'Connell and Reps. Streytle, Dosch, Boe) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1203-1206, adopt amendments as follows, and place HB 1008 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1203-1206 of the House Journal and pages 964-967 of the Senate Journal and that Engrossed House Bill No. 1008 be amended as follows:

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"Reclamation and grain licensing litigation	0	750,000"
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Engrossed HB 1008 was placed on the Seventh order of business on the calendar.

2013 TESTIMONY

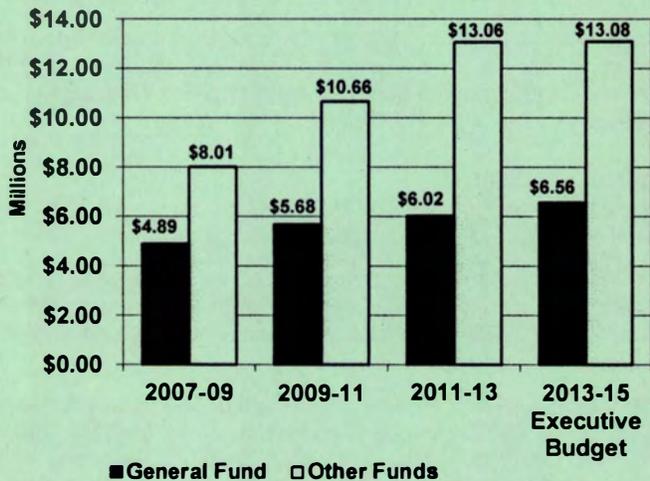
HB 1009

**Department 408 - Public Service Commission
 House Bill No. 1008**

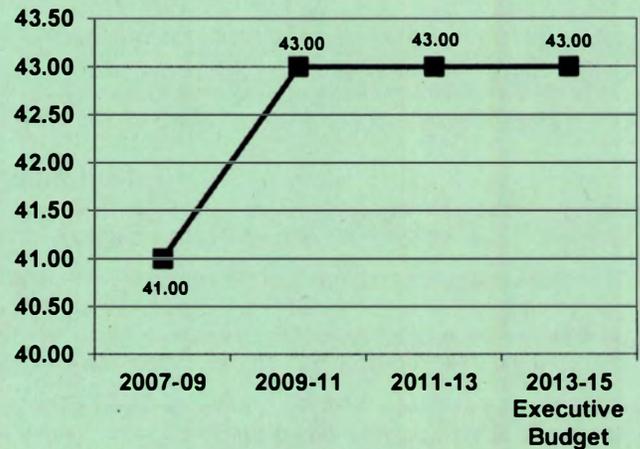
	FTE Positions	General Fund	Other Funds	Total
2013-15 Executive Budget	43.00	\$6,563,223	\$13,082,083	\$19,645,306
2011-13 Legislative Appropriations	43.00	6,020,215 ¹	13,061,648	19,081,863
Increase (Decrease)	0.00	\$543,008	\$20,435	\$563,443

¹The 2011-13 appropriation amounts do not include an allocation of \$3,600 from the general fund from the Office of Management and Budget for student internships.

Agency Funding



FTE Positions



Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2013-15 Executive Budget	\$6,553,143	\$10,080	\$6,563,223
2011-13 Legislative Appropriations	6,020,215	0	6,020,215
Increase (Decrease)	\$532,928	\$10,080	\$543,008

Executive Budget Highlights

	General Fund	Other Funds	Total
1. Adds one-time funding for hydraulic soil probe	\$10,080	\$17,920	\$28,000
2. Changes funding for FTE positions by			
Adding:			
1 FTE gas pipeline safety inspector	\$113,201	\$169,802	\$283,003
1 FTE public utility analyst III	\$199,345		\$199,345
Deleting:			
(1) FTE weights and measurement inspector I	(\$107,044)		(\$107,044)
(1) FTE weights and measurement inspector I	(\$101,113)		(\$101,113)
3. Adds funding for increased travel costs	\$54,956	\$11,199	\$66,155
4. Adds funding for additional legal fees to grain elevator insolvency cases and reclamation/abandoned mined lands lawsuits	\$86,000	\$64,000	\$150,000
5. Provides funding for state employee salary increases of which \$374,768 relates to performance increases and \$114,302 is for market equity adjustments	\$308,114	\$180,956	\$489,070

Other Sections in Bill

Section 3 - Public Service Commissioners' salaries - Provides the statutory changes necessary to increase the Public Service Commissioners' salaries as follows:

Annual salary authorized by the Legislative Assembly in 2011:

July 1, 2011	\$92,826
July 1, 2012	\$95,611

Proposed annual salary recommendation in the 2013-15 executive budget:

July 1, 2013	\$99,435
July 1, 2014	\$103,412

The executive recommendation provides funding for elected officials' salary increases equal to 4 percent of salaries effective July 1, 2013, and 4 percent effective July 1, 2014.

Section 4 - Provides a transfer of \$900,000 from the Bank of North Dakota beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. If any amount is spent, the Public Service Commission shall reimburse the beginning farmer revolving loan fund using amounts from damages or proceeds received, net of legal fees, from a successful outcome of a rail rate complaint case.

Continuing Appropriations

Siting process expense recovery fund - North Dakota Century Code 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

Credit-sale contract indemnity fund - Sections 60-10-02 and 60-02-19.1 - An assessment is placed on the value of all grain sold in this state under a credit-sale contract, which is submitted by the licensee purchasing the grain to the Public Service Commission for reimbursement to any person who sold grain under a credit-sale contract and who was not fully compensated in accordance with the contract and associated administration costs.

Performance assurance fund - Section 49-21-31 - The performance assurance plan is a component of Qwest's performance assurance plan to provide long-distance service. Money received by the Public Service Commission under the 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 \$125,000. 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.

Significant Audit Findings

There have been no significant audit findings for this agency.

Major Related Legislation

Senate Bill No. 2112 - Increases public utility application fees

HB 1008
House approp. Educ & Env
January 14, 2013
attachment #1

House Bill 1008

Presented by: Brian P. Kalk, Chairman
Public Service Commission

Before: House Appropriations – Education and Environment
Representative Robert J. Skarphol, Chairman

Date: January 14, 2013

TESTIMONY

Mister Chairman and committee members, I'm Brian P. Kalk, Chairman of the Public Service Commission, here to present our 2013-2015 biennial budget request. Also in attendance are my colleagues Commissioners Randy Christmann and Julie Fedorchak. Thank you for the opportunity to discuss our operations, statutory mandates, resource needs and answer any questions you may have.

This testimony is prepared using the format requested by the North Dakota Legislative Council letter dated December 21, 2012. Our goal today is to update this committee on our most recent audit findings, share our thoughts on the Governor's recommended budget as we discuss the Commission's request for appropriations to include; estimated spending, budget needs, one-time spending needs, major variances, and changes to federal funding. Finally, we will provide a general overview of our operations.

Audit Findings:

The Commission received three audit findings for the biennium which ended in 2011. They were for:

- 1) Receipts not properly recorded (11-1),
- 2) Lack of fixed inventory (11-2),
- 3) Insufficient inspection fees (11-3).

Audit findings regarding improper receipting and fixed inventory have been resolved by changing procedures, implementing new policies, and improving staff training. Finding 11-3 relates to weights and measures fees and is a bit more complicated. Finding 11-3 highlighted that the Commission is not charging adequate fees to cover the cost of the weights and measures program. We pointed out to the auditor that the fees are set in statute and we are following the law. The Commission agreed with findings 11-1 and 11-2. We did not agree with finding 11-3. Later in this testimony we will provide a much more detailed analysis and recommendations on the weights and measures program.

Appropriations, Estimated Spending, and Budget Needs:

The Commission has been able to operate within its appropriations for the current biennium during a period of energy development in the state. We have been directly impacted by the tremendous growth in energy related infrastructure and must maintain pipeline safety as a high priority. Additionally, there has been a surge in telecommunication cases and jurisdictional determination requests. Finally, the Commission faces increasing litigation in several areas of jurisdiction. We accept the Governor's executive budget recommendation. However, we do not agree with the Governor's reduction in legal operating funds. We ask that you reinstate our original request for 300,000 dollars to provide us the ability to hire outside attorneys with specialized expertise on a case by case basis. They

will be used to defend state sovereignty from federal encroachment on state jurisdiction and represent the interests of claimant farmers in grain buyer and grain warehouse insolvencies, and provide much needed resources in a more litigious world.

One-time Spending:

Our budget includes a single one-time spending request which is also supported by the Governor's executive budget recommendation for a hydraulic soil probe used by the Reclamation Division. This equipment purchase will replace the existing probe originally purchased in 1977. The soil probe is used to check and evaluate soil respread depths on reclaimed lands and the need for this work will continue for many years to come.

Major Variances:

We have encountered several internal variances this biennium affecting the operating budgets of certain divisions. The most notable one is located within our weights and measures program where extended vacancies created a positive operating variance of approximately 85,000 dollars as of December 2012. These savings allow us flexibility to handle unbudgeted legal expenses caused by federal lawsuits involving the coal regulatory program, and grain insolvencies. Litigation on the pending federal lawsuits and the insolvencies is not expected to be completed by June 30, 2013 and will carry forward well into the 2013-2015 Biennium, which is one of the driving factors behind our request for additional operating funds.

The Commission's salary appropriation line has a positive variance as of December 31, 2012 of nearly 300,000 dollars due to a number of staff vacancies this biennium. These primarily involve highly technical positions such as inspectors, engineers, and scientists. The majority of these individuals accepted higher paying positions. We have growing concern over our ability to recruit and retain well qualified people during this time of economic growth in our state.

Changes in Federal Funding:

We have concerns that the Commission may not receive sufficient federal funds for our reclamation, abandoned mine lands, and gas safety programs in the next biennium.

The Office of Surface Mining within the United States Department of Interior provides the 64 percent federal share of the coal regulatory program costs, with the state general fund proving the remaining 36 percent. While we do not expect the total elimination of federal funding, it seems a 15 to 20 percent reduction is possible for the second year of the 2013-2015 Biennium considering the reductions in state program funding that have been proposed by the Obama Administration for several years. A 20 percent reduction in the amount of the federal funds we receive in the 2014-2015 fiscal year would total about 190,000 dollars. If that happens, options for dealing with the shortfall of federal funds are limited. The first option would be to ask the Emergency Commission for additional state general funds. If such a request were denied, we would have to reduce spending for the coal regulatory program. A funding shortfall of 190,000 dollar per year would likely result in a reduction of two FTEs, since about 90

percent of the Reclamation Division budget is salary related (including the indirect cost reimbursements). However, the elimination of two FTEs would reduce the Commission's ability to carry out an effective program and we would probably see increased federal oversight of our program by the Office of Surface Mining.

With regard to any reduction in federal funds from the Office of Surface Mining for the abandoned mine lands program, we would reduce the number and/or size of construction projects that eliminate hazards associated with abandoned surface and underground coal mines.

The gas safety program is funded by an estimated 50/50 cost share between the state general funds and federal funds provided by the Pipeline and Hazardous Materials Safety Administration within the United States Department of Transportation. A 15-20 percent reduction to federal funds could result in approximately 20,000 dollars being allocated to the general fund. If this occurs during the next biennium, we would first attempt to find cost savings internally, but would not rule out the need for Emergency Commission action.

Operational Overview:

The Commission is a constitutional agency with varying degrees of statutory authority over the following:

- Regulation of electric, natural gas, and telephone utilities,
- Siting oil and gas processing plants, power plants, power lines, and transmission pipelines,
- Pipeline safety,

- Licensing and inspecting grain warehouses and grain buyers and administering insolvency cases,
- Licensing auctioneers and auction clerks,
- Certifying weighing and measuring devices,
- Overseeing active coal mining and reclamation,
- Eliminating hazards at abandoned mine sites,
- Representing state rail interests in federal proceedings,
- Railroad crossings.

Organization Matrix:

Please see Attachment 3.

Areas of Discussion:

Before reviewing all program areas we would like to provide additional information on our request for reinstating additional legal operating funds and our weights and measures program.

Legal Operating Funds:

The Commission faces increasing litigation in several areas of jurisdiction. (Please see Attachment 4.) The attorney positions at the Commission are mainly transactional positions, not litigation positions. While the Commission's attorneys may have the time and expertise to handle infrequent, less complex litigation, the Commission does not have the resources in-house to handle more frequent and more complex litigation. In larger regulatory agencies in other jurisdictions, when litigation arises, it is assigned to litigation attorneys and is not handled by the agency attorneys.

The Commission does use the services and expertise of the North Dakota Attorney General's Office when that office is available to assist us. While the Attorney General's rates are less than that of outside counsel, and the Assistant Attorneys General are extremely helpful whenever possible, the Attorney General's office often does not have availability to take on the Commission's litigation needs.

This past biennium the Commission has faced this issue on multiple fronts. Since 2007, grain warehouse and grain buyer insolvency cases handled by the Commission are occurring more frequently, and are increasingly complex with large dollar amounts at issue.

Since the Commission cannot predict how many insolvencies may be open or pending in a biennium, nor the complexity or size of those insolvencies, the Commission believes it is more efficient and a wiser use of state funds to outsource litigation needs when necessary, rather than adding employee positions. This method offers the Commission, the taxpayers, and most importantly, the producers the benefit of representation by specific counsel targeted to the specific needs of any particular case, maximizing the return to the state on any particular expenditure.

Similar concerns arise with federal litigation involving the Commission's coal mining and reclamation program and contract dispute litigation involving the Commission's abandoned mine lands program. In each of these areas, specialized substantive and litigation expertise is necessary in order to defend the litigation.

The specific federal lawsuits potentially affecting the Commission's reclamation program are discussed in more detail later in this testimony. It is important to note here, however, that to successfully defend the state against these lawsuits requires counsel with very specialized substantive and federal litigation expertise.

One lawsuit is directly concerned with the effect of campaign contributions on the duty of elected officials to carry out their statutory responsibilities, and the right of the state to implement and enforce its reclamation program. This is a case of first impression, with far-reaching potential state and federal impact, and has a very real possibility of going all the way to the United States Supreme Court. The second lawsuit directly concerns one important, long-standing component of the North Dakota's reclamation program, as well as that of other states, and the federal government, and again challenges the right of North Dakota and other states to implement and enforce their own programs consistent with federal law and rules. Both cases involve extremely important states' rights and sovereignty issues and deserve the best defense possible.

Finally, the Commission is very rarely involved in contract dispute litigation, but when one does occur, it is imperative that counsel be retained with contract litigation experience. The potential damages against the Commission in the pending contract dispute are over one million dollars. The Commission can best defend against such substantial litigation by retaining outside counsel with expertise in contract dispute litigation. This enables the Commission to litigate

most efficiently without incurring unnecessary expenses in times when we face no disputes.

Weights and Measures:

The Commission supervises and controls all weighing and measuring devices in the state. This includes approximately 20,800 devices used in North Dakota for weighing or measuring in commerce. Such devices include supermarket scales, grain elevator truck scales, livestock scales, and gas station pumps, etc. The weights and measures program has four inspector positions, one of which is currently vacant. To implement the program, the Commission owns and maintains field standards, certifies weighing and measuring devices, and enforces compliance with applicable laws, rules, orders and procedures.

Weights and Measures Accomplishments:

Some of the accomplishments and work of the program include:

- Tested and inspected 21,185 commercial devices from January 1, 2009 to December 31, 2011,
- Collected fees totaling 409,508 dollars for the general fund as a result of the above testing during that time period,
- Monitored the documentation of 17,940 weighing or measuring devices installed or serviced by registered service companies,

Weights and Measures Challenge:

As I mentioned a moment ago, the weights and measures program is currently authorized four inspector positions. One position is vacant. Over the years this program has been pared back from six inspectors to five, then down to

four, and now the Governor's budget eliminates two of the four that remain. Thus the Commission feels it would be inappropriate to fill a position that is scheduled to be eliminated.

In recent years weights and measures has been a hybrid program consisting of unannounced Commission inspections, which we attempt to do at least once every 15 months. (The North Dakota Century Code requires the devices to be inspected at least once every 24 months.) However, if problems exist the operators of the device need to bring in private contractors to make repairs. The reality is that these businesses are turning to private contractors for the initial tests more and more frequently, despite the fact that a test by the Commission is far less expensive, if the device is working properly. We believe that one of the reasons businesses prefer the contractors is that they schedule the tests in advance, while the Commission does them unannounced. Further complicating the situation is the fact that our biennial audit contained a finding, which I mentioned earlier, that we are not charging enough for these inspections. We agree with the Auditor that we are not charging enough to pay for the cost of this program, but the reality is that we cannot increase the fees because the fees we charge have been set by the Legislature in North Dakota Century Code section 64-02-10.

The "quick fix" here would be for you to change the fee schedule and give us back the two FTEs. The data suggests, though, that some businesses are already switching to private contractors so if we charge similar rates we will likely lose additional business anyway. A policy you may want to consider is having the

Commission operate a quality control program for the private contractors. All devices in commerce would then be tested by private contractors and the Commission would test a sampling of them, at no charge to the operators, to assure accuracy. This would not be in violation of the letter of existing law, which puts responsibility for maintaining accuracy on the operator of the devices. However, if we are to cut the weights and measures program back to a quality assurance only system, some adjustments must be made in statute, such as removing the testing fees. We would also ask that this change be phased in to allow businesses which rely on the Commission for testing to find other alternatives, allow private contractors to prepare for the additional opportunities, and allow the Commission time to promulgate rules.

Gas Safety Program:

The Commission is responsible for ensuring that gas pipeline facilities used for the intrastate distribution and transmission of gas are designed, constructed, and operated to meet the pipeline safety standards set forth in regulations of the United States Department of Transportation. Each year, the Commission enters into an agreement with the United States Department of Transportation which grants state authority to conduct a gas pipeline safety program. As part of this agreement, approximately 50 percent of the cost of the North Dakota gas pipeline safety program is funded by the federal government.

The gas pipeline safety program currently consists of one full-time employee. However, the Governor's executive budget provides the Commission a repurposed position from the weights and measures program to support:

- Increased construction activity and damage prevention enforcement (one call violations and increased regulatory oversight),
- An approximate 20 percent increase for 2013 and beyond in the minimum enforcement inspection days required by the federal/state agreement,
- Additional increases in minimum required enforcement inspection days as the number of intrastate gas pipeline operators and miles of pipe increase.

Federal pipeline safety legislation enacted as long ago as 2002 and as recently as 2011 has resulted in the promulgation of additional federal safety standards that substantially increased state enforcement responsibilities and activities. Some of the recent federal rulemaking is the result of major gas pipeline incidents across the United States.

The Commission requests, and the Governor's recommendation supports, an additional gas pipeline safety inspector to meet the demands of the rapidly increasing gas pipeline infrastructure and address ongoing safety concerns surrounding pipeline failures nationwide. This position will also address new state and federal regulations that place an even greater burden on the existing program. It costs approximately 30,000 dollars to train and certify a gas pipeline safety inspector and a second inspector will provide continuity and consistency within the growing program.

In addition to previous testimony on the additional position, the Pipeline Safety & Hazardous Material Safety Administration strongly encouraged the Commission to hire an additional pipeline safety inspector and committed increased funding to support this position. The Commission requests that an

emergency clause be incorporation for this component of our appropriation in order to fill this position as soon as possible.

Public Utilities:

Public utility efforts are undertaken with a staff that is, by far, the smallest staff of any public utility commission in the nation. The Commission protects the public interest by implementing policy and regulating electric, natural gas, telecommunication, and pipeline companies in a fair, efficient, and cooperative manner. The Commission helps promote the provision of safe, reliable, and high quality utility services through its work with utility companies, rulemaking, educating consumers and resolving consumer disputes.

The Commission has requested and the Governor's executive budget supports an additional public utility analyst to address the increase in North Dakota's energy infrastructure and to effectively regulate utility services.

The following illustrates some of the important public utilities work carried out by the Commission:

- Track, comment on, and participate in the continued development of the regional wholesale electric market through the operator of the transmission system, the Midwest Independent System Operator. The regional wholesale market is important not only for efficiency and reliability but also for the future exportation of electricity from North Dakota.
- Investigate, analyze, advocate, provide testimony, and implement rate and rate design changes through the regulation of retail electric and gas service provided by investor owned utilities. The staff conducts annual reviews of

earnings levels and processes rate increase applications. Staff also directs and enforces safety requirements for electric and natural gas service provided by all utilities.

- Investigate, analyze, implement, and provide assurances to the extent possible for using the state's abundant natural resources for the production of power through siting activities and overall regulatory authority. Through its siting authority, the Commission oversees the location and construction of CO₂ pipelines, gas plants, generating stations and applicable water lines, wind farms, electric transmission lines, and oil and gas pipelines and related pumping stations and other facilities.
- Investigate, analyze, advocate, and provide testimony concerning advance prudence applications by regulated utilities for electric resource additions. We expect more of these types of filings as continued generation and transmission build-out is expected for the next several years.
- Track, comment on, and implement federal telecommunication mandates including oversight and facilitation of the wholesale telecommunications market and the transition to competitive services. These types of cases include intercompany access disputes, inter-carrier compensation disputes, monitoring quality of service through regional efforts, overseeing the allocation of telephone numbers, rural exemption challenges, and so on.
- Resolve territorial disputes between investor owned electric companies and rural cooperatives, and protect the public interest through action on agreements entered into between electric providers concerning service areas,

which may include certificates of public convenience and necessity for utility plant and system extensions.

- Investigate, analyze, provide testimony, and implement merger and acquisition applications.
- Process the occasional formal dispute between customers and a utility company that cannot be resolved informally. In these cases, a formal complaint is filed by the customer or Commission staff and the Commission then may conduct a formal hearing and order a resolution.
- In a recent rulemaking proceeding, the Commission adopted the 2011 edition of the National Electric Safety Code governing the safe installation and maintenance of electric supply and communications lines.
- The Commission will continue efforts to educate consumers and competitors about the evolving utility marketplaces and the changing role of regulation, striving to identify and implement ways to lessen the regulatory burden on companies while strengthening and preserving necessary consumer protections. Regional impacts, widespread policy from Washington, DC, and environmental priorities and concerns will contribute to the challenges facing policymakers, regulators, and interested parties.

Public Utility Accomplishments:

Until recently, the last big build out of utility infrastructure occurred in the late 70's and early 80's resulting in large rate increases to cover the increased investment. Since then, the Commission authorized rate increases to investor-owned utilities totaling 28 million dollars for the 24 years ending 2006. During the

current cycle, the Commission has authorized rate increases of 38 million dollars during the last five years. Rate cases are expensive and time intensive and sensitive.

In 2005, the Legislature passed North Dakota Century Code section 49-05-16 to authorize the Commission to grant advance determination of prudence to utilities for reasonable and prudent investments in energy conversion and transmission facilities and purchased power contracts. Since then, the Commission processed 10 such cases involving billions of dollars of investment. Staff is tasked with the responsibility of determining whether such proposals are indeed the least cost alternatives necessary to provide reliable service.

Beyond these two cornerstones of public utilities, staff is tasked with the daily duties of monitoring earnings of investor-owned utilities, monitoring federal and other states' regulations and activities that impact North Dakota rates, working with industry to develop performance-based rates, analyzing energy efficiency and demand side management programs for economic viability, developing rates that are fair and cost based to the extent possible, and developing solutions for improved reliability of services.

The Commission's caseload for siting energy conversion and transmission infrastructure has increased substantially over the past decade, as noted in the below table.

Applications Filed	1990's	2000-2005	2006	2007	2008	2009	2010	2011	2012
Siting	19	21	7	14	24	19	18	23	15
Rate Increases	5	5	1	1	2	0	2	1	1
Advance Determination of Prudence	0	0	2	0	2	4	1	4	2

Since 2005, the Commission has approved route permits for facilities representing 1.65 billion dollars in oil pipeline investments and 844 million dollars in electric transmission investments. We have also issued siting certificates for facilities representing 3.7 billion dollars in wind generation investment. Looking forward, the challenges are even greater as we have letters of intent to build nearly 13.6 billion dollars' worth of energy conversion facilities, all of them requiring Commission oversight.

