

**HOUSE BILL NO. 1008**

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the public service  
 2 commission; to create and enact two new sections to chapter 49-01, subsection 4 of section  
 3 49-22-22, subsection 4 of section 49-22.1-21, and a new section to chapter 64-02 of the North  
 4 Dakota Century Code, relating to a public service commission program fund, a public utility  
 5 assessment, siting process administrative fees, and fees for registered service companies and  
 6 to license and test a registered service person; to amend and reenact sections 49-01-05,  
 7 57-43.2-19, 64-02-10, and 64-02-12 of the North Dakota Century Code, relating to the salary of  
 8 the commissioners, the transfer and distribution of funds in the highway tax distribution fund,  
 9 fees to test or calibrate weighing and measuring devices, and the deposit of fees; to provide a  
 10 report; and to provide for a transfer.

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

12 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds  
 13 as may be necessary, are appropriated out of any moneys in the general fund in the state  
 14 treasury, not otherwise appropriated, and from special funds derived from federal funds and  
 15 other income, to the public service commission for the purpose of defraying the expenses of the  
 16 public service commission, for the biennium beginning July 1, 2021, and ending June 30, 2023,  
 17 as follows:

	<del>Governor's</del>		
	<del>Base Level</del>	<del>Recommendation</del>	<del>Appropriation</del>
<del>Salaries and wages</del>	<del>\$9,495,560</del>	<del>\$9,920,226</del>	<del>\$9,495,560</del>
<del>Operating expenses</del>	<del>1,763,826</del>	<del>2,011,857</del>	<del>1,763,826</del>
<del>Capital assets</del>	<del>25,000</del>	<del>145,000</del>	<del>25,000</del>
<del>Grants</del>	<del>20,000</del>	<del>20,000</del>	<del>20,000</del>
<del>Abandoned mined lands contractual</del>	<del>6,000,000</del>	<del>6,000,000</del>	<del>6,000,000</del>

Sixty-seventh  
Legislative Assembly

1	<del>services</del>			
2	<del>Rail rate complaint case</del>	<del>900,000</del>	<del>900,000</del>	<del>900,000</del>
3	<del>Railroad safety program</del>	<del>589,018</del>	<del>619,686</del>	<del>589,018</del>
4	<del>Specialized legal services</del>	<del>94,000</del>	<del>420,000</del>	<del>94,000</del>
5	<del>Total all funds</del>	<del>\$18,887,404</del>	<del>\$20,036,769</del>	<del>\$18,887,404</del>
6	<del>Less estimated income</del>	<del>12,172,476</del>	<del>13,423,361</del>	<del>12,172,476</del>
7	<del>Total general fund</del>	<del>\$6,714,928</del>	<del>\$6,613,408</del>	<del>\$6,714,928</del>
8	<del>Full-time equivalent positions</del>	<del>43.00</del>	<del>43.00</del>	<del>43.00</del>

9		<u>Adjustments or</u>		
10		<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
11	<u>Salaries and wages</u>	<u>\$9,495,560</u>	<u>\$199,086</u>	<u>\$9,694,646</u>
12	<u>Operating expenses</u>	<u>1,763,826</u>	<u>2,744</u>	<u>1,766,570</u>
13	<u>Capital assets</u>	<u>25,000</u>	<u>120,000</u>	<u>145,000</u>
14	<u>Grants</u>	<u>20,000</u>	<u>0</u>	<u>20,000</u>
15	<u>Abandoned mined lands contractual</u>	<u>6,000,000</u>	<u>0</u>	<u>6,000,000</u>
16	<del>services</del>			
17	<u>Rail rate complaint case</u>	<u>900,000</u>	<u>0</u>	<u>900,000</u>
18	<u>Railroad safety program</u>	<u>589,018</u>	<u>24,608</u>	<u>613,626</u>
19	<u>Specialized legal services</u>	<u>94,000</u>	<u>326,000</u>	<u>420,000</u>
20	<u>Total all funds</u>	<u>\$18,887,404</u>	<u>\$672,438</u>	<u>\$19,559,842</u>
21	<u>Less estimated income</u>	<u>12,172,476</u>	<u>1,206,850</u>	<u>13,379,326</u>
22	<u>Total general fund</u>	<u>\$6,714,928</u>	<u>(\$534,412)</u>	<u>\$6,180,516</u>
23	<u>Full-time equivalent positions</u>	<u>43.00</u>	<u>0.00</u>	<u>43.00</u>

