

1999 SENATE APPROPRIATIONS

SB 2008

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO.SB2008

Senate Appropriations Committee

Conference Committee

Hearing Date JANUARY 19, 1999

Tape Number	Side A	Side B	Meter #
1		X	829-5128
2-10-99	2	X	5259-end
Committee Clerk Signature <i>Kathryn C. Kottenderock</i>			

Minutes:

SENATOR NETHING: Opened the hearing on SB2008; A BILL A FOR AN ACT TO PROVIDE AN APPROPRIATION FOR DEFRAYING THE EXPENSES OF THE PUBLIC SERVICE COMMISSION; AND TO AMEND AND REENACT SECTION 49-01-05 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO THE SALARY OF PUBLIC SERVICE COMMISSIONERS.

JON MIELKE: Executive Secretary of Public Service Commissioner to testify in support of SB2008 (testimony attached (tape 1, side B, meter 829-1610).

SENATOR NETHING: Page 5- outline of major programs. How would you allocate percentage of time the commission spends on different areas.

JON MIELKE: The vast majority is spent on the mining areas from the budget aspect. The commissioners day to day involvement would be in the public utility area; especially with electricity and telecommunications.

SENATOR NETHING: Commissioner Wefald: How do you see this budget in the context of your philosophy, what the Public Service Commission should do?

COMMISSIONER WEFALD: I agree with the budget that was proposed to you (meter 1790-1835).

SENATOR NETHING: It appears most of your time is spent in public utility regulation?

COMMISSIONER WEFALD: I have the Coal Mining Reclamation portfolio. I'm spending about 60% of my time on public utility areas and 40% reviewing work being done in other areas of the commission.

SENATOR NETHING: We were supposed to be moving, by Federal law, into an area of competition; I see a strong regulatory framework within this budget. It doesn't correlate very well with what we think should be occurring.

COMMISSIONER WEFALD: This is a transition period between a monopoly and competitive environment and that transition takes sometime. There needs to be some involvement of regulatory agencies to be sure that all parties are treated equally and given the same opportunity to compete. In a few years you will see some changes in responsibilities of the commission.

SENATOR NETHING: Your organization chart, is there anyone of those 4 ½ employees designated to facilitate competition or are they all designated to regulate.

COMMISSIONER WEFALD: No, all of the people are working on these issues as a result of the transition.

SENATOR NETHING: There is legislation that wants to bring the independents and the co-ops under control of the commission. This does not enhance competition.

COMMISSIONER WEFALD: The bill on quality of service; all customers should be able to contact the public service if they have a concern of a quality of service issue they cannot resolve.

SENATOR TOMAC: What is the process of the commissioner. Is it: 1. Case Heard before Commission 2. Council researches 3. Suggested Remedy 4. Delivers a decision?

COMMISSIONER WEFALD: It depends on type of case - two parties, studies briefs, give advice on legal matters, and if it goes to a hearing, the commission acts as an advisor.

SENATOR TOMAC: Other Commissions use an Administrative Ruling Officer to hear the complaint. Because the staff does most of the background and granted the Commissioners are ultimately responsible, not to be offensive Commissioner but, just what do the Commissioners do?

COMMISSIONER WEFALD: You are welcome to come to the Commissioners office and spend a day with any of them. All of do our own research and use staff people to give us assistance with research.

SENATOR GRINDBERG: Do you have some kind of a system that monitors the number of calls and complaints you have on an annual basis so we can get an idea of the activity and volume coming out of the office?

COMMISSIONER WEFALD: Yes, we would be happy to give you a copy. It only represents the calls that are recorded.

SENATOR SOLBERG: Jon, if the reduction of Federal cost money was all Federal loss.

JON MIEKLE: Yes; legal services are being demanded by other areas and we can't bill the Federal Government for that time.

SENATOR SOLBERG: Has the workload just shifted?

JON MIEKLE: Yes.

SENATOR NETHING: Commissioner Hagen, how this fits with your philosophy on what the commission is doing? Looks like it is geared to a regulatory process.

COMMISSIONER HAGEN: Not an easy task (3185-3230). We favor the competitive side. We are trying to regulate through transition but we also are moving toward competition.

SENATOR NETHING: I don't see anything in this budget that changes from a regulatory process that starts a transition change.

COMMISSIONER HAGEN: It is hard for regulatory to make a transition to competitive market.

SENATOR NETHING: Most Legislatures have been contacted by resellers, local exchanges, long distance carriers. I sense a frustration with these individuals when it comes to the subject of the Public Service Commission and it's staff. I realize you have a regulatory process that needs to be in place in certain areas but, I don't see anything in this budget that changes from a regulatory process that starts a transition change. You show 4 1/2 employees, do you have any intention at all to have one of those employees be a welcome mat to competition?

COMMISSIONER HAGEN: I agree with you but, it's hard to make transition to a competitive market. It's also hard for monopoly providers to want a competitive market.

SENATOR NETHING: People look to the Legislature instead of going to the public service commission. It seems like fewer lines and more dollars.

SENATOR NETHING: Commissioner Reinbold, what are your views on this budget as it reflects your philosophy?

COMMISSIONER REINBOLD: The budget proposed is adequate (4100-4365). We don't need any more regulation. Don't think PSC needs any more authority.

SENATOR NETHING: If this committee or the legislative put in legislative intent into your appropriation bill that we wanted to have an employee designated to focus on developing competition as opposed to what some say, is hindering competition. Would you attempt to do that with your staff that is currently there, or would you replace it?

COMMISSIONER REINBOLD: The philosophical approach dictates that the PSC does what the constitution says and does what statute says; so if the legislature designated for exactly that position and is working full time on behalf of competition that is the way it would be.

SENATOR NETHING: It bothers me to think that these companies with many employees come to the legislature instead of being comfortable with the PSC. Have you got anybody on staff that is proactive in the area of developing competition or are they all proactive in the area of continued regulation?

COMMISSIONER REINBOLD: Nobody on staff is specifically designated proactive in either direction. I regret to hear that there is that much dissatisfaction or lack of communication between the telecommunications or any regulated body and the PSC.

SENATOR TALLACKSON: In the telephone industry we get a call every other day from a new company. Too much competition in telephone service, people are tired of it.

SENATOR NAADEN: We wonder when one of the few bills you put in is to ask for more regulation over the rural telephones.

COMMISSIONER REINBOLD: The commissioners disagree; we don't think we need anymore authority and I wouldn't support the PSC getting anymore authority in these areas.

SENATOR NETHING: Closed the hearing on SB2008.

2/10/99 (TAPE 2, Side A 5259-end; Side B 0-114)

2-10-99

SENATOR NETHING: Reopened the hearing on SB2008.

ALLEN KNUTSON: Presented the amendments to SB2008.

2-10-99

SENATOR NETHING: We haven't discussed the removal of the Attorney. I've handed you a memorandum and the PSC major valuation fund expenditures. If you'll refer to that expenditure sheet 9/1/97-12/31/98, this represents three of the major cases they had up there this past year (attached). The memo I directed to you is from the Legislative Council. They talk in the second paragraph about the attorneys holding the role as the hearing examiners. In view of the testimony presented here, I think competition should be encouraged as opposed to litigation. (tape 210-450)

SENATOR NAADEN: Moved a Do Pass on the amendments to SB2008.

SENATOR KRINGSTAD: Seconded the motion.

DISCUSSION: Senator Tomac stated PSC needs overhauling, but not sure this is the way to do it. Perhaps we should sidestep the process and make all of the cases go to OAH. That way they would hear the case and PSC would argue on behalf of the public. That decision would be offered to the entire committee and they may still be indecisive. Perhaps this will force the issue of timeliness at PSC. (tape 460)

ROLL CALL: 9 YEAS; 5 NAYS

MOTION CARRIED TO DO PASS THE AMENDMENTS TO SB 2008.

Yeas: Nething; Naaden; Solberg; St. Aubyn; Grindberg; Holmberg; Kringstad; Bowman; Andrist
Nays: Lindaas; Tallackson; Tomac; Robinson; Krauter

SENATOR ST. AUBYN: Moved a Do Pass on SB2008 as amended.

SENATOR NAADEN: Seconded the motion.

ROLL CALL: 14 yeas; 0 nays

MOTION CARRIED TO DO PASS SB 2008 AS AMENDED

CARRIER: SENATOR NETHING

SENATOR NETHING: Closed the hearing on SB2008.

FISCAL NOTE

(Return original and 10 copies)

Bill/Resolution No.: SB 2008

Amendment to:

Requested by Legislative Council

Date of Request: 12-30-98

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, cities, and school districts.

Narrative: See attached supplement

2. State fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	N/A	N/A	N/A	N/A	N/A	N/A
Expenditures:	N/A	N/A	\$47,868	N/A	\$53,640	N/A

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

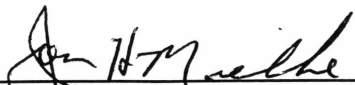
- a. For rest of 1997-99 biennium: N/A
- b. For the 1999-2001 biennium: \$47,868
- c. For the 2001-03 biennium: \$53,640

4. County, City, and School District fiscal effect in dollar amounts: *No Effect*

Counties	1997-99 Biennium		Counties	1999-2001 Biennium		Counties	2001-03 Biennium	
	Cities	School Districts		Cities	School Districts		Cities	School Districts

If additional space is needed, attach a supplemental sheet.

Date Prepared: January 5, 1999

Signed: 

Typed Name: Jon H. Mielke, Executive Secretary

Department: Public Service Commission

Phone Number: 328-2400

*Public Service Commission
Fiscal Note Supplement
SB 2008*

1. Narrative: *This bill proposes to increase commissioners' salaries from \$57,120 to \$64,136 on 7/1/99 and to \$66,060 on 7/1/00. The total biennial cost of these increases for the agency's three commissioners is \$47,868. These increases include both the market adjustment proposed by Governor Schafer and the three percent annual increases proposed for all state employees.*

Date: 2/10/99
 Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
 BILL/RESOLUTION NO. SB2008

Senate APPROPRIATIONS Committee

- Subcommittee on _____
 or
 Conference Committee

Legislative Council Amendment Number 98030.0102

Action Taken DO PASS AMENDMENT

Motion Made By Sen. Naaden Seconded By Sen. Kringstad

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas		✓			
Senator Tallackson		✓			
Senator Tomac		✓			
Senator Robinson		✓			
Senator Krauter		✓			
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) Y/N/A 9 No 5

Absent _____

Floor Assignment Y/N/A

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

Date: 2/10/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2008

Senate APPROPRIATIONS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 98030.0102

Action Taken DO PASS AS AMENDED

Motion Made By Sen. St Aubyn Seconded By Sen. Naaden

Senators	Yes	No	Senators	Yes	No
Senator Nething, Chairman	✓				
Senator Naaden, Vice Chairman	✓				
Senator Solberg	✓				
Senator Lindaas	✓				
Senator Tallackson	✓				
Senator Tomac	✓				
Senator Robinson	✓				
Senator Krauter	✓				
Senator St. Aubyn	✓				
Senator Grindberg	✓				
Senator Holmberg	✓				
Senator Kringstad	✓				
Senator Bowman	✓				
Senator Andrist	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Sen. Nething

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

REPORT OF STANDING COMMITTEE

SB 2008: Appropriations Committee (Sen. Nething, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2008 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "4,614,184" with "4,389,004"

Page 1, line 12, replace "1,074,694" with "1,067,294"

Page 1, line 16, replace "9,434,681" with "9,202,101"

Page 1, line 17, replace "5,640,789" with "5,633,045"

Page 1, line 18, replace "3,793,892" with "3,569,056"

Page 1, line 22, replace "sixty-four" with "fifty-eight", replace "one" with "two", replace "thirty-six" with "sixty-two", and after "2000" insert ", fifty-nine thousand four hundred twenty-eight dollars through December 31, 2000"

Page 1, line 23, replace "sixty-six" with "sixty-four", after "one" insert "five", remove the overstrike over "hundred", and replace "sixty" with "sixty-nine"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

SENATE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$4,614,184	(\$225,180)	\$4,389,004
Operating expenses	1,074,694	(7,400)	1,067,294
Equipment	71,311		71,311
Grants	6,000		6,000
AML contractual services	<u>3,668,492</u>		<u>3,668,492</u>
Total all funds	\$9,434,681	(\$232,580)	\$9,202,101
Less special funds	<u>5,640,789</u>	<u>(7,744)</u>	<u>5,633,045</u>
General fund	\$3,793,892	(\$224,836)	\$3,569,056
FTE	43.00	(1.00)	42.00

Detail of Senate changes to the executive budget include:

	REDUCE COMPENSATION PACKAGE TO 2/2	ADJUST HEALTH INSURANCE COST	DELAY MARKET SALARY ADJUSTMENTS TO 1/1/2001	REMOVE ATTORNEY POSITION ³	TOTAL SENATE CHANGES
Salaries and wages	(\$61,049)	\$12,260	(\$31,406) ^{1,2}	(\$144,985)	(\$225,180)
Operating expenses				(7,400)	(7,400)
Equipment					
Grants					
AML contractual services					
Total all funds	(\$61,049)	\$12,260	(\$31,406)	(\$152,385)	(\$232,580)
Less special funds	<u>(8,805)</u>	<u>1,757</u>	<u>(696)</u>		<u>(7,744)</u>
General fund	(\$52,244)	\$10,503	(\$30,710)	(\$152,385)	(\$224,836)
FTE	0.00	0.00	0.00	(1.00)	(1.00)

Senate changes narrative:

¹ In addition to the two percent annual salary increases, funding is included to provide each commissioner a market equity salary increase of \$428.42 per month for the final six months of the biennium. The statutory annual salary for each commissioner will be:

Current salary	\$57,120
July 1, 1999	\$58,262
July 1, 2000	\$59,428
January 1, 2001	\$64,569

² In addition to the two percent annual salary increases, funding is included to provide the executive secretary of the commission a market equity salary increase of \$151.17 per month for the final six months of the biennium.

³ Removes one FTE attorney position and associated operating costs.

1999 HOUSE APPROPRIATIONS

SB 2008

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2008

House Appropriations Government Operations Committee

Conference Committee

Hearing Date March 2, 1999

Tape Number	Side A	Side B	Meter #
1	x		0-55.0
1		x	0-15.8
Committee Clerk Signature <i>Roxanne Hone</i>			

Minutes:

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

1A: 1.0 Jon Mielke, Executive Secretary Public Service Commission Testified in favor of bill but asked committee to restore the one attorney position and related operating costs taken out by the Senate Appropriations amendment (See attached written testimony).

1A: 10.7 Senator Vern Thompson, District 12 Requested the attorney position removed by senate amendment be reinstated. Feels it is a grave mistake to take it out. General public should be alarmed by getting work done by only one attorney.

1A: 12.6 Senator Ed Kringstad, District 49 Requested attorney position be reinstated. Has difficult time with having only one attorney in the commission to do job for the public.

1A: 14.5 Rep. Gulleason asked about the language of the senate amendment regarding the attorney position. Jon Mielke replied the amendment deletes funding and benefits equal to one of the attorney's positions. The salaries are slightly different. Rep. Gulleason said that it is uncommon to be so specific about removing a certain FTE by salary. She viewed it to be personal. Does that strike you as odd? Jon Mielke replied that was the action the senate took and regarding the dollar amount, the attorney position is a high paying position. Doesn't know why they eliminated the attorney.

1A: 18.6 Rep. Byerly asked a question on the line item: AML (Abandoned Mine Lands). Jon Mielke replied the line item refers to two programs that deal with mining. The AML focuses on

mining that took place before the enactment of the existing reclamation laws. Program is 100% federally funding. Design plans and put out bids on mining projects. Rep. Byerly asked about the grants line item of \$6000 dollars. Replied that it is a pass through to the geological survey.

1A: 20.3 Rep. Huether asked if the commission is still finding more sites. Jon Mielke replied there are 636 abandoned sites and all are prioritized. Sometimes the commission gets a call about a new abandoned site but not many.

1A: 21.4 Rep. Carlisle asked if a subcommittee was assigned to the bill in the Senate Appropriations committee and what the rational was of removing attorney. Jon Mielke replied, not that they were aware of and does not know why position was taken out. There was request for information regarding position but no dialogue.

1A: 23.7 Rep. Byerly asked about the regulation of auctioneers and auction clerks. Jon Mielke replied that it is not very time consuming and is in the licensing division of the commission. Rep. Byerly commented the commission should possibly be relieved of that function and put the regulation elsewhere.

1A: 27.6 Steve Strege, Executive Vice President ND Grain Dealers Association testified in support and need for restoration of funding in the budget to cover second attorney position (See attached written testimony).

1A: 32.9 Chris Runge, Executive Director ND Public Employees Association testified in support of reinstatement of funding for the attorney position that was removed by the Senate (See attached testimony).