Reclamation:

The Reclamation Division is responsible for ensuring that active coal mining is carried out in an environmentally sound manner and that mined lands are successfully reclaimed. Mining companies must obtain mining permits from the Commission for all lands that will be disturbed by coal mining activities and they must also provide performance bonds in an amount that is sufficient to complete the required reclamation work. Major activities of the Reclamation Division include the review of mining permit and revision applications, conducting mine site inspections, and evaluating reclamation success as part of the bond release process.

The federal Office of Surface Mining conducts ongoing reviews of the coal regulatory program and issues annual evaluation reports. North Dakota continues to receive excellent reports from the Office of Surface Mining and that office considers North Dakota's program one of the most efficient and well run programs in the country.

The federal government, through annual grants from the Office of Surface Mining, is currently paying 64 percent of the coal regulatory program costs and the state general fund covers the other 36 percent. Based on the available information at this time, it appears we should be receiving enough federal funds to meet our program needs for at least the first year of the 2013-2015 Biennium. However, due to the federal deficit, we have concerns whether or not sufficient federal funds will be appropriated by Congress for the second year of the biennium.

There are currently four large and two small coal mines operating in North Dakota and they currently produce approximately 28 million tons of lignite per year. There are nearly 117,500 acres of land presently under permit and, of this; about 60,000 acres have been disturbed by mining activities. Applications to permit another 18,600 acres are currently being reviewed by the Reclamation Division. This includes applications for two new mines, one northwest of Center and the other near South Heart.

Between 1,500 and 2,000 acres of land are typically disturbed and reclaimed each year. The disturbed and reclaimed acres are monitored by the Commission to ensure mining and reclamation activities are conducted in compliance with state reclamation laws and rules. At least two inspections per month are usually conducted at the four large mines.

Another significant workload for the Reclamation Division is related to final bond release on reclaimed lands. The Commission's jurisdiction over reclaimed land ends upon the granting of the final bond release. However, mining

companies cannot apply for final bond release until most mined lands have been reclaimed and seeded for at least ten years. When final bond release is requested, detailed information and data must be provided showing that reclaimed lands with an agricultural use produce as well as they did before mining. In the past ten years, final bond release has been granted on nearly 16,000 acres.

The Reclamation Division continues to use and enhance a Geographic Information System (GIS) for storing, evaluating, and analyzing a vast amount of data and maps that the Commission receives from mining companies. Once data and maps are converted into the appropriate format and entered into the GIS, data are downloaded onto tablet PCs equipped with Global Positioning Satellite (GPS) receivers for use during routine mine inspections. The GPS receivers allow staff to know precisely where they are at during the mine inspection, to save a track-log of the areas traversed at the mine, and to accurately note any areas of concern observed during the inspections.

In the past few years environmental and citizen groups have been filing more lawsuits across the country challenging mine permitting actions by the state regulatory authority. In North Dakota, the Dakota Resource Council (DRC) appealed the approval of a permit revision to the North Dakota Supreme Court in 2011 for a change in the post-mining land use at the Falkirk Mine. The Supreme Court upheld the Commission's decision. In May 2012, the DRC and Sierra Club filed two lawsuits in United States District Court challenging parts of North Dakota's coal regulatory program. In one of the cases, the plaintiffs asked the

court to order the federal takeover of our program by the Department of the Interior. This trend is expected to continue and the Commission believes additional operating funds will be needed for hiring outside attorneys to defend North Dakota in federal court. Maintaining our coal regulatory program that is responsive to the needs of the mining companies is very important to North Dakota's lignite industry. We need to ensure that state primacy, as provided for under the federal mining and reclamation act, is not diminished or lost as a result of these lawsuits.

Abandoned Mine Lands:

The mission of the Abandoned Mine Lands (AML) Division is to reclaim abandoned coal mine lands that pose a safety hazard. The program is 100 percent federally funded through a federal reclamation fee assessed on all active coal mines. North Dakota mining companies currently pay eight cents per ton of lignite produced into the AML fund, which totals about 2.25 million dollars per year. The Commission receives money from this fund to operate North Dakota's AML program. Federal legislation enacted in late 2006 extended collection of the federal reclamation fee until September 30, 2021. This legislation also required the Office of Surface Mining to pay out the state share balances in the AML fund and this has increased our funding from 1.6 million dollars in 2007 to the nearly four million dollars received in 2012. The Commission expects to receive about eight million dollars from the Office of Surface Mining during the 2013-2015 Biennium. However, starting in 2015, the amount of funds we receive will decrease to three million dollars per year, the minimum amount for a state AML

program, for the duration of the program. The AML Division also hires two seasonal inspectors to monitor the on-site construction work during the summer and fall months.

Sites eligible for reclamation under Title IV of the federal Surface Mining Control and Reclamation Act include lands disturbed by underground and surface coal mining prior to its enactment in 1977. These sites are prioritized on the basis of perceived hazards and are reclaimed based on priority ranking and available funds. Major reclamation projects during the 2011-2013 Biennium include filling underground mine voids east of Williston and in the Beulah/Zap area, and eliminating highwalls at abandoned surface mines south of Sawyer in Ward County and near Columbus in Burke County.

The AML Division has developed a GIS database to store and display information about the AML sites in North Dakota. Much of this information will be posted on the Commission's website so it will be readily available to the public. We believe it is important to have information on abandoned underground mines available to the public since there are times when there are no surface features present to indicate a potential hazardous condition exists in an area.

Licensing:

The Licensing Division oversees the licensing and bonding of all public grain warehouses and grain buyers in North Dakota and processes all grain warehouse and grain buyer insolvency cases. The division also oversees the licensing and bonding of all auctioneers and auction clerks.

The Commission was involved in six insolvencies this biennium. There are complicated issues involved with each of these insolvencies. Due to the number of complex insolvencies happening simultaneously, the Commission has had to hire outside counsel to provide legal services to assist in processing one of the insolvencies. Due to the complexity of the issues in recent insolvencies, the time for completing an insolvency has increased significantly.

Licensing Accomplishments:

Some major accomplishments and important work completed July 1, 2011 through December 31, 2012 include:

- Completed approximately 300 grain warehouse and grain buyer inspections,
- Approved 219 capacity increase requests and 104 capacity decrease requests,
- Approved 46 requests to discontinue business and issued 37 new licenses.

Agriculture Rail Rate Fund:

The Governor's executive budget recommendation includes a continuation of 900,000 dollars from the beginning farmers fund for the agriculture rail rate fund.

Business Operations:

The Business Operations Group provides support services to the other divisions. Accordingly, a portion of the Commission's funding comes from the federal government through an indirect cost reimbursement. Indirect costs are recovered from the federal grants to offset administrative costs associated with our federal programs.

The Commission recorded 2,970 complaints and inquiries during the current biennium. The vast majority of these concerned public utility services, but many involved matters such as grain elevator operations, mining activities, siting, and weights and measures.

During the current biennium, the Commission opened 1,372 cases. The Commission attempts to process these cases quickly and at the lowest level of formality possible. As a result, approximately ninety-six percent of these cases were processed without the need for a formal hearing. Only fifty-two of these cases required formal hearings, several of which were mandated by state law.

Summary:

Of the Commission's overall budget, approximately fifty-eight percent comes from federal sources, thirty-six percent is general fund money, and six percent is special funds. The Commission currently generates approximately one million dollars per biennium in income from statutory license and inspection fees. Indirectly, this income covers about seventeen percent of the general fund money that is being requested in House Bill 1008.

The Commission currently has forty-three full time employees, including the three Commissioners, plus two temporary seasonal employees to work with the Abandoned Mine Lands Division during the construction season.

Mister Chairman, this concludes our testimony. I will be happy to answer any questions.

Attachments:

1. Schedule for continuing appropriation funds: Performance Assurance Fund, Credit-Sale Contract Indemnity Fund, and the Siting Process Expense Recovery Fund.
2. PSC January 2013 organizational chart.
3. PSC organization matrix.
4. PSC cases currently in litigation.

North Dakota Public Service Commission
Continuing Appropriations

Attachment 1

Performance Assurance Fund

Fund No. 280

Statutory Authority: NDCC 49-21-31.

	<u>Biennium Ending</u>		<u>as of:</u> <u>1/11/2013</u>	<u>Projected</u>	
	<u>2007-2009</u>	<u>2009-2011</u>		<u>to</u> <u>6/30/12</u>	<u>2013-15</u>
Beginning Balance	\$ 96,536	\$ 98,743	\$ 107,800	\$ 107,800	\$ 100,000
Revenues	\$ 17,400	\$ 10,190	26,200	30,000	30,000
Total Available	\$ 113,936	\$ 108,933	\$ 134,000	\$ 137,800	\$ 130,000
Expenditures	\$ 15,193	\$ 1,133	-	-	5,000
Tsfr to General Fund		\$ -	33,400	37,800	25,000
Ending Balance	\$ 98,743	\$ 107,800	\$ 100,600	\$ 100,000	\$ 100,000

Credit Sale Contract Indemnity Fund

Fund No. 395

Statutory Authority: NDCC 60-10.

	<u>Biennium Ending</u>		<u>as of:</u> <u>1/11/2013</u>	<u>Projected</u>	
	<u>2007-2009</u>	<u>2009-2011</u>		<u>to</u> <u>6/30/12</u>	<u>2013-15</u>
Beginning Balance	\$ 4,206,289	\$ 6,597,920	\$ 6,806,117	\$ 6,806,117	\$ 5,656,117
Revenues	2,501,946	208,197	57,419	100,000	65,000
Total Available	\$ 6,708,235	\$ 6,806,117	\$ 6,863,536	\$ 6,906,117	\$ 5,721,117
Expenditures	110,315		459,293	1,250,000	250,000
Ending Balance	\$ 6,597,920	\$ 6,806,117	\$ 6,404,243	\$ 5,656,117	\$ 5,471,117

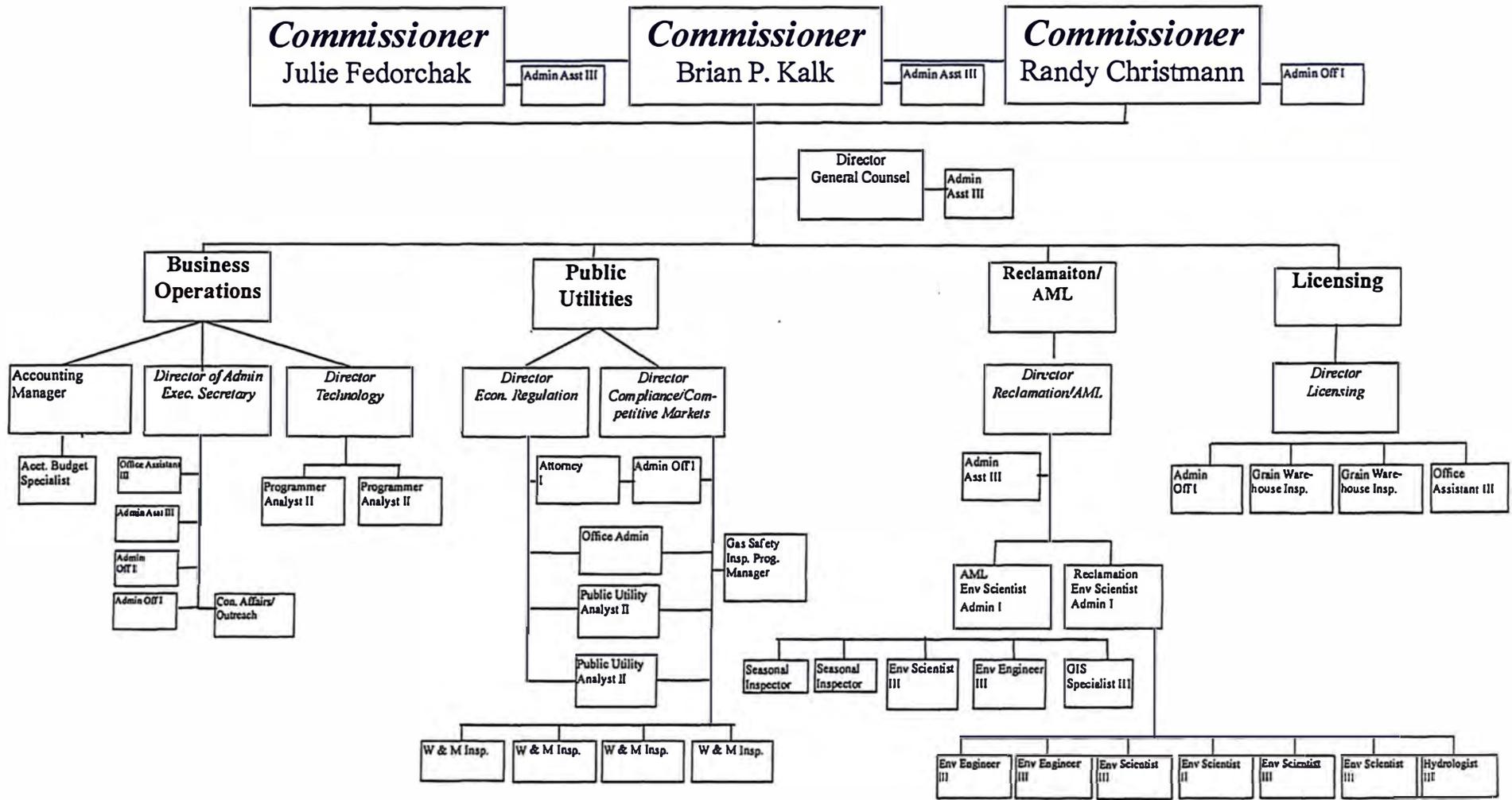
Siting Process Expense Recovery Fund

Fund No. 301

Statutory Authority: NDCC 49-22-22.

	<u>Biennium Ending</u>		<u>as of:</u> <u>1/11/2013</u>	<u>Projected</u>	
	<u>2007-2009</u>	<u>2009-2011</u>		<u>to</u> <u>6/30/12</u>	<u>2013-15</u>
Beginning Balance	\$ 524,390	\$ 857,746	\$ 1,782,604	\$ 1,782,604	\$ 2,532,604
Revenues	1,197,250	1,876,500	1,385,762	2,000,000	2,000,000
Total Available	\$ 1,721,640	\$ 2,734,246	\$ 3,168,366	\$ 3,782,604	\$ 4,532,604
Expenditures	863,894	951,642	387,080	1,250,000	1,250,000
Ending Balance	\$ 857,746	\$ 1,782,604	\$ 2,781,286	\$ 2,532,604	\$ 3,282,604

North Dakota Public Service Commission
January 2013



1/11/2013

Division	Job Title	Position	Current FTE's	New FTE's	Governor Recommended
Commissioner	ELECTED - NOT CLASSIFIED	00004992	1		1
Commissioner	ELECTED - NOT CLASSIFIED	00004990	1		1
Commissioner	ELECTED - NOT CLASSIFIED	00004991	1		1
Secretary to Commission	APPOINTED--NOT CLASSIFIED	00004998	1		1
Consumer Affairs	PUBLIC INFO SPEC II	00004993	1		1
Administration	ADMIN OFR I	00004995	1		1
Administration	OFFICE ASSISTANT III	00005000	1		1
Accounting	ACCOUNTING MANAGER I	00005004	1		1
Accounting	ACCOUNT/BUDGET SPEC I	00005027	1		1
Technology	INFO TECHNOLOGY ADMIN I	00004999	1		1
Technology	PROGRAMMER ANALYST II	00025988	1		1
Technology	PROGRAMMER ANALYST II	00005001	1		1
Legal	ATTORNEY III	00004996	1		1
Legal	ADMIN ASSISTANT III	00005003	1		1
Legal	PARALEGAL		0	1	0
Gas Pipeline	GAS PIPELINE SAFETY INSPECTOR	00005005	1		1
Gas Pipeline	GAS PIPELINE SAFETY INSPECTOR		0	1	1
Licensing	GRAIN WAREHOUS INSPECTOR	00005013	1		1
Licensing	GRAIN WAREHOUS INSPECTOR	00005012	1		1
Licensing	LICENSING DIV DIRECTOR-PSC	00005011	1		1
Public Utilities	ADMIN OFR I	00005032	1		1
Public Utilities	ATTORNEY II	00005029	1		1
Public Utilities	PUBLIC UTIL ANALYST II	00005031	1		1
Public Utilities	PUBLIC UTIL ANALYST II	00027148	1		1
Public Utilities	PUBLIC UTIL ANALYST III		0	1	1
Public Utilities	PUBLIC UTILITY DIVISION DIR	00005028	1		1
Public Utilities	PUBLIC UTILITY DIVISION DIR	00005030	1		1
Reclamation/AML	DIR, REC & ABANDONED MINE LAND	00005014	1		1
Reclamation/AML	ADMIN ASSISTANT III	00004994	1		1
Reclamation	ENVIRON SCIENCES ADMIN I	00005017	1		1
Reclamation	ENVIRON SCIENTIST III	00005021	1		1
Reclamation	ENVIRON SCIENTIST III	00027940	1		1
Reclamation	ENVIRON SCIENTIST III	00005020	1		1
Reclamation	ENVIRON SCIENTIST III	00005018	1		1
Reclamation/AML	GIS SPECIALIST III	00005025	1		1
Reclamation	ENVIRONMENTAL ENGR III	00005023	1		1
Reclamation	ENVIRONMENTAL ENGR III	00005019	1		1
Reclamation	HYDROLOGIST III	00005022	1		1
AML	ENVIRON SCIENCES ADMIN I	00005015	1		1
AML	ENVIRON SCIENTIST III	00005026	1		1
AML	ENVIRONMENTAL ENGR III	00005024	1		1
Weights and Measures	ADMIN OFR I	00005002	1		1
Weights and Measures	WEIGHTS & MEASURES INSPECTOR I	00005006	1	(1)*	0
Weights and Measures	WEIGHTS & MEASURES INSPECTOR I	00005010	1		1
Weights and Measures	WEIGHTS & MEASURES INSPECTOR I	00005007	1		1
Weights and Measures	WEIGHTS & MEASURES INSPECTOR I	00005009	1	(1)*	0

43

3

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* Repurposed to new Gas Safety Inspector and Public Utility Analyst

Public Service Commission – Cases Currently in Litigation

11 January 2013

<i>Sierra Club & DRC v. Ken Salazar</i> United States District Court (ND) Civil No. 1:12-cv-065	Case No. RC-12-676
<i>Dakota Resource Council v. PSC</i> United States District Court (ND) Civil No. 1:12-cv-064	Case No. RC-12-677
<i>City of Oxbow, et. al, Appellants v.</i> <i>North Dakota Public Service Commission, Appellee</i> Civil No. 09-2012-CV-03147	Case No. PU-07-759
<i>North Central Electric Cooperative, Inc., Appellant v.</i> <i>North Dakota Public Service Commission,</i> <i>Otter Tail Power Company, and</i> <i>Turtle Mountain Band of Chippewa Indians, Appellee</i> Civil No. 08-2012-CV-01464	Case No. PU-11-701
<i>Missouri Valley Communications, Inc., Plaintiff v.</i> <i>ND PSC and Kevin Cramer, Bonny Fetch & Brian Kalk,</i> <i>in their official capacities as Commissioners of ND PSC</i> <i>and Midcontinent Communications, Defendants</i> United States District Court (ND) Civil No. 4:12-CV-00091	Case No. PU-11-697
<i>Smith Contacting, Inc., Plaintiff v.</i> <i>North Dakota Public Service Commission, Defendant</i> Civil No. 08-211-CV-01887	Case No. AM-10-37
<i>Public Service Commission, Petitioner v.</i> <i>Mitchell Feeds, Inc. & Western Surety Company,</i> <i>Respondents</i> Civil No. 08-2011-CV-917	Case No. GE-11-51
<i>Public Service Commission, Plaintiff v.</i> <i>Falkirk Farmers Elevator Co., Defendant</i> Civil No. 28-2012-CV-00176	Case No. GE-12-769
<i>Public Service Commission, Petitioner v.</i> <i>Anderson Seed Co., Inc., Respondent</i> Civil No. 09-2012-CV-00693	Case No. GE-12-78



HB 1008
#2

Alliance Pipeline ~~Ltd~~ Inc.
6385 Old Shady Oak Road
Suite 130
Eden Prairie, MN 55344

Telephone (952) 983-1000
Toll-free 1-800-717-9017

January 14, 2013

**Written Testimony of Tony Straquadine, Manager, Government Affairs
for Alliance Pipeline Inc. – In Support of House Bill 1008**

**Greetings Chairman Skarphol, and members of the Education and Environment
Division of the House Appropriations Committee:**

On behalf of Alliance Pipeline Inc. (Alliance) – a federally regulated interstate natural gas pipeline that has been safely operating 323 miles of natural gas pipeline in the State of North Dakota since 2000, **I offer the following written testimony in support of H.B. 1008** – as proposed by Governor Dalrymple in support of the North Dakota Public Service Commission appropriation.

Specifically, Alliance is very supportive of the request by the ND Public Service Commission to add one (1) FTE Gas Pipeline Safety Inspector to the Commission staff.

Through certification by U.S. Department of Transportation – Pipeline and Hazardous Material Safety Administration (PHMSA) the State of North Dakota regulates, inspects, and enforces intrastate gas pipeline safety requirements.

PHMSA regulates, inspects and enforces interstate gas pipeline safety requirements in North Dakota. PHMSA also regulates, inspects and enforces both intrastate and interstate liquid pipeline safety requirements in North Dakota.

Alliance supports this addition staff due to the continued frenzy of industry activity related to Bakken oil and gas development. Stringent oversight of intrastate gas pipeline assets is important to public safety, environmental protection and ongoing economic development opportunities in North Dakota. The safe design, construction, operation and maintenance of gas pipelines also support the goal of reducing natural gas flaring in the State.

Thank you for the opportunity to present this written testimony in support of H.B. 1008.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Straquadine".

Tony Straquadine
Manager, Government Affairs
Alliance Pipeline Inc.



**Know what's below.
Call before you dig.**

NB 1008
House Appropriations E & F
January 24, 2013
attachment 1,2,3,4

House Bill 1008

PSC Responses to Committee Inquiries from January 14, 2013 Hearing
January 22, 2012

1. Clarification of Federal and State Gas Safety Jurisdiction

Federal Role

Title 49 Chapter 601 of the United States Code was enacted to provide protection against risks to life and property posed by pipeline transportation and pipeline facilities. Chapter 601 authorizes the Secretary of Transportation to prescribe minimum pipeline safety standards. The minimum pipeline safety standards are codified in Parts 190 through 195 and Parts 198 and 199 of the Code of Federal Regulations. These regulations are written to ensure safety in the design, construction, testing, operation, and maintenance of pipeline facilities.

Under delegation from Secretary of the Department of Transportation (DOT), the Pipeline and Hazardous Materials Safety Administration (PHMSA) administers the pipeline safety program and develops issues and enforces minimum safety regulations for interstate and intrastate pipelines. PHMSA ensures compliance with regulations through operator inspections, enforcement actions, and accident investigations. PHMSA also conducts research, and collects and analyzes safety data.

State Role

Chapter 601 establishes a framework for promoting pipeline safety through exclusive Federal authority and also provides for Federal delegation to the States, under annual certification or agreement, for all or part of the responsibility for intrastate pipeline facilities. The resulting Federal/State partnership is the cornerstone for ensuring uniform implementation of a pipeline safety program nationwide.

The North Dakota Legislature delegated responsibility for intrastate gas pipeline safety to the Public Service Commission. Intrastate liquid pipelines remain under the jurisdiction of PHMSA. Intrastate pipelines begin and end within the borders of a state. The Commission has jurisdiction over intrastate gas distribution and transmission pipelines, and gas gathering lines near 10 or more buildings intended for human occupancy.

