

**2017 HOUSE APPROPRIATIONS**

**HB 1008**

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Education and Environment Division  
Roughrider Room, State Capitol

HB 1008-1068  
1/9/2017  
26743

- Subcommittee  
 Conference Committee

*Bergquist*

## Explanation or reason for introduction of bill/resolution:

Appropriation to defray the expenses of the public service commission to amend and reenact the parts of the century code relating to salaries of the public commissioners, and the special fuels excise taxes distribution of funds.

## Minutes:

attachment 1-3

Chairman **Monson** called the committee to order. A beginning hearing on HB 1008 and 1068 Randy **Christmann** Chairman of the Public Service Commission. (see attachment 1 Testimony)

**1:40** (see attachment 2) Reclamation Division

First two pages it's the reclamation division/ abandoned Mine Lands; these two divisions are about a third of our work force. Reclamation is about 64% and mine land is 100%. **(Page 3 of attachment 2)** Two charts that have electric and gas rates; ND rates are the red line. **2:45 (Pages 4-6 of attachment 2)** These are sitting cases we've done for the first 18 months. **3:20 (Page 7 of attachment 2)** Vision of how things have grown.

**4:15 (Attachment 1 page 2)** We have embraced the concept of reinventing the way we do business and have eliminated 3 FTE. **5:20-23:00 Christmann:** To address the 7 bullets that we were asked to address about our budget **(pages 2-12 attachment 1)**

**17:20** Specialized Legal Services fund: (Page 10 of attachment 1) Three cases and these expenses are growing. **18:50** Comparing WORC vs. Jewell case. (page 11 of attachment 1) **20:00 (Page 13 of attachment 1)** Just two other points, FTE gas pipeline inspector and salaries and operating reductions.

Reduces 48 employees to 45, the underfunding of these salaries would be detrimental to meeting the responsibilities of the citizens of ND.

**23:00** Referring to the green sheets (Page 1 of attachment 3) Looking at the agency funding and FTE positions in the middle of the page; the general fund of 6.02 million, times

6 years, to the executive budget, that is an average of less than 2.3% per year growth. 24:10 (Page 5 of attachment 3) Major increases and decreases in Ongoing General Fund. Starts with the 2011-2013 biennium then the 2013-2015 biennium, #1 add weights and measures FTE positions, that should actually be reduced. If you recall in the testimony, that year the governor came in and was reducing 2 positions, at the end of the session there was an amendment that added 1 back in. That may have caused the confusion but the net result was a net of -1.

Rep **Streyle: 26:05** (Page 10 of attachment 1) You are showing only 5 accidents, is there any data of how many trains are on the tracks? How far has that dropped? This doesn't directly correlate with the director. Rep **Streyle: 26:55 (Page 2 of attachment 1)** "We expect a significant uptick in the frequency of electric and gas rates cases increases the world shifts towards more renewables." So are rates are going up because we are approving the inefficient, ineffective renewable energy known as wind, so why would we not deny some of these permits and keeps our rates down? It cost more to run wind then it does to use coal. **Christmann:** Going to heavily subsidies renewable sources of energy could reduce the rates in some cases. In a lot of cases it costs more but who pays it? **Streyle:** You don't have the authority to deny some of these based on the idea that you know the cost of power is going to be more? **Christmann:** That is correct, the sittings of law are pretty explicit.

Rep **Boe: 23:30** Who was receiving the diesel tax before it went to fund this program?

**Christmann:** It was going to DOT for a long time, the last two years it's been used for this program.

Chris **Kadmas** Legal Coucil: Yes, it was going for things like railroad crossings, before 2015 session \$250,000 a year had been coming out of the fund being used for highway safety crossing projects. It would have expired at the end of 2013/2015 biennium so it was adjusted to fund the railroad program, so it does reduce some of the funding that would go into the highway tax destitution fund. (Can be found in the minutes of the committee work for 1/9/17)

Rep **Boe: 30:40** 5 violations of civil penalties, who receives those penalties?

**Christmann:** The federal government, that is correct, we find the problems, we protect our citizens and the federal government, we find them and turn it over to the FRA, the process that case, decide what the penalty is going to be and get the money. Rep **Monson:** We spend the money, our guys do the inspection, we don't get any reimbursement from the feds?

**Christmann:** That is correct but this does not come out of the general fund, it comes out of the diesel tax fund.

Rep **Boe: 33:15** How do we approach the Grain Elevator Insolvency?

**Christmann:** We have an inspection program, 2 inspectors, a couple were at risk at insolvency and we helped them through but most time things happen quickly and we wouldn't catch that with any amount of FTEs.

Chairman **Monson: 37:55 (Page 8 attachment 1)** Litigations of BNSF funds being available, What's the status of that? **Christman:** I think you are thinking of the Railroad Complaint Fund of \$900,000, that's a separate thing from the specialized legal services. It's about 15 years old when we had a lot of complaints about the railroad rates. It's money that comes with first time farmer loans at the Bank of ND. Until it's exhausted the \$900,000. Ever since that's been there we really haven't had any complaints.

To go back to Specialized Legal Services; **(Page 8 of attachment 1)** \$900,000, \$500,000 is general fund \$400,000 is federal in the current budget, of that \$150,000 is base amount the other \$750,000 is one time, of that base 86,000 is general and 64,000 is federal. Dalrymple budget cuts the ongoing general fund from 86,000 to 30,000

Rep **Schmidt**: Are the \$400,000 federal dollars' contingent on anything? **Christman**: We will probably never get to use that unless we were in a litigation with the federal government not against them, like most cases. Chairman **Monson**: We will be asking more questions after we look through this and discuss it.

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Education and Environment Division  
Roughrider Room, State Capitol

HB 1008  
1/9/2017  
26744

- Subcommittee  
 Conference Committee



## Explanation or reason for introduction of bill/resolution:

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

## Minutes:

Chairman **Monson**: called the committee to order.

Randy **Christmann** of Public Service Commission was present.

Rep **Boe**: Of the 5 civil penalties that we take credit for, how many are there in the state? How many did the feds find?

**Mr. Christmann**: I do not know.

Chairman **Monson**: Would you be able to find that out? I'd like to know so we can compare how effective we are.

Chairman **Monson**: How many Public Service Commissioners?

**Public Service Commission (PSC)**: It's a constitutional agency

Chairman **Monson**: Does that specify that there are three commissioners? **PSC**: I believe so

Representative **Martinson**: You aren't going to get any enhancement, not even what you got last time. Do you want to reduce your budget, or do you want us to reduce it?

Chairman **Monson**: That's the reality of it.

**PSC**: Our agency has a lot of impact because of the oil and gas development the last few years, our budget has gone up at a crawl. I want to emphasize that our agency has always tried to keep the budget low so that makes it harder to cut. When you get in to where has the growth in budget occurred, you'll see that it wasn't in our budget.

Chairman **Monson**: Businesses that you regulate have grown more than you budget, you have a point, and you're not one of the big four agencies that are responsible for the biggest part of the budget.

**PSC**: We have an annualized rate of less than 2.3% growth in our budget. Rep **Martinson**: We are looking to cut 300-400 million out of our budget; 100 million out of higher education, let's say 5-10% out of all the budgets that still leaves us about 175 million short.

Chairman **Monson**: We can give a recommendation but you know your agency and you should be thinking of where you can cut.

**PSC**: There are 3 of us so I couldn't give you an immediate answer without consulting the other two, but guarantee we will all work with you.

Chris **Kadmas LC**: 11:00 To answer to

Representative **Boe's** question about the funding source for the railroad program, before the 2015 session the 250,000 a year had been coming out of the fund being used for highway safety crossing projects. It would have expired at the end of the 2013/2015 biennium so it was adjusted to fund the railroad program, so it does reduce some of the funding that would go into the highway tax destitution fund.

Chairman **Monson**: Tomorrow we have the Water Commission at 08:30 in the morning.

Rep **Schmidt**: I still suggest that we make the suggestions of where to cut not ask them.

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Education and Environment Division  
Roughrider Room, State Capitol

HB 1008  
1/13/2017  
26880

- Subcommittee  
 Conference Committee

*Virginia L Moch*

## Explanation or reason for introduction of bill/resolution:

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

## Minutes:

**1:53:35 of recording number 26880**

**Chairman Monson:** called the EE section of Appropriations back to order on HB 1008 and 1068. We will discuss the Public Service agency's budget. As with the other agencies, we're asking you to cut 7% from the line item salaries. We would like the agencies to help develop how we would be able to do this. It will make a reduction in FTEs, hopefully you can find some through attrition or vacancies, so you will have a heads up on doing this. Also what programs we could cut. Some things are fixed costs, but we hope you can be thinking and talking amongst yourselves and we do expect there will be some reduction in the operating budget. If there is fewer people we would expect some reduction in cost.

**Rep Streyle:** In the contractual services the Governor's budget had that at \$2million, what does that entail? Ours doesn't have it because we are going off the base.

**Randy Christmann, Public Service Commission:** The contractual services are our abandoned mines program. That is a program through the Federal Government, they have a tax on every ton of coal that is mined in the United States. The state will go up and fix up old abandoned mine land programs from the Reclamation laws from the pre-70's. That grant was \$8 million but the governor cut it to \$6million but we know we will probably not be getting even that much. There are lots of the abandoned mines. Sinkholes continue to appear on these. One farmer had one occur where his shop was and he lost his big tractor, it fell in a sinkhole. Cutting that to \$6 million won't hurt us.

**Chairman Monson:** Is this strictly for coal mines? Back in the 70's we had a salt mine. Do you do salt mines?

**Randy Christmann:** I think it is exclusive to coal because it is the coal mines that pay for this. Only issues on coal and leonardite. Each year we pick the ones that are most important for safety. We can never come close to covering all the issues out there.

**Rep Streyle:** Can we get a list of numbers of staff and staff in each department. Specifying if they are general fund or Federal fund.

**Randy Christmann:** Yes, I can get that to you but it will not be real precise because of our reclamation, finance program and pipeline safety program that affects our indirect cost.

**Rep Streyle:** Also number of staff in IT, hardware and numbers in that area.

**Randy Christmann:** We are exempt from some IT expenses but we have some hardware, software and other expenses.

**Chairman Monson:** 2:05:00 Chris Kadrmas do you have any questions on what we asked them to do, if they don't get it to you then we will try the 7%, but we would like them to have the opportunity for input.

**Chris Kadrmas, Fiscal Analyst LC:** Is that 7% in addition to what reductions the Governor is doing?

**Chairman Monson:** Yes it is. It is in HB 1008.

**Rep Streyle:** We are working off the 1008 bill.

**Chairman Monson:** If there are sections that have policy things in 1068 that aren't in HB 1008 we're asking you and OMB to get together with Chris Kadrmas LC and cross reference, so he can get it on our list.

**Chris Kadrmas LC:** So that's 7% in salaries and wages section and 7% of the General fund.

**Chairman Monson:** Yes and any associated operating items, we won't know exactly the percentage yet. There will be some reductions that is less.

**Rep Streyle:** They won't make that decision until July in the next biennium. We need to find a number to get to the \$150 million or \$200 million that we need to reduce salary line items and all the budgets. In theory if we don't eliminate the authority on the FTE's they still have 46 but really they only have 42 or whatever it amounts to. Just underfund the salary line and let them do it the way they see fit.

**Chairman Monson:** I'd like to see real numbers on FTEs.

**Rep Streyle:** This is in conjunction with that. I'm not suggesting we don't need some FTE reduction. We need to do that too and this. On the rail program there was one permanent and one temporary so if we don't do anything that just stays correct?

**Randy Christmann:** 2:10 Right now we have a permanent and a temp. The temp is good through the next biennium. We had requested that we get our temp. We certainly don't want to lose him.

**Chairman Monson:** If we need to take \$900,000 out of the rail program would we cause problems there?

**Randy Christmann:** That is not general fund, that is part of a beginning farmer revolving loan fund at the Bank of North Dakota or some such fund that they haven't used. So we can get that from the Bank of ND if we need it.

**Chris Kadrmas LC:** The Bank of ND is actively managing it. They ask if are going to use it, if they aren't then they might lend it out again.

**Rep Streyle:** It really has no effect on anything.

**Randy Christmann:** I've been concerned about vacant FTEs. We have two right now, one is a retirement and one resignation. We promoted our assistant director to director. The assistant position is vacant. As of Monday one of our Engineers in reclamation resigned. 2:15 So we have two openings just since Monday.

**Chairman Monson:** Maybe it makes more sense if we just say we're taking 7% out and you identify the positions.

**Randy Christmann:** I appreciate that opportunity. We will work with you to make that work. Over the years sometimes the Legislature does do some micromanaging. I come asking for your help. We have already requested a change in grain licensing and I am hearing a lot of resistance. When we are hamstrung and the law says you have to do certain things and we take the employees away, we need to make those changes. We need your help on that bill for the grain licensing and whatever else we find.

**Chairman Monson:** That bill will have a public hearing also. Meeting adjourned.

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee - Education and Environment Division Roughrider Room, State Capitol

HB 1008  
1/19/2017  
27129

- Subcommittee  
 Conference Committee



### Explanation or reason for introduction of bill/resolution:

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

### Minutes:

Attachment 1

### 1:25:02 of recording 27129

**Chairman Monson:** called the EE Committee to order on the budget for PSC. Have you brought us some thoughts on reducing the general budget salaries line? Randy you probably know what Rep Brandenburg wanted us to discuss dealing with litigation. Have you brought us anything on reducing your salaries and wage line.?

**Randy Christmann ND Public Service Commission:** I had reported on the track and mechanical inspectors becoming certified. I had reported that the track inspector found 9 violations and the mechanical inspector 5.

**Rep Boe** asked how many did the FRA people find? From the day the mechanical inspector became certified he found 4. The 5<sup>th</sup> he found just days before he became certified. FRA also found 4, The FRA found 6 violations where our track inspector found 9. Our goal is to not get violations and we want to build some good relationships with the rail people, so we want to find safety corrections.

**Vice Chairman Streyle:** So that being said you want to eliminate the weights and measures?

**Mr. Christmann:** No, it's the grain inspectors that we are taking 2 off. We would continue with 3 FTEs.

**Vice Chairman Streyle:** How many of those violations found by your inspectors and FRA were duplicates?

**Mr. Christmann:** They weren't duplicates, they were similar, but they were separate issues. The commissioner is in the constitution 1:31:00-1:37:30 (see attachment 1) Add 2 temps to the number I gave you at the hearing.

**Chairman Monson:** 1:37:50 You would eliminate one of the warehouse grain inspectors, then? What's the number of that bill?

**Mr. Christmann:** Yes. The house bill is 1126.

**Vice Chairman Streyle:** I would like to discuss a few things down the road such as eliminating the temp on the safety inspection, adding back one of the grain inspectors and eliminating 2 of the environment scientists in the recommendation section.

**Mr. Christmann:** That is our intention with the grain inspectors. Regarding the scientists, they are 64% federally funded. They are necessary to keep our state program especially for mine inspections. You would threaten the state regulatory program. Here's our recommendation, it's not in our packet because it is too new: It doesn't come to the full \$398,000 line 5009, eliminating that Public Utility Analyst would save \$214,000 so it is over half of the required amount. His work could not be spread over the other 3, because 2 of those are financial. Of the other two, one is an electrical engineer and one is a civil engineer. One specializes in transmission lines and one in pipelines. The next position we are proposing is the pipeline civil engineer. We would have to contract this out. It would be more expensive and slower for the contractors. Those are the ones with the least impact. If I had to make a recommendation for the other half, I guess if you give us a number we will work on it.

**Chairman Monson:** Rep Streyle suggested cutting the temporary rail inspector. How much money would that save?

**Mr. Christmann:** That is specially funded from the diesel fuel tax that is paid to DOT. It wouldn't help with balancing the budget. We still recommend making that a permanent position as he is certified now.

**Chairman Monson:** There were good results today. We're asking our LC to tally up some of the savings. Is there any policy in 1068 that is not in 1008 make sure it is on Chris' list if we need amendments?

**Mr. Christmann:** Making the temporary rail position permanent would not affect the budget. (see 1:50:00-1:51:00)

**Chairman Monson:** The 5% on health insurance reduction might come up. All agencies will be treated the same.

**Rep Martinson:** I will visit with the Heritage Society to let them know what we need. Do you want me to do this on Historical?

**Chairman Monson:** That would be great. Rep Brandenburg brought up a concern about the attorneys on staff and the little litigation funds.

**Mr. Christmann:** Last session there was discussion of whether agencies should have their own capability of entering into something like that or if it should be pooled with the attorney general. Having that available seems to fend off litigation. If it were pooled with the attorney

general's fund, he may not agree with what we need or you may get halfway through and the funds may have been spent on other things that have nothing to do with mining and the things we handle.

**Chairman Monson:** 1:55:00 You have 2 attorneys on staff, one is 100% general funds and one is 50%. If we make changes it would just be moving that same amount of money to the attorney general's fund.

**Mr. Christmann:** Those are people on staff that help us when things come out that would affect us for instance our coal and our electricity. They are on our budget, not the attorney generals. Our 2 attorneys deal with very complex type of cases. Sometimes we even have to hire out of system attorneys.

**Chairman Monson:** I read that natural gas has taken over the number one position from coal for electrical generation. It may go down in importance since the price is rising. You brought up the importance of coal for electrical generation.

**Mr. Christmann:** Because coal is right here and doesn't have to be shipped, it is cheaper than natural gas for us to produce electricity so we have to protect that.

**Chairman Monson:** I love ND being an energy producer and exporter. I was approached by someone about reclamation of wind towers when they are decommissioned. I want this to go on Chris' list. He was told to bring it up as an amendment.

**Mr. Christmann:** about 10-15 years ago the legislature couldn't come to agreement so they referred it to the PSC to set something up. The PSC set up a plan that once they are operational for 10 years, financial assurances would be required. Well, 10 years is coming up on us. Yesterday we passed a new rule change proposal that would require them to have their financial commitment for that in place before construction. By this summer we'll have new rules in place to take care of this concern. With coal we have reclamation rules and they still produce coal very cheap and put the land back as good as it was before.

**Chairman Monson:** Chris LC, that is an issue we need to talk about so keep it on your list. We'll get together with Troy Coons, a lobbyist for NW landowner, and you to discuss this further. Mr. Christmann, meet with Vice Chairman Streyle on the numbers. I will meet with Troy Coons. That is all for today. 2:09:11

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee - Education and Environment Division  
Roughrider Room, State Capitol

HB 1008  
1/24/2017  
27307- Start time- 1:54:30 to end

- Subcommittee  
 Conference Committee



## Explanation or reason for introduction of bill/resolution:

An appropriation for defraying the expenses of the public service commission.

## Minutes:



**Chairman Monson:** 1:54: 30 called the meeting to order on the PSC budget. We talked about reducing some general funded FTEs. They requested to change the one temp to a permanent position. I don't think this is a time for that. The grain license is a separate bill, if it passes it would mean you have less expenses. What is the status of that bill?

**Darrel Nitschke PSC:** They haven't kicked it out, there is still discussion on that bill.

**Chairman Monson:** We asked the question if the 3 commissioners are in the constitution and they are. We talked about coal and wind restitution.

**Mr. Nitschke:** The position of Grain Elevator inspector that we were going to cut is still in the air.

**Chairman Monson:** What happens with the wind tower reclamation I put in as a study so that can't be an amendment. Stephanie, are there any provisions between 1008 and 1068 that we should look at? I don't see sec 5 in 1008.

**Stephanie Gullickson OMB:** That funds the FTE that is a temp. and adds \$36,000 in benefits to make him an FTE.

**Chairman Monson:** He is paid with special funds and it solidifies the rail inspector program. We won't move that over.

**Chris Kadrmas LC:** All the salaries would have to be addressed in this bill. So any changes in salaries for the commissioners would have to be addressed in this bill. If there is no increase or no change to annual salary, we don't need this section.

**Mr. Kadrmas;** The health insurance would be included in sec 1, not sec 4.

**Chairman Monson:** 2:07:45 SIF? What was the purpose of the \$300,000 transfer?

**Stephanie Gullickson OMB:** Their specialized legal services were one-time funding from SIF in this biennium. That again would be a onetime funding.

**Vice Chairman Streyle:** It was a reduction from what they had last time.

**Chairman Monson:** I'm fine with leaving it at \$300,000. We can move that to sec 3.

**Vice Chairman Streyle:** We need something in there for EPA if they don't back down.

**Mr. Kadrmas:** The funding source for sec 3 is the strategic investments fund.

**Chairman Monson:** We will consider sec 3 in the end. Why a different amount in each budget for the SIF?

**Ms. Gullickson:** In total the one-time Governor's budget was \$636,000. \$300,000 was from SIF and the balance was federal.

**Mr. Kadrmas:** I'll make sure the total of \$636,000 is included.

**Chairman Monson:** I don't see anything else in section 2.

**Mr. Kadrmas:** Sec 3 is a transfer from the beginning farmer loan fund from BND to the PSC for \$900,000 to fight any rail rate complaint cases. Typically, none of the funds are used. We added the authority to use it.

**Rep Schmidt:** Why do we take funds from the beginning farmer fund?

**Mr. Kadrmas:** It's my understanding that it doesn't make any less available for beginning farmers, they are using it to fight the rail rate complaint cases.

**Vice Chairman Streyle:** It's a line of credit that is never going to get used.

**Chairman Monson:** As elevators get bigger they ship grain a hundred cars at a time so they are getting good rates. Chris check if we are tying up any of these beginning farmer loans with this transfer. What fills up this fund?

**Vice Chairman Streyle:** It's a revolving loan and the payments would go back into that.

**Chairman Monson:** Let's take another look at salaries.

**Vice Chairman Streyle:** I'm o.k. with not making the temp permanent. I think there are one or two FTEs. that should be taken out of reclamation.

**Chairman Monson:** The coal is the only one that has reclamation.

**Vice Chairman Streyle:** There is less coal being mined. I'm thinking we can take some FTEs out.

**Chairman Monson:** Chris put on your list that we would take an additional 7% from the salaries and wages line. Is the coal reclamation FTE out of the general fund?

**Vice Chairman Streyle:** I believe it's 65/35, but we can still cut there.

**Mr. Kadrmas:** To clarify we will reduce 7% reduction in salaries plus one FTE from Reclamation.

**Chairman Monson:** Chris, put on the list to check operating. Anything we missed, Stephanie?

**Ms. Gullickson:** They would have to use from the general fund if you take from the federal funds because it is reducing an indirect cost. That would increase their general fund liability.

**Chairman Monson:** We'll come back to the 3 minor bills, School for the Deaf, School for the Blind and Library. 2:29:35

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee - Education and Environment Division Roughrider Room, State Capitol

HB 1008  
1/31/2017  
27665

- Subcommittee  
 Conference Committee

*Virginia L. Moch*

### Explanation or reason for introduction of bill/resolution:

To provide an appropriation to defray the expenses of the public service commission; and to authorize a transfer.

### Minutes:

Attachments 1-2

**Chairman Monson:** called the committee to order on PSC. There is a bill on the floor about the grain inspectors which will affect what we do here. Rep Brandenburg said the senate is frustrated just as we are because we still don't have a dollar figure on our budget, so we have no framework to build on. Alex let us know what we've talked about.

**Alex Cronquist LC:** (see attachment 1) 4:00-5:48

**Chairman Monson:** This is the first sheet that we have some numbers plugged in. Dalrymple's budget is in the green sheet; Burgum's budget is the first one on the long sheet (see attachment 2) This budget has about 1/3 general funds and 2/3 other funds. This one may actually work for us to reduce by 7%. Our 7% turned out to be almost \$400,000. If we stick with what we have, we are looking at 43 FTEs down from 46. We said no to making the temp a full time inspector. We are not looking at any healthcare cuts. (see attachment 2) 10:50-12:00 What capital assets did they request for \$26,400?

**Mr. Cronquist:** They requested a high speed scanner for \$8,400 and \$18,000 for a multifunction office machine replacement. Dalrymple included them, Burgum said "no".

**Stephanie Gullickson OMB:** These were just items that they had in their budget that needed to be replaced. They haven't purchased them, yet, they are things that could potentially need to be replaced.

**Chairman Monson:** I thought all capital items are out. Did they break down?

**Jill Kringstad PSC Accounting Budget Specialist 3:** No, it was time to replace them.

**Rep Sanford:** Remind me of the \$2 million federal grant.

**Chairman Monson:** Does nothing to reduce our budget, so it's not on our budget but we can put it in ours. 16:51 continues (see attachment 2)

**Ms. Kringstad:** That's all special funded from the diesel fuels tax.

**Chairman Monson:** We're taking it out anyway. One-time funding for specialized legal services?

**Ms. Kringstad:** That's the \$336 federal and the \$300 from SIF, that makes up the \$636. It used to be called the grain litigation fund and was changed to specialized legal services.

**Vice Chairman Streyle:** In the budget request change there was a reduction of \$105,000 in your travel line. Is that in Dalrymple's budget?

**Mr. Cronquist:** About 8 or 9 down, reduces budget for operating expenses, it is likely included in that. The reason that number is smaller is that number would have been netted against the allotments that were taken out.

**Vice Chairman Streyle:** Make sure that is on our list to take out.

**Chairman Monson:** We would take \$2 million out of the 'other funds'. We'd be at \$12,400 on our budget. That is lower than Burgum or Dalrymple. Continues 22:35-23:15

**Mr. Cronquist:** You are \$330,000 below the Burgum recommendation. 23:30

**Vice Chairman Streyle:** What makes up the \$900,000 on the travel line?

**Ms. Kringstad:** The majority is our inspectors from the different divisions. The federal portion is the rail inspectors. The others have about a 50/50 split between general and federal.

**Mr. Cronquist:** That travel was already reduced. The negative \$25,864 is reduced funds for operating expenses, but it's not approved by committee to be taken out, yet. That includes the reduction in travel and several other operating codes.

**Chairman Monson:** 26:00 We haven't addressed the \$56,000. Put the \$25,864 on our list.

**Mr. Conquest:** That \$56,000 has been taken out already.

**Chairman Monson:** Steph is there anything in 1068 that we need in 1008?

**Ms. Gullickson OMB:** No, you've addressed the conversion of the temp to full time which I've taken off the list and the one-time funding for the specialized legal services.

**Chairman Monson:** O.k. that's all. 28:54

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee - Education and Environment Division Roughrider Room, State Capitol

HB 1008  
2/9/2017  
28098

- Subcommittee  
 Conference Committee

*Virginia L Moch*

### Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the public service commission; and to authorize a transfer.

### Minutes:

Attachments 1-2

**Chairman Monson:** called the committee to order on HB 1008 PSC budget. The bill HB 1126, that would affect this got kicked out of the Ag committee yesterday and we do have a fiscal note now. It says that "these efficiencies enable the commission to eliminate 1 ¼ FTEs with allocation of only part of the new compliance director salary resulting in cost savings to the salary line item". (see attachment 2) 3:45

**Jill Kringstad Accounting and Budget Specialist PSC:** When we restructured we eliminated the 1 ¼ FTE but then you have to factor in the compliance director's salary that would be allocated to that division. We were able to eliminate a licensing FTE and repurpose him to the compliance director. The ¼ is a quarter of a licensing inspector's time.

(Rep Sanford joins us)

**Vice Chairman Streyle:** Is grain inspection still one of your core functions?

**Ms. Kringstad:** Yes, it is. We are not eliminating grain inspections. When we saved a quarter of the FTE, that comes from time savings using the electronic licensing.

**Chairman Monson:** That is the fear out there that we've heard from Rep Pollert. He is wondering how you are going to do grain inspections without going out in the field. You are assuring us that things will continue as before with the grain inspections. We'll leave this open and talk to commissioner Christmann tomorrow. Maybe the inspections will be done electronically.

**Ms. Kringstad:** That grain inspection bill has been heavily amended, we have been since adding back in to it. We are actually adding back in inspector time.

**Chairman Monson:** HB 1126 has been heard in full committee but not kicked out, so we have time to work on it. (see attachment 1) 13:10-56:00

**Chris Kadrmas LC:** 24:20 They will lose \$85,000 in federal funding in another position if you strip those.

**Ms. Kringstad:** Those positions are in the reclamation division which is 64% federal funded and 36% general funded. If those positions weren't there we wouldn't have indirect cost recovery for other indirect employees which we also receive in addition to the federal funding.

**Chairman Monson:** When that position is vacant do you get any federal money?

**Ms. Kringstad:** We would still get the federal fund grant for the salary but we wouldn't get any indirect cost recovery. If we were getting a salary surplus, we would use it for retirements or return it to the general fund.

**Rep Schmidt:** Are the federal dollars a percentage or a flat rate? Even if you reduce the percentage, you still get the federal money.

**Ms. Kringstad:** The federal funds are determined by a formula that involves coal and land. We would still get the 64% but not the indirect costs. We'd get it but couldn't recover on it.

**Chairman Monson:** I wonder if it is wise to cut an FTE that is 2/3 federally funded. The simplest is probably to leave our \$394,000 and leave the FTEs.

**Rep Schmidt:** My thought is to take the financial equivalent and let them decide where to take the FTEs.

**Vice Chairman Streyle:** I think we absolutely need to identify these two positions; you can underfund the other ones. I don't think we should NOT cut FTEs just because they get federal money.

**Chairman Monson:** When I see that the one position is vacant and they didn't hire, they probably don't need all the positions.

**Vice Chairman Streyle:** I'm saying take position 1517, the open position and another position. These would be in the reclamation division.

**Ms. Kringstad:** There are 4 Environmental Scientists. All are filled. They are specialists in different areas. The admin would be the director of the reclamation division. The director retired and out admin took over that position which left that position open. I believe one is grass, one is water. It's all coal

**Rep Schmidt:** One is a soil specialist, one is a range specialist. I would think there are options to fill that with contracts to people in NDSU, or a conservation district, or research or in other places. Coal companies have hired NCRS employees.

**Vice Chairman Streyle:** We are a long way from done. The full committee and the Senate will have a crack at this. Let's just take the two. I think we can net out the grain inspector.

**Rep Sanford:** I thought we were taking 7 %.

**Chairman Monson:** We have to get even below Governor Burgum's number. We may have gone a little deep on the grain inspectors. We could take out less or wait until we see HB 1126 tomorrow. 43:20-56:30

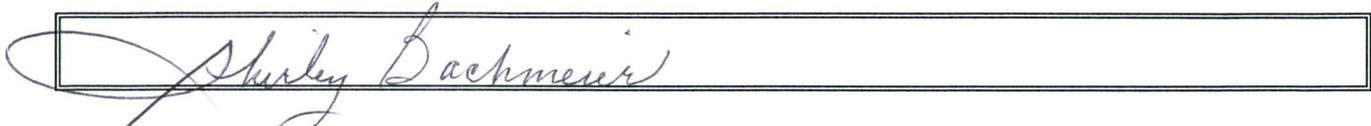
Steph, anything we need to bring from HB 1068? Chris? I want reassurances that the grain inspection will not be compromised. We will talk to Commissioner Christmann tomorrow. Have him get to Jenny and let her know what time will work for him, 10:30 would work. 59:53

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee - Education and Environment Division Roughrider Room, State Capitol

HB 1008  
2/10/2017  
28219

- Subcommittee  
 Conference Committee



### Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the public service commission, and to authorize a transfer.

### Minutes:

Attachments 1 - 2

**Chairman Monson:** Called the committee to order on PSC budget HB 1008. Representative Schmidt and I had a visit with Commissioner Christmann and found out that if we take one of those environmental administration positions out, we would be leaving a lot of federal money on the table plus about 29% more in incidentals. We are clear, based on what the grain inspection bill that passed is still going to do what they are required to do, and they will be able to do it.

**Randy Christmann: Public Service Commissioner:** (Attachment 1) 3:06 The information is based on reclamation program. We have other programs that also pay indirect costs and those are figured differently. 3:00 – 5:31

**Chairman Monson:** Does the federal government care at all what you use the \$35,000 for? You can use it for paying your salary and whatever?

**R. Christmann:** It is very, very fussy. We negotiate that out, we send in a request; it takes months for that to be done. It would be used for legal, IT, accounting, general administration people. They watch these things very carefully.

**Chairman Monson:** My question is we take money out of your operating and more money out of your salary and wages, and we don't specify who it is. You can actually use this money to recoup what we take out.

**R. Christmann:** No, we cannot use this money to pay for an example, someone in the grain elevator licensing department. An example: we have a million dollars of indirect costs, administrative groups, and several millions of direct costs such as grain elevator licenses and write a bunch of them off; so one, two, three, it is 33% reimbursement.

**Chairman Monson:** So we cannot go and take out all the general fund and you would have all this extra money? But, at the same time, we can make some pretty substantial savings just on those that would fall on this indirect cost. When you look at the fact that you got 29% on this particular reclamation group last year, you are getting a 6% increase from what you got now anticipating a 35% rate. But we're not giving wage increases. We are doing health insurance increases which we are giving you. What I am saying is, we are shorting your wages and benefits line item without making a big hit in your wages and benefits because you are getting a bigger percentage.

**R. Christmann:** The only way that would work...well, it wouldn't work. The only way that it is impacted is out of the direct cost pool, if you eliminate grain elevator licensing positions, that changes it. But changing the admin people would not.

**Chairman Monson:** There is some wiggle room in there. We can't take you down to nothing because not everyone's going to fall under this.

**Rep. Schmidt:** He is referring to (Attachment 1) 9:36 - 10:12

**R. Christmann:** Referring to (Attachment 1) 10:26 So I am saying that because we get that money, we are able to not use general fund money for that portion of her salary and benefits.

**Chairman Monson:** 10:53 You are going to get \$44,800 that you can use for anything dealing with administration. (Referring to Attachment 1) That bill (HB 1126) got amended so you are still going to have to do more grain inspections than what you proposed to Gov. Dalrymple to take the two FTE's out of here. On the fiscal note, it shows on that bill that had that bill passed in its entirety the way it was, you would have been able to reduce two FTE's but because it got amended, you still have to do those grain inspections than you originally planned. They are going to get the best, most thorough and efficient as they had in the past.

**Mr. Christmann:** His bottom line is yes; we are going to continue doing the grain inspections but we can expect, as in any agency, our inspections will evolve using the best way of doing them. We will do the best we can to make them thorough so we don't have insolvencies.

**Chairman Monson:** Wherever we remove FTEs, we want it to come out of the general fund. There are some vacancies, we want to be sure they are general funded.

**Vice Chairman Streyle:** The position he is talking about is open right now. So the indirect cost has nothing to do with this; they will not be getting costs for this as it is not filled.

**Chairman Monson** (Attachment 2) 20:40-36:46 I think naming the scientists would be unwise, if you are getting a \$200,000 employee for \$27,000, I think that is beneficial. Chris let's just take the amount of money and not name them.

**Vice Chairman Streyle:** Just take a half million out of the salaries line.

The following information is being taken from (Attachment 2) worksheet.

**Chairman Monson:** You have tried to do the best you can. Just take those two lines out completely and make it \$500,000 up above?

**Mr. Christmann:** Correct.

**Chairman Monson:** If we take the 2<sup>nd</sup> FTE out, maybe they won't fill it. Let's not name them. Let's just take the amount of money not using federal funds.

**Mr. Christmann:** The difference between the 7.28% to 7% is \$25,000 on salaries and wages.

**Chairman Monson:** So if we get \$475,000, that's okay? Rep. Streyle: are you in agreement?

**Rep. Streyle:** Sure.

**Rep. Sanford:** This is just a clarification: So it is going to be \$475,000 on that line item. We are going to keep the line item with the two FTE's at \$286,000 and \$240,000 and we are going to drop the next two lines: the reductions are two FTE's and those two line items.

**Chairman Monson:** That is the way I understood it. Mr. Christmann: those are the numbers you were given? Approval by gesture. So going down the general fund, we've got \$40,366 added, \$76,487 added for health insurance, \$475,000 reduced, 2 FTE's and \$286,240 reduced, \$25,864 reduced, \$21,872 reduced, \$56,000 reduced and \$26,400 reduced. The other funds as they are on our worksheet. Are we going to leave that \$105,000 in there or is that get affected somehow?

**Mr. Christmann:** It is possible but it would be depending on whatever positions or whatever the agency worked it out. So it would probably be best to leave the special funds authority. Essentially if they don't receive the federal dollars, they can't spend it anyway.

**Chairman Monson:** If they got an increase from the 29% indirect costs this year, they go to 35% next year. They have at least the federal authority to spend that extra money that comes in. Is that what you are saying, Chris?

**Mr. Christmann:** Yes.

**Chairman Monson:** Why bind their hands and trim back federal money if it's on the table and they can get it...not that federal money isn't our money too. We are asking these people to make some cuts and make it stretch. We need to go through the sections on the back of (Attachment 2) 36:11

**Mr. Christmann:** Yesterday, the committee had okayed the 3 sections that are included on the back of Attachment 2.

**Chairman Monson:** So we didn't make any changes?

**Mr. Christmann:** That is correct.

**Chairman Monson:** Are we missing anything? Hearing none, hearing was adjourned.

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee - Education and Environment Division Roughrider Room, State Capitol

HB 1008  
2/14/2017  
28317

- Subcommittee  
 Conference Committee

*Virginia L Moch*

### Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the public service commission; and to authorize a transfer.

### Minutes:

Attachment 1

**Chairman Monson:** called the committee to order. We have our last budget before us on the PSC, HB 1008. We had HB 1126 in full committee yesterday. We passed that out. We had a question on the FTEs. I talked to Commissioner Christmann yesterday. I said it looks like you can get by with 1.25 FTEs taken out by the fiscal note on HB 1126. He pointed out the \$88,622 reduction to the salary line due to elimination of 1.25 FTEs and allocation of only part of the new compliance director salary. They will have fewer FTEs there but they have to reallocate someone for the compliance director. He said they need .75 FTES to do that. We took out 1 before. They contend we shorted them by .25 FTEs, we are not going to change it. So we are going through our worksheet, making sure everything we told Chris to put on our worksheet is there.

**Chris Kadrmas LC:** You should also have the amendment for it.

**Chairman Monson:** 3:50-11:42 (see attachment 1) Lets work off the worksheet. We took 2 FTEs but shorted the salary line to give them some flexibility.

**Mr. Kadrmas:** 7:40 On the 10<sup>th</sup> of last week you removed 2FTEs from our list.

**Chairman Monson:** O.k., The 2 FTEs that Dalrymple removed were associated with the grain inspection so we went with one.

**Mr. Kadrmas:** The recommendation then was to remove just 2 FTEs, not from the grain inspection, and not name them.

**Chairman Monson:** So we just took 2 FTEs by shorting the salary line. So everything on our list is in amendment 01002, do we have a motion to adopt the amendment? Rep Streyle makes the motion, seconded by Rep Sanford. Voice vote, ayes carry. We have before us

HB 1008 as amended by 01002. Rep Streyle makes the motion to "do pass" HB 1008 as amended and Rep Martinson seconds it. Seven yes, motion carries. Who hasn't carried, yet? Rep Boe can you handle this one? Rep Boe carries. 15:12

# 2017 HOUSE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Roughrider Room, State Capitol

HB 1008  
2/15/2017  
Recording Job# 28389

- Subcommittee  
 Conference Committee



## **Explanation or reason for introduction of bill/resolution:**

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

## **Minutes:**



**Chairman Delzer:** Brought the committee to order.

**Representative Boe:** Explained HB1008.

**Chairman Delzer:** What are they using the money from the SIIF Fund for?

**Representative Boe:** It's for specialized legal services.

**Representative Monson:** It's for the clean coal.

**Chairman Delzer:** You're adding \$580,000.00 to that?

**Representative Streyle:** It's \$300,000.00 from the SIIF Fund and then \$336,000.00 is federal funds.

**Chairman Delzer:** Do we have to match that federal money?

**Representative Streyle:** Yes.

**Chairman Delzer:** Why is it in the PSC?

**Representative Streyle:** It's the reclamation piece.

**Chairman Delzer:** What are they doing for legal services on reclamation? Is there something going on?

**Representative Monson:** They've been assigned to do wind towers now, as well as coal and pipeline. I think their explanation was that they're asked to do more now with wind, coal and pipeline.