1A: 35.7 Norm Stuhmiller testified in support of reinstatement of attorney. Public will not have proper representation. Responded to Rep. Gulleeson regarding legislators specifically taking out one of the attorney positions. Feels it is suspicious.

1A: 40.2 Daniel Kuntz, US West proposed amendments to the bill (See attached amendment). Amendment would resolve lawsuit that is currently before the court between US West and Public Service Commission.

1A: 47.0 Rep. Gulleeson asked how US West feels about removal of one of the attorneys. Daniel Kuntz replied US West is neutral and does not take positions.

1A: 50.2 Allana Jeffcoat Sacco, Public Service Commission representing Commissioners Reinbold and Hagen Commented on US West amendment and supports it.

1B: Susan Wefald, Commissioner testified against US West amendment. If US West amendment passes, they would be able to set their own price for directory assistance (See

Page 3

House Appropriations Committee

Bill/Resolution Number 2008

Hearing Date March 2, 1999

attached written testimony). Discussion with Rep. Poolman regarding competition, regulation, and directory assistance pricing.

1B: 15.0 Ken Birchen, ND Farm Bureau testified in support of reinstatement of attorney.

General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date March 17, 1999			
Tape Number	Side A	B Side	Meter #
1	x		37.4-END
1		x	0-11.9
Committee Clerk Signature <i>Roxanne Ford</i>			

Minutes:

Chairman Byerly opened the discussion on Senate Bill 2008.

1A: 38.1 Rep. Poolman presented amendments to the committee 98030.0204: included US West amendment, reduced budget by \$200,000, and restore attorney FTE position. Will present a separate amendment to the full committee.

1A: 39.9 Rep. Gulleon presented amendments to the committee 98030.0205. Reinstates attorney FTE position line 16 page 1, \$57,385 higher than Senate changes.

1A: 43.3 Rep. Poolman comment: in getting to the 95% budget request by governor the commission removed 4 positions, total \$400,000. Those were restored back to the commission. In justification of under funding the salaries, they can still remove one of those positions.

1A: 44.5 Rep. Byerly commented the difference between the amendments is Rep. Gulleon's amendment has \$75,000 more, the rest is effectively the same.

1A: 45.5 Rep. Gulleeson commented her amendment was drafted with moderate reductions to make sure we don't impede the commission from doing the work that they do.

1A: 47.0 Rep. Poolman replied his amendments do the same thing and will not reduce service to the consumers of North Dakota. The main difference in the amendments are in the salary line item.

1A: 48.6 Rep. Carlisle asked Rep. Gulleeson if she singled out another specific position in her amendment. Replied no, just under funded the salary line item.

1A: 53.5 Rep. Poolman moved to adopt the amendment 98030.0204. Rep. Carlisle 2nd the motion.

1A: 54.0 Rep. Tollefson commented on the directory assistance amendment and that it does not belong in this bill. The amendment should be a separate bill.

1A: 57.4 Rep. Poolman commented he doesn't necessarily disagree but through speaking with commissions he is okay with it. Discussion on directory assistance competition. Rep. Byerly commented there is currently a case before the Public Service Commission about this. One of the reasons all the parties came forward was to resolve the issue so it doesn't become a long extended fight. The amendment actually had a hearing during testimony of the bill.

1B: .5 Rep. Gulleeson comments on opposition to Rep. Poolman's amendments: thinks this agency has done a good job trimming their own budget in a responsible way. Should not be punishing them. Feels her amendment is reasonable.

1B: 1.7 Rep. Poolman commented all agencies have done that at one time or another. But at a time when we have a downtime in our revenues the pain has to be spread among all agencies. Does not think his amendments will reduce service to North Dakota consumers.

1B: 2.6 On a Roll Call Vote the motion failed to adopt amendments 98030.0204. 3 voting Yes, 3 voting No, 0 voting absent.

1B: 2.8 Rep. Gulleeson made a motion to adopt amendments 98030.0205. Rep. Huether 2nd the motion. On a Roll Call Vote the motion failed. 3 voting Yes, 3 voting No, 0 voting Absent.

1A: 9.3 Rep. Gulleeson presented amendment .0206 to committee: the same as .0205 except including the \$30,000 federally reimbursed funds. Rep. Gulleeson moved to adopt the amendments .0206. Rep. Huether 2nd the motion. On a Roll Call Vote the motion failed. 3 voting Yes, 3 voting No, 0 voting Absent.

No further action was taken on the bill.

General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date March 18, 1999			
Tape Number	Side A	B Side	Meter #
1	x		6.3-10.1
Committee Clerk Signature <i>Roxanne Ford</i>			

Minutes:

Chairman Byerly opened the discussion on Senate Bill 2008.

1A: 6.4 Rep. Byerly moved to adopt the directory assistance portion of the amendments. Rep. Carlisle 2nd the motion. On a Roll Call Vote the motion carried. 5 voting Yes, 1 voting No, 0 voting absent.

1A: 8.5 Rep. Byerly moved to adopt Rep. Poolman's financial part of the amendment 0204. Rep. Poolman 2nd the motion. On a Roll Call Vote the motion carried. 4 voting Yes, 2 voting No, 0 voting absent. The motion carried. Rep. Poolman moved for a DO PASS AS AMENDED. Rep. Carlisle 2nd the motion. 5 voting Yes, 1 voting No, 0 voting Absent. Rep. Poolman will carry the bill to the full committee.

General Discussion

- Committee on Committees
- Rules Committee
- Confirmation Hearings
- Delayed Bills Committee
- House Appropriations
- Senate Appropriations
- Other

Date March 23, 1999			
Tape Number	Side A	B Side	Meter #
1		x	25.2-end
Committee Clerk Signature <i>Casey Davis</i>			

Minutes:

CHAIRMAN DALRYMPLE opened discussion on SB 2008.

1B: 26.0 REP. POOLMAN presented the GO subcommittee's recommendation and proposed amendment 0204. He made a motion to adopt amendment 0204, and the motion was seconded by Rep. Byerly.

1B: 31.6 REP. GULLESON presented a substitute amendment 0206. This amendment contained reductions of a lesser amount than amendment 0204. Her amendment contained reductions of \$20,230 less. She said that there is a great need to keep the commission healthy and working.

1B: 35.1 REP. GULLESON moved to adopt amendments 0206. The motion was seconded by Rep. Aarsvold. A voice vote was taken and failed.

1B: 44.2 A voice vote was taken on the original motion to adopt amendments 0204, and the motion carried.

1B: 44.3 CHAIRMAN DALRYMPLE presented an amendment that had been drawn up by OMB for the Emergency Commission. The amendment was in regards to the Call Before You Dig Program. In order to receive funds of \$25,000 this would have to be made law by March 31, 1999.

1B: 47.2 REP. POOLMAN moved to adopt the OMB amendment. The motion was seconded by Rep. Monson.

1B: 48.4 ALAN KNUDSON, Legislative Council, said they could add a new section to the bill and put on an Emergency Clause instead of amending last session's laws.

1B: 49.6 REP. POOLMAN said he was concerned that this would not be rushed enough to make it to the Governor's desk by the deadline.

1B: 51.0 REP. BYERLY suggested that this amendment be put on the Water Commission budget in SB 2023, as it would get to the Governor's desk faster.

1B: 52.9 REP. POOLMAN withdrew his motion, and Rep. Monson withdrew his second.

1B: 53.3 REP. POOLMAN made a motion for a Do Pass as amended. The motion was seconded by Rep. Byerly. A roll call vote was taken and the motion carried with 12 yeas and 8 nays. Rep. Poolman will carry the bill.

VR
3/24/99
10/3

HOUSE AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008 APP 3-24-99

Page 1, line 2, after "49-01-05" insert "and subsection 3 of section 49-21-01"

Page 1, line 3, after "commissioners" insert "and the definition of essential telecommunications service"

Page 1, line 11, replace "4,389,004" with "4,383,989"

Page 1, line 12, replace "1,067,294" with "1,054,694"

Page 1, line 16, replace "9,202,101" with "9,184,486"

Page 1, line 17, replace "5,633,045" with "5,663,045"

Page 1, line 18, replace "3,569,056" with "3,521,441"

APP 3-24-99

Page 2, after line 3, insert:

"SECTION 3. AMENDMENT. Subsection 3 of section 49-21-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Essential telecommunications service" means service that is necessary for switched access to interexchange telecommunications companies and necessary for two-way switched communications for both residential and business service within a local exchange area. A charge based on measured service may not be required for residential and business local exchange service. Essential telecommunications services are limited to:
 - a. Switched access;
 - b. Any new product or service offered in North Dakota after July 1, 1989, deemed essential by the commission after notice and hearing in accordance with chapter 28-32;
 - c. Billing and collection of the billing company's own essential telecommunications services and billing and collection recording for interexchange carriers to which the local exchange carrier provides feature group C access service;
 - d. Primary directory listing, including nonlisted and nonpublished service, and ~~local exchange~~ access to directory assistance;
 - e. Emergency 911 services and emergency operator assistance in local exchange areas in which emergency 911 service is not available;
 - f. Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas;
 - g. Installation of the service connection for essential services from the end user's premises to the local exchange network;

- h. Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has direct inward dialing and necessary signaling service such as touchtone used by end users for essential telecommunications services;
- i. Single or multiparty flat-rate or measured residence and business service;
- j. Single or multiparty flat-rate or measured combination business and residence service; and
- k. The transmission service line for a coin or pay telephone."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

HOUSE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$4,614,184	\$4,389,004	(\$5,015)	\$4,383,989
Operating expenses	1,074,694	1,067,294	(12,600)	1,054,694
Equipment	71,311	71,311		71,311
Grants	6,000	6,000		6,000
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>
Total all funds	\$9,434,681	\$9,202,101	(\$17,615)	\$9,184,486
Less special funds	<u>5,640,789</u>	<u>5,633,045</u>	<u>30,000</u>	<u>5,663,045</u>
General fund	\$3,793,892	\$3,569,056	(\$47,615)	\$3,521,441
FTE	43.00	42.00	1.00	43.00

Detail of House changes to the Senate version includes:

	RESTORE ATTORNEY POSITION 1	REDUCE SALARY FUNDING	REDUCE OPERATING EXPENSES	FUNDING SOURCE CHANGE	TOTAL HOUSE CHANGES
Salaries and wages	\$144,985	(\$150,000) ²			(\$5,015)
Operating expenses	7,400		(\$20,000) ³		(12,600)
Equipment					
Grants					
AML contractual services					
Total all funds	\$152,385	(\$150,000)	(\$20,000)	\$0	(\$17,615)
Less special funds				<u>30,000</u> ⁴	<u>30,000</u>
General fund	\$152,385	(\$150,000)	(\$20,000)	(\$30,000) ⁴	(\$47,615)
FTE	1.00	0.00	0.00	0.00	1.00

House changes narrative:

- ¹ Restores 1 FTE attorney position removed by the Senate.
- ² Reduces salaries and wages funding. The Public Service Commission may designate the specific areas to reduce within the salaries and wages line item.
- ³ Reduces operating expenses as follows:

Office supplies	(\$10,000)
Travel	<u>(10,000)</u>
Total	(\$20,000)

3083

⁴ Provides for a funding source change of \$117,027 rather than the \$147,027 approved in the executive budget and the Senate version relating to increasing the general fund support for the Public Service Commission as a result of an anticipated reduction in federal administrative cost reimbursements.

Date: 3.17.99
Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2008

House APPROPRIATIONS - Government Operations Committee

Subcommittee on gov't ops
or
 Conference Committee

Legislative Council Amendment Number 98030.0204

Action Taken ADOPT AMENDMENT

Motion Made By POOLMAN Seconded By CARLISLE

Representatives	Yes	No	Representatives	Yes	No
Rex R. Byerly	✓				
Ron Carlisle	✓				
Ben Tollefson		✓			
Robert Huether		✓			
Pam Guleson		✓			
Jim Poolman	✓				

Total (Yes) 3 No 3

Absent 0

Floor Assignment _____

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

FAILED

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 1, line 2, after "49-01-05" insert "and subsection 3 of section 49-21-01"

Page 1, line 3, after "commissioners" insert "and the definition of essential telecommunications service"

Page 1, line 11, replace "4,389,004" with "4,466,389"

Page 1, line 12, replace "1,067,294" with "1,047,294"

Page 1, line 16, replace "9,202,101" with "9,259,486"

Page 1, line 18, replace "3,569,056" with "3,626,441"

Page 2, after line 3, insert:

"SECTION 3. AMENDMENT. Subsection 3 of section 49-21-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Essential telecommunications service" means service that is necessary for switched access to interexchange telecommunications companies and necessary for two-way switched communications for both residential and business service within a local exchange area. A charge based on measured service may not be required for residential and business local exchange service. Essential telecommunications services are limited to:
 - a. Switched access;
 - b. Any new product or service offered in North Dakota after July 1, 1989, deemed essential by the commission after notice and hearing in accordance with chapter 28-32;
 - c. Billing and collection of the billing company's own essential telecommunications services and billing and collection recording for interexchange carriers to which the local exchange carrier provides feature group C access service;
 - d. Primary directory listing, including nonlisted and nonpublished service, and ~~local exchange~~ access to directory assistance;
 - e. Emergency 911 services and emergency operator assistance in local exchange areas in which emergency 911 service is not available;
 - f. Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas;
 - g. Installation of the service connection for essential services from the end user's premises to the local exchange network;
 - h. Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including

a trunk connection that has direct inward dialing and necessary signaling service such as touchtone used by end users for essential telecommunications services;

- i. Single or multiparty flat-rate or measured residence and business service;
- j. Single or multiparty flat-rate or measured combination business and residence service; and
- k. The transmission service line for a coin or pay telephone."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

HOUSE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$4,614,184	\$4,389,004	\$77,385	\$4,466,389
Operating expenses	1,074,694	1,067,294	(20,000)	1,047,294
Equipment	71,311	71,311		71,311
Grants	6,000	6,000		6,000
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>
Total all funds	\$9,434,681	\$9,202,101	\$57,385	\$9,259,486
Less special funds	<u>5,640,789</u>	<u>5,633,045</u>		<u>5,633,045</u>
General fund	\$3,793,892	\$3,569,056	\$57,385	\$3,626,441
FTE	43.00	42.00	1.00	43.00

Detail of House changes to the Senate version includes:

	RESTORE ATTORNEY POSITION ¹	REDUCE SALARY FUNDING	REDUCE OPERATING EXPENSES	TOTAL HOUSE CHANGES
Salaries and wages	\$144,985	(\$67,600) ²		\$77,385
Operating expenses			(\$20,000) ³	(20,000)
Equipment				
Grants				
AML contractual services				
Total all funds	\$144,985	(\$67,600)	(\$20,000)	\$57,385
Less special funds				
General fund	\$144,985	(\$67,600)	(\$20,000)	\$57,385
FTE	1.00	0.00	0.00	1.00

House changes narrative:

¹ Restores 1 FTE attorney position removed by the Senate, but does not restore the related operating expenses of \$7,400.

² Reduces salaries and wages funding. The Public Service Commission may designate the specific areas to reduce within the salaries and wages line item.

³ Reduces operating expenses as follows:

Office supplies	(\$10,000)
Travel	<u>(10,000)</u>
Total	(\$20,000)

A section is added providing that an essential telecommunications service includes access to directory assistance rather than local exchange directory assistance.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 1, line 2, after "49-01-05" insert "and subsection 3 of section 49-21-01"

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 - a. Switched access;
 - b. Any new product or service offered in North Dakota after July 1, 1989, deemed essential by the commission after notice and hearing in accordance with chapter 28-32;
 - c. Billing and collection of the billing company's own essential telecommunications services and billing and collection recording for interexchange carriers to which the local exchange carrier provides feature group C access service;
 - d. Primary directory listing, including nonlisted and nonpublished service, and ~~local exchange~~ access to directory assistance;
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- i. Single or multiparty flat-rate or measured residence and business service;
- j. Single or multiparty flat-rate or measured combination business and residence service; and
- k. The transmission service line for a coin or pay telephone."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

HOUSE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$4,614,184	\$4,389,004	\$77,385	\$4,466,389
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Equipment	71,311	71,311		71,311
Grants	6,000	6,000		6,000
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>
Total all funds	\$9,434,681	\$9,202,101	\$57,385	\$9,259,486
Less special funds	<u>5,640,789</u>	<u>5,633,045</u>	<u>30,000</u>	<u>5,663,045</u>
General fund	\$3,793,892	\$3,569,056	\$27,385	\$3,596,441
FTE	43.00	42.00	1.00	43.00

Detail of House changes to the Senate version includes:

	RESTORE ATTORNEY POSITION ¹	REDUCE SALARY FUNDING	REDUCE OPERATING EXPENSES	FUNDING SOURCE CHANGE	TOTAL HOUSE CHANGES
Salaries and wages	\$144,985	(\$67,600) ²			\$77,385
Operating expenses			(\$20,000) ³		(20,000)
Equipment					
Grants					
AML contractual services					
Total all funds	\$144,985	(\$67,600)	(\$20,000)	\$0	\$57,385
Less special funds				<u>30,000</u> ⁴	<u>30,000</u>
General fund	\$144,985	(\$67,600)	(\$20,000)	(\$30,000) ⁴	\$27,385
FTE	1.00	0.00	0.00	0.00	1.00

House changes narrative:

- ¹ Restores 1 FTE attorney position removed by the Senate, but does not restore the related operating expenses of \$7,400.
- ² Reduces salaries and wages funding. The Public Service Commission may designate the specific areas to reduce within the salaries and wages line item.
- ³ Reduces operating expenses as follows:

Office supplies	(\$10,000)
Travel	<u>(10,000)</u>
Total	(\$20,000)

⁴ Provides for a funding source change of \$117,027 rather than the \$147,027 approved in the executive budget and the Senate version relating to increasing the general fund support for the Public Service Commission as a result of an anticipated reduction in federal administrative cost reimbursements.