2. PSC Gas Safety Inspections

In North Dakota, there are nine operators of intrastate natural gas pipeline that oversee thirteen total inspection units, including six private distribution units, a municipal LPG operator, a master meter operator, and five

intrastate transmission operators. Montana-Dakota Utilities Co., for example, is one operator that oversees four inspection units including its Badlands Division, the Heartland Division, the distribution system in Hettinger and the distribution system at Palmer's Trailer Court in Minot.

The nine operators are Aux Sable Midstream LLC, the City of Granville, Dakota Gasification Company, Great Plains Natural Gas Company, Hiland Operating, LLC, Montana-Dakota Utilities Co., ONEOK Rockies Midstream, L.L.C., Whiting Oil and Gas Corporation, and Xcel Energy (Northern States Power Company).

As of December 31, 2011, there were 148,249 gas services, 3,015.4 miles of gas main, and 240.3 miles of intrastate gas transmission line that are subject to the North Dakota pipeline safety program.

Like PHMSA, the PSC inspection duties consist of operator inspections, compliance and enforcement, safety programs, accident investigations, pipeline construction inspections, and record maintenance and reporting. Attached to this document is a copy of the PSC's submission to PHMSA of the calendar year 2013 Natural Gas Pipeline Safety Program Certification and Grant Application (Exhibit 1, ten pages). In this document, the PSC provides PHMSA a description of the state gas pipeline safety program including the number of intrastate operators and the types of inspections that will be performed.

Title 49 Chapter 601 of the United States Code authorizes Federal grants-in-aid of not more than 80 percent of a State agency's personnel, equipment, activities and other allowable costs for the pipeline safety program. Currently, North Dakota's program is funded approximately 50 percent by federal grant and 50 percent from the state general fund.

3. Changes in Gas Safety Regulations in Past Four Years

In House Bill 1008, the Commission testified that the request for an additional gas pipeline safety inspector was necessary to meet the demands for the rapid increase in gas pipeline infrastructure and to ensure compliance with new state and federal regulations including:

- Increased construction activity in North Dakota and damage prevention enforcement (one call violations and increased regulatory oversight)
- Additional increases in minimum required enforcement inspection days as the number of intrastate gas pipeline operators and miles of pipe increase. Federal pipeline safety legislation enacted as long ago as 2002 and as recently as 2011 continues to trickling down in the form of additional federal safety standards that increase state enforcement

responsibilities and activities. Some of the recent federal rulemaking is the result of major gas pipeline incidents across the United States.

In 2013, the North Dakota Public Service Commission's Gas Pipeline Safety staff is required to conduct a minimum of 101 inspection days on the Intrastate Operators. This is increased from 87 inspection days in previous years. PHMSA has determined that the North Dakota program should have more than 1 inspector to meet all the requirements of the program and has stated that there is matching funding at the federal level for an additional inspector.

Also attached is a summary of new federal regulations adopted by the PSC in its 2011 and 2009 and 2006/2007 rulemaking proceedings (Exhibit 2, six pages). Several of the rulemakings, even though now codified, will be implemented by PHMSA over the next several years with associated deadlines for operator compliance and subsequent inspections by state inspectors to ensure operator compliance. Specific examples are rules requiring control room management programs (74 FR 63310), distribution integrity management programs (74 FR 63905), data collection and analysis and risk assessment (75 FR 72877), verification of maximum allowable operating pressure for existing pipelines (49 CFR Part 192 – Amendment No. 107), integrity management of gas transmission lines, and risk-based approach to determining which gas gathering lines are subject to PHMSA rules and which of these rules the lines must meet (49 CFR Part 192 – Amendment No. 102).

4. Data Provided by Operators to One Call System

North Dakota One Call has implemented an online application called IMAP. An overview of this online app can be found at www.ndonecall.com/NDIMAPManualNovember2012.pdf. Using IMAP, underground facility owners create, or sketch, an area called a polygon on a map North Dakota within which they own buried facilities. They are not mapping the facility, but only indicating the existence of facility they own. IMAP allows the operator to view, add, modify and delete polygons from their active database.

5. Transition Plan for Weights and measures Program

The Commission is still working on a transition plan option and will provide it to the committee as soon as it is finalized.

6. Federal and State Sharing of Abandoned Mine Lands Fee

North Dakota mining companies are currently paying 8 cents per ton of lignite produced into the Abandoned Mine Land (AML) fund maintained by

the Office of Surface Mining (OSM). The annual production in North Dakota has been averaging about 28 million tons which generates about 2.25 million dollars per year. For the our 2013 and 2014 grant periods that begin March 1, 2013 and March 1, 2014, respectively, we expect to receive nearly 4 million dollars per year for the AML program. However, starting on March 1, 2015, this will drop to 3 million dollars per year through 2022 according to the current provisions in the federal reclamation act. Therefore, we currently receive more AML funds from OSM than the amount collected from industry each year. However, prior to 2007 we typically received fewer funds for the AML program than what was collected from North Dakota mining companies.



U.S. Department
of Transportation
**Pipeline and Hazardous
Materials Safety
Administration**



PIPELINE SAFETY

2013 Natural Gas Pipeline Safety Program

60105 - Certification Submission,
Base Grant Application

for

NORTH DAKOTA PUBLIC SERVICE COMMISSION

Please follow the directions listed below:

1. Review the entire document for completeness.
2. Review and have an authorized signatory sign the following pages:
 1. Intentions Page, please see the next page
 2. For 60105 applications, Certification page, Page 4
 3. For 60106 applications, Agreement page, Page 5
3. Attach the printed SF-424 and SF-424A from the Grants.gov forms package.
4. Fasten all pages with a paper or binder clip - no staples please as this package will be scanned upon it's arrival at PHMSA.
5. Mail the entire package to the following:

**ATTN: GWENDOLYN M. HILL
U.S. Department of Transportation
Pipeline & Hazardous Materials Safety Administration
Pipeline Safety, PHP-50
1200 New Jersey Avenue, SE Second Floor E22-321
Washington, D.C. 20590**

Submission Information

Submission Date: 9/24/2012 5:00:04 PM



Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington DC 20590



DEPARTMENT OF TRANSPORTATION

APPLICATION

2013 GRANT PROGRAM IN SUPPORT OF NATURAL GAS PIPELINE SAFETY

The NORTH DAKOTA PUBLIC SERVICE COMMISSION hereby applies to the Department of Transportation for Federal funds appropriated for the support of Pipeline Safety Programs established under 49 U.S.C. Section 60101 et seq. The actual amount of Federal reimbursement depends upon the availability of appropriated funds and state program performance. The total program funding for the State Program Natural Gas and Hazardous Liquid Base Grants is subject to availability of funds and the enactment of an appropriations bill, and will be distributed according to individual state applications.

The State Agency:

Intends to submit an annual certification for calendar year 2013 to the Secretary of Transportation under 49 U.S.C. Section 60105.

The state agency plans to carry out the Pipeline Safety Program, during calendar year 2013, as described in Attachment 1, "Description of State Pipeline Safety Program". To accomplish the program, the state agency proposes to expend funds, if applicable, as set forth in Attachment 2, "Pipeline Safety Program Estimated Budget".

Signature

Title

Date



Pipeline and Hazardous Materials Safety Administration
1200 New Jersey Avenue, SE
Washington DC 20590

NATURAL GAS PIPELINE SAFETY PROGRAM CERTIFICATION FOR CALENDAR YEAR 2013

This certificate (including attachments) is submitted by the NORTH DAKOTA PUBLIC SERVICE COMMISSION (the state agency) to the secretary of Transportation (the Secretary) under Section 60105 of Title 49, United States Code.)

Pursuant to Section 60105(a) of this Title, the state agency hereby certifies to the Secretary that:

1. Under the Constitution and laws of North Dakota it has regulatory jurisdiction over the safety standards and practices of all intrastate pipeline transportation within North Dakota, unless otherwise noted on Attachment 1.
2. It has adopted, as of the date of this certification, each federal safety standard established under this Title that is applicable to the intrastate pipeline transportation under its jurisdiction as set forth in paragraph 1, or, with respect to each such federal safety standard established within 120 days before the date of the certification, is taking steps pursuant to state law to adopt such standard. (The adoption by a state agency of a safety standard that is additional to or more stringent than the applicable federal standard is compatible with the federal standards [see Section 60102(a)(1) of this Title] does not prohibit that state agency from certifying to the actions described in this paragraph.)
3. It is enforcing each adopted standard through ways that include inspections conducted by State employees meeting the qualifications the Secretary prescribes under section 60107(d)(1)(C) of this title.
4. It is encouraging and promoting the establishment of a program designed to prevent damage by demolition, excavation, tunneling, or construction activity to the pipeline facilities to which the certification applies that subjects persons who violate the applicable requirements of that program to civil penalties and other enforcement actions that are substantially the same as are provided under this chapter, and addresses the elements in section 60134(b);
5. It has authority to require each person who engages in the transportation of or who own or operates pipeline facilities subject to its jurisdiction as set forth in paragraph 1, to establish and maintain records, to make reports, and to provide information, and that this authority is substantially the same as the authority provided under Section 60117 of this Title.
6. It has authority to require each person who engages in the transportation of who owns or operates intrastate pipeline transportation facilities, subject to its jurisdiction as set forth in paragraph 1, to file with it for approval a plan for inspection and maintenance substantially as described under Section 60108(a) and (b) of this Title.
7. The laws of North Dakota provide for the enforcement of the safety standards referred to in paragraph 2 by injunctive relief and civil penalties substantially the same as those provided under Sections 60120 and 60122(a)(1) and (b)-(f) of this Title.
8. NORTH DAKOTA PUBLIC SERVICE COMMISSION will submit an annual progress report as provided under 60105 (c) (1).

The state agency furthermore agrees to cooperate fully in a system of federal monitoring of the state program to assure the program is being carried out in compliance with this certification. The terms intrastate pipeline transportation, pipeline facilities, transportation of , and state, are used in certification as defined in this Title. This certification is subject to termination by the Secretary in accordance with Section 60105(f) of this Title, on reasonable notice and after opportunity for hearing, may reject the certification or take such other action as deemed appropriate to achieve adequate enforcement including assertion of federal jurisdiction.

In witness whereof, the hand and seal of the NORTH DAKOTA PUBLIC SERVICE COMMISSION is hereby affixed on the date below.

NORTH DAKOTA PUBLIC SERVICE COMMISSION

Signature _____

Title _____

Date _____



Description of State Pipeline Safety Program

Please provide a detailed description of the state's planned pipeline program for 2013

2013 Pipeline Safety Grant Application ? Program Description and Planned Activities

Under North Dakota Century Code Section 49-02-01.2, the North Dakota Public Service Commission (Commission) has authority to establish and enforce minimum safety standards for the design, construction, and operation of facilities used for intrastate distribution and transmission of gas (<http://www.legis.nd.gov/cencode/t49c02.pdf>). With this authority, the Commission adopted rules under North Dakota Administrative Code Chapter 69-09-03 related specifically to gas pipeline safety including adoption by reference Part 190, Part 191, Part 192, and Part 199 of Title 49 of the Code of Federal Regulations. The Commission's most recent rulemaking, soon to be completed, adopted these parts of 49 CFR in effect as of June 22, 2011 (<http://www.legis.nd.gov/information/acdata/pdf/69-09-03.pdf>). The Commission is also the enforcement agency for North Dakota's One-Call Excavation Notice System under North Dakota Century Code Chapter 49-23 (<http://www.legis.nd.gov/cencode/t49c23.pdf>).

For 2013, the Commission will again partner with the US Department of Transportation, Pipeline and Hazardous Materials Administration (PHMSA) to assure safety in design, construction, inspection, testing, operation, and maintenance of intrastate gas pipeline facilities in North Dakota.

Program Description

In 2013, the North Dakota Public Service Commission's Gas Pipeline Safety staff is expected to conduct a minimum of 101 inspection days on the Intrastate Operators. There are nine intrastate operators oversee thirteen total inspection units, including six private distribution units, a municipal LPG operator, a master meter operator, and five intrastate transmission operators with 148,249 total services, 3,015.4 total miles of mains, and 240.3 total miles of transmission lines.

Inspections and Program Activity

The following briefly outlines the different types of gas pipeline safety inspections, how often they will be conducted, and on what type of operator:

Each active gas operator (intrastate transmission, gathering, or distribution) will receive one comprehensive records inspection per year (including any applicable OQ Element 9 inspections), as stated in the Commissions Gas Pipeline Safety Inspection Plan.

Each active gas operator/inspection unit will receive one design, testing and construction inspection per year (one for the operator's staff, and, if time permits, one inspection for each contractor). All other operators will be monitored for construction activity and inspected if and when any such projects are scheduled as stated in the Commissions Gas Pipeline Safety Inspection Plan.

Each active gas operator/inspection unit may receive any combination of the following compliance inspections, as often as necessary within any one year period: leak surveying, corrosion control, overpressure protection/MAOP, district regulator stations, master meter jurisdiction investigation, and

propane jurisdiction investigation, farm tap inspection, or meter set inspection. Necessity for any of the above special field inspections shall be determined during the annual comprehensive records inspection of each operator as stated in the Commissions Gas Pipeline Safety Inspection Plan.

Each active gas operator (other than propane or master meter operators) may receive a comprehensive inspection of its written Drug and Alcohol Use Prevention Plan at least once every four years (a review of an operator's knowledge of its Plan will be done annually during the comprehensive records inspection), as stated in the Commissions Gas Pipeline Safety Inspection Plan.

Each active gas operator, after having received an initial comprehensive inspection may then receive additional comprehensive inspections of its Operation and Maintenance/Emergency Response Plan/ Operator Qualification Plan/Integrity Management Plan, as stated in the Commissions Gas Pipeline Safety Inspection Plan. However, any changes made to those plans will be reviewed on an ongoing basis.

Follow-up inspections may be conducted on all active operators/inspection units on a case by case basis, and as often as necessary to determine compliance.

The Commission will make its inspector available to OPS Central Region on a per project basis as requested by OPS for the purpose of conducting design, testing and construction inspection on any new interstate gas or liquid lines; or for other work on these systems as specified in the federal/state MOU.

Other Parameters:

Operators will be selected for inspection based upon the following criteria:

1. date elapsed since last inspection;
2. history of violations;
3. any special projects or activities being scheduled;
4. reasonable seasonal rotation; or
5. as set forth in the division's Gas Pipeline Safety Inspection Plan

Operator Training:

On-site operator training will either be scheduled as requested by each individual operator, or as determined by a gas pipeline safety inspector. The joint TQ/NDPSC operator training seminar will be scheduled at least once every two years (coordination with the State of South Dakota has been established in order to provide a joint TQ/State seminar to North Dakota operators at least once every two years).

Incidents:

Incidents, as defined in 49 CFR Part 191.3, will continue to be thoroughly investigated at the earliest possible response time as set forth in the Commissions Gas Pipeline Safety Inspection Plan; and, quickly reported to PHMSA, Central Region. In addition, Commission gas pipeline safety inspector will be available to assist PHMSA/NTSB investigators not only on intrastate gas distribution/transmission systems, but any other pipeline system jurisdictional to PHMSA.

Record Keeping:

The Program Manager will maintain the following computerized gas safety records:

- a) Year-to-date tally reports of the gas safety program, which includes the operator name and address, type of inspection, date(s) of inspection, number of inspection units and person days assigned to the inspection, number and date of probable violations and proposed compliance orders issued, number and amount of civil penalties proposed, number of violations found or rescinded by the Commission, number and amount of civil penalties assessed by the Commission, date civil penalties were collected, date(s) of various orders issued in the case, any pertinent comments about the case, and the total number of Warning Letters issued;

b) A 10-year history by operator of gas safety violations found by the Commission for all jurisdictional natural gas and propane operators in the state; and

c) Document forms for the following:

- 1) notice of probable violation and cover letter;
- 2) warning letter; and
- 3) all types of inspection forms.

In addition to the above records, the Program Manager will also maintain "in" and "out" correspondence files, staff training files, budget files, purchase files, division safety inspection files, monthly time summary, mileage logs, and any other records deemed necessary by the Commission.

All record retentions will conform to NDCC 54-46-05.

Damage Prevention:

On August 12, 2009, the Commission began enforcement of the State's excavation damage laws. The Commission continues to have enforcement authority. The Commission has the ability to receive written complaints from utility operators, excavators, and members of the public; process those complaints under various applicable sections of the North Dakota Century Code; administer civil penalties; and keep records as required. The Commission will continue to liaison with the ND One-Call Board during any complaint case. A ND Damage Prevention Plan was developed and approved by the Commission under the requirements of the ND Damage Prevention Law, under 49 CFR Part 192 and under 49 CFR Part 198; the nine elements of the PIPES Act; and the best practices of the Common Ground Alliance. The gas pipeline safety inspector will administer training on this program to the various stakeholders and the public in conjunction with the ND One-Call Board as so directed by the Commission.

Staff:

North Dakota's Gas Pipeline Safety Program is organized in the Commission's Compliance and Competitive Markets Division and supervised by the Division Director. Approximately 10 to 15 percent of the Director's time is spent on the Program. The Program utilizes one full-time gas pipeline safety inspector who also serves as the Program Manager. It is expected that this inspector will devote the equivalent of one man-year to the Program in 2013. During the 2013 North Dakota Legislative Session, the Commission plans to request at least one additional full-time employee who will devote all or a portion of the year to the Gas Pipeline Safety Program.

Inspector Training:

A new Program Manager/Inspector began employment with the Commission on August 1, 2012. In 2012, the inspector completed the following training:

PHMSA-PL30Q Operator Qualification WBT Course, completed on 08/16/2012

In 2013, the inspector is enrolled for the following training and associated web-based prerequisite training:

1. PHMSA-PL1250 Safety Evaluation of Gas Pipeline Systems Course 01/28/2013
2. PHMSA-PL3275 General Pipeline Safety Awareness Course 03/18/2013

Also for 2013, the inspector is on the waitlist for the following training and associated web-based prerequisite training:

1. PHMSA-PL1255 Gas Pressure Regulation and Overpressure Protection Course
2. PHMSA-PL1310 Plastic and Composite Materials Course

3. PHMSA-PL3242 Welding and Welding Inspection of Pipeline Materials Course
4. PHMSA-PL3257 Pipeline Safety Regulation Application and Compliance Procedures Course
5. PHMSA-PL3291 Fundamentals of (SCADA) System Technology and Operation Course
6. PHMSA-PL3293 Corrosion Control of Pipeline Systems Course
7. PHMSA-PL3311 Assessment Evaluation for Operator Qualification (OQ) Course
8. PHMSA-PL5342 Safety Evaluation of Liquefied Petroleum Gas (LPG)



In April 2013, the Program Manager will attend the North Dakota / South Dakota State Seminar to be held in Rapid City, South Dakota. In conjunction with that meeting, there will be a joint-state inspection/training session concerning a multistate operator's Drug and Alcohol Plan. In March or April, 2014, North Dakota will host the North Dakota / South Dakota State Seminar. In addition, the Program Manager will attend the 2013 National Association of Pipeline Safety Representative's Central Region Conference.

Pipeline Safety Program Estimated Budget - Calendar Year 2013

DIRECT COSTS

Compensation for Personnel Services (A-87 #8)

A.	Supervisory personnel who are directly engaged in the administration of the Pipeline Safety Program.....	\$18,000.00
A1.	Supervisory fringe benefits.....	\$5,400.00
B.	Inspection/Investigation personnel who conduct pipeline safety inspections, failure investigations and review plans, etc.....	\$54,600.00
B1.	Inspection/Investigation fringe benefits.....	\$28,000.00
C.	Damage Prevention/Technical personnel include damage prevention personnel, GIS personnel and other technical personnel directly related to the pipeline safety program.....	\$4,200.00
C1.	Damage Prevention/Technical fringe benefits.....	\$1,400.00
D.	Administrative personnel whose duties are directly related to the Pipeline Safety Program.....	\$0.00
D1.	Administrative fringe benefits.....	\$0.00

Activities

Audit costs and related services (A-87 #04).....	\$0.00
Communication costs (A-87 #07).....	\$300.00
Maintenance, operations and repairs (A-87 #25).....	\$300.00
Memberships, Subscriptions and professional activity costs (A-87 #28).....	\$150.00
*Professional Services(i.e. Studies and Research) (A-87 #32).....	\$300.00
Publication and printing costs (A-87 #34).....	\$2,500.00
Rental costs of building and equipment (A-87 #37).....	\$0.00
Training and Education (A-87 #42).....	\$0.00
Travel Costs (A-87 #43).....	\$40,000.00

Materials

*Motor Vehicles (A-87 #15).....	\$0.00
*Office Equipment (A-87 #15).....	\$300.00
Safety Clothing (A-87 #26).....	\$300.00
Supplies (A-87 #26).....	\$500.00
*Testing Equipment(A-87 #15).....	\$0.00

Other(Specify):

INDIRECT COSTS (A-87 Attachment C, D, E)

Indirect costs incurred by State Agency(i.e. Public Utilities Commission, Public Service Commission, State Corporation Commission).	\$33,250.00
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TOTAL ESTIMATED COSTS **\$189,500.00**

*Please see next page for details if applicable.

Budget Page Notes

Motor Vehicle cost > \$5000:

Motor Vehicle Cost: \$0.00

Motor Vehicle Itemized List:

Office Equipment cost > \$5000:

Office Equipment Cost: \$300.00

Office Equipment Itemized List:

Testing Equipment cost > \$5000:

Testing Equipment Cost: \$0.00

Testing Equipment Itemized List:



North Dakota Public Service Commission

2011 Proposed Gas Pipeline Safety Amendments
GS-11-79

Rule Summary

June 22, 2011

49 CFR Part 190

49 CFR Part 190 – Federal Register Cite 74 FR 62503 (Amendment Number 15) - This final rule corrects editorial errors, makes minor changes in the regulatory text, reflects changes in governing laws, and improves the clarity of certain provisions in the pipeline safety regulations. This rule is intended to enhance the accuracy and reduce misunderstandings of the specified regulations. The amendments contained in this rule are non-substantive changes.

Effective Date of final rule: January 29, 2010.

49 CFR Part 192

49 CFR Part 192 – Federal Register Cite 74 FR 2889 (Amendment Number 109) - This final rule adopts, with minor modifications, an interim final rule issued by PHMSA on March 28, 2008, conforming PHMSA's administrative procedures with the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 by establishing the procedures PHMSA will follow for issuing safety orders and handling requests for special permits, including emergency special permits. The rule also notifies operators about electronic docket information availability; updates addresses for filing reports, telephone numbers, and routing symbols; and clarifies the time period for processing requests for written interpretations of the regulations. This final rule makes minor amendments and technical corrections to the regulatory text in response to written public comments received after issuance of the interim final rule.

Effective Date of final rule: February 17, 2009.

49 CFR Part 192 - Federal Register Cite 74 FR 17099 (Amendment Number 110) – This direct final rule incorporates by reference the most recent editions of API Specification 5L "Specification for Line Pipe" and API 1104 "Welding of Pipelines and Related Facilities." The purpose of this update is to enable pipeline operators to utilize current technology, materials, and practices to help maintain a high level of safety relative to their pipeline operations. PHMSA is not eliminating the use of the current referenced standards but simply allowing the additional use of these new standards. PHMSA may in the future propose to eliminate the incorporation of the existing referenced standards.

Effective Date of final rule: April 14, 2009.

49 CFR Part 192 - Federal Register Cite 74 FR 62503 (Amendment Number 111) – This final rule corrects editorial errors, makes minor changes in the regulatory text, reflects changes in governing laws, and improves the clarity of certain provisions in the pipeline safety regulations. This rule is intended to enhance the accuracy and reduce misunderstandings of the specified regulations. The amendments contained in this rule are non-substantive changes.

Effective Date of final rule: January 29, 2010.