Chairman Delzer discussed the bill.

**Representative J. Nelson:** That is true but it hasn't cost us anything either; because it's out of the beginning farmer loan program. My understanding is that they still have access to lend that money out; it's basically a letter of credit that they'd be able to use if we did have a rail rate case.

**Chairman Delzer:** But the fact of the matter is they never brought a railway case. They've always said if they did bring one, we'd lose it. I think the rail system has done much better.

**Representative J. Nelson:** I would disagree; I think we need to keep that in there.

**Chairman Delzer:** I would like to know what the \$20,000.00 in the grants are. The pass through grants from PSC; where does that go?

Representative Boe continued with his explanation.

**Representative J. Nelson:** Wasn't it last biennium that we instituted the railroad safety program? There were some federal standards. The debate at the time was that we would not necessarily have had to develop our own program; because the surface transportation board was going to institute some of the things that we were providing. Did your committee look at if that was accomplished and do we really need to put \$500,000.00 into that program?

**Representative Boe:** They did indicate that they were successful in finding issues and levying fines. I did ask them where that money went and if we got any of the money back from the fines; and we do not, that goes to the federal government for the surface transportation board. We're assisting them in doing their job.

**Chairman Delzer:** Did you take any of the rail inspectors as FTE? You have two less FTE's. Where are they from?

**Representative Monson:** The rail inspection program they had temps and wanted to make a full time FTE out of there and we said no; but we let them keep the temp money. The two FTE's that Governor Dalrymple had recommended come out were for grain inspection. We did not identify those two as grain inspectors; because we wanted to make sure the grain inspections went ahead. We took out the funding for them and additional funding out of the general fund salaries. We left the flexibility to use those FTE's that remain where they want; but we underfunded their salary line item by \$475,000.00. We wanted to make sure the grain inspector ahead.

**Chairman Delzer:** The rail safety program is general fund money? Is it the cost for two rail safety people? If you took one rail safety person, could you cut that in half?

**Representative Monson:** We did not specify that they could not cut that program. We did not take that money out; but they reported that they had found many instances where they had found deficiencies and problems over and above what the railroad had found themselves and what the feds had found.

**Representative Boe:** The source of the money was from safety funds from the railroad. It's excise tax but it went for safety programs.

**Chairman Delzer:** If we didn't do that, that money would go to the highway department.

**Representative Boe:** That would be true.

**Representative Streyle:** The \$20,000.00 is a federal grant related to geological survey; that's all federal money.

**Representative Boe:** Made a motion to move amendment .01002.

**Representative Brandenburg:** Seconded the motion.

**Voice Vote made.**

**Motion Carried.**

**Representative Boe:** Made a motion for a "Do Pass as Amended".

**Representative Monson:** Seconded the motion.

**Representative Monson:** We fought this last time and lost it in conference committee.

**Representative Pollert:** Where the faults were found on the tracks, were those on short-line railroads or were they on the mainline railroads?

**Representative Boe:** We never asked where they found it. I do have in my notes what they have found over the last biennium. Over the first half of the biennium, there were four issues found; four were found by the PSC inspectors and four were found by the surface transportation board. In the second half, there were nine found by the PSC and six by the surface transportation board.

**Representative Monson:** Some of those were mechanical and some were track issues.

**Representative Streyle:** I had requested this before session and from September 15 to March 16 there were four violations; 422 defects. In Cass county there were eight, Burleigh had five, Bottineau had 27, Stark had 31; it's scattered throughout the whole system.

Representative Monson continued with the explanation of the bill.

**Representative J. Nelson:** If we find a violation, there are fines levied, do they indicate what the total number of fines or deficiencies that we found; that went to the surface transportation board were?

**Representative Streyle:** Zero stays here. There were four recommended violations during that timeframe of September 15 through March 16. We don't know what they charged them or what the fees were on any of the fines because we don't collect the revenues.

**Representative Meier:** How many federal inspectors do we have?

**Representative Streyle:** Twelve or fourteen; but it's a region; so it's South Dakota, parts of Montana and Wyoming. I believe there were three mechanical and eleven other inspectors.

**Chairman Delzer:** The mainline also have their own inspectors as well.

**Representative Streyle:** The railroad companies have their own inspectors.

**Roll Call Vote:** 13 Yeas 6 Nays 2 Absent

**Motion Carried**

Representative Boe carried the bill.

**Chairman Delzer:** Closed the discussion.

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PROPOSED AMENDMENTS TO HOUSE BILL NO. 1008

Page 1, line 2, after the semicolon insert "to provide for a legislative management study;"

Page 1, line 2, replace "a transfer" with "transfers"

Page 1, replace lines 12 through 23 with:

"Salaries and wages	\$9,643,095	(\$662,102)	\$8,980,993
Operating expenses	1,877,562	(47,736)	1,829,826
Capital assets	26,400	(26,400)	0
Grants	20,000	0	20,000
Abandoned mined lands contractual	8,000,000	(2,000,000)	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	523,345	5,743	529,088
Specialized legal services	<u>150,000</u>	<u>580,000</u>	<u>730,000</u>
Total all funds	\$21,140,402	(\$2,150,495)	\$18,989,907
Less estimated income	<u>13,964,575</u>	<u>(1,375,972)</u>	<u>12,588,603</u>
Total general fund	\$7,175,827	(\$774,523)	\$6,401,304
Full-time equivalent positions	46.00	(2.00)	44.00

**SECTION 2. HEALTH INSURANCE INCREASE.** The appropriation in section 1 of this Act includes the sum of \$125,934, of which \$76,487 is from the general fund, for increases in employee health insurance premiums from \$1,130 to \$1,249 per month."

Page 2, replace lines 6 through 9 with:

"Specialized legal services	<u>\$575,624</u>	<u>\$636,000</u>
Total all funds	\$575,624	\$636,000
Total special funds	<u>336,000</u>	<u>636,000</u>
Total general fund	\$239,624	\$0"

Page 2, after line 22, insert:

**"SECTION 5. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND.** The estimated income line item in section 1 of this Act includes \$300,000, of one-time funding from the strategic investment and improvements fund for specialized legal service costs during the biennium beginning July 1, 2017, and ending June 30, 2019.

**SECTION 6. LEGISLATIVE MANAGEMENT STUDY - IMPACT OF WIND ENERGY.**

1. During the 2017-18 interim, the legislative management shall consider studying the impact of wind energy development on the environment, addressing and researching issues common to North Dakota landowners, and identifying potential issues for legislation. The study may include consideration of:
  - a. The impact of wind energy development on the environment, including aesthetic impacts;

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- b. The impact of wind energy development on property values;
  - c. The impact of wind energy development on agriculture;
  - d. The advantages and disadvantages of implementing legislation for pooling or unitization of wind resources similar to that of the oil and gas industry in chapter 38-08; and
  - e. The necessary processes for the decommissioning of a wind energy project.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Base Budget	House Changes	House Version
Salaries and wages	\$9,643,095	(\$662,102)	\$8,980,993
Operating expenses	1,877,562	(47,736)	1,829,826
Capital assets	26,400	(26,400)	
Grants	20,000		20,000
Abandoned mined lands contractual	8,000,000	(2,000,000)	6,000,000
Rail rate complaint case	900,000		900,000
Railroad safety program	523,345	5,743	529,088
Specialized legal services	150,000	580,000	730,000
<b>Total all funds</b>	<b>\$21,140,402</b>	<b>(\$2,150,495)</b>	<b>\$18,989,907</b>
Less estimated income	13,964,575	(1,375,972)	12,588,603
<b>General fund</b>	<b>\$7,175,827</b>	<b>(\$774,523)</b>	<b>\$6,401,304</b>
FTE	46.00	(2.00)	44.00

**Department No. 408 - Public Service Commission - Detail of House Changes**

	Adjusts Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Health Insurance Increases <sup>2</sup>	Removes 2 FTE Positions <sup>3</sup>	Underfunds Salaries and Wages <sup>4</sup>	Adjusts Base Level Funding <sup>5</sup>	Adds One-Time Funding for Specialized Legal Services <sup>6</sup>
Salaries and wages	(\$21,053)	\$120,191	(\$286,240)	(\$475,000)		
Operating expenses					(47,736)	
Capital assets					(26,400)	
Grants						
Abandoned mined lands contractual					(2,000,000)	
Rail rate complaint case						
Railroad safety program		5,743				
Specialized legal services					(56,000)	636,000
<b>Total all funds</b>	<b>(\$21,053)</b>	<b>\$125,934</b>	<b>(\$286,240)</b>	<b>(\$475,000)</b>	<b>(\$2,130,136)</b>	<b>\$636,000</b>
Less estimated income	(61,419)	49,447	0	0	(2,000,000)	636,000
<b>General fund</b>	<b>\$40,366</b>	<b>\$76,487</b>	<b>(\$286,240)</b>	<b>(\$475,000)</b>	<b>(\$130,136)</b>	<b>\$0</b>
FTE	0.00	0.00	(2.00)	0.00	0.00	0.00
	<b>Total House Changes</b>					
Salaries and wages	(\$662,102)					
Operating expenses	(47,736)					

2/15/17 DP  
3 of 3

Capital assets	(26,400)
Grants	
Abandoned mined lands contractual	(2,000,000)
Rail rate complaint case	
Railroad safety program	5,743
Specialized legal services	580,000
Total all funds	(\$2,150,495)
Less estimated income	(1,375,972)
General fund	(\$774,523)
FTE	(2.00)

<sup>1</sup> Funding is adjusted for cost-to-continue 2015-17 biennium salaries and benefit increases and for other base payroll changes.

<sup>2</sup> Funding is added for increases in health insurance premiums from \$1,130 to \$1,249 per month.

<sup>3</sup> Two FTE positions and funding of \$286,240 is removed.

<sup>4</sup> General fund salaries and wages are underfunded.

<sup>5</sup> Base level funding is adjusted as follows:

	General Fund	Other Funds	Total
Reduces funding for operating expenses	(\$47,736)		(\$47,736)
Removes funding for capital assets	(26,400)		(26,400)
Reduces federal funds		(2,000,000)	(2,000,000)
Reduces funding for specialized legal services	(56,000)		(56,000)
Total	(\$130,136)	(\$2,000,000)	(\$2,130,136)

<sup>6</sup> One-time funding of \$636,000 is added for specialized legal services of which \$300,000 is from the strategic investment and improvements fund.

This amendment also:

- Adds a section identifying the cost of the health insurance premium increase.
- Provides for a Legislative Management study regarding the impact of wind energy development.
- Adds a section identifying the funding provided from the strategic investment and improvements fund.

Date: 2-14-2017  
Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1008**

House Appropriations - Education and Environment Division Committee

Subcommittee

Amendment LC# or Description: 17.0493.01002

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Rep Streyle Seconded By Rep Sanford

Representatives	Yes	No	Representatives	Yes	No
Chairman Monson			Rep Boe		
Vice Chairman Streyle					
Rep Martinson					
Rep Sanford					
Rep Schatz					
Rep Schmidt					

*Vote  
aye carry*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*Motion Carried*

Date: 2-14-2017  
Roll Call Vote #: 2

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB 1008**

House Appropriations - Education and Environment Division Committee

Subcommittee

Amendment LC# or Description: HB 1008

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Rep Streyle Seconded By Rep Martinson

Representatives	Yes	No	Representatives	Yes	No
Chairman Monson	✓		Rep Boe	✓	
Vice Chairman Streyle	✓				
Rep Martinson	✓				
Rep Sanford	✓				
Rep Schatz	✓				
Rep Schmidt	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Rep Boe

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

passes HB 1008

Date: 2/15/2017  
Roll Call Vote #: 1

**2017 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. HB1008**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: 17.0493.01002

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Representative Boe Seconded By Representative Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich			Representative Streyle		
Representative: Boehning			Representative Vigesaa		
Representative: Brabandt					
Representative Brandenburg					
Representative Kading			Representative Boe		
Representative Kreidt			Representative Delmore		
Representative Martinson			Representative Holman		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Pollert					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

**MOTION CARRIES**

**2017 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. HB1008**

House Appropriations Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass  Do Not Pass  Without Committee Recommendation  
 As Amended  Rerefer to Appropriations  
 Place on Consent Calendar  
 Other Actions:  Reconsider  \_\_\_\_\_

Motion Made By Representative Boe Seconded By Representative Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X	Representative Schatz	A	
Vice Chairman Kempenich		X	Representative Schmidt	X	
Representative Boehning	X		Representative Streyle	X	
Representative Brabandt		X	Representative Vigesaa	X	
Representative Brandenburg		X			
Representative Kading		X			
Representative Kreidt	A		Representative Boe	X	
Representative Martinson	X		Representative Delmore	X	
Representative Meier		X	Representative Holman	X	
Representative Monson	X				
Representative Nathe	X				
Representative J. Nelson	X				
Representative Pollert	X				
Representative Sanford	X				

Total (Yes) 13 No 6

Absent 2

Floor Assignment Representative Boe

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

**REPORT OF STANDING COMMITTEE**

**HB 1008: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (13 YEAS, 6 NAYS, 2 ABSENT AND NOT VOTING). HB 1008 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "to provide for a legislative management study;"

Page 1, line 2, replace "a transfer" with "transfers"

Page 1, replace lines 12 through 23 with:

"Salaries and wages	\$9,643,095	(\$662,102)	\$8,980,993
Operating expenses	1,877,562	(47,736)	1,829,826
Capital assets	26,400	(26,400)	0
Grants	20,000	0	20,000
Abandoned mined lands contractual	8,000,000	(2,000,000)	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	523,345	5,743	529,088
Specialized legal services	<u>150,000</u>	<u>580,000</u>	<u>730,000</u>
Total all funds	\$21,140,402	(\$2,150,495)	\$18,989,907
Less estimated income	<u>13,964,575</u>	<u>(1,375,972)</u>	<u>12,588,603</u>
Total general fund	\$7,175,827	(\$774,523)	\$6,401,304
Full-time equivalent positions	46.00	(2.00)	44.00

**SECTION 2. HEALTH INSURANCE INCREASE.** The appropriation in section 1 of this Act includes the sum of \$125,934, of which \$76,487 is from the general fund, for increases in employee health insurance premiums from \$1,130 to \$1,249 per month."

Page 2, replace lines 6 through 9 with:

"Specialized legal services	<u>\$575,624</u>	<u>\$636,000</u>
Total all funds	\$575,624	\$636,000
Total special funds	<u>336,000</u>	<u>636,000</u>
Total general fund	\$239,624	\$0"

Page 2, after line 22, insert:

**"SECTION 5. ESTIMATED INCOME - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND.** The estimated income line item in section 1 of this Act includes \$300,000, of one-time funding from the strategic investment and improvements fund for specialized legal service costs during the biennium beginning July 1, 2017, and ending June 30, 2019.

**SECTION 6. LEGISLATIVE MANAGEMENT STUDY - IMPACT OF WIND ENERGY.**

1. During the 2017-18 interim, the legislative management shall consider studying the impact of wind energy development on the environment, addressing and researching issues common to North Dakota landowners, and identifying potential issues for legislation. The study may include consideration of:
  - a. The impact of wind energy development on the environment, including aesthetic impacts;
  - b. The impact of wind energy development on property values;
  - c. The impact of wind energy development on agriculture;

- d. The advantages and disadvantages of implementing legislation for pooling or unitization of wind resources similar to that of the oil and gas industry in chapter 38-08; and
  - e. The necessary processes for the decommissioning of a wind energy project.
2. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-sixth legislative assembly."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Base Budget	House Changes	House Version
Salaries and wages	\$9,643,095	(\$662,102)	\$8,980,993
Operating expenses	1,877,562	(47,736)	1,829,826
Capital assets	26,400	(26,400)	
Grants	20,000		20,000
Abandoned mined lands contractual	8,000,000	(2,000,000)	6,000,000
Rail rate complaint case	900,000		900,000
Railroad safety program	523,345	5,743	529,088
Specialized legal services	150,000	580,000	730,000
<b>Total all funds</b>	<b>\$21,140,402</b>	<b>(\$2,150,495)</b>	<b>\$18,989,907</b>
Less estimated income	13,964,575	(1,375,972)	12,588,603
<b>General fund</b>	<b>\$7,175,827</b>	<b>(\$774,523)</b>	<b>\$6,401,304</b>
FTE	46.00	(2.00)	44.00

**Department No. 408 - Public Service Commission - Detail of House Changes**

	Adjusts Funding for Base Payroll Changes <sup>1</sup>	Adds Funding for Health Insurance Increases <sup>2</sup>	Removes 2 FTE Positions <sup>3</sup>	Underfunds Salaries and Wages <sup>4</sup>	Adjusts Base Level Funding <sup>5</sup>	Adds One-Time Funding for Specialized Legal Services <sup>6</sup>
Salaries and wages	(\$21,053)	\$120,191	(\$286,240)	(\$475,000)		
Operating expenses					(47,736)	
Capital assets					(26,400)	
Grants						
Abandoned mined lands contractual					(2,000,000)	
Rail rate complaint case						
Railroad safety program		5,743				
Specialized legal services					(56,000)	636,000
<b>Total all funds</b>	<b>(\$21,053)</b>	<b>\$125,934</b>	<b>(\$286,240)</b>	<b>(\$475,000)</b>	<b>(\$2,130,136)</b>	<b>\$636,000</b>
Less estimated income	(61,419)	49,447	0	0	(2,000,000)	636,000
<b>General fund</b>	<b>\$40,366</b>	<b>\$76,487</b>	<b>(\$286,240)</b>	<b>(\$475,000)</b>	<b>(\$130,136)</b>	<b>\$0</b>
FTE	0.00	0.00	(2.00)	0.00	0.00	0.00

	Total House Changes
Salaries and wages	(\$662,102)
Operating expenses	(47,736)
Capital assets	(26,400)
Grants	
Abandoned mined lands contractual	(2,000,000)
Rail rate complaint case	
Railroad safety program	5,743
Specialized legal services	580,000
<b>Total all funds</b>	<b>(\$2,150,495)</b>
Less estimated income	(1,375,972)
	(\$774,523)

General fund	
FTE	(2.00)

<sup>1</sup> Funding is adjusted for cost-to-continue 2015-17 biennium salaries and benefit increases and for other base payroll changes.

<sup>2</sup> Funding is added for increases in health insurance premiums from \$1,130 to \$1,249 per month.

<sup>3</sup> Two FTE positions and funding of \$286,240 is removed.

<sup>4</sup> General fund salaries and wages are underfunded.

<sup>5</sup> Base level funding is adjusted as follows:

	General Fund	Other Funds	Total
Reduces funding for operating expenses	(\$47,736)		(\$47,736)
Removes funding for capital assets	(26,400)		(26,400)
Reduces federal funds		(2,000,000)	(2,000,000)
Reduces funding for specialized legal services	(56,000)		(56,000)
Total	(\$130,136)	(\$2,000,000)	(\$2,130,136)

<sup>6</sup> One-time funding of \$636,000 is added for specialized legal services of which \$300,000 is from the strategic investment and improvements fund.

This amendment also:

- Adds a section identifying the cost of the health insurance premium increase.
- Provides for a Legislative Management study regarding the impact of wind energy development.
- Adds a section identifying the funding provided from the strategic investment and improvements fund.

**2017 SENATE APPROPRIATIONS**

**HB 1008**

# 2017 SENATE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Harvest Room, State Capitol

HB 1008  
3/6/2017  
Job # 28745

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Mary Munder for Rose Laning*

## Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the public service commission

## Minutes:

Testimony Attached # 1 – 4.

**Legislative Council:** Levi Kinnischtzke  
**OMB:** Becky Keller

**Chairman Holmberg:** Called the committee to order on HB 1008.

### **Randy Christmann, Chairman, Public Service Commission**

HB 1008 Public Service Commission - Testimony Attached # 1.

Agency Overview – Testimony Attached # 2.

Proposed Reduction to meet Governor's 90% Reduction – Testimony Attached # 3.

**Chairman Holmberg:** The sub-committee will be **Senator G. Lee, Senator Wanzek and Senator Grabinger:**

**(12:30) Chairman Holmberg:** Are the vacancies you identified currently filled or are they vacant positions?

**Randy Christmann:** It would be a combination. One position was a recent resignation. We also had a transition from a public utility person that went up to the reclamation department when there was a resignation up there.

**19:07 Chairman Holmberg:** I am sure you remember the role of the Senate in the rail safety about two years ago.

**Randy Christmann:** I remember it well.

**Senator Bowman:** With the pipeline coming on, will that slow down the amount of traffic on the rails? Do you have a percentage?

**Randy Christmann:** I don't know the percentage, but it will be significant. There will still be trains going to the east. There still will be rail activity, but I do not know the percentage.

**Senator Grabinger:** Mentioned that the \$36,000 for FTE is funded by diesel fuel tax. Do you know what that amount is?

**Randy Christmann:** No I do not. Diesel fuel tax ultimately ends up in the Department of Transportation. That's who carries out these safety programs and the various things they do in addition to this and DOT transfers money to us for this program.

**Senator Grabinger:** Is there adequate funding through those special funds?

**Randy Christmann:** Yes. Governor Dalrymple worked through that with DOT.

**Senator Mathern:** (24:49) A gasoline retailer contacted me recently and was frustrated with having someone from your department in to check his pumps. In MN they have a procedure where they use their own testers and they say their internal staff is much more accurate. He was wondering why we don't use a similar procedure. He thought it would save the state a lot of money.

**Randy Christmann:** To use part of the procedure but not all could save us money, but to use the same procedure as MN would cost us an enormous amount of money. They want to test their own but we are not inclined to allow that. In MN if you are a registered service company, they are allowed to test their own, however their state regulators are coming in and testing it afterwards and there is no fee. We charge a nominal fee, no-where near enough to cover our costs, and the fee is set in Century Code. MN pays private companies to come and test theirs and if we did it their way we would have to hire numerous inspectors to come in and help.

**Senator Oehlke:** You mentioned that fees for testing go to general fund? **Answer:** Yes. Any wisdom to say that it should go back into your budget to cover it?

**Randy Christmann:** Any money you choose to send our way shows wisdom! When I was in appropriations years ago, these amounts are so low, that it wouldn't make a lot of difference. They would have to rise dramatically to make a big change. The private retail company will charge a fee and typically mileage. Our customers are smaller communities.

**Chairman Holmberg:** You also have the advantage of a separation in the work you are doing in regulation and the fact that the retailer would see they are hitting us hard, as the money is going in their pockets, where-as the money that is filtered through the general fund and through the wisdom of this committee determines how things should happen. They are waiting for us to come in and raise their money.

**Randy Christmann:** It is good to have it the way it works.

**Senator Mathern:** In light of the discussion of reinventing government and doing things a different way, I am wondering if there was any discussion between your office and the Governor's office about the future of PSC appointments in terms of do we need three, or can

anything be changed, or was there any discussion about the PSC going forward that might require constitutional change or whatever. Is there anything going on that reflects a change in the way we do things?

**Randy Christmann:** Not directly. In many states there is a 5-member commission for utility regulation and I don't know of any state that doesn't have at least 3. It is a very much needed situation. In House committee, Sheila Peterson testified that we were the most innovative agency that looks for new ways to do things and we were very economical.

**Senator Mathern:** I thought some states only had one, or eliminated the elected positions of PSC.

**Randy Christmann:** All the ones I am aware of have either 3 or 5. Some do not elect, and I think around half are appointed by the Governor.

**(32:36) Senator G. Lee:** On the engrossed version of 1008 there is a wind study, does that duplicate another study that came out of the Senate before Crossover?

**Randy Christmann:** They didn't discuss this with us, so I'm not familiar.

**Senator Wanzek:** I know we didn't get a chance to hear 1126. Is grain licensing in grain compliance division.

**Randy Christmann:** We did that as part of allotment. We merged that so one director could oversee the weights and measures and grain safety. It makes significant changes and House wants to keep it as they do now. It still eliminates some of the duties.

**Chairman Holmberg:** Any questions?

**RandyChristmann:** We will be glad to work with anyone and are available. We will also work with the sub-committee.

Industry became adamant because we're responsive. We respond in a matter of days or weeks. I am sure you hear from the people who use our services and we are here to make sure the state moves forward. Service is our middle name.

**Ron Ness, President, North Dakota Petroleum Council, Inc. (Lobbyist # 040)**

Testified in favor of HB 1008. No written testimony.

Thanked the PSC. Work has to be done and done right. The reductions would have an impact of their siting staff. The #1 issue with pipeline bills is still strikes. We have increased the penalties on that and increased the legislation. Protests are being sited. We do applaud the agency and we want them to have the adequate staff to do the job.

**Chairman Holmberg:** Any other questions? Thank you. Any other testimony?

**Carlee McCleod, President of Utility Shareholders of North Dakota (Lobbyist # 202):**

Testified in favor of HB 1008. No written testimony. The most important thing for any safety program is that it has robust enforcement and if we take away some of those FTEs we will lose the strength of that program.

**Chairman Holmberg:** Was there a robust discussion in House on this?

**Randy Christmann:** They did not choose to set up a sub-committee. One person was the lead and I made attempts to meet and we never could, so we just ended up with reductions as stated.

**Senator Krebsbach:** A few years ago we had trouble with elevators being insolvent. Where are we at with that now?

**Randy Christmann:** It continues to be a problem and I expect it always will be. They are a commodity based group of people. If they ship out a grain load of beans and don't get paid for it, they are in a lot of trouble. Every year or two years, it just can happen through no fault of their own. The complexity of them is changing. Grain house insolvency, it used to be all small farmers, they went in and handled the case and that was that. Now they have fewer producers involved but they have hundreds of thousands of dollars involved, and everyone lawyers up, and the cases go on and on and on.

**Senator Wanzek:** Is it another issue with insolvency when farmers pre-pay for fertilizer or whatever and they are basically unsecured creditors.

**Randy Christmann:** You are correct. We deal with grain buyers. A grain elevator is involved in a variety of ways. If they become insolvent, we don't work with any of that, and the farmers that have prepaid a lot of money and go under, that is not part of our case either. They are out if the elevator goes out. There is an indemnity fund that an elevator can have money in, but if there is no grain then the farmer is out.

**Senator Mathern:** You noted complexity and it reminded me of the issues with the DAPL pipeline. One of the challenges of communication, there was a difference between tribe and political sub-division, Communication with a state agency or requirements of notice, things like that. Are there any changes needed to make sure that kind of complexity is simplified? Anything in this area that needs attention.

**Randy Christmann:** I expect we will continue to follow the law. The law is that we hold siting hearings in the county where the siting occurs. In the DAPL pipeline case, we held hearings in Mandan, Killdeer and Williston, spreading it out so no one had to drive so far. If we were to start going outside counties where construction occurred, then you should have one in every county that it will occur in. Here is what I want to emphasize we're following the law. We notify the Indian Affairs Commission and they make sure the right tribe is contacted.

**Senator Mathern:** There is a notice to the Indian Affairs Commission about being blindsided.

**Randy Christmann:** Yes, I have double checked on that and we did not miss anything. Both the Indian Affairs Commissioner and Standing Rock were notified.

**Chairman Holmberg:** Thank you. Anyone else wanting to testify?

**Zac Smith, North Dakota Association of Rural Electric Cooperatives (Lobbyist # 100)**

Testified in favor of HB 1008. No written testimony.

We're very happy with the work that the commission is doing in terms of siting and one-call. You passed out new legislation with the one call to fix some of the issues we were having, in order for that to go through and for that to work you need to be fully staffed, and we appreciate you looking at that and making sure you are fully staffing the PSC.

**Chairman Holmberg:** Any questions? Anyone else to testify? Questions from committee members or sub-committee?

**Senator Grabinger:** On sub-committees in 1<sup>st</sup> half of the session, we asked department heads to bring recommendations to us of where to make cuts. On this one, you asked about the FTEs or positions vacant. Could we ask for guidance if we went ahead with House proposal. What positions those would be and are they vacant at this time or not. Could we get that information brought to the sub-committee?

**Chairman Holmberg:** Yes, you can gather whatever information you need. You may not have hearings. Your recommendations can be different than what the House or Governor made. It's a system where there is tension between the bodies but that's good. So yes, go ahead and work on this.

**Chairman Holmberg:** Closed the hearing on HB 1008.

Testimony submitted in support of HB 1008 –

**Danette Welsh, Manager, ONEOK Government Relations**  
Testimony Attached # 4.

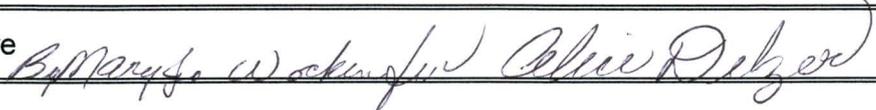
# 2017 SENATE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Harvest Room, State Capitol

HB 1008  
3/21/2017  
JOB # 29516

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A Subcommittee hearing for the Public Service Commission (PSC)

## Minutes:

1.PSC Authorized Positions

**Chairman Gary Lee** called the subcommittee to order at 11:00 am in the Harvest Room in regards to HB 1008, PSC. Let the record show that all subcommittee members were present: Senator Gary Lee, Senator Wanzek and Senator Grabinger. Chris Kadrmas, Legislative Council and Stephanie Gullickson, OMB were also present.

**Chairman Lee:** I will have Chris walk through the bill.

**Chris Kadrmas, Legislative Council:** I will talk about what the House did. I am looking at the green sheet. It will be the appendix to it. The base payroll, the salary increase did not go in any of the agencies, the health is the same as in all agencies; the underfunding of salaries and wages line. How the agency chooses to meet that recommendation as to how the House has left it.

**Senator Wanzek:** There is a \$475,000 shortage. What am I missing?

**Chris Kadrmas:** If you turn to page 3 of green sheet, you'll see a comparison of governors' recommendations and the actions, the \$60,000 by Dalrymple and the other \$87,486 was recommended to be underfunded by Governor Burgum.

**Senator Wanzek:** So the \$60,000 on the first page only reflects what was in Governor Dalrymple recommendation.

**Chairman Lee:** Just the total of 475.

**Chris Kadrmas:** Then the House concurred to remove 2 FTE positions. Based on restructuring their agencies, and then after it had all come out, the amount of FTE's they actually need is going to be different but the House still chose to remove two and it was up to PSC to determine what the 2 FTEs' were. They don't need the spending authority. We have a reduction to operating expenses that was recommended by Governor Dalrymple, the

House concurred with, an additional reduction to Housing from Governor Burgum of \$21,872, the two total to be \$47,700 and then there's a reduction to specialized Legal Services as recommended. **(0.05.31)**

**Senator Grabinger:** Back to that \$475,00 cut by the House, did they give you any suggestions as to why they were doing that? What their reasoning was raising that to \$475,000? Did they say anything? He was told no. Just flat out, that's the number they picked arbitrarily.

**Chris Kadramas:** The House Environment Education Committee was removing 7% off the Governor's recommendation from the salaries and wages line and so they set that base for all the agencies that were going through that division.

**Sen. Gary Lee:** Asked which governor's budget, Dalrymple or Burgum one?

**Chris Kadramas:** It was off of Governor Dalrymple. So then they took that and kind of looked at what Governor Burgum had recommended and they did adjust that 7% for some agencies depending on whether or not they believed the determined agency could potentially absorb that a little bit more. So basically they set a threshold and tried to carry that out though with all the agencies. Then there was reduction of \$56,000 for specialized legal services and that was in Governor Dalrymple's recommendation, again the House concurred with that. Then there is a reduction of \$26,400 in the capital assets line, and if I remember correctly that kind of zeros out their capital assets line and that was recommended by Governor Burgum and the House concurred with that. Then we have a one-time funding of special funds of \$636,000 and that coincides with Section 5 and so \$300,000 of is coming out of the SIIF and then the remaining amount is in federal dollars.

**Senator Gary Lee:** In the specialized legal fund the base level was \$150,000, then it was \$580,000 added to that up to \$730,000 so how does it go from \$730,000 to \$636,000? And then the second page it's got one-time funding, shows other amounts.

**Chris Kadramas:** So the \$150,000 minus the \$56,000 that was removed in specialized legal services as per Governor Dalrymple's recommendation leaves you with \$94,000. Then you add back the \$636,000, to get a total of \$730,000 is the total for that specialized legal services line and of that \$636,000 is one-time funding. **(0.08.53)** Then we will move down to the Sections within the bill. Section two is the same as all other bills. Section 4 – transfer of \$900,000 from the Beginning Farmer Revolving Fund to the Public Service Commission, this Section has consistently been within the Bank of North Dakota (BND) they set aside \$900,000 in there to make available for the PSC if there were to be a railway complaint so they can utilize that funding. What will happen the BND will talk to the PSC to see if they plan on using any of it, and they don't they do make that available for loans. So they try to utilize that funding. Section 5 is as I explained above, its' part of that \$636,000 in one-time funding and that is for specialized legal services. Section 6 provides for a study of the impact of wind energy development and it's a "shall consider" study. Any questions? **(0.10.43)**

**Senator Gary Lee:** Any other thoughts on the bill as to what Chris explained on any of the Sections that you think you need to be clarified further for us or amplified in terms of information.

**Mr. Christmann:** I think he covered it all. I can start walking through or answer questions.

**Senator Wanzek:** As far as the \$900,000 on the railway case, we established that, it seems like it's been a number of sessions ago, have we ever had to utilize it or it seems like since we put that money in there we'd never had an issue on rail rates?

**Mr. Christmann:** If it is more than two biennia's I don't know if it's ever been used. I think that there a railroad complaint case about 10-15 years ago, and I am not sure if it came out of this fund, or not, or if we created this after that, so it would be available. The bottom line, generically, it cost more to get wheat from Beach to the west coast than from Casselton but it costs more to get from Casselton to Superior than it was from Beach. This didn't make sense. And the farmers were upset, and they wanted a way the PSC could do a railway complaint case, the bottom line is, at least a decade ago, this has not been used. It sets there, it's part of a loan fund that the BND has available. They contact PSC as they start to run that pool of money down to see if we contemplate an action and in all these recent years the answer has been no, and they proceed to loan the money out. If we needed it, at least early in the biennium it would be available for simply a rate complaint case nothing to do with safety or anything like that. **(0.13.25)**

**Senator Grabinger:** You could utilize emergency funds if you got into a situation, and that money wasn't there. If we took that and did away with that. It hasn't been used for quite a while, and what are the chances we could face that?

**Mr. Christmann:** I am not going to use a lot of effort lobbying to keep it for my position now. It's not a huge deal. I'll just go back in my memory to what discussion were years ago when we set it. It has been discussed every biennium since. There are a lot of producer groups who will argue that having it there, not having to wait for months and go through the emergency commission, having there and available is why the rail rates have been reasonable ever since it got set up. We haven't had the kinds of problems that used to occur years ago. Holding this out, is not wasting resources, as we reach the end of the biennium and not use it, they go ahead and lend the money out anyway. I think there would be producer groups who would say this this a valuable tool, just leave it hanging there. As a commissioner, it's not a big priority to me.

**Senator Gary Lee:** On these specialized legal services, you spent \$115,000 and the allotment took out \$175,000, that was part of your allotment reduction and you had \$500,000 total committed in the 15-17 biennium, and this time there is \$730,000 there, why the increase, why the \$730,000 in terms of a number that you need to have in that account for when it doesn't appear that you're going to use that much?

**Mr. Christmann:** Part of this is the same as that railway complaint fund. Having a pool of money might prohibit people from doing things when they know they are more able to defend ourselves. He referred to page 10 of his testimony, (See Testimony # 1 from 3-6-17 Job # 28745) It shows a graph of the current of the previous and upcoming bienniums and the way this has evolved. The total dollars of available, this biennium and the previous biennium were \$900,000, as this would stand it would be \$730,000. The big difference is this shifts most of what was general fund to the SIIF and leaves only a small amount of general fund.

Keep in mind, the one thing that's been consistent through all of this, whether it's the upcoming \$703,000 or the past \$900,000, \$400,000 is federal money, and the only way that any of that money would become available would be if we were on the same side as the federal government in a common law suit and there was one of those years ago where some environmental groups sued on whether some policy memos that we had in the reclamation department were in fact rules and became law and the federal government agreed they were, OSM, so we were able to use some of their federal funding as part of our costs in that law suit. \$400,000 goes off the table.

**Senator Gary Lee:** Is that a match? The ones with just the dollars that come from the federal government for that.

**Mr. Christmann:** If it was part of the reclamation program and they approved it, then that would be on the same cost share as our reclamation program.

**Senator Gary Lee:** Is the \$400,000 a match to the \$300,000?

**Mr. Christmann:** Not directly.

**Senator Wanzek:** The PSC is requesting 2 FTEs, one is to make the temporary rail safety inspector permanent, and then the other is natural gas pipeline inspector. That is correct right?

**Mr. Christmann:** That is correct. With the underfunding there is not enough to pay the existing positions as well.

**Senator Wanzek:** \$175,000 is underfunded without those employees, now we add those two employees, and there is \$36,000 roughly to make the temporary full time, and what is there required to cover the pipe line inspector's salary?

**Mr. Christmann:** I think Chris could give you the exact amount on the \$36,000. I just want to emphasize that would be the special fund from the DOT, from that rail fuel tax. The pipeline inspector, I don't even recall the number. That is about \$268,000 for the biennium. They don't give us the amount until later, it's roughly half federal and have general.

**Senator Wanzek:** If you had to prioritize one or the other, is there one that is vitally more important than the other?

**Mr. Christmann: (0.20.19)** The Pipeline Safety and Inspection program when I say about half, the quality of our program is rated by PHMSA (Pipeline and Hazardous Materials Safety Administration) of the federal agency and then we are reimbursed a percentage based on how good of a program we run. We are not going to be penalized until 2020. But we are undermanned for the amount of inspection hours they expect us to have. These positions take years to train so the time to start is now. The priorities would be making that rail safety inspector permanent. And then reincorporating some of this underfunding for our existing other positions.

**Senator Grabinger: (0.21.32)** When you talk in your testimony on page 11, the possibility of losing federal funding because of that pipeline inspector, not having that, you're talking about funding in 2020, would be the actual time that that would take effect if we didn't fund that. You're not talking about in the next biennium?

**Mr. Christmann:** That is correct. But if we wait and hire someone in 2019 in order to become qualified to do inspections by PHMSA, they have to take classes from PHMSA, and that's the only place you get them. It takes years to get that training so if we wait until 2019, we will get penalized in 2020. **(0.22.27)**

**Senator Grabinger:** You don't know how much funding we could lose because of that, and second of all, can you hire somebody that has that training or is that not a possibility?