A section is added providing that an essential telecommunications service includes access to directory assistance rather than local exchange directory assistance.

Date: 3/18/99
Roll Call Vote #: 5

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2008

House APPROPRIATIONS - Government Operations Committee

Subcommittee on gov't operations
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken ADOPT AMENMENT

Motion Made By BYERLY Seconded By POOLMAN

Representatives	Yes	No	Representatives	Yes	No
Rex R. Byerly	✓				
Ron Carlisle	✓				
Ben Tollefson	✓				
Robert Huether		✓			
Pam Gulleson		✓			
Jim Poolman	✓				

Total (Yes) 4 No 2

Absent 0

Floor Assignment _____

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

Date: 3.18.99
Roll Call Vote #: 6

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2008

House APPROPRIATIONS - Government Operations Committee

Subcommittee on gov't ops
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDED

Motion Made By POOLMAN Seconded By CARLISLE

Representatives	Yes	No	Representatives	Yes	No
Rex R. Byerly	✓				
Ron Carlisle	✓				
Ben Tollefson	✓				
Robert Huether	✓				
Pam Gulleason		✓			
Jim Poolman	✓				

Total (Yes) 5 No 1

Absent 0

Floor Assignment Rep. POOLMAN

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

~~Get App.~~

Date: 3-23-99

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2008

House Appropriations Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number 0204

Action Taken DO PASS AS AMENDED

Motion Made By Poolman Seconded By Byerly

Representatives	Yes	No	Representatives	Yes	No
Chairman Dalrymple	✓		Nichols		✓
Vice-Chairman Byerly	✓		Poolman	✓	
Aarsvold		✓	Svedjan	✓	
Bernstein	✓		Timm	✓	
Boehm	✓		Tollefson		✓
Carlson	✓		Wentz		✓
Carlisle		✓			
Delzer	✓				
Gulleson		✓			
Hoffner		✓			
Huether	✓				
Kerzman		✓			
Lloyd	✓				
Monson	✓				

Total (Yes) 12 No 8

Absent _____

Floor Assignment POOLMAN

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

REPORT OF STANDING COMMITTEE

SB 2008, as engrossed: Appropriations Committee (Rep. Dalrymple, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 8 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2008 was placed on the Sixth order on the calendar.

Page 1, line 2, after "49-01-05" insert "and subsection 3 of section 49-21-01"

Page 1, line 3, after "commissioners" insert "and the definition of essential telecommunications service"

Page 1, line 11, replace "4,389,004" with "4,383,989"

Page 1, line 12, replace "1,067,294" with "1,054,694"

Page 1, line 16, replace "9,202,101" with "9,184,486"

Page 1, line 17, replace "5,633,045" with "5,663,045"

Page 1, line 18, replace "3,569,056" with "3,521,441"

Page 2, after line 3, insert:

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- i. Single or multiparty flat-rate or measured residence and business service;
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- k. The transmission service line for a coin or pay telephone."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

HOUSE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$4,614,184	\$4,389,004	(\$5,015)	\$4,383,989
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Total all funds	\$9,434,681	\$9,202,101	(\$17,615)	\$9,184,486
Less special funds	<u>5,640,789</u>	<u>5,633,045</u>	<u>30,000</u>	<u>5,663,045</u>
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Detail of House changes to the Senate version includes:

	RESTORE ATTORNEY POSITION ¹	REDUCE SALARY FUNDING	REDUCE OPERATING EXPENSES	FUNDING SOURCE CHANGE	TOTAL HOUSE CHANGES
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FTE	1.00	0.00	0.00	0.00	1.00

House changes narrative:

- ¹ Restores 1 FTE attorney position removed by the Senate.
- ² Reduces salaries and wages funding. The Public Service Commission may designate the specific areas to reduce within the salaries and wages line item.
- ³ Reduces operating expenses as follows:

Office supplies	(\$10,000)
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Total	(\$20,000)

- ⁴ Provides for a funding source change of \$117,027 rather than the \$147,027 approved in the executive budget and the Senate version relating to increasing the general fund support for the Public Service Commission as a result of an anticipated reduction in federal administrative cost reimbursements.

1999 SENATE APPROPRIATIONS

CONFERENCE COMMITTEE

SB 2008

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2008C

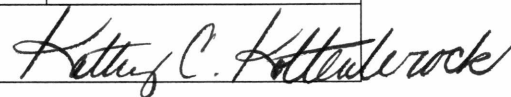
Senate Appropriations Committee

✓ Conference Committee

Hearing Date 4/5/99; 4/7/99; 4/10/99; 4/13/99

Tape Number		Side A	Side B	Meter #
4-5-99	1	3555-end		
4-7-99	2	3175-3778		
4-10-99	5	0-0.6		
4-13-99	1	0-1056		

Committee Clerk Signature: **Minutes transcribed by other clerks.**



Minutes:

Hearing Date April 5, 1999

SENATOR HOLMBERG opened the Conference Committee hearing on SB2008.

Senator Holmberg, Senator Solberg, Senator Tallackson, Representative Byerly, Representative Poolman, and Representative Huether were present.

SENATOR HOLMBERG explained the amendments. The Senate passed the bill over and the House made some changes. The House added an amendment to Section 41-21-01 and then you reduced some operating expenses of \$20,000, you restored an FTE position that was removed by the Senate and added back in \$152,000 for that position and then you removed an unspecified \$150,000 from salary and wages. Then there was something about some Federal administrative cost reimbursement. Are these the correct changes.

APPROB
4-5-99

REPRESENTATIVE BYERLY stated that we did restore the FTE position. We removed a \$150,000 from the salary and wages line item. We also removed \$20,000 in the operating expenses. We had a funding source change of \$30,000 so the net effect on the House side was to reduce the general fund spending by \$200,000. Another change was just after the Emergency Commission elected to table all the items on their agenda. There was an agenda item for the Public Service Commission that had to do with one call that was a receipt of some federal funds. This was the only bill that literally we had left in our Appropriations so that is the very last thing on our amendment.

SENATOR HOLMBERG stated that was put on another bill. Are you talking about the directory assistance.

REPRESENTATIVE BYERLY stated that the other amendment that we put on in the House. We were approached by two of the commissioners and they asked us to support this amendment that deals with directory access. It does have a direct fiscal impact on the some of things that are going on in the PSC at this time.

SENATOR HOLMBERG asked if you could give us a little more help on understanding the FTE addition.

REPRESENTATIVE POOLMAN stated in our government operations section of appropriations we have a unwritten policy that we have not specifically taken positions but we have underfunded salary line items because we feel in many cases that it is the departments responsibility to find out and prioritize those positions of where they can find efficiencies and where they can make reductions in force instead of the Legislature doing it for them.

APPROPS
4-5-99

SENATOR HOLMBERG stated that as an example where your position is different is in the amendments that you passed on the floor on DPI, you identified a person and removed that person.

SENATOR SOLBERG asked what areas we are in agreement. If the actual FTE is our only area of concern then we can concentrate on that.

REPRESENTATIVE POOLMAN stated that if you look at the optional adjustment from the Public Serviv Budget. When Governor Schaffer asked the PSC to go to a 95% budget for FTE were on the table. They were not attorney positions but they were inspector positions. That goes back to our rationale why we did not specify a position because they can go back to their OAR and decide which one of those four would go.

SENATOR SOLBERG asked about the rationale for taking out a specific FTE in our situation was we felt that maybe there was enough area in here whereby one FTE would relieve some of the work load. I don't have any problem with Section 3.

REPRESENTATIVE POOLMAN discussed the directory assistance amendment. This was added by bipartisan support. We had agreement on the amendment.

REPRESENTATIVE BYERLY stated that the money standpoint is about the same.

SENATOR HOLMBERG stated the difference is really the philosophical one. That the Senate did determined there was not a need for this attorney position and because of that we took that specific position out. That was quite strongly held on the Senate Appropriations Committee. Was this a standard reduction on agencies this size.

REPRESENTATIVE BYERLY stated that yes, it was a normal reduction.

APPROPS
4-5-99

SENATOR HOLMBERG stated that in some budgets that came over you had looked at some equipment and made some changes regarding new information regarding costs.

REPRESENTATIVE POOLMAN stated that the \$20,000 out of operating, I believe \$10,000 of that was out of travel and we went through line item by line item and looked to where they had significant increases over the previous biennium and where they had significant increase we tried to justify where we could find savings out of this budget. The \$30,000 in this funding source change I think needs a little explanation. That is dollars that were federal dollars that were coming in to the Public Service Commission for administrative expenses and \$147,000 from federal funds that were now going to have to be state funds or general funds for administration. We therefore took \$30,000 out of that administration part of those federal funds and authorized it back to federal funds versus general funds. So if they can get the federal money back they have the authorization to use that for administrative expenses.

SENATOR HOLMBERG asked if you found any pattern as far as the travel. That the attorney we took out made \$10,000 worth of travel.

REPRESENTATIVE POOLMAN stated no.

SENATOR HOLMBERG asked about their travel budget and their office supplies, do you recall roughly what kind of percentage there were.

REPRESENTATIVE POOLMAN stated that the request for the next biennium is \$200,000 and office supplies is \$73,000.

SENATOR SOLBERG stated our disagreement is the FTE. Whether to remove it or not. It about \$48,000 roughly.

REPRESENTATIVE POOLMAN moved to adjourn. Representative Heuther seconded.

APPROB

4-7-99

APRIL 7, 1999 TAPE 2, SIDE A

SENATOR HOLMBERG reopened the Conference Committee hearing on SB2008.

SENATOR SOLBERG moved that the Senate accede to the House amendments and further amend with the attorney position being removed, Representative Byerly seconded. Motion passed. 4 - 2 - 0

SENATOR HOLMBERG CLOSED the hearing on SB2008.

4-10-99

4-10-99

Appropriations committee

SEN. HOLMBERG Called the conference committee to order with all committee members present.

REP. BYERLY Gave an account of what took place on the House floor with the money the senate had accepted, and with the termination of one FTE which the House had accepted. The conference committee report was rejected. We received a grand total of 33 votes on the floor. The only topic of discussion was, the removal of the one FTE, the question of money did not come up.

SEN. HOLMBERG Stated, the Senate has had two votes on this issue, and that is the direction they would like to convince the House to go. The Senate's position at this stage would be, if the House has some kind of position different from what went to the floor, somewhat close to what the Senate wants.

APPROPS
4-10-99

REP. BYERLY The problem isn't the money, it isn't a question about an FTE slot. The House removed an FTE, we didn't specify an FTE. I don't know what we can do, to come up with, to solve the problem.

REP. HEATHER Stated he agreed with Rep. Byerly's account on the House floor, it was debated considerably by both sides. One of the really convincing one was by a Representative stating that in this session, we allowed rates to raise on telephones, then we cut back on a position on the PSC. He went on to relate the weights and measures and excess charges, the cuts and movement of agriculture products out of the state by railroads.

SEN. SOLBERG In response to some of those remarks, stated he believed they were afraid of deregulation. As far as excess charges, they have had these lawyers up there for quite awhile and I haven't seen one thing come out of PSC, to do anything about it. I haven't seen one thing at the PSC to move away from deregulation.

REP. HEATHER As we enter this era of deregulation, I think we will be looking more at re-regulation as new independent companies are starting up, especially the telephone industry, as we see it now. We will have more competition with US West, I don't know if there is going to be less demand of the office, I think it may end up increasing the demand for services.

One of the Representatives who spoke is an auctioneer, they are regulated by the PSC, I don't know how many calls are taken by the PSC regarding this.

SEN. HOLMBERG Stated that one of the issues which was persuasive to the majority of the Senate, is the number of the bills the PSC supported by them which was giving them more things to do, and yet, there was no corresponding increase in requests for FTE's, which leads one to conclude that they have folks up there who have time on their hands. He referred to HB 1308,

APRS 4-10-99

giving PSC jurisdiction over quality of service complaints involving cooperatives and independents with less than 8000 access lines. SB 2093, which would allow for annual licensing of resalers from telecommunications as a replacement of the current one time registration procedure, and SB 2095 which would allow the PSC to do all things necessary and appropriate to implement the telecommunications act of 1996. We sensed that there was probably some slack up there.

SEN. SOLBERG In my thirty four years of business, I dealt with the PSC for thirty four years. If they get five calls a year from auctioneers, that would be it. That is not a big case load, I can pick out a third or fourth grade student that could handle the situation. The licensing is a minor deal. I don't feel sorry for them, it is self-inflicted, in my opinion.

REP. BYERLY Stated, he couldn't debate any of the points the Senators have brought up, but on the House side, as long as the bill designates a specific position, we will continue to get only 33 votes. What will probably happen, is some secretary making only \$15,000 will go by the wayside, but the intent of the Legislature is looking at someone other than a secretarial position to go away. I would hope that message is fairly clear to the PSC.

SEN. HOLMBERG Stated that the amount of money taken out would cover more than a secretarial position.

SEN. TOMAC Stated he was only a proxy, but gave his observations of what the Senate's concerns were on the Senate floor. There was some concern that they were designating an attorney who had an important position in the PSC. He stated that the frustration on both sides of the aisle, is really pointed at the commission, itself, which we can't cut, because constitutionally, they are elected. He stated his personal belief, for a long time, is that we should

APR 10 4-10-99

be going to a one commissioner, commission, which is in parallel with the insurance commissioner, the ag commissioner, and the securities commission. One of the problems is that all three commissioners need a majority before they can move ahead, while staff turns out much of the work, and hears many of the cases, the commissioners are in a debate among themselves of what is right or wrong, which is very inefficient. This issue is a lot deeper than the designated attorney.

SEN. HOLMBERG Stated he agreed that the PSC is unique in its structure, however, it is a constitutional structure. It is the only agency where you have the possibility of a majority believing one thing and a minority believing something else, and the legislature and the public gets a whole bunch of mixed messages.

SEN. TOMAC Stated the legislature is not educated itself, in the complexities of this issue. He stated he took the position of the minority in the Senate, that suggests what the majority in the House did, that this is not a good cut. He suggested restoring that particular FTE and the dollars that go with it, and put it to a vote of the people to go to a one commissioner commission.

REP. BYERLY Stated in the original House amendment, they had restored the FTE and underfunded the salary.

REP. HEUTHER Made a motion to adopt amendment .0210, which would restore the position and the funding.

SEN. TOMAC Second the motion.

REP. POOLMAN Stated, this was not the way the House passed it. This amendment puts the position back plus the \$144,000 in salary. The House version was \$150,000 in salary.

APPROPS
4-10-99

REP. HEUTHER Stated the amendment restores the position plus adds the funding the House removed.

REP. BYERLY The money differences are not at the level of this amendment.

A roll call vote was taken on the motion to adopt the Heuther Amendments, the motion failed.

REP. POOLMAN Made a motion that the Senate accede to the House amendment.

REP. BYERLY Second the motion.

SEN. TOMAC Asked for an explanation of the House amendment.

REP. POOLMAN The House amendment resists the salary funding of \$150,000, reduce the funding by \$20,000, the position is restored to the budget, and the PSC will decide where to get that money from. This did not identify a position, but there were four positions under the optional adjustments. The specific FTE was what the House rejected to.

SEN. SOLBERG Stated he would like to see at least one less FTE.

REP. POOLMAN Stated the entire budget was reduced by \$200,000.

The motion made that the Senate accede to the House Amendment, failed.

After considerable discussion, SEN. SOLBERG requested a five minute recess.

SEN. SOLBERG Made a motion to further amend the House amendment by eliminating an FTE by the date of January 1, 2000.

REP. POOLMAN Stated there probably would be one more vote with that amendment.

REP. BYERLY Stated the problem is, when you name this certain FTE and the money that goes with it, it will not pass on the House floor.