24 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE**  
 25 **SIXTY-EIGHTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding  
 26 items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the  
 27 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

28	<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
29	Specialized legal services	\$336,000	\$0
30	<del>Grain insolvency litigation</del>	<del>100,000</del>	<del>0</del>
31	<del>Total special funds</del>	<del>\$436,000</del>	<del>\$0</del>

1	<u>Grain insolvency litigation</u>	<u>100,000</u>	<u>0</u>
2	<u>Real-time kinematic equipment</u>	<u>0</u>	<u>120,000</u>
3	<u>Total all funds</u>	<u>\$436,000</u>	<u>\$120,000</u>
4	<u>Less estimated income</u>	<u>436,000</u>	<u>114,600</u>
5	<u>Total general fund</u>	<u>\$0</u>	<u>\$5,400</u>

6 The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget  
7 for the 2023-25 biennium. The public service commission shall report to the appropriation  
8 committees of the sixty-eighth legislative assembly on the use of this one-time funding for the  
9 biennium beginning July 1, 2021, and ending June 30, 2023.

10 **SECTION 3. TRANSFER AND REPAYMENT - BEGINNING FARMER REVOLVING LOAN**

11 **FUND.** The Bank of North Dakota shall transfer from the beginning farmer revolving loan fund to  
12 the public service commission the sum of \$900,000, or so much of the sum as may be  
13 necessary, included in the estimated income line item in section 1 of this Act to pay for costs  
14 associated with a rail rate complaint case. Transfers must be made during the biennium  
15 beginning July 1, 2021, and ending June 30, 2023, upon order of the commission. If any  
16 amounts are spent pursuant to this section, the public service commission shall reimburse the  
17 beginning farmer revolving loan fund using amounts available from damages or proceeds  
18 received, net of legal fees, from a successful outcome of a rail complaint case.

19 **SECTION 4.** A new section to chapter 49-01 of the North Dakota Century Code is created  
20 and enacted as follows:

21 **Public service commission program fund - Transfer to general fund.**

22 1. A special fund is established in the state treasury and designated as the public service  
23 commission program fund. Moneys deposited in the fund may be spent by the public  
24 service commission pursuant to legislative appropriation to defray the expenses of the  
25 commission.

26 2. Revenue from the following sources must be deposited in the public service  
27 commission program fund:

28 a. Any fees collected to test or calibrate weighing and measuring devices and  
29 licensing of registered service companies and persons;

30 b. All money received from the public utility assessment;

31 c. All money received from the siting administrative fee; and

1 d. All interest and investment income earned on the balance of the fund.

2 3. The office of management and budget shall transfer any balance in the public service  
3 commission program fund that exceeds twice the amount of the current biennium's  
4 appropriation to the general fund at the end of each biennium.

5 **SECTION 5.** A new section to chapter 49-01 of the North Dakota Century Code is created  
6 and enacted as follows:

7 **Public utility fee.**

8 1. The commission shall assess each electric and gas utility a fee in proportion to the  
9 utility's respective gross operating revenues from the retail sale of gas and electric  
10 service within the state during the preceding calendar year. The total public utility fee  
11 may not exceed two hundred twenty-five thousand dollars per biennium. The fee must  
12 be paid quarterly and deposited in the public service commission program fund.

13 2. In January of each year, each electric and gas public utility shall file with the public  
14 service commission the amount of gross receipts derived from the company's  
15 customers within the state during the preceding calendar year. The commission shall  
16 review the gross receipts annually and adjust the fee for each utility in proportion to  
17 the gross operating revenues.