49 CFR Part 192 - Federal Register Cite 74 FR 63310 (Amendment Number 112) – PHMSA is amending the Federal pipeline safety regulations to address human factors and other aspects of control room management for pipelines where controllers use supervisory control and data acquisition (SCADA) systems. Under the final rule, affected pipeline operators must define the roles and responsibilities of controllers and provide controllers with the necessary information, training, and processes to fulfill these responsibilities. Operators must also implement methods to prevent controller fatigue. The final rule further requires operators to manage SCADA alarms, assure control room considerations are taken into account when changing pipeline equipment or configurations, and review reportable incidents or accidents to determine whether control room actions contributed to the event.

Hazardous liquid and gas pipelines are often monitored in a control room by controllers using computer-based equipment, such as a SCADA system, that records and displays operational information about the pipeline system, such as pressures, flow rates, and valve positions. Some SCADA systems are used by controllers to operate pipeline equipment, while, in other cases, controllers may dispatch other personnel to operate equipment in the field. These monitoring and control actions, whether via SCADA system commands or direction to field personnel, are a principal means of managing pipeline operation.

This rule improves opportunities to reduce risk through more effective control of pipelines. It further requires the statutorily mandated human factors management. These regulations will enhance pipeline safety by coupling strengthened control room management with improved controller training and fatigue management.

Effective Date of final rule: February 1, 2010. **Compliance Date:** An operator must develop control room management procedures by August 1, 2011 and implement the procedures by February 1, 2012. **Incorporation by Reference Date:** The incorporation by reference of certain publications listed in this rule is approved by the Director of the Federal Register as of February 1, 2010.

49 CFR Part 192 - Federal Register Cite 74 FR 63905 (Amendment No. 113) – PHMSA is amending the Federal Pipeline Safety Regulations to require operators of gas distribution pipelines to develop and implement integrity management (IM) programs. The purpose of these programs is to enhance safety by identifying and reducing pipeline integrity risks. The IM programs required by this rule are similar to those required for gas transmission pipelines, but tailored to reflect the differences in and among distribution pipelines. Based on the required risk assessments and enhanced controls, the rule also allows for risk-based adjustment of prescribed intervals for leak detection surveys and other fixed-interval requirements in the agency's existing regulations for gas distribution pipelines. To further minimize regulatory burdens, the rule establishes simpler requirements for master meter and small liquefied petroleum gas (LPG) operators, reflecting the relatively lower risk of these small pipelines.

In accordance with Federal law, the rule also requires operators to install excess flow valves on new and replaced residential service lines, subject to feasibility criteria outlined in the rule.

This final rule addresses statutory mandates and recommendations from the DOT's Office of the Inspector General (OIG) and stakeholder groups.

Effective Date of final rule: February 2, 2010.

49 CFR Part 192 - Federal Register Cite 75 FR 48593 (Amendment Number 114) – PHMSA is amending the Federal pipeline safety regulations to incorporate by reference all or parts of 40 new editions of voluntary consensus technical standards. This action allows pipeline operators to use current technologies, improved materials, and updated industry and management practices. Additionally, PHMSA is clarifying certain regulatory provisions and making several editorial corrections. These amendments do not require pipeline operators to take on any significant new pipeline safety initiatives.

Effective Date of final rule: October 1, 2010.

49 CFR Part 192 - Federal Register Cite 75 FR 72877 (Amendment Number 115) – This final rule revises the Pipeline Safety Regulations to improve the reliability and utility of data collections from operators of natural gas pipelines, hazardous liquid pipelines, and liquefied natural gas (LNG) facilities. These revisions will enhance PHMSA's ability to understand, measure, and assess the performance of individual operators and industry as a whole; integrate pipeline safety data to allow a more thorough, rigorous, and comprehensive understanding and assessment of risk; and expand and simplify existing electronic reporting by operators. These revisions will improve both the data and the analyses PHMSA and others rely on to make critical, safety-related decisions, and will facilitate both PHMSA's and states' allocation of pipeline safety program inspection and other resources based on a more accurate accounting of risk.

Effective Date of final rule: January 1, 2011.

49 CFR Part 192 - Federal Register Cite 76 FR 5494 (Amendment No. 116) – This final rule is an amendment to PHMSA's regulations involving DIMP. This final rule revises the pipeline safety regulations to clarify the types of pipeline fittings involved in the compression coupling failure information collection; changes the term "compression coupling" to "mechanical fitting," aligns a threat category with the annual report; and clarifies the Excess Flow Valve (EFV) metric to be reported by operators of gas systems. This rule also announces the OMB approval of the revised Distribution Annual Report and a new Mechanical Fitting Failure Report. Finally, this rulemaking clarifies the key dates for the collection and submission of the new Mechanical Fitting Failure Report.

Effective Date of final rule: April 4, 2011.

49 CFR Part 199 - Federal Register Cite 74 FR 2889 (Amendment Number 25) – This final rule adopts, with minor modifications, an interim final rule issued by PHMSA on March 28, 2008, conforming PHMSA's administrative procedures with the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 by establishing the procedures PHMSA will follow for issuing safety orders and handling requests for special permits, including emergency special permits. The rule also notifies operators about electronic docket information availability; updates addresses for filing reports, telephone numbers, and routing symbols; and clarifies the time period for processing requests for written interpretations of the regulations. This final rule makes minor amendments and technical corrections to the regulatory text in response to written public comments received after issuance of the interim final rule.

**North Dakota Public Service Commission
Testing and Safety Division**

**2008/2009 Proposed Gas Pipeline Safety Amendments
GS-09-67**

Rule Summary

March 2, 2009

49 CFR Part 192 - Amendment No. FR 20055 - This final rule requires operators to use design and construction features in new and replaced gas transmission pipelines to reduce the risk of internal corrosion and related pipeline failures. This is accomplished by reducing the potential for accumulation of liquids and facilitating operation and maintenance practices that address internal corrosion.

Effective date of final rule: May 23, 2007.

49 CFR Part 192 - Amendment No. 104 – This final rule amends the existing integrity management regulations for both hazardous liquid and natural gas transmission pipelines. The modifications include changing the notification requirements for operators of hazardous liquid and natural gas pipelines; and repealing a requirement for gas operators to notify local authorities. This action is intended to improve pipeline safety by clarifying the integrity management regulations and providing operators with increased flexibility in implementing their integrity management (IM) programs.

Effective date of final rule: August 16, 2007.

49 CFR Part 192 - Amendment No. 105 – This final rule relaxes regulatory requirements governing public awareness programs conducted by operators of master meter systems and certain operators of petroleum gas systems. These operators typically manage property and incidentally provide gas service to customers located on the property. The change provides a less burdensome means for these operators to satisfy public awareness needs.

Effective date of final rule: January 14, 2008.

49 CFR Part 192 - Amendment No. 106 – This final rule adopts, with minor modifications, an interim final rule issued by PHMSA on March 28, 2008, conforming PHMSA's administrative procedures with the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 by establishing the procedures PHMSA will follow for issuing safety orders and handling requests for special permits, including emergency special permits. The rule also notifies operators about electronic docket information availability; updates addresses for filing reports, telephone numbers, and routing symbols; and clarifies the time period for processing requests for written interpretations of the regulations. This final rule makes minor amendments and technical corrections to the regulatory text in response to written public comments received after issuance of the interim final rule.

Effective Date of final rule: February 17, 2009.

49 CFR Part 192 - Amendment No. 107 – This final rule amends the existing pipeline safety regulations to prescribe safety requirements for the operation of certain gas transmission pipelines at pressures based on higher operating stress levels. The result is an increase of maximum allowable operating pressure (MAOP) over that currently allowed in the regulations. Improvements in pipeline technology assessment methodology, maintenance practices, and management processes over the past twenty-five years have significantly reduced the risk of failure in pipelines and necessitate updating the standards that govern the MAOP. This rule will generate significant public benefits by reducing the number and consequences of potential incidents and boosting the potential capacity and efficiency of pipeline infrastructure, while promoting rigorous life-cycle maintenance and investment in improved pipe technology.

Effective date of final rule: November 17, 2008. **Note:** A notice published in the Federal Register on December 1, 2008 stays the effective date of this final rule, published on October 17, 2008 (73 FR 62148). In accordance with the Congressional Review Act, this final rule will now become effective on **December 22, 2008**, 60 days after the final rule was transmitted to Congress

49 CFR Part 192 - Amendment No. 108 – This final rule amends the design factor and design pressure limits for natural gas pipelines made from new Polyamide-11 (PA-11) thermoplastic pipe. Together, these two changes in the regulations allow pipeline operators to operate certain pipelines constructed of new PA-11 pipe at higher operating pressures than is currently allowed for other plastic pipe materials.

Effective date of final rule: January 23, 2009.

49 CFR Part 199 - Amendment No. 24 – This final rule conforms PHMSA's administrative procedures with the Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (PIPES Act) by establishing the procedures PHMSA will follow in issuing safety orders and handling requests for special permits, including emergency special permits. This interim final rule also notifies operators about electronic docket information availability; updates addresses, telephone numbers, and routing symbols; and clarifies the time period for processing requests for written interpretations of the regulations. This interim final rule does not impose any new operating, maintenance, or other substantive requirements on pipeline owners or operators.

Effective Date of final rule: March 28, 2008.

**North Dakota Public Service Commission
Testing and Safety Division**

**2006 Proposed Gas Pipeline Safety Amendments
GS-06-510**

Rule Summary

December 15, 2006

49 CFR Part 192 - Amendment No. 101 - Under current regulations governing integrity management of gas transmission lines, if an operator uses direct assessment to evaluate corrosion risks, it must carry out the direct assessment according to PHMSA standards. In response to a statutory directive, this Final Rule prescribes similar standards operators must meet when they use direct assessment on certain other onshore gas, hazardous liquid, and carbon dioxide pipelines. PHMSA believes broader application of direct assessment standards will enhance public confidence in the use of direct assessment to assure pipeline safety. This Final Rule took effect on November 25, 2005.

49 CFR Part 192 - Amendment No. 102 – This action adopts a consensus standard to distinguish onshore gathering lines from other gas pipelines and production operations. In addition, it establishes safety rules for certain onshore gathering lines in rural areas and revises current rules for certain onshore gathering lines in non-rural areas. Operators will use a new risk-based approach to determine which onshore gathering lines are subject to PHMSA's gas pipeline safety rules and which of these rules the lines must meet. PHMSA intends this action to reduce disagreements over classifications of onshore gathering lines, increase public confidence in the safety of onshore gathering lines, and provide safety rules consistent with the risks of onshore gathering lines. This final rule took effect on April 14, 2006.

49 CFR Part 192 - Amendment No. 103 – This final rule updates the pipeline safety regulations to incorporate by reference all or parts of new editions of voluntary consensus technical standards to enable pipeline operators to utilize current technology, materials, and practices. This final rule took effect on July 10, 2006.

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Prepared by the North Dakota Legislative Council
staff

January 2013

SUPPLEMENT TO THE STATE AGENCY VACANT POSITION REPORT (JANUARY 2013)

The following schedule identifies state agency positions vacant as of November 30, 2012, but filled in December 2012:

Position No.	FTE	Position Description	Date Vacated	Months Vacant December 2012	Date Filled
108 - Secretary of State					
00000033	1.00	Administrative Assistant I	10/16/12	1	12/10/12
110 - Office of Management and Budget					
27325	1.00	Human Resource Officer II	12/12	12	12/28/12
112 - Information Technology Department					
311	1.00	Senior Programmer Analyst	7/11	17	12/1/12
28739	1.00	Programmer/Analyst I	2/12	10	12/3/12
28740	1.00	Programmer	2/12	10	12/3/12
218	1.00	Telecom Technician III	11/12	1	12/19/12
28765	1.00	Research Analyst II	11/12	1	12/19/12
127 - Tax Commissioner					
834	1.00	Office Assistant II	9/12	2	12/3/12
201 - Department of Public Instruction					
25423	1.00	Assistant Director, Primary/Secondary Education	8/12	4	12/12
252 - North Dakota School for the Deaf					
1545	0.78	Dormitory Counselor	11/3/12	1	12/3/12
270 - Department of Career and Technical Education					
1628	1.00	Assistant Supervisor	8/3/12	3	12/1/12
301 - State Department of Health					
1705	1.00	Environmental Engineer III	9/12	3	12/21/12
1887	1.00	Administrative Assistant	11/12	1	12/27/12
1940	1.00	Environmental Scientist II	9/12	3	12/3/12
28813	1.00	Environmental Scientist II	10/12	2	12/12/12
28814	1.00	Environmental Scientist II	10/12	2	12/24/12
313 - Veterans' Home					
3084	0.80	Resident Living Specialist	11/10/12	1	12/6/12
3111	0.60	Resident Living Specialist II	5/28/12	6	12/1/12
325 - Department of Human Services					
00002273	1.00	Computer/Network Specialist II	11/12	1	12/6/12
00003247	1.00	Human Service Program Administrator II	11/12	1	12/3/12
00003361	1.00	Human Service Program Administrator III	4/12	8	12/4/12
00025818	1.00	Office Assistant III	11/12	1	12/18/12
00003771	1.00	Human Service Program Administrator V	7/12	5	12/3/12
00003240	1.00	Administrative Assistant I	11/12	1	12/13/12
00028610	1.00	Human Service Program Administrator IV	N/A	0	12/5/12
00003629	1.00	MI Case Manager II	11/12	1	12/17/12
00004261	1.00	Direct Care Associate III	11/12	1	12/1/12
00004405	1.00	MI Case Manager II	9/12	3	12/3/12
00002063	1.00	Registered Nurse II	6/12	6	12/10/12
00004270	1.00	Direct Care Associate III	11/12	1	12/17/12
00003986	1.00	Human Service Program Administrator III	12/12	0	12/17/12
00004212	1.00	Human Relations Counselor	9/12	3	12/17/12
00004231	1.00	Human Service Program Administrator VI	11/12	1	12/17/12

Position No.	FTE	Position Description	Date Vacated	Months Vacant December 2012	Date Filled
00002852	1.00	Human Service Aide II	11/12	1	12/31/12
00003948	1.00	Pharmacy Technician	8/12	4	12/19/12
00004422	1.00	Office Assistant III	11/12	1	12/26/12
00002194	1.00	Direct Care Supervisor	11/12	1	12/1/12
00002855	1.00	Licensed Practical Nurse I	9/12	3	12/17/12
00002948	0.50	Office Assistant III	8/12	4	12/3/12
00026436	1.00	Security Officer I	11/12	1	12/3/12
00002033	1.00	Direct Care Associate I	9/12	3	12/10/12
00002398	1.00	Direct Care Associate I	8/12	4	12/17/12
00002466	1.00	Direct Care Associate I	8/12	4	12/17/12
00002265	1.00	Unit Program Coordinator	11/12	1	12/1/12
00024597	1.00	Direct Care Associate I	6/12	6	12/17/12
00002419	1.00	Direct Care Supervisor	11/12	1	12/17/12
405 - Industrial Commission					
Department of Mineral Resources Oil and Gas Division					
4969	1.00	Other - Not classified - Professional	7/1/12	4	12/3/12
28758	1.00	Engineering Technician IV	New position 5/1/12	7	12/3/12
413 - Department of Financial Institutions					
5047	1.00	Financial Examiner II	8/12	4	12/3/12
471 - Bank of North Dakota					
10412	0.50	Office Assistant II	1/11	23	1/1/13
485 - Workforce Safety and Insurance					
5129	1.00	Premium Auditor	9/12	2	12/3/12
5109	1.00	Collection Specialist	11/12	1	1/2/12
5275	1.00	Claims Adjuster	11/12	0	12/1/12
27353	1.00	Vocational Rehabilitation Counselor II	11/12	1	1/14/13
5229	1.00	Utilization Review Nurse	11/12	1	1/1/13
530 - Department of Corrections and Rehabilitation					
5753	1.00	Correctional Officer II	11/12	0	12/1/12
5935	1.00	Correctional Officer II	11/12	0	12/1/12
6003	1.00	Correctional Officer II	11/12	0	12/1/12
5862	1.00	Addiction Counselor III	10/12	2	12/1/12
504 - Highway Patrol					
5478	1.00	Safety Auditor I	9/12	3	12/1/12
540 - Adjutant General, including National Guard and Department of Emergency Services					
6150	1.00	Maintenance Supervisor II	10/12	2	12/10/12
6231	1.00	National Guard Security/Firefighter	6/12	6	12/1/12
26151	1.00	NG Energy Conservation Program Manager	3/12	9	12/21/12
28362	1.00	NG Security/Firefighter	10/12	2	12/1/12
601 - Department of Commerce					
6281	1.00	Other - Not classified - Professional	5/12	7	12/1/12
602 - Agriculture Commissioner					
6337	1.00	Agri Marketing Specialist I	6/12	6	12/18/12
630 - North Dakota State University Extension Service					
20793	0.50	Assistant to VP & Dean	6/12	6	12/20/12
21556	1.00	Extension Agent/Griggs County	8/12	4	12/31/12
19435	1.00	Extension Agent/Traill County	9/12	3	12/31/12
640 - Main Research Center					
18681	0.60	Administrative Secretary	9/12	2	12/3/12
20693	1.00	Chemist	8/12	3	12/30/12

The following schedule identifies positions vacant as of October 31, 2012, but filled in November 2012:

Position No.	FTE	Position Description	Date Vacated	Number of Months Vacant November 2012	Date Filled
112 - Information Technology Department					
4244	1.00	Systems Analyst I	8/12	3	11/1/12
252	1.00	Computer Production Operator II	10/12	1	11/1/12
125 - Attorney General					
27467	1.00	Administrative Assistant II	9/17/12	1.5	11/20/12
201 - Department of Public Instruction					
1324	1.00	Education Program Admin I	8/12	3	11/12
301 - State Department of Health					
1935	1.00	Environmental Scientist II	6/11	17	11/1/12
313 - Veterans' Home					
3030	0.80	Resident Living Specialist	10/16/12	1	11/10/12
325 - Department of Human Services					
00003390	1.00	Chief Financial Officer - DHS	6/12	5	11/19/12
00003283	1.00	Human Service Program Administrator III	9/12	2	11/13/12
00002058	1.00	Administrative Assistant II	9/12	2	11/26/12
00025830	1.00	Administrative Assistant I	10/12	1	11/7/12
00003503	1.00	Administrative Assistant I	9/12	2	11/1/12
00003521	1.00	MI Case Manager II	10/12	1	11/1/12
00004138	0.80	Registered Nurse II	9/12	2	11/19/12
00004145	1.00	Activity Therapist II	10/12	1	11/26/12
00003801	1.00	Licensed Exempt Psych I	6/12	5	11/19/12
00003973	1.00	Behavior Modification Specialist II	7/12	4	11/15/12
00002441	1.00	DD Case Manager II	3/12	8	11/15/12
00002459	1.00	DD Case Manager II	3/12	8	11/1/12
00002287	1.00	DD Case Manager II	3/12	8	11/1/12
00003696	1.00	Addiction Counselor II	9/12	2	11/19/12
00003702	1.00	Administrative Assistant I	10/12	1	11/1/12
00003933	1.00	Administrative Officer I	8/12	3	11/5/12
00002801	1.00	Direct Care Associate II	10/12	1	11/1/12
00026316	1.00	Direct Care Associate II	10/12	1	11/5/12
00002765	1.00	Direct Care Associate III	10/12	1	11/1/12
00002816	1.00	Direct Care Associate III	8/12	3	11/5/12
00024596	1.00	Direct Care Associate III	10/12	1	11/1/12
00002973	1.00	Licensed Forensic Psychologist	7/12	4	11/1/12
00002975	1.00	Licensed Practical Nurse I	5/12	6	11/1/12
00002746	1.00	Registered Nurse II	8/12	3	11/5/12
00002156	1.00	Custodian, Institutions	8/12	3	11/13/12
00002209	1.00	Direct Care Associate III	8/12	3	11/26/12
00002485	1.00	Activity Therapist III	9/12	2	11/1/12
00002389	1.00	Direct Care Associate I	5/12	6	11/5/12
00002240	1.00	Direct Care Associate I	8/12	3	11/5/12
00002404	1.00	Direct Care Associate I	8/12	3	11/5/12
00002905	1.00	Direct Care Associate I	6/12	5	11/5/12
00002879	1.00	Direct Care Associate I	6/12	5	11/5/12

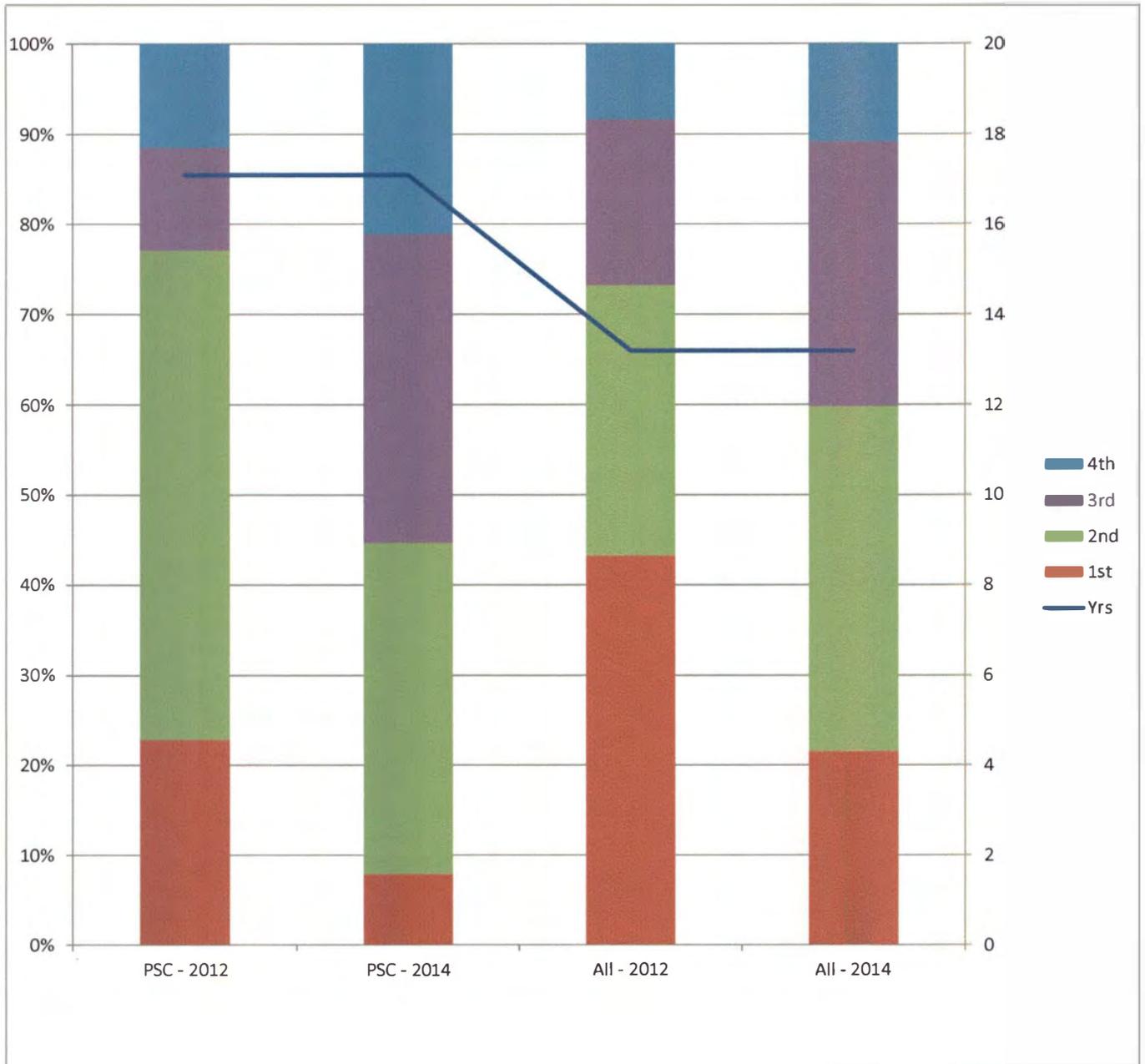
Position No.	FTE	Position Description	Date Vacated	Months Vacant December 2012	Date Filled
25015	1.00	Research Laboratory Technician	8/12	3	12/17/12
770 - State Water Commission					
6754	1.00	Hydrologist III	11/12	1	12/1/12
6770	1.00	Administrative Assistant II	10/12	2	12/3/12
801 - Department of Transportation					
7765	1.00	Engineering Tech II, Williston	7/12	5	12/3/12
7782	1.00	Transportation Engineer III, Fargo	8/12	3.5	12/1/12
7612	1.00	Transportation Tech I, Grand Forks	9/12	2.5	12/3/12
7453	1.00	Transportation Tech I, Fargo	11/12	1	12/3/12
Total	<u>75.28</u>				