APR 10 4-10-99

REP. POOLMAN Made a motion that the Senate accede to the House amendments and further amend by deauthorizing one FTE.

REP. BYERLY Second the motion.

SEN. TOMAC Stated, it was a step in the right direction, but it is not quite fair yet. He stated we need to be commonsensical about this. If the commission, under the 95% budget cuts, were to implement the Governor's 95% budget, they would have eliminated four testing inspectors to the tune of \$411,000. If we do an unspecified FTE, we can assume that they will still do one of those. I would think it would be reasonable, if we are going to eliminate an FTE, that we also take the salary with that, in stead of \$150,000, it would be about \$105,000 or \$110,000 plus whatever operating goes with that position.

The motion to eliminate one unspecified FTE, failed.

REP. BYERLY Stated, that the problem didn't seem to be between the House and the Senate, but between the Senate and the PSC. Short of killing the entire budget, we need to get this resolved. We will not get the House votes even if we are here until December. There are only so many options, we have to come up with something that can go to the floor.

Again, there was considerable discussion trying to compromise.

REP. POOLMAN Made a motion that the Senate accede to the House amendments and the bill be amended further by deleting one unspecified FTE.

REP. BYERLY Second the motion. MOTION CARRIED WITH EVERY MEMBER VOTING YES.

The conference committee meeting was adjourned.

APPROPS

Hearing Date April 13, 1999

SENATOR HOLMBERG opened the Conference Committee on SB2008.

Senator Holmberg, Senator Solberg, Senator Tomac, Representative Byerly, Representative Poolman, and Representative Huether were present.

SENATOR HOLMBERG stated as far as the direction and where we go from here there is a couple areas we can go. The Senate has expressed its desire that position be removed. Is there a compromise we can make.

SENATOR TOMAC stated a number of reasons for voting against the conference committee report. I think from the minority standpoint, we found the unspecified FTE acceptable, however, we still feel that the operating cut is too deep. Something closer to a \$100,000 rather than a \$150,000 seems reasonable to us.

REPRESENTATIVE POOLMAN stated that maybe a compromise position would be \$222,000 in salary line item and 2 FTE's unspecified. I think if that was the case, I would be willing to personally split the difference on the operating line.

SENATOR SOLBERG stated that the dollars can be adjusted. The two FTE's, I would have a pretty good idea where they would be, I don't think that was the Senate's intention. The Senate's intention was taking into account the studies on what this position is. I would resist the two FTE's.

REPRESENTATIVE POOLMAN stated what I have seen when agency heads do their optional adjustments they put in things that are politically sensitive. The highest priorities are cut because

07/19/98
4-13-99

legislators will put them back. The Public Service Commission and their optional adjustments said they could live without an FTE and if we specify that FTE we can try it again.

SENATOR SOLBERG stated I agree.

REPRESENTATIVE BYERLY stated that we've always stuck with the House money amendments and there is in general fund dollars a \$48,000 difference. Maybe the next approach for us to take would be for the House to recede from its amendments and run it again. Basically run the Senate version of the bill. There is more money in the Senate version of the bill. This is one option we have not tried.

SENATOR HOLMBERG stated the only difference then would be the fact that you had also added an amendment, Section 3.

REPRESENTATIVE BYERLY stated we would have to put that back on. I move the House recede from its amendments and further amend adding Section 3 of the former amendment.

SENATOR SOLBERG seconded.

SENATOR TOMAC stated the problem the minority party had was the specified position that was in the Senate bill. I would be willing to vote for this if it was an unspecified FTE so I am going to resist this motion.

SENATOR HOLMBERG stated that what this would do now making the adjustments with the Senate dollar amounts.

VOTE: 4 YES 2 NO

SENATOR HOLMBERG stated the motion passed. The conference committee was closed.

1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB2008

JCS
4/8/99
1 of 3

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008
CONF. COMMITTEE AMENDMENTS TO ENGR. SB 2008 APPROP. 4/8/99

That the House recede from its amendments as printed on pages 871-873 of the Senate Journal and pages 952-954 of the House Journal and that Engrossed Senate Bill No. 2008 be amended as follows:

Page 1, line 2, after "49-01-05" insert "and subsection 3 of section 49-21-01"

Page 1, line 3, after "commissioners" insert "and the definition of essential telecommunications service"

Page 1, line 11, replace "4,389,004" with "4,383,989"

Page 1, line 12, replace "1,067,294" with "1,054,694"

Page 1, line 16, replace "9,202,101" with "9,184,486"

Page 1, line 17, replace "5,633,045" with "5,663,045"

Page 1, line 18, replace "3,569,056" with "3,521,441"

Page 2, after line 3, insert:

"SECTION 3. AMENDMENT. Subsection 3 of section 49-21-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Essential telecommunications service" means service that is necessary for switched access to interexchange telecommunications companies and necessary for two-way switched communications for both residential and business service within a local exchange area. A charge based on measured service may not be required for residential and business local exchange service. Essential telecommunications services are limited to:
 - a. Switched access;
 - b. Any new product or service offered in North Dakota after July 1, 1989, deemed essential by the commission after notice and hearing in accordance with chapter 28-32;
 - c. Billing and collection of the billing company's own essential telecommunications services and billing and collection recording for interexchange carriers to which the local exchange carrier provides feature group C access service;
 - d. Primary directory listing, including nonlisted and nonpublished service, and ~~local exchange~~ access to directory assistance;
 - e. Emergency 911 services and emergency operator assistance in local exchange areas in which emergency 911 service is not available;
 - f. Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas;

2 of 3

- g. Installation of the service connection for essential services from the end user's premises to the local exchange network;
- h. Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has direct inward dialing and necessary signaling service such as touchtone used by end users for essential telecommunications services;
- i. Single or multiparty flat-rate or measured residence and business service;
- j. Single or multiparty flat-rate or measured combination business and residence service; and
- k. The transmission service line for a coin or pay telephone."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

CONFERENCE COMMITTEE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMPARISON TO HOUSE VERSION
Salaries and wages	\$4,614,184	\$4,389,004	(\$5,015)	\$4,383,989	\$4,383,989	
Operating expenses	1,074,694	1,067,294	(12,600)	1,054,694	1,054,694	
Equipment	71,311	71,311		71,311	71,311	
Grants	6,000	6,000		6,000	6,000	
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>	<u>3,668,492</u>	
Total all funds	\$9,434,681	\$9,202,101	(\$17,615)	\$9,184,486	\$9,184,486	\$0
Less special funds	<u>5,640,789</u>	<u>5,633,045</u>	<u>30,000</u>	<u>5,663,045</u>	<u>5,663,045</u>	
General fund	\$3,793,892	\$3,569,056	(\$47,615)	\$3,521,441	\$3,521,441	\$0
FTE	43.00	42.00	0.00	42.00	43.00	(1.00)

Detail of Conference Committee changes to the Senate version includes:

	RESTORE SALARY AND OPERATING FUNDING ¹	REDUCE SALARY FUNDING	REDUCE OPERATING EXPENSES	FUNDING SOURCE CHANGE	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	\$144,985	(\$150,000) ²			(\$5,015)
Operating expenses	7,400		(\$20,000) ³		(12,600)
Equipment					
Grants					
AML contractual services					
Total all funds	\$152,385	(\$150,000)	(\$20,000)	\$0	(\$17,615)
Less special funds				<u>30,000</u> ⁴	<u>30,000</u>
General fund	\$152,385	(\$150,000)	(\$20,000)	(\$30,000)	(\$47,615)
FTE	0.00	0.00	0.00	0.00	0.00

Conference Committee changes narrative:

¹ Restores salaries and wages and operating expenses funding removed by the Senate, the same as the House version, except that the Conference Committee did not restore the attorney position removed by the Senate and restored by the House.

² Reduces salaries and wages funding. The Public Service Commission may designate the specific areas to reduce within the salaries and wages line item, the same as the House version.

3 of 3

³ Reduces operating expenses as follows, the same as the House version:

Office supplies	(\$10,000)
Travel	<u>(10,000)</u>
Total	(\$20,000)

⁴ Provides for a funding source change of \$117,027 rather than the \$147,027 approved in the executive budget and the Senate version relating to increasing the general fund support for the Public Service Commission as a result of an anticipated reduction in federal administrative cost reimbursements. The House also made this change.

The section added by the House is included which provides that an essential telecommunications service includes access to directory assistance rather than local exchange directory assistance.

903
4/12/99
1083

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

CONF. COMMITTEE AMENDMENTS TO ENGR. SB 2008 APPROP. 4/12/99

That the House recede from its amendments as printed on pages 871-873 of the Senate Journal and pages 952-954 of the House Journal and the Engrossed Senate Bill No. 2008 be amended as follows:

Page 1, line 2, after "49-01-05" insert "and subsection 3 of section 49-21-01"

Page 1, line 3, after "commissioners" insert "and the definition of an essential telecommunications service"

Page 1, line 11, replace "4,389,004" with "4,383,989"

Page 1, line 12, replace "1,067,294" with "1,054,694"

Page 1, line 16, replace "9,202,101" with "9,184,486"

Page 1, line 17, replace "5,633,045" with "5,663,045"

Page 1, line 18, replace "3,569,056" with "3,521,441"

CONF. COMMITTEE AMENDMENTS TO ENGR. SB 2008 APPROP. 4/12/99

Page 2, after line 3, insert:

"SECTION 3. AMENDMENT. Subsection 3 of section 49-21-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Essential telecommunications service" means service that is necessary for switched access to interexchange telecommunications companies and necessary for two-way switched communications for both residential and business service within a local exchange area. A charge based on measured service may not be required for residential and business local exchange service. Essential telecommunications services are limited to:
 - a. Switched access;
 - b. Any new product or service offered in North Dakota after July 1, 1989, deemed essential by the commission after notice and hearing in accordance with chapter 28-32;
 - c. Billing and collection of the billing company's own essential telecommunications services and billing and collection recording for interexchange carriers to which the local exchange carrier provides feature group C access service;
 - d. Primary directory listing, including nonlisted and nonpublished service, and ~~local exchange~~ access to directory assistance;
 - e. Emergency 911 services and emergency operator assistance in local exchange areas in which emergency 911 service is not available;
 - f. Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas;

- g. Installation of the service connection for essential services from the end user's premises to the local exchange network;
- h. Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has direct inward dialing and necessary signaling service such as touchtone used by end users for essential telecommunications services;
- i. Single or multiparty flat-rate or measured residence and business service;
- j. Single or multiparty flat-rate or measured combination business and residence service; and
- k. The transmission service line for a coin or pay telephone."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

CONFERENCE COMMITTEE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMMITTEE COMPARISON TO HOUSE VERSION
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Operating expenses	1,074,694	1,067,294	(12,600)	1,054,694	1,054,694	
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AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>	<u>3,668,492</u>	
Total all funds	\$9,434,681	\$9,202,101	(\$17,615)	\$9,184,486	\$9,184,486	\$0
Less special funds	<u>5,640,789</u>	<u>5,633,045</u>	<u>30,000</u>	<u>5,663,045</u>	<u>5,663,045</u>	
General fund	\$3,793,892	\$3,569,056	(\$47,615)	\$3,521,441	\$3,521,441	\$0
FTE	43.00	42.00	0.00	42.00	43.00	(1.00)

Detail of Conference Committee changes to the Senate version includes:

	RESTORE ATTORNEY POSITION 1	REDUCE SALARIES AND REMOVE AN UNDESIGNATED POSITION	REDUCE OPERATING EXPENSES	FUNDING SOURCE CHANGE	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	\$144,985	(\$150,000) ²			(\$5,015)
Operating expenses	7,400		(\$20,000) ³		(12,600)
Equipment					
Grants					
AML contractual services					
Total all funds	\$152,385	(\$150,000)	(\$20,000)	\$0	(\$17,615)
Less special funds				<u>30,000</u> ⁴	<u>30,000</u>
General fund	\$152,385	(\$150,000)	(\$20,000)	(\$30,000)	(\$47,615)
FTE	1.00	(1.00)	0.00	0.00	0.00

Conference Committee changes narrative:

¹ Restores 1 FTE attorney position removed by the Senate, the same as the House version.

² Reduces salaries and wages funding by \$150,000 and remove 1 FTE undesignated position. The House had reduced salaries and wages by \$150,000, but did not remove an FTE position.

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³ Reduces operating expenses as follows, the same as the House version:

Office supplies	(\$10,000)
Travel	<u>(10,000)</u>
Total	(\$20,000)

⁴ Provides for a funding source change of \$117,027 rather than the \$147,027 approved in the executive budget and the Senate version relating to increasing the general fund support for the Public Service Commission as a result of an anticipated reduction in federal administrative cost reimbursements. The House also made this change.

The section added by the House is included which provides that an essential telecommunications service includes access to directory assistance rather than local exchange directory assistance.

JCB
4/13/99
1062

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

CONF. COMMITTEE AMENDMENTS TO ENGR. SB 2008 APPROP. 4/13/99
That the House recede from its amendments as printed on pages 871-873 of the Senate Journal and pages 952-954 of the House Journal and the Engrossed Senate Bill No. 2008 be amended as follows:

Page 1, line 2, after "49-01-05" insert "and subsection 3 of section 49-21-01"

Page 1, line 3, after "commissioners" insert "and the definition of an essential telecommunications service"

CONF. COMMITTEE AMENDMENTS TO ENGR. SB 2008 APPROP. 4/13/99

Page 2, after line 3, insert:

"SECTION 3. AMENDMENT. Subsection 3 of section 49-21-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Essential telecommunications service" means service that is necessary for switched access to interexchange telecommunications companies and necessary for two-way switched communications for both residential and business service within a local exchange area. A charge based on measured service may not be required for residential and business local exchange service. Essential telecommunications services are limited to:
 - a. Switched access;
 - b. Any new product or service offered in North Dakota after July 1, 1989, deemed essential by the commission after notice and hearing in accordance with chapter 28-32;
 - c. Billing and collection of the billing company's own essential telecommunications services and billing and collection recording for interexchange carriers to which the local exchange carrier provides feature group C access service;
 - d. Primary directory listing, including nonlisted and nonpublished service, and ~~local exchange~~ access to directory assistance;
 - e. Emergency 911 services and emergency operator assistance in local exchange areas in which emergency 911 service is not available;
 - f. Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas;
 - g. Installation of the service connection for essential services from the end user's premises to the local exchange network;
 - h. Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has direct inward dialing and necessary signaling service such as touchtone used by end users for essential telecommunications services;

- i. Single or multiparty flat-rate or measured residence and business service;
- j. Single or multiparty flat-rate or measured combination business and residence service; and
- k. The transmission service line for a coin or pay telephone."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

CONFERENCE COMMITTEE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMMITTEE COMPARISON TO HOUSE VERSION
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Operating expenses	1,074,694	1,067,294		1,067,294	1,054,694	12,600
Equipment	71,311	71,311		71,311	71,311	
Grants	6,000	6,000		6,000	6,000	
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>	<u>3,668,492</u>	
Total all funds	\$9,434,681	\$9,202,101	\$0	\$9,202,101	\$9,184,486	\$17,615
Less special funds	<u>5,640,789</u>	<u>5,633,045</u>		<u>5,633,045</u>	<u>5,663,045</u>	(30,000)
General fund	\$3,793,892	\$3,569,056	\$0	\$3,569,056	\$3,521,441	\$47,615
FTE	43.00	42.00	0.00	42.00	43.00	(1.00)

Conference Committee changes narrative:

The section added by the House is included which provides that an essential telecommunications service includes access to directory assistance rather than local exchange directory assistance.

Funding and FTE positions are provided at the Senate level. The House had restored the FTE attorney position and related funding removed by the Senate, reduced salaries and wages funding by \$150,000, reduced operating expenses by \$20,000, and made a \$30,000 funding source change from the general fund to federal funds.

(Bill Number) SB2008 (, as (re)engrossed):

Your Conference Committee

Attendance	SENATORS	Vote
P	HOLMBERG	Y
P	SOLBERG	Y
P	TALLACKSON	N

Attendance	REPRESENTATIVES	Vote
P	BYLER/V	Y
P	POOLMAN	Y
P	HLEETHER	N

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from) the (Senate/House) amendments on (SJ/HJ) page(s) 871 - 873

and place _____ on the Seventh order.

, adopt (further) amendments as follows, and place _____ on the Seventh order:

having been unable to agree, recommends that the committee be discharged and a new committee be appointed.

((Re)Engrossed) _____ was placed on the Seventh order of business on the calendar.