**Mr. Christmann:** Yes, it is a possibility but we have never been able to hire someone with our salary structure in the past though. But it is a possibility.

**Senator Gary Lee:** Asked about the funding requirements they would like.

**Mr. Christmann:** Testimony attached # 1 – will explain the authorized positions. They didn't include enough money to fund 45 people and so what we would do to trim back to the level of funding in the bill would be to eliminate additional positions to get down to the one temporary, the rail safety temp, 41 FTE's; for a total of 42 people. I took out the one temporary and the one permanent position so its apples to apples comparison to 09-11 pre-oil boom. We would actually be at 40. So, how would we get there. Here are the 6 positions starting from the top on his testimony. Here is the 6 positions that I can imagine up in playing but one of them I haven't even identified as I don't know what we would do with the bottom one, but starting from the top, the temporary Weights And Measures; Inspector Grain Licensing Director - gone. The Public Utilities Div. Engineer – they want that position, we can contract some of that work and shift costs; the Grain Licensing Inspector is a possibility. They have a significant amount of operating costs. That was one we proposed to eliminate and the one that Christ talked about with that other bill, the other bill made some law changes, so we could save time with our inspectors and do with one fielder, the House was strongly objected to that bill. While the bill is alive most of the money for the FTE, that was the bill, but they took the costs out. I do think there is a possibility of that position not full time. Accountant – position and we traditional had two accountants with a lot of fees coming in, charges from weights and measures inspectors, there is a lot of accounting work, I always thought it was very well justified. To go from 2 to 1 is such a large change, not only is there a lot of additional work, that would need to be spread around the agency, but it eliminates a lot of the separation of duties. But that will be a position to get to this number that we would have to not have. there might be a possibility of doing something part-time with someone. The last one, I haven't even identified another position that we could continue to do the things that we are required by law to do. Two of the first priority is about \$110,000 that would allow us to be able to pay everybody else and just eliminate the first 5 that I mentioned. I don't know where else I would look for another one. **(0.29.55)**

**Senator Wanzek:** The grain licensing inspector shows up at our licensed warehouse and dose an inspection on occasion of our operation and checks our books, goes through the scale tickets and the assembly sheets, and actually does an audit of the grain on hand or in

storage. That was confirmed. In your bill that you were proposing that, that bill was defeated, right?

**Mr. Christmann:** That bill was not defeated but two inspectors currently, they do more than that. They did handling of insolvencies, and things like that, bogs down a tremendous amount of their time. What the bill sought to do was fundamentally changed the way we handle insolvencies, in addition to that part that's still alive is we're changing the way we do licensing, going to an electronic licensing, a few things but the biggest one was the insolvencies that would've lessened the work load on them and allowed us to go from 2 inspectors to 1, and still go out and doing inspecting. They seemed to be under the impression that it was going to eliminate the inspection process completely and said no to most of that; also, changing that where we were going to do insolvencies, including an assessment on fund producers.

**Senator Wanzek:** Was that the major objection the assessment, or you were going to expand the indemnity fund more or less and provide funds for insolvencies.

**Mr. Christmann:** Which would allow the fund to be there, to help farmers who had losses in insolvencies as opposed to our inspectors running around the country side trying to capture grain, and then handle beans in cold weather, to preserve them so that we could sell them to make the farmers whole we were going to give up on saving the grain and that stuff. But the bill is gone.

**Senator Gary Lee: (0.32.28)** In terms of grain licensing inspector, there would be some additional operating costs. Would the line item for operating costs need to be continued if that person was put back in or that position was put back in? Or are you able to deal with it somewhere?

**Mr. Christmann:** We would need additional operating because it's already been reduced.

**Senator Gary Lee:** Same with the pipeline inspector, they would have operating costs as well doing a lot of travelling.

Mr. Christman: You are right. That was not calculated in there.

**Senator Wanzek:** For clarification, they didn't remove the grain licensing inspector, they removed the funding? They still think somehow you should keep two grain licensing inspectors but they didn't give you the money to do it.

**Mr. Christmann:** Correct. There was fiscal note on the original bill to do what we proposed and the fiscal note they still subtracted that was the \$286,000 on the green sheet. They just watered down the bill.

**Senator Wanzek:** Thinking of my running mate, he would like to see that inspector stay there.

**Mr. Christmann:** The people that we serve whether its storage with our weights and measuring program, pipeline and power line companies who we cite their processing and redevelopments, grain licenses, who we will inspect. We aren't considered the enemy. They actually seem to appreciate our work. It's flattering on one hand yet they don't appreciate

when we write up a memo, a notice of violation from time to time, but overall they appreciate the program. So it guess that's somewhat flattering, it does make it tough in that in anything we propose to cut, like when we made our decision on the grain licensing, it wasn't taken lightly. I didn't as a producer, didn't like the idea of assessment on producers but it made it possible to meet our budget goals and what I articulated when I brought that to the other commissioners was, this is what we can do that will have the least impact on the fewest people. We proposed it and the committee room was full. You can't do this, go cut something else. Had we said our first priority is cutting our weights and measures program I will guarantee you they would've had small town gas stations and store owners and places like that in here saying you can't cut this, go cut grain licensing. I guess it is a good problem to have because we are looking to have 6 positions to eliminate. To re-emphasize \$110,000 into the salary line item, that would get us to a point then we could then have enough funding for what we are currently doing except for that would require elimination of the weights and measures position, the temporary one, that's already gone, and the trained director that is already gone, plus the utility engineer, plus the grain licensing inspector, plus the accountant, those would all be gone, but we would be able to stop there if we got \$110,000. The second thing I want to emphasize is you know it wouldn't change our budget any because we take in revenues for some of these programs, and it just goes to the general fund so it doesn't do us any good as far as making our budget look good, but your goal isn't to make our budget look good, I understand. Your goal is to solve the general fund dilemma that you're in. I think there are some opportunities. We do our weights and measures tests very cheap, as its in law. They haven't been changed I don't think in the time I was in the legislature. If you want to look at that, it is something you could but we can't, it's in the law. Same with our grain licensing revenue those fees were set 10 to 15 years ago, some additional revenues could be acquired there I would say. Lastly, I will tell you that as much as we can't solve the general fund, but I know SIIF sometimes some funds can be transferred between special funds and general funds and such. I hate to see it happen, because I think our specialized legal services is another one like that, that railrate fund is a good fund to have hanging there to keep lawsuits away, but we have never used really all the money that is in the specialized legal services and in this tough budget time I would prefer to have less of that SIIF money in specialized legal services if it would mean a little additional general fund money for a couple of these positions at least part time.

**Senator Grabinger: (0.38.32)** You mentioned the fees on weights and measures, and your inspections, do you have an idea of what they are right now? Do you have any suggestions? May we raise two or any ideas on that?

**Mr. Christmann:** I will not make a recommendation on the amounts. A lot of the small devices are \$11.00. A private service company might charge \$50 plus mileage. If they are wrong, a lot of cases, like store scales and stuff, they go years and years, there just almost never wrong. But if they are wrong our people can't fix them. We raise per year, not quite \$60,000 on our weights and measures program. When we get an \$11.00 fee from someone, a small town store, our weights inspector will bill that, that comes to our office, and then someone else has to go through that and verify, and then someone else has to go to the journal for the auditing and the separation of duties, and verify that is in there, and someone else takes it and there would be another registration thing and then one of them has to take it down to the treasures office and deposit it, and then register that it was deposited. It's what's required.

We need separate people to do separate things so that we don't have fraud, but I don't think there is that outrageous to raise those fees.

**Senator Gary Lee:** Did you offer that in the House? He was told no. Your income is about \$12.5, there is a decrease over the current biennium.

**Mr. Christmann:** There estimated income is that \$12,588,000 the significant change is we got the reduction of \$2 M. I will add that \$2 M in fines, we will never get \$8 M in that grant in any future biennium close by, so 6 is fine and that is not going to hurt us any. We could do with part time to try and help save some money.

**Senator Wanzek:** I am trying to recall last session with the large scales we did try to prioritize that. We went having from having your office actually provide for doing the test, to having private guys doing the test.

**Mr. Christmann:** Yes, we used to have 4 people, 2 for large scales, 2 for small scales. We reduced to one, we no longer will test for people. All that is a quality assurance program and that person goes around does some land tests and you go to your warehouse and you might have someone out to test just scales. Three days later our guys if he happens to pick you, you have to shut down again and have him test your scale because we're testing the testers. Then there is also a lot book work, because of the testers get licensed to be private testers through us. The big problem we've had in that program is a lot of these private testing companies aren't doing their job. We are finding way too many problems when we double check them. So it's been a dilemma which we are trying to work harder with the private testing companies to get them to do the program right. Then, on the small scales that is where these fees come from, That's where these fees come from. You can choose to have a private company come in and do yours, or you can have us come and we won't fix them if they are wrong, but we can inspect them and if they are right you're okay and its much cheaper.

**Senator Wanzek:** Could you save a fair amount of money if we did that on the smaller scales or would that cause an uproar?

**Mr. Christmann:** We could save some money, and yes it would cause an uproar, because the people who value our service most are people outside of the larger cities, and with the types of devices that typically are not going to be wrong, but they just need to be tested. So, if you're in Bismarck here or Fargo, you can probably call a service company and there is almost no mileage. If you're in Fessenden, and you're paying mileage to drive from Bismarck or Fargo, to come out to test your scale, it's a huge expense and so that would be where the objection would come from.

**Senator Gary Lee:** Section 5 or section 6 the wind study, ok with the bill.

**Mr. Christmann:** I think it's fine. We did not seek that out. The Senate passed something else regarding wind study, and they are not together. This isn't our idea, it is environmental issues and that one has to do with citing and decommissioning and things like that, so this isn't our idea but I just don't want confusion that you already passed the study and because they are separate studies.

**Senator Wanzek:** Ask Chris a question, if we were to put in the one FTE, for gas line- pipeline inspector, it's about 50% federal so that would require us to come up with about \$100,000 more in general fund plus some operations funding to be able to put them in there of general funds?

**Senator Gary Lee:** \$268 both federal and general.

**Chris Kadrmas:** I can tell you what they requested. For the one position, they had in there, \$257,977 and they also had \$70,000 for operating expense; for a total of \$327,977 for natural pipeline inspector. Of that \$163,989 was from General Fund and the other half was from federal funds.

**Mr. Christmann:** Concurred with that. I would agree with Chris's numbers there.

**Senator Gary Lee:** Anybody further questions? We do meet again on Thursday, at 2:30. In terms at looking at the bill itself, is there sections here that we can all agree we can stay with. Section 6- the wind study, what's your thoughts on that?

**Senator Wanzek:** My initial thought it's a little different scope. 2314, long term energy plan for the state, renewables.

**Senator Gary Lee:** Is that something we want to leave in.

**Senator Wanzek:** Shall consider. Section 6.

**Senator Grabinger:** Shall consider.

**Senator Gary Lee:** Come back to it, next meeting.

**Senator Wanzek:** Shall consider. We are ok with that. It seems a lot of interest in the wind. As long as it is not mandated.

**Senator Gary Lee:** The revolving loan fund, Section 4.

**Senator Wanzek:** We leave it the way it is. I do recall those days when we had those rail issues. It did cost less to ship wheat from the west to Superior than it did to for us from the East they were charging the same rates. It seems like ever since we had that one case, we put that money out there, we have never had an issue. It's still available for beginning farmer loan programs. It is still going to be out there for it. I don't see why we need to change it.

**Senator Gary Lee:** Leave that alone. Section 2, just health insurance. Looks like Section 5 that has the SIIF money, section 3, the numbers will be adjusted if we do anything with the loan parts, section 1 if the FTE and the dollars. Sections 1,3, and 5 we will need to address. The meeting was adjourned.

# 2017 SENATE STANDING COMMITTEE MINUTES

**Appropriations Committee**  
Harvest Room, State Capitol

HB 1008  
3/23/2017  
Job # 29628

- Subcommittee  
 Conference Committee

Committee Clerk Signature

*Amosson for Rose Lanning*

## Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the public service commission;

**Minutes:**

**Legislative Council: Stephanie Gullickson**  
**OMB: Chris Kadrmas**

**Senator G. Lee** called the sub-committee to order on HB 1008. **Senator Wanzek** and **Senator Grabinger** were also present.

**Senator G. Lee** asked Senator Wanzek to review some of the things they have talked about in terms of what's important to include in the budget.

**Senator Wanzek** reported that the thought is to restore \$325,000 in the salary line – the unfunded salaries and wages which would put it back to the level of the Burgum budget. Also, restoring the rail inspector to a full time FTE for about \$36,000. In the capital assets line which the House reduced completely, add back in \$10,000. Specialized legal fund, the one-time funding from the SIFF fund, reduce by \$200,000.

The sheet that Commissioner Christmann handed out at the last meeting showed the five different positions that would have to be cut including the accountant and grain licensing inspector. With this amendment the hope is to put at least the accountant and grain licensing inspector back in place and help fund the other wages and salaries. The Commission came forward this session trying to provide a plan in the grain licensing warehouse division that they believed would have save \$286,000. The House rejected that plan. There was an interest in keeping the inspectors but they didn't put the money back in. If we made these steps this could help them accomplish some of the things we want to see them do.

**Senator Grabinger:** The proposal I had is very similar to what we are looking at so I don't object.

**Chris Kadrmas:** We can put them all on a worksheet and then you can move that amendment as one. He wanted to verify with the specialized legal services what the change requested there was.

**Senator Wanzek** said it was to reduce it \$200,000. Isn't there an updated health insurance number change we would have to make?

**Chris Kadrmas:** He confirmed that was correct. We would end up reducing the funding needed for health insurance by \$9,125 in total. (04:50)

**Senator G. Lee:** The rail inspector would be from special funds?

**Chris Kadrmas** answered that was correct.

**Senator Wanzek moved to accept all the changes and draft an amendment.**

**Senator Grabinger seconded the motion.**

**Senator Grabinger:** The numbers on the medical will change because of putting 2 FTEs back in. Will that make a difference?

**Chris Kadrmas** explained that they aren't essentially adding back 2 FTEs. The funding for them is being added back which was not adjusted in the health insurance.

**Roll Call Vote was taken: 3 yeas, 0 nays, 0 absent.**

**Senator G. Lee: Yes**

**Senator Wanzek: Yes**

**Senator Grabinger: Yes**

**Senator G. Lee:** Chris will draft the amendment and the meeting was closed.

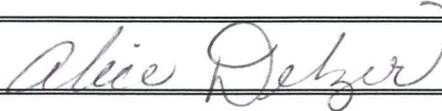
# 2017 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee  
Harvest Room, State Capitol

HB 1008  
3/27/2017  
JOB # 29695

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A DO PASS AS AMENDED for the Public Service Commission (PSC)

## Minutes:

1. Proposed Amendment # 17.0493.02001

**Chairman Holmberg:** called the Committee to order on HB 1008. All committee members were present. Sheila M. Sandness, Legislative Council and Becky Deichert, OMB were also present.

**Senator Gary Lee:** announced that Senator Grabinger and Senator Wanzek and himself were on the subcommittee and submitted Amendment # 17.0493.02001. The amendments will show 6 different things. He explained the changes and what they added back in.

**Senator Gary Lee: moved the Amendment # 17.0493.02001. 2<sup>nd</sup> by Senator Wanzek.**

**Senator Mathern:** One of the reasons to put in the rail inspectors was because of the problems we had with safety. I am wondering about the pipe line moving a lot of oil, did you have discussions regarding the moving of oil by the pipeline?

**Senator Gary Lee:** The rail going to the West will still go that way, because there are no pipelines going across the Rockies. The mixed loads, grain and so forth will still be the rail traffic and is still substantial in mainline communities.

**Chairman Holmberg:** Would you call the roll on the Amendment?

**A Roll Call vote was taken on the Amendment. Yea: 14; Nay: 0; Absent: 0.**

**Senator Gary Lee: Moved a Do Pass as Amended. 2<sup>nd</sup> by Senator Wanzek.**

**Chairman Holmberg:** Would you call the roll on a Do Pass as Amended on HB1008.

**A Roll Call vote was taken. Yea:14; Nay: 0; Absent:0. Senator Gary Lee will carry the bill.** The hearing was closed on HB 1008

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PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

Page 1, line 2, after the first semicolon insert "to amend and reenact section 57-43.2-19 of the North Dakota Century Code, relating to the special fuels excise taxes distribution of funds;"

Page 1, replace line 12 with:

"Salaries and wages	\$9,643,095	(\$345,811)	\$9,297,284"
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Page 1, replace line 14 with:

"Capital assets	26,400	(16,400)	10,000"
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Page 1, replace lines 18 through 23 with:

"Railroad safety program	523,345	41,323	564,668
Specialized legal services	<u>150,000</u>	<u>380,000</u>	<u>530,000</u>
Total all funds	\$21,140,402	(\$1,988,624)	\$19,151,778
Less estimated income	<u>13,964,575</u>	<u>(1,543,559)</u>	<u>12,421,016</u>
Total general fund	\$7,175,827	(\$445,065)	\$6,730,762
Full-time equivalent positions	46.00	(1.00)	45.00"

Page 2, line 2, replace "\$125,934" with "\$116,809"

Page 2, line 2, replace "\$76,487" with "\$70,945"

Page 2, line 3, replace "\$1,249" with "\$1,241"

Page 2, replace lines 9 through 12 with:

"Specialized legal services	<u>\$575,624</u>	<u>\$436,000</u>
Total all funds	\$575,624	\$436,000
Total special funds	<u>336,000</u>	<u>436,000</u>
Total general fund	\$239,624	\$0"

Page 2, line 27, replace "\$300,000" with "\$100,000"

Page 2, after line 29, insert:

**"SECTION 6. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. (Effective July 1, 2015, through June 30, 2019) Transfer, deposit, and distribution of funds.**

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

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**(Effective after June 30, 2019) Transfer, deposit, and distribution of funds.**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$9,643,095	\$8,980,993	\$316,291	\$9,297,284
Operating expenses	1,877,562	1,829,826		1,829,826
Capital assets	26,400		10,000	10,000
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	8,000,000	6,000,000		6,000,000
Rail rate complaint case	900,000	900,000		900,000
Railroad safety program	523,345	529,088	35,580	564,668
Specialized legal services	150,000	730,000	(200,000)	530,000
Total all funds	\$21,140,402	\$18,989,907	\$161,871	\$19,151,778
Less estimated income	13,964,575	12,588,603	(167,587)	12,421,016
General fund	\$7,175,827	\$6,401,304	\$329,458	\$6,730,762
FTE	46.00	44.00	1.00	45.00

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

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Adjusts Funding for Salaries and Wages <sup>2</sup>	Converts Temporary Railroad Safety Inspector to FTE Position <sup>3</sup>	Adds Funding for Capital Assets <sup>4</sup>	Reduces One-Time Funding for Specialized Legal Services <sup>5</sup>	Total Senate Changes
Salaries and wages	(\$8,709)	\$325,000				\$316,291
Operating expenses						
Capital assets				10,000		10,000
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	(416)		35,996			35,580
Specialized legal services					(200,000)	(200,000)
Total all funds	(\$9,125)	\$325,000	\$35,996	\$10,000	(\$200,000)	\$161,871
Less estimated income	(3,583)	0	35,996	0	(200,000)	(167,587)
General fund	(\$5,542)	\$325,000	\$0	\$10,000	\$0	\$329,458
FTE	0.00	0.00	1.00	0.00	0.00	1.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 of the bill is also changed to reflect the revised amount.

<sup>2</sup> The Senate restored \$325,000 to salaries and wages to underfund salaries and wages by \$150,000 from the general fund. The House underfunded salaries and wages by \$475,000 from the general fund.

<sup>3</sup> Provides \$35,966 from the rail safety fund to convert a temporary railroad safety inspector to a FTE position with a total cost of \$226,727.

<sup>4</sup> Adds \$10,000 from the general fund for capital assets. The House removed all funding for capital assets.

<sup>5</sup> Reduces one-time funding from the strategic investment and improvements fund by \$200,000 for specialized legal services to provide a total of \$100,000 from the strategic investment and improvements fund. The House provided \$300,000 from the strategic investment and improvements fund.

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This amendment also amends North Dakota Century Code Section 57-43.2-19 to increase the amount of special fuels excise tax collections on sales of diesel fuel to a railroad that are deposited in the rail safety fund from \$275,000 to \$285,000 per year.

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**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1008**

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:     Reconsider     draft amendment

Motion Made By Senator Wanzek Seconded By Senator Grabinger

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg			Senator Mathern		
Vice Chair Krebsbach			Senator Grabinger	Y	
Vice Chair Bowman			Senator Robinson		
Senator Erbele					
Senator Wanzek	Y				
Senator Kilzer					
Senator Lee	Y				
Senator Dever					
Senator Sorvaag					
Senator Oehlke					
Senator Hogue					

Total (Yes) 3 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 3-27-17

Roll Call Vote #: 1

2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1008

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: 17.0493.02001

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar  
Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Senator Lee Seconded By Senator Wanzek

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Mathern	✓	
Vice Chair Krebsbach	✓		Senator Grabinger	✓	
Vice Chair Bowman	✓		Senator Robinson	✓	
Senator Erbele	✓				
Senator Wanzek	✓				
Senator Kilzer	✓				
Senator Lee	✓				
Senator Dever	✓				
Senator Sorvaag	✓				
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment \_\_\_\_\_

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

Date: 3-27-17

Roll Call Vote #: 2

**2017 SENATE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1008**

Senate Appropriations Committee

Subcommittee

Amendment LC# or Description: \_\_\_\_\_

- Recommendation:  Adopt Amendment  
 Do Pass     Do Not Pass     Without Committee Recommendation  
 As Amended     Rerefer to Appropriations  
 Place on Consent Calendar
- Other Actions:  Reconsider     \_\_\_\_\_

Motion Made By Senator Lee Seconded By Senator Wanzek

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	✓		Senator Mathern	✓	
Vice Chair Krebsbach	✓		Senator Grabinger	✓	
Vice Chair Bowman	✓		Senator Robinson	✓	
Senator Erbele	✓				
Senator Wanzek	✓				
Senator Kilzer	✓				
Senator Lee	✓				
Senator Dever	✓				
Senator Sorvaag	✓				
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 14 No 0

Absent 0

Floor Assignment Lee

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

REPORT OF STANDING COMMITTEE

HB 1008, as engrossed: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1008 was placed on the Sixth order on the calendar.

Page 1, line 2, after the first semicolon insert "to amend and reenact section 57-43.2-19 of the North Dakota Century Code, relating to the special fuels excise taxes distribution of funds;"

Page 1, replace line 12 with:

"Salaries and wages	\$9,643,095	(\$345,811)	\$9,297,284"
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Page 1, replace line 14 with:

"Capital assets	26,400	(16,400)	10,000"
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Page 1, replace lines 18 through 23 with:

"Railroad safety program	523,345	41,323	564,668
Specialized legal services	150,000	380,000	530,000
Total all funds	\$21,140,402	(\$1,988,624)	\$19,151,778
Less estimated income	13,964,575	(1,543,559)	12,421,016
Total general fund	\$7,175,827	(\$445,065)	\$6,730,762
Full-time equivalent positions	46.00	(1.00)	45.00"

Page 2, line 2, replace "\$125,934" with "\$116,809"

Page 2, line 2, replace "\$76,487" with "\$70,945"

Page 2, line 3, replace "\$1,249" with "\$1,241"

Page 2, replace lines 9 through 12 with:

"Specialized legal services	\$575,624	\$436,000
Total all funds	\$575,624	\$436,000
Total special funds	336,000	436,000
Total general fund	\$239,624	\$0"

Page 2, line 27, replace "\$300,000" with "\$100,000"

Page 2, after line 29, insert:

**"SECTION 6. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. (Effective July 1, 2015, through June 30, 2019) Transfer, deposit, and distribution of funds.**

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

**(Effective after June 30, 2019) Transfer, deposit, and distribution of funds.** All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway

tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$9,643,095	\$8,980,993	\$316,291	\$9,297,284
Operating expenses	1,877,562	1,829,826		1,829,826
Capital assets	26,400		10,000	10,000
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	8,000,000	6,000,000		6,000,000
Rail rate complaint case	900,000	900,000		900,000
Railroad safety program	523,345	529,088	35,580	564,668
Specialized legal services	150,000	730,000	(200,000)	530,000
<b>Total all funds</b>	<b>\$21,140,402</b>	<b>\$18,989,907</b>	<b>\$161,871</b>	<b>\$19,151,778</b>
Less estimated income	13,964,575	12,588,603	(167,587)	12,421,016
<b>General fund</b>	<b>\$7,175,827</b>	<b>\$6,401,304</b>	<b>\$329,458</b>	<b>\$6,730,762</b>
FTE	46.00	44.00	1.00	45.00

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

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Adjusts Funding for Salaries and Wages <sup>2</sup>	Converts Temporary Railroad Safety Inspector to FTE Position <sup>3</sup>	Adds Funding for Capital Assets <sup>4</sup>	Reduces One-Time Funding for Specialized Legal Services <sup>5</sup>	Total Senate Changes
Salaries and wages	(\$8,709)	\$325,000				\$316,291
Operating expenses						
Capital assets				10,000		10,000
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	(416)		35,996			35,580
Specialized legal services					(200,000)	(200,000)
<b>Total all funds</b>	<b>(\$9,125)</b>	<b>\$325,000</b>	<b>\$35,996</b>	<b>\$10,000</b>	<b>(\$200,000)</b>	<b>\$161,871</b>
Less estimated income	(3,583)	0	35,996	0	(200,000)	(167,587)
<b>General fund</b>	<b>(\$5,542)</b>	<b>\$325,000</b>	<b>\$0</b>	<b>\$10,000</b>	<b>\$0</b>	<b>\$329,458</b>
FTE	0.00	0.00	1.00	0.00	0.00	1.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 of the bill is also changed to reflect the revised amount.

<sup>2</sup> The Senate restored \$325,000 to salaries and wages to underfund salaries and wages by \$150,000 from the general fund. The House underfunded salaries and wages by \$475,000 from the general fund.

<sup>3</sup> Provides \$35,966 from the rail safety fund to convert a temporary railroad safety inspector to a FTE position with a total cost of \$226,727.

<sup>4</sup> Adds \$10,000 from the general fund for capital assets. The House removed all funding for capital assets.

<sup>5</sup> Reduces one-time funding from the strategic investment and improvements fund by \$200,000 for specialized legal services to provide a total of \$100,000 from the strategic

investment and improvements fund. The House provided \$300,000 from the strategic investment and improvements fund.

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This amendment also amends North Dakota Century Code Section 57-43.2-19 to increase the amount of special fuels excise tax collections on sales of diesel fuel to a railroad that are deposited in the rail safety fund from \$275,000 to \$285,000 per year.

**2017 CONFERENCE COMMITTEE**

**HB 1008**

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Education and Environment Division  
Roughrider Room, State Capitol

HB 1008  
4/11/2017  
300068

- Subcommittee  
 Conference Committee

*Virginia L. Moch*

## Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the public service commission; to amend and reenact section 57-43.2-19 of the North Dakota Century Code, relating to the special fuels excise taxes distribution of funds; to provide for a legislative management study; and to authorize transfers.

## Minutes:

1

**Chairman Jim Schmidt:** Called the meeting to order on HB 1008, appropriation bill for the public service commission.

**Chairman Lee:** Explains the senate changes to the house bill Section 1 page 1 of version 2000, marked up version. Line 15 on the salary and wage line, the house had taken out 475 thousand dollars, the senate restored 325 thousand of that. In the capital assets line the house had zeroed out that 26,400; the senate restored 10 thousand of that. Page 2 section 1, the railroad safety program, we reinstated 36 thousand roughly from the railroad safety to convert that temporary FTE into a full time FTE. Section 2 we added back the health insurance and section 3 the house added 300 thousand dollars of SIIF money to specialized legal services line, the senate took out 200 thousand of that, there would only be 100 thousand of SIIF money left in there. In section 6, that was the transfer of the money from the diesel fuel the railroad uses that pays for that rail safety person.

**Chairman Schmidt:** 13:55 Do we have any questions? I am looking at **(attachment 1)** if we could go back under 2017/19 ongoing funding changes, under salaries and wages we had reduced by 475 and in the senate it is 150. You added back 325? Then adds money to convert back to full time, why did we do that?

**Chairman Gary Lee:** In both executive budgets it was included as a full time person. The house changed it to a temporary person, we felt that putting it back to the full time position was the better move.

**Chairman Schmidt:** Adding back the 10 for capital assets, what was the 10 for?

**Chairman Lee:** We didn't have a specific item but we thought zeroing out that line would give them no flexibility in terms of things that might go wrong.

**Chairman Schmidt:** Back down to the 110 funding in the specialized legal services; 636 out of the house down 436 to the 200 thousand dollar, what happened to that 200 thousand that you are taking out of there?

**Chairman Lee:** We just put that back in the SIIF fund.

**Chairman Schmidt:** Regards to the total funding the 18,989 vs. 19 for an increase of about 161 I believe. Any comments? I do not that we are able to agree to this.

**Senator Wanzek:** When this budget was prepared we were all challenged to find new ways to deal with things. The commission proposed that they go to an indemnity fund to cover for insolvencies and they would be able to eliminate one of the inspectors that goes out and does field inspection. That bill was not looked on favorably by the ag commission and the grain dealers' association. Those funds were removed in the proposal but the bill was killed so those funds were not restored into the budget. Then there was additional money that was taken for the salary line; if the industry and public want that inspector we have to help fund it. They will not be happy if we cut the inspector to just one in the state.

**Representative Boe:** What you're talking about is the railroad safety program that we converted the part time into a fulltime. So this other inspector that you are referring to, we haven't addressed that.

**Senator Wanzek:** As I understand it we had to restore some of the salaries to restore the inspector.

**Senator Lee:** The rail inspector is under special funds and the underfunding of 475 is a different line so they're not together.

**Representative Schmidt:** What's the bottom line from your discussion?

**Senator Wanzek:** We were given a handout from the public service commission it was a priority list. The number restored from the salaries line would help us restore that second inspector. We could find that information before our next meeting.

**Representative Boe:** I have nothing further.

**Senator Harbinger:** We do have an amendment that I was going to bring, I will bring to our next meeting.

**Chairman Schmidt:** We will schedule a second meeting for this.

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee – Education and Environment Division Roughrider Room, State Capitol

HB 1008  
4/13/2017  
30121

- Subcommittee  
 Conference Committee

*Virginia L Moch*

### Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the public service commission and authorize a transfer.

### Minutes:

3 attachments

**Chairman Schmidt:** Called the conference committee to order on Public Service Commission budget, HB 1008. We had discussion on the funding of salaries and wages, the full time temporary position. Representative Boe and I have had discussions with Commissioner Christmann regarding this. We also have an amendment to propose. I'd like to open this for discussion first and then go in to the proposed amendments.

**Chairman Gary Lee:** I think we made our comments last time in terms of the changes we need.

**Chairman Schmidt:** With respect to what the house did, we asked for a 13% reduction from the commission. They responded with a reduction that wasn't 13% but it was close enough. Since that time we have had some revenue changes and we have a revised plan. Until our discussion with Commissioner Christmann I didn't understand that when you take a temporary employee and make him full time, that the employee was actually working 2080 hours and he had health benefits. All that this does is give him leave and annual leave. Personally, when you have an employee that has been here 30 years as a temporary, I think he should be put on the rolls as a full time equivalent. I don't think that is fair. The 3596 that we got yesterday from the commissioner, we haven't discussed, yet. The second thing we are dealing with is the 2 FTEs that were out and the \$475,000. We had discussion on HB 1126 that was referred. I did not understand the \$88,622 of expenditures and the 1.2 FTEs and how that relates to our sheet with the 2 FTES that were already removed at \$286,000. Chris can you repeat what you said to me so we all understand.

4:16

**Chris Kadrmas LC:** The fiscal note was just what the reduction would be based on SB 1126 as it was. It indicates that they would be able to save the \$88,625 and 1.25 FTE. In comparison, what was done is that 2 FTEs were removed at \$286,240 which reflected how 1126 was when it was first introduced. So if the intent was for the committee to reflect the

fiscal note, they would have to restore .75 FTE and some funding so that it is only a reduction of the \$88,625 that was indicated in the fiscal note. Since 1126 was changed the PSC is saying instead of 2 FTEs it should only be a reduction of 1.25. Instead of \$286,240 reduction, it should only be about an \$88,000 reduction.

**Senator Wanzek:** Instead of minus \$286,000, if you subtract the \$88,000 it would be closer to a \$198,000 reduction.

**Chris Kadrmas:** If the conference committee would decide to reflect the fiscal note, On the senate version, it would restore .75 FTE, so there would only be a 1.25 FTE reduction. It would restore \$197,618 from the general fund so it would only be a \$88,622 reduction.

**Chairman Lee:** So you are saying to make them whole we need to restore 1.25 FTEs and \$196,000?

8:18 **Chris Kadrmas:** To make them whole, instead of the reduction of \$286,240, it should only be a reduction of \$88,622. Instead of negative 2 FTE, it should be negative 1.25. That would reflect the fiscal note.

**Senator Wanzek:** If we would have removed the two as the PSC originally proposed, we were going to take \$286,240 out of the budget for those 2 FTEs. But the way you passed 1126, it didn't remove the 2, it removed 1.25, meaning \$88,000 would come off that \$286,000 so we would be at \$198,240. In the senate version instead of -2 for \$286,000, it should be 1.25 for \$198,240. Then the house took another \$ 475,000 for salary line. That is a reduction of \$673,240 in salary line with only the removal of 1.25 FTE.

**Chairman Schmidt:** 10:20 I can follow you on that. The 1.25 off of the 2, we would have .75 FTE and \$198,000.

**Chris Kadrmas:** (attachment 1) 11:15 It showed what the house did reflecting 1126 as it was originally before any changes occurred. The senate's version would reflect the changes necessary to reflect the fiscal note as it is for 1126 currently. What had to happen is .75 FTE would have to be restored to the Public Service Commission and \$197,618 from the general fund would have to be restored to the Public Service Commission. Effectively, that would only remove 1.25 FTE from the agency and \$88,622 from the general fund.

**Senator Wanzek:** We are removing 1 ¼ FTEs that would've only removed \$88,000 from the program. We would've been adding \$197,000 back in for that one. Oh, the more I talk the more confusing it becomes.

**Chairman Gary Lee:** In order to make them whole we would have to add back \$197,000 roughly, and 1.25 FTEs to accommodate the \$286,000.

**Chris Kadrmas:** Yes, the committee would have to move back .75 FTE and \$197,618 just to reflect the changes in 1126, not accounting for any of the underfunding and other changes.

**Senator Wanzek:** If we were addressing what you did in 1126, we need to put \$197,000 more back in to the budget. We put \$300,000 in to the budget. We could take the \$197,000

off of that. That would be the difference we are at in addressing whether we should give them that much more to help them with salaries or to stick with what you guys did. To get to the even point we do have to put the \$197,618 in.

**Representative Boe:** We asked for a plan, they brought us one, since we said we prefer one part of your duty over another part, we are looking for a shift in personnel or dollars within that department in order to make them whole. Now it's time for a new plan in order to make this work.

**Representative Lee:** You rejected the plan they offered, but you also took away the potential savings. You rejected everything, but you took the money.

**Senator Wanzek:** 18:30 They brought you a plan that would save \$286,000, and you didn't like it because you didn't want that inspector cut. We have to put \$197,618 back in for that inspector. The house didn't give them the funds, to do the job of that inspector. At least give them back the resources to do the job you told them to do. Then we can go to the underfunded salaries, you took \$475,000 more there. We tried to reinstate \$325,000. That is where our differences are.

**Chairman Schmidt:** I agree, but I'm wondering is there a place we could be shifting from one to the other. We need to discuss that part more. I understand that we need to put the \$197,000 back. Our side is not ready to finalize that final part of it so we will have to meet again. I'd like to go through your amendment, Senator Grabinger.

**Senator Grabinger:** (attachment 2) This amendment was presented to me by Representative Hanson. This has to do with a repeal of federal internet privacy rules that opens up the internet Service Providers to sell the data that they collect on consumers. It takes away their privacy. Ten other states have restricted the ability of them to sell your information. I don't expect any action today; I bring it for your review.

**Chairman Schmidt:** Has the Public Service Commissioner reviewed this? (No one knows). I have an amendment as well. 02003. (attachment 3) I'm not familiar with the inner workings of 1126. It raised a number of questions with the public warehouses and grain buyers. Our colleagues would like to add section 7 on Regulation of Public Warehouses and Grain Buyers-Legislative Management Study. (He reads amendment). I discussed this with Commissioner Christmann and with Ag Commissioner Doug Goehring. Commissioner Goehring was willing to consider this. I'd like to come back to this and resolve our issue on staffing to find a more efficient way to do this service. I'd like to come back and take up the amendments and our issue on the staffing and salaries and wages.

**Senator Wanzek:** We've been struggling with this for years as to what is the best approach and how to protect the farmer who is selling grain or buying supplies from a warehouse. I think the PSC was proposing to pattern it after the credit sale indemnity fund where they charge a small fee for every bushel or pound sold to the elevator. They were going to put it in like an insurance fund. By doing that they could eliminate some of the auditing and protect us farmers, but it would be us paying in to the fund and you guys decided that was not a good idea. I'd like to visit with both commissioners first.

**Representative Boe:** The current credit sales indemnity fund creates a product that is not readily available. For cash sales or contracts you can buy a bond. That is why that was crafted so narrowly, to just be the credit sales contract. Credit sales contracts you couldn't buy a bond for. The insurance you'd want on cash sales you can go and buy.

**Chairman Schmidt:** The next meeting we will take up the two amendments and see if we can't come to a resolution. Thank You.

Meeting ends.

# 2017 HOUSE STANDING COMMITTEE MINUTES

## Appropriations Committee – Education and Environment Division Roughrider Room, State Capitol

HB 1008  
4/17/2017  
30179

- Subcommittee  
 Conference Committee

*Virginia L Moch*

### Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the public service commission; to amend and reenact section 57-43.2-19 of the North Dakota Century Code, relating to the special fuels excise taxes distribution of funds; to provide for a legislative management study; and to authorize transfers.

### Minutes:

1

**Chairman Schmidt:** called the conference committee to order on the public service commission budget, HB 1008. Clerk will note that all conferees are present. We have two amendments in front of us.

**Senator Grabinger:** I would like to **move amendment 17.0493.02002.**

**Representative Boe:** I second it.

**Senator Grabinger:** There are people who say we are trying to fix something that isn't broke. We could have a study on this, but at least we need to have a discussion and it's something we need to consider.

**Chairman Gary Lee:** This is a PSC budget and I don't think the PSC regulates ISPs, so I'm not sure why we would want to include this. Maybe some of the ISPs that have contracts with internet services like google, amazon, they may sell the information but the internet providers don't sell it, themselves, so I'm not sure what we are trying to fix. I don't think this is something I can support.

**Chairman Schmidt:** The discussions I've had say how are we going to enforce this? I don't think we have the wherewithal to make this work. So I do not like this.

**Senator Grabinger:** Regarding how we would enforce this, we do have the penal provisions. Representative Hanson did bring me the information on that. (attachment 1) There are provisions for a civil penalty or a criminal penalty.