Position No.	FTE	Position Description	Date Vacated	Number of Months Vacant November 2012	Date Filled
00002741	1.00	Social Worker II	6/12	5	11/26/12
380 - Job Service North Dakota					
4644	1.00	Customer Service Specialist	9/12	2	11/7/12
471 - Bank of North Dakota					
10386	1.00	Loan Officer II	11/11	12	11/9/12
10539	1.00	Trust Administrator	12/11	11	11/1/12
485 - Workforce Safety and Insurance					
5180	1.00	Safety Consultant	10/12	0	11/13/12
5222	1.00	Medical Case Manager	10/12	1	12/1/12
530 - Department of Corrections and Rehabilitation					
6036	1.00	Correctional Officer III	8/12	3	11/1/12
1376	1.00	Physical Plant Service Director II	9/12	1.5	11/1/12
25671	1.00	Office Assistant II	9/12	1	11/1/12
5776	1.00	Correctional Officer II	10/12	1	11/1/12
2836	1.00	Storekeeper I	10/12	1	11/26/12
5956	1.00	Correctional Officer II	10/12	0	11/1/12
1404	1.00	JIRS I	9/12	2.5	11/26/12
540 - Adjutant General, including National Guard and Department of Emergency Services					
24475	1.00	National Guard Security/Firefighter	8/12	3	11/15/12
602 - Agriculture Commissioner					
6312	1.00	Agriculture Program Inspector	7/12	3	11/13/12
630 - North Dakota State University Extension Service					
25970	0.60	Assistant Professor	7/11	15	11/1/12
640 - Main Research Center					
1586	1.00	Accounting Clerk I	9/12	2	11/15/12
24644	1.00	Postdoctoral Research Fellow	8/12	3	11/16/12
25969	0.35	Assistant Professor	7/11	15	11/1/12
750 - Parks and Recreation Department					
25563	1.00	Park Interpreter	5/18/12	5	11/1/12
770 - State Water Commission					
6735	1.00	Water Resource Engineer II	4/12	7	11/15/12
6749	1.00	Hydrologist Manager II	9/12	2	11/1/12
801 - Department of Transportation					
7531	1.00	Fleet & Equipment Tech II, Dickinson	7/12	4	11/1/12
6902	1.00	Drivers License Examiner Supervisor	7/12	4	11/16/12
7240	1.00	Transportation Tech I, Parshall	7/12	3.5	11/1/12
7034	1.00	Transportation Engineer III	7/12	3	11/1/12
7826	1.00	Engineering Tech IV	8/12	3	11/1/12
6907	1.00	Drivers License Examiner I, Fargo	9/12	2	11/5/12
7247	1.00	Transportation Tech II, Grand Forks	9/12	2	11/1/12

Position		Position Description	Date	Number of	Date
No.	FTE		Vacated	Months Vacant	Filled
7375	1.00	Trans Serv Supervisor II, Williston	10/12	1.5	11/16/12
7438	1.00	Transportation Tech I, Fargo	10/12	1	11/26/12
Total	<u>67.55</u>				

408 - PSC - 2012-14 Quartile Charts

Feb. 1, 2013
attachment 12



*February 1, 2013
attachment #3*

EXAMPLE

		Relativity to Market Policy Position *				+ Meet Standards		+ Exceed Standards		Current C/R		Projected 2013 C/R		Projected 2014 C/R													
MPP + 2nd Qtr		0%				3.0%		5.0%		0.97		1.00		1.01													
1st Qtr		1 - 2.0%		+		3.0%		5.0%																			
		2 - 4.0%																									
* ALL increases contingent upon Performance Meeting Standards																											
CURRENT								2013						2014													
								Market Policy Position Increase		Performance Increase		Total Increase		After July 1, 2013				Market Policy Position Increase		Performance Increase		Total Increase		After July 1, 2014			
Yrs Svc	Job Title	FTE Ann Sal	Grade	Market Policy Point	FTE	C/R (Current)	2012 Qtr	%	\$	%	\$	%	\$	2013 New Salary	New MPP (3% range increment)	2013 New C/R	2013 Qtr	%	\$	%	\$	%	\$	2014 New Salary	New MPP (3% range increment)	2014 New C/R	2014 Qtr
2.2	OFFICE ASSISTANT III	28,740	E	31,724	1.00	0.91	2	2.0%	575	3.0%	862	5.0%	1,437	30,177	32,676	0.92	2	2.0%	604	3.0%	905	5.0%	1,509	31,686	33,656	0.94	2
2.3	ADMIN ASSISTANT II	40,488	H	41,612	1.00	0.97	2	2.0%	810	5.0%	2,024	7.0%	2,834	43,322	42,860	1.01	3	0.0%	-	3.0%	1,300	3.0%	1,300	44,622	44,146	1.01	3
4.9	ADMIN ASSISTANT III	39,288	I	45,938	1.00	0.86	1	4.0%	1,572	3.0%	1,179	7.0%	2,751	42,039	47,316	0.89	2	2.0%	841	5.0%	2,102	7.0%	2,943	44,982	48,735	0.92	2
7.3	ADMIN ASSISTANT III	41,040	I	45,938	1.00	0.89	2	2.0%	821	5.0%	2,052	7.0%	2,873	43,913	47,316	0.93	2	2.0%	878	5.0%	2,196	7.0%	3,074	46,987	48,735	0.96	2
26.5	PROGRAMMER ANALYST II	54,396	K	55,414	1.00	0.98	2	2.0%	1,088	3.0%	1,632	5.0%	2,720	57,116	57,076	1.00	3	0.0%	-	3.0%	1,713	3.0%	1,713	58,829	58,788	1.00	3
14.4	PROGRAMMER ANALYST II	69,840	K	55,414	1.00	1.26	4	0.0%	-	5.0%	3,492	5.0%	3,492	73,332	57,076	1.28	4	0.0%	-	3.0%	2,200	3.0%	2,200	75,532	58,788	1.28	4
33.2	INFO TECHNOLOGY ADMIN I	80,532	M	66,332	1.00	1.21	4	0.0%	-	3.0%	2,416	3.0%	2,416	82,948	68,322	1.21	4	0.0%	-	5.0%	4,147	5.0%	4,147	87,095	70,372	1.24	4
0.6	ACCOUNT/BUDGET SPEC I	40,236	J	50,985	1.00	0.79	1	4.0%	1,609	5.0%	2,012	9.0%	3,621	43,857	52,515	0.84	1	4.0%	1,754	5.0%	2,193	9.0%	3,947	47,804	54,090	0.88	2
4.8	ACCOUNTING MANAGER I	64,896	N	73,130	1.00	0.89	2	2.0%	1,298	3.0%	1,947	5.0%	3,245	68,141	75,324	0.90	2	2.0%	1,363	3.0%	2,044	5.0%	3,407	71,548	77,584	0.92	2
2.0	ATTORNEY II	66,744	O	80,855	1.00	0.83	1	4.0%	2,670	5.0%	3,337	9.0%	6,007	72,751	83,281	0.87	1	4.0%	2,910	3.0%	2,183	7.0%	5,093	77,844	85,779	0.91	2
27.4	ATTORNEY III	103,044	Q	91,567	1.00	1.13	4	0.0%	-	3.0%	3,091	3.0%	3,091	106,135	94,314	1.13	4	0.0%	-	5.0%	5,307	5.0%	5,307	111,442	97,143	1.15	4
2.8	PUBLIC INFO SPEC II	47,724	K	55,414	1.00	0.86	1	4.0%	1,909	5.0%	2,386	9.0%	4,295	52,019	57,076	0.91	2	2.0%	1,040	5.0%	2,601	7.0%	3,641	55,660	58,788	0.95	2
35.4	ADMIN OFR I	45,900	I	45,938	1.00	1.00	3	0.0%	-	3.0%	1,377	3.0%	1,377	47,277	47,316	1.00	3	0.0%	-	3.0%	1,418	3.0%	1,418	48,695	48,735	1.00	3
25.9	ADMIN OFR I	42,552	I	45,938	1.00	0.93	2	2.0%	851	5.0%	2,128	7.0%	2,979	45,531	47,316	0.96	2	2.0%	911	3.0%	1,366	5.0%	2,277	47,808	48,735	0.98	2
32.4	ENVIRONMENTAL ENGR III	72,780	N	73,130	1.00	1.00	3	0.0%	-	3.0%	2,183	3.0%	2,183	74,963	75,324	1.00	3	0.0%	-	5.0%	3,748	5.0%	3,748	78,711	77,584	1.01	3
5.8	ENVIRONMENTAL ENGR III	63,516	N	73,130	1.00	0.87	1	4.0%	2,541	5.0%	3,176	9.0%	5,717	69,233	75,324	0.92	2	2.0%	1,385	5.0%	3,462	7.0%	4,847	74,080	77,584	0.95	2
9.9	ENVIRONMENTAL ENGR III	66,612	N	73,130	1.00	0.91	2	2.0%	1,332	3.0%	1,998	5.0%	3,330	69,942	75,324	0.93	2	2.0%	1,399	3.0%	2,098	5.0%	3,497	73,439	77,584	0.95	2
25.2	HYDROLOGIST III	71,916	N	73,130	1.00	0.98	2	2.0%	1,438	5.0%	3,596	7.0%	5,034	76,950	75,324	1.02	3	0.0%	-	3.0%	2,309	3.0%	2,309	79,259	77,584	1.02	3
21.8	GIS SPECIALIST III	73,284	M	66,332	1.00	1.10	3	0.0%	-	3.0%	2,199	3.0%	2,199	75,483	68,322	1.10	3	0.0%	-	5.0%	3,774	5.0%	3,774	79,257	70,372	1.13	4
0.2	WEIGHTS & MEASURES INSPECTOR I	32,040	G	37,801	1.00	0.85	1	4.0%	1,282	5.0%	1,602	9.0%	2,884	34,924	38,935	0.90	2	2.0%	698	5.0%	1,746	7.0%	2,444	37,368	40,103	0.93	2
22.3	WEIGHTS & MEASURES INSPECTOR I	40,644	G	37,801	1.00	1.08	3	0.0%	-	3.0%	1,219	3.0%	1,219	41,863	38,935	1.08	3	0.0%	-	3.0%	1,256	3.0%	1,256	43,119	40,103	1.08	3
16.4	WEIGHTS & MEASURES INSPECTOR I	37,080	G	37,801	1.00	0.98	2	2.0%	742	5.0%	1,854	7.0%	2,596	39,676	38,935	1.02	3	0.0%	-	3.0%	1,190	3.0%	1,190	40,866	40,103	1.02	3
0.6	WEIGHTS & MEASURE INSPECTOR II	32,004	H	41,612	1.00	0.77	1	4.0%	1,280	3.0%	960	7.0%	2,240	34,244	42,860	0.80	1	4.0%	1,370	5.0%	1,712	9.0%	3,082	37,326	44,146	0.85	1
5.6	GAS PIPELINE SAFETY INSPECTOR	57,600	J	50,985	1.00	1.13	4	0.0%	-	5.0%	2,880	5.0%	2,880	60,480	52,515	1.15	4	0.0%	-	5.0%	3,024	5.0%	3,024	63,504	54,090	1.17	4
34.1	LICENSING DIV DIRECTOR-PSC	60,660	L	60,564	1.00	1.00	3	0.0%	-	3.0%	1,820	3.0%	1,820	62,480	62,381	1.00	3	0.0%	-	3.0%	1,874	3.0%	1,874	64,354	64,252	1.00	3
2.8	GRAIN WAREHOUS INSPECTOR	49,488	K	55,414	1.00	0.89	2	2.0%	990	5.0%	2,474	7.0%	3,464	52,952	57,076	0.93	2	2.0%	1,059	3.0%	1,589	5.0%	2,648	55,600	58,788	0.95	2
15.0	GRAIN WAREHOUS INSPECTOR	52,272	K	55,414	1.00	0.94	2	2.0%	1,045	3.0%	1,568	5.0%	2,613	54,885	57,076	0.96	2	2.0%	1,098	5.0%	2,744	7.0%	3,842	58,727	58,788	1.00	3
38.3	DIR, REC & ABANDONED MINE LAND	105,360	R	98,159	1.00	1.07	3	0.0%	-	5.0%	5,268	5.0%	5,268	110,628	101,104	1.09	3	0.0%	-	5.0%	5,531	5.0%	5,531	116,159	104,137	1.12	3
18.0	ENVIRON SCIENTIST III	65,484	M	66,332	1.00	0.99	2	2.0%	1,310	3.0%	1,965	5.0%	3,275	68,759	68,322	1.01	3	0.0%	-	3.0%	2,063	3.0%	2,063	70,822	70,372	1.01	3
22.2	ENVIRON SCIENTIST III	61,404	M	66,332	1.00	0.93	2	2.0%	1,228	5.0%	3,070	7.0%	4,298	65,702	68,322	0.96	2	2.0%	1,314	3.0%	1,971	5.0%	3,285	68,987	70,372	0.98	2
22.5	ENVIRON SCIENTIST III	62,136	M	66,332	1.00	0.94	2	2.0%	1,243	3.0%	1,864	5.0%	3,107	65,243	68,322	0.95	2	2.0%	1,305	5.0%	3,262	7.0%	4,567	69,810	70,372	0.99	2
0.6	ENVIRON SCIENTIST III	49,800	M	66,332	1.00	0.75	1	4.0%	1,992	5.0%	2,490	9.0%	4,482	54,282	68,322	0.79	1	4.0%	2,171	5.0%	2,714	9.0%	4,885	59,167	70,372	0.84	1
26.7	ENVIRON SCIENCES ADMIN I	78,924	O	80,855	1.00	0.98	2	2.0%	1,578	3.0%	2,368	5.0%	3,946	82,870	83,281	1.00	3	0.0%	-	3.0%	2,486	3.0%	2,486	85,356	85,779	1.00	3
27.5	ENVIRON SCIENCES ADMIN I	78,288	O	80,855	1.00	0.97	2	2.0%	1,566	5.0%	3,914	7.0%	5,480	83,768	83,281	1.01	3	0.0%	-	3.0%	2,513	3.0%	2,513	86,281	85,779	1.01	3
25.0	PUBLIC UTILITY DIVISION DIR	96,744	P	85,799	1.00	1.13	4	0.0%	-	3.0%	2,902	3.0%	2,902	99,646	88,373	1.13	4	0.0%	-	5.0%	4,982	5.0%	4,982	104,628	91,024	1.15	4
34.2	PUBLIC UTILITY DIVISION DIR	96,504	P	85,799	1.00	1.12	3	0.0%	-	5.0%	4,825	5.0%	4,825	101,329	88,373	1.15	4	0.0%	-	5.0%	5,066	5.0%	5,066	106,395	91,024	1.17	4
1.9	PUBLIC UTIL ANALYST II	52,848	L	60,564	1.00	0.87	1	4.0%	2,114	3.0%	1,585	7.0%	3,699	56,547	62,381	0.91	2	2.0%	1,131	3.0%	1,696	5.0%	2,827	59,374	64,252	0.92	2
20.3	PUBLIC UTIL ANALYST II	69,180	L	60,564	1.00	1.14	4	0.0%	-	5.0%	3,459	5.0%	3,459	72,639	62,381	1.16	4	0.0%	-	3.0%	2,179	3.0%	2,179	74,818	64,252	1.16	4
16.3		2,291,988				0.97		1.8%	34,884	4.0%	91,174	5.8%	126,058			1.00		1.2%	23,231	3.9%	96,664	5.1%	119,895			1.01	

13.8137.01001
Title.

HB ~~1118~~ 1008 ~~Amended~~ 1
18 Feb 13 attachment

Prepared by the Legislative Council staff for
Representative Skarphol
January 31, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1008

Page 1, line 3, after the semicolon insert "to provide for a legislative management study;"

Page 2, after line 21, insert:

"SECTION 4. LEGISLATIVE MANAGEMENT STUDY. The legislative management shall study the civil penalties assessed and collected by state agencies, including a review of the funds into which the collections are deposited and the appropriateness of the use of funds collected."

Renumber accordingly

~~original~~
 page 2 of original testimony
 for HB 1148

attachment A
 for HB 1008 discussion

Salary and Wages		Total Proposed	Funding Distribution	
			Gen	Fed
1) Gas Pipeline Safety Inspector		278,474.44	40%	60%
2) Public Utility Analyst III		195,541.84	100%	0%
3) Paralegal		153,419.18	60%	40%
4) Equity Package				
	Requested	446,601		
	Admin	68,452	41,071	27,381
	Testing and Licensing	102,431	64,749	37,682
	Public Utilities	56,455	56,455	0
	Reclamation and AML	219,263	59,686	159,577
Operating Expenses				
5) Additional Legal Funds				
	Requested	300,000		
6) Fleet, Lodging, Per Diem, & Airfare				
	Requested	176,155		
	Administration	5,000	5,000	0
	Testing and Licensing	155,157	151,347	3,810
	Public Utilities	4,453	4,453	0
	Reclamation and AML	11,545	4,156	7,389
Capital Assets				
7) Hydraulic Soil Probe				
	One Time Request	28,000	10,080	17,920
8) IT Capital Assets				
	Net Increase	7,665		
	11-13 Base Budget	53,000		
	13-15 Total Request	60,665		
	Disk Upgrade	19,500	19,500	0
	Hearing Room Upgrade	8,500	8,500	0
	GIS Server Replacement	18,000	18,000	0
	Large Format Plotter	14,665	14,665	0
Grants				
9) Geological Survey Grant				
	Grant Increase	4,000	0	4,000

Power Point
Brian Kalk
HB 1008
3-6-13

3/6/2013

1

North Dakota[®]

Public Service Commission

HB1008 Budget Testimony

Senate Appropriations Committee

Senator Ray Holmberg, Chairman

March 6, 2013 at 2 PM

1

Public Service Commissioners



Randy Christmann
Commissioner

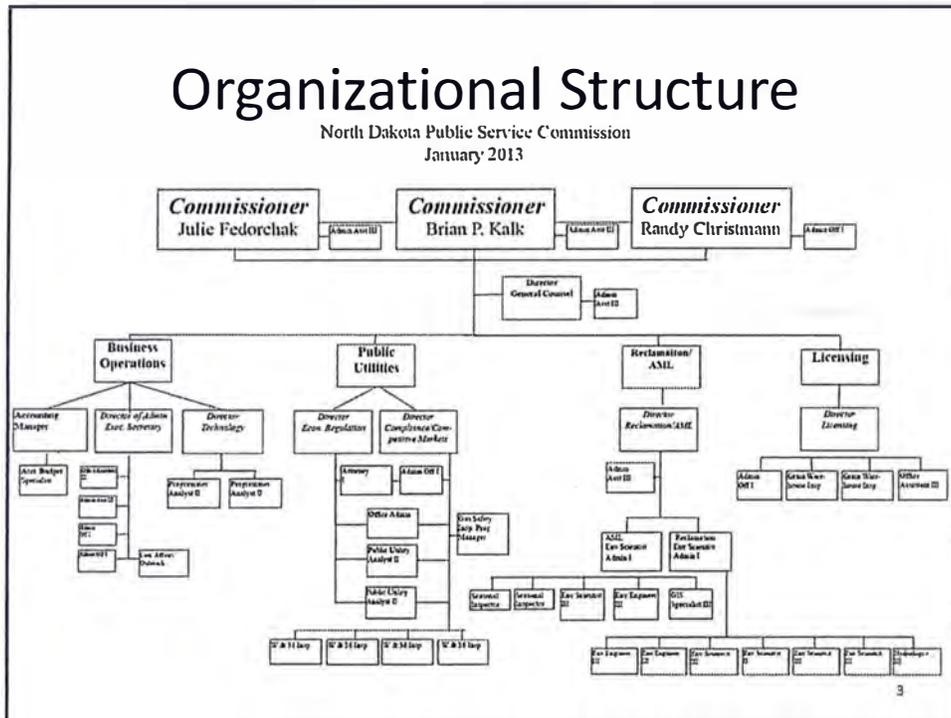


Brian P. Kalk
Chairman



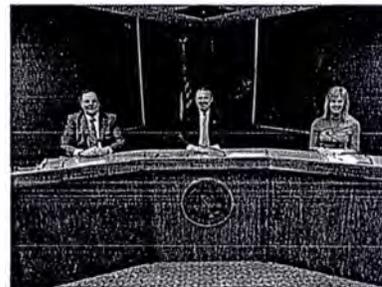
Julie Fedorchak
Commissioner

2



Statutory Authority of PSC

- Electric & Gas
- Siting
- Pipeline Safety
- Grain Licensing
- Auction Licensing
- Weights and Measures
- Coal Mining
- Abandoned Mine Lands
- Railroad



Current Biennium

- Energy related growth in Gas, Electric, and Siting cases
- Maintain Pipeline Safety as a high priority
- Protect underground infrastructure through continued awareness and enforcement of “Call Before You Dig”
- Telecommunication cases and jurisdictional determination requests
- Increasing litigation in several areas of jurisdiction
- Workload increase and employee turnover

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Areas of Concern for 2013-2015

1. Legal Operating Funds
 - a. Defend State Sovereignty
 - b. Elevator Insolvency
2. Weights & Measures Positions Repurposed to:
 - a. Pipelines Safety
 - b. Public Utility Analyst
3. Transfer IT assets to ITD
 - a. Details still emerging
 - b. Impact to PSC operations



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1 - Legal Operating Funds

- Request reinstatement, at a minimum, our original request for \$300,000
- Defend state sovereignty from federal encroachment on state jurisdiction
- Represent the interests of claimant farmers in grain buyer and grain warehouse insolvencies
- Use Attorney General's Office when available
- Attachment 2 – Full listing of litigation

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2 – Weights & Measures Repurposed Positions

- Over 20,000 weighing and measuring devices; supermarket scales, grain elevator truck scales, livestock scales, and gas station pumps, etc.
- Attachment 3- Personnel Organization Matrix
- Staffing Levels have decreased over time
- Preferred Plan
 - Change fee schedule
 - Reinstatement of the two FTEs
- Additional Option
 - Reinstatement of one FTE
 - Perform Small Scale tests
 - Quality Assurance on Large Scales



8

3 -Transfer of IT Assets

- Commission IT Infrastructure:
 - House and maintain GIS, File and Print, and Database
 - Has evolved into specialized end-user development
 - Data security and customer support are priorities
- HB 1008
 - Section 5 states “Transfer” equipment to ITD; true intent not clear
 - Removes capital assets to maintain
 - Operating Funds not Provided
- Requested Action
 - Eliminate Section 5 of HB1008
 - Reinstate Capital Asset Funds
 - Support Exemption provided by Director of OMB

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Operational Overview

- Gas Safety Program
- Public Utilities
- Reclamation
- Abandoned Mine Lands
- Licensing
- Agriculture Rail Rate Fund
- Business Operations



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Gas Pipeline Safety Program

Operated in coordination with Pipeline Safety & Hazardous Material Safety Administration (PHMSA)

- Currently (1) position; strongly encouraged by PHMSA to add an additional pipeline safety inspector
- PHMSA committed increased funding to support this position
- Additional federal safety standards being implemented as a result of major incidents in U.S.
- High turnover position & increased inspection days
- The Commission requests that an emergency clause be incorporated for this position

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Public Utility Analyst

- Smallest staff of any Commission in the Nation
- We are in a “build out” cycle to meet growing demand
- Must protect public interest as we regulate electric, natural gas, telecommunication, and pipeline companies in a fair, efficient, and cooperative manner
- Investigate, analyze, advocate, provide testimony, on all cases in a timely manner
- Letters of Intent on file from companies to build nearly \$13.6 billion in energy conversion and transmission facilities
- Request additional analyst to keep pace with growing requirements

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Application Increases

Applications Filed	1990's	2000	2006	2007	2008	2009	2010	2011	2012
		-							
		2005							
Siting	19	21	7	14	24	19	18	23	15
Rate Cases	5	5	1	1	2	0	2	1	1
Advance Determination of Prudence	0	0	2	0	2	4	1	4	2

13

Reclamation

Ensure active coal mining is conducted in an environmentally sound manner and mined lands are successfully reclaimed.