DATE: 4, 7, 99

CARRIER: _____

LC NO. _____ of amendment

LC NO. _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

(1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE

SB 2008, as engrossed: Your conference committee (Sens. Holmberg, Solberg, Tallackson and Reps. Byerly, Poolman, Huether) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 871-873, adopt amendments as follows, and place SB 2008 on the Seventh order:

That the House recede from its amendments as printed on pages 871-873 of the Senate Journal and pages 952-954 of the House Journal and that Engrossed Senate Bill No. 2008 be amended as follows:

Page 1, line 2, after "49-01-05" insert "and subsection 3 of section 49-21-01"

Page 1, line 3, after "commissioners" insert "and the definition of essential telecommunications service"

Page 1, line 11, replace "4,389,004" with "4,383,989"

Page 1, line 12, replace "1,067,294" with "1,054,694"

Page 1, line 16, replace "9,202,101" with "9,184,486"

Page 1, line 17, replace "5,633,045" with "5,663,045"

Page 1, line 18, replace "3,569,056" with "3,521,441"

Page 2, after line 3, insert:

"SECTION 3. AMENDMENT. Subsection 3 of section 49-21-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Essential telecommunications service" means service that is necessary for switched access to interexchange telecommunications companies and necessary for two-way switched communications for both residential and business service within a local exchange area. A charge based on measured service may not be required for residential and business local exchange service. Essential telecommunications services are limited to:
 - a. Switched access;
 - b. Any new product or service offered in North Dakota after July 1, 1989, deemed essential by the commission after notice and hearing in accordance with chapter 28-32;
 - c. Billing and collection of the billing company's own essential telecommunications services and billing and collection recording for interexchange carriers to which the local exchange carrier provides feature group C access service;
 - d. Primary directory listing, including nonlisted and nonpublished service, and ~~local exchange~~ access to directory assistance;
 - e. Emergency 911 services and emergency operator assistance in local exchange areas in which emergency 911 service is not available;
 - f. Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas;

- g. Installation of the service connection for essential services from the end user's premises to the local exchange network;
- h. Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has direct inward dialing and necessary signaling service such as touchtone used by end users for essential telecommunications services;
- i. Single or multiparty flat-rate or measured residence and business service;
- j. Single or multiparty flat-rate or measured combination business and residence service; and
- k. The transmission service line for a coin or pay telephone."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

CONFERENCE COMMITTEE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMPARISON TO HOUSE VERSION
Salaries and wages	\$4,614,184	\$4,389,004	(\$5,015)	\$4,383,989	\$4,383,989	
Operating expenses	1,074,694	1,067,294	(12,600)	1,054,694	1,054,694	
Equipment	71,311	71,311		71,311	71,311	
Grants	6,000	6,000		6,000	6,000	
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>	<u>3,668,492</u>	
Total all funds	\$9,434,681	\$9,202,101	(\$17,615)	\$9,184,486	\$9,184,486	\$0
Less special funds	<u>5,640,789</u>	<u>5,633,045</u>	<u>30,000</u>	<u>5,663,045</u>	<u>5,663,045</u>	
General fund	\$3,793,892	\$3,569,056	(\$47,615)	\$3,521,441	\$3,521,441	\$0
FTE	43.00	42.00	0.00	42.00	43.00	(1.00)

Detail of Conference Committee changes to the Senate version includes:

	RESTORE SALARY AND OPERATING FUNDING ¹	REDUCE SALARY FUNDING	REDUCE OPERATING EXPENSES	FUNDING SOURCE CHANGE	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	\$144,985	(\$150,000) ²			(\$5,015)
Operating expenses	7,400		(\$20,000) ³		(12,600)
Equipment					
Grants					
AML contractual services					
Total all funds	\$152,385	(\$150,000)	(\$20,000)	\$0	(\$17,615)
Less special funds				<u>30,000</u> ⁴	<u>30,000</u>
General fund	\$152,385	(\$150,000)	(\$20,000)	(\$30,000)	(\$47,615)
FTE	0.00	0.00	0.00	0.00	0.00

Conference Committee changes narrative:

- 1 Restores salaries and wages and operating expenses funding removed by the Senate, the same as the House version, except that the Conference Committee did not restore the attorney position removed by the Senate and restored by the House.
- 2 Reduces salaries and wages funding. The Public Service Commission may designate the specific areas to reduce within the salaries and wages line item, the same as the House version.
- 3 Reduces operating expenses as follows, the same as the House version:

Office supplies	(\$10,000)
Travel	<u>(10,000)</u>
Total	(\$20,000)

- 4 Provides for a funding source change of \$117,027 rather than the \$147,027 approved in the executive budget and the Senate version relating to increasing the general fund support for the Public Service Commission as a result of an anticipated reduction in federal administrative cost reimbursements. The House also made this change.

The section added by the House is included which provides that an essential telecommunications service includes access to directory assistance rather than local exchange directory assistance.

Engrossed SB 2008 was placed on the Seventh order of business on the calendar.

REPORT OF CONFERENCE COMMITTEE

SB 2008, as engrossed: Your conference committee (Sens. Holmberg, Solberg, Tallackson and Reps. Byerly, Poolman, Huether) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 871-873, adopt amendments as follows, and place SB 2008 on the Seventh order:

That the House recede from its amendments as printed on pages 871-873 of the Senate Journal and pages 952-954 of the House Journal and that Engrossed Senate Bill No. 2008 be amended as follows:

Page 1, line 2, after "49-01-05" insert "and subsection 3 of section 49-21-01"

Page 1, line 3, after "commissioners" insert "and the definition of essential telecommunications service"

Page 1, line 11, replace "4,389,004" with "4,383,989"

Page 1, line 12, replace "1,067,294" with "1,054,694"

Page 1, line 16, replace "9,202,101" with "9,184,486"

Page 1, line 17, replace "5,633,045" with "5,663,045"

Page 1, line 18, replace "3,569,056" with "3,521,441"

Page 2, after line 3, insert:

"SECTION 3. AMENDMENT. Subsection 3 of section 49-21-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Essential telecommunications service" means service that is necessary for switched access to interexchange telecommunications companies and necessary for two-way switched communications for both residential and business service within a local exchange area. A charge based on measured service may not be required for residential and business local exchange service. Essential telecommunications services are limited to:
 - a. Switched access;
 - b. Any new product or service offered in North Dakota after July 1, 1989, deemed essential by the commission after notice and hearing in accordance with chapter 28-32;
 - c. Billing and collection of the billing company's own essential telecommunications services and billing and collection recording for interexchange carriers to which the local exchange carrier provides feature group C access service;
 - d. Primary directory listing, including nonlisted and nonpublished service, and ~~local exchange~~ access to directory assistance;
 - e. Emergency 911 services and emergency operator assistance in local exchange areas in which emergency 911 service is not available;
 - f. Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas;

- g. Installation of the service connection for essential services from the end user's premises to the local exchange network;
- h. Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has direct inward dialing and necessary signaling service such as touchtone used by end users for essential telecommunications services;
- i. Single or multiparty flat-rate or measured residence and business service;
- j. Single or multiparty flat-rate or measured combination business and residence service; and
- k. The transmission service line for a coin or pay telephone."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

CONFERENCE COMMITTEE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMPARISON TO HOUSE VERSION
Salaries and wages	\$4,614,184	\$4,389,004	(\$5,015)	\$4,383,989	\$4,383,989	
Operating expenses	1,074,694	1,067,294	(12,600)	1,054,694	1,054,694	
Equipment	71,311	71,311		71,311	71,311	
Grants	6,000	6,000		6,000	6,000	
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>	<u>3,668,492</u>	
Total all funds	\$9,434,681	\$9,202,101	(\$17,615)	\$9,184,486	\$9,184,486	\$0
Less special funds	<u>5,640,789</u>	<u>5,633,045</u>	<u>30,000</u>	<u>5,663,045</u>	<u>5,663,045</u>	
General fund	\$3,793,892	\$3,569,056	(\$47,615)	\$3,521,441	\$3,521,441	\$0
FTE	43.00	42.00	0.00	42.00	43.00	(1.00)

Detail of Conference Committee changes to the Senate version includes:

	RESTORE SALARY AND OPERATING FUNDING ¹	REDUCE SALARY FUNDING	REDUCE OPERATING EXPENSES	FUNDING SOURCE CHANGE	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	\$144,985	(\$150,000) ²			(\$5,015)
Operating expenses	7,400		(\$20,000) ³		(12,600)
Equipment					
Grants					
AML contractual services					
Total all funds	\$152,385	(\$150,000)	(\$20,000)	\$0	(\$17,615)
Less special funds				<u>30,000</u> ⁴	<u>30,000</u>
General fund	\$152,385	(\$150,000)	(\$20,000)	(\$30,000)	(\$47,615)
FTE	0.00	0.00	0.00	0.00	0.00

Conference Committee changes narrative:

- 1 Restores salaries and wages and operating expenses funding removed by the Senate, the same as the House version, except that the Conference Committee did not restore the attorney position removed by the Senate and restored by the House.
- 2 Reduces salaries and wages funding. The Public Service Commission may designate the specific areas to reduce within the salaries and wages line item, the same as the House version.
- 3 Reduces operating expenses as follows, the same as the House version:

Office supplies	(\$10,000)
Travel	<u>(10,000)</u>
Total	(\$20,000)

- 4 Provides for a funding source change of \$117,027 rather than the \$147,027 approved in the executive budget and the Senate version relating to increasing the general fund support for the Public Service Commission as a result of an anticipated reduction in federal administrative cost reimbursements. The House also made this change.

The section added by the House is included which provides that an essential telecommunications service includes access to directory assistance rather than local exchange directory assistance.

Engrossed SB 2008 was placed on the Seventh order of business on the calendar.

Failed

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

That the House recede from its amendments as printed on pages 871-873 of the Senate Journal and pages 952-954 of the House Journal and that Engrossed Senate Bill No. 2008 be amended as follows:

Page 1, line 2, after "49-01-05" insert "and subsection 3 of section 49-21-01"

Page 1, line 3, after "commissioners" insert "and the definition of essential telecommunications service"

Page 1, line 11, replace "4,389,004" with "4,533,989"

Page 1, line 12, replace "1,067,294" with "1,054,694"

Page 1, line 16, replace "9,202,101" with "9,334,486"

Page 1, line 17, replace "5,633,045" with "5,663,045"

Page 1, line 18, replace "3,569,056" with "3,671,441"

Page 2, after line 3, insert:

"SECTION 3. AMENDMENT. Subsection 3 of section 49-21-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Essential telecommunications service" means service that is necessary for switched access to interexchange telecommunications companies and necessary for two-way switched communications for both residential and business service within a local exchange area. A charge based on measured service may not be required for residential and business local exchange service. Essential telecommunications services are limited to:
 - a. Switched access;
 - b. Any new product or service offered in North Dakota after July 1, 1989, deemed essential by the commission after notice and hearing in accordance with chapter 28-32;
 - c. Billing and collection of the billing company's own essential telecommunications services and billing and collection recording for interexchange carriers to which the local exchange carrier provides feature group C access service;
 - d. Primary directory listing, including nonlisted and nonpublished service, and ~~local exchange~~ access to directory assistance;
 - e. Emergency 911 services and emergency operator assistance in local exchange areas in which emergency 911 service is not available;
 - f. Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas;

- g. Installation of the service connection for essential services from the end user's premises to the local exchange network;
- h. Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has direct inward dialing and necessary signaling service such as touchtone used by end users for essential telecommunications services;
- i. Single or multiparty flat-rate or measured residence and business service;
- j. Single or multiparty flat-rate or measured combination business and residence service; and
- k. The transmission service line for a coin or pay telephone."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

CONFERENCE COMMITTEE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMPARISON TO HOUSE VERSION
Salaries and wages	\$4,614,184	\$4,389,004	\$144,985	\$4,533,989	\$4,383,989	\$150,000 ¹
Operating expenses	1,074,694	1,067,294	(12,600)	1,054,694	1,054,694	
Equipment	71,311	71,311		71,311	71,311	
Grants	6,000	6,000		6,000	6,000	
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>	<u>3,668,492</u>	
Total all funds	\$9,434,681	\$9,202,101	\$132,385	\$9,334,486	\$9,184,486	\$150,000
Less special funds	<u>5,640,789</u>	<u>5,633,045</u>	<u>30,000</u>	<u>5,663,045</u>	<u>5,663,045</u>	
General fund	\$3,793,892	\$3,569,056	\$102,385	\$3,671,441	\$3,521,441	\$150,000
FTE	43.00	42.00	1.00	43.00	43.00	0.00

Detail of Conference Committee changes to the Senate version includes:

	RESTORE ATTORNEY POSITION ²	REDUCE OPERATING EXPENSES	FUNDING SOURCE CHANGE	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	\$144,985			\$144,985
Operating expenses	7,400	(\$20,000) ³		(12,600)
Equipment				
Grants				
AML contractual services				
Total all funds	\$152,385	(\$20,000)	\$0	\$132,385
Less special funds			<u>30,000</u> ⁴	<u>30,000</u>
General fund	\$152,385	(\$20,000)	(\$30,000)	\$102,385
FTE	1.00	0.00	0.00	1.00

Conference Committee changes narrative:

¹ The House made undesignated salaries and wages reductions of \$150,000. The Conference Committee did not make this reduction.

² Restores 1 FTE attorney position removed by the Senate. The House also restored this position.

³ Reduces operating expenses as follows, the same as the House version:

Office supplies	(\$10,000)
Travel	<u>(10,000)</u>
Total	(\$20,000)

⁴ Provides for a funding source change of \$117,027 rather than the \$147,027 approved in the executive budget and the Senate version relating to increasing the general fund support for the Public Service Commission as a result of an anticipated reduction in federal administrative cost reimbursements. The House also made this change.

The section added by the House is included which provides that an essential telecommunications service includes access to directory assistance rather than local exchange directory assistance.

Date: 4-10-99
Roll Call Vote #: 1

1999 CONFERENCE COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

~~House~~ Appropriations

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number SB 2008

Action Taken → Heather amends.

Motion Made By Rep. Heather Seconded By Sen. Tomac

Representatives	Yes	No	Senators	Yes	No
<u>Byerly</u>			<u>Holmberg</u>		
<u>Poolman</u>			<u>Sulberg</u>		
<u>Heather</u>			<u>Tomac</u>		

Reps. (Yes) 2 No 1

Sen. (Yes) _____ (No) 3

Floor Assignment _____

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

Date: 4-10-99
Roll Call Vote #: 2

**1999 CONFERENCE COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.**

~~House~~ , Appropriations _____

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number SB 2008

Action Taken Poolman Amends

Motion Made By Rep. Poolman Seconded By Rep. Byerly

Representatives	Yes	No	Senators	Yes	No
Byerly	✓		Holmberg		✓
Poolman	✓		Solberg		✓
Heather		✓	Tomac		✓

Reps. (Yes) 2 No 1

Sen. (Yes) _____ (No) 3

Floor Assignment _____

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

Date: 4-10-99
Roll Call Vote #: 3

1999 CONFERENCE COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House Appropriations

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number SB 2008

Action Taken Senate accede to house amends and further amend by elim. 1 unspec. FTE

Motion Made By Rep. Poolman Seconded By Rep. Byerly

Representatives	Yes	No	Senators	Yes	No
<u>Byerly</u>	✓		<u>Holmberg</u>	✓	
<u>Poolman</u>	✓		<u>Solberg</u>	✓	
<u>Seether</u>	✓		<u>Tomac</u>		✓

Reps. (Yes) 3 No _____

Sen. (Yes) 2 (No) 1

Floor Assignment Sen. Holmberg

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

REPORT OF CONFERENCE COMMITTEE

SB 2008, as engrossed: Your conference committee (Sens. Holmberg, Solberg, Tallackson and Reps. Byerly, Poolman, Huether) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 871-873, adopt further amendments as follows, and place SB 2008 on the Seventh order:

That the House recede from its amendments as printed on pages 871-873 of the Senate Journal and pages 952-954 of the House Journal and the Engrossed Senate Bill No. 2008 be amended as follows:

Page 1, line 2, after "49-01-05" insert "and subsection 3 of section 49-21-01"

Page 1, line 3, after "commissioners" insert "and the definition of an essential telecommunications service"

Page 1, line 11, replace "4,389,004" with "4,383,989"

Page 1, line 12, replace "1,067,294" with "1,054,694"

Page 1, line 16, replace "9,202,101" with "9,184,486"

Page 1, line 17, replace "5,633,045" with "5,663,045"

Page 1, line 18, replace "3,569,056" with "3,521,441"

Page 2, after line 3, insert:

"SECTION 3. AMENDMENT. Subsection 3 of section 49-21-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Essential telecommunications service" means service that is necessary for switched access to interexchange telecommunications companies and necessary for two-way switched communications for both residential and business service within a local exchange area. A charge based on measured service may not be required for residential and business local exchange service. Essential telecommunications services are limited to:
 - a. Switched access;
 - b. Any new product or service offered in North Dakota after July 1, 1989, deemed essential by the commission after notice and hearing in accordance with chapter 28-32;
 - c. Billing and collection of the billing company's own essential telecommunications services and billing and collection recording for interexchange carriers to which the local exchange carrier provides feature group C access service;
 - d. Primary directory listing, including nonlisted and nonpublished service, and ~~local exchange~~ access to directory assistance;
 - e. Emergency 911 services and emergency operator assistance in local exchange areas in which emergency 911 service is not available;
 - f. Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas;