**A roll call vote was taken on amendment 02002 Yea: 2 Nay: 4 Absent: 0  
Motion Fails**

**Chairman Schmidt:** Let's move on to the second amendment 02003. That amendment deals with legislative management shall consider studying the PSC's responsibility to regulate public warehouses and grain buyers, must include feasibility and desirability to transfer that to the Department of Ag.

**Representative Boe:** I'll move the amendment.

**Representative Schatz:** I'll second it.

**Senator Wanzek:** I'm certain that the Department of Ag could handle this responsibility. I think most of the problems stem from grain sampling and testing issues. They essentially just follow century code. The Public Service Commission has always followed this and, in my view, has done a good job. I'm really struggling for the purpose of this amendment and the reason for a study. If someone has a REALLY good reason: otherwise, I'm inclined to NOT support the amendment.

**Representative Boe:** Since we changed their plan of getting out of the grain inspection business we are sensing that they don't want the program, so let's find a home for it.

**Senator Wanzek:** I don't see it that way. It is about providing protection for farmers who do business with a public warehouses and grain facilities or grain buyers. Their plan would've done a better job of protecting farmers in case of an insolvency. We felt the inspection and auditing process will identify if a public warehouse is in dire straits in danger of insolvency verses providing the indemnity fund. It would have been a small tax per bushel or per pound on any farmer doing business with a warehouse. Even though a lot of us were not in favor of it, when the warehouses were in an insolvency situation, it would protect the farmers. A lot of us question the Credit Sales Indemnity Fund and that is how that was funded until it reached a certain level of dollars, then they discontinued the collection of those fees. They don't go back in place until that fund is drawn down. I don't see it that they wanted to get away from this, but they wanted to find an alternative that they could save money with and provide the protection necessary for farmers.

**Representative Boe:** We want the grain inspection program. They are tasked with the program that they will have to staff and fund. We gave them cuts to their budget. We need to know where the cuts will come from then. We need a plan on how they will do those cuts. I haven't heard a plan.

**Chairman Schmidt:** I agree with Representative Boe. A lot of the issue that arose to this amendment came out of the 1126. I'm not real knowledgeable about that bill so I defer to my colleagues. We need to look at where this program will be better housed, in PSC or the Ag Commission: I think it is worthy of study. I've talked with Commissioner Christmann and Commissioner Goehring and they have a difference of opinion.

**Senator Wanzek:** Whether these inspectors are in the PSC or the Department of Ag it is still going to require us giving funds to pay them.

**Chairman Gary Lee:** It seems the house took away the most efficient way of doing this by requiring the inspector. Then you also took the dollars away. I'm not sure what we would accomplish by moving this to another place and then, probably, leaving them short of funds, too.

**A roll call vote was taken. Yea: 3 Nay: 3 Absent: 0**

**Motion Fails (02003)**

**Chairman Schmidt:** Let's go back in to the bill itself. We had discussions earlier on how the bill 1126 impacted what we had. All 6 of us were confused. Chris please refresh our memories on the impact of 1126 on the budget, please.

**Chris Kadrmas LC:** Referring to worksheet handed out at last meeting. The sheet under the senate version lists \$19,349,396. The house version shows it removing 2 FTEs. The senate shows it only removing 1.25 FTE and \$88,622 from the general fund, that would reflect HB 1126. Essentially it is adding back .75 of a position from the house's version and \$197,618 to the general fund from the house's position. It does not factor in any of the other underfunding.

**Chairman Schmidt:** So the senate is \$527,000 more than the house.

**Chris Kadrmas:** It would reflect if the senate had reflected the fiscal note. They had added back \$325,000 in the underfunding.

**Chairman Schmidt:** Hence the total difference of \$359,489. From the house perspective we would sit with the dollar figures the house removed and with respect to the FTEs associated with those dollars we would rest with those dollar figures pulled out with an FTE associated with that with no specification other than "the first offer was not acceptable".

**Chairman Lee:** If we would take \$50,000 out of the legal fund that had \$100,000 of SIF fund left in it and put it in the salary line, that would bring them closer to the \$288,000 number so they wouldn't be so underfunded in the salary line. It would just be a shift from SIIF money into the salary line.

**Senator Wanzek:** We are trying to incorporate with what happened in HB 1126. Did the fiscal note appropriate funds? The way I see it the senate version is not \$527,000 but \$329,000 higher in general fund dollars than what the house version is because we left the \$286,240 alone. We just increased the funds for underfunded salaries and wages. Is the \$197,618 appropriated by 1126 or is that the fiscal impact?

**Chris Kadrmas.** That is the difference. There were no funds appropriated in 1126.

**Senator Wanzek:** I would argue then that the difference is \$329,000 then.

**Chairman Schmidt:** In the very last column the difference is \$359,489.

**Senator Wanzek:** That was assuming the fiscal impact of 1126. We have the bill in front of us that actually appropriates the money. Then you have to go back to see what is in the budget. The actual budget is HB 1008. When the bill came to us there was a \$475,000 reduction in wages and salaries. That \$286,246 would've been part of HB1126, had it passed. It was taken out. In the senate version we dropped your \$475,000 down to \$150,000, meaning we increased funds for salaries and wages by \$325,000 and left the reduction in the appropriation bill. We still are reducing that line by \$286,000. Our only difference is in the salaries line. You reduced that line by \$475,000 and we trimmed that to \$150,000, so we are \$325,000 higher than the house version.

**Chairman Schmidt:** The document here says it does reflect 1126 and you say it doesn't.

**Senator Wanzek:** We are looking at appropriated dollars. There were no appropriated dollars in 1126.

**Chairman Schmidt:** Then there is the reflection of the \$88,622 which we have in one document but not in the other one.

**Chris Kadrmas:** Correct, because the committee was discussing the effect of 1126 was and how it would look with the agency's budget.

**Chairman Lee:** 24:09 If we add the \$475,000 underfunding plus the \$197,000 that's the remainder of the FTEs that they took out. That is roughly \$672,000 minus the \$325,000 that we put back, they are still \$347,000 underfunded.

**Chairman Schmidt:** Chris is that logical?

**Chris Kadrmas:** The \$197,000 was just the amount of the 2 FTEs. It did not reference any of the underfunding. If the idea is to determine what the difference is between what was underfunded and what the add back should be in order to reflect 1126?

**Senator Wanzek:** It was hypothetical that if we add back the money to reflect what you gave to 1126, this is what it would take. But where we are at is going back to the actual appropriation bill where the dollars are at. We haven't done what you are saying, if we were going to account for the fiscal impact.

**Chairman Schmidt:** Are you agreeing with what Chairman Lee said, because I can follow that? Because I'm willing to find out the difference.

**Senator Wanzek:** In a strange way we are both right. But we haven't taken that action, yet. We haven't agreed to that.

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Education and Environment Division  
Roughrider Room, State Capitol

HB 1008  
4/18/2017  
30211

Subcommittee  
 Conference Committee

*Virginia L. Mock*

## Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the public service commission; to amend and reenact section 57-43.2-19 of the North Dakota Century Code, relating to the special fuels excise taxes distribution of funds; to provide for a legislative management study; and to authorize transfers

## Minutes:

**Chairman Schmidt:** called the conference committee to order on HB 1008, the Public Service Commission budget. All conferees are present. We voted down the amendment for a study to look at a transfer of the grain inspectors to the Department of Agriculture. There are a number of individuals and an organization that would like us to reconsider that. Would the Senators be amenable to opening that to discussion?

**Senator Wanzek:** That amendment was a study to consider transferring the regulatory portion of the grain inspectors from the PSC to the Dept. of Ag. I would make an offer to the house that we would reconsider that and add that to our amendment recognizing the dollars (\$325,000) to be put in to the underfunded salaries line and the \$10,000 which was for capital assets, and also recognizing that we did return \$200,000 to the SIF Fund. We all know where our money will come from to balance this budget before we leave. It is going to be the SIF Fund. So that is nearly equivalent to putting money back in to the general fund. We are really only off by \$161,871 when you combine all the things the senate did. In exchange I will throw in the study amendment.

**Chairman Schmidt:** So could you relate those items to me again, please?

**Senator Wanzek:** Add the amendment for study. Acknowledge the return of \$200,000 to SIF fund. Put \$325,000 back to salaries and wages (and we left that \$286,240 in the budget, just as you had it). Essentially putting \$325,000 in salaries and wages and also, \$10,000 for capital assets and \$35,996 for the railroad inspector out of special funds from the Diesel Fuel Excise Tax paid by the railroads. We haven't disputed that one.

**Chairman Schmidt:** In the house version we had \$636,000.

**Senator Wanzek:** So we would be at \$436,000. You supplemented that with \$300,000 from the SIF Fund. We are saying we will put \$200,000 of that back in to the SIIF Fund and leave it there for other purposes.

**Chairman Schmidt:** We will pause this to discuss these items and reschedule for tomorrow morning. 8:00

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Education and Environment Division  
Roughrider Room, State Capitol

HB1008  
4/19/2017  
30232

Subcommittee  
 Conference Committee

*Virginia L. Mock*

## Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the public service commission, to provide for a legislative management study, and to authorize transfers.

## Minutes:

**Chairman Schmidt:** called the conference committee to order on the Public Service Commission budget HB 1008. All conferees are present. Let's start off with the items the senate offered at the last meeting:

1. Senate agreed to put the study in on moving the grain inspector to the Department of AG.
2. Leave the \$200,000 out.
3. Instead of \$325,000, it would be \$225,000 for the salary line (take \$100,000 out)
4. The \$286,240 is a done deal
5. The house says take out the \$10,000 for capital assets, they should be able to find that in their budget.
6. No FTE for the railroad inspector- The \$35,996 goes away.  
That is our response to what you put on the table.

**Chairman Lee:** So you want the amendment of the PSC/Ag study put on, you want an additional \$200,00 out of the salary line.

**Chairman Schmidt:** We would only take \$100,000 out, so the balance would be \$225,000 instead of \$325,000.

**Chairman Lee:** Take out the \$10,000 in the capital assets line and no FTE for the railroad.

**Chairman Schmidt:** I want to be clear that the \$39,996 for the FTE would not be included.

**Senator Wanzek:** When I thought about reconsidering that study I should've asked for more money. Now we are here trying to cut more money. I would be fine with that deal if we hadn't cut them \$286,000. That \$286,000 came out of the budget initially because there was the thought by PSC that the legislature would adopt their proposal. I was fine in the beginning with 1126, but not with the fact that we want to keep that grain inspector, and not put the

money back. We are undercutting them by \$761,000 and even with the amendments we are still undercutting them by for \$426,000. When you throw the \$200,000 of SIF money in, I know they will use that to balance the budget. The only thing about the capital assets line, the machine they need is hanging on, but they will need more than \$10,000 to replace that. There is always something in the capital line they need, no matter how frugal they may be.

**Chairman Schmidt:** Can we define the items that we do agree on? We don't think we should use the SIIF fund to subsidize the general fund. On this committee we haven't heard that they are using it for that.

**Chairman Lee:** Your proposal is unrealistic because you want us to put something back that we already denied, then you want more dollars out of their budget, when they already gave up \$760,000. We are only \$161,000 apart. There is none of this that I can agree with.

**Chairman Schmidt:** The logic behind this is the codifying of a railroad inspector versus not codifying a railroad inspector.

**Chairman Lee:** I don't think we have any kind of close deal here.

**Senator Wanzek:** You could say we agree on the \$200,000 reduction of the SIIF fund, but I look at that as part of the whole package.

**Chairman Schmidt:** So if you don't agree with our proposal, and we don't agree with yours, where do you suggest we start?

**Chairman Lee:** I could move that we keep what we have here in our budget and then move forward.

**Chairman Schmidt:** I know where that will go. How about we take a short break?  
9:51

**Senator Wanzek:** What if we go to \$275,000 from the on the salary line? What if we keep the \$200,000 from the SIF fund? We would trade the study for \$50,000. That is our one concession. Leave the \$35,996 and the FTE, leave the \$10,000, leave the \$200,000 and leave the study out of the deal.

**Chairman Schmidt:** Can we take some time to consider this?

Meeting adjourned 11:10

# 2017 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Education and Environment Division  
Roughrider Room, State Capitol

HB 1008  
4/20/2017  
30256

- Subcommittee  
 Conference Committee

*Virginia L Moch*

## Explanation or reason for introduction of bill/resolution:

To provide an appropriation for defraying the expenses of the public service commission; to amend and reenact section 57-43.2-19 of the North Dakota Century Code, relating to the special fuels excise taxes distribution of funds; to provide for a legislative management study; and to authorize transfers.

## Minutes:

**Chairman Schmidt:** Called the conference committee to order on the public service commission budget HB 1008. All conferees are present. We will start off with a proposal from the house:

1. We give you the FTE.
2. The \$35,996 for salary is gone but the FTE remains.
3. The \$10,000 is gone from the capital assets.
4. The underfunded salary line goes from \$325,000 to \$225,000.

**Senator Wanzek:** Here is our counter offer:

1. We will go to \$300,000 instead of \$325,000
2. We will remove the \$39,996
3. We will give them the FTE authority.

**Chairman Schmidt:** Are you going back up on us? You were at \$275,000.

**Senator Wanzek:** We were, but you want to remove the \$39,996.

**Chairman Lee:** We are still giving you back almost \$11,000.

**Chairman Schmidt:** We want the \$225,000, we'll give you the \$35,996 back, we'll give you the FTE, and the \$10,000 is still gone.

**Senator Wanzek:** Put the \$10,000 back in. The salaries line, even without the \$35,996 is underfunded \$436,000. You are not recognizing the \$286,000 that was taken out. We are \$196,000 difference. If we were to meet halfway, that would be \$80,000. Now we are down to about \$50,000.

**Chairman Schmidt:** We will leave \$5000 instead of the \$10,000 and take \$5000 out.

**Senator Wanzek:** I can't get past the \$286,000 which would not have been required had you passed the 1126 as it was presented. The legislature decided no, we want them to stick with what is in place now. But, we didn't put that \$286,000 back in. It is underfunded and then the \$475,000 that you underfunded salaries is combined. Here is our counter offer: We will go with \$5000 on the capital asset line, you want \$225,000 we'll go to \$250,000 and we will put the study back in and keep the \$39,996 as you proposed in the salary line. You wanted the grain inspector instead of adopting 1126. The legislature decided they didn't want that move. By wanting it to stay in place there is \$286,000 that was in the initial budget that was coming out because they thought they would get efficiencies from that move. You didn't put that \$286,000 back. When you total that up, it is underfunding of \$761,240. Even if we give them \$325,000. We are still underfunding them \$436,240.

**Senator Grabinger:** Remember that we put \$200,000 back in to the SIF fund.

**Senator Wanzek:** I just penciled out this proposal and it would be putting \$80,000 back in to the general fund. We were \$161,000 apart when we started. That is basically meeting half way.

**Chairman Schmidt:** We will give the FTE and the \$35,996, we'll give you the \$10,000 as you have it and no study, then we are back to the \$225,000.

**Chairman Lee:** We'll do it.

**Chairman Schmidt:** I need to know the right wordage.

**Chris Kadrmas LC:** Underfunding will add back \$225,000 from the general fund. We will authorize 1 FTE with \$35,996 of other funds, and we will add back \$10,000 to capital assets. The SIF one-time funding will still be a \$200,000 reduction. Section 2 of the bill will remain, section 4 from the senate's version will remain, section 5 which provides only \$100,000 which is consistent with the \$200,000 reduction will remain. Section 6, legislative management study will remain, section 7 providing the funding necessary for that \$35,996, will remain and no study regarding the shifting of the grain licensing litigation. If the committee is comfortable voting without seeing the final amendment, it can be reviewed when you get it before the two chairman sign for it. A motion will have to be made for the senate to recede and further amend

**Motion by Senator Wanzek The senate recede from Senate amendments and further amend as follows: A reduction of \$100,000 from the salary and wage line and forget the study.**

**Second by Senator Grabinger**

**A roll call vote was taken. Yea: 6 Nay: 0 Absent: 0 Motion Passes**

**Meeting adjourned**

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

Page 1, line 2, after the first "to" insert "create and enact a new section to chapter 49-21 of the North Dakota Century Code, relating to prohibiting the collection of personal information by a telecommunications or internet service provider; to amend and reenact section 49-21-01 of the North Dakota Century Code, relating to telecommunications definitions; to"

Page 2, after line 29, insert:

**"SECTION 6. AMENDMENT.** Section 49-21-01 of the North Dakota Century Code is amended and reenacted as follows:

**49-21-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Access" means telecommunications services to connect a telecommunications customer or end user with a telecommunications company that allows for the origination or the termination, or both, of WATS, 800, and message toll telecommunications services and private line transport services.
2. "Competitive local exchange company" means any telecommunications company providing local exchange service, other than an incumbent local exchange carrier, whether by its own facilities, interconnection, or resale.
3. "Eligible telecommunications carrier" means a telecommunications company designated under section 214(e) of the federal act as eligible to receive universal service support in accordance with section 254 of the federal act.
4. "Essential telecommunications service" means the following services:
  - a. Switched access;
  - b. Installation of the service connection for other essential services from the end user's premises to the local exchange network; and
  - c. Primary flat rate residence basic telephone service including the following service elements:
    - (1) Billing and collecting of the telecommunications company's charges for the service.
    - (2) Primary directory listing.
    - (3) Access to directory assistance.
    - (4) Access to emergency 911 service and emergency operator assistance in local exchange areas in which emergency 911 service is not available.

- (5) Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas.
  - (6) 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 inward dialing and necessary signaling service such as touchtone used by end users for the service.
5. "Federal act" means the federal Communications Act of 1934, as amended by the federal Telecommunications Act of 1996 [47 U.S.C. 151 et seq.].
  6. "Incumbent local exchange carrier" means a telecommunications company that meets the definition of section 251(h) of the federal act.
  7. "Inside wire" and "premise cable" mean the telecommunications wire on the customer's side of a demarcation point or point of interconnection between the telecommunications facilities of the telecommunications company and the customer or premise owner established under title 47, Code of Federal Regulations, part 68, section 68.105.
  8. "Interexchange telecommunications company" means a person providing telecommunications service to end users located in separate local exchange areas.
  9. "Internet protocol-enabled service" means any service, capability, functionality, or application that uses internet protocol or any successor protocol and enables an end user to send or receive voice, data, or video communication in internet protocol format or a successor format.
  10. "Internet service provider" means a person within this state which provides authenticated access to or presence on the internet.
  11. "Local exchange area" means a geographic territorial unit established by a telecommunications company for the administration of telecommunications services as approved and regulated in accordance with chapter 49-03.1.
  - ~~11-12.~~ "Management costs" means the reasonable direct actual costs a political subdivision incurs in exercising its police powers over the public rights of way.
  - ~~12-13.~~ "Mutual telephone company" means a telephone cooperative organized and operating subject to the provisions of this chapter, and such a cooperative shall also be subject to the general law governing cooperatives, except where such general law is in conflict with this chapter.
  - ~~13-14.~~ "Nonessential telecommunications service" means any telecommunications service, other than those essential telecommunications services listed in subsection 4 that a customer has the option to purchase either in conjunction with or separate from any essential telecommunications service.

- ~~44-15.~~ "Price" means any charge set and collected by a telecommunications company for any telecommunications service offered by it to the public or other telecommunications companies.
- ~~45-16.~~ "Private line transport service" means a telecommunications service to a customer over a circuit dedicated to the customer's exclusive use, within a local exchange area, or between or among local exchanges. Private line transport service includes services to customers who are end users and services to telecommunications companies.
- ~~46-17.~~ "Public right of way" means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which a political subdivision has a legal interest, including other dedicated rights of way for travel purposes, utility easements, and all the area within seventy-five feet [22.86 meters] of the centerline of any county or township highway right of way over which a board of county commissioners or a board of township supervisors has control under section 24-01-42. The term does not include the airwaves above a public right of way with regard to cellular or other wireless telecommunications or broadcast service or utility poles owned by a political subdivision or a municipal utility or a telecommunications company, in whole or part.
18. "Retail telecommunications services" means the two-way transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities which originates or terminates in this state and is charged to a North Dakota service address.
- a. For mobile telecommunications services, the term means the two-way transmission of voice, image, data, or other information which originates or terminates in a single state and which is charged to a North Dakota service address.
- b. The term includes local exchange, long-distance, private communications, two-way paging, wireless telecommunications, and related services, regardless of whether the services are paid for on a call-by-call basis or postpaid calling basis.
- ~~47-19.~~ "Rural telephone company" means a telecommunications company that meets the definition of section 153(37) of the federal act.
- ~~48-20.~~ "Service element" means a telecommunications function or service component that is not useful to the user unless it is combined with one or more other telecommunications functions or service components.
- ~~49-21.~~ "Switched access" means access to include:
- a. Local exchange central office switching and signaling;
  - b. Operator and recording intercept of calls;
  - c. Termination of end user lines in the local exchange central office;
  - d. The carrier common line charge for the line between the end user's premises and the local exchange central office;

- e. Billing and collection recording for interexchange carriers to which the local exchange carrier provides access service; and
- f. Telecommunications service, including connections, provided to allow transmission service and termination between an interexchange company's premises and the local exchange central office switch for the origination or termination of the interexchange company's switched telecommunications services.

~~20-22.~~ "Telecommunications company" means a person engaged in the furnishing of telecommunications service within this state.

23. "Telecommunications services provider" means a person providing retail telecommunications services within this state.

~~21-24.~~ "Telecommunications service" means the offering for hire of telecommunications facilities, or transmitting for hire telecommunications by means of such facilities whether by wire, radio, lightwave, or other means.

~~22-25~~ "Voice over internet protocol service" means any service that enables real time, two-way voice communication originating from or terminating at the user's location in internet protocol or a successor protocol, utilizes a broadband connection at the user's location, and permits a user to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.

**SECTION 7.** A new section to chapter 49-21 of the North Dakota Century Code is created and enacted as follows:

**Collection of personal information prohibited.**

1. A telecommunications service provider or internet service provider may not collect personal information from a customer resulting from the customer's use of the telecommunications service provider or internet service provider without express written approval from the customer if the telecommunications service provider or internet service provider:
  - a. Has entered a franchise agreement, right-of-way agreement, or other contract with the state or a political subdivision; or
  - b. Uses facilities subject to an agreement under subdivision a, even if the telecommunications service provider or internet service provider is not a party to the agreement.
2. A telecommunications service provider or internet service provider may not charge a higher rate, impose a fee, include an additional charge, or refuse to provide services to a customer on the grounds the customer has not approved collection of the customer's personal information."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

That the Senate recede from its amendments as printed on pages 1190-1192 of the House Journal and pages 926-928 of the Senate Journal and that Engrossed House Bill No. 1008 be amended as follows:

Page 1, line 2, remove "a"

Page 1, line 2, replace "study" with "studies"

Page 3, after line 15, insert:

**"SECTION 7. REGULATION OF PUBLIC WAREHOUSES AND GRAIN BUYERS - LEGISLATIVE MANAGEMENT STUDY.** During the 2017-18 interim, the legislative management shall consider studying the public service commission's responsibility to regulate public warehouses and grain buyers. The study must include the feasibility and desirability of transferring the responsibility from the public service commission to the department of agriculture and the potential costs and benefits of the change to the state and the agricultural industry. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations to the sixty-sixth legislative assembly."

Re-number accordingly

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

That the Senate recede from its amendments as printed on pages 1190-1192 of the House Journal and pages 926-928 of the Senate Journal and that Engrossed House Bill No. 1008 be amended as follows:

Page 1, line 2, after the first semicolon insert "to amend and reenact section 57-43.2-19 of the North Dakota Century Code, relating to the special fuels excise taxes distribution of funds;"

Page 1, replace line 12 with:

"Salaries and wages	\$9,643,095	(\$445,811)	\$9,197,284"
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Page 1, replace line 14 with:

"Capital assets	26,400	(16,400)	10,000"
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Page 1, replace lines 18 through 23 with:

"Railroad safety program	523,345	41,323	564,668
Specialized legal services	<u>150,000</u>	<u>380,000</u>	<u>530,000</u>
Total all funds	\$21,140,402	(\$2,088,624)	\$19,051,778
Less estimated income	<u>13,964,575</u>	<u>(1,543,559)</u>	<u>12,421,016</u>
Total general fund	\$7,175,827	(\$545,065)	\$6,630,762
Full-time equivalent positions	46.00	(1.00)	45.00"

Page 2, line 2, replace "\$125,934" with "\$116,809"

Page 2, line 2, replace "\$76,487" with "\$70,945"

Page 2, line 3, replace "\$1,249" with "\$1,241"

Page 2, replace lines 9 through 12 with:

"Specialized legal services	<u>\$575,624</u>	<u>\$436,000</u>
Total all funds	\$575,624	\$436,000
Total special funds	<u>336,000</u>	<u>436,000</u>
Total general fund	\$239,624	\$0"

Page 2, line 27, replace "\$300,000" with "\$100,000"

Page 2, after line 29, insert:

**"SECTION 6. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. (Effective July 1, 2015, through June 30, 2019) Transfer, deposit, and distribution of funds.**

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

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2083

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

**(Effective after June 30, 2019) Transfer, deposit, and distribution of funds.**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1008 - Public Service Commission - Conference Committee Action**

	Base Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$9,643,095	\$8,980,993	\$216,291	\$9,197,284	\$9,297,284	(\$100,000)
Operating expenses	1,877,562	1,829,826		1,829,826	1,829,826	
Capital assets	26,400		10,000	10,000	10,000	
Grants	20,000	20,000		20,000	20,000	
Abandoned mined lands contractual	8,000,000	6,000,000		6,000,000	6,000,000	
Rail rate complaint case	900,000	900,000		900,000	900,000	
Railroad safety program	523,345	529,088	35,580	564,668	564,668	
Specialized legal services	150,000	730,000	(200,000)	530,000	530,000	
<b>Total all funds</b>	<b>\$21,140,402</b>	<b>\$18,989,907</b>	<b>\$61,871</b>	<b>\$19,051,778</b>	<b>\$19,151,778</b>	<b>(\$100,000)</b>
Less estimated income	13,964,575	12,588,603	(167,587)	12,421,016	12,421,016	0
<b>General fund</b>	<b>\$7,175,827</b>	<b>\$6,401,304</b>	<b>\$229,458</b>	<b>\$6,630,762</b>	<b>\$6,730,762</b>	<b>(\$100,000)</b>
FTE	46.00	44.00	1.00	45.00	45.00	0.00

**Department No. 408 - Public Service Commission - Detail of Conference Committee Changes**

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Adjusts Funding for Salaries and Wages <sup>2</sup>	Converts Temporary Railroad Safety Inspector to FTE Position <sup>3</sup>	Adds Funding for Capital Assets <sup>4</sup>	Reduces One-Time Funding for Specialized Legal Services <sup>5</sup>	Total Conference Committee Changes
Salaries and wages	(\$8,709)	\$225,000				\$216,291
Operating expenses						
Capital assets				10,000		10,000
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	(416)		35,996			35,580
Specialized legal services					(200,000)	(200,000)
<b>Total all funds</b>	<b>(\$9,125)</b>	<b>\$225,000</b>	<b>\$35,996</b>	<b>\$10,000</b>	<b>(\$200,000)</b>	<b>\$61,871</b>
Less estimated income	(3,583)	0	35,996	0	(200,000)	(167,587)
<b>General fund</b>	<b>(\$5,542)</b>	<b>\$225,000</b>	<b>\$0</b>	<b>\$10,000</b>	<b>\$0</b>	<b>\$229,458</b>
FTE	0.00	0.00	1.00	0.00	0.00	1.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 of the bill is also changed to reflect the revised amount, the same as the Senate version.

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<sup>2</sup> Funding of \$225,000 is restored for salaries and wages to underfund salaries and wages by \$250,000 from the general fund. The Senate version restored \$325,000 to salaries and wages to underfund salaries and wages by \$150,000 from the general fund. The House underfunded salaries and wages by \$475,000 from the general fund.

<sup>3</sup> Funding of \$35,966 is provided from the rail safety fund to convert a temporary railroad safety inspector to a FTE position with a total cost of \$226,727, the same as the Senate version.

<sup>4</sup> Funding of \$10,000 is added from the general fund for capital assets, the same as the Senate version. The House removed all funding for capital assets.

<sup>5</sup> One-time funding from the strategic investment and improvements fund is reduced by \$200,000 for specialized legal services to provide a total of \$100,000 from the strategic investment and improvements fund, the same as the Senate version. The House provided \$300,000 from the strategic investment and improvements fund.

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This amendment also amends North Dakota Century Code Section 57-43.2-19 to increase the amount of special fuels excise tax collections on sales of diesel fuel to a railroad that are deposited in the rail safety fund from \$275,000 to \$285,000 per year, the same as the Senate version.

**2017 HOUSE CONFERENCE COMMITTEE  
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1008 as (re) engrossed

**House Appropriations Education and Environment Committee**

- Action Taken  HOUSE accede to Senate Amendments  
 HOUSE accede to Senate Amendments and further amend  
 SENATE recede from Senate amendments  
 SENATE recede from Senate amendments and amend as follows  
 Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Grabinger Seconded by: Representative Boe

Representatives	4-11 2017	4-13	4-17	Yes	No	Senators	4-11 2017	4-13	4-17	Yes	No
Chairman Schmidt	✓	✓	✓		✓	Chairman Gary Lee	✓	✓	✓		✓
Representative Schatz	✓	✓	✓		✓	Senator Terry Wanzek	✓	✓	✓		✓
Representative Boe	✓	✓	✓	✓		Senator John Grabinger	✓	✓	✓	✓	
Total Rep. Vote				1	2	Total Senate Vote				1	2

Vote Count Yes: 2 No: 4 Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

17. 0493 + 02002

Motion Fails

**2017 HOUSE CONFERENCE COMMITTEE  
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1008 as (re) engrossed

**House Appropriations Education and Environment Committee**

- Action Taken**
- HOUSE accede to Senate Amendments
  - HOUSE accede to Senate Amendments and further amend
  - SENATE recede from Senate amendments
  - SENATE recede from Senate amendments and amend as follows
  - Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Representative Boe Seconded by: Representative Schatz

Representatives	4-11 2017	4-17	Yes	No	Senators	4-11 2017	Yes	No
Chairman Schmidt			✓		Chairman Gary Lee			✓
Representative Schatz			✓		Senator Terry Wanzek			✓
Representative Boe			✓		Senator John Grabinger			✓
Total Rep. Vote			3		Total Senate Vote			3

Vote Count      Yes: 3      No: 3      Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number 17.0493.02003 . \_\_\_\_\_ of amendment

LC Number \_\_\_\_\_ . \_\_\_\_\_ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment study transfer of grain inspectors from PSC to Dept. of Ag.

Motion Fails

**2017 HOUSE CONFERENCE COMMITTEE  
 ROLL CALL VOTES**

BILL/RESOLUTION NO. HB 1008 as (re) engrossed

**House Appropriations Education and Environment Committee**

- Action Taken
- HOUSE accede to Senate Amendments
  - HOUSE accede to Senate Amendments and further amend
  - SENATE recede from Senate amendments
  - SENATE recede from Senate amendments and amend as follows  
*Reduction of \$ 100,000 from Salary and wage line and leave the study out.*
  - Unable to agree, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Wanzek Seconded by: Senator Grabinger

Representatives	4-18 2017	4-19	4-20	Yes	No	Senators	4-18 2017	4-19	4-20	Yes	No
Chairman Schmidt	✓	✓	✓	✓		Chairman Gary Lee	✓	✓	✓	✓	
Representative Schatz	✓	✓	✓	✓		Senator Terry Wanzek	✓	✓	✓	✓	
Representative Boe	✓	✓	✓	✓		Senator John Grabinger	✓	✓	✓	✓	
Total Rep. Vote				3		Total Senate Vote				3	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier \_\_\_\_\_ Senate Carrier \_\_\_\_\_

LC Number 17.0493.02005 of amendment

LC Number 17.0493. 04000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

*Motion Carries*

Insert LC: 17.0493.02005  
House Carrier: Schmidt  
Senate Carrier: G. Lee

**REPORT OF CONFERENCE COMMITTEE**

**HB 1008, as engrossed:** Your conference committee (Sens. G.Lee, Wanzek, Grabinger and Reps. Schmidt, Schatz, Boe) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1190-1192, adopt amendments as follows, and place HB 1008 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1190-1192 of the House Journal and pages 926-928 of the Senate Journal and that Engrossed House Bill No. 1008 be amended as follows:

Page 1, line 2, after the first semicolon insert "to amend and reenact section 57-43.2-19 of the North Dakota Century Code, relating to the special fuels excise taxes distribution of funds;"

Page 1, replace line 12 with:

"Salaries and wages	\$9,643,095	(\$445,811)	\$9,197,284"
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Page 1, replace line 14 with:

"Capital assets	26,400	(16,400)	10,000"
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Page 1, replace lines 18 through 23 with:

"Railroad safety program	523,345	41,323	564,668
Specialized legal services	<u>150,000</u>	<u>380,000</u>	<u>530,000</u>
Total all funds	\$21,140,402	(\$2,088,624)	\$19,051,778
Less estimated income	<u>13,964,575</u>	<u>(1,543,559)</u>	<u>12,421,016</u>
Total general fund	\$7,175,827	(\$545,065)	\$6,630,762
Full-time equivalent positions	46.00	(1.00)	45.00"

Page 2, line 2, replace "\$125,934" with "\$116,809"

Page 2, line 2, replace "\$76,487" with "\$70,945"

Page 2, line 3, replace "\$1,249" with "\$1,241"

Page 2, replace lines 9 through 12 with:

"Specialized legal services	<u>\$575,624</u>	<u>\$436,000</u>
Total all funds	\$575,624	\$436,000
Total special funds	<u>336,000</u>	<u>436,000</u>
Total general fund	\$239,624	\$0"

Page 2, line 27, replace "\$300,000" with "\$100,000"

Page 2, after line 29, insert:

**"SECTION 6. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. (Effective July 1, 2015, through June 30, 2019) Transfer, deposit, and distribution of funds.**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund, except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section 57-43.2-03 of up to two hundred ~~seventy-five~~eighty-five thousand dollars per year must be transferred to the state treasurer who shall

deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

**(Effective after June 30, 2019) Transfer, deposit, and distribution of funds.** All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1008 - Public Service Commission - Conference Committee Action**

	Base Budget	House Version	Conference Committee Changes	Conference Committee Version	Senate Version	Comparison to Senate
Salaries and wages	\$9,643,095	\$8,980,993	\$216,291	\$9,197,284	\$9,297,284	(\$100,000)
Operating expenses	1,877,562	1,829,826		1,829,826	1,829,826	
Capital assets	26,400		10,000	10,000	10,000	
Grants	20,000	20,000		20,000	20,000	
Abandoned mined lands contractual	8,000,000	6,000,000		6,000,000	6,000,000	
Rail rate complaint case	900,000	900,000		900,000	900,000	
Railroad safety program	523,345	529,088	35,580	564,668	564,668	
Specialized legal services	150,000	730,000	(200,000)	530,000	530,000	
Total all funds	\$21,140,402	\$18,989,907	\$61,871	\$19,051,778	\$19,151,778	(\$100,000)
Less estimated income	13,964,575	12,588,603	(167,587)	12,421,016	12,421,016	0
General fund	\$7,175,827	\$6,401,304	\$229,458	\$6,630,762	\$6,730,762	(\$100,000)
FTE	46.00	44.00	1.00	45.00	45.00	0.00

**Department No. 408 - Public Service Commission - Detail of Conference Committee Changes**

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Adjusts Funding for Salaries and Wages <sup>2</sup>	Converts Temporary Railroad Safety Inspector to FTE Position <sup>3</sup>	Adds Funding for Capital Assets <sup>4</sup>	Reduces One-Time Funding for Specialized Legal Services <sup>5</sup>	Total Conference Committee Changes
Salaries and wages	(\$8,709)	\$225,000				\$216,291
Operating expenses						
Capital assets				10,000		10,000
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	(416)		35,996			35,580
Specialized legal services					(200,000)	(200,000)
Total all funds	(\$9,125)	\$225,000	\$35,996	\$10,000	(\$200,000)	\$61,871
Less estimated income	(3,583)	0	35,996	0	(200,000)	(167,587)
General fund	(\$5,542)	\$225,000	\$0	\$10,000	\$0	\$229,458
FTE	0.00	0.00	1.00	0.00	0.00	1.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 of the bill is also changed to reflect the revised amount, the same as the Senate version.

<sup>2</sup> Funding of \$225,000 is restored for salaries and wages to underfund salaries and wages

Insert LC: 17.0493.02005  
House Carrier: Schmidt  
Senate Carrier: G. Lee

by \$250,000 from the general fund. The Senate version restored \$325,000 to salaries and wages to underfund salaries and wages by \$150,000 from the general fund. The House underfunded salaries and wages by \$475,000 from the general fund.

<sup>3</sup> Funding of \$35,966 is provided from the rail safety fund to convert a temporary railroad safety inspector to a FTE position with a total cost of \$226,727, the same as the Senate version.

<sup>4</sup> Funding of \$10,000 is added from the general fund for capital assets, the same as the Senate version. The House removed all funding for capital assets.

<sup>5</sup> One-time funding from the strategic investment and improvements fund is reduced by \$200,000 for specialized legal services to provide a total of \$100,000 from the strategic investment and improvements fund, the same as the Senate version. The House provided \$300,000 from the strategic investment and improvements fund.

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This amendment also amends North Dakota Century Code Section 57-43.2-19 to increase the amount of special fuels excise tax collections on sales of diesel fuel to a railroad that are deposited in the rail safety fund from \$275,000 to \$285,000 per year, the same as the Senate version.

Engrossed HB 1008 was placed on the Seventh order of business on the calendar.

## JOURNAL OF THE HOUSE

## Sixty-fifth Legislative Assembly

\* \* \* \* \*

Bismarck, April 27, 2017

The House convened at 8:00 a.m., with Speaker Bellew presiding.

The prayer was offered by Rep. Jon Nelson, District 14.

The roll was called and all members were present except Representatives Rick C. Becker, Boehning, Guggisberg, Marschall, Mitskog, M. Nelson, and Trottier.

A quorum was declared by the Speaker.

**CORRECTION AND REVISION OF THE JOURNAL**

**MR. SPEAKER:** Your **Committee on Correction and Revision of the Journal (Rep. Klemm, Chairman)** has carefully examined the Journal of the Twentieth, Forty-second, Forty-eighth, Fifty-fifth, Seventy-second, Seventy-third, Seventy-fifth, and Seventy-sixth Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 317, line 6, replace "Graig" with "Craig"

Page 897, line 16, remove "."