- Land currently under permit: Approx. 117,500 acres
 - Approx. 60,000 acres have been disturbed by mining activities
 - Between 1,500 and 2,000 acres of land are typically disturbed and reclaimed each year
- Applications currently under review for another 18,600 acres
- Final bond release on approx. 16,000 acres over past 10 Years
- Continues to use and enhance GIS for storing, evaluating, and analyzing a vast amount of data that the Commission receives from mining companies
- North Dakota continues to receive excellent reports from the Office of Surface Mining and they consider our program one of the most efficient and well run programs in the country

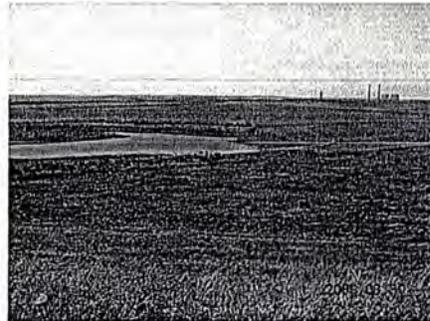
14

Reclamation

Mining



Reclaimed Land



15

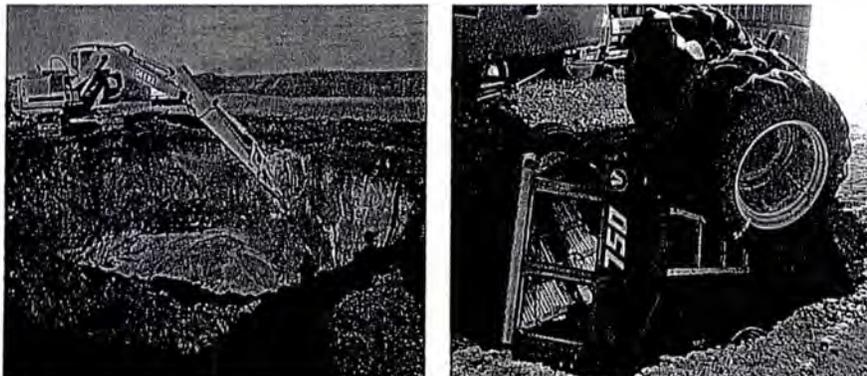
Abandoned Mine Lands

The mission of the Abandoned Mine Lands (AML) Division is to reclaim abandoned coal mine lands that pose a safety hazard

- 100 percent federally funded through a federal reclamation fee assessed on all active coal mines
- North Dakota mining companies currently pay eight cents per ton of lignite produced
- Filling underground mine voids, eliminating high walls at abandoned surface mines

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Abandoned Mine Lands Sinkholes



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Coal Litigation Thoughts

- In the past few years environmental and citizen groups have been filing more lawsuits involving coal. The trend will continue
- Case Study – In 2011 Dakota Resource Council appealed the approval of a permit revision to the ND Supreme Court for a change in post-mining land use. The Supreme Court upheld the Commission decision
- We must ensure states primacy, as provided for under the federal mining and reclamation act is not diminished, or lost, as a result of these lawsuits

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Licensing

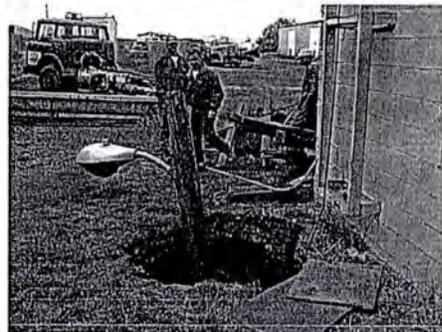
Oversees the licensing and bonding of all public grain warehouses and grain buyers in North Dakota and processes all grain warehouse and grain buyer insolvency cases. Also oversees licensing and bonding of all auctioneers and auction clerks

- 6 insolvencies this biennium
- Completed over 300 grain warehouse and grain buyer inspections
- Approved 219 capacity increase requests and 104 capacity decrease requests
- Approved 46 requests to discontinue business and issued 37 new licenses

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Future Federal Funding Concerns

- May not receive sufficient federal funds for:
 - Reclamation
 - Abandoned Mine Lands
 - Gas Safety Programs
- Possible Reduction
 - 15 to 20%



Commission Funding Summary

- Funding Sources:
 - 58% Federal
 - 36% General
 - 6% Special
- Revenue from Operations:
 - \$1 million per biennium
- Staffing Levels:
 - 43 FTE's including Commissioners
 - Two temporary seasonal (Abandoned Mine Lands)



Photow/AMLstaff: Bruce Johnson and Thomas Vigessa use GIS on the iPad to assist in locating cased drill hole locations where markers are missing.

21

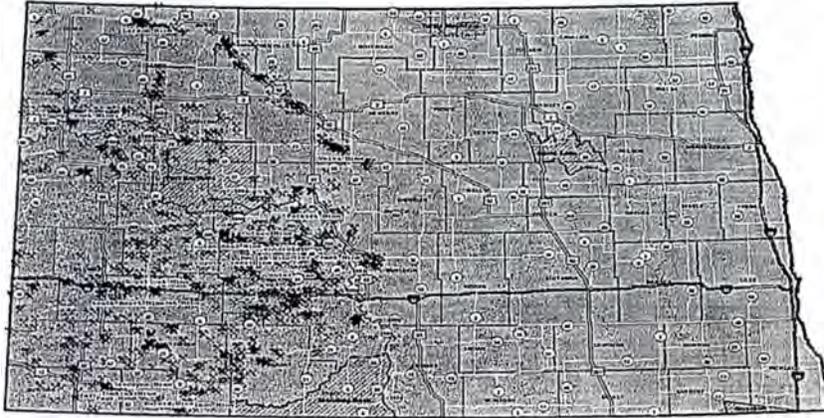
Conclusion

1. Request \$300,000 in Legal Funds be reinstated
2. Maintain Current Weights and Measures Staffing of 4 FTE's
3. Eliminate Section 5 of HB 1005 regarding IT Equipment Transfer
4. Restore IT Capital Asset Funding

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North Dakota.
Public Service Commission

Questions?



Statewide Mining Map

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#2

House Bill 1008

Presented by: Brian P. Kalk, Chairman
Public Service Commission

Before: Senate Appropriations Committee
Senator Ray Holmberg, Chairman

Date: March 6, 2013

TESTIMONY

Mister Chairman and committee members, I'm Brian P. Kalk, Chairman of the Public Service Commission, here to present our 2013-2015 biennial budget request. Also in attendance are my colleagues' Commissioners Randy Christmann and Julie Fedorchak. Thank you for the opportunity to discuss our statutory mandates, resource needs and answer any questions you may have.

Our goal today is to provide an operational overview of the Public Service Commission while sharing our thoughts on the Governors recommended budget and House Bill (HB) 1008 as amended by the House of Representatives.

Organization Chart:

Please see Attachment 1.

Operational Overview:

The Commission is a constitutional agency with varying degrees of statutory authority over the following:

- Regulation of electric, natural gas, and telephone utilities,
- Siting oil and gas processing plants, power plants, power lines, and transmission pipelines,
- Pipeline safety,

- Licensing and inspecting grain warehouses and grain buyers and administering insolvency cases,
- Licensing auctioneers and auction clerks,
- Certifying weighing and measuring devices,
- Overseeing active coal mining and reclamation,
- Eliminating hazards at abandoned mine sites,
- Representing state rail interests in federal proceedings,
- Railroad crossings.

The Commission has been able to operate within its appropriations for the current biennium during a period of energy development in the state. We have been directly impacted by the tremendous growth in energy related infrastructure through workload increase and employee turnover. We must maintain pipeline safety as a high priority. The Commission must also protect all underground infrastructure by continuing to increase awareness, and enforcement if necessary, of the "Call Before You Dig" program. Additionally, there has been a surge in telecommunication cases and jurisdictional determination requests. Finally, the Commission faces increasing litigation in several areas of jurisdiction. We understand both the Governor's executive budget recommendation and HB 1008 as amended. However, we have significant concerns in three areas that will directly impact the operations of the Commission. They are as follows in no particular priority:

- 1) Reduction in legal operating funds requested for insolvency cases and coal mining operations.

- 2) Repurposing two of the Commissions weights and measures positions to fill our request for a second pipelines safety position and an additional public utility analyst.
- 3) The transfer of the Public Service Commission's information technology assets to Information Technology Division (ITD).

Before reviewing all Commission program areas we would like to provide additional information on these three items.

Area of Concern 1 - Legal Operating Funds:

We ask that you reinstate, at a minimum, our original request for 300,000 dollars to provide the Commission the ability to hire outside attorneys with specialized expertise on a case by case basis. They will be used to defend state sovereignty from federal encroachment on state jurisdiction and represent the interests of claimant farmers in grain buyer and grain warehouse insolvencies, and provide much needed resources in a more litigious world.

The Commission faces increasing litigation in several areas of jurisdiction. (Attachment 2.) The attorney positions at the Commission are mainly transactional positions, not litigation positions. While the Commission's attorneys may have the time and expertise to handle administrative litigation and infrequent, less complex civil litigation, the Commission does not have the resources in-house to handle more frequent and more complex civil litigation. In larger regulatory agencies in other jurisdictions, when litigation arises, it is assigned to litigation attorneys and is not handled by the agency attorneys.

The Commission does use the services and expertise of the North Dakota Attorney General's Office when that office is available to assist us. While the Attorney General's rates are less than that of outside counsel, and the Assistant Attorneys General are extremely helpful whenever possible, the Attorney General's office often does not have availability to take on the Commission's litigation needs.

This past biennium the Commission has faced this issue on multiple fronts. Since 2007, grain warehouse and grain buyer insolvency cases handled by the Commission are occurring more frequently, and are increasingly complex with large dollar amounts at issue.

Since the Commission cannot predict how many insolvencies may be open or pending in a biennium, nor the complexity or size of those insolvencies, the Commission believes it is more efficient and a wiser use of state funds to outsource civil litigation needs when necessary, rather than adding employee positions. This method offers the Commission, the taxpayers, and most importantly, the producers the benefit of representation by specific counsel targeted to the specific needs of any particular case, maximizing the return to the state on any particular expenditure.

Similar concerns arise with federal litigation involving the Commission's coal mining and reclamation program and involving the Commission's abandoned mine lands program. It is important to note that to successfully defend the state against these types of lawsuits requires counsel with very specialized substantive and federal litigation expertise.

Currently the Commission is involved in two such lawsuits. The first is concerned with the effect of campaign contributions on the duty of elected officials to carry out their statutory responsibilities, and the right of the state to implement and enforce its reclamation program. This is a case of first impression, which means we have found no precedent; this case has far-reaching potential state and federal impacts. The second lawsuit directly concerns one important, long-standing component of the North Dakota's reclamation program, as well as that of other states, and the federal government, and again challenges the right of North Dakota and other states to implement and enforce their own programs consistent with federal law and rules. Both cases involve extremely important states' rights and sovereignty issues and deserve the best defense possible.

I would also note for the record that both Commissioners Christmann and Fedorchak, who were not part of the Commission during the budget preparation, support the 300,000 dollars in the original budget request, but request that Legislature consider a much larger amount, perhaps similar to the rail rate fund, to demonstrate the states full commitment to defend our fossil fuel industry from forthcoming attacks.

Area of Concern 2 – Repurposing Weights and Measures positions:

The Commission supervises and controls all weighing and measuring devices in the state. This includes approximately 20,800 devices used in North Dakota for weighing or measuring in commerce. Such devices include supermarket scales, grain elevator truck scales, livestock scales, and gas station

pumps, etc. The weights and measures program has four inspector positions, one of which is currently vacant. To implement the program, the Commission owns and maintains field standards, certifies weighing and measuring devices, and enforces compliance with applicable laws, rules, orders and procedures.

As I mentioned a moment ago, the weights and measures program is currently authorized four inspector positions. I would refer the committee to Attachment 3 for a full listing of all Commission positions and what positions were include in both the Governors recommended budget and House Bill 1008 as amended.

Over the years this program has been pared back from six inspectors to five, then down to four, and in December the Governor's budget eliminated two of the four that remain. Since late last year the Commission has had a vacancy in weights and measures. The Commission feels it would be inappropriate to fill our vacant position until the session is complete. We already have one employee who is potentially without employment in July.

In recent year's weights and measures has been a hybrid program consisting of unannounced Commission inspections, which we attempt to do at least once every 15 months. (North Dakota Century Code requires devices to be inspected at least once every 24 months.) However, if problems exist the operators of the devices need to bring in private contractors to make repairs. The reality is that these businesses are turning to private contractors for the initial tests more and more frequently, despite the fact that a test by the Commission is far less expensive, if the device is working properly. We believe that one of the

reasons businesses prefer the contractors is that they schedule the tests in advance, while the Commission does them unannounced. Further complicating the situation is the fact that our biennial audit contained a finding that we are not charging enough for these inspections. We acknowledge to the Auditor that we are not charging enough to pay for the cost of this program, but the reality is that we cannot increase the fees because the fees we charge have been set by the Legislature in North Dakota Century Code section 64-02-10.

The “quick fix” here, and our preference, would be for you to change the fee schedule and give us back the two FTEs. The data suggest though that some businesses are already switching to private contractors so if we charge similar rates we will likely lose additional business. We would then use the time that the loss of testing provides to begin a “quality assurance” program to monitor private contractors.

If you choose to reinstate only one of these FTE’s we would likely continue our current program for fuel pumps and small scales (where we do most of the testing) and discontinue testing on large scales in favor of a “quality assurance” only program on the large scales. This would not be in violation of the letter of existing law, which puts responsibility for maintaining accuracy on the operators of the devices.

If the Commission were to begin a weights and measures program that provided a quality assurance only system, as we would be forced to do with only two FTE’s, some adjustments must be made in statute, such as removing the testing fees. We would also ask that this change be phased in to allow

businesses which rely on the Commission for testing to find other alternatives and allow the Commission time to promulgate rules.

It should be noted that the Commission has already heard from several service providers that while they appreciate competition, they look forward to the Commission providing more than just a quality assurance program.

Area of Concern 3 – Transfer of IT assets to ITD.

The Public Service Commission presently houses and maintains its own servers to support various energy related regulatory functions. HB 1008 as amended states the Commission must “transfer” the equipment to ITD’s data center while also removing capital assets to maintain the equipment. The House approved budget also fails to provide resources to cover the monthly costs of keeping our equipment in the ITD data center. Based on this information and the use of the word transfer, we interpret these actions to mean the Commission would no longer be exempt from consolidation, as authorized in statute and approved by OMB in 2005. We would like to provide some background as to why we feel this is not the best solution for our stakeholders.

The Commission is one of the smallest commissions in the country with one of the broadest regulatory footprints in the nation. It’s imperative that the Commission’s ability to meet stakeholder demands not be interrupted by unneeded changes in IT operations.

In-house management of hardware and software allows the Commission to keep in step and closely integrated with our business partners. Maintaining seamless coordination between regulators and industry is critical to the viability

of the industries and the effective management of key systems. This IT system supports our scientific and engineering professionals through a cooperative arrangement with both the federal Office of Surface Mining and regulated industry. Our conscientious effort to be flexible and responsive to North Dakota's needs is the fundamental reason why our regulatory program continuously ranks among the best in the country.

The use of Geographical Information Systems (GIS) has increased exponentially over the past ten years and is expected to continue into the future. The Reclamation Division has developed a GIS to track mining and reclamation activities and assist with the technical analysis of plans and data submitted by the mining companies. Mine information entered into it includes recent high altitude air photos, permit boundaries, roads, stockpile locations, sedimentation ponds, bond release tracts, and related features. Much of this information is being loaded onto tablet computers equipped with Global Positioning System (GPS) receivers that our mine inspectors use when carrying out mine inspections. This allows for accurate tracking and recording of activities during mine inspections and for staff to otherwise carry out responsibilities more efficiently. Similarly, GIS is used by staff in designing and overseeing abandoned mine reclamation projects.

We currently have a GIS server and requested funding during the 2013-2015 biennium to update this equipment which was removed in HB 1008 as amended. It is important to point out that these systems require a high volume of data storage and specialized workstations to analyze and model the necessary

information. The large data sets are physically delivered to the Commission on high capacity mediums such as Blu-ray and portable disc. We believe it is in the State's best interest to continue this flexibility to provide the highest quality service at the lowest possible cost.

The Commission's business applications and infrastructure are fundamentally integrated and require the state's coal regulatory and reclamation program be in sync with industry and the federal Office of Surface Mining. Our business applications and server infrastructure are closely related and in some cases directly integrated with these partners. Transferring this function to a unified state IT department that is unfamiliar with these scientific functions, the federal requirements, or the needs of industry would jeopardize the efficiency, seamlessness and cost effectiveness of the state's current coal regulatory process.

The Commission's IT evolution over the past two decades has allowed and encouraged specialized end-user development in conjunction with these companies to maximize performance and minimize total costs. An example of this is the electronic mine permitting system, the first in the nation for a large surface mine, that was developed about ten years ago through negotiation and cooperation between the mines, the Commission and the Office of Surface Mining. This resulted in active mining permits being converted to an entirely electronic format. The faster, more efficient electronic applications have lowered the regulatory cost and burden on an industry facing strong opposition by "green" proponents.

The Commission's reclamation and abandoned mine lands staff also use a specialized suite of software that has been provided by the federal Office of Surface Mining for exclusive use in these programs. If we had to purchase this software it would cost the Commission approximately \$700,000. In addition, the Commission needs to maintain control of this federally owned software in order to continue its use and receive upgrades and new products that are exclusively used for the coal related programs. Consolidation of IT services will greatly diminish our ability to react quickly and remain current with our business partners. Flexibility is necessary for the Commission to implement technological advances that minimize cost and optimize effectiveness while remaining in sync with private enterprise.

The Commission believes it is not only appropriate but necessary to continue the exemption provided by the Director of OMB as provided in North Dakota Century Code section 54-59-22, we request that Section 5 of HB 1008 be eliminated and the exemption provided by the Director of OMB be supported. We also request that the capital asset funding that was removed be restored as it was in the original budget proposal from the Governor's office.

Operational Overview (Continued).

I will now continue with other critical operations of the Commission.

Gas Safety Program:

The Commission is responsible for ensuring that gas pipeline facilities used for the intrastate distribution and transmission of gas are designed, constructed, and operated to meet the pipeline safety standards set forth in

regulations of the United States Department of Transportation. Each year, the Commission enters into an agreement with the United States Department of Transportation which grants state authority to conduct a gas pipeline safety program. As part of this agreement, approximately 50 percent of the cost of the North Dakota gas pipeline safety program is funded by the federal government.

The gas pipeline safety program currently consists of one full-time employee. However, the Governor's executive budget and HB 1008 as amended provides the Commission a repurposed position from the weights and measures program to support:

- Increased construction activity and damage prevention enforcement (one call violations and increased regulatory oversight),
- An approximate 20 percent increase for 2013 and beyond in the minimum enforcement inspection days required by the federal/state agreement,
- Additional increases in minimum required enforcement inspection days as the number of intrastate gas pipeline operators and miles of pipe increase.

Federal pipeline safety legislation enacted as long ago as 2002 and as recently as 2011 has resulted in the promulgation of additional federal safety standards that substantially increase state enforcement responsibilities and activities. Some of the recent federal rulemaking is the result of major gas pipeline incidents across the United States.

The Commission requests, and the Governor's recommendation and HB 1008 as amended support, an additional gas pipeline safety inspector to meet the demands of the rapidly increasing gas pipeline infrastructure and address

ongoing safety concerns surrounding pipeline failures nationwide. This position will also address new state and federal regulations that place an even greater burden on the existing program. It costs approximately 30,000 dollars to train and certify a gas pipeline safety inspector and a second inspector will provide continuity and consistency within the growing program.

In addition to previous testimony on the additional position, the Pipeline Safety & Hazardous Material Safety Administration strongly encouraged the Commission to hire an additional pipeline safety inspector and committed increased funding to support this position. The Commission requests that an emergency clause be incorporated for this component of our appropriation in order to fill this position as soon as possible to begin the required training and inspections.

Public Utilities:

Public utility efforts are undertaken with a staff that is, by far, the smallest staff of any public utility commission in the nation. The Commission protects the public interest by implementing policy and regulating electric, natural gas, telecommunication, and pipeline companies in a fair, efficient, and cooperative manner. The Commission helps promote safe, reliable, and high quality utility services through its work with utility companies, rulemaking, educating consumers and resolving consumer disputes.

The Commission has requested and the Governor's executive budget and HB 1008 as amended support an additional public utility analyst to address the

increase in North Dakota's energy infrastructure and to effectively regulate utility services.

The following illustrates some of the important public utilities work carried out by the Commission:

- Track, comment on, and participate in the continued development of the regional wholesale electric market through the operator of the transmission system, the Midwest Independent System Operator. The regional wholesale market is important not only for efficiency and reliability but also for the future export of electricity from North Dakota.
- Investigate, analyze, advocate, provide testimony, and implement rate and rate design changes through the regulation of retail electric and gas service provided by investor owned utilities. The staff conducts annual reviews of earnings levels and processes rate increase applications. Staff also directs and enforces safety requirements for electric and natural gas service provided by all utilities.
- Investigate, analyze, implement, and provide assurances to the extent possible for using the state's abundant natural resources for the production of power through siting activities and overall regulatory authority. Through its siting authority, the Commission oversees the location and construction of CO₂ pipelines, gas plants, generating stations and applicable water lines, wind farms, electric transmission lines, and oil and gas pipelines and related pumping stations and other facilities.

- Investigate, analyze, advocate, and provide testimony concerning advance prudence applications by regulated utilities for electric resource additions. We expect more of these types of filings as continued generation and transmission build-out is expected for the next several years.
- Track, comment on, and implement federal telecommunication mandates including oversight and facilitation of the wholesale telecommunications market and the transition to competitive services. These types of cases include intercompany access disputes, inter-carrier compensation disputes, monitoring quality of service through regional efforts, overseeing the allocation of telephone numbers, rural exemption challenges, and so on.
- Resolve territorial disputes between investor owned electric companies and rural cooperatives, and protect the public interest through action on agreements entered into between electric providers concerning service areas, which may include certificates of public convenience and necessity for utility plant and system extensions.
- Investigate, analyze, provide testimony, and implement merger and acquisition applications.
- Process the occasional formal dispute between customers and a utility company that cannot be resolved informally. In these cases, a formal complaint is filed by the customer or Commission staff and the Commission then may conduct a formal hearing and order a resolution.
- Educate consumers and competitors about the evolving utility marketplaces and the changing role of regulation, striving to identify and implement ways to

lessen the regulatory burden on companies while strengthening and preserving necessary consumer protections. Regional impacts, widespread policy from Washington, DC, and environmental priorities and concerns will contribute to the challenges facing policymakers, regulators, and interested parties.