- g. Installation of the service connection for essential services from the end user's premises to the local exchange network;
- h. Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has direct inward dialing and necessary signaling service such as touchtone used by end users for essential telecommunications services;
- i. Single or multiparty flat-rate or measured residence and business service;
- j. Single or multiparty flat-rate or measured combination business and residence service; and
- k. The transmission service line for a coin or pay telephone."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

CONFERENCE COMMITTEE - This amendment makes the following changes:

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	CONFERENCE COMMITTEE COMPARISON TO HOUSE VERSION
Salaries and wages	\$4,614,184	\$4,389,004	(\$5,015)	\$4,383,989	\$4,383,989	
Operating expenses	1,074,694	1,067,294	(12,600)	1,054,694	1,054,694	
Equipment	71,311	71,311		71,311	71,311	
Grants	6,000	6,000		6,000	6,000	
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>	<u>3,668,492</u>	
Total all funds	\$9,434,681	\$9,202,101	(\$17,615)	\$9,184,486	\$9,184,486	\$0
Less special funds	<u>5,640,789</u>	<u>5,633,045</u>	<u>30,000</u>	<u>5,663,045</u>	<u>5,663,045</u>	
General fund	\$3,793,892	\$3,569,056	(\$47,615)	\$3,521,441	\$3,521,441	\$0
FTE	43.00	42.00	0.00	42.00	43.00	(1.00)

Detail of Conference Committee changes to the Senate version includes:

	RESTORE ATTORNEY POSITION ¹	REDUCE SALARIES AND REMOVE AN UNDESIGNATED POSITION ²	REDUCE OPERATING EXPENSES	FUNDING SOURCE CHANGE	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	\$144,985	(\$150,000) ²			(\$5,015)
Operating expenses	7,400		(\$20,000) ³		(12,600)
Equipment					
Grants					
AML contractual services					
Total all funds	\$152,385	(\$150,000)	(\$20,000)	\$0	(\$17,615)
Less special funds				<u>30,000</u> ⁴	<u>30,000</u>
General fund	\$152,385	(\$150,000)	(\$20,000)	(\$30,000)	(\$47,615)
FTE	1.00	(1.00)	0.00	0.00	0.00

Conference Committee changes narrative:

¹ Restores 1 FTE attorney position removed by the Senate, the same as the House version.

² Reduces salaries and wages funding by \$150,000 and remove 1 FTE undesignated position. The House had reduced salaries and wages by \$150,000, but did not remove an FTE position.

³ Reduces operating expenses as follows, the same as the House version:

Office supplies	(\$10,000)
Travel	<u>(10,000)</u>
Total	(\$20,000)

⁴ Provides for a funding source change of \$117,027 rather than the \$147,027 approved in the executive budget and the Senate version relating to increasing the general fund support for the Public Service Commission as a result of an anticipated reduction in federal administrative cost reimbursements. The House also made this change.

The section added by the House is included which provides that an essential telecommunications service includes access to directory assistance rather than local exchange directory assistance.

Engrossed SB 2008 was placed on the Seventh order of business on the calendar.

(Bill Number) SB 2008 (, as (re)engrossed):

Your Conference Committee

Attendance	SENATORS	Vote	Attendance	REPRESENTATIVES	Vote
P	Holmberg	Y	P	Byerty	Y
P	Solberg	Y	P	Poolman	Y
A/P	Tomac	N	P	Huether	N

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
723/724 725/726 8724/8728 8723/8725
the (Senate/House) amendments on (SJ/HJ) page(s) _____ - _____

and place _____ on the Seventh order.
727

. adopt (further) amendments as follows, and place
_____ on the Seventh order:

having been unable to agree, recommends that the committee be discharged
and a new committee be appointed. 690/515

((Re)Engrossed) _____ was placed on the Seventh order of business on the
calendar.

DATE: 4, 13, 99

CARRIER: _____

LC NO. 98030 . 0212 of amendment

LC NO. _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

(1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE

SB 2008, as engrossed: Your conference committee (Sens. Holmberg, Solberg, Tomac and Reps. Byerly, Poolman, Huether) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 871-873, adopt amendments as follows, and place SB 2008 on the Seventh order:

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Page 1, line 3, after "commissioners" insert "and the definition of an essential telecommunications service"

Page 2, after line 3, insert:

"SECTION 3. AMENDMENT. Subsection 3 of section 49-21-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Essential telecommunications service" means service that is necessary for switched access to interexchange telecommunications companies and necessary for two-way switched communications for both residential and business service within a local exchange area. A charge based on measured service may not be required for residential and business local exchange service. Essential telecommunications services are limited to:
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 - d. Primary directory listing, including nonlisted and nonpublished service, and ~~local exchange~~ access to directory assistance;
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 - f. Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas;
 - g. Installation of the service connection for essential services from the end user's premises to the local exchange network;
 - h. Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has direct inward dialing and necessary signaling service such as touchtone used by end users for essential telecommunications services;

- i. Single or multiparty flat-rate or measured residence and business service;
- j. Single or multiparty flat-rate or measured combination business and residence service; and
- k. The transmission service line for a coin or pay telephone."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

DEPARTMENT 408 - PUBLIC SERVICE COMMISSION

CONFERENCE COMMITTEE - This amendment makes the following changes:

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Operating expenses	1,074,694	1,067,294		1,067,294	1,054,694	12,600
Equipment	71,311	71,311		71,311	71,311	
Grants	6,000	6,000		6,000	6,000	
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>	<u>3,668,492</u>	
Total all funds	\$9,434,681	\$9,202,101	\$0	\$9,202,101	\$9,184,486	\$17,615
Less special funds	<u>5,640,789</u>	<u>5,633,045</u>		<u>5,633,045</u>	<u>5,663,045</u>	<u>(30,000)</u>
General fund	\$3,793,892	\$3,569,056	\$0	\$3,569,056	\$3,521,441	\$47,615
FTE	43.00	42.00	0.00	42.00	43.00	(1.00)

Conference Committee changes narrative:

The section added by the House is included which provides that an essential telecommunications service includes access to directory assistance rather than local exchange directory assistance.

Funding and FTE positions are provided at the Senate level. The House had restored the FTE attorney position and related funding removed by the Senate, reduced salaries and wages funding by \$150,000, reduced operating expenses by \$20,000, and made a \$30,000 funding source change from the general fund to federal funds.

Engrossed SB 2008 was placed on the Seventh order of business on the calendar.

1999 TESTIMONY

SB 2008

S.B. 2008

Presented by: **Jon Mielke, Executive Secretary**
 Public Service Commission

Before: **Senate Committee on Appropriations**
 Senator David E. Nething, Chairman

Date: **January 19, 1999**

TESTIMONY

Chairman Nething and committee members, my name is Jon Mielke. I am the executive secretary of the Public Service Commission. The Commission urges your favorable support of Governor Schafer's budget proposal for our agency.

Other than the compensation adjustments included in the Governor's budget, his recommendation for the Commission is a "status quo" operating plan. All but about \$7,500 of the increase proposed in the Governor's budget is in the salary line item. Employee numbers remain constant at 43 FTEs.

Despite the overall "status quo" nature of the Commission's proposed budget, it does reflect a reduction in federal cost recovery and a corresponding increase in general fund spending.

The executive budget summary indicates that the proposed budget, excluding the 1999-2001 compensation package, reflects a \$229,121 increase in general fund spending and a 3.5 percent increase in overall spending. The table at the top of the following page itemizes the costs that contribute to the general fund increase in the Governor's budget.

General Fund Cost Components

1997 Legislative Salary Adjustments	\$ 24,820
OMB Fringe Benefit Recalculations	\$ 14,480
Information Technology Plan - Implementation	\$ 8,900
Vehicle Replacement Costs on Federal Mileage	\$ 6,642
Testing & Licensing Mileage & Per Diem	\$ 17,975
Federal Cost Recovery – Legal Counsel & Indirect Costs	\$181,425
Central Services & Miscellaneous	<u>(\$ 25,121)</u>
Total	\$229,121

As this list indicates, the single biggest item in the proposed general fund increase involves federal cost recovery. Much of this amount relates to costs associated with legal services provided by the Commission's two attorneys.

In the past, these costs were allocated to various programs on a formula basis based on each program's direct costs as a proportion of the agency's overall direct costs. For example, if the grain elevator program accounted for five percent of the Commission's total direct costs, it was also assessed costs equal to five percent of the costs associated with in-house attorneys. Under this approach, the Commission's two mining divisions were paying approximately forty percent of the costs associated with the Legal Division. Most of this payment came from federal funds.

This approach was reasonable when the reclamation and abandoned mine land programs were in their formative stages. These programs have matured and now require far less legal staff time than they once did. Conversely, there has been a dramatic increase in the amount of time that the Commission's two attorneys spend on public utility matters.

Federal legislation and structural changes in the telecommunication and electric industries have prompted the Legislature to appoint two committees to study related issues. Similarly, the Commission is devoting more staff resources to handle the transition into the evolving utility market. Utility executives who testified during 1995-96 interim study hearings on Commission activities astutely and accurately predicted this occurrence.

A copy of that interim report's findings is attached to our testimony. Concerning public utilities related work, the report said:

- “Although the role of state regulation has not been determined, representatives of various utilities testified that the regulatory role of the commission may be more significant in the future.”
- “Representatives of the telecommunications industry testified that the Public Service Commission will be facing additional responsibilities in the near future as a result of the Federal Telecommunications Act of 1996.”

In recognition of the shifting demands for staff resources, the Commission undertook a time study to determine exactly which programs were demanding attorney staff time. The study found that the traditional method of allocating attorney costs to various programs is producing unreasonable results. As is the case with the Legislature, far more staff resources are being devoted to evolving electric and telecommunication issues.

To address this finding and to more accurately assign costs, the Commission's proposed budget allocates attorney expenses based on documented estimates of how much time will be required by each program. This reallocation results in a partial shift from federal to general fund financing to pay for services rendered by the Commission's Legal Division. The net impact of this shift is a \$124,000 increase in general fund spending.

The approach that the Commission is proposing to allocate legal service costs to each of its various programs is similar to the method used by the Attorney General's Office and the Office of Administrative Hearings to bill agencies for services rendered. This reallocation was included in the Commission's 95 percent budget proposal to the Governor. It is also included in Governor Schafer's executive budget recommendation.

Other than this federal cost recovery item and salary and fringe benefit compensation adjustments, the only significant cost increase in the Commission's budget relates to travel costs for the Commission's Licensing and Testing & Safety Divisions. The Licensing Division's share of this \$17,975 increase relates to a new grain elevator inspector position authorized by the 1997 Legislature. With the expectation that this new position would not be filled immediately at the start of this biennium, the Commission's 1997-99 budget only included travel for this position for about eighteen months. Additional money will be needed to fund related travel for the upcoming biennium. Much of this cost is already being recovered through a grain elevator license fee increase that was implemented in 1997 and tied to the hiring of a second inspector.

The remainder of this travel increase relates to the Commission's weights and measures program. Fleet Services is planning to increase the size of vehicles used by the Commission's three "light duty" inspectors. This change is needed to make the vehicles correspond more closely to the payloads that are being transported. These larger vehicles will have slightly higher operating costs than the vehicles that are currently being used.

Mr. Chairman, a number of items related to the Commission's jurisdictions are attached to my testimony. In addition to the findings of the 1995-96 interim study that I referred to earlier, we have also attached a copy

of the Commission's organizational chart and a brief description of each of the Commission's major programs.

The Commission's major programs include:

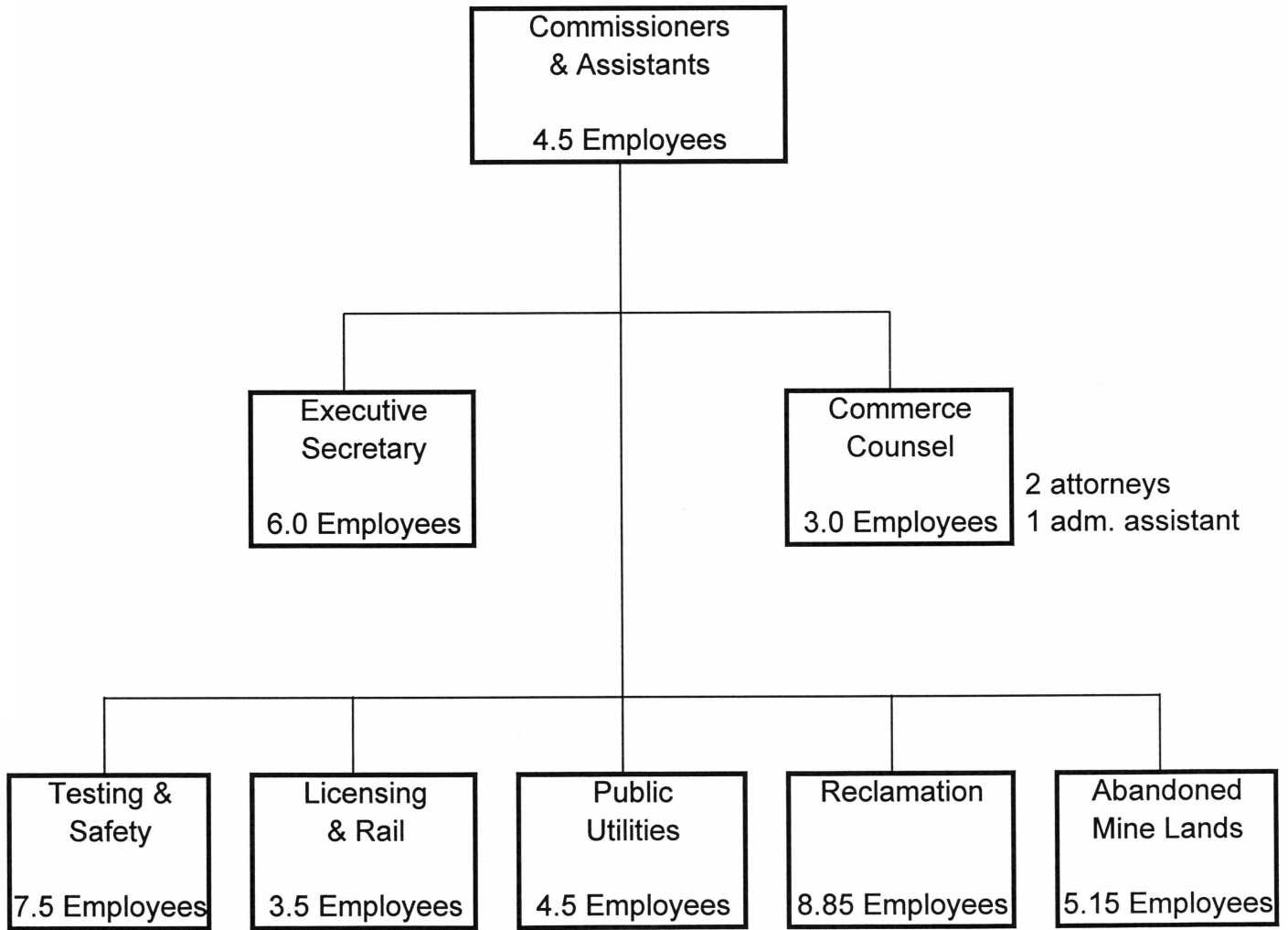
- Public utility regulation (telecommunications, electricity, & natural gas)
- Licensing (grain elevators, auctioneers, & railroad matters)
- Testing & Safety (weights & measures, metrology, & pipeline safety)
- Reclamation (lignite mining permits & post-mining reclamation)
- Abandoned Mine Lands (eliminate hazards at abandoned mine sites)

Mr. Chairman, given your committee's familiarity with the Commission, I will not discuss these programs in detail. I would, however, be happy to respond to any specific questions that you might have.

Mr. Chairman, that concludes our testimony. We urge your favorable support of the Governor's recommended budget for the Commission. I would be happy to respond to questions.

Public Service Commission

Organizational Chart



Full-time Employees: 43

January 1, 1999

Program Identification

Public Service Commission

The Public Service Commission is a constitutional agency with varying degrees of statutory authority over:

- Electric and Gas Utilities
- Telecommunication Companies
- Energy Plant & Transmission Line Sitings
- Railroads
- Grain Elevators
- Auctioneers & Auction Clerks
- Weighing & Measuring Devices
- Pipeline Safety
- Coal Mine Reclamation

The following paragraphs discuss related programs, issues, and staffing:

Public Utility Regulation – (telephone, electricity, & natural gas) - regulate services and rates and investigate consumer complaints. The Public Utilities Division has 4.5 FTEs. The Commission's two attorneys also devote a large amount of their time to this division's activities.