18 **SECTION 6. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **49-01-05. Salary of commissioners.**

21 The annual salary of a commissioner is one hundred ~~ten~~fifteen thousand ~~eight~~three  
22 hundred ~~twenty-nine~~four dollars through June 30, ~~2020~~2022, and one hundred  
23 ~~thirteen~~seventeen thousand ~~six hundred~~thirty-four dollars thereafter. All fees received or  
24 charged by any commissioner for any act or service rendered in any official capacity must be  
25 accounted for and paid over by the commissioner monthly to the state treasurer and must be  
26 credited to the general fund of the state.

27 **SECTION 7.** Subsection 4 of section 49-22-22 of the North Dakota Century Code is created  
28 and enacted as follows:

29 4. Every applicant under this chapter shall pay to the commission an administrative fee  
30 equal to one hundred dollars for each one million dollars of original investment, not to

exceed twenty-five thousand dollars. The administrative fee must be deposited in the public service commission fund.

**SECTION 8.** Subsection 4 of section 49-22.1-21 of the North Dakota Century Code is created and enacted as follows:

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

**SECTION 9. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. Transfer, deposit, and distribution of funds. (Effective through June 30, ~~2021~~2025)**

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

**Transfer, deposit, and distribution of funds. (Effective after June 30, ~~2021~~2025)** All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

**SECTION 10.** A new section to chapter 64-02 of the North Dakota Century Code is created and enacted as follows:

**Fees for registered service companies and to license and test a registered service person.**

1. Annually, each registered service company shall pay a registration fee of one hundred dollars and a licensing fee of fifty dollars for each registered service person.

2. The commission may assess a registered service person testing fee not to exceed twenty-five dollars per test.

1       **SECTION 11. AMENDMENT.** Section 64-02-10 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **64-02-10. Fees to test or calibrate weighing and measuring devices.**

4       The commission shall collect the following fees to:

- |    |  |                                     |
|----|--|-------------------------------------|
| 5  | 1. Test overhead monorail, track, dormant, deck, and hanging scale of        |                                     |
| 6  | one thousand pounds [453 kilograms] or less capacity                         | <del>53.00</del> <u>95.00</u>       |
| 7  | 2. Test movable platform scale   | <del>41.00</del> <u>20.00</u>       |
| 8  | 3. Test counter or computing scale   | <del>41.00</del> <u>20.00</u>       |
| 9  | 4. Test hanging scale of fifty pound [22.68 kilogram] capacity or less       | <del>41.00</del> <u>20.00</u>       |
| 10 | 5. Test a retail motor fuel device   | <del>41.00</del> <u>20.00</u>       |
| 11 | 6. Test or calibrate weighing and measuring standards, per metrologist,      |                                     |
| 12 | per quarter hour or fraction thereof   | 17.00                               |
| 13 | 7. Test mobile delivery gasoline and fuel oil meter                          | <del>24.00</del> <u>45.00</u>       |
| 14 | 8. Test gasoline, LPG, or fuel oil meter on common carrier pipelines, or any |                                     |
| 15 | other meter used in loading railway cars, transports, or other conveyances   | <del>53.00</del> <u>95.00</u>       |
| 16 | 9. Test propane, ag chemical, or liquid fertilizer meter                     | <del>39.00</del> <u>70.00</u>       |
| 17 | 10. Test or calibrate weighing and measuring devices other than the above    |                                     |
| 18 | and those set by rule, per inspector per quarter hour or fraction thereof    | <del>41.00</del> <u>20.00</u>       |
| 19 | 11. Witnessing any of the above tests  | Fifty percent of the applicable fee |

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

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

1       **SECTION 12. AMENDMENT.** Section 64-02-12 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **64-02-12. Fees collected - Paid into ~~state treasury~~public service commission program**  
4 **fund.**

5       All fees and charges collected by the commission under ~~section 64-02-10~~this chapter must  
6 be paid into the ~~general fund of the state treasury~~public service commission program fund.