Until recently, the last big build out of utility infrastructure occurred in the late 70's and early 80's resulting in large rate increases to cover the increased investment. We are currently in another build out period in North Dakota. As a result we have seen a tremendous growth in the number of siting cases being conducted by the Commission and the rate increase requests that follow from the investor owned utilities. Rate cases are expensive and time intensive.

In 2005, the Legislature passed North Dakota Century Code section 49-05-16 to authorize the Commission to grant advance determination of prudence to utilities for reasonable and prudent investments in energy conversion and transmission facilities and purchased power contracts. Since then, the Commission has processed numerous such cases involving billions of dollars of investment. Staff is tasked with the responsibility of determining whether such proposals are indeed the least cost alternatives necessary to provide reliable service.

Beyond these two cornerstones of public utilities, staff is tasked with the daily duties of monitoring earnings of investor-owned utilities, monitoring federal and other states' regulations and activities that impact North Dakota rates, working with industry to develop performance-based rates, analyzing energy

efficiency and demand side management programs for economic viability, developing rates that are fair and cost based to the extent possible, and developing solutions for improved reliability of services.

The Commission's caseload for siting energy conversion and transmission infrastructure has increased substantially over the past decade, as noted in the below table.

Applications Filed	1990's	2000-2005	2006	2007	2008	2009	2010	2011	2012
Siting	19	21	7	14	24	19	18	23	15
Rate Increases	5	5	1	1	2	0	2	1	1
Advance Determination of Prudence	0	0	2	0	2	4	1	4	2

Since 2005, the Commission has approved route permits for facilities representing 1.65 billion dollars in oil pipeline investments and 844 million dollars in electric transmission investments. We have also issued siting certificates for facilities representing 3.7 billion dollars in wind generation investment. Looking forward, the challenges are even greater as we have letters of intent to build nearly 13.6 billion dollars' worth of energy conversion facilities, all of them requiring Commission oversight.

Reclamation:

The Reclamation Division is responsible for ensuring that active coal mining is carried out in an environmentally sound manner and that mined lands are successfully reclaimed. Mining companies must obtain mining permits from the Commission for all lands that will be disturbed by coal mining activities and they must also provide performance bonds in an amount that is sufficient to complete the required reclamation work. Major activities of the Reclamation

Division include the review of mining permit and revision applications, conducting mine site inspections, and evaluating reclamation success as part of the bond release process.

The federal Office of Surface Mining conducts ongoing reviews of the coal regulatory program and issues annual evaluation reports. ***North Dakota continues to receive excellent reports from the Office of Surface Mining and they consider North Dakota's program one of the most efficient and well run programs in the country.*** These facts provide additional justification to continue our current IT operations and defend our state program to the fullest extent possible.

The federal government, through annual grants from the Office of Surface Mining, is currently paying 64 percent of the coal regulatory program costs and the state general fund covers the other 36 percent. Based on the available information at this time, it appears we should be receiving enough federal funds to meet our program needs for at least the first year of the 2013-2015 Biennium. However, due to the federal deficit, we have concerns whether or not sufficient federal funds will be appropriated by Congress for the second year of the biennium.

There are currently four large and two small coal mines operating in North Dakota and they currently produce approximately 28 million tons of lignite per year. There are nearly 117,500 acres of land presently under permit and, of this; about 60,000 acres have been disturbed by mining activities. Applications to permit another 18,600 acres are currently being reviewed by the Reclamation

Division. This includes applications for two new mines, one northwest of Center and the other near South Heart.

Between 1,500 and 2,000 acres of land are typically disturbed and reclaimed each year. The disturbed and reclaimed acres are monitored by the Commission to ensure mining and reclamation activities are conducted in compliance with state reclamation laws and rules. At least two inspections per month are usually conducted at the four large mines.

Another significant workload for the Reclamation Division is related to final bond release on reclaimed lands. The Commission's jurisdiction over reclaimed land ends upon the granting of the final bond release. However, mining companies cannot apply for final bond release until most mined lands have been reclaimed and seeded for at least ten years. When final bond release is requested, detailed information and data must be provided showing that reclaimed lands with an agricultural use produce as well as they did before mining. In the past ten years, final bond release has been granted on nearly 16,000 acres.

The Reclamation Division continues to use and enhance a GIS for storing, evaluating, and analyzing a vast amount of data and maps that the Commission receives from mining companies. Once data and maps are converted into the appropriate format and entered into the GIS, data are downloaded onto tablet PCs equipped with Global Positioning Satellite (GPS) receivers for use during routine mine inspections. The GPS receivers allow staff to know precisely where they are at during the mine inspection, to save a track-log of the areas traversed

at the mine, and to accurately note any areas of concern observed during the inspections.

In the past few years environmental and citizen groups have been filing more lawsuits across the country challenging mine permitting actions by the state regulatory authority. In North Dakota, the Dakota Resource Council (DRC) appealed the approval of a permit revision to the North Dakota Supreme Court in 2011 for a change in the post-mining land use at the Falkirk Mine. The Supreme Court upheld the Commission's decision. In May 2012, the DRC and Sierra Club filed two lawsuits in United States District Court challenging parts of North Dakota's coal regulatory program. In one of the cases, the plaintiffs asked the court to order the federal takeover of our program by the Department of the Interior. This trend is expected to continue and the Commission believes additional operating funds will be needed for hiring outside attorneys to defend North Dakota in federal court. Maintaining our coal regulatory program that is responsive to the needs of the mining companies is very important to North Dakota's lignite industry. We need to ensure that state primacy, as provided for under the federal mining and reclamation act, is not diminished or lost as a result of these lawsuits.

Our budget includes a single one-time spending request which is also supported by both the Governor's executive budget recommendation and HB 1008 as amended for a hydraulic soil probe used by the Reclamation Division. This equipment purchase will replace the existing probe originally purchased in

1977. The soil probe is used to check and evaluate soil respread depths on reclaimed lands and the need for this work will continue for many years to come.

Abandoned Mine Lands:

The mission of the Abandoned Mine Lands (AML) Division is to reclaim abandoned coal mine lands that pose a safety hazard. The program is 100 percent federally funded through a federal reclamation fee assessed on all active coal mines. North Dakota mining companies currently pay eight cents per ton of lignite produced into the AML fund, which totals about 2.25 million dollars per year. The Commission receives money from this fund to operate North Dakota's AML program. Federal legislation enacted in late 2006 extended collection of the federal reclamation fee until September 30, 2021. This legislation also required the Office of Surface Mining to pay out the state share balances in the AML fund and this has increased our funding from 1.6 million dollars in 2007 to the nearly four million dollars received in 2012. The Commission expects to receive about eight million dollars from the Office of Surface Mining during the 2013-2015 Biennium. However, starting in 2015, the amount of funds we receive will decrease to three million dollars per year, the minimum amount for a state AML program, for the duration of the program. The AML Division also hires two seasonal inspectors to monitor the on-site construction work during the summer and fall months.

Sites eligible for reclamation under Title IV of the federal Surface Mining Control and Reclamation Act include lands disturbed by underground and surface coal mining prior to its enactment in 1977. These sites are prioritized on

the basis of perceived hazards and are reclaimed based on priority ranking and available funds. Major reclamation projects during the 2011-2013 Biennium include filling underground mine voids east of Williston and in the Beulah/Zap area, and eliminating highwalls at abandoned surface mines south of Sawyer in Ward County and near Columbus in Burke County.

The AML Division has developed a GIS database to store and display information about the AML sites in North Dakota. Much of this information will be posted on the Commission's website so it will be readily available to the public. We believe it is important to have information on abandoned underground mines available to the public since there are times when there are no surface features present to indicate a potential hazardous condition exists in an area.

Licensing:

The Licensing Division oversees the licensing and bonding of all public grain warehouses and grain buyers in North Dakota and processes all grain warehouse and grain buyer insolvency cases. The division also oversees the licensing and bonding of all auctioneers and auction clerks.

The Commission was involved in six insolvencies this biennium. There are complicated issues involved with each of these insolvencies. Due to the number of complex insolvencies happening simultaneously, the Commission has had to hire outside counsel to provide legal services to assist in processing one of the insolvencies. Due to the complexity of the issues in recent insolvencies, the time for completing an insolvency has increased significantly.

Some major accomplishments and important work completed July 1, 2011 through December 31, 2012 include:

- Completed approximately 300 grain warehouse and grain buyer inspections,
- Approved 219 capacity increase requests and 104 capacity decrease requests,
- Approved 46 requests to discontinue business and issued 37 new licenses.

Agriculture Rail Rate Fund:

The Governor's executive budget recommendation and HB 1008 as amended include a continuation of 900,000 dollars from the beginning farmers fund for the agriculture rail rate fund.

Business Operations:

The Business Operations Group provides support services to the other divisions. Accordingly, a portion of the Commission's funding comes from the federal government through an indirect cost reimbursement. Indirect costs are recovered from the federal grants to offset administrative costs associated with our federal programs.

The Commission recorded 2,970 complaints and inquiries during the current biennium. The vast majority of these concerned public utility services, but many involved matters such as grain elevator operations, mining activities, siting, and weights and measures.

During the current biennium, the Commission opened 1,372 cases. The Commission attempts to process these cases quickly and at the lowest level of formality possible. As a result, approximately ninety-six percent of these cases

were processed without the need for a formal hearing. Only fifty-two of these cases required formal hearings, several of which were mandated by state law.

Changes in Federal Funding:

We have concerns that the Commission may not receive sufficient federal funds for our reclamation, abandoned mine lands, and gas safety programs in the next biennium.

The Office of Surface Mining within the United States Department of Interior provides the 64 percent federal share of the coal regulatory program costs, with the state general fund providing the remaining 36 percent. While we do not expect the total elimination of federal funding, it seems a 15 to 20 percent reduction is possible for the second year of the 2013-2015 biennium considering the reductions in state program funding that have been proposed by the Obama Administration for several years. A 20 percent reduction in the amount of the federal funds we receive in the 2014-2015 fiscal year would total about 190,000 dollars. If that happens, options for dealing with the shortfall of federal funds are limited. The first option would be to ask the Emergency Commission for additional state general funds. If such a request were denied, we would have to reduce spending for the coal regulatory program. A funding shortfall of 190,000 dollars per year would likely result in a reduction of two FTEs, since about 90 percent of the Reclamation Division budget is salary related (including the indirect cost reimbursements). However, the elimination of two FTEs would reduce the Commission's ability to carry out an effective program and we would

probably see increased federal oversight of our program by the Office of Surface Mining.

With regard to any reduction in federal funds from the Office of Surface Mining for the abandoned mine lands program, we would reduce the number and/or size of construction projects that eliminate hazards associated with abandoned surface and underground coal mines.

The gas safety program is funded by an estimated 50/50 cost share between the state general funds and federal funds provided by the Pipeline and Hazardous Materials Safety Administration within the United States Department of Transportation. A 15-20 percent reduction to federal funds could result in approximately 20,000 dollars being allocated to the general fund. If this occurs during the next biennium, we would first attempt to find cost savings internally, but would not rule out the need for Emergency Commission action.

Summary:

Of the Commission's overall budget, approximately fifty-eight percent comes from federal sources, thirty-six percent is general fund money, and six percent is special funds. The Commission currently generates approximately one million dollars per biennium in income from statutory license and inspection fees. Indirectly, this income covers about seventeen percent of the general fund money that is being requested in House Bill 1008.

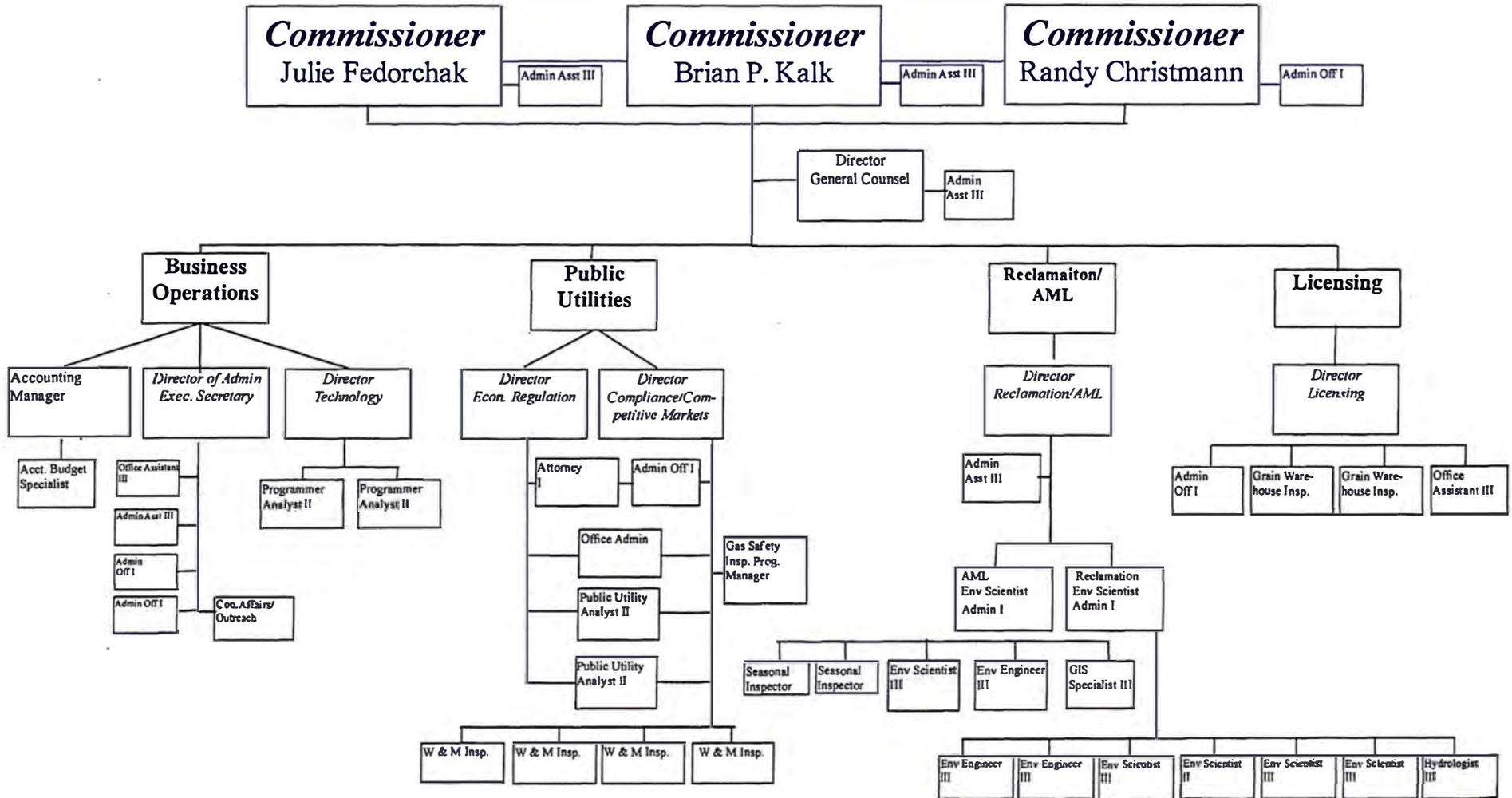
The Commission currently has forty-three full time employees, including the three Commissioners, plus two temporary seasonal employees to work with the Abandoned Mine Lands Division during the construction season.

Mister Chairman, this concludes our testimony. I will be happy to answer any questions.

Attachments:

1. PSC January 2013 organizational chart.
2. PSC cases currently in litigation.
3. PSC organization matrix.

North Dakota Public Service Commission
January 2013



Public Service Commission – Cases Currently in Litigation

6 March 2013

<i>Sierra Club & DRC v. Ken Salazar</i> United States District Court (ND) Civil No. 1:12-cv-065	Case No. RC-12-676
<i>Dakota Resource Council v. PSC</i> United States District Court (ND) Civil No. 1:12-cv-064	Case No. RC-12-677
<i>City of Oxbow, et. al, Appellants v.</i> <i>North Dakota Public Service Commission, Appellee</i> Civil No. 09-2012-CV-03147	Case No. PU-07-759
<i>North Central Electric Cooperative, Inc., Appellant v.</i> <i>North Dakota Public Service Commission,</i> <i>Otter Tail Power Company, and</i> <i>Turtle Mountain Band of Chippewa Indians, Appellee</i> Civil No. 08-2012-CV-01464	Case No. PU-11-701
<i>Missouri Valley Communications, Inc., Plaintiff v.</i> <i>ND PSC and Kevin Cramer, Bonny Fetch & Brian Kalk,</i> <i>in their official capacities as Commissioners of ND PSC</i> <i>and Midcontinent Communications, Defendants</i> United States District Court (ND) Civil No. 4:12-CV-00091	Case No. PU-11-697
<i>Smith Contacting, Inc., Plaintiff v.</i> <i>North Dakota Public Service Commission, Defendant</i> Civil No. 08-211-CV-01887	Case No. AM-10-37
<i>Public Service Commission, Petitioner v.</i> <i>Mitchell Feeds, Inc. & Western Surety Company,</i> <i>Respondents</i> Civil No. 08-2011-CV-917	Case No. GE-11-51
<i>Public Service Commission, Plaintiff v.</i> <i>Falkirk Farmers Elevator Co., Defendant</i> Civil No. 28-2012-CV-00176	Case No. GE-12-769
<i>Public Service Commission, Petitioner v.</i> <i>Anderson Seed Co., Inc., Respondent</i> Civil No. 09-2012-CV-00693	Case No. GE-12-78

Division	Job Title	Position	Current FTE's	New FTE's	HB1008 as Adopted by House & Governor Recommended
Commissioner	ELECTED - NOT CLASSIFIED	00004992	1		1
Commissioner	ELECTED - NOT CLASSIFIED	00004990	1		1
Commissioner	ELECTED - NOT CLASSIFIED	00004991	1		1
Secretary to Commission	APPOINTED--NOT CLASSIFIED	00004998	1		1
Consumer Affairs	PUBLIC INFO SPEC II	00004993	1		1
Administration	ADMIN OFR I	00004995	1		1
Administration	OFFICE ASSISTANT III	00005000	1		1
Accounting	ACCOUNTING MANAGER I	00005004	1		1
Accounting	ACCOUNT/BUDGET SPEC I	00005027	1		1
Technology	INFO TECHNOLOGY ADMIN I	00004999	1		1
Technology	PROGRAMMER ANALYST II	00025988	1		1
Technology	PROGRAMMER ANALYST II	00005001	1		1
Legal	ATTORNEY III	00004996	1		1
Legal	ADMIN ASSISTANT III	00005003	1		1
Legal	PARALEGAL		0	1	0
Gas Pipeline	GAS PIPELINE SAFETY INSPECTOR	00005005	1		1
Gas Pipeline	GAS PIPELINE SAFETY INSPECTOR		0	1	1
Licensing	GRAIN WAREHOUS INSPECTOR	00005013	1		1
Licensing	GRAIN WAREHOUS INSPECTOR	00005012	1		1
Licensing	LICENSING DIV DIRECTOR-PSC	00005011	1		1
Public Utilities	ADMIN OFR I	00005032	1		1
Public Utilities	ATTORNEY II	00005029	1		1
Public Utilities	PUBLIC UTIL ANALYST II	00005031	1		1
Public Utilities	PUBLIC UTIL ANALYST II	00027148	1		1
Public Utilities	PUBLIC UTIL ANALYST III		0	1	1
Public Utilities	PUBLIC UTILITY DIVISION DIR	00005028	1		1
Public Utilities	PUBLIC UTILITY DIVISION DIR	00005030	1		1
Reclamation/AML	DIR, REC & ABANDONED MINE LAND	00005014	1		1
Reclamation/AML	ADMIN ASSISTANT III	00004994	1		1
Reclamation	ENVIRON SCIENCES ADMIN I	00005017	1		1
Reclamation	ENVIRON SCIENTIST III	00005021	1		1
Reclamation	ENVIRON SCIENTIST III	00027940	1		1
Reclamation	ENVIRON SCIENTIST III	00005020	1		1
Reclamation	ENVIRON SCIENTIST III	00005018	1		1
Reclamation/AML	GIS SPECIALIST III	00005025	1		1
Reclamation	ENVIRONMENTAL ENGR III	00005023	1		1
Reclamation	ENVIRONMENTAL ENGR III	00005019	1		1
Reclamation	HYDROLOGIST III	00005022	1		1
AML	ENVIRON SCIENCES ADMIN I	00005015	1		1
AML	ENVIRON SCIENTIST III	00005026	1		1
AML	ENVIRONMENTAL ENGR III	00005024	1		1
Weights and Measures	ADMIN OFR I	00005002	1		1
Weights and Measures	WEIGHTS & MEASURES INSPECTOR I	00005006	1	(1)*	0
Weights and Measures	WEIGHTS & MEASURES INSPECTOR I	00005010	1		1
Weights and Measures	WEIGHTS & MEASURES INSPECTOR I	00005007	1		1
Weights and Measures	WEIGHTS & MEASURES INSPECTOR I	00005009	1	(1)*	0

43

3

43

* Repurposed to new Gas Safety Inspector and Public Utility Analyst

From: Holmberg, Ray E.
Sent: Wednesday, March 06, 2013 2:28 PM
To: NDLA, S APP ASST - Laning, Rose
Subject: Coal again under attack by administration

*NY Times article
Sen. Ray Holmberg
HB 1008
3-6-13*

Subject: Coal again under attack by administration

NY Times

Cabinet Picks Could Take On Climate Policy

By JOHN M. BRODER and MATTHEW L. WALD
Published: March 4, 2013

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WASHINGTON — President Obama on Monday named two people to his cabinet who will be charged with making good on his threat to use the powers of the executive branch to tackle climate change and energy policy if Congress does not act quickly.

Enlarge This Image



Doug Mills/The New York Times

Ernest J. Moniz, nominated to the Energy Department, and Gina McCarthy, named to the E.P.A.

Mr. Obama nominated Gina McCarthy, a tough-talking native of Boston and an experienced clean air regulator, to take charge at the Environmental Protection Agency, and Ernest J. Moniz, a physicist and strong advocate of natural gas and nuclear power as cleaner alternatives to coal, to run the Department of Energy.

The appointments, which require Senate confirmation, send an unmistakable signal that the president intends to mount a multifaceted campaign in his second term to tackle climate change by using all the executive branch tools at his disposal.

But even with Ms. McCarthy and Mr. Moniz in place, Mr. Obama would have to confront major hurdles in trying to refashion the American way of producing and consuming energy, the same hurdles that stymied climate and energy policy in his first term.

Among the first of those is a decision on the Keystone XL pipeline, which the administration appears inclined to approve over the vociferous objections of environmental advocates.

Mr. Obama, in introducing the nominees at the White House on Monday, recognized the political and economic delicacy of the task facing both of them.

“So these two over here,” he said, gesturing toward Ms. McCarthy and Mr. Moniz, “they’re going to be making sure that we’re investing in American energy, that we’re doing everything that we can to combat the threat of climate change, that we’re going to be creating jobs and economic opportunity in the first place.”

It is a difficult, even paradoxical task. Addressing climate change and ensuring domestic energy independence have sometimes proved to be contradictory goals, analysts said.

“The president himself has framed the challenge of going all in to cut the pollution that causes climate change while still having an ‘all-of-the-above’ energy policy,” said Gene Karpinski, the president of the League of Conservation Voters. “We need to make sure we lean heavily on the clean energy alternatives and all the measures that cut carbon pollution, and don’t in essence take two steps forward and one step back. We will not solve the problem that way.”

Mr. Obama has embraced the boom in unconventional natural gas production, which has brought lower energy prices and reduced emissions as utilities switch from coal to natural gas to produce electricity. But the production of natural gas through hydraulic fracturing, known as fracking, presents difficult environmental issues, including the possibility of groundwater contamination and the unregulated release of methane, a potent greenhouse gas.

Natural gas is cleaner than coal, but it is still a fossil fuel that even its advocates see as a bridge fuel rather than a long-term answer to climate change.