Public utility regulation is in a state of change. The Legislature is aware of this transition and has established two committees to monitor and guide the evolutionary process.

Weights & Measures – insure the accuracy of the procedures and equipment used by commercial scale and pump service companies (metrology) and the accuracy of scales and pumps that are used to govern commercial transactions in North Dakota. The Commission's Testing & Safety Division has 7.5 FTEs. Five of these employees are inspectors who are stationed around the state to test commercial weighing and measuring devices. This division is also responsible for the Commission's pipeline safety program.

The metrology service provided by the Testing & Safety Division are not available locally. If they were not provided by the PSC, the state's commercial service companies would have to travel out of state to have their weights certified. The 1995 Legislature appropriated a substantial amount of money to upgrade the metrology laboratory to meet federal standards.

The weights and measures services provided by the Commission are available from local commercial sources. These companies do, however, charge two to three times more than the statutorily mandated fees charged by the Commission. This program produces about \$475,000 in general fund income each biennium.

Licensing – license and regulate grain elevators and auctioneers and inspect grain elevators to protect the interests of farmers who sell grain to or store grain in state licensed elevators. The Commission’s Licensing Division has 3.5 FTEs; two of which are grain elevator inspectors.

At the urging of the North Dakota Grain Dealers Association, the 1997 Legislature gave the Commission one additional FTE to increase its inspection staff from one to two. The cost of this additional position was financed by a \$100 increase in grain elevator license fees. If this position is eliminated, the statute provides for reducing fees to their former level.

Mine Reclamation – review and approve coal mining applications, regulate mining activities to ensure environmental compliance and protect surrounding property, and monitor post-mining reclamation work to insure that land is returned to pre-mining productivity levels. The Commission’s Reclamation Division has 8.85 FTEs.

Permit reviews, inspections, and post-mining monitoring work can be done by either federal or state inspectors. Without adequate state funding, the program would be taken over by the federal government. At the urging of the Lignite Energy Council, the 1997 Legislature responded to a reduction in federal cost sharing by increasing the state’s contribution to the program by approximately \$100,000. The federal government still pays for about two-thirds of the program’s costs.

Abandoned Mine Reclamation – prioritize hazards associated with sites that were mined prior to the enactment of current reclamation laws and utilize available funds and private contractors to eliminate the most hazardous sites. The Commission’s AML Division has 5.15 FTEs. This program is 100% federally funded.

Administration – provide personnel, accounting, computer, and legal support services to the Commission and each of its divisions. Nine FTEs, including the two attorneys mentioned earlier, support this administrative function. The three commissioners and their half-time administrative assistants account for the agencies remaining 4.5 FTEs.

Administrative functions provide no direct services to the public. They do, however, make it possible for other programs to operate. The Commission’s administrative service core, along with its Legal Division, includes 9.0 FTEs. These functions have been reorganized on at least two occasions in recent years. In 1993, 12.5 FTEs were assigned to administrative work.

Interim Study Findings

The Commission was the subject of a comprehensive interim legislative study during the 1995-97 biennium. The Government Operations Committee met nine times and received over sixteen hours of testimony concerning the Commission's functions and the need for continuing regulation in various industries. The Committee reviewed each of the Commission's major areas of responsibility.

The Committee received testimony from the Commission, industry, other agencies, and the public and forwarded five related legislative proposals to the Legislature. The following are excerpts from the Committee's report:

- Concerning electric and natural gas utilities, the report stated, "Although the role of state regulation has not been determined, representatives of various utilities testified that the regulatory role of the commission may be more significant in the future."
- In the area of telecommunications, the Committee reported, "Representatives of the telecommunications industry testified that the Public Service Commission will be facing additional responsibilities in the near future as a result of the Federal Telecommunications Act of 1996."
- Regarding the Commission's Reclamation Division, the report said, "Because federal participation in the reclamation program is expected to decrease after July 1, 1997, the federal share of the reclamation budget will likely decrease by nearly \$100,000."
- In the area of eliminating hazards at abandoned mine sites in North Dakota, the Committee reported that, "Representatives of the lignite industry and representatives of environmental interests testified that the reclamation activities undertaken by the commission have been successful."
- Concerning the auction industry, "The committee received testimony indicating that auctioneers are satisfied with the licensing arrangement."
- In the area of grain elevators, the report noted that, "The commission focuses its inspections on elevators that are not inspected by the Federal Commodity Credit Corporation. However, because of the decline in the number of elevators that are choosing to store grain covered by the Federal Commodity Credit Corporation, the number of elevators inspected by the commission is increasing. The committee received testimony indicating

that the Public Service Commission has a good relationship with operators of grain elevators.”

- Regarding the testing of commercial scales and pumps, the report said, “The committee received testimony indicating that the weights and measures functions of the Public Service Commission generally are not in competition with private scale companies. Testimony from the scale industry and others indicated that the commission had an important role to play with respect to its weights and measures activities.”

The Commission feels that this review was healthy and worthwhile. It helped committee members and the Commission focus on the agency’s statutory mandates and activities. It also gave industry and the public an opportunity to report on the need for and the effectiveness of the Commission’s programs and services.

5 15 2008

FEB 3 - 1999



Public Service Commission

State of North Dakota

Memorandum

To: Allan Knudson, Legislative Council
From: Mike Diller, Director of Accounting *MD*
Date: February 2, 1999
Re: Attorneys Operating Expenses

The legal division is comprised of two Attorney III positions and one Administrative II position. The commission requested \$22,085 in operating expenses for the 1999-2001 biennium. Eliminating one attorney would result in about \$7,400 in operating expense savings during the next biennium. These saving would include such costs as license fees, travel, dues, telephone and port charges, miscellaneous supplies, paper and postage.

Because our attorneys fill the role of hearing examiner for many of our legal proceedings, staff believes that eliminating an attorney's position will require additional funding for services from the Office of Administrative Hearings (OAH). The OAH bills its hearing examiner out at about \$60 per hour. If the commission is expected to operate with one attorney, staff estimates requiring a minimum of 600 hours of service from OAH at a cost of \$36,000 for the 1999-2001 biennium.

Similarly, the commission would expect to procure a minimum of 600 hours of service from the Office of Attorney General for legal proceedings requiring more than one attorney and other work as needed. Again, the cost of such services is estimated at about \$36,000 (600 hours times \$60/hour) for the 1999-2001 biennium. The estimate assumes services can be procured from the Office of Attorney General. Estimated costs would be significantly higher in the event outside counsel is required.

In the final analysis, eliminating one attorney's position will save about \$145,000 in salaries and fringe benefits during the next biennium. However, the savings in salaries and fringe benefits should be offset by an increase in operating expenses of approximately \$64,600 for additional operating expenses required. In conclusion, the total estimated savings of \$80,400 associated with eliminating one attorney's position assumes a significant loss in legal services currently provided and needed by the commission.

C: Commissioners
Jon Mielke, Executive Secretary
Bill Binek, Chief Counsel
Chuck Johnson, Commission Counsel

**NORTH DAKOTA PSC
MAJOR VALUATION FUND EXPENDITURES
7-1-97 THROUGH 12-31-98**

PU-453-96-82, AT&T Local Service Deregulation Request:
PU-987-96-385, Sprint Local Service Deregulation Request:
(These two dockets were combined.) 9-15-98: \$4,219.56

OUTCOME: No Decision. These requests were withdrawn by AT&T and Sprint before a hearing was held.

PU-314-97-12, U S WEST Interconnection/Wholesale Price
Investigation: 7-16-97: \$19,448.73
11-5-97: 21,484.97
3-11-98: 17,216.07
6-17-98: 8,646.53
\$66,796.30

OUTCOME: No Decision. The docket was "indefinitely continued"
by the PSC.

PU-314-97-465, Universal Service Cost Model Investigation: 3-11-98: \$16,308.87
6-17-98: 10,645.46
\$26,954.33

OUTCOME: No Decision. The docket was closed by the PSC with
a report to the FCC stating that they were not selecting a model at this time.

GRAND TOTAL: Decisions: 0

Expenditures:\$97,970.19

S.B. 2008

Presented by: Jon Mielke, Executive Secretary
Public Service Commission

Before: House Committee on Appropriations
Government Operations Division
Representative Rex Byerly, Chairman

Date: March 2, 1999

TESTIMONY

Chairman Byerly and committee members, my name is Jon Mielke. I am the Public Service Commission's executive secretary. I am also the director of the Commission's Licensing Division and its primary staff person on railroad matters. We welcome the opportunity to meet with you to discuss our operations, statutory mandates, and resource needs.

Governor Schafer recommended a "status quo" budget for the Commission. The equipment and operating line items showed a combined increase of \$7,529; an increase of less than 7/10th of one percent. Employee numbers remained constant at 43 FTEs. The Commission endorsed that budget in its testimony before the Senate.

The Senate amended the Governor's budget by deleting one of the Commission's two attorneys. We strongly believe that this action would cripple the agency. It would have a detrimental impact on the citizens of North Dakota and on the industries that the agency regulates. The Commission respectfully requests that this position be restored. A corresponding amendment is attached to our testimony.

The Legislature has given the Commission responsibilities in twelve areas. These duties include:

- Public Utilities (telecommunications, electricity, natural gas, & siting of energy production and transmission facilities)
- Licensing (grain elevators, auctioneers, & railroad matters)
- Testing & Safety (weights & measures, metrology, & pipeline safety)
- Reclamation (lignite mining permits & post-mining reclamation)
- Abandoned Mine Lands (eliminate hazards at abandoned mine sites)

A copy of the Commission's organizational chart and a fuller description of these programs are attached to our testimony.

The Commission was the subject of an interim study during the 1995-97 biennium. The Government Operations Committee met nine times and received over sixteen hours of testimony concerning the Commission's functions and the need for continuing regulation. Five related legislative proposals were forwarded to the 1997 Legislature.

Excerpts from the Committee's report are attached to our testimony. Among other things, the report said:

- "Although the role of state regulation has not been determined, representatives of various utilities testified that the regulatory role of the commission may be more significant in the future."
- "Representatives of the telecommunications industry testified that the Public Service Commission will be facing additional responsibilities in the near future as a result of the Federal Telecommunications Act of 1996."

North Dakota's Public Service Commission has the broadest jurisdiction and one of the smallest staffs of any state regulatory agency in the country. From 1994 to 1997, the Legislature trimmed the Commission's staff from 50 to 45 FTEs. The Commission went beyond the Legislature's mandates and reduced its staff to 42 FTEs.

Because of federal actions that increased workloads in various areas, the Legislature, with industry support, authorized 43 FTEs for the current biennium; these positions are all currently filled. The Governor is recommending 43 FTEs for the upcoming biennium. The Commission concurs.

The Senate acted to cut the Commission from 43 to 42 FTEs by eliminating one of the agency's two attorney positions. The Commission believes that this action must be reversed; we simply cannot function adequately with only one attorney. As the following summary indicates, regulatory attorney numbers in surrounding states range from a low of three in South Dakota to a high of fifteen in Minnesota and Iowa.

Attorney Staffing in Upper Midwest Regulatory Agencies

North Dakota	2
South Dakota	3
Wyoming	4 + AG on Appeals
Idaho	5
Montana	3 + 3 Consumer Advocates
Minnesota	4 + 11 AG & Consumer Advocates
Iowa	5 + 10 Consumer Advocates

The Commission was criticized in Senate floor testimony for its inaction in three recent telecommunications cases. Given the fact that the cases did not result in the issuance of substantive orders, the Senate apparently concluded that the agency is inefficient and ineffective and that it could therefore function with only one attorney.

These cases are discussed in an attachment to our testimony. In summary, we simply want to point out that two of these cases were closed when the applicants decided not to enter the local telephone service market. Naturally, no orders were issued. The third case involved a Federal Communication Commission Universal Service proceeding. This case is temporarily on hold pending final action by the FCC. The lack of final orders in these cases does not justify the elimination of one of the Commission's two attorneys.

The Commission handles nearly 1,200 cases per biennium. Many of the contentious issues that come before the Legislature also come before the Commission. Recent major cases include:

- Five disputes and subsequent court appeals involving the Territorial Integrity Act;
- Numerous federal Telecommunications Act cases that were needed to allow the flow of federal Universal Service Fund monies back to state companies, schools, libraries, and low income customers;
- Two major interconnection arbitration disputes and subsequent federal court appeals involving US West, Western Wireless, and AT&T;
- The siting of Basin Electric's carbon dioxide pipeline from Beulah to the Canadian Border;

- Numerous reclamation complaints involving landowners and mining companies.
- A negotiated settlement that resulted in annual rate savings of \$800,000 for MDU natural gas customers and a similar negotiated settlement involving Great Plains Natural Gas customers in Wahpeton; and
- Several cases before the federal Surface Transportation Board – cases that may ultimately result in lower rail rates and better service for the state’s grain elevator industry.

At least one of the Commission’s two attorneys was involved in every one of these cases. They also provide counsel to the Commission and its staff on cases that do not go to hearing and on many day-to-day issues that come before the agency.

The Commission’s attorneys also serve as hearing officers in most of the agency’s formal hearings. Using a staff attorney as the hearing officer saves money. If outside hearing officers are used, costs are incurred at a rate of approximately \$60 per hour. Parties do have the right to request a different hearing officer if they are not comfortable with the one that has been assigned to preside over their case but no one has made such a request in several years.

Despite what some people might think, the Commission initiates very little litigation. Litigation almost always results because two companies or a company and one of its customers come before the Commission seeking resolution to a dispute. Of the nearly 1,200 cases that were brought before the Commission during the last biennium, 99 percent were processed without a formal hearing.

Of the remaining cases, most involved both an applicant and one or more protestants. Both sides are typically represented by their own attorneys. In these cases, the Commission hears from both sides and then issues an order. Both of the Commission's attorneys are typically involved – one as counsel to the Commission and one as the hearing officer. As with recent Territorial Integrity Act case, the losing party sometimes appeals the Commission's order to district court or all the way to the Supreme Court. The Commission's attorneys also represent the Commission in these appeals.

The Commission's staff did initiate litigation in one major case during the past year. In that case, a staff rate of return audit prompted a complaint filing against one of the state's major investor-owned utilities. A settlement was reached before the case went to hearing. As a result of the settlement, the utility's North Dakota ratepayers will save \$800,000 per year. Both of the Commission's attorneys were involved in this case.

Cutting the Commission's Legal Division in half will result in numerous delays and will frustrate both the companies and the customers who come to the agency with applications or complaints. Work would have to be reprioritized and some could go undone.

With only one attorney, the Commission would not have an attorney to serve as a hearing officer. Despite the elimination of the attorney position, the Senate did not increase the agency's operating line item to permit the hiring of hearing officers. Formal Commission hearings would, therefore, be conducted without a legally trained hearing officer. More court appeals would be a likely result.

With only one attorney, it is also likely that proceedings would be delayed until the one remaining attorney had time to prepare for cases. Company applications and consumer complaints could experience significant delays.

Federal law provides that some telecommunication cases may be heard either by the state or a corresponding federal agency. With a 50 percent reduction in attorneys, the Commission may be forced to refer these telecommunications cases to the FCC. Participating parties will experience related delays and cost increases.

A similar occurrence may result in areas where state law makes Commission actions permissive. In railroad matters, for example, state law says that the Commission "may" represent state shipping interests in federal proceedings. Over the years, the Commission has been extremely active in cases before the Surface Transportation Board. The loss of an attorney could curtail this activity.

The Commission also wants to clarify that it does not have three attorneys. It does have three staff members who have law degrees but only two of them fill attorney positions and have been appointed to serve as a Special Assistant Attorney General. The third is the director of the Commission's public utilities division. This is a full-time, non-attorney position. This person cannot assume an attorney's responsibilities if one of the Commission's two attorney positions is eliminated. She is qualified to do so but she already has a full-time job.

As we indicated earlier, the Commission believes that the Governor's recommended budget for the agency is a "status quo" proposal. It calls for the continuation of all the programs reviewed

during the 1995-97 interim study and does not provide for any new or expanded programs or any additional FTEs.

It is important to note, however, that the Governor's budget did reflect a reduction in federal cost recovery and a corresponding increase in general fund spending. This reduction relates primarily to a loss in federal funding to pay for some of the work that is done by the Commission's legal staff.

Federal legislation and structural changes in the telecommunication and electric industries have prompted the Legislature to appoint two committees to study related issues. Similarly, the Commission is devoting more staff resources to handle the transition into the evolving utility market.

Costs must be assigned to where costs are incurred. In this case, costs that were previously incurred in federal programs are now being incurred in a program that is not federally funded. The budget before you reflects that reality.