Page 903, line 44, remove " and amended"

Page 991, lines 18 and 20, remove ", as amended,"

Page 1131, line 19, remove " and the emergency clause was declared carried"

Page 1160, line 22, remove " and the emergency clause carried"

Page 1576, line 6, replace "Monson" with "Streyle"

Page 1818, line 15, replace " Schmidt, Streyle" with " Streyle, Schmidt"

Page 1836, line 41, replace "Grabinger" with "G. Lee" and "G. Lee" with "Grabinger"

Page 1882, line 44, replace "SEAKER" with "SPEAKER"

Page 1905, line 4, replace "Boe" with "Hogan"

Page 1974, line 3, replace "Oehlke" with "Krebsback"

Page 1978, line 47, replace "Engrossed" with "Reengrossed"

**REP. KLEMM MOVED** that the report be adopted, which motion prevailed on a voice vote.

**REPORT OF CONFERENCE COMMITTEE**

**HB 1001, as engrossed:** Your conference committee (Sens. Hogue, Dever, Mathern and Reps. Brandenburg, Kempenich, Brabandt) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ pages 1271-1272, adopt amendments as follows, and place HB 1001 on the Seventh order:

That the Senate recede from its amendments as printed on pages 1271 and 1272 of the House Journal and pages 1028-1030 of the Senate Journal and that Engrossed House Bill No. 1001 be amended as follows:

Page 1, line 2, remove "and"

Total all funds						
Less estimated income	0	0	0	0	0	0
General fund	\$4,094,559	\$3,861,387	\$146,371	\$4,007,758	\$4,007,758	\$0
FTE	18.00	17.00	1.00	18.00	18.00	0.00

Department No. 101 - Governor's Office - Detail of Conference Committee Changes

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Restores 1 FTE Position <sup>2</sup>	Provides Separate Line Item for Governor's Salary <sup>3</sup>	Total Conference Committee Changes
Salaries and wages	(\$3,629)	\$150,000	(\$265,928)	(\$119,557)
Operating expenses				
Contingencies				
Rough Rider Awards				
Governor's salary			265,928	265,928
Total all funds	(\$3,629)	\$150,000	\$0	\$146,371
Less estimated income	0	0	0	0
General fund	(\$3,629)	\$150,000	\$0	\$146,371
FTE	0.00	1.00	0.00	1.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 of the bill is also adjusted to reflect the revised premium rate. The Senate also made these adjustments.

<sup>2</sup> One FTE position and related funding removed by the House is restored, the same as the Senate.

<sup>3</sup> Funding for the salary of the Governor is transferred to a separate line item. A section is added relating to the Governor's salary designated in statute. Funding for the fringe benefits of the Governor remains in the salaries and wages line item.

Provisions included in the Senate version for the Governor to receive an annual salary of \$1 are not included in the Conference Committee version.

Engrossed HB 1001 was placed on the Seventh order of business on the calendar.

**MOTION**

**SEN. KLEIN MOVED** that the Senate stand in recess until 11:00 a.m., which motion prevailed.

**THE SENATE RECONVENED** pursuant to recess taken, with President Sanford presiding.

**CORRECTION AND REVISION OF THE JOURNAL**

**MR. PRESIDENT:** Your **Committee on Correction and Revision of the Journal (Sen. Davison, Chairman)** has carefully examined the Journal of the Fifty-sixth, Fifty-seventh, Seventy-first, Seventy-third, Seventy-fourth, Seventy-fifth, and Seventy-sixth Days and recommends that it be corrected as follows and when so corrected, recommends that it be approved:

Page 954, line 15, after "amended" remove ","

Page 954, line 15, insert " and" after "amended"

Page 954, line 15, remove ", and the emergency clause carried:"

Page 975, after line 9 insert:

**"POINT OF PERSONAL PRIVILEGE**

**SEN. MARCELLIS** rose on a point of personal privilege.

**REMARKS OF SENATOR MARCELLAIS**

**MR. PRESIDENT:** In 2009 of the legislative session, I was a co-sponsor on a bill to recognize the special day for Vietnam Veterans. It's a time when the conflict with the Vietnam Veterans had ended in 1975. It's the day March 29, 1975 the conflict was over. Today, I would like to honor all those Veterans if they would stand up in the chamber please. We do have some Vietnam Veterans that are senators and we also have some guests. I would like to honor those veterans by readying our Proclamation signed by the governor."

Page 1570, line 18, replace "Davison" with "Dever"

Page 1612, line 15, replace "Grabinger, Wanzek, G. Lee" with "G. Lee, Wanzek, Grabinger"

Page 1618, line 8, replace "engrossed" with "reengrossed"

Page 1637, line 11, replace "Schmidt, Streyle" with "Streyle, Schmidt"

Page 1652, line 38, replace "Boe" with "Hogan"

Page 1676, line 32, replace "Delmore, Weisz" with "Weisz, Delmore"

Page 1719, line 19, replace "Streyle, Martinson" with "Martinson, Steyle"

Page 1751, line 19. replace "Oehlke" with "Krebsbach"

**SEN. DAVISON MOVED** that the report be adopted, which motion prevailed.

**MOTION**

**SEN. KLEIN MOVED** that enrolled HB 1019 be placed on the Fourteenth order of business on the calendar for the purpose of overriding the Governor's veto pursuant to Article V, Section 9, of the Constitution of North Dakota, which motion prevailed.

**CONSIDERATION OF VETOED MEASURE**

**HB 1019:** AN ACT to provide an appropriation for defraying the expenses of the parks and recreation department; to amend and reenact sections 55-08-06 and 55-08-07.1 of the North Dakota Century Code, relating to permits for motor vehicles and parks and the recreation concession revolving fund; to provide a grant to the international peace garden; to authorize the transfer of Dakota institute inventory; to provide exemptions; to provide a statement of legislative intent; and to declare an emergency.

**ROLL CALL**

The question being on the final passage of the enrolled bill, over the Governor's veto, which has been read, the roll was called and there were 21 YEAS, 26 NAYS, 0 EXCUSED, 0 ABSENT AND NOT VOTING.

**YEAS:** Anderson; Armstrong; Bekkedahl; Casper; Clemens; Cook; Dever; Erbele; Holmberg; Kannianen; Kilzer; Lee, G.; Lee, J.; Meyer; Myrdal; Osland; Poolman; Sorvaag; Unruh; Vedaa; Wardner

**NAYS:** Bowman; Burckhard; Campbell; Davison; Dotzenrod; Grabinger; Heckaman; Hogue; Klein; Krebsbach; Kreun; Laffen; Larsen, O.; Larson, D.; Luick; Marcellais; Mathern; Nelson; Oban; Oehlke; Piepkorn; Robinson; Roers; Rust; Schaible; Wanzek

The Senate sustained the Governor's veto of HB 1019, as enrolled.

\*\*\*\*\*

**CONSIDERATION OF CONFERENCE COMMITTEE REPORT**

**SEN. HOGUE MOVED** that the conference committee report on Engrossed HB 1001 be adopted, which motion prevailed on a voice vote.

**SECOND READING OF HOUSE BILL**

**HB 1001:** A BILL for an Act to provide an appropriation for defraying the expenses of the office of the governor; to provide for a legislative management report; to provide a statement of legislative intent; and to provide an exemption.

**2017 TESTIMONY**

**HB 1008**

att: 1

1-9-17

HB 1008-1068

## House Bill 1008/1068

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

**Before:** House Appropriations Committee  
Honorable Jeff Delzer, Chairman

Education and Environment Division  
Honorable David Monson, Chairman

**Date:** January 9, 2017

### TESTIMONY

Mr. Chairman and members of the committee, I'm Randy Christmann, Chairman of the Public Service Commission, here to present our 2017-2019 biennial budget request. Commissioners Julie Fedorchak and Brian P. Kalk are also in attendance today and available for any questions you may have. Thank you for the opportunity to present our budget bill and explain why we feel it benefits the State of North Dakota. I look forward to answering any questions you may have at the end of my testimony.

### Introductions and Responsibilities

The Commission is a constitutional agency with varying degrees of statutory authority over the following areas: coal mining and reclamation; abandoned mine lands; grain warehouses and licensing; commercial scales and measuring devices; railroad safety; electric, gas and telephone public utility regulation; energy transmission and generation facility siting; and auctioneers. (Department Overviews are attached)

## 2017-19 Budget Details

The following information provides details regarding the PSC's budget priorities for the upcoming biennium and addresses the information requested in the Dec. 21st letter from legislative council. You will see that despite changes in North Dakota's economic activity, the workload of the Commission has not decreased. We do, however, foresee changes to our workload in the near and distant future. One can reasonably assume that siting of oil and gas infrastructure will slow, but siting of renewable energy generation and transmission will pick up. We have also seen a dramatic increase in time consuming damage prevention cases, far more expensive litigation in grain licensing and environmental issues, and we expect a significant uptick in the frequency of electric and gas rate cases as the world shifts towards more renewables. However, the Commission has embraced the concept of reinventing the way we do business. Through a series of reassignments and organizational changes that will be explained later, we are able to eliminate three full-time positions to achieve our budget reduction goal.

### **1 Financial Audit Findings:**

The PSC had no formal audit recommendations.

### **2 Major Components Making up "Base Level" Amounts:**

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

Salaries and wages	\$9.6 million	Approx. 39% Fed. Funds
Operating	\$1.87 million	Approx. 30% Fed. Funds
AML Contractual	\$8 million	100% Fed. Funds
Rail Rate Complaint Case	\$900,000	
Railroad Safety Program	\$523,345	100% Special Funds
Specialized Legal Services	\$150,000	Approx. 43% Fed Funds

### 3 Major Ongoing Funding Increases/Decreases ('13 & '15 Assemblies):

- **Reclamation and Grain Litigation Fund (2013):** In 2013 this fund, which is now called the Specialized Legal Services fund, was created providing \$500,000 general fund and \$400,000 federal. In 2015 the name was changed. \$150,000 is designated "base level" and \$750,000 is one-time. (More details on the changes to and the importance of this line item in subsequent sections)
- **FTE Additions (2013 and 2015):**
  - 2013: The Weights and Measures Program was authorized for 4 inspectors and one of those positions was vacant. The Governor's Executive budget eliminated 2 of the 4 positions and repurposed the 2 eliminated positions as a gas pipeline safety inspector and a Public Utilities analyst. The legislature then reinstated one weights and measures FTE, resulting in a net increase of one FTE.

- 2015: Added a Weights and Measures temporary employee to replace the position eliminated in 2013. Also added one additional FTE as a Public Utilities analyst. As part of the new Rail Safety Program, one full time rail inspector and one full-time temporary inspector position were added.
- The chart below shows the FTE changes from 2009 to present.

	Full Time Temps	Full Time Equivalents	Total
2009-11	0	43	43
2011-13	0	43	43
2013-15	0	44	44
2015-17	2	46	48
2017-19 (Govs)	0	45	45

- **Rail Safety Program (2015):** Legislature provided funding for a new railroad safety pilot program. The Rail Safety Program is funded not with general funds, but with an existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements. (More details on the importance of this program located in subsequent sections)

#### **4 Effects of 2016 Budget Reductions/Major Variances:**

The chart on the next page shows the 6.55 percent reductions that the PSC made to meet the required allotments:

Line Item:	Reductions:
Salaries and wages	(\$47,000)
Operating	(\$98,000)
Weights & Measures temp position (salary and operating)	(\$200,000)
Specialized legal services	(\$175,000)
<b>Total Reductions</b>	<b>(\$520,000)</b>

(The allotments depicted here are explained in detail in the following section regarding the 10 percent reduction request made by the Governor)

### Major Variances:

The variances below are found by taking our most recent biennium to date budget (end of Nov. 2016), less actual expenses and known upcoming reductions.

Appropriation Line	General Fund Variance
Salaries & Wages	148,021
Operating Expenses	25,812
Capital Assets	234
Grants	-
AML Contractual	-
Rail Rate Complaint Case	-
Rail Safety Program	-
Specialized Legal Services	150,647
<b>Total</b>	<b>324,714</b>

In the areas of salaries, operating, and capital assets, the term "major" variance is not even accurate. We are only three-fourths of the way through this biennium, and all three of these variances are less than 2 percent. It should be noted that a retirement or two in the last months of the biennium could easily exhaust this cushion. The variance for specialized legal services will be explained later.

### **5 Budget Reductions to Meet Governor's 90% Budget Request:**

The 10 percent reduction for the PSC equates to just over \$750,000. This level of savings is not possible by reducing operating dollars alone and requires eliminating positions. We spent many hours analyzing, discussing and looking at a wide variety of options to meet these general fund reductions. Our goals during the process were to (1) reduce general fund expenditures by 10 percent; (2) minimize the impact reductions will have on services provided to North Dakota citizens; and (3) improve the structure and operational efficiency of the agency. The plan we have put forward in the 90% budget streamlines our work in targeted areas and improves our organizational structure while allowing the agency to continue meeting a majority of our core responsibilities with greater efficiency and fewer general fund dollars.

The 90% budget calls for significantly changing the structure and functions of the agency's licensing division. We have proposed eliminating all three current licensing positions (one director position and two inspectors) and creating one new position. This new licensing program position will complete a significantly

streamlined version of our current licensing functions. If approved, the two current inspector positions will be eliminated after the session and these employees will be invited to apply for the new position. An updated grain licensing/renewal program is currently being developed. Significant time savings are expected when the new program is implemented, but implementation requires the proposed licensing law changes contained in HB 1126 in the House Agriculture Committee.

The licensing director position has been eliminated and we have created a new division in the agency called the Compliance Division. The Compliance Division was created by consolidating three different programs: (1) the Licensing Program, (2) the Weights and Measures Program, and (3) the Railroad Safety Program. The division houses the majority of the PSC's state inspectors who are charged with ensuring businesses and operations are in compliance with the laws and rules of the state. The restructuring will allow for a more unified approach to regulatory enforcement and compliance with these programs. A new director has been hired to oversee this division.

In addition, we have eliminated the director of economic regulation position and have streamlined our Public Utilities Division under one director. With the availability of rate case application fee dollars and the ability of several Public Utility Division analysts to now oversee rate regulation, we believe the FTE for the second director position can better serve the agency and our citizens in a new way. Multiple reassignments of duties have occurred to assure that essential agency responsibilities are handled.

The remaining savings needed to achieve the 10 percent general fund reduction will be accomplished by continuing many of the reductions achieved through the previous allotments. Specifically, we have eliminated funding for a temporary weights and measures position, reduced the specialized legal services fund, and reduced operating dollars significantly.

## **6 Changes Recommended by Governor to the “Base Level”:**

**Specialized legal services:** The 2015-2017 budget included \$900,000 for specialized legal services. \$150,000 of that amount is base. \$86,000 of that base amount is general fund and \$64,000 is federal. The Governor’s recommended budget reduces the ongoing general fund portion from \$86,000 to \$30,000. (Again, more details on the changes to and the importance of this line item will follow.)

**Convert mechanical rail inspector to permanent position:** The Commission was authorized one FTE and one temp during the last legislative session as part of the Rail Safety Program. The Commission has requested the temporary position (mechanical inspector) be converted into a permanent FTE for a net increase of \$35,000. The Rail Safety Program is funded not with general funds, but with an existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements. The PSC pursued the development and implementation of this program to increase oversight of North Dakota rail operations after seeing a significant increase in rail traffic and also an increase in

the amount of hazardous materials, such as crude oil and ethanol, being transported by rail. The program focuses on two disciplines: track and mechanical. These two areas were identified because they contribute to the largest number and most severe accidents in North Dakota.

The Commission believes that having both inspector positions as full-time permanent positions is vital to keeping qualified employees in those positions. Both inspectors were hired, trained and certified within one year of receiving program funding. These highly trained positions are now able to conduct independent inspections, ensuring more inspections are taking place in North Dakota.

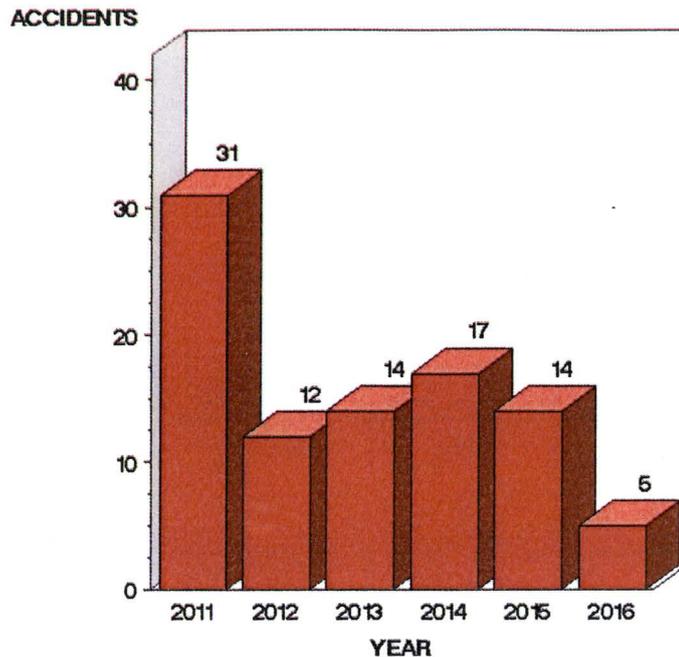
The track inspector was hired in August of 2015. He became FRA certified in March of 2016. Since March he has conducted over 100 inspections, noting hundreds of defects, and has issued 9 violations with civil penalties.

The mechanical inspector was hired in December of 2015. He became FRA certified in August of 2016. Since August he has conducted 32 inspections, noting hundreds of defects, and has issued 5 violations with civil penalties. Converting this position to a permanent FTE, as recommended by Gov. Dalrymple, will help the Commission retain this now fully trained inspector and continue this valuable work.

The goal of the Rail Safety Program is not to see how many fines we can rack up, our goal is to work with the railroads and the FRA to improve safety. The graph on the next page depicts train accidents in North Dakota for the years 2011-2016, and it shows that accident numbers are improving.

# TRAIN ACCIDENTS

FOR NORTH DAKOTA, January — September (ALL YEARS)



Excludes highway— rail

**Salary and Operating Appropriation:** The Governor's recommended budget underfunded our salary appropriation by approximately \$60,000 and reduced our operating by \$15,000. (I will address that further in the summary.)

## 7 Federal Funding Changes:

The Commission reduced the Abandoned Mine Lands contractual services line by \$2 million to better reflect the anticipated amount of federal funding.

## One-Time Funding:

**Specialized legal services** (previously Reclamation and Grain Licensing Litigation): This fund is a mixture of one-time funding and base budget. As indicated on page 5, \$175,000 of the original \$500,000 of general fund money was

used in the allotment process. As of Dec. 31, 2016, the Commission had spent approximately \$80,000 of the appropriation for specialized legal services on one federal lawsuit, one grain elevator insolvency and one coal mine permit appeal. The funds benefited the Commission by allowing the hiring of specialized professionals with qualifications specifically related to the cases.

Breakdown of \$80,000 costs:

- Federal Lawsuit (WORC vs Jewell): \$12,400
- Grain Elevator Insolvency (Grand Forks Bean): \$55,300
- Coal Mine Permit Appeal (Coyote Creek): \$12,300

That \$80,000 total is growing. The grain elevator insolvency case is still open so costs continue to mount. The coal mine permit appeal is awaiting a decision by the North Dakota Supreme Court. The Commission recently initiated a federal lawsuit to block President Obama's Stream Protection Rule which we see as subordinating North Dakota's mine permitting authority to federal control and effectively placing much of North Dakota's minable coal off limits.

An example of the effectiveness of the specialized legal services fund was the WORC vs. Jewell case. In that case WORC attempted to force the Department of Interior to evaluate climate change impacts when evaluating federal mineral leases. The complex evaluations could have ground federal mineral leasing to a halt. To avoid the possibility of the Interior Department "settling" the case by granting WORC's wishes, the PSC gained intervenor status. The case was

ultimately put into abeyance. I would argue that without the PSC's timely intervention the long term ability of coal, oil, and gas companies to lease federal minerals was significantly jeopardized.

Having funds like this available is critical in order for the PSC to maintain our sovereignty and preserve the interests of industries we regulate. These funds allow the Commission, when necessary, to fight attacks against the fossil fuel industry, whether it's through EPA regulations or lawsuits by environmental groups attacking coal mining or reclamation. These are attacks that are difficult to predict, nearly impossible to budget for and often demand specialized outside legal counsel to effectively counter.

### **Summary:**

The Commission has been able to operate within its appropriation for the current biennium during a period of dynamic energy development and subsequent downturn. We also share concern over current oil prices and their impact on the energy industry and future state revenues. Our budget requests are critical to effectively regulating existing infrastructure and to prepare for future program additions and rule changes.

Besides reiterating the importance of providing permanence to the temporary rail safety position and maintaining the specialized legal services fund I want to emphasize two other topics:

**Additional FTE for Gas pipeline inspector:** We requested an additional natural gas pipeline inspector (\$327,977). The Pipeline and Hazardous Materials Safety Administration (PHMSA) recently reviewed our inspection criteria and is recommending that we add an additional inspector to meet the PHMSA required number of inspection days. That additional FTE plus operating is needed now to adequately cover our current infrastructure and complete safety inspections. In addition, the growth and development in North Dakota is resulting in more and more gas lines and producers in the state. This position will support the existing natural gas pipeline safety program currently in place. The positions are funded at approximately 50 percent through the federal PHMSA grant. The Governor's recommended budget did not include this FTE.

**Salaries and Operating Reductions:** Gov. Dalrymple's reduction of \$60,000 to our salaries appropriation and of \$15,000 to our operating appropriation are particularly concerning. As has been demonstrated, the Commission has taken significant steps to achieve a better way of delivering services while still meeting the required general fund reductions. Through the restructuring, the Commission has eliminated 3 full time employees and feels the underfunding of salaries and cut in operating would be detrimental to meeting the responsibilities to the citizens of North Dakota.

Mr. Chairman, this concludes our testimony. I will be happy to answer any questions.

HB 1008-1068  
#2 1/9/17

## Reclamation Division (64% Federal Funds)

The Reclamation Division of the Public Service Commission is responsible for administering and enforcing the state's reclamation law for minimizing the environmental effects of surface coal mining and ensuring mined lands are properly reclaimed. There are 7 active surface coal mining operations (5 lignite and 2 leonardite mines) operating in the state.

- Approximately 134,000 acres are currently permitted for mining activities under 28 mine permits.
- To date, over 15,700 acres have received final bond release (met all the requirements of the reclamation law) and Commission jurisdiction has ended.
- Mining operations began on the recently permitted 8,091-acre Coyote Creek Mine located south of Zap and a new 8,360-acre mine area at BNI Coal's Center Mine.
- The Commission's decision to issue the permit for the Coyote Creek Mine was appealed to District Court and the Commission's decision to issue the permit was upheld. The District Court's decision (specifically the Alluvial Valley Floor determination) was then appealed to the North Dakota Supreme Court and we are awaiting the Supreme Court decision.
- The PSC's coal regulatory and Abandoned Mine Lands programs continue to receive excellent annual evaluation reports from the federal Office of Surface Mining.

### **Abandoned Mine Lands (AML) (100% Federal Funds)**

The goal of the AML Program is to eliminate hazards related to coal mining that was conducted prior to the enactment of the 1977 federal reclamation act. PSC staff in the AML Program design and manage the reclamation projects, while the actual reclamation work is done by contractors selected by competitive bidding. The Commission receives funds from the federal Office of Surface Mining Reclamation and Enforcement (OSM) for the program from the collection of a federal reclamation fee that is collected on all coal that has been mined since the late 1970s.

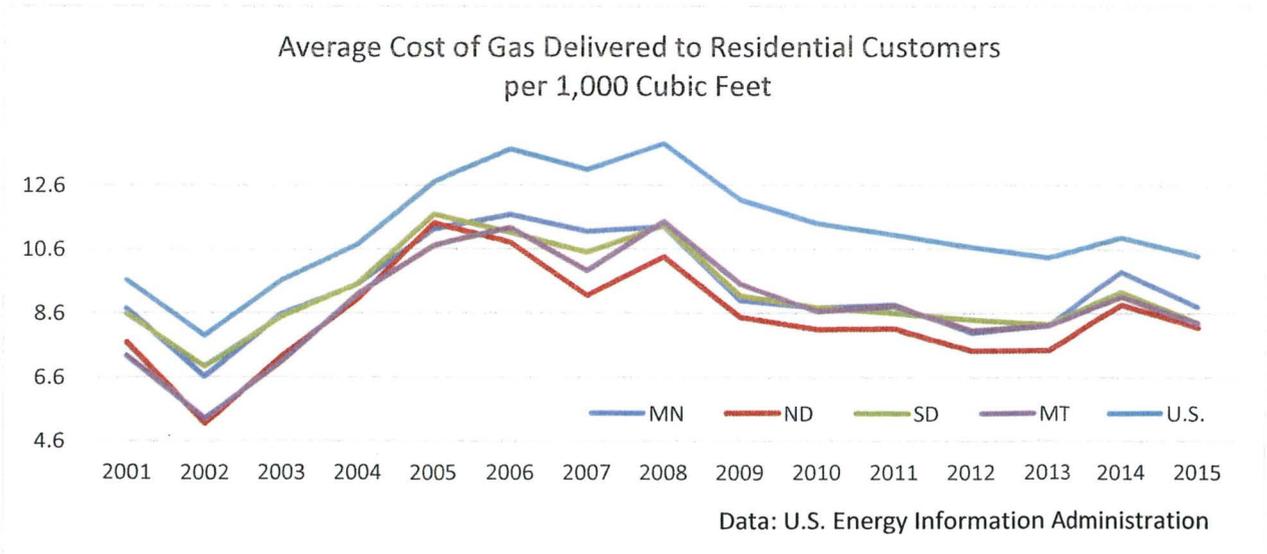
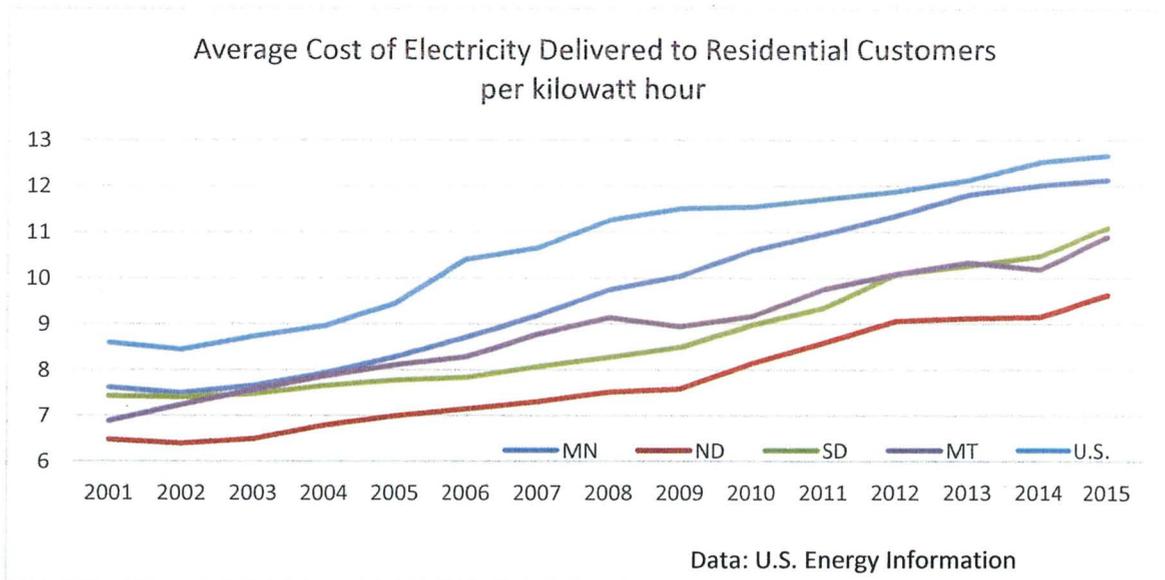
- In the current biennium, 5 abandoned mine land reclamation projects were carried out totaling about \$3.7 million in construction costs.
- Nearly 350 sinkholes caused by the collapse of underground mine workings were filled in the past two years.
- Since 1982, 163 primary reclamation projects and 31 emergency projects have been conducted to eliminate hazardous conditions.
- More than 27 miles of dangerous surface mine highwalls have been eliminated since the AML reclamation program began.

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

North Dakota continues to have among the lowest electric utility rates in the nation and the lowest natural gas utility rates in the nation. Biennium to date, the PSC has decided one general natural gas rate case for Montana-Dakota Utilities Co. and three advanced determination of prudence decisions on new electric

## Attachment 1 – Department Overview

generation including a purchase power agreement for 100 megawatts of solar generation, a purchase power agreement for 345 megawatts of electric generation from a combined cycle natural gas facility, and 200 megawatts of utility-owned wind generation.



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## Siting energy generation, conversion and transmission facilities

The PSC has seen a steady stream of applications for construction permits for energy generation, energy conversion, pipelines and electric transmission facilities. The cases listed below have completed the Commission’s siting process, but the construction may not yet be started or finished. Cases completed this biennium to date include:

### Pipelines

Case(s)	Description	Miles	County	Est. Project Cost
PU-16-614	Epping Transmission Company, LLC	3.2	Williams	6,500,000
PU-16-420	Caliber Bear Den Interconnect LLC	5.3	McKenzie	12,000,000
PU-16-305	NST Express, LLC	3.6	McKenzie	6,800,000
PU-16-189	Hess North Dakota Export Logistics LLC	1.1	Williams	4,500,000
PU-16-140	Plains Terminals North Dakota LLC	3.5	McKenzie	5,000,000
PU-16-095	Bakken Oil Express, LLC	0.7	Stark	400,000
PU-16-094	BOE Pipeline, LLC	41.8	McKenzie, Dunn	55,000,000
PU-15-801	ONEOK Bakken Pipeline, L.L.C.	38	McKenzie, Dunn	45,000,000
PU-15-744	Sacagawea Pipeline Company, LLC	13	McKenzie	20,000,000
PU-15-733	Oasis Midstream Services, LLC	19	McKenzie	13,000,000
PU-15-725	Oasis Midstream Services, LLC: Spring Creek Pump Station		McKenzie	8,000,000
PU-15-720	Tesoro High Plains Company LLC	1.4	McKenzie	8,900,000
PU-15-694	ONEOK Bakken Pipeline, L.L.C.	14.4	McKenzie	19,520,000
PU-15-674	NuStar Pipeline Operating Partnership, L.P.	7.3	Cass	12,000,000
PU-15-670	Sacagawea Pipeline Company, LLC	8	Mountrail	18,000,000
PU-15-614	Plains Pipeline, L.P.	8.5	Williams	7,000,000
PU-15-486	Hiland Crude, LLC	4.5	McKenzie	3,600,000
PU-15-416	Hiland Crude, LLC	42.5	McKenzie	15,000,000
PU-15-232	NST Express, LLC	23	McKenzie	80,000,000
PU-15-142	Vantage Pipeline US LP	47.3	Williams, Divide	20,000,000
PU-15-137	ONEOK Bakken Pipeline, L.L.C.	4	McKenzie	6,000,000
PU-15-114	Sacagawea Pipeline Company, LLC	70	McKenzie, Mountrail	100,000,000
PU-15-097	Bridger Pipeline LLC	15	Billings, Stark	10,400,000
PU-15-035	Plains Pipeline, L.P.	10	Mountrail	9,000,000

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PU-14-842	Dakota Access, LLC	358	Mountrail, Williams, McKenzie, Dunn, Mercer, Morton, Emmons	1,410,000,000
PU-13-848	North Dakota Pipeline Company, LLC: Sandpiper	299	Mountrail, Williams, Ward, McHenry, Pierce, Towner, Ramsey, Nelson, Grand Forks	1,300,000,000
PU-13-136	Hiland Crude, LLC	197	McKenzie, Williams, Mountrail	55,300,000
	Total	1,239		3,150,920,000

**Electric Transmission**

Case(s)	Description	Miles	County	Est. Project Cost
PU-16-122	Oliver Wind III, LLC: 230 kV	4.5	Oliver, Morton	11,400,000
PU-15-797	Brady Wind, LLC: 230 kV	19	Stark	20,500,000
PU-14-813	Basin Electric Power Cooperative, Inc.: 345 kV	28	McKenzie	135,000,000
PU-13-840	Montana Dakota Utilities / Otter Tail Power Company: 345 kV	9	Dickey	50,000,000
PU-11-696	Basin Electric Power Cooperative, Inc.: 345 kV	200	Mercer, Dunn, McKenzie, Williams, Mountrail	300,000,000
PU-11-692	Basin Electric Power Cooperative, Inc.: 345/230 kV	3.7	Williams	4,000,000
	Totals	264.2		520,900,000

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## Attachment 1 – Department Overview

### Wind Generation

Case(s)	Description	MW	County	Est. Project Cost
PU-16-539	Glacier Ridge Wind Farm, LLC: Phase I	179.4	Barnes	202,000,000
PU-16-123	Oliver Wind III, LLC	100	Oliver, Morton	153,000,000
PU-16-042	Brady Wind II, LLC	150	Hettinger	250,000,000
PU-15-690	Brady Wind, LLC	150	Stark	250,000,000
PU-15-482	Lindahll Wind Project, LLC	150	Williams	248,500,000
PU-15-174	Northern States Power Company / Courtenay Wind	200.5	Stutsman	350,000,000
PU-15-124	Rolette Power Development	100	Rolette	175,000,000
	Totals	1029.9		1,628,500,000

Note: 2489 MW of total wind generation in service as of December 15, 2016. Anticipate another 260 MW in service by year end, and another 250 MW early 2017.

### Oil Refinement or Gas Processing

Case	Description	MMSCFD	County	Est. Project Cost
PU-14-853	Targa Badlands LLC: Little Missouri Gas Plant expansion	200	McKenzie	140,000,000
	Totals	200		140,000,000

Note: Million standard cubic feet per day (MMSCFD)

**These tables represent completion of the complex siting process of 1,239 miles of pipelines, 264 miles of electric transmission lines, over 1000 MW of wind generation, and gas processing capacity of another 200 MMSCFD. Altogether it represents almost \$5.5 billion of economic investment in North Dakota.**

### Gas Pipeline Safety

On behalf of the Pipeline and Hazardous Materials Safety Administration (PHMSA), the PSC conducts a pipeline safety program in North Dakota involving intrastate gas transmission systems and gas distribution systems. Staff for the program includes a program manager/inspector and one full-time inspector.

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## Damage Prevention

The PSC has authority for enforcement of the state’s One-Call Excavation Notice System law. The goal of the law is to prevent damage to underground infrastructure. Biennium to date, the PSC has processed 45 complaints regarding alleged violations of the One-Call law. As a result of these proceedings, the PSC has levied fines totaling \$73,400. Following is a list of the 45 cases and the fines:

Case(s)	Amount	Case(s)	Amount	Case(s)	Amount
PU-16-248	0	PU-15-675	1,000	PU-14-760	3,500
PU-16-214	1,000	PU-15-669	1,000	PU-14-757	3,500
PU-16-194	3,400	PU-15-629	2,900	PU-14-740	500
PU-16-182	1,000	PU-15-628	2,900	GS-14-725	1,500
PU-16-041	0	PU-15-627	2,000	GS-14-696	0
PU-15-799	15,000	PU-15-406	500	PU-14-671	1,000
PU-15-785	0	PU-15-338	0	PU-14-664	0
PU-15-781	0	PU-15-311	0	GS-14-633	3,000
PU-15-752	0	PU-15-310	0	GS-14-230	2,000
PU-15-751	1,500	PU-15-309	0	GS-14-229	1,500
PU-15-750	1,600	PU-15-308	0	GS-13-886	1,500
PU-15-748	1,600	PU-15-283	1,000	GS-13-885	2,000
GS-15-714	1,500	PU-15-217	500	GS-13-884	2,000
PU-15-687	0	PU-15-186	0	Total	\$73,400
PU-15-681	500	PU-15-166	11,000		
PU-15-680	500	PU-15-155	1,000		

In total the PSC has levied 79 fines totaling \$130,900 since beginning enforcement of the program in 2009.

### Damage Prevention Cases Processed:

2009-2011	1
2011-2013	18
2013-2015	58
2015-2017	62 (projected...47 to date)

AZ 7

## **Grain Licensing and Inspection**

North Dakota currently has 388 grain warehouses. Of those, 271 are state facilities licensed, bonded and inspected by the PSC and 117 are federal facilities. This biennium to date, the PSC is processing one grain insolvency case involving the Grand Forks Bean Company, Inc. There have been no other insolvencies during the biennium.

Grain storage capacity increased 10.4 percent from 457 million bushel capacity in 2013-15 to 507 million bushel capacity this biennium to date. These figures do not include private, on-farm storage which is not licensed by the PSC.

The PSC is also proposing multiple statute changes during the legislative session which will enable the commission to modernize the licensing program and bring it more in line with how the grain industry operates today. Additionally, it will streamline the insolvency process to enable valid claimants to receive compensation faster.

## **Licensed auctioneers and auction clerks**

The PSC currently licenses 370 auctioneers and 182 clerks.

## **Weights and Measures**

The PSC is responsible for certifying the accuracy of all commercial scales and measuring devices in the state. This biennium to date, North Dakota has realized a 4.3 percent growth in the number of commercial scales with 23,500 licensed devices this biennium compared to 22,500 devices in 2013-15.

## Attachment 1 – Department Overview

Additionally, the commission is continuing work on the heavy scale quality assurance program. This program has allowed the PSC to review the work of registered service companies and address concerns with their operations. This biennium to date, the PSC has conducted quality assurance inspections on 232 heavy scales of which 34 failed the QA inspection.

### **Railroad Safety**

The PSC serves as the clearing house for rail service and safety issues statewide. We host annual meetings on service and safety inviting all the statewide stakeholders to address issues with representatives from the Class I and short line railroads within the state. This biennium to date, the PSC fielded complaints and intervened on behalf of 18 communities regarding blocked crossings.

The North Dakota 64th Legislative Assembly approved funding for a state run pilot program intended to supplement federal oversight of rail safety. The Rail Safety Program is funded not with general funds, but with an existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements. This is a state investment initially implemented due to rising concerns because of increased traffic by the oil industry

The PSC aggressively pursued the development and implementation of this program to improve railroad safety within the state as soon as possible. Both inspectors were hired, trained and certified within one year of receiving program funding. The goal of the program is to reduce the number of accidents, derailments and other equipment failures experienced within the state of North Dakota. The

## Attachment 1 – Department Overview

intent is to directly reduce fatalities and injuries in addition to economic losses and environmental impacts. This is accomplished through the use of announced and unannounced inspections of track infrastructure and mechanical inspections of railcars and locomotives. Extra emphasis is placed on routes carrying hazardous materials.

The state inspectors are autonomous and entirely accountable to the Public Service Commission. The Commission believes that having both inspector positions as full-time permanent positions is vital to keeping qualified employees in those positions. Both inspectors were hired, trained and certified within one year of receiving program funding. These highly trained positions are now able to conduct independent inspections, ensuring more inspections are taking place in North Dakota.

The track inspector was hired in August of 2015. He became FRA certified in March of 2016. Since March he has conducted over 100 inspections, noting hundreds of defects, and has issued 9 violations with civil penalties.

The mechanical inspector was hired in December of 2015. He became FRA certified in August of 2016. Since August he has conducted 32 inspections, noting hundreds of defects, and has issued 5 violations with civil penalties. Converting this position to a permanent FTE, as recommended by Gov. Dalrymple, will help the Commission retain this now fully trained inspector and continue this valuable work.

The FRA only has the resources to inspect 0.2 percent of railroad operations nationally each year. Federally certified state inspectors constitute 30

Attachment 1 – Department Overview

percent of the FRA's total inspection force and are critical to ensuring safe rail operations. Having state inspectors that are dedicated to North Dakota is a big benefit and helps to ensure adequate inspections in our state; whereas, federal inspectors have responsibility for multiple states.