Mr. Obama has also pursued increased offshore drilling for oil and gas in the Gulf of Mexico and the Arctic Ocean, an enterprise fraught with environmental peril, as the BP oil spill in the gulf in 2010 and Shell’s mishaps in the Arctic last year dramatized.

In leaning toward construction of the pipeline, the administration would be embracing a project to carry heavy crude oil from tar sands formations in Alberta to refineries in Texas. That would result in the delivery of 800,000 barrels of oil a day from a friendly source and thousands of construction, refinery and spinoff jobs. But a State Department environmental impact report issued Friday notes that extracting, shipping and refining the Canadian oil

would produce measurably more greenhouse gas emissions than other types of oil.

Michael A. Levi, a climate and energy fellow at the Council on Foreign Relations, said that the appointments of Ms. McCarthy, 58, and Mr. Moniz, 68, represent a continuation of the president's first-term policies rather than a sharp break. The two are practical, practiced insiders who put a premium on finding workable solutions and have more experience navigating the federal bureaucracy and Congress than the officials they have been tapped to succeed, Lisa P. Jackson at the E.P.A. and Steven Chu at Energy.

"Putting it all together," Mr. Levi said, "it appears to reinforce the president's stated desire to push forward on a variety of different fronts. These are not people who want to use a club casually. They are not about to use rigid regulations to try to force deep changes in the U.S. economy, but they are also people who want to do big things."

The E.P.A., which the Supreme Court granted authority to regulate carbon dioxide and other heat-trapping gases, is in the midst of writing regulations governing such emissions from new power plants. Those rules, expected to be completed this year, would essentially bar construction of any new coal-fired power plants unless they included the means to capture carbon gases, a technology that does not yet exist on a commercial scale.

But to make a real dent in the nation's emissions, the agency must then devise emissions limits for existing plants, a hugely controversial project that could force the shutdown of dozens of older coal-burning power plants, cause a steep drop in domestic demand for coal and trigger a sharp rise in energy prices.

No matter how carefully written — and Ms. McCarthy is an expert on federal air quality law — any such regulations would be subject to intense opposition in the courts, and in Congress, which could seek to overturn the regulations.

David Doniger, the director of the climate and clean air program at the Natural Resources Defense Council, said that the big issues before the Obama administration were the budget, immigration, gun control and climate. "Climate change is the only one of these where he has the authority to take significant action under laws the Congress has already passed, principally the Clean Air Act, and the energy efficiency laws that Moniz will be implementing," Mr. Doniger said.

"The two agencies can work together," he said. "We think these two appointees both very seriously get climate change."

In addition to the E.P.A., the Energy Department has a strong role in the government's climate change efforts, said Dan W. Reicher, who served in two assistant secretary positions at the department while Mr. Moniz was an under secretary during the Clinton administration.

Some actions would be fairly direct, like setting additional efficiency standards for appliances. The department also still has \$17.5 billion in loan guarantee authority for new nuclear projects, Mr. Reicher pointed out, and has primary

responsibility for handling civilian nuclear wastes — a problem that is vital to the future of the civilian nuclear power industry.

The Energy Department's failure to begin accepting waste by the contractual deadline, which was in 1998, costs billions of dollars in penalties to taxpayers. And, he said, the department would most likely play a role in another of Mr. Obama's priorities: reducing nuclear weapons.

Sent from my iPad

HB 1008
3-6-13

Mike Kennedy #4
Capital Scale Company

We don't believe the down sizing of Weights & Measures is in the best interest of the state or the consumers of North Dakota.

A service company does not have the authority to go into a business to see if they are in compliance with state regulations. We only go where we are asked by our customer.

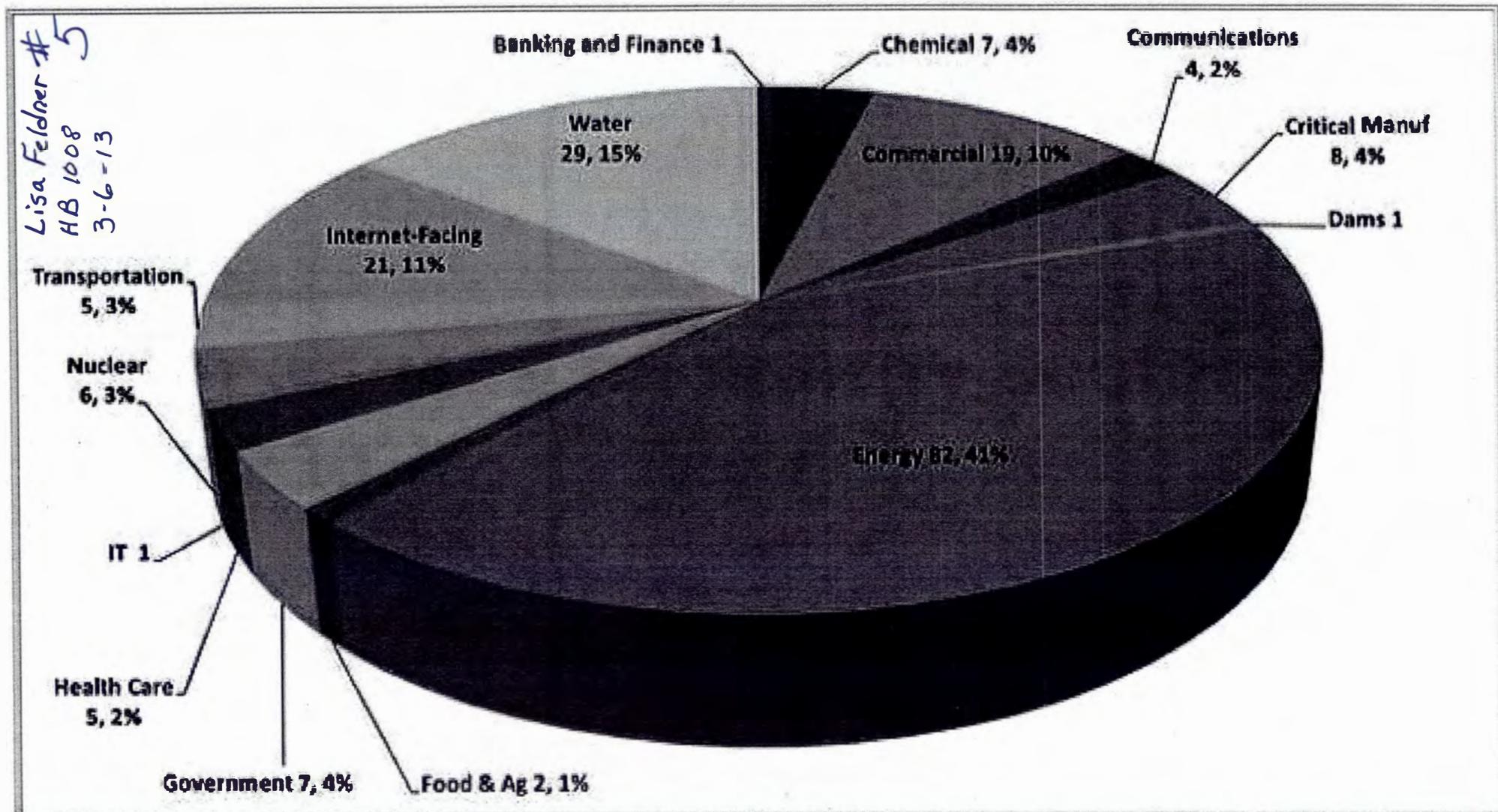
There are more and more scales being bought over the internet. A service company does not have any way of finding these or test them. They are not traceable and it would be easy to use as a commercial device without being caught.

The state is growing rapidly; with oil services and population there are more scales every day. From fracking and chemical scales for oil to larger grain terminals and grocery stores, this is adding an astounding amount of weighing and measuring devices in the state.

We can not tell a customer he must test his scale.

If you want to be a progressive state and protect the consumers of this state you need a strong Weight & Measures program.

Cyber attacks on energy sector 'alarming'



Cyber incidents: energy sector accounted for 41% of incidents in 2012

US Department of Homeland Security S-CERT

North Dakota Public Service Commission

/

3-20-13

Legal Increase Estimate

	<u>Current Expenses as of 12/31/12</u>	<u>Estimated % Complete</u>	<u>Estimated Cost</u>
Reclamation	38,157.15	20%	190,785.75
Insolvency	11,210.00	15%	74,733.33
	<u>49,367.15</u>		
Additional Unknown			
Insolvency			74,733.33
Appeal Costs			85,000.00
		Total Estimated Cost	425,252.42
		Amount paid this biennium	49,367.15
		Additional expenses this biennium	75,000.00
			124,367.15
		Need Next Biennium	300,885.27

13.8137.02001
Title.
Fiscal No. 1

Prepared by the Legislative Council staff for
Senator Carlisle

March 26, 2013

1008
3-27-13 Subcom



PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

Page 1, line 2, replace "section" with "sections"

Page 1, line 2, after "49-01-05" insert "and 64-02-10"

Page 1, line 3, after "commissioners" insert "and fees to test or calibrate weighing and measuring devices"

Page 1, line 4, remove "to authorize a transfer;"

Page 1, remove lines 13 through 15

Page 1, replace line 16 with:

"Salaries and wages	\$7,482,074	\$1,298,673	\$8,780,747
Operating expenses	1,972,572	(39,510)	1,933,062
Capital assets	53,000	35,665	88,665"

Page 1, replace line 19 with:

"Rail rate complaint case	900,000	0	900,000
Reclamation and grain licensing litigation	0	1,000,000	1,000,000"

Page 1, remove lines 20 through 22

Page 1, replace line 23 with:

"Total all funds	\$18,423,646	\$2,298,828	\$20,722,474
Less estimated income	<u>12,403,431</u>	<u>1,123,288</u>	<u>13,526,719</u>
Total general fund	\$6,020,215	\$1,175,540	\$7,195,755
Full-time equivalent positions	43.00	1.00	44.00"

Page 2, replace line 7 with:

"Hydraulic soil probe		0	28,000
Reclamation and grain licensing litigation		0	1,000,000"

Page 2, remove lines 8 and 9

Page 2, replace line 10 with:

"Total all funds		\$658,217	\$1,028,000
Total special funds		<u>658,217</u>	<u>517,920</u>
Total general fund		\$0	\$510,080"

Page 2, line 18, replace "ninety-eight" with "ninety-nine"

Page 2, line 19, replace "seventy-nine" with "thirty-five"

Page 2, line 19, replace "one" with "three"

Page 2, line 20, replace "thirty-three" with "twelve"

Page 2, remove lines 30 and 31

Page 3, remove lines 1 and 2

Page 3, after line 11, insert:

"SECTION 7. AMENDMENT. Section 64-02-10 of the North Dakota Century Code is amended and reenacted as follows:

64-02-10. Fees to test or calibrate weighing and measuring devices.

The commission shall collect the following fees to:

1.	Test railroad track or truck scale	\$171.00
2.	Test livestock and vehicle scale	—171.00
3.	Test livestock scale if the sales ring or buying station scale owner transports to the scale and furnishes all test weights and manpower needed to properly test the scale	—96.00
4.	Test auxiliary beam on livestock, motor truck, and motor truck dump scale	—24.00
51.	Test overhead monorail, track, hopper, dormant, deck, and hanging scale of <u>1,000 pounds</u> or less capacity	53.00
62.	Test movable platform scale	11.00
73.	Test counter or computing scale	11.00
84.	Test hanging scale of fifty pound [22.68 kilogram] capacity or less	11.00
95.	Test a retail motor fuel device	11.00
106.	Test or calibrate weighing and measuring standards, per metrologist, per quarter hour or fraction thereof	17.00
117.	Test mobile delivery gasoline and fuel oil meter	24.00
128.	Test gasoline, LPG, or fuel oil meter on common carrier pipelines, or any other meter used in loading railway cars, transports, or other conveyances	53.00
139.	Test propane, ag chemical, or liquid fertilizer meter	39.00
14.	Test crane scale	—107.00

4510. Test or calibrate weighing and measuring devices other than the above and those set by rule, per inspector per quarter hour or fraction thereof 11.00

4611. Witnessing any of the above tests Fifty percent of the applicable fee

When a rejected weighing or measuring device has been reconditioned or replaced by new equipment, it must be retested and certified before being put into use except as otherwise provided by rule. The fee for retest and certification is the same as for the first test and certification.

When a test of a weighing or measuring device is required in addition to the regularly scheduled test, the commission shall charge a fee equal to the cost of operating the motor vehicle used in conducting the test. The mileage charges, as determined by the commission, must be in addition to the regular test fee and calculated to cover the costs of the additional travel. If a test has been requested and the person requesting it fails to appear or to have the weighing or measuring device ready for testing at the arranged time, there is a charge of ten dollars a quarter hour for the time between the arranged time and the time at which the test can begin."

Page 3, line 12, after "INSPECTOR" insert "AND PUBLIC UTILITY ANALYST"

Page 3, line 13, replace "proceeds" with "proceed"

Page 3, line 14, after "inspector" insert "and public utility analyst"

Page 3, line 14, replace "has" with "have"

Page 3, line 17, after the boldfaced period insert "Section 7 of"

Page 3, line 17, replace "This" with "this"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1008 - Public Service Commission - Senate Action

	Executive Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$8,659,244	\$8,256,625	\$524,122	\$8,780,747
Operating expenses	1,977,397	1,977,397	(44,335)	1,933,062
Capital assets	88,665	51,165	37,500	88,665
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	8,000,000	8,000,000		8,000,000
Rail rate complaint case	900,000	900,000		900,000
Accrued leave payments		168,278	(168,278)	
Reclamation & Grain Licensing Litigation			1,000,000	1,000,000
Total all funds	\$19,645,306	\$19,373,465	\$1,349,009	\$20,722,474
Less estimated income	13,082,083	12,995,259	531,460	13,526,719
General fund	\$6,563,223	\$6,378,206	\$817,549	\$7,195,755
FTE	43.00	43.00	1.00	44.00

Department No. 408 - Public Service Commission - Detail of Senate Changes

Restores	Removes	Adds Funding	Restores	Adds Funding	Total Senate
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	Executive Compensation Package ¹	Separate Line Item for Accrued Leave Payments ²	for Weights and Measures FTE Position ³	Funding for Capital Assets ⁴	for Litigation Costs ⁵	Changes
Salaries and wages	\$257,681	\$168,278	\$98,163			\$524,122
Operating expenses			105,665		(150,000)	(44,335)
Capital assets				37,500		37,500
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Accrued leave payments		(168,278)				(168,278)
Reclamation & Grain Licensing Litigation					1,000,000	1,000,000
Total all funds	\$257,681	\$0	\$203,828	\$37,500	\$850,000	\$1,349,009
Less estimated income	95,460	0	0	0	436,000	531,460
General fund	\$162,221	\$0	\$203,828	\$37,500	\$414,000	\$817,549
FTE	0.00	0.00	1.00	0.00	0.00	1.00

¹ Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

² The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

³ This amendment adds one FTE weights and measures position and the related funding.

⁴ This amendment restores the funding removed by the House for disk upgrades and the GIS server.

⁵ A new line item of one-time funding is added for litigation costs. Funding of \$150,000, \$86,000 of which is from the general fund is transferred from the operating expenses line item and \$850,000, \$414,000 of which is from the general fund is added to provide a total of \$1,000,000, of which \$500,000 is from the general fund. The executive budget recommendation provided a total of \$150,000 for litigation funding, of which \$86,000 was from the general fund. The litigation line item includes funding for litigation costs relating to the enforcement of the Public Service Commission's Coal Mining and Reclamation Program; Abandoned Mine Lands Reclamation Program; and Grain Warehouse, Grain Buyer, and Hay Buyer Licensing and Insolvencies.

This amendment also:

- Amends NDCC Section 64-02-10 relating to the fee schedule of the large scale weights and measures program. This change is estimated to result in a \$200,000 reduction of general fund revenue for the 2013-15 biennium.
- Removes Section 5 added by the House which required the Public Service Commission to transfer information technology equipment to the Information Technology Department.
- Adds provisions that the commission proceed in hiring the new public utility analyst position prior to July 1, 2013.
- The Public Service Commission's salaries are adjusted to provide the commissioners a 4 percent increase in salary on July 1, 2013, and a 4 percent increase on July 1, 2014, the same as the executive budget recommendation. The House provided for 3 percent annual increases.

North Dakota Public Service Commission

Legal Increase Estimate

	Current Expenses as of 12/31/12	Estimated % Complete	Estimated Cost
Reclamation	38,157.15	20%	190,785.75
Insolvency	11,210.00	15%	74,733.33
	<u>49,367.15</u>		

Additional Unknown

Insolvency			74,733.33
Appeal Costs			85,000.00

Total Estimated Cost 425,252.42

Amount paid this biennium 49,367.15
Additional expenses this biennium 75,000.00
124,367.15

Need Next Biennium 300,885.27

*Attachment 1.
April 19, 2013
HB 1008*

STATEMENT OF PURPOSE OF AMENDMENT:

House Bill No. 1008 - Funding Summary

	Executive Budget	House Version	Senate Changes	Senate Version
Public Service Commission				
Salaries and wages	\$8,659,244	\$8,256,625	\$524,122	\$8,780,747
Operating expenses	1,977,397	1,977,397	(44,335)	1,933,062
Capital assets	88,665	51,165	37,500	88,665
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	8,000,000	8,000,000		8,000,000
Rail rate complaint case	900,000	900,000		900,000
Accrued leave payments		168,278	(168,278)	
Reclamation & Grain Licensing Litigation			1,000,000	1,000,000
Total all funds	\$19,645,306	\$19,373,465	\$1,349,009	\$20,722,474
Less estimated income	13,082,083	12,995,259	531,460	13,526,719
General fund	\$6,563,223	\$6,378,206	\$817,549	\$7,195,755
FTE	43.00	43.00	1.00	44.00
Bill Total				
Total all funds	\$19,645,306	\$19,373,465	\$1,349,009	\$20,722,474
Less estimated income	13,082,083	12,995,259	531,460	13,526,719
General fund	\$6,563,223	\$6,378,206	\$817,549	\$7,195,755
FTE	43.00	43.00	1.00	44.00

House Bill No. 1008 - Public Service Commission - House Action

	Executive Budget	House Changes	House Version
Salaries and wages	\$8,659,244	(\$402,619)	\$8,256,625
Operating expenses	1,977,397		1,977,397
Capital assets	88,665	(37,500)	51,165
Grants	20,000		20,000
Abandoned mined lands contractual	8,000,000		8,000,000
Rail rate complaint case	900,000		900,000
Accrued leave payments		168,278	168,278
Total all funds	\$19,645,306	(\$271,841)	\$19,373,465
Less estimated income	13,082,083	(86,824)	12,995,259
General fund	\$6,563,223	(\$185,017)	\$6,378,206
FTE	43.00	0.00	43.00

Department 408 - Public Service Commission - Detail of House Changes

	Corrects Executive Compensation Package¹	Adjusts State Employee Compensation and Benefits Package²	Provides Separate Line Item for Accrued Leave Payments³	Removes Funding for Capital Assets⁴	Total House Changes
Salaries and wages	23,340	(257,681)	(168,278)		(402,619)
Operating expenses					
Capital assets				(37,500)	(37,500)
Grants					
Abandoned mined lands contractual					
Rail rate complaint case					
Accrued leave payments			168,278		168,278
Total all funds	\$23,340	(\$257,681)	\$0	(\$37,500)	(\$271,841)
Less estimated income	8,636	(95,460)	0	0	(86,824)
General fund	\$14,704	(\$162,221)	\$0	(\$37,500)	(\$185,017)
FTE	0.00	0.00	0.00	0.00	0.00

¹ Funding is added due to a calculation error in the executive compensation package.

² This amendment adjusts the state employee compensation and benefits package as follows:

- Reduces the performance component from 3 to 5 percent per year to 2 to 4 percent per year.
- Reduces the market component from 2 to 4 percent per year for employees below the midpoint of their salary range to up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium only.
- Removes funding for additional retirement contribution increases.

³ A portion of salaries and wages funding from the general fund (\$105,071) and from other funds (\$63,207) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

⁴ This amendment removes the funding for disk upgrades and the GIS server.

This amendment also:

- Adds a section of legislative intent and an emergency clause to allow the Public Service Commission to fill the pipeline safety inspector position that was repurposed from a weights and measures position in the executive budget prior to the 2013-15 biennium.
- Provides for a Legislative Management study of civil penalties.
- Requires the Public Service Commission to transfer its appropriate information technology hardware to the Information Technology Department secure data center.
- Changes Section 3 to reduce the Public Service Commissioners' annual salary increases from 4 to 3 percent.

House Bill No. 1008 - Public Service Commission - Senate Action

	Executive Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$8,659,244	\$8,256,625	\$524,122	\$8,780,747
Operating expenses	1,977,397	1,977,397	(44,335)	1,933,062
Capital assets	88,665	51,165	37,500	88,665
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	8,000,000	8,000,000		8,000,000
Rail rate complaint case	900,000	900,000		900,000
Accrued leave payments		168,278	(168,278)	
Reclamation & Grain Licensing Litigation			1,000,000	1,000,000
Total all funds	\$19,645,306	\$19,373,465	\$1,349,009	\$20,722,474
Less estimated income	13,082,083	12,995,259	531,460	13,526,719
General fund	\$6,563,223	\$6,378,206	\$817,549	\$7,195,755
FTE	43.00	43.00	1.00	44.00

Department 408 - Public Service Commission - Detail of Senate Changes

	Restores Executive Compensation Package¹	Removes Separate Line Item for Accrued Leave Payments²	Adds Funding for Weights and Measures FTE Position³	Restores Funding for Capital Assets⁴	Adds Funding for Litigation Costs⁵	Total Senate Changes
Salaries and wages	257,681	168,278	98,163			524,122
Operating expenses			105,665		(150,000)	(44,335)
Capital assets				37,500		37,500
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Accrued leave payments		(168,278)				(168,278)
Reclamation & Grain Licensing Litigation					1,000,000	1,000,000
Total all funds	\$257,681	\$0	\$203,828	\$37,500	\$850,000	\$1,349,009
Less estimated income	95,460	0	0	0	436,000	531,460
General fund	\$162,221	\$0	\$203,828	\$37,500	\$414,000	\$817,549
FTE	0.00	0.00	1.00	0.00	0.00	1.00

¹ Funding reductions made by the House to the state employee compensation and benefits package are restored to the Governor's recommended level.

² The accrued leave payments line item added by the House is removed and the associated funding returned to line items with salaries and wages funding.

³ This amendment adds one FTE weights and measures position and the related funding.

⁴ This amendment restores the funding removed by the House for disk upgrades and the GIS server.

⁵ A new line item of one-time funding is added for litigation costs. Funding of \$150,000, \$86,000 of which is from the general fund is transferred from the operating expenses line item and \$850,000, \$414,000 of which is from the general fund is added to provide a total of \$1,000,000, of which \$500,000 is from the general fund. The executive budget recommendation provided a total of \$150,000 for litigation funding, of which \$86,000 was from the general fund. The litigation line item includes funding for litigation costs relating to the enforcement of the Public Service Commission's coal mining and reclamation program; abandoned mine lands reclamation program; and grain warehouse, grain buyer, and hay buyer licensing and insolvencies.

This amendment also:

- Amends Section 64-02-10 relating to the fee schedule of the large scale weights and measures program. This change is estimated to result in a \$200,000 reduction of general fund revenue for the 2013-15 biennium.
- Removes Section 5 added by the House which required the Public Service Commission to transfer information technology equipment to the Information Technology Department.
- Adds provisions that the commission proceed in hiring the new public utility analyst position prior to July 1, 2013.
- The Public Service Commission's salaries are adjusted to provide the commissioners a 4 percent increase in salary on July 1, 2013, and a 4 percent increase on July 1, 2014, the same as the executive budget. The House provided for 3 percent annual increases.