

**FIRST ENGROSSMENT
with Senate Amendments
ENGROSSED 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:

		Adjustments or	
	<u>Base Level</u>	<u>Enhancements</u>	<u>Appropriation</u>
18			
19			
20	Salaries and wages	\$9,495,560	\$495,928 \$9,991,488
21	Operating expenses	1,763,826	37,744 1,801,570
22	Capital assets	25,000	120,000 145,000
23	Grants	20,000	0 20,000
24	Abandoned mined lands contractual	6,000,000	0 6,000,000

Sixty-seventh
Legislative Assembly

1 services

2	Rail rate complaint case	900,000	0	900,000
3	Railroad safety program	589,018	25,706	614,724
4	Specialized legal services	<u>94,000</u>	<u>326,000</u>	<u>420,000</u>
5	Total all funds	\$18,887,404	\$1,005,378	\$19,892,782
6	Less estimated income	<u>12,172,476</u>	<u>1,064,219</u>	<u>13,236,695</u>
7	Total general fund	\$6,714,928	(\$58,841)	\$6,656,087
8	Full-time equivalent positions	43.00	0.00	43.00

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

10 **SIXTY-EIGHTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
11 items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the
12 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

13	<u>One-Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
14	Specialized legal services	\$336,000	\$0
15	Grain insolvency litigation	100,000	0
16	Real-time kinematic equipment	<u>0</u>	<u>120,000</u>
17	Total all funds	\$436,000	\$120,000
18	Less estimated income	<u>436,000</u>	<u>114,600</u>
19	Total general fund	\$0	\$5,400

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

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

25 **FUND.** The Bank of North Dakota shall transfer from the beginning farmer revolving loan fund to
26 the public service commission the sum of \$900,000, or so much of the sum as may be
27 necessary, included in the estimated income line item in section 1 of this Act to pay for costs
28 associated with a rail rate complaint case. Transfers must be made during the biennium
29 beginning July 1, 2021, and ending June 30, 2023, upon order of the commission. If any
30 amounts are spent pursuant to this section, the public service commission shall reimburse the

1 beginning farmer revolving loan fund using amounts available from damages or proceeds
2 received, net of legal fees, from a successful outcome of a rail complaint case.

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

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

- 6 1. A special fund is established in the state treasury and designated as the public service
7 commission program fund. Moneys deposited in the fund may be spent by the public
8 service commission pursuant to legislative appropriation to defray the expenses of the
9 commission.
- 10 2. Revenue from the following sources must be deposited in the public service
11 commission program fund:
- 12 a. Any fees collected to test or calibrate weighing and measuring devices and
13 licensing of registered service companies and persons;
- 14 b. All money received from the public utility assessment;
- 15 c. All money received from the siting administrative fee; and
- 16 d. All interest and investment income earned on the balance of the fund.
- 17 3. The office of management and budget shall transfer any balance in the public service
18 commission program fund that exceeds twice the amount of the current biennium's
19 appropriation to the general fund at the end of each biennium.

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

22 **Public utility fee.**

- 23 1. The commission shall assess each electric and gas utility a fee in proportion to the
24 utility's respective gross operating revenues from the retail sale of gas and electric
25 service within the state during the preceding calendar year. The total of the combined
26 assessments may not exceed two hundred twenty-five thousand dollars per biennium.
27 The fee must be paid quarterly and deposited in the public service commission
28 program fund.
- 29 2. In January of each year, each electric and gas public utility shall file with the public
30 service commission the amount of gross receipts derived from the company's
31 customers within the state during the preceding calendar year. The commission shall

1 review the gross receipts annually and adjust the fee for each utility in proportion to
2 the gross operating revenues.

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

5 **49-01-05. Salary of commissioners.**

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

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

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

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

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

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

26 **57-43.2-19. Transfer, deposit, and distribution of funds. (~~Effective through June 30,~~**
27 **~~2024~~)**

28 All taxes, license fees, penalties, and interest collected under this chapter must be
29 transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund,
30 except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section
31 57-43.2-03 of up to two hundred ~~ninety-four~~ninety-seven thousand ~~five~~three hundred ~~ninesixty-~~

1 two dollars per year must be transferred to the state treasurer who shall deposit the moneys in
2 the rail safety fund. The highway tax distribution fund must be distributed in the manner as
3 prescribed by section 54-27-19.

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

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

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

- 12 1. Annually, each registered service company shall pay a registration fee of one hundred
13 dollars and a licensing fee of fifty dollars for each registered service person.
14 2. The commission may assess a registered service person testing fee not to exceed
15 twenty-five dollars per test.

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

18 **64-02-10. Fees to test or calibrate weighing and measuring devices.**

19 The commission shall collect the following fees to:

- | | |
|---|---------------------------|
| 20 1. Test overhead monorail, track, dormant, deck, and hanging scale of | |
| 21 one thousand pounds [453 kilograms] or less capacity | <u>53.00</u> <u>95.00</u> |
| 22 2. Test movable platform scale | <u>11.00</u> <u>20.00</u> |
| 23 3. Test counter or computing scale | <u>11.00</u> <u>20.00</u> |
| 24 4. Test hanging scale of fifty pound [22.68 kilogram] capacity or less | <u>11.00</u> <u>20.00</u> |
| 25 5. Test a retail motor fuel device | <u>11.00</u> <u>20.00</u> |
| 26 6. Test or calibrate weighing and measuring standards, per metrologist, | |
| 27 per quarter hour or fraction thereof | 17.00 |
| 28 7. Test mobile delivery gasoline and fuel oil meter | <u>24.00</u> <u>45.00</u> |
| 29 8. Test gasoline, LPG, or fuel oil meter on common carrier pipelines, or any | |
| 30 other meter used in loading railway cars, transports, or other conveyances | <u>53.00</u> <u>95.00</u> |
| 31 9. Test propane, ag chemical, or liquid fertilizer meter | <u>39.00</u> <u>70.00</u> |

1 10. Test or calibrate weighing and measuring devices other than the above
2 and those set by rule, per inspector per quarter hour or fraction thereof ~~11.00~~20.00

3 11. Witnessing any of the above tests Fifty percent of the applicable fee

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

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

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

18 **64-02-12. Fees collected - Paid into ~~state treasury~~public service commission program**
19 **fund.**

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