1/9/17  
HB 1008-1068  
AH # 3

Department 408 - Public Service Commission  
House Bill Nos. 1008 and 1068

**Executive Budget Comparison to Prior Biennium Appropriations**

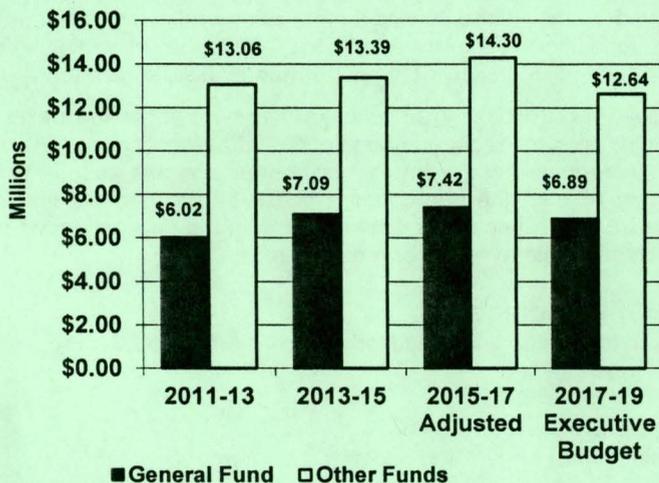
	FTE Positions	General Fund	Other Funds	Total
2017-19 Executive Budget	45.00	\$6,891,777	\$12,642,263	\$19,534,040
2015-17 Adjusted Legislative Appropriations <sup>1</sup>	46.00	7,415,451	14,300,575	21,716,026
Increase (Decrease)	(1.00)	(\$523,674)	(\$1,658,312)	(\$2,181,986)

<sup>1</sup>The 2015-17 biennium agency appropriation amounts reflect general fund budget reductions made in August 2016.

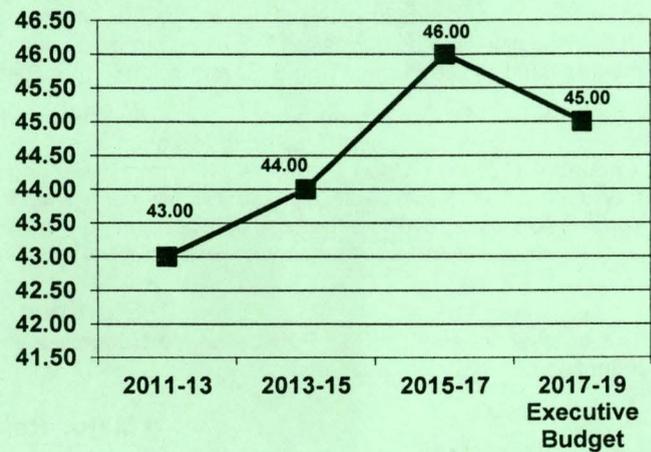
**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2017-19 Executive Budget	\$6,891,777	\$0	\$6,891,777
2015-17 Adjusted Legislative Appropriations	7,175,827	239,624	7,415,451
Increase (Decrease)	(\$284,050)	(\$239,624)	(\$523,674)

Agency Funding



FTE Positions



**Executive Budget Comparison to Base Level**

	General Fund	Other Funds	Total
2017-19 Executive Budget	\$6,891,777	\$12,642,263	\$19,534,040
2017-19 Base Level	7,175,827	13,964,575	21,140,402
Increase (Decrease)	(\$284,050)	(\$1,322,312)	(\$1,606,362)

Attached as an appendix is a detailed comparison of the executive budget to the agency's base level appropriations.

**Executive Budget Highlights**

	General Fund	Other Funds	Total
1. Adds funding for state employee salary and benefit increases, of which \$45,065 is for salary increases and \$125,934 is for health insurance increases	\$103,858	\$67,141	\$170,999
2. Removes 2 FTE positions	(\$286,240)	\$0	(\$286,240)
3. Increases funding from the state rail fund to convert a temporary railroad inspection employee into a FTE position	\$0	\$35,966	\$35,966
4. Reduces federal spending authority	\$0	(\$2,000,000)	(\$2,000,000)
5. Reduces funding for operating expenses	(\$25,864)	\$0	(\$25,864)
6. Reduces funding for specialized legal services	(\$56,000)	\$0	(\$56,000)
7. Adds <b>one-time funding</b> for specialized legal services	\$0	\$636,000	\$636,000

### Other Sections in Bill

**Special funds transfer - Strategic investment and improvements fund** - Section 3 provides that \$300,000 from the strategic investment and improvements fund may be used for specialized legal services.

**Salary of Public Service Commissioners** - Section 4 provides for the statutory changes to increase the Public Service Commissioners' salaries by 1 percent in the second year as follows:

	Current Level	July 1, 2017	July 1, 2018
Public Service Commissioners' annual salaries	\$108,656	\$108,656	\$109,743

**Railroad safety pilot program** - Section 5 amends North Dakota Century Code Section 57-43.2-19 to increase the amount of special fuels taxes deposited into the rail safety fund from \$275,000 per year to \$285,000 per year through June 30, 2019.

### Continuing Appropriations

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

**Credit-sale contract indemnity fund** - Sections 60-02-19.1 and 60-10-02 - An assessment is placed on the value of all grain sold in this state under a credit-sale contract, which is submitted by the licensee purchasing the grain to the Public Service Commission for reimbursement to any person who sold grain under a credit-sale contract and who was not fully compensated in accordance with the contract and associated administration costs.

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

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

### Significant Audit Findings

The operational audit for the Public Service Commission conducted by the State Auditor's office during the 2015-16 interim identified no significant audit findings.

### Major Related Legislation

**House Bill No. 1125** - Repeals Chapter 60-03 relating to licensing of hay buyers and declares an emergency.

**House Bill No. 1126** - Amends several sections in Title 60 relating to public warehouse and grain buyer licensing, conditions and attributes of licensure and accepting delivery of grain when a licensee is insolvent, the insolvency process, the credit-sale contract indemnity fund and the grain indemnity fund. The bill also repeals several sections in Title 60 relating to duties of the commission, receipt holders' lien, warehouse closure, grain of insolvent warehouseman as trust asset, and suspension of indemnity fund assessments; and provides that the State Treasurer transfer the balance of the credit-sale contract indemnity fund to the grain indemnity fund.

**Public Service Commission - Budget No. 408**  
**House Bill Nos. 1008 and 1068**  
**Base Level Funding Changes**

	<u>Executive Budget Recommendation</u>			
	<u>FTE</u> <u>Position</u>	<u>General</u> <u>Fund</u>	<u>Other Funds</u>	<u>Total</u>
<b>2017-19 Biennium Base Level</b>	46.00	\$7,175,827	\$13,964,575	\$21,140,402
<b>2017-19 Ongoing Funding Changes</b>				
Base payroll changes		(\$19,804)	(\$61,419)	(\$81,223)
Salary increase - Performance		27,371	17,694	45,065
Health insurance increase		76,487	49,447	125,934
Removes 2 FTE positions	(2.00)	(286,240)		(286,240)
Adds funding to convert temp railroad inspector to FTE	1.00		35,966	35,966
Reduces federal grant funding			(2,000,000)	(2,000,000)
Reduces funding for operating expenses		(25,864)		(25,864)
Reduces funding for specialized legal services		(56,000)		(56,000)
Total ongoing funding changes	(1.00)	(\$284,050)	(\$1,958,312)	(\$2,242,362)
<b>One-time funding items</b>				
Adds funding for specialized legal services			\$636,000	\$636,000
Total one-time funding changes	0.00	\$0	\$636,000	\$636,000
<b>Total Changes to Base Level Funding</b>	(1.00)	(\$284,050)	(\$1,322,312)	(\$1,606,362)
<b>2017-19 Total Funding</b>	45.00	\$6,891,777	\$12,642,263	\$19,534,040

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

	<u>Executive Budget Recommendation</u>
Special funds transfer - Strategic investment and improvements fund	Section 3 provides that \$300,000 from the strategic investment and improvements fund may be used for specialized legal services.
Public Service Commissioners' salaries	Section 4 provides for the statutory changes to increase the Public Service Commissioners' salaries by 1 percent in the second year from \$108,656 to \$109,743.
Railroad safety pilot program	Section 5 amends Section 57-43.2-19 to change the amount of special fuels taxes deposited into the rail safety fund from \$275,000 per year to \$285,000 per year through June 30, 2019.

## Department 408 - Public Service Commission

**Reductions to 2015-17 Biennium General Fund Appropriations**  
 (As a result of the August 2016 General Fund Budget Reductions)

	Ongoing	One-Time	Total
2015-17 original general fund appropriations	\$7,521,207	\$414,000	\$7,935,207
General fund reductions	(345,380)	(174,376)	(519,756)
Adjusted 2015-17 appropriations	\$7,175,827	\$239,624	\$7,415,451
Executive Budget changes	(284,050)	(239,624)	(523,674)
2017-19 Executive Budget	\$6,891,777	\$0	\$6,891,777

**Summary of August 2016 General Fund Budget Reductions**

	Ongoing	One-Time	Total
Reduced funding for salaries and wages	(\$47,380)	\$0	(\$47,380)
Reduced funding for operating expenses	(98,000)	0	(98,000)
Removed funding for a temporary weights and measures inspection position	(200,000)	0	(200,000)
Reduced <b>one-time</b> funding provided for specialized legal services	0	(174,376)	(174,376)
Total reductions	(\$345,380)	(\$174,376)	(\$519,756)
Percentage reduction to ongoing and one-time general fund appropriations	4.59%	42.12%	6.55%

**2017-19 Executive Budget Changes to the Original and Adjusted Base Budgets**

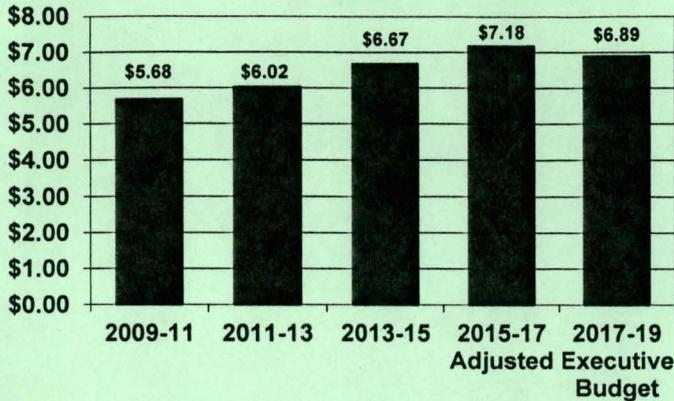
	Changes to Original Budget	Budget Reduction Adjustments	Changes to Adjusted Budget
Adds funding for recommended salary and benefit increases	\$103,858	\$0	\$103,858
Reduces funding for salaries and wages	(19,804)	0	(19,804)
Removes 2 FTE positions	(333,620)	47,380	(286,240)
Reduces funding for operating expenses	(123,864)	98,000	(25,864)
Reduces funding for specialized legal services	(56,000)	0	(56,000)
Removes weights and measures temporary position	(200,000)	200,000	0
Total	(\$629,430)	\$345,380	(\$284,050)

Department 408 - Public Service Commission

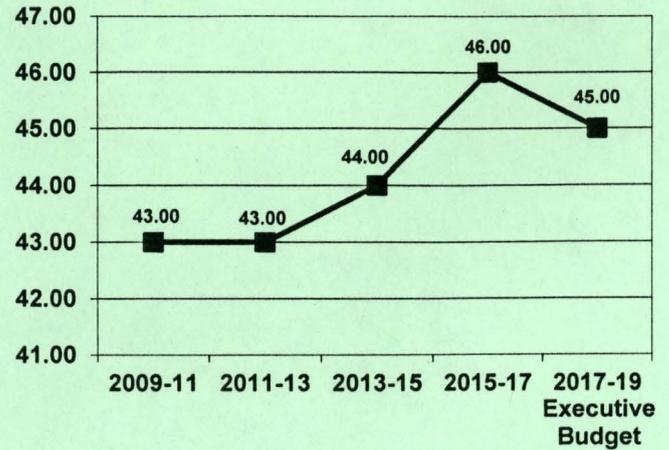
# Historical Appropriations Information

## Ongoing General Fund Appropriations Since 2009-11

Agency Funding (in Millions)



FTE Positions



■ Ongoing General Fund Appropriations

Ongoing General Fund Appropriations					
	2009-11	2011-13	2013-15	2015-17 Adjusted	2017-19 Executive Budget
Ongoing general fund appropriations	\$5,676,165	\$6,020,215	\$6,667,660	\$7,175,827	\$6,891,777
Increase (decrease) from previous biennium	N/A	\$344,050	\$647,445	\$508,167	(\$284,050)
Percentage increase (decrease) from previous biennium	N/A	6.06%	10.75%	7.62%	(3.96%)
Cumulative percentage increase (decrease) from 2009-11 biennium	N/A	6.06%	17.47%	26.42%	21.42%

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

#### 2011-13 Biennium

1. No major increases or decreases

#### 2013-15 Biennium

- |  |           |
|--|-----------|
| 1. Added 1 weights and measures FTE position and related operating expenses  | \$203,828 |
| 2. Added 1 gas pipeline inspector FTE position   | \$113,201 |
| 3. Added 1 public utility analyst III FTE position   | \$199,345 |
| 4. Increased funding for travel costs  | \$54,956  |
| 5. Added funding for legal fees relating to grain elevator insolvency cases and reclamation/abandoned mined lands lawsuits | \$500,000 |

#### 2015-17 Biennium (Original)

- |  |           |
|--|-----------|
| 1. Added 1 public utility analyst FTE position (\$257,747) and relating operating expenses (\$40,000)              | \$297,747 |
| 2. Added funding for temporary weights and measures inspector (this item was affected by agency budget reductions) | \$200,000 |

#### 2017-19 Biennium (Executive Budget Recommendation)

- |   |             |
|---|-------------|
| 1. Removes 2 FTE positions                        | (\$286,240) |
| 2. Reduces funding for operating expenses         | (\$25,864)  |
| 3. Reduces funding for specialized legal services | (\$56,000)  |

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**NORTH DAKOTA PUBLIC SERVICE COMMISSION**

<b>Position #</b>	<b>Title - Classification</b>	<b>Funding Source</b>
<b>Commissioners</b>		
00004992	Commissioner - elected, not classified	General Fund
00004990	Commissioner - elected, not classified	General Fund
00004991	Commissioner - elected, not classified	General Fund
<b>Administrative Division</b>		
00004998	Executive Secretary - not classified	General Fund
00004993	PUBLIC INFO SPEC II	General Fund
00005000	ADMIN ASSISTANT I	General Funds 50% -- Federal Funds 50%
00005003	ADMIN ASSISTANT III	General Funds 50% -- Federal Funds 50%
00005004	ACCOUNTING MANAGER I	General Funds 50% -- Federal Funds 50%
00005027	ACCOUNT/BUDGET SPEC I	General Funds 50% -- Federal Funds 50%
00004996	ATTORNEY III	General Funds 50% -- Federal Funds 50%
00004995	ADMIN OFR I	General Funds 45% -- Federal Funds 55%
<b>Technology Division</b>		
00004999	INFO TECHNOLOGY ADMIN I	General Funds 50% -- Federal Funds 50%
00025988	PROGRAMMER ANALYST III	General Funds 50% -- Federal Funds 50%
00005001	PROGRAMMER ANALYST II	General Funds 50% -- Federal Funds 50%
<b>Public Utilities Division</b>		
00005030	PUBLIC UTILITY DIVISION DIR	General Funds 95% -- Federal Funds 5%
00005032	ADMIN OFR I	General Funds 85% -- Federal Funds 15%
00005031	PUBLIC UTIL ANALYST II	General Funds

## NORTH DAKOTA PUBLIC SERVICE COMMISSION

Position #	Title - Classification	Funding Source
00027148	PUBLIC UTIL ANALYST II	General Funds
00029435	PUBLIC UTIL ANALYST II	General Funds
00005009	PUBLIC UTIL ANALYST II	General Funds
00028866	GAS PIPELINE SAFETY INSPECTOR	General Funds 50% -- Federal Funds 50%
00005005	GAS PIPELINE SAFETY INSP MGR	General Funds 50% -- Federal Funds 50%
00005029	ATTORNEY II	General Fund
<b>Compliance Division</b>		
00005028	COMPLIANCE DIVISION DIRECTOR	General Funds
00005002	ADMIN OFR I	General Funds
00005012	GRAIN WAREHOUS INSPECTOR	General Funds
00005013	GRAIN WAREHOUS INSPECTOR	General Funds
00029454	RAIL SAFETY INSPECTOR	Special Funds
00029455	TEMP - RAIL SAFETY INSPECTOR	Special Funds
00005006	WEIGHTS & MEASURES INSPECTOR	General Funds
00005010	WEIGHTS & MEASURES INSPECTOR	General Funds
00005007	WEIGHTS & MEASURES INSPECTOR	General Funds
<b>Reclamation Division</b>		
00005014	DIR, REC & ABANDONED MINE LAND	General Funds 18% -- Federal Funds 82%
00004994	ADMIN ASSISTANT III	General Funds 18% -- Federal Funds 82%
00005017	ENVIRON SCIENCES ADMIN I	General Funds 36% -- Federal Funds 64%
00005023	ENVIRONMENTAL ENGR III	General Funds 36% -- Federal Funds 64%
00005022	HYDROLOGIST III	General Funds 36% -- Federal Funds 64%

**NORTH DAKOTA PUBLIC SERVICE COMMISSION**

<b>Position #</b>	<b>Title - Classification</b>	<b>Funding Source</b>
00005021	ENVIRON SCIENTIST III	General Funds 36% -- Federal Funds 64%
00027940	ENVIRON SCIENTIST III	General Funds 36% -- Federal Funds 64%
00005020	ENVIRON SCIENTIST III	General Funds 36% -- Federal Funds 64%
00005018	ENVIRON SCIENTIST III	General Funds 36% -- Federal Funds 64%
00005019	ENVIRONMENTAL ENGR III	General Funds 36% -- Federal Funds 64%
<b>AML Division</b>		
00005015	ENVIRON SCIENCES ADMIN I	Federal Funds 100%
00005025	GIS SPECIALIST III	General Funds 4% -- Federal Funds 96%
00005026	ENVIRON SCIENTIST III	Federal Funds 100%
00005024	ENVIRONMENTAL ENGR III	Federal Funds 100%
TEMP 1	SEASONAL - CONSTRUCTION INSPECTOR	Federal Funds 100%
TEMP 2	SEASONAL - CONSTRUCTION INSPECTOR	Federal Funds 100%
<b>Reduced due to Allotments</b>		
00005011	LICENS DIV DIRECTOR	General Funds
	TEMP - WEIGHTS & MEASURES INSPECTOR	General Funds

**North Dakota Public Service Commission**  
IT related expenses for biennium 15-17 as of 1/18/17

Capital Assets	\$ 25,914.51	1 Server and Disk Storage Upgrade
<u>Operating Expenses</u>		
Software	\$ 78,286.66	Includes maintenance for software such as Adobe, AutoCad, Sybase, and ESRI which are essential tools to support our technical and scientific job functions *MicroSoft is also paid through October 2018
Hardware	23,968.86	Desktops, Laptops, Monitors, iPads, and Printers
Data Processing (ITD)	99,269.30	
Telephone (ITD)	26,718.30	
	<u>\$ 228,243.12</u>	
<u>Salaries and Benefits</u>		
INFO TECHNOLOGY ADMIN I	170,140.14	
PROGRAMMER ANALYST III	150,189.96	
PROGRAMMER ANALYST II	88,345.96	
	<u>\$ 408,676.06</u>	
<b>Grand Total</b>	<b>\$ 662,833.69</b>	

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HB 1008 A 1-31-17

Prepared by the Legislative Council staff for the  
House Education and Environment Division  
January 24, 2017

**HOUSE BILL NO. 1008**  
**LISTING OF PROPOSED CHANGES TO BASE LEVEL**

**Public Service Commission - 408**

**Proposed funding changes:**

<b>Description</b>	<b>FTE</b>	<b>General Fund</b>	<b>Special Funds</b>	<b>Total</b>
1 Reduce ongoing funding from the general fund for specialized legal services (Executive budget recommendation)		(\$56,000)		(\$56,000)
2 Add <b>one-time</b> funding for specialized legal services from the strategic investment and improvements fund (\$300,000) and federal funds (\$336,000) (Executive budget recommendation)			\$636,000	\$636,000
3 Remove 2 FTE positions (Executive budget recommendation)	(2.00)	(\$286,240)		(\$286,240)
4 Additional reduction to salaries and wages of 7%		(\$398,104)		(\$398,104)
5 Remove 1 FTE environmental scientist (Includes a reduction of \$48,230 of federal funds for indirect costs associated with this position)	(1.00)	(\$77,181)	(\$185,440)	(\$262,621)
<b>Total proposed funding changes</b>	<u>(3.00)</u>	<u>(\$817,525)</u>	<u>\$450,560</u>	<u>(\$366,965)</u>

**Other proposed changes:**

- SECTION 4. SPECIAL FUNDS TRANSFER - STRATEGIC INVESTMENT AND IMPROVEMENTS FUND.** The less estimated income line item in section 1 of this Act includes the sum of \$300,000, or so much of the sum as may be necessary, from the strategic investment and improvements fund which may be transferred at the direction of the public service commissioners for specialized legal services costs during the biennium beginning July 1, 2017, and ending June 30, 2019. (Executive budget recommendation)

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HB 1008 A

1-31-2017

**Public Service Commission - Budget No. 408**  
**House Bill No. 1008**  
**Base Level Funding Changes**

	Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)				House Version				House Changes to Revised Executive Budget Increase (Decrease) - Executive Budget			
	FTE	General	Other Funds	Total	FTE	General	Other Funds	Total	FTE	General	Other	Total
	Position	Fund			Position	Fund			Positions	Fund	Funds	
<b>2017-19 Biennium Base Level</b>	46.00	\$7,175,827	\$13,964,575	\$21,140,402	46.00	\$7,175,827	\$13,964,575	\$21,140,402	0.00	\$0	\$0	\$0
<b>2017-19 Ongoing Funding Changes</b>												
Base payroll changes		\$40,366	(\$61,419)	(\$21,053)				\$0		(\$40,366)	\$61,419	\$21,053
<b>Salary increase</b>				<b>0</b>				0				0
Health insurance increase		76,487	49,447	125,934				0		(76,487)	(49,447)	(125,934)
<b>Employee portion of health insurance</b>		<b>(40,068)</b>	<b>(25,903)</b>	<b>(65,971)</b>				0		40,068	25,903	65,971
Underfunds salaries and wages		(60,170)		(60,170)				0		60,170		60,170
Removes 2 FTE positions	(2.00)	(286,240)		(286,240)	(2.00)	(286,240)		(286,240)				0
Adds funding to convert temp railroad inspector to FTE	1.00		35,966	35,966				0	(1.00)		(35,966)	(35,966)
Reduces federal grant funding			(2,000,000)	(2,000,000)				0			2,000,000	2,000,000
Reduces funding for operating expenses		(25,864)		(25,864)				0		25,864		25,864
Reduces funding for specialized legal services		(56,000)		(56,000)		(56,000)		(56,000)				0
Removes weights and measures temporary position				0				0				0
Reduce funding for salaries and wages				0		(398,104)		(398,104)		(398,104)		(398,104)
Remove 1 FTE environmental scientist III position				0	(1.00)	(77,181)	(185,440)	(262,621)	(1.00)	(77,181)	(185,440)	(262,621)
<b>Additional underfunding of salaries and wages</b>		<b>(87,486)</b>		<b>(87,486)</b>				0		87,486		87,486
<b>Reduces funding for operating expenses</b>		<b>(21,872)</b>		<b>(21,872)</b>				0		21,872		21,872
<b>Reduces funding for capital assets</b>		<b>(26,400)</b>		<b>(26,400)</b>				0		26,400		26,400
Total ongoing funding changes	(1.00)	(\$487,247)	(\$2,001,909)	(\$2,489,156)	(3.00)	(\$817,525)	(\$185,440)	(\$1,002,965)	(2.00)	(\$330,278)	\$1,816,469	\$1,486,191
<b>One-time funding items</b>												
Adds funding for specialized legal services			\$636,000	\$636,000			636,000	636,000			0	0
Total one-time funding changes	0.00	\$0	\$636,000	\$636,000	0.00	\$0	\$636,000	\$636,000	0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	(1.00)	(\$487,247)	(\$1,365,909)	(\$1,853,156)	(3.00)	(\$817,525)	\$450,560	(\$366,965)	(2.00)	(\$330,278)	\$1,816,469	\$1,486,191
<b>2017-19 Total Funding</b>	45.00	\$6,688,580	\$12,598,666	\$19,287,246	43.00	\$6,358,302	\$14,415,135	\$20,773,437	(2.00)	(\$330,278)	\$1,816,469	\$1,486,191
										(4.9%)	14.4%	7.7%

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

	Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)				House Version			
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Other Sections in Public Service Commission - Budget No. 408

**Burgum Executive Budget Recommendation  
(Changes to Dalrymple Budget in Bold)**

**House Version**

Beginning farmer revolving loan fund

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

Special funds transfer - Strategic investment and improvements fund

Section 3 provides that \$300,000 from the strategic investment and improvements fund may be used for specialized legal services.

Section 4 provides that \$300,000 from the strategic investment and improvements fund may be used for specialized legal services.

Public Service Commissioners' salaries

Section 4 provides for the statutory changes to increase the Public Service Commissioners' salaries by 1 percent in the second year from \$108,656 to \$109,743. **(The Burgum budget recommendation removes this section.)**

Railroad safety pilot program

Section 5 amends Section 57-43.2-19 to change the amount of special fuels taxes deposited into the rail safety fund from \$275,000 per year to \$285,000 per year through June 30, 2019.

**Public Service Commission - Budget No. 408**  
**House Bill No. 1008**  
**Base Level Funding Changes**

	Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)				House Version				House Changes to Revised Executive Budget Increase (Decrease) - Executive Budget			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2017-19 Biennium Base Level</b>	46.00	\$7,175,827	\$13,964,575	\$21,140,402	46.00	\$7,175,827	\$13,964,575	\$21,140,402	0.00	\$0	\$0	\$0
<b>2017-19 Ongoing Funding Changes</b>												
Base payroll changes		\$40,366	(\$61,419)	(\$21,053)		\$40,366	(\$61,419)	(\$21,053)				\$0
<b>Salary increase</b>				<b>0</b>				<b>0</b>				<b>0</b>
Health insurance increase		76,487	49,447	125,934		76,487	49,447	125,934				0
<b>Employee portion of health insurance</b>		<b>(40,068)</b>	<b>(25,903)</b>	<b>(65,971)</b>				<b>0</b>		40,068	25,903	65,971
Underfunds salaries and wages		(60,170)		(60,170)				0		60,170		60,170
Removes 2 FTE positions	(2.00)	(286,240)		(286,240)	(2.00)	(286,240)		(286,240)				0
Adds funding to convert temp railroad inspector to FTE	1.00		35,966	35,966				0	(1.00)		(35,966)	(35,966)
Reduces federal grant funding			(2,000,000)	(2,000,000)			(2,000,000)	(2,000,000)				0
Reduces funding for operating expenses		(25,864)		(25,864)		(25,864)		(25,864)				0
Reduces funding for specialized legal services		(56,000)		(56,000)		(56,000)		(56,000)				0
Removes weights and measures temporary position				0				0				0
Reduces funding for salaries and wages				0		(398,104)		(398,104)		(398,104)		(398,104)
Removes 1 FTE environmental scientist III position				0	(1.00)	(77,181)	(185,440)	(262,621)	(1.00)	(77,181)	(185,440)	(262,621)
<b>Additional underfunding of salaries and wages</b>		<b>(87,486)</b>		<b>(87,486)</b>				<b>0</b>		87,486		87,486
<b>Additional reduction for operating expenses</b>		<b>(21,872)</b>		<b>(21,872)</b>		(21,872)		(21,872)				0
<b>Reduces funding for capital assets</b>		<b>(26,400)</b>		<b>(26,400)</b>		(26,400)		(26,400)				0
Total ongoing funding changes	(1.00)	(\$487,247)	(\$2,001,909)	(\$2,489,156)	(3.00)	(\$774,808)	(\$2,197,412)	(\$2,972,220)	(2.00)	(\$287,561)	(\$195,503)	(\$483,064)
<b>One-time funding items</b>												
No one-time funding items				\$0				\$0				\$0
Adds funding for specialized legal services			\$636,000	\$636,000			636,000	636,000			0	0
Removes 2015-17 specialized legal services appropriat		0	0	0				0		0	0	0
Total one-time funding changes	0.00	\$0	\$636,000	\$636,000	0.00	\$0	\$636,000	\$636,000	0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	(1.00)	(\$487,247)	(\$1,365,909)	(\$1,853,156)	(3.00)	(\$774,808)	(\$1,561,412)	(\$2,336,220)	(2.00)	(\$287,561)	(\$195,503)	(\$483,064)
<b>2017-19 Total Funding</b>	45.00	\$6,688,580	\$12,598,666	\$19,287,246	43.00	\$6,401,019	\$12,403,163	\$18,804,182	(2.00)	(\$287,561)	(\$195,503)	(\$483,064)
						<b>Percentage change to base level</b>						
						(10.8%)	(11.2%)	(11.1%)		(4.3%)	(1.6%)	(2.5%)

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

	Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)				House Version			
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*delete FTE Environmental Scientist Ad 1*

*over Governor's will increase*

Other Sections in Public Service Commission - Budget No. 408

**Burgum Executive Budget Recommendation  
(Changes to Dalrymple Budget in Bold)**

**House Version**

Beginning farmer revolving loan fund

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

Special funds transfer - Strategic investment and improvements fund

Section 3 provides that \$300,000 from the strategic investment and improvements fund may be used for specialized legal services.

Section 4 provides that \$300,000 from the strategic investment and improvements fund may be used for specialized legal services.

Public Service Commissioners' salaries

Section 4 provides for the statutory changes to increase the Public Service Commissioners' salaries by 1 percent in the second year from \$108,656 to \$109,743. **(The Burgum budget recommendation removes this section.)**

Railroad safety pilot program

Section 5 amends Section 57-43.2-19 to change the amount of special fuels taxes deposited into the rail safety fund from \$275,000 per year to \$285,000 per year through June 30, 2019.

Section 5 provides for Legislative Management to consider studying the impact of wind energy development on the environment, addressing and researching issues common to North Dakota landowners, and identifying potential issues for legislation.

Legislative Management study - Wind energy development impact

17.8083.02000

**FISCAL NOTE**  
**Requested by Legislative Council**  
**02/07/2017**

Amendment to: HB 1126

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2015-2017 Biennium		2017-2019 Biennium		2019-2021 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$(88,622)	\$0	\$(88,622)	\$0
Appropriations	\$0	\$0	\$(88,622)	\$0	\$(88,622)	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2015-2017 Biennium	2017-2019 Biennium	2019-2021 Biennium
Counties	\$0	\$0	\$0
Cities	\$0	\$0	\$0
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed bill provides grain warehouse and buyer licensing and inspection efficiencies. These efficiencies enable the commission to eliminate 1.25 FTEs, with allocation of only part of the new Compliance Director's salary, resulting in cost savings to the salary line item.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Estimated impact to the salaries line is a reduction of \$88,622, due to elimination of of 1.25 FTEs and allocation of only part of the new Compliance Director's salary.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

No impact on revenue.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Estimated \$88,622 reduction in salary expenditures due to elimination of of 1.25 FTEs and allocation of only part of the new Compliance Director's salary.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

Estimated \$88,622 reduction in salary appropriation due to elimination of 1.25 FTEs and allocation of only part of the new Compliance Director's salary.

**Name:** Illona A. Jeffcoat-Sacco

**Agency:** PSC

**Telephone:** 701-328-2407

**Date Prepared:** 02/08/2017

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HB 1008

2-10-2017

	<b>TOTAL</b>	<b>FEDERAL (64%)</b>	<b>GENERAL (36%)</b>
<b>Salary &amp; Wages</b>	<b>\$200,000</b>	<b>\$128,000</b>	<b>\$72,000</b>
<b>Est. Indirect Cost Rate (35%)</b>		<b>\$44,800</b>	<b>(44,800)</b>
<b>Net Budget Impact</b>		<b>\$172,800</b>	<b>\$27,200</b>

**(13.60%)**

**Public Service Commission - Budget No. 408**  
**House Bill No. 1008**  
**Base Level Funding Changes**

	Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)				House Version				House Changes to Revised Executive Budget Increase (Decrease) - Executive Budget			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2017-19 Biennium Base Level</b>	46.00	\$7,175,827	\$13,964,575	\$21,140,402	46.00	\$7,175,827	\$13,964,575	\$21,140,402	0.00	\$0	\$0	\$0
<b>2017-19 Ongoing Funding Changes</b>												
Base payroll changes		\$40,366	(\$61,419)	(\$21,053)		\$40,366	(\$61,419)	(\$21,053)				\$0
<b>Salary increase</b>				<b>0</b>				<b>0</b>				<b>0</b>
Health insurance increase		76,487	49,447	125,934		76,487	49,447	125,934				0
<b>Employee portion of health insurance</b>		<b>(40,068)</b>	<b>(25,903)</b>	<b>(65,971)</b>				<b>0</b>		40,068	25,903	65,971
Underfunds salaries and wages		(60,170)		(60,170)		(306,852)	(105,009)	(411,861)		(246,682)	(105,009)	(351,691)
<b>Additional underfunding of salaries and wages</b>		<b>(87,486)</b>		<b>(87,486)</b>				<b>0</b>		87,486		87,486
Removes 2 FTE positions	(2.00)	(286,240)		(286,240)	(2.00)	(286,240)		(286,240)				0
Removes 1 FTE environmental scientist III position				0	(1.00)	(77,181)	(137,210)	(214,391)	(1.00)	(77,181)	(137,210)	(214,391)
Removes 1 FTE environmental admin I position				0	(1.00)	(91,252)	(162,226)	(253,478)	(1.00)	(91,252)	(162,226)	(253,478)
Adds funding to convert temp railroad inspector to FTE	1.00		35,966	35,966				0	(1.00)		(35,966)	(35,966)
Adjusts federal grant funding			(2,000,000)	(2,000,000)			(2,000,000)	(2,000,000)				0
Reduces funding for operating expenses		(25,864)		(25,864)		(25,864)		(25,864)				0
<b>Additional reduction for operating expenses</b>		<b>(21,872)</b>		<b>(21,872)</b>		(21,872)		(21,872)				0
Reduces funding for specialized legal services		(56,000)		(56,000)		(56,000)		(56,000)				0
Removes weights and measures temporary position				0				0				0
<b>Reduces funding for capital assets</b>		<b>(26,400)</b>		<b>(26,400)</b>		(26,400)		(26,400)				0
Total ongoing funding changes	(1.00)	(\$487,247)	(\$2,001,909)	(\$2,489,156)	(4.00)	(\$774,808)	(\$2,416,417)	(\$3,191,225)	(3.00)	(\$287,561)	(\$414,508)	(\$702,069)
<b>One-time funding items</b>												
Adds funding for specialized legal services			\$636,000	\$636,000			\$636,000	\$636,000			0	0
Total one-time funding changes	0.00	\$0	\$636,000	\$636,000	0.00	\$0	\$636,000	\$636,000	0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	(1.00)	(\$487,247)	(\$1,365,909)	(\$1,853,156)	(4.00)	(\$774,808)	(\$1,780,417)	(\$2,555,225)	(3.00)	(\$287,561)	(\$414,508)	(\$702,069)
<b>2017-19 Total Funding</b>	45.00	\$6,688,580	\$12,598,666	\$19,287,246	42.00	\$6,401,019	\$12,184,158	\$18,585,177	(3.00)	(\$287,561)	(\$414,508)	(\$702,069)
						<b>Percentage change to base level</b>						
						(10.8%)	(12.7%)	(12.1%)		(4.3%)	(3.3%)	(3.6%)

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

	Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)				House Version			
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6,376,304 12,588,603

11.1%

7.28

Other Sections in Public Service Commission - Budget No. 408

**Burgum Executive Budget Recommendation  
(Changes to Dalrymple Budget in Bold)**

**House Version**

Beginning farmer revolving loan fund

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

Special funds transfer - Strategic investment and improvements fund

Section 3 provides that \$300,000 from the strategic investment and improvements fund may be used for specialized legal services.

Section 4 provides that \$300,000 from the strategic investment and improvements fund may be used for specialized legal services.

Public Service Commissioners' salaries

Section 4 provides for the statutory changes to increase the Public Service Commissioners' salaries by 1 percent in the second year from \$108,656 to \$109,743. **(The Burgum budget recommendation removes this section.)**

Railroad safety pilot program

Section 5 amends Section 57-43.2-19 to change the amount of special fuels taxes deposited into the rail safety fund from \$275,000 per year to \$285,000 per year through June 30, 2019.

Section 5 provides for Legislative Management to consider studying the impact of wind energy development on the environment, addressing and researching issues common to North Dakota landowners, and identifying potential issues for legislation.

Legislative Management study - Wind energy development impact

**Public Service Commission - Budget No. 408**  
**House Bill No. 1008**  
**Base Level Funding Changes**

	Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)				House Version				House Changes to Revised Executive Budget Increase (Decrease) - Executive Budget			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2017-19 Biennium Base Level</b>	46.00	\$7,175,827	\$13,964,575	\$21,140,402	46.00	\$7,175,827	\$13,964,575	\$21,140,402	0.00	\$0	\$0	\$0
<b>2017-19 Ongoing Funding Changes</b>												
Base payroll changes		\$40,366	(\$61,419)	(\$21,053)		\$40,366	(\$61,419)	(\$21,053)				\$0
<b>Salary increase</b>				<b>0</b>				<b>0</b>				<b>0</b>
Health insurance increase		76,487	49,447	125,934		76,487	49,447	125,934				0
<b>Employee portion of health insurance</b>		<b>(40,068)</b>	<b>(25,903)</b>	<b>(65,971)</b>				<b>0</b>		40,068	25,903	65,971
Underfunds salaries and wages		(60,170)		(60,170)		(475,000)		(475,000)		(414,830)		(414,830)
<b>Additional underfunding of salaries and wages</b>		<b>(87,486)</b>		<b>(87,486)</b>				<b>0</b>		87,486		87,486
Removes 2 FTE positions	(2.00)	(286,240)		(286,240)	(2.00)	(286,240)		(286,240)				0
Adds funding to convert temp railroad inspector to FTE	1.00		35,966	35,966				0	(1.00)		(35,966)	(35,966)
Adjusts federal grant funding			(2,000,000)	(2,000,000)			(2,000,000)	(2,000,000)				0
Reduces funding for operating expenses		(25,864)		(25,864)		(25,864)		(25,864)				0
<b>Additional reduction for operating expenses</b>		<b>(21,872)</b>		<b>(21,872)</b>		(21,872)		(21,872)				0
Reduces funding for specialized legal services		(56,000)		(56,000)		(56,000)		(56,000)				0
Removes weights and measures temporary position				0				0				0
<b>Reduces funding for capital assets</b>		<b>(26,400)</b>		<b>(26,400)</b>		(26,400)		(26,400)				0
Total ongoing funding changes	(1.00)	(\$487,247)	(\$2,001,909)	(\$2,489,156)	(2.00)	(\$774,523)	(\$2,011,972)	(\$2,786,495)	(1.00)	(\$287,276)	(\$10,063)	(\$297,339)
<b>One-time funding items</b>												
Adds funding for specialized legal services			\$636,000	\$636,000			\$636,000	\$636,000			0	0
Total one-time funding changes	0.00	\$0	\$636,000	\$636,000	0.00	\$0	\$636,000	\$636,000	0.00	\$0	\$0	\$0
<b>Total Changes to Base Level Funding</b>	(1.00)	(\$487,247)	(\$1,365,909)	(\$1,853,156)	(2.00)	(\$774,523)	(\$1,375,972)	(\$2,150,495)	(1.00)	(\$287,276)	(\$10,063)	(\$297,339)
<b>2017-19 Total Funding</b>	45.00	\$6,688,580	\$12,598,666	\$19,287,246	44.00	\$6,401,304	\$12,588,603	\$18,989,907	(1.00)	(\$287,276)	(\$10,063)	(\$297,339)
						<b>Percentage change to base level</b>				(4.3%)	(0.1%)	(1.5%)
						(10.8%)	(9.9%)	(10.2%)				

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

	Burgum Executive Budget Recommendation (Changes to Dalrymple Budget in Bold)				House Version							
Health insurance increase												

Section 2 identifies the funding increase for health insurance premium increases included in the agency's appropriation.