Mr Chairman, the Commission also wants to inform your committee that it may be approaching the Emergency Commission in the near future. The Commission may seek authorization to accept and expend federal funds to do reclamation work at two abandoned mine sites in western North Dakota and to contract with the North Dakota One-Call Board to promote the use of the Board's new "call-before-you-dig" line identification and warning system. These projects have a combined price tag of about \$60,000. They are 100 percent federally funded.

In closing, the Commission would like to point out that confrontation is often the nature of the Commission's business. A

utility may want a rate increase but ratepayers don't. One company may want a license to serve but a competitor wants to keep them out. The Commission is called on to render decisions in these cases. Regardless of the outcome, someone is usually dissatisfied.

The evolving environment in the utility industry may eventually lead to more consumer choices. However, until effective competition and consumer choice is a reality, the Commission must be available to resolve disputes between companies, to oversee rates on essential monopoly services, and to handle customer complaints.

The Commission needs resources to do the work that the Legislature has assigned to it. We urge your favorable support of the Senate's budget proposal for the Commission with the exception that we strongly encourage the restoration of the attorney position and related operating costs that are reflected in the attached amendment.

Mr. Chairman, that concludes our testimony. I would be happy to respond to questions.

Proposed Amendment to First Engrossment of Engrossed S.B. 2008
(Amendment to restore one attorney position with related operating costs)

Page 1, line 11, replace "4,389,004" with "4,533,989"

Page 1, line 12, replace "1,067,294" with "1,074,694"

Page 1, line 16, replace "9,202,101" with "9,354,486"

Page 1, line 18, replace "3,569,056" with "3,721,441"

Renumber accordingly

“No Decision” Telecommunication Cases

Local Service Deregulation

This docket was opened when AT&T asked to deregulate its provision of facilities-based local service. US WEST intervened and opposed the application. After the docket was opened and a consultant hired to determine if there was a “sufficiently competitive market,” Sprint joined in the application for deregulation. When AT&T later indicated no pressing interest to enter the local market, there was no need to proceed. Both Sprint and AT&T eventually withdrew and the docket was closed. The consultant prepared a final report, which is on file with the Commission. The report was presented to the RRRC through testimony by the PSC.

Interconnection Cost Docket

AT&T and U S WEST arbitrated an interconnection agreement before the PSC, resulting in interim interconnection rates. The cost docket was opened to determine final interconnection rates. Eventually, AT&T abandoned plans to enter the facilities based local service market here so it was not necessary to continue the study. U S WEST agreed that the study should end.

The cost of the study exceeded the initial estimate because the parties kept changing their cost models in response to the criticism of the other party. Much of the information gathered in the study was incorporated into the Universal Service study discussed below. The expense would not have been necessary had U S WEST reached an agreement with AT&T on interconnection rates.

The cost information was presented to the RRRC and remains available as a valuable resource for when North Dakota considers a state universal service fund.

Universal Service Cost Model

The docket was opened in response to the FCC’s alternative that a state commission identify a universal service cost model for U S WEST, or default to the FCC’s cost model. Industry encouraged a North Dakota cost model rather than FCC cost model, so the Commission opened a docket to determine universal service support for U S WEST.

While the study was ongoing, the FCC proposed 25/75 universal service program came under heavy criticism so the FCC delayed its universal service decision, and has yet to finalize its decision. The Commission eventually determined that

it would be best not to pick a specific cost model until after the FCC finalized its model. U S WEST did not object.

The evidence gathered in this investigation will be put to use as the federal and state universal service issues evolve. The case remains open pending the FCC's final definition of the federal fund. The study will benefit U S WEST and is only temporarily on hold. The cost information was shared with the RRRC and will prove valuable not only when the FCC finalizes its universal service plan but when North Dakota considers a state universal service plan.

Summary

In summary, the Commission considered 3 cases, two of which ended at the request or with the agreement of the parties that caused the cases. The third is temporarily on hold awaiting FCC action.



NORTH DAKOTA GRAIN DEALERS ASSOCIATION

STEVEN D. STREGE, Executive Vice President
ANN KORZENDORFER, Assistant Secretary
Ph: 701-235-4184, Fax: 701-235-1026
606 Black Building, Fargo, ND 58102

LARRY PHILLIPS, Safety & Health Director
Ph: 701-251-9112, Fax: 701-251-1758
P.O. Box 5055, Jamestown, ND 58402-5055

TESTIMONY ON SB 2008, PSC BUDGET – 3/2/99
ND HOUSE APPROPRIATIONS COMMITTEE
GOVERNMENT OPERATIONS DIVISION, REX BYERLY, CHAIRMAN

Good morning Mr. Chairman and members of the committee. My name is Steve Strege. I am the Executive Vice President of the North Dakota Grain Dealers Association, which is an 88 year old voluntary membership organization in which more than 90% of our state's grain elevators hold membership.

I'm here today to tell you of our strong support and the need for restoration of funding in the PSC's budget to cover that second attorney position. The PSC has many responsibilities. One of the most important to grain elevators and farmers is representing the state's interests with the railroads and at the federal Surface Transportation Board (STB). In just the past 18 months the PSC has played a lead role in defending North Dakota's interests in about a half-dozen proceedings at the STB. The Grain Dealers Association has also been a party to those proceedings, along with the Wheat Commission on some instances. Here are a couple examples.

At this very moment our PSC is involved in the Canadian National-Illinois Central merger case for the interests of North Dakota farmers and grain elevators. The battle is over maintaining a Chicago gateway for Canadian Pacific to ship grain from our state and others via the IC to destinations along the Gulf of Mexico. A realistic fear is that if merger conditions are not imposed to protect North Dakota's interests, the CN-IC will quite naturally give preference to its own grain gathered in Canada, effectively shutting off, or at the very least restricting ND access to that market. This could adversely affect elevators on the BNSF too, because CP could not be as competitive without this market access. The case may mean a trip to Washington, DC to participate in oral arguments at the STB. Adequate funding and staffing of PSC is necessary to continue aggressive participation in such important matters.

In mid-1998 the PSC, Grain Dealers, and Wheat Commission filed comments in an STB proceeding regarding product and geographic competition in the market dominance test. This removes a significant roadblock to North Dakota challenging grain rail rates that are excessive by any measure – in absolute terms, by car-mile, by comparison to rates from other areas which are similar distances from the same market, and more. Compared to rail industry averages, North Dakota is being overcharged something like \$100 million or more per year in rail grain freight rates. In December the STB did rule in our favor. The railroads have appealed. And the rest of us, including PSC, are back in there defending North Dakota's interests.

In just one 1998 STB proceeding there were 22 attorneys working on the Association of American Railroads' comments. North Dakota cannot afford to cut back to one, and then saddle him with all the other routine legal work of the Commission. This would be pennywise and pound-foolish, effectively tying one hand behind our back before engaging in these cases.

Current PSC staff dealing with these matters have strong backgrounds and expertise in them. We need to keep them working for us, and to do that requires adequate funding. Anything less would cost us more in the end. Trying to deal with these matters by contracting with outside lawyers on a piecemeal basis puts an inexperienced team on the field, at likely greater cost. Captive agricultural shippers and farmers like those of our state need the people and resources to speak boldly on their behalf.

We are not seeking a free ride at taxpayers' expense in this regard. Our Association and its member elevators have committed considerable resources to these issues. In the past 18 months we've sent representatives to Washington, DC at least ten times to testify at hearings or be involved in other meetings on these rail matters. PSC could have, probably should have, been there too at times. Existing PSC budget constraints prevented that. Further cutbacks will further curtail PSC's ability to respond and jeopardize the gains we've made.

I'll be happy to respond to any questions.

BEFORE THE
SURFACE TRANSPORTATION BOARD

STB Ex Parte No. 575

REVIEW OF RAIL ACCESS AND COMPETITION ISSUES

COMMENTS OF THE ASSOCIATION OF AMERICAN RAILROADS

Of Counsel:

JEFFREY R. MORELAND
RICHARD E. WEICHER
The Burlington Northern and Santa Fe
Railway Company

JEAN PIERRE OUELLET
Canadian National Railway Company

MARCELLA W. SZEL
TIMOTHY MULCAHY
Canadian Pacific Railway Company

TIMOTHY T. O'TOOLE
CONSTANCE L. ABRAMS
Consolidated Rail Corporation

P. MICHAEL GIFTOS
DOUGLAS R. MAXWELL
CSX Transportation, Inc.

RONALD A. LANE
MYLES L. TOBIN
Illinois Central Railroad Company

RICHARD P. BRUENING
W. JAMES WOCHNER
Kansas City Southern Railway Company

JAMES C. BISHOP, JR.
GEORGE A. ASPATORE
Norfolk Southern Railway Company

JAMES V. DOLAN
ARVID E. ROACH II
Union Pacific Railroad Company

LOUIS P. WARCHOT
KENNETH P. KOLSON
Association of American Railroads
50 F Street, N.W.
Washington, D.C. 20001

SAMUEL M. SIPE, JR.
ANTHONY J. LaROCCA
CAROLYN D. CLAYTON
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036-1795
(202) 429-6486

Counsel for the Association of
American Railroads

March 26, 1998



NORTH DAKOTA
PUBLIC EMPLOYEES ASSOCIATION

83 EAST BROADWAY AVE, SUITE 1220
BISMARCK, NORTH DAKOTA 58501-3396

701-223-1964
1-800-472-2698

AMERICAN FEDERATION
OF TEACHERS LOCAL 4660 AFL-CIO



EMAIL: ndpea@btigate.com
WEBSITE: www.ndpea.org

TESTIMONY ON SB 2008
Before the House Appropriations Government Operations Division
North Dakota Public Employees Association, AFT Local 4660

March 2, 1999

Chairman Byerly, members of the House Appropriations Government Operations Division, my name is Chris Runge and I am the Executive Director of the North Dakota Public Employees Association. I am here requesting reinstatement of funding for the attorney position that was removed by the Senate in SB 2008. While it is certainly within the purview of the North Dakota Legislature to decide how individual agencies will be funded, it seems that in this particular case, something other than funding concerns motivated the removal of Mr. Chuck Johnson's position.

Our concern is quite simply this: Can a public employee who runs afoul of a particular legislator while doing his or her job now be terminated from their job simply by eliminating the specific position from an agency budget? If this is the case, it will indeed have a chilling effect on many public employees who have day to day contact with business and citizens across the state of North Dakota. For example, will an auditor for the Tax Department face elimination of his job if he audits a powerful business with legislative connections?

The precise purpose of the protected employee status of state employees was initiated in order to insulate state employees from politics, in order to provide consistent services to the citizens of North Dakota. It is the very essence of the classified service to protect public employees from outside political

Quality Services from Quality People

Testimony

influence on how they do their jobs. The very underpinnings of the classified service will be forever altered if this decision stands. Now state employees will have to think twice about assessing taxes, fines or prosecuting cases because in the back of their minds they will be thinking that this might be the case that will eliminate their position from the next budget.

State employees face many challenges in their everyday jobs. State employees try to do their very best each and every day on the job. It is no less the case with Mr. Chuck Johnson. He did his job. His bosses are very supportive of the job he does, but yet he now faces termination from that job with absolutely no right to appeal, no legal recourse.

NDPEA requests that funding for the attorney position is reinstated in SB 2008.

Thank you and I am available to answer any questions you may have.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 1, line 3, after "commissioners" insert "; and to amend and reenact subsection 3 of section 49-21-01 of the North Dakota Century Code relating to the definition of essential telecommunications service"

Page 2, after line 3, insert:

"Section 3. AMENDMENT. Subsection 3 of section 49-21-01 of the 1997 Supplement to the North Dakota Century Code is amended and reenacted as follows:

3. "Essential telecommunications service" means service that is necessary for switched access to interexchange telecommunications companies and necessary for two-way switched communications for both residential and business service within a local exchange area. A charge based on measured service may not be required for residential and business local exchange service. Essential telecommunications services are limited to:
 - a. Switched access;
 - b. Any new product or service offered in North Dakota after July 1, 1989, deemed essential by the commission after notice and hearing in accordance with chapter 28-32;
 - c. Billing and collection of the billing company's own essential telecommunications services and billing and collection recording for interexchange carriers to which the local exchange carrier provides feature group C access service;
 - d. Primary directory listing, including nonlisted and nonpublished service, and access to local exchange directory assistance;
 - e. Emergency 911 services and emergency operator assistance in local exchange areas in which emergency 911 service is not available;
 - f. Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas;
 - g. Installation of the service connection for essential services from the end user's premises to the local exchange network;
 - h. Transmission service necessary for the connection between the end user's premises and the local exchange central office switch including a trunk connection that has direct inward dialing and necessary signaling service such as touchtone used by end users for essential telecommunications services;
 - i. Single or multiparty flat-rate or measured residence and business service;
 - j. Single or multiparty flat-rate or measured combination business and residence service; and
 - k. The transmission service line for a coin or pay telephone."

Renumber accordingly

SB 2008

Present by: Susan E. Wefald
Commissioner

Before: Appropriations - Government Operations Division
Representative Rex Byerly, Chairman

Date: March 2, 1999

TESTIMONY

Mr. Chairman and members of the Committee,

This amendment is not good for the people of North Dakota who are US WEST customers of directory assistance.

It is important that this service continue to be an essential service and price capped. The ability to get telephone numbers that are not listed in the directory is an important part of local service. You can't call someone if you don't know the number to dial. Customers obtain numbers from the phone book and from directory assistance. These services should remain essential as long as basic local service remains essential.

If this amendment is passed, U S WEST would be able to set its own price for directory assistance. According to a letter given to me yesterday by U S WEST they plan to raise the price from 26 cents to 60 cents on August 1, 1999, and then move to market based rates on July 1, 2000. Other companies currently marketing this service charge from 99 cents on up.

The Public Service Commission addressed this issue in December 1998 in a very thoughtful manner. In that order, the Commission distinguished between local exchange directory assistance (calling for a local number) and interexchange directory assistance (calling directory assistance for an out of town number). It kept the price of local exchange directory assistance at 26 cents, but recognized that North Dakota law had already said that interexchange directory assistance was a non-essential service.

This decision enabled U S WEST to determine the price for interexchange directory assistance. However, U S WEST did not get everything that it wanted in that order. Now, although they have the opportunity to settle this case in the appeal process if they are not pleased with the Commission decision, U S WEST has decided to come to the legislature. The American Association of Retired Persons (AARP) was another party to this case.

Sometimes in a family, a child goes to one parent and asks for something, and when turned down goes to the other parent and asks. If the parents are not consistent with their response, it is not a good way to raise the child. In this case, with U S WEST going first to the Commission and then to the Legislature, it is not a good way to regulate a utility.

The FCC has determined that access to directory assistance will be funded by a universal service fund. This decision does not preclude states from making pricing decisions on directory assistance service, since this is a matter to be determined by each state.

**SUMMARY SHEET
12/31/ 1998**

BACKGROUND:

On May 1, 1998, U S WEST Communications, Inc. (U S WEST) filed a complaint with the Public Service Commission alleging that the price of its local exchange Directory Assistance Service is below cost and is therefore unreasonable, unfair, inadequate and anti-competitive. Directory assistance service allows customers to dial 1-411 to obtain telephone numbers for North Dakota telephone subscribers within and outside the customer's local exchange.

Presently, U S WEST customers receive an allowance of five calls to directory assistance per month at no charge and are charged 26 cents for each request over the five call allowances per month.

In addition, calls to directory assistance originating from hotels and motels, and from hospitals and nursing homes that provide telephone service in patient rooms, are exempt from directory assistance charges. Also, calls from homes where a member of the household has been certified by a qualifying authority as unable to use a directory are exempt from directory assistance charges.

U S WEST seeks to set aside the price of directory assistance service, including elimination of the five monthly call allowances and the exemptions for hotels, motels, hospitals and nursing homes. U S WEST does not seek to eliminate exemption for customers who are not able to use a directory.

U S WEST states that if relief is granted it will increase the price of directory assistance to 60 cents per call and reduce rates for other services to offset the resulting gain in directory assistance revenues.

On October 19, 1998 a public hearing was held on the complaint.

TODAY'S ACTION:

~~The Commission will vote whether to adopt a proposed decision that:~~

1. Does not set aside the present price of 26 cents per call for non-exempt essential local exchange directory assistance calls in excess of the five call allowance.
2. Recognizes that under state law directory assistance calls requesting numbers for customers outside the local exchange are nonessential and without price restriction.
3. Sets aside the exemptions for hotels, motels, hospitals and nursing homes because these exemptions are anti-competitive.
4. Sets aside the five-call allowance for directory assistance because it is anti-competitive, but provides a two-year transition period during which a two-call allowance would be maintained for essential local exchange directory assistance service.
5. Requires U S WEST to file a plan for implementing the decision and for offsetting the resulting revenue gains with reduced prices for other services.