2

Other Sections in Public Service Commission - Budget No. 408

**Burgum Executive Budget Recommendation  
(Changes to Dalrymple Budget in Bold)**

**House Version**

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Railroad safety pilot program

Section 5 amends Section 57-43.2-19 to change the amount of special fuels taxes deposited into the rail safety fund from \$275,000 per year to \$285,000 per year through June 30, 2019.

Legislative Management study - Wind energy development impact

Section 5 provides for Legislative Management to consider studying the impact of wind energy development on the environment, addressing and researching issues common to North Dakota landowners, and identifying potential issues for legislation.

**Department 408 - Public Service Commission  
House Bill No. 1008**

**Dalrymple Executive Budget Comparison to Prior Biennium Appropriations**

	FTE Positions	General Fund	Other Funds	Total
2017-19 Dalrymple Executive Budget	45.00	\$6,891,777	\$12,642,263	\$19,534,040
2015-17 Adjusted Legislative Appropriations <sup>1</sup>	46.00	7,415,451	14,300,575	21,716,026
Increase (Decrease)	(1.00)	(\$523,674)	(\$1,658,312)	(\$2,181,986)

<sup>1</sup>The 2015-17 biennium agency appropriation amounts reflect general fund budget reductions made in August 2016.

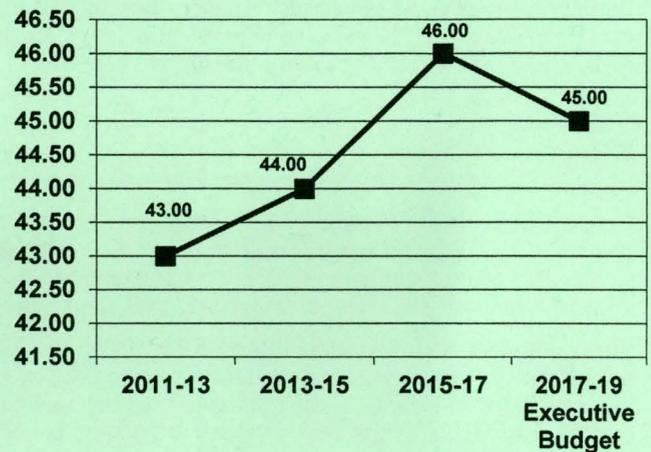
**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2017-19 Dalrymple Executive Budget	\$6,891,777	\$0	\$6,891,777
2015-17 Adjusted Legislative Appropriations	7,175,827	239,624	7,415,451
Increase (Decrease)	(\$284,050)	(\$239,624)	(\$523,674)

**Agency Funding**



**FTE Positions**



**Dalrymple Executive Budget Comparison to Base Level**

	General Fund	Other Funds	Total
2017-19 Dalrymple Executive Budget	\$6,891,777	\$12,642,263	\$19,534,040
2017-19 Base Level	7,175,827	13,964,575	21,140,402
Increase (Decrease)	(\$284,050)	(\$1,322,312)	(\$1,606,362)

**First House Action**

Attached is a comparison worksheet detailing first house changes to base level funding and the executive budget.

**Dalrymple and Burgum Executive Budget Highlights  
(With First House Changes in Bold)**

	General Fund	Other Funds	Total
1. Adds funding for state employee salary and benefit increases, of which \$45,065 is for salary increases and \$125,934 is for health insurance increases. (The Burgum budget removed funding for salary increases and provided for employees to pay for a portion of health insurance.) <b>The House removed funding for the salary increases.</b>	\$103,858	\$67,141	\$170,999
2. Removes 2 FTE positions.	(\$286,240)	\$0	(\$286,240)
3. Underfunds salaries and wages from the general fund. (The Burgum budget underfunded salaries and wages by \$87,486 from the general fund.) <b>The House underfunded salaries and wages by \$475,000 from the general fund.</b>	(\$60,170)	\$0	(\$60,170)

4. Increases funding from the state rail fund to convert a temporary railroad inspection employee into a FTE position	\$0	\$35,966	\$35,966
5. Reduces federal spending authority	\$0	(\$2,000,000)	(\$2,000,000)
6. Reduces funding for operating expenses. (The Burgum budget reduced operating expenses by an additional \$21,872.)	(\$25,864)	\$0	(\$25,864)
7. Reduces funding for specialized legal services	(\$56,000)	\$0	(\$56,000)
8. The Burgum budget removed funding for capital assets to provide a total of \$0	(\$26,400)	\$0	(\$26,400)
9. Adds <b>one-time funding</b> for specialized legal services	\$0	\$636,000	\$636,000

### Other Sections in House Bill No. 1008

**Health insurance increase** - Section 2 identifies the amount included in the agency appropriations relating to increases in employee health insurance premiums from \$1,130 to \$1,249 per month.

**Beginning farmer revolving loan fund** - Section 4 provides for a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission shall reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.

**Special funds transfer - Strategic investment and improvements fund** - Section 5 provides that \$300,000 from the strategic investment and improvements fund may be used for specialized legal services.

**Legislative Management study - Impact of wind energy** - Section 6 provides for a Legislative Management study of the impact of wind energy development on the environment, addressing and researching issues common to North Dakota landowners, and identifying potential issues for legislation.

### Continuing Appropriations

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

**Credit-sale contract indemnity fund** - Sections 60-02-19.1 and 60-10-02 - An assessment is placed on the value of all grain sold in this state under a credit-sale contract, which is submitted by the licensee purchasing the grain to the Public Service Commission for reimbursement to any person who sold grain under a credit-sale contract and who was not fully compensated in accordance with the contract and associated administration costs.

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

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

### Significant Audit Findings

The operational audit for the Public Service Commission conducted by the State Auditor's office during the 2015-16 interim identified no significant audit findings.

### Major Related Legislation

**House Bill No. 1125** - Repeals Chapter 60-03 relating to licensing of hay buyers and declares an emergency.

**House Bill No. 1126** - Amends several sections in Title 60 relating to public warehouse and grain buyer licensing, conditions and attributes of licensure and accepting delivery of grain when a licensee is insolvent, the insolvency process, the credit-sale contract indemnity fund and the grain indemnity fund. The bill also repeals several sections in Title 60 relating to duties of the commission, receipt holders' lien, warehouse closure, grain of insolvent warehouseman as trust asset, and suspension of indemnity fund assessments; and provides that the State Treasurer transfer the balance of the credit-sale contract indemnity fund to the grain indemnity fund.

**House Bill No. 1162** - Provides for the Legislative Management to consider studying competition between government and private industry.

**Senate Bill No. 2313** - Creates a new section in Chapter 4-01 relating to the Agricultural Commissioner establishing a wind energy restoration and reclamation oversight program.

**Senate Bill No. 2314** - Provides for the Legislative Management to consider studying the long-term energy plan for the state.

**Public Service Commission - Budget No. 408**  
**House Bill No. 1008**  
**Base Level Funding Changes**

	<b>Burgum Executive Budget Recommendation</b> <b>(Changes to Dalrymple Budget in Bold)</b>				<b>House Version</b>			
	<b>FTE Position</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>	<b>FTE Position</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
<b>2017-19 Biennium Base Level</b>	46.00	\$7,175,827	\$13,964,575	\$21,140,402	46.00	\$7,175,827	\$13,964,575	\$21,140,402
<b>2017-19 Ongoing Funding Changes</b>								
Base payroll changes		\$40,366	(\$61,419)	(\$21,053)		\$40,366	(\$61,419)	(\$21,053)
<b>Salary increase</b>				<b>0</b>				<b>0</b>
Health insurance increase		76,487	49,447	125,934		76,487	49,447	125,934
<b>Employee portion of health insurance</b>		<b>(40,068)</b>	<b>(25,903)</b>	<b>(65,971)</b>				<b>0</b>
Underfunds salaries and wages		(60,170)		(60,170)		(475,000)		(475,000)
<b>Additional underfunding of salaries and wages</b>		<b>(87,486)</b>		<b>(87,486)</b>				<b>0</b>
Removes 2 FTE positions	(2.00)	(286,240)		(286,240)	(2.00)	(286,240)		(286,240)
Adds funding to convert temp railroad inspector to FTE	1.00		35,966	35,966				0
Adjusts federal grant funding			(2,000,000)	(2,000,000)			(2,000,000)	(2,000,000)
Reduces funding for operating expenses		(25,864)		(25,864)		(25,864)		(25,864)
<b>Additional reduction for operating expenses</b>		<b>(21,872)</b>		<b>(21,872)</b>		<b>(21,872)</b>		<b>(21,872)</b>
Reduces funding for specialized legal services		(56,000)		(56,000)		(56,000)		(56,000)
<b>Reduces funding for capital assets</b>		<b>(26,400)</b>		<b>(26,400)</b>		<b>(26,400)</b>		<b>(26,400)</b>
Total ongoing funding changes	(1.00)	(\$487,247)	(\$2,001,909)	(\$2,489,156)	(2.00)	(\$774,523)	(\$2,011,972)	(\$2,786,495)
<b>One-time funding items</b>								
Adds funding for specialized legal services			\$636,000	\$636,000			\$636,000	\$636,000
Total one-time funding changes	0.00	\$0	\$636,000	\$636,000	0.00	\$0	\$636,000	\$636,000
<b>Total Changes to Base Level Funding</b>	(1.00)	(\$487,247)	(\$1,365,909)	(\$1,853,156)	(2.00)	(\$774,523)	(\$1,375,972)	(\$2,150,495)
<b>2017-19 Total Funding</b>	45.00	\$6,688,580	\$12,598,666	\$19,287,246	44.00	\$6,401,304	\$12,588,603	\$18,989,907

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

	<b>Burgum Executive Budget Recommendation</b> <b>(Changes to Dalrymple Budget in Bold)</b>				<b>House Version</b>			
	<b>FTE Position</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>	<b>FTE Position</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
Health insurance increase								

Section 2 identifies the funding increase for health insurance premium increases included in the agency's appropriation.

Other Sections in Public Service Commission - Budget No. 408

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Railroad safety pilot program

Section 5 amends Section 57-43.2-19 to change the amount of special fuels taxes deposited into the rail safety fund from \$275,000 per year to \$285,000 per year through June 30, 2019.

## Department 408 - Public Service Commission

**Reductions to 2015-17 Biennium General Fund Appropriations**  
 (As a result of the August 2016 General Fund Budget Reductions)

	Ongoing	One-Time	Total
2015-17 original general fund appropriations	\$7,521,207	\$414,000	\$7,935,207
General fund reductions	(345,380)	(174,376)	(519,756)
Adjusted 2015-17 appropriations	\$7,175,827	\$239,624	\$7,415,451
Dalrymple Executive Budget changes	(284,050)	(239,624)	(523,674)
2017-19 Dalrymple Executive Budget	\$6,891,777	\$0	\$6,891,777

**Summary of August 2016 General Fund Budget Reductions**

	Ongoing	One-Time	Total
Reduced funding for salaries and wages	(\$47,380)	\$0	(\$47,380)
Reduced funding for operating expenses	(98,000)	0	(98,000)
Removed funding for a temporary weights and measures inspection position	(200,000)	0	(200,000)
Reduced <b>one-time funding</b> provided for specialized legal services	0	(174,376)	(174,376)
Total reductions	(\$345,380)	(\$174,376)	(\$519,756)
Percentage reduction to ongoing and one-time general fund appropriations	4.59%	42.12%	6.55%

**2017-19 Dalrymple Executive Budget Changes to the Original and Adjusted Base Budgets**

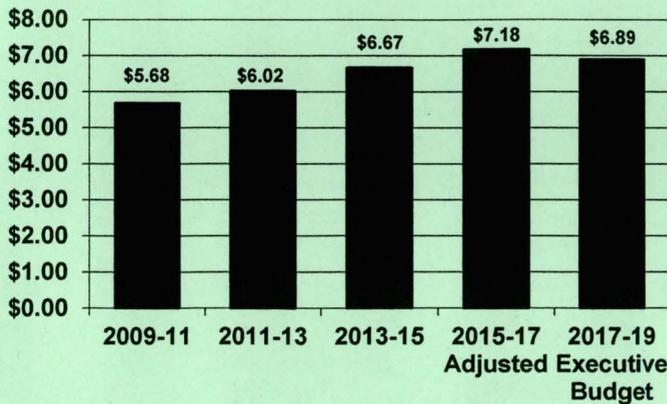
	Changes to Original Budget	Budget Reduction Adjustments	Changes to Adjusted Budget
Adds funding for recommended salary and benefit increases	\$103,858	\$0	\$103,858
Reduces funding for salaries and wages	(19,804)	0	(19,804)
Removes 2 FTE positions	(333,620)	47,380	(286,240)
Reduces funding for operating expenses	(123,864)	98,000	(25,864)
Reduces funding for specialized legal services	(56,000)	0	(56,000)
Removes weights and measures temporary position	(200,000)	200,000	0
Total	(\$629,430)	\$345,380	(\$284,050)

Department 408 - Public Service Commission

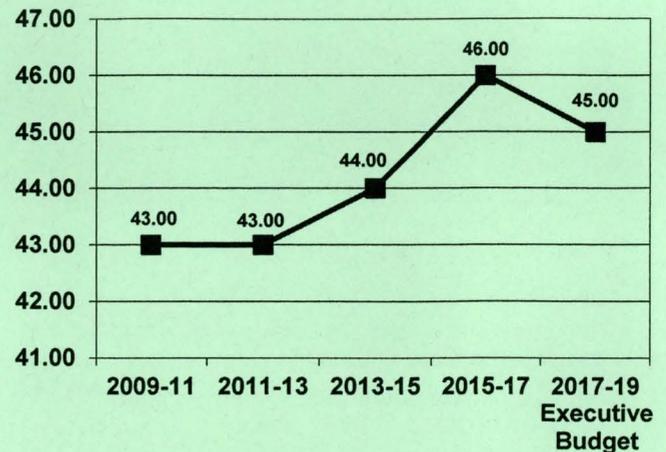
## Historical Appropriations Information

### Ongoing General Fund Appropriations Since 2009-11

Agency Funding (in Millions)



FTE Positions



■ Ongoing General Fund Appropriations

Ongoing General Fund Appropriations					
	2009-11	2011-13	2013-15	2015-17 Adjusted	2017-19 Dalrymple Executive Budget
Ongoing general fund appropriations	\$5,676,165	\$6,020,215	\$6,667,660	\$7,175,827	\$6,891,777
Increase (decrease) from previous biennium	N/A	\$344,050	\$647,445	\$508,167	(\$284,050)
Percentage increase (decrease) from previous biennium	N/A	6.06%	10.75%	7.62%	(3.96%)
Cumulative percentage increase (decrease) from 2009-11 biennium	N/A	6.06%	17.47%	26.42%	21.42%

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

#### 2011-13 Biennium

1. No major increases or decreases

#### 2013-15 Biennium

- |  |           |
|--|-----------|
| 1. Added 1 FTE weights and measures position and related operating expenses  | \$203,828 |
| 2. Added 1 FTE gas pipeline inspector position   | \$113,201 |
| 3. Added 1 FTE public utility analyst III position   | \$199,345 |
| 4. Increased funding for travel costs  | \$54,956  |
| 5. Added funding for legal fees relating to grain elevator insolvency cases and reclamation/abandoned mined lands lawsuits | \$500,000 |

#### 2015-17 Biennium (Original)

- |  |           |
|--|-----------|
| 1. Added 1 FTE public utility analyst position (\$257,747) and relating operating expenses (\$40,000)                | \$297,747 |
| 2. Added funding for temporary weights and measures inspector. (This item was affected by agency budget reductions.) | \$200,000 |

#### 2017-19 Biennium (Dalrymple and Burgum Executive Budget Recommendations)

- |  |             |
|--|-------------|
| 1. Removes 2 FTE positions   | (\$286,240) |
| 2. Underfunds salaries and wages from the general fund. (The Burgum budget underfunded salaries and wages by \$87,486 from the general fund.) (The House underfunded salaries and wages by \$475,000 from the general fund.) | (\$60,170)  |

- |  |            |
|--|------------|
| 3. Reduces funding for operating expenses. (The Burgum budget reduced operating expenses by an additional \$21,872.) | (\$25,864) |
| 4. Reduces funding for specialized legal services  | (\$56,000) |
| 5. The Burgum budget removed funding for capital assets to provide a total of \$0                                    | (\$26,400) |

## House Bill 1008

HB 1008  
3-6-17  
#1

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

**Before:** Senate Appropriations Committee  
Honorable Ray Holmberg, Chairman

**Date:** March 6, 2017

### TESTIMONY

Mr. Chairman and members of the committee, I'm Randy Christmann, Chairman of the Public Service Commission, here to present our 2017-2019 biennial budget request. Commissioner Julie Fedorchak is also in attendance today and available for any questions you may have. Thank you for the opportunity to present our budget bill and explain why we feel it benefits the State of North Dakota. I look forward to answering any questions you may have at the end of my testimony.

The following information provides details regarding the PSC's budget priorities for the upcoming biennium and addresses the information requested in the Feb. 21st letter from Legislative Council. You will see that despite changes in North Dakota's economic activity, the workload of the Commission has not decreased. We do, however, foresee changes to our workload in the near and distant future. One can reasonably assume that siting of oil and gas infrastructure will slow, but siting of renewable energy generation and transmission will pick up. We have also seen a dramatic increase in time consuming damage prevention

cases, far more expensive litigation in grain licensing and environmental issues, and we expect a significant uptick in the frequency of electric and gas rate cases as the world shifts towards more renewables. However, the Commission has embraced the concept of reinventing the way we do business.

The Commission is a constitutional agency with varying degrees of statutory authority over the following areas: coal mining and reclamation; abandoned mine lands; grain warehouses and licensing; commercial scales and measuring devices; railroad safety; electric, gas and telephone public utility regulation; energy transmission and generation facility siting; and auctioneers. (Department overviews are included in attachment 1)

### **Financial Audit Findings:**

The PSC had no formal audit recommendations.

**PSC's Original 2015-17 Budget and the Effects of the Budget Reductions Approved During the Aug. 2016 Special Session:**

The following line items make up the components of our 2015-17 budget:

Salaries and Wages	\$9.7 million
Operating	\$1.98 million
Capital Assets	\$26,400
Grants	\$20,000
AML Contractual	\$8 million
Rail Rate Complaint Case	\$900,000
Railroad Safety Program	\$523,345
Specialized Legal Services	\$900,000
Weights & Measures Temp. Employee	\$200,000
<b>Total</b>	<b>\$22.2 million</b>

**\* Total general fund \$7.9 million**

The original 2015-17 budget had total general fund appropriations of \$7.9 million. The base budget general fund amount in engrossed HB 1008 is \$7.175 million. The House made adjustments that reduced this amount even further to \$6.4 million or approximately 19% less.

**FTE Additions (2013 and 2015):**

- 2013: The Weights and Measures Program was previously authorized for 4 inspectors and one of those positions was

eliminated. Two additional positions were added, a Gas Pipeline Safety Inspector and a Public Utilities Analyst, resulting in a net increase of one FTE.

- 2015: Added a Weights and Measures temporary employee to replace the position eliminated in 2013. Also added one additional FTE as a Public Utilities Analyst. As part of the new Rail Safety Program, one full-time rail inspector and one full-time temporary inspector position were added, resulting in an increase of two temporaries and two FTE's.
- The chart below shows the FTE changes from 2009 to present.

FTE Positions			
	Full Time Temps	Full Time Equivalents	Total
2009-11	0	43	43
2011-13	0	43	43
2013-15	0	44	44
2015-17	2	46	48
2017-19 (Engrossed HB 1008)	1	44	45

\*Engrossed HB 1008 does not include funding for these positions. As it stands, employee count would likely be 1 full-time temp and 41 FTEs.

The following chart shows the 6.55 percent reductions that the PSC made to meet the required allotments:

<b>Line Item:</b>	<b>Reductions:</b>
Salaries and Wages	(\$47,000)
Operating	(\$98,000)
Specialized Legal Services	(\$175,000)
Weights & Measures temp. position (salary and operating)	(\$200,000)
<b>Total Reductions</b>	<b>(\$520,000)</b>

\*Two positions were eliminated as part of the allotment process.

### **Estimated 2015-17 Spending**

The chart below shows our 2015-2017 expenses in our major appropriation lines as of January 31, 2017, as well as any general fund variances between the biennium to date budget less actual expenses and known upcoming reductions.

Appropriation Line	Expenditures	General Fund Variance
Salaries & Wages	\$7,276,211	\$158,847
Operating	\$978,278	\$72,1223
Capital Assets	\$25,915	\$486
Grants	\$2,664	-
AML Contractual	\$3,629,173	-
Rail Rate Complaint Case	0	-
Railroad Safety Program	\$329,574	-
Specialized Legal Services	\$114,923	\$146,347

## **Status of One-Time Funding:**

**Specialized legal services** (previously Reclamation and Grain Licensing Litigation): This fund is a mixture of one-time funding and base budget. \$175,000 of the original \$500,000 of general fund money was used in the allotment process. As of Jan. 31, 2017, the Commission had spent approximately \$115,000 of the appropriation for specialized legal services on two federal lawsuits, one grain elevator insolvency and one coal mine permit appeal. The funds benefited the Commission by allowing the hiring of specialized professionals with qualifications specifically related to the cases.

Having funds like this available is critical in order for the PSC to maintain our sovereignty and preserve the interests of industries we regulate. These funds allow the Commission, when necessary, to fight attacks against the fossil fuel industry, whether it's through EPA regulations or lawsuits by environmental groups attacking coal mining or reclamation. These are attacks that are difficult to predict, nearly impossible to budget for and often demand specialized outside legal counsel to effectively counter.

## **2017-19 Budget Changes Compared to 2015-17 Levels:**

The general fund appropriation has been substantially decreased. Our original 2015-17 appropriation amount was approximately \$7.9 million and the 2017-19 engrossed HB 1008 reduces this portion of the PSC budget down to \$6.4 million. This is a decrease of approximately \$1.5 million or 19%.

This level of savings is not possible by reducing operating dollars alone and requires eliminating positions. We spent many hours analyzing, discussing and looking at a wide variety of options to meet these general fund reductions. Our goals during the process have been to (1) reduce general fund expenditures; (2) minimize the impact reductions will have on services provided to North Dakota citizens; and (3) improve the structure and operational efficiency of the agency. The plan we put forward in the Governor's 90% budget streamlined our work in targeted areas and improved our organizational structure while allowing the agency to continue meeting a majority of our core responsibilities with greater efficiency and fewer general fund dollars.

Some of the cost-saving efforts we proposed in HB 1126 were removed by the House. However, the licensing director position has been eliminated and we have created a new division in the agency called the Compliance Division. The Compliance Division was created by consolidating three different programs: (1) the Licensing Program, (2) the Weights and Measures Program, and (3) the Railroad Safety Program. The division houses the majority of the PSC's state inspectors who are charged with ensuring businesses and operations are in compliance with the laws and rules of the state. The restructuring will allow for a more unified approach to regulatory enforcement and compliance with these programs. A new director has been hired to oversee this division.

In addition, we have eliminated the director of economic regulation position and have streamlined our Public Utilities Division under one director. With the availability of rate case application fee dollars and the ability of several Public Utility

Division Analysts to now oversee rate regulation, we believe the FTE for the second director position can better serve the agency and our citizens in a new way. Multiple reassignments of duties have occurred to assure that essential agency responsibilities are handled.

We have eliminated funding for the temporary Weights and Measures position added last session. Although engrossed HB 1008 requires the elimination of only 2 FTE's, it does not provide adequate funding for the remaining FTE positions. At the House proposed funding level, we would foresee the need to eliminate one accounting position, one PUD analyst, and one grain licensing inspector. The cuts focus on these areas because they are the divisions funded by general funds. Eliminating these positions would still leave us underfunded in the salaries line by about \$110,000 requiring an additional undetermined FTE reduction.

**2017-19 Special Funds:**

The Commission was authorized one FTE and one temp during the last legislative session as part of the Rail Safety Program. The Commission has requested the temporary position (mechanical inspector) be converted into a permanent FTE for a net increase of \$36,000. The Rail Safety Program is funded not with general funds, but with an existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements. The PSC pursued the development and implementation of this program to increase oversight of North Dakota rail operations after seeing a significant increase in rail traffic and also an

increase in the amount of hazardous materials, such as crude oil and ethanol, being transported by rail. The program focuses on two disciplines: track and mechanical. These two areas were identified because they contribute to the largest number and most severe accidents in North Dakota.

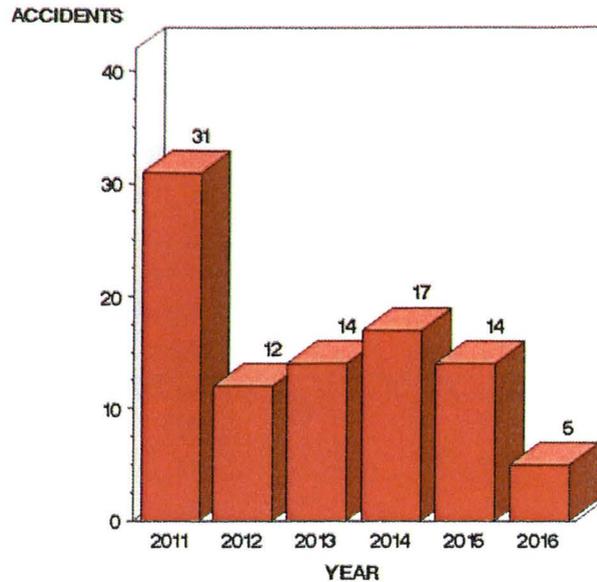
The Commission believes that having both inspector positions as full-time permanent positions is vital to keeping qualified employees in those positions. Both inspectors were hired, trained and certified within one year of receiving program funding. These highly trained positions are now able to conduct independent inspections, ensuring more inspections are taking place in North Dakota.

The track inspector was hired in August of 2015. He became FRA certified in March of 2016. Since March, he has conducted 144 inspections, noting hundreds of defects, and has issued 13 violations with civil penalties.

The mechanical inspector was hired in December of 2015. He became FRA certified in August of 2016. Since August, he has conducted 64 inspections, noting hundreds of defects, and has issued 17 violations with civil penalties. Converting this position to a permanent FTE, as recommended by Gov. Dalrymple, will help the Commission retain this now fully trained inspector and continue this valuable work. (The graph on the next page depicts train accidents in North Dakota for the years 2011-2016).

## TRAIN ACCIDENTS

FOR NORTH DAKOTA, January — September (ALL YEARS)



Excludes highway— rail

### 2017-19 One-Time Funding Needs

As mentioned earlier, it is imperative to have specialized legal services available in order to preserve the interests of the industries we regulate. Engrossed HB 1008 does provide an additional \$636,000 of one-time funding for specialized legal services, and that would consist of \$336,000 federal and \$300,000 from the SIIF. The chart below shows how the funding has evolved over time.

#### Specialized Legal Services

	13-15		15-17			17-19 Engrossed HB		
	Ongoing	One Time	Ongoing	One Time	Biennium Total	Ongoing	One Time	Biennium Total
Gen	-	500,000	86,000	414,000	500,000	30,000		30,000
Fed	-	400,000	64,000	336,000	400,000	64,000	336,000	400,000
Special (SIIF)							300,000	300,000
<b>Total</b>		<b>900,000</b>	<b>150,000</b>	<b>750,000</b>	<b>900,000</b>	<b>94,000</b>	<b>636,000</b>	<b>730,000</b>

## **Federal Funding Changes:**

The Commission reduced the Abandoned Mine Lands contractual services line by \$2 million to better reflect the anticipated amount of federal funding.

There is also some concern that the PSC could lose federal funding in the future if we are unable to meet all Pipeline and Hazardous Materials Safety Administration (PHMSA) requirements for our gas pipeline safety program. To address this, we requested an additional natural gas pipeline inspector. PHMSA recently reviewed our inspection criteria and is recommending that we add an additional inspector to meet the PHMSA required number of inspection days. That additional FTE plus operating is needed now to adequately cover our current infrastructure and complete safety inspections. In addition, the growth and development in North Dakota is resulting in more and more gas lines and producers in the state. This position will support the existing natural gas pipeline safety program currently in place. The positions are funded at approximately 50 percent through the federal PHMSA grant. The Executive Budget did not include this FTE.

**Proposed Reductions to Meet Governor's 90% Reduction:**

As requested, this information is included in a one-page document located in Attachment 2 page B1.

**Optional Adjustment Requests included in the Executive Recommendation:**

As requested, this information is included in a one-page document located in Attachment 2 page B2.

**Changes made by Governor Burgum/House of Representatives:**

As requested, this information is included in a one-page document located in Attachment 2 page B3.

**Requested Budget Changes:**

As requested, this information is included in a one-page document located in Attachment 2 page B4.

Mr. Chairman, this concludes our testimony. I will be happy to answer any questions.

HB 1008  
3-6-17  
#2

## Reclamation Division (64% Federal Funds)

The Reclamation Division of the Public Service Commission is responsible for administering and enforcing the state's reclamation law for minimizing the environmental effects of surface coal mining and ensuring mined lands are properly reclaimed. There are 7 active surface coal mining operations (5 lignite and 2 leonardite mines) operating in the state.

- Approximately 134,000 acres are currently permitted for mining activities under 28 mine permits.
- To date, over 15,700 acres have received final bond release (met all the requirements of the reclamation law) and Commission jurisdiction has ended.
- Mining operations began on the recently permitted 8,091-acre Coyote Creek Mine located south of Zap and a new 8,360-acre mine area at BNI Coal's Center Mine.
- The Commission's decision to issue the permit for the Coyote Creek Mine was appealed to District Court and the Commission's decision to issue the permit was upheld. The District Court's decision (specifically the Alluvial Valley Floor determination) was then appealed to the North Dakota Supreme Court and we are awaiting the Supreme Court decision.
- The PSC's coal regulatory and Abandoned Mine Lands programs continue to receive excellent annual evaluation reports from the federal Office of Surface Mining.

## **Abandoned Mine Lands (AML) (100% Federal Funds)**

The goal of the AML Program is to eliminate hazards related to coal mining that was conducted prior to the enactment of the 1977 federal reclamation act. PSC staff in the AML Program design and manage the reclamation projects, while the actual reclamation work is done by contractors selected by competitive bidding. The Commission receives funds from the federal Office of Surface Mining Reclamation and Enforcement (OSM) for the program from the collection of a federal reclamation fee that is collected on all coal that has been mined since the late 1970s.

- In the current biennium, 5 abandoned mine land reclamation projects were carried out totaling about \$3.7 million in construction costs.
- Nearly 350 sinkholes caused by the collapse of underground mine workings were filled in the past two years.
- Since 1982, 163 primary reclamation projects and 31 emergency projects have been conducted to eliminate hazardous conditions.
- More than 27 miles of dangerous surface mine highwalls have been eliminated since the AML reclamation program began.

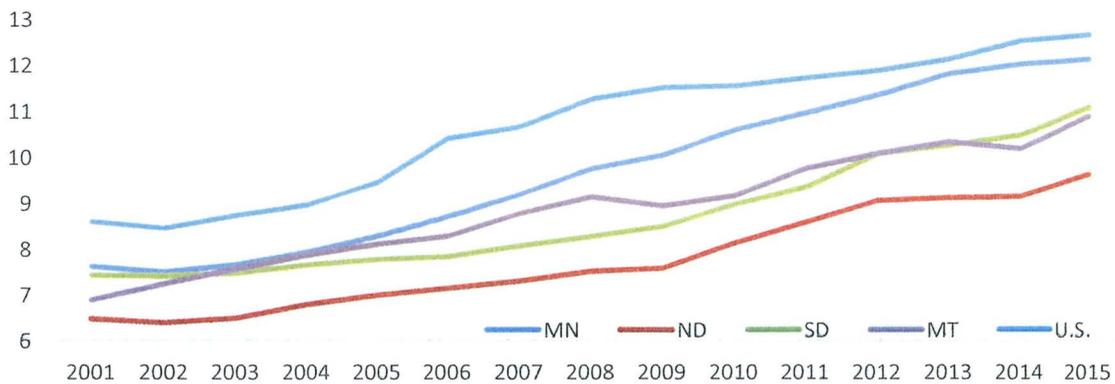
## **Regulation of electric, natural gas, and telephone utilities**

North Dakota continues to have among the lowest electric utility rates in the nation and the lowest natural gas utility rates in the nation. Biennium to date, the PSC has decided one general natural gas rate case for Montana-Dakota Utilities Co. and three advanced determination of prudence decisions on new electric

Attachment 1 – Agency Overview

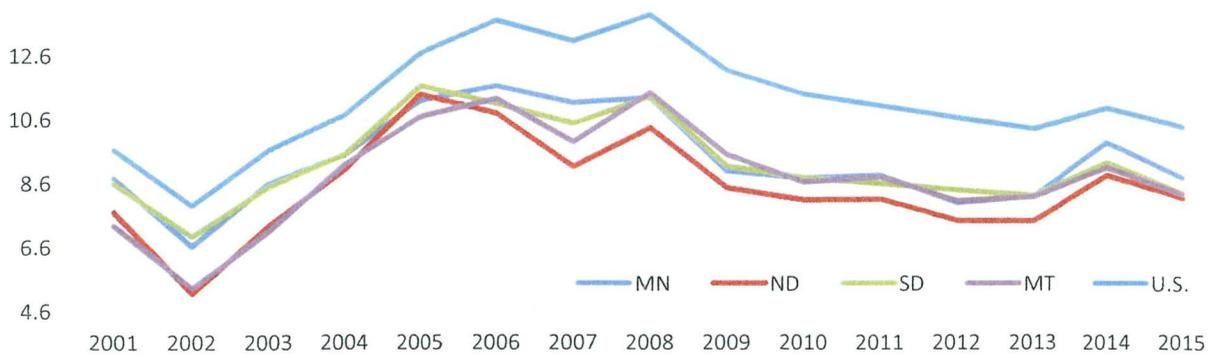
generation including a purchase power agreement for 100 megawatts of solar generation, a purchase power agreement for 345 megawatts of electric generation from a combined cycle natural gas facility, and 200 megawatts of utility-owned wind generation.

Average Cost of Electricity Delivered to Residential Customers per kilowatt hour



Data: U.S. Energy Information

Average Cost of Gas Delivered to Residential Customers per 1,000 Cubic Feet



Data: U.S. Energy Information Administration

## Siting energy generation, conversion and transmission facilities

The PSC has seen a steady stream of applications for construction permits for energy generation, energy conversion, pipelines and electric transmission facilities. The cases listed below have completed the Commission's siting process, but the construction may not yet be started or finished. Cases completed this biennium to date include:

### Pipelines

Case(s)	Description	Miles	County	Est. Project Cost
PU-16-614	Epping Transmission Company, LLC	3.2	Williams	6,500,000
PU-16-420	Caliber Bear Den Interconnect LLC	5.3	McKenzie	12,000,000
PU-16-305	NST Express, LLC	3.6	McKenzie	6,800,000
PU-16-189	Hess North Dakota Export Logistics LLC	1.1	Williams	4,500,000
PU-16-140	Plains Terminals North Dakota LLC	3.5	McKenzie	5,000,000
PU-16-095	Bakken Oil Express, LLC	0.7	Stark	400,000
PU-16-094	BOE Pipeline, LLC	41.8	McKenzie, Dunn	55,000,000
PU-15-801	ONEOK Bakken Pipeline, L.L.C.	38	McKenzie, Dunn	45,000,000
PU-15-744	Sacagawea Pipeline Company, LLC	13	McKenzie	20,000,000
PU-15-733	Oasis Midstream Services, LLC	19	McKenzie	13,000,000
PU-15-725	Oasis Midstream Services, LLC: Spring Creek Pump Station		McKenzie	8,000,000
PU-15-720	Tesoro High Plains Company LLC	1.4	McKenzie	8,900,000
PU-15-694	ONEOK Bakken Pipeline, L.L.C.	14.4	McKenzie	19,520,000
PU-15-674	NuStar Pipeline Operating Partnership, L.P.	7.3	Cass	12,000,000
PU-15-670	Sacagawea Pipeline Company, LLC	8	Mountrail	18,000,000
PU-15-614	Plains Pipeline, L.P.	8.5	Williams	7,000,000
PU-15-486	Hiland Crude, LLC	4.5	McKenzie	3,600,000
PU-15-416	Hiland Crude, LLC	42.5	McKenzie	15,000,000
PU-15-232	NST Express, LLC	23	McKenzie	80,000,000
PU-15-142	Vantage Pipeline US LP	47.3	Williams, Divide	20,000,000
PU-15-137	ONEOK Bakken Pipeline, L.L.C.	4	McKenzie	6,000,000
PU-15-114	Sacagawea Pipeline Company, LLC	70	McKenzie, Mountrail	100,000,000
PU-15-097	Bridger Pipeline LLC	15	Billings, Stark	10,400,000
PU-15-035	Plains Pipeline, L.P.	10	Mountrail	9,000,000

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PU-14-842	Dakota Access, LLC	358	Mountrail, Williams, McKenzie, Dunn, Mercer, Morton, Emmons	1,410,000,000
PU-13-848	North Dakota Pipeline Company, LLC: Sandpiper	299	Mountrail, Williams, Ward, McHenry, Pierce, Towner, Ramsey, Nelson, Grand Forks	1,300,000,000
PU-13-136	Hiland Crude, LLC	197	McKenzie, Williams, Mountrail	55,300,000
	Total	1,239		3,150,920,000

**Electric Transmission**

Case(s)	Description	Miles	County	Est. Project Cost
PU-16-122	Oliver Wind III, LLC: 230 kV	4.5	Oliver, Morton	11,400,000
PU-15-797	Brady Wind, LLC: 230 kV	19	Stark	20,500,000
PU-14-813	Basin Electric Power Cooperative, Inc.: 345 kV	28	McKenzie	135,000,000
PU-13-840	Montana Dakota Utilities / Otter Tail Power Company: 345 kV	9	Dickey	50,000,000
PU-11-696	Basin Electric Power Cooperative, Inc.: 345 kV	200	Mercer, Dunn, McKenzie, Williams, Mountrail	300,000,000
PU-11-692	Basin Electric Power Cooperative, Inc.: 345/230 kV	3.7	Williams	4,000,000
	Totals	264.2		520,900,000

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### Wind Generation

Case(s)	Description	MW	County	Est. Project Cost
PU-16-539	Glacier Ridge Wind Farm, LLC: Phase I	179.4	Barnes	202,000,000
PU-16-123	Oliver Wind III, LLC	100	Oliver, Morton	153,000,000
PU-16-042	Brady Wind II, LLC	150	Hettinger	250,000,000
PU-15-690	Brady Wind, LLC	150	Stark	250,000,000
PU-15-482	Lindhahl Wind Project, LLC	150	Williams	248,500,000
PU-15-174	Northern States Power Company / Courtenay Wind	200.5	Stutsman	350,000,000
PU-15-124	Rolette Power Development	100	Rolette	175,000,000
	Totals	1029.9		1,628,500,000

Note: 2489 MW of total wind generation in service as of December 15, 2016. Anticipate another 260 MW in service by year end, and another 250 MW early 2017.

### Oil Refinement or Gas Processing

Case	Description	MMSCFD	County	Est. Project Cost
PU-14-853	Targa Badlands LLC: Little Missouri Gas Plant expansion	200	McKenzie	140,000,000
	Totals	200		140,000,000

Note: Million standard cubic feet per day (MMSCFD)

**These tables represent completion of the complex siting process of 1,239 miles of pipelines, 264 miles of electric transmission lines, over 1000 MW of wind generation, and gas processing capacity of another 200 MMSCFD. Altogether it represents almost \$5.5 billion of economic investment in North Dakota.**

### Gas Pipeline Safety

On behalf of the Pipeline and Hazardous Materials Safety Administration (PHMSA), the PSC conducts a pipeline safety program in North Dakota involving intrastate gas transmission systems and gas distribution systems. Staff for the program includes a program manager/inspector and one full-time inspector.

## Damage Prevention

The PSC has authority for enforcement of the state’s One-Call Excavation Notice System law. The goal of the law is to prevent damage to underground infrastructure. Biennium to date, the PSC has processed 45 complaints regarding alleged violations of the One-Call law. As a result of these proceedings, the PSC has levied fines totaling \$73,400. Following is a list of the 45 cases and the fines:

Case(s)	Amount	Case(s)	Amount	Case(s)	Amount
PU-16-248	0	PU-15-675	1,000	PU-14-760	3,500
PU-16-214	1,000	PU-15-669	1,000	PU-14-757	3,500
PU-16-194	3,400	PU-15-629	2,900	PU-14-740	500
PU-16-182	1,000	PU-15-628	2,900	GS-14-725	1,500
PU-16-041	0	PU-15-627	2,000	GS-14-696	0
PU-15-799	15,000	PU-15-406	500	PU-14-671	1,000
PU-15-785	0	PU-15-338	0	PU-14-664	0
PU-15-781	0	PU-15-311	0	GS-14-633	3,000
PU-15-752	0	PU-15-310	0	GS-14-230	2,000
PU-15-751	1,500	PU-15-309	0	GS-14-229	1,500
PU-15-750	1,600	PU-15-308	0	GS-13-886	1,500
PU-15-748	1,600	PU-15-283	1,000	GS-13-885	2,000
GS-15-714	1,500	PU-15-217	500	GS-13-884	2,000
PU-15-687	0	PU-15-186	0	Total	\$73,400
PU-15-681	500	PU-15-166	11,000		
PU-15-680	500	PU-15-155	1,000		

In total the PSC has levied 79 fines totaling \$130,900 since beginning enforcement of the program in 2009.

### Damage Prevention Cases Processed:

2009-2011	1
2011-2013	18
2013-2015	58
2015-2017	62 (projected...47 to date)

## **Grain Licensing and Inspection**

North Dakota currently has 388 grain warehouses. Of those, 271 are state facilities licensed, bonded and inspected by the PSC and 117 are federal facilities. This biennium to date, the PSC is processing one grain insolvency case involving the Grand Forks Bean Company, Inc. There have been no other insolvencies during the biennium.

Grain storage capacity increased 10.4 percent from 457 million bushel capacity in 2013-15 to 507 million bushel capacity this biennium to date. These figures do not include private, on-farm storage which is not licensed by the PSC.

The PSC is also proposing multiple statute changes during the legislative session which will enable the commission to modernize the licensing program and bring it more in line with how the grain industry operates today. Additionally, it will streamline the insolvency process to enable valid claimants to receive compensation faster.

## **Licensed auctioneers and auction clerks**

The PSC currently licenses 370 auctioneers and 182 clerks.

## **Weights and Measures**

The PSC is responsible for certifying the accuracy of all commercial scales and measuring devices in the state. This biennium to date, North Dakota has realized a 4.3 percent growth in the number of commercial scales with 23,500 licensed devices this biennium compared to 22,500 devices in 2013-15.

Additionally, the commission is continuing work on the heavy scale quality assurance program. This program has allowed the PSC to review the work of registered service companies and address concerns with their operations. This biennium to date, the PSC has conducted quality assurance inspections on 232 heavy scales of which 34 failed the QA inspection.

### **Railroad Safety**

The PSC serves as the clearing house for rail service and safety issues statewide. We host annual meetings on service and safety inviting all the statewide stakeholders to address issues with representatives from the Class I and short line railroads within the state. This biennium to date, the PSC fielded complaints and intervened on behalf of 18 communities regarding blocked crossings.

The North Dakota 64th Legislative Assembly approved funding for a state run pilot program intended to supplement federal oversight of rail safety. The Rail Safety Program is funded not with general funds, but with an existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements. This is a state investment initially implemented due to rising concerns because of increased traffic by the oil industry.

The PSC aggressively pursued the development and implementation of this program to improve railroad safety within the state as soon as possible. Both inspectors were hired, trained and certified within one year of receiving program funding. The goal of the program is to reduce the number of accidents, derailments and other equipment failures experienced within the state of North Dakota. The

## Attachment 1 – Agency Overview

intent is to directly reduce fatalities and injuries in addition to economic losses and environmental impacts. This is accomplished through the use of announced and unannounced inspections of track infrastructure and mechanical inspections of railcars and locomotives. Extra emphasis is placed on routes carrying hazardous materials.

The state inspectors are autonomous and entirely accountable to the Public Service Commission. The Commission believes that having both inspector positions as full-time permanent positions is vital to keeping qualified employees in those positions. These highly trained positions are now able to conduct independent inspections, ensuring more inspections are taking place in North Dakota.

The track inspector was hired in August of 2015. He became FRA certified in March of 2016. Since March, he has conducted 144 inspections, noting hundreds of defects, and has issued 13 violations with civil penalties.

The mechanical inspector was hired in December of 2015. He became FRA certified in August of 2016. Since August, he has conducted 64 inspections, noting hundreds of defects, and has issued 17 violations with civil penalties. Converting this position to a permanent FTE, as recommended by Gov. Dalrymple, will help the Commission retain this now fully trained inspector and continue this valuable work.

The FRA only has the resources to inspect 0.2 percent of railroad operations nationally each year. Federally certified state inspectors constitute 30 percent of the FRA's total inspection force and are critical to ensuring safe rail

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operations. Having state inspectors that are dedicated to North Dakota is a big benefit and helps to ensure adequate inspections in our state; whereas, federal inspectors have responsibility for multiple states.

**Proposed Reductions to Meet Governor's 90% Reduction**

#3

The 10 percent reduction for the PSC equates to just over \$750,000. This level of savings is not possible by reducing operating dollars alone and requires eliminating positions. We spent many hours analyzing, discussing and looking at a wide variety of options to meet these general fund reductions. Our goals during the process were to (1) reduce general fund expenditures by 10 percent; (2) minimize the impact reductions will have on services provided to North Dakota citizens; and (3) improve the structure and operational efficiency of the agency.

The licensing director position has already been eliminated and we have created a new division in the agency called the Compliance Division. A new director has been hired to oversee this division.

In addition, we have eliminated the director of economic regulation position and have streamlined our Public Utilities Division (PUD) under one director. Multiple reassignments of duties have occurred to assure that essential agency responsibilities are handled.

The remaining savings needed to achieve the 10 percent general fund reduction were accomplished by eliminating funding for a temporary weights and measures position, reducing the general fund portion of the specialized legal services fund, and reducing operating dollars.

### **Optional Adjustment Requests / Governor's Recommendation**

The Commission requested an additional natural gas pipeline inspector. The Pipeline and Hazardous Materials Safety Administration (PHMSA) recently reviewed our inspection criteria and is recommending that we add an additional inspector to meet the PHMSA required inspection days. That additional FTE plus operating is needed now to adequately cover our current infrastructure and complete safety inspections. In addition, the growth and development in North Dakota is resulting in more and more gas lines and producers in the state. This position would support the existing natural gas pipeline safety program currently in place. These positions are funded at approximately 50% through the federal PHMSA grant. The Executive Budget did not include this FTE.

The Commission also requested that the temporary rail safety inspector position (mechanical inspector) be converted into a permanent FTE (\$36,000 special funds). We believe that having both inspector positions as full-time permanent positions is vital to keeping qualified employees. These are highly trained people who are now able to conduct independent inspections, ensuring more inspections are taking place in North Dakota. The Executive budget did include this change, but it was eliminated in the House.

### **Specialized Legal Services**

We requested funding for specialized legal services in the Executive Budget. The Executive Budget and Engrossed HB 1008 did provide an additional \$636,000 of one-time funding for specialized legal services, and that would consist of \$336,000 federal and \$300,000 from the SIIF.

## Changes Recommended By Gov. Burgum and By the House

### Salaries and Wages:

- Gov. Dalrymple underfunded salaries by \$60,170.
- Gov. Burgum underfunded salaries by an additional \$87,486.
- House underfunded salaries by an additional \$514,446.
- Total reduction is \$662,102 or almost 7% from base budget amount.

### Operating Expenses:

- Gov. Dalrymple reduced funding by \$25,864.
- Gov. Burgum made an additional reduction of \$21,872.
- Total reduction is \$47,736. (House accepted this reduction)

### Capital Assets:

- Gov. Burgum removed all funding for capital assets (\$26,400).
- House accepted this recommendation.

### Specialized Legal Services:

- Both Gov. Dalrymple and Burgum's budgets reduced the general fund portion by \$56,000. They also added additional one-time funding of \$636,000 from federal funds and the SIIF.
- House accepted this recommendation.

### Rail Safety Program:

- Both Gov. Dalrymple and Burgum's budgets converted the temporary rail inspector position to a full-time position funded using special funds.
- House did not include this change.

### Other:

- House also reduced 2 unspecified FTE positions.
- House also added a Legislative Management Study about the impact of wind energy.

## Requested Budget Changes

**Salaries and Wages:** The reduction to our salaries and wages appropriation are particularly concerning. As has been demonstrated, the Commission has taken significant steps to achieve a better way of delivering services while still meeting the required general fund reductions. Through restructuring the Commission has already eliminated 2 full-time positions and feels the underfunding of salaries would be detrimental to meeting the responsibilities to the citizens of North Dakota.

We understand we must play our part in reducing the state's budget, but we also have a responsibility to minimize the impact on the groups we serve. If the reduction to salaries were closer to the Executive Recommended Budget of approx. \$150,000, we could find ways to absorb the cut without sacrificing services. We are committed to working with the Legislature to come to the best possible solution.

**Operating:** The Commission feels we would be able to reduce operating expenses by some degree, but the amount is dependent on what level of staffing is ultimately approved in this budget.

**Capital Assets:** Gov. Burgum and the House eliminated all funding for Capital Assets. While small dollar amounts, they provide an important purpose and the Commission would request funding be restored to at least \$10,000.

**Rail Inspector:** The Commission requests that the temporary rail safety inspector position (mechanical inspector) be converted into a permanent FTE. We believe that having both inspector positions as full-time permanent positions is vital to keeping qualified employees. These are now highly trained people who are now able to conduct independent inspections, ensuring more inspections are taking place in North Dakota. The Executive budget did include this change, but it was eliminated in the House.

**Gas Pipeline Safety Inspector:** The Commission requests an additional natural gas pipeline inspector. The Pipeline and Hazardous Materials Safety Administration (PHMSA) recently reviewed our inspection criteria and is recommending that we add an additional inspector to meet the PHMSA required number of inspection days. This position will support the existing program currently in place. The positions are funded at approximately 50 percent through the federal PHMSA grant. The Executive Budget did not include this FTE.



HB 1008  
3-6-17  
# 4

Written Testimony Provided To:  
**Senate Appropriations Committee**  
By Danette Welsh  
Manager, ONEOK Government Relations  
March 6, 2017  
**1008**

Regarding: **House Bill No. 1008**

Chairman Holmberg and Appropriations Committee Members,

Thank you for the opportunity to provide comment on House Bill 1008.

ONEOK is North Dakota's largest third-party independent natural gas midstream company with over 7500 miles of pipeline and 10 natural gas processing facilities with approximately 980 million cubic feet of natural gas processing capacity in western North Dakota. With infrastructure investments of over \$3.4 billion in the region over the past few years, ONEOK continues to work closely with and relies on the North Dakota Public Service Commission (PSC) for its facility siting and underground facility damage prevention programs.

The rapid pace of development of oil and gas related infrastructure in western North Dakota has been challenging for all stakeholders. The PSC, under NDCC §49-22, is responsible for siting electric transmission lines, transmission pipelines, and energy conversion facilities, including natural gas processing plants; all of which are critical to the orderly and timely development of minerals, protection of the environment, and quality of life for citizens in western North Dakota. ONEOK's experience with the PSC on the siting of no fewer than 10 different projects in the past six years has been professional, thorough, efficient, and valuable. The PSC has played a key role in helping the state realize its goal of single-digit flaring percentages by efficiently, but carefully siting necessary infrastructure projects across western North Dakota.

In addition to facility siting, the PSC is also responsible for administering underground facility damage prevention investigations and enforcement actions. Under the federal Pipeline Hazardous Material Safety Administration (PHMSA), each state must have an entity responsible for One Call violation investigations and enforcement actions. In North Dakota, in tandem with the growth of underground facilities and a greater public awareness of the '811 Call Before You Dig' program over the past few years, the PSC's case load of complaints, investigations and enforcements has grown exponentially. The growth is not only a reflection of more facilities and greater awareness, but also of increased confidence from the excavator/operator groups that an investigation and corrective enforcement will happen, if a complaint is made. It is difficult to gauge how many lives may have been saved, what environmental impacts have been averted, or how much disruption to daily services has been avoided due to increased awareness of safety and avoidance of enforcement actions for violations through the efforts of the PSC.



#4

In short, although we understand the <sup>weight</sup> [REDACTED] of the current financial picture for the state and do not envy this committee for the decisions it has to make on behalf of good fiscal management, we do ask you to maintain the necessary staff of the Public Service Commission for its siting and damage enforcement programs. Without their professional, knowledgeable, thorough and efficient work in these areas, our industry and the state would likely be facing many more environmental and infrastructure challenges, which would ultimately impact production tax and property tax revenues, as well as the general quality of life we all enjoy as citizens of North Dakota.

Please let me know if I can provide any additional information for your consideration.

Danette Welsh  
Manager, Government Relations  
ONEOK, Inc.  
(701) 471-9490  
[dwelsh@oneok.com](mailto:dwelsh@oneok.com)

2

3-21-17  
 HB1008  
 Subcommittee

Authorized Positions

	Full Time Temps	Full Time Employees	Total
2009-11	0	43	43
2011-13	0	43	43
2013-15	0	44	44
2015-17	2	46	48
2017-19 (as engrossed)	1	44	45

# 1

P1

Funded Positions

2017-19 (as engrossed)	1	41	42
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Funded Positions - minus Rail Safety

2017-19 (as engrossed)	0	40	40
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Potential Reductions

Position	Needed \$	Comments
(Temp.) Wts. & Meas. Inspector		Gone
Grain Licensing Director		Gone
Public Utilities Div. Engineer		could contract and shift cost
Grain Licensing Inspector	\$166,836	proposed for removal - House objected
Accountant	\$154,208	Discussing with Auditor's Office
???	\$110,000	First Priority

P1

3-27-17 HB 1008

17.0493.02001  
Title.  
Fiscal No. 1

Prepared by the Legislative Council staff for  
Senator G. Lee  
March 24, 2017

#1  
P1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

Page 1, line 2, after the first semicolon insert "to amend and reenact section 57-43.2-19 of the North Dakota Century Code, relating to the special fuels excise taxes distribution of funds;"

Page 1, replace line 12 with:

"Salaries and wages	\$9,643,095	(\$345,811)	\$9,297,284"
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Page 1, replace line 14 with:

"Capital assets	26,400	(16,400)	10,000"
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Page 1, replace lines 18 through 23 with:

"Railroad safety program	523,345	41,323	564,668
Specialized legal services	<u>150,000</u>	<u>380,000</u>	<u>530,000</u>
Total all funds	\$21,140,402	(\$1,988,624)	\$19,151,778
Less estimated income	<u>13,964,575</u>	<u>(1,543,559)</u>	<u>12,421,016</u>
Total general fund	\$7,175,827	(\$445,065)	\$6,730,762
Full-time equivalent positions	46.00	(1.00)	45.00"

Page 2, line 2, replace "\$125,934" with "\$116,809"

Page 2, line 2, replace "\$76,487" with "\$70,945"

Page 2, line 3, replace "\$1,249" with "\$1,241"

Page 2, replace lines 9 through 12 with:

"Specialized legal services	<u>\$575,624</u>	<u>\$436,000</u>
Total all funds	\$575,624	\$436,000
Total special funds	<u>336,000</u>	<u>436,000</u>
Total general fund	\$239,624	\$0"

Page 2, line 27, replace "\$300,000" with "\$100,000"

Page 3, after line 15, insert:

**"SECTION 7. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

**57-43.2-19. (Effective July 1, 2015, through June 30, 2019) Transfer, deposit, and distribution of funds.**

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

**(Effective after June 30, 2019) Transfer, deposit, and distribution of funds.**

All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19."

#1  
p2

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	Base Budget	House Version	Senate Changes	Senate Version
Salaries and wages	\$9,643,095	\$8,980,993	\$316,291	\$9,297,284
Operating expenses	1,877,562	1,829,826		1,829,826
Capital assets	26,400		10,000	10,000
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	8,000,000	6,000,000		6,000,000
Rail rate complaint case	900,000	900,000		900,000
Railroad safety program	523,345	529,088	35,580	564,668
Specialized legal services	150,000	730,000	(200,000)	530,000
Total all funds	\$21,140,402	\$18,989,907	\$161,871	\$19,151,778
Less estimated income	13,964,575	12,588,603	(167,587)	12,421,016
General fund	\$7,175,827	\$6,401,304	\$329,458	\$6,730,762
FTE	46.00	44.00	1.00	45.00

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

	Adjusts Funding for Health Insurance Increases <sup>1</sup>	Adjusts Funding for Salaries and Wages <sup>2</sup>	Converts Temporary Railroad Safety Inspector to FTE Position <sup>3</sup>	Adds Funding for Capital Assets <sup>4</sup>	Reduces One-Time Funding for Specialized Legal Services <sup>5</sup>	Total Senate Changes
Salaries and wages	(\$8,709)	\$325,000				\$316,291
Operating expenses						
Capital assets				10,000		10,000
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	(416)		35,996			35,580
Specialized legal services					(200,000)	(200,000)
Total all funds	(\$9,125)	\$325,000	\$35,996	\$10,000	(\$200,000)	\$161,871
Less estimated income	(3,583)	0	35,996	0	(200,000)	(167,587)
General fund	(\$5,542)	\$325,000	\$0	\$10,000	\$0	\$329,458
FTE	0.00	0.00	1.00	0.00	0.00	1.00

<sup>1</sup> Funding for employee health insurance is adjusted to reflect the updated premium amount of \$1,241 per month. Section 2 of the bill is also changed to reflect the revised amount.

<sup>2</sup> The Senate restored \$325,000 to salaries and wages to underfund salaries and wages by \$150,000 from the general fund. The House underfunded salaries and wages by \$475,000 from the general fund.

<sup>3</sup> Provides \$35,966 from the rail safety fund to convert a temporary railroad safety inspector to a FTE position with a total cost of \$226,727.

<sup>4</sup> Adds \$10,000 from the general fund for capital assets. The House removed all funding for capital

assets.

<sup>5</sup> Reduces one-time funding from the strategic investment and improvements fund by \$200,000 for specialized legal services to provide a total of \$100,000 from the strategic investment and improvements fund. The House provided \$300,000 from the strategic investment and improvements fund.

#1

P3

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This amendment also amends North Dakota Century Code Section 57-43.2-19 to increase the amount of special fuels excise tax collections on sales of diesel fuel to a railroad that are deposited in the rail safety fund from \$275,000 to \$285,000 per year.

4-11-2017

HB 1008

att 1

**Public Service Commission - Budget No. 408  
House Bill No. 1008  
Base Level Funding Changes**

	House Version				Senate Version				Senate Changes to House Version Increase (Decrease) - House Version			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2017-19 Biennium Base Level</b>	46.00	\$7,175,827	\$13,964,575	\$21,140,402	46.00	\$7,175,827	\$13,964,575	\$21,140,402	0.00	\$0	\$0	\$0
<b>2017-19 Ongoing Funding Changes</b>												
Base payroll changes		\$40,366	(\$61,419)	(\$21,053)		\$40,366	(\$61,419)	(\$21,053)				\$0
Health insurance increase		76,487	49,447	125,934		70,945	45,864	116,809		(5,542)	(3,583)	(9,125)
Underfunds salaries and wages		(475,000)		(475,000)		(150,000)		(150,000)		325,000		325,000
Removes 2 FTE positions	(2.00)	(286,240)		(286,240)	(2.00)	(286,240)		(286,240)				0
Adds funding to convert temp railroad inspector to FTE				0	1.00		35,996	35,996	1.00		35,996	35,996
Adjusts federal grant funding			(2,000,000)	(2,000,000)			(2,000,000)	(2,000,000)				0
Reduces funding for operating expenses		(25,864)		(25,864)		(25,864)		(25,864)				0
Additional reduction for operating expenses		(21,872)		(21,872)		(21,872)		(21,872)				0
Reduces funding for specialized legal services		(56,000)		(56,000)		(56,000)		(56,000)				0
Reduces funding for capital assets		(26,400)		(26,400)		(16,400)		(16,400)		10,000		10,000
<b>Total ongoing funding changes</b>	<b>(2.00)</b>	<b>(\$774,523)</b>	<b>(\$2,011,972)</b>	<b>(\$2,786,495)</b>	<b>(1.00)</b>	<b>(\$445,065)</b>	<b>(\$1,979,559)</b>	<b>(\$2,424,624)</b>	<b>1.00</b>	<b>\$329,458</b>	<b>\$32,413</b>	<b>\$361,871</b>
<b>One-time funding items</b>												
Adds funding for specialized legal services			\$636,000	\$636,000			436,000	436,000			(200,000)	(200,000)
<b>Total one-time funding changes</b>	<b>0.00</b>	<b>\$0</b>	<b>\$636,000</b>	<b>\$636,000</b>	<b>0.00</b>	<b>\$0</b>	<b>\$436,000</b>	<b>\$436,000</b>	<b>0.00</b>	<b>\$0</b>	<b>(\$200,000)</b>	<b>(\$200,000)</b>
<b>Total Changes to Base Level Funding</b>	<b>(2.00)</b>	<b>(\$774,523)</b>	<b>(\$1,375,972)</b>	<b>(\$2,150,495)</b>	<b>(1.00)</b>	<b>(\$445,065)</b>	<b>(\$1,543,559)</b>	<b>(\$1,988,624)</b>	<b>1.00</b>	<b>\$329,458</b>	<b>(\$167,587)</b>	<b>\$161,871</b>
<b>2017-19 Total Funding</b>	<b>44.00</b>	<b>\$6,401,304</b>	<b>\$12,588,603</b>	<b>\$18,989,907</b>	<b>45.00</b>	<b>\$6,730,762</b>	<b>\$12,421,016</b>	<b>\$19,151,778</b>	<b>1.00</b>	<b>\$329,458</b>	<b>(\$167,587)</b>	<b>\$161,871</b>

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

	House Version	Senate Version
Health insurance increase	Section 2 identifies the funding increase for health insurance premium increases included in the agency's appropriation.	Section 2 identifies the funding increase for health insurance premium increases included in the agency's appropriation.
Beginning farmer revolving loan fund	Section 4 provides for a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission shall reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.	Section 4 provides for a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission shall reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.

Other Sections in Public Service Commission - Budget No. 408

House Version

Senate Version

Special funds transfer - Strategic investment and improvements fund

Section 5 provides that \$300,000 from the strategic investment and improvements fund may be used for specialized legal services.

Section 5 provides that \$100,000 from the strategic investment and improvements fund may be used for specialized legal services.

Legislative Management study - Wind energy development impact

Section 6 provides for Legislative Management to consider studying the impact of wind energy development on the environment, addressing and researching issues common to North Dakota landowners, and identifying potential issues for legislation.

Section 6 provides for Legislative Management to consider studying the impact of wind energy development on the environment, addressing and researching issues common to North Dakota landowners, and identifying potential issues for legislation.

Railroad safety pilot program

Section 7 amends Section 57-43.2-19 to change the amount of special fuels taxes deposited into the rail safety fund from \$275,000 per year to \$285,000 per year through June 30, 2019.

4-13-2017

HB 1008

att:1

**Public Service Commission - Budget No. 408**  
**House Bill No. 1008**  
**Base Level Funding Changes**

	House Version				Senate Version				Senate Changes to House Version Increase (Decrease) - House Version			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
<b>2017-19 Biennium Base Level</b>	46.00	\$7,175,827	\$13,964,575	\$21,140,402	46.00	\$7,175,827	\$13,964,575	\$21,140,402	0.00	\$0	\$0	\$0
<b>2017-19 Ongoing Funding Changes</b>												
Base payroll changes		\$40,366	(\$61,419)	(\$21,053)		\$40,366	(\$61,419)	(\$21,053)				\$0
Health insurance increase		76,487	49,447	125,934		70,945	45,864	116,809		(5,542)	(3,583)	(9,125)
Underfunds salaries and wages		(475,000)		(475,000)		(150,000)		(150,000)		325,000		325,000
Removes 2 FTE positions	(2.00)	(286,240)		(286,240)	(1.25)	(88,622)		(88,622)	0.75	197,618		197,618
Adds funding to convert temp railroad inspector to FTE				0	1.00		35,996	35,996	1.00		35,996	35,996
Adjusts federal grant funding			(2,000,000)	(2,000,000)			(2,000,000)	(2,000,000)				0
Reduces funding for operating expenses		(25,864)		(25,864)		(25,864)		(25,864)				0
Additional reduction for operating expenses		(21,872)		(21,872)		(21,872)		(21,872)				0
Reduces funding for specialized legal services		(56,000)		(56,000)		(56,000)		(56,000)				0
Reduces funding for capital assets		(26,400)		(26,400)		(16,400)		(16,400)		10,000		10,000
Total ongoing funding changes	(2.00)	(\$774,523)	(\$2,011,972)	(\$2,786,495)	(0.25)	(\$247,447)	(\$1,979,559)	(\$2,227,006)	1.75	\$527,076	\$32,413	\$559,489
<b>One-time funding items</b>												
Adds funding for specialized legal services			\$636,000	\$636,000			436,000	436,000			(200,000)	(200,000)
Total one-time funding changes	0.00	\$0	\$636,000	\$636,000	0.00	\$0	\$436,000	\$436,000	0.00	\$0	(\$200,000)	(\$200,000)
<b>Total Changes to Base Level Funding</b>	(2.00)	(\$774,523)	(\$1,375,972)	(\$2,150,495)	(0.25)	(\$247,447)	(\$1,543,559)	(\$1,791,006)	1.75	\$527,076	(\$167,587)	\$359,489
<b>2017-19 Total Funding</b>	44.00	\$6,401,304	\$12,588,603	\$18,989,907	45.75	\$6,928,380	\$12,421,016	\$19,349,396	1.75	\$527,076	(\$167,587)	\$359,489

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

	House Version	Senate Version
Health insurance increase	Section 2 identifies the funding increase for health insurance premium increases included in the agency's appropriation.	Section 2 identifies the funding increase for health insurance premium increases included in the agency's appropriation.
Beginning farmer revolving loan fund	Section 4 provides for a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission shall reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.	Section 4 provides for a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission shall reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.

Other Sections in Public Service Commission - Budget No. 408

	<u>House Version</u>	<u>Senate Version</u>
Special funds transfer - Strategic investment and improvements fund	Section 5 provides that \$300,000 from the strategic investment and improvements fund may be used for specialized legal services.	Section 5 provides that \$100,000 from the strategic investment and improvements fund may be used for specialized legal services.
Legislative Management study - Wind energy development impact	Section 6 provides for Legislative Management to consider studying the impact of wind energy development on the environment, addressing and researching issues common to North Dakota landowners, and identifying potential issues for legislation.	Section 6 provides for Legislative Management to consider studying the impact of wind energy development on the environment, addressing and researching issues common to North Dakota landowners, and identifying potential issues for legislation.
Railroad safety pilot program		Section 7 amends Section 57-43.2-19 to change the amount of special fuels taxes deposited into the rail safety fund from \$275,000 per year to \$285,000 per year through June 30, 2019.

17.0493.02002  
Title.

Prepared by the Legislative Council staff for  
Representative Hanson  
April 10, 2017

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

Page 1, line 2, after the first "to" insert "create and enact a new section to chapter 49-21 of the North Dakota Century Code, relating to prohibiting the collection of personal information by a telecommunications or internet service provider; to amend and reenact section 49-21-01 of the North Dakota Century Code, relating to telecommunications definitions; to"

Page 2, after line 29, insert:

**"SECTION 6. AMENDMENT.** Section 49-21-01 of the North Dakota Century Code is amended and reenacted as follows:

**49-21-01. Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "Access" means telecommunications services to connect a telecommunications customer or end user with a telecommunications company that allows for the origination or the termination, or both, of WATS, 800, and message toll telecommunications services and private line transport services.
2. "Competitive local exchange company" means any telecommunications company providing local exchange service, other than an incumbent local exchange carrier, whether by its own facilities, interconnection, or resale.
3. "Eligible telecommunications carrier" means a telecommunications company designated under section 214(e) of the federal act as eligible to receive universal service support in accordance with section 254 of the federal act.
4. "Essential telecommunications service" means the following services:
  - a. Switched access;
  - b. Installation of the service connection for other essential services from the end user's premises to the local exchange network; and
  - c. Primary flat rate residence basic telephone service including the following service elements:
    - (1) Billing and collecting of the telecommunications company's charges for the service.
    - (2) Primary directory listing.
    - (3) Access to directory assistance.
    - (4) Access to emergency 911 service and emergency operator assistance in local exchange areas in which emergency 911 service is not available.

- (5) Except as provided in section 49-02-01.1, mandatory, flat-rate extended area service to designated nearby local exchange areas.
  - (6) 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 inward dialing and necessary signaling service such as touchtone used by end users for the service.
5. "Federal act" means the federal Communications Act of 1934, as amended by the federal Telecommunications Act of 1996 [47 U.S.C. 151 et seq.].
  6. "Incumbent local exchange carrier" means a telecommunications company that meets the definition of section 251(h) of the federal act.
  7. "Inside wire" and "premise cable" mean the telecommunications wire on the customer's side of a demarcation point or point of interconnection between the telecommunications facilities of the telecommunications company and the customer or premise owner established under title 47, Code of Federal Regulations, part 68, section 68.105.
  8. "Interexchange telecommunications company" means a person providing telecommunications service to end users located in separate local exchange areas.
  9. "Internet protocol-enabled service" means any service, capability, functionality, or application that uses internet protocol or any successor protocol and enables an end user to send or receive voice, data, or video communication in internet protocol format or a successor format.
  10. "Internet service provider" means a person within this state which provides authenticated access to or presence on the internet.
  11. "Local exchange area" means a geographic territorial unit established by a telecommunications company for the administration of telecommunications services as approved and regulated in accordance with chapter 49-03.1.
  - ~~11.~~12. "Management costs" means the reasonable direct actual costs a political subdivision incurs in exercising its police powers over the public rights of way.
  - ~~12.~~13. "Mutual telephone company" means a telephone cooperative organized and operating subject to the provisions of this chapter, and such a cooperative shall also be subject to the general law governing cooperatives, except where such general law is in conflict with this chapter.
  - ~~13.~~14. "Nonessential telecommunications service" means any telecommunications service, other than those essential telecommunications services listed in subsection 4 that a customer has the option to purchase either in conjunction with or separate from any essential telecommunications service.

- ~~44-15.~~ "Price" means any charge set and collected by a telecommunications company for any telecommunications service offered by it to the public or other telecommunications companies.
- ~~45-16.~~ "Private line transport service" means a telecommunications service to a customer over a circuit dedicated to the customer's exclusive use, within a local exchange area, or between or among local exchanges. Private line transport service includes services to customers who are end users and services to telecommunications companies.
- ~~46-17.~~ "Public right of way" means the area on, below, or above a public roadway, highway, street, bridge, cartway, bicycle lane, or public sidewalk in which a political subdivision has a legal interest, including other dedicated rights of way for travel purposes, utility easements, and all the area within seventy-five feet [22.86 meters] of the centerline of any county or township highway right of way over which a board of county commissioners or a board of township supervisors has control under section 24-01-42. The term does not include the airwaves above a public right of way with regard to cellular or other wireless telecommunications or broadcast service or utility poles owned by a political subdivision or a municipal utility or a telecommunications company, in whole or part.
18. "Retail telecommunications services" means the two-way transmission of voice, image, data, or other information over wire, cable, fiber optics, microwave, radio, satellite, or similar facilities which originates or terminates in this state and is charged to a North Dakota service address.
- a. For mobile telecommunications services, the term means the two-way transmission of voice, image, data, or other information which originates or terminates in a single state and which is charged to a North Dakota service address.
- b. The term includes local exchange, long-distance, private communications, two-way paging, wireless telecommunications, and related services, regardless of whether the services are paid for on a call-by-call basis or postpaid calling basis.
- ~~47-19.~~ "Rural telephone company" means a telecommunications company that meets the definition of section 153(37) of the federal act.
- ~~48-20.~~ "Service element" means a telecommunications function or service component that is not useful to the user unless it is combined with one or more other telecommunications functions or service components.
- ~~49-21.~~ "Switched access" means access to include:
- a. Local exchange central office switching and signaling;
  - b. Operator and recording intercept of calls;
  - c. Termination of end user lines in the local exchange central office;
  - d. The carrier common line charge for the line between the end user's premises and the local exchange central office;

- e. Billing and collection recording for interexchange carriers to which the local exchange carrier provides access service; and
- f. Telecommunications service, including connections, provided to allow transmission service and termination between an interexchange company's premises and the local exchange central office switch for the origination or termination of the interexchange company's switched telecommunications services.

~~20-22.~~ "Telecommunications company" means a person engaged in the furnishing of telecommunications service within this state.

23. "Telecommunications services provider" means a person providing retail telecommunications services within this state.

~~21-24.~~ "Telecommunications service" means the offering for hire of telecommunications facilities, or transmitting for hire telecommunications by means of such facilities whether by wire, radio, lightwave, or other means.

~~22-25~~ "Voice over internet protocol service" means any service that enables real time, two-way voice communication originating from or terminating at the user's location in internet protocol or a successor protocol, utilizes a broadband connection at the user's location, and permits a user to receive a call that originates on the public switched telephone network and to terminate a call to the public switched telephone network.

**SECTION 7.** A new section to chapter 49-21 of the North Dakota Century Code is created and enacted as follows:

**Collection of personal information prohibited.**

1. A telecommunications service provider or internet service provider may not collect personal information from a customer resulting from the customer's use of the telecommunications service provider or internet service provider without express written approval from the customer if the telecommunications service provider or internet service provider:
  - a. Has entered a franchise agreement, right-of-way agreement, or other contract with the state or a political subdivision; or
  - b. Uses facilities subject to an agreement under subdivision a, even if the telecommunications service provider or internet service provider is not a party to the agreement.
2. A telecommunications service provider or internet service provider may not charge a higher rate, impose a fee, include an additional charge, or refuse to provide services to a customer on the grounds the customer has not approved collection of the customer's personal information."

Renumber accordingly

4-13-2017

HB 1008

att:3

17.0493.02003  
Title.

Prepared by the Legislative Council staff for  
Representative Schmidt  
April 12, 2017

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

That the Senate recede from its amendments as printed on pages 1190-1192 of the House Journal and pages 926-928 of the Senate Journal and that Engrossed House Bill No. 1008 be amended as follows:

Page 1, line 2, remove "a"

Page 1, line 2, replace "study" with "studies"

Page 3, after line 15, insert:

**"SECTION 7. REGULATION OF PUBLIC WAREHOUSES AND GRAIN BUYERS - LEGISLATIVE MANAGEMENT STUDY.** During the 2017-18 interim, the legislative management shall consider studying the public service commission's responsibility to regulate public warehouses and grain buyers. The study must include the feasibility and desirability of transferring the responsibility from the public service commission to the department of agriculture and the potential costs and benefits of the change to the state and the agricultural industry. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement the recommendations to the sixty-sixth legislative assembly."

Renumber accordingly

**CHAPTER 49-07  
PENAL PROVISIONS****49-07-01. Violation of commission order or rule - Penalty.**

Any person who violates or fails to comply with any provision of this title, or who fails, omits, or neglects to obey, observe, or comply with any order, decision, decree, rule, direction, demand, or requirement of the commission, or any part or provision thereof, in a case in which no other penalty has been provided, shall be guilty of a class A misdemeanor.

**49-07-01.1. Violation of statute, commission order, or commission rule - Assessment of civil penalty.**

Any person who violates any statute, commission order, or commission rule which applies to matters within the authority of the commission under chapters 8-08, 8-09, 8-10, 24-09, 32-25, and 51-05.1, titles 60 and 64, and title 49 except for chapters 49-22 and 49-23, shall, in addition to any other penalty provided, be subject to a civil penalty of not to exceed five thousand dollars. A violation occurring under chapter 49-23, in addition to any other penalty, is subject to a civil penalty not to exceed twenty-five thousand dollars. The commission shall develop policies for the assessment of penalties under chapter 49-23 which will take into consideration the severity of damages and the conduct of the offender. The civil penalty may be compromised by the commission. The amount of the penalty when finally determined or agreed upon in compromise, if not paid, may be recovered in a civil action in the courts of this state.

**49-07-02. Each violation a separate offense.**

Repealed by S.L. 1975, ch. 106, § 673.

**49-07-03. Act of officer or agent that of principal.**

In construing and enforcing the provisions of this title relating to penalties, the act, omission, or failure of any officer, agent, or employee of any public utility, acting within the scope of that person's official duties or employment, in every case shall be deemed to be the act, omission, or failure of such public utility.

**49-07-04. Personal liability of officer, agent, or employee - Penalty.**

Repealed by S.L. 1975, ch. 106, § 673.

**49-07-05. Liability of persons other than public utility - Penalty.**

Repealed by S.L. 1975, ch. 106, § 673.

**49-07-05.1. Violations of pipeline safety standards - Penalties.**

Any person who violates a rule or order of the commission pursuant to section 49-02-01.2 is subject to a civil penalty to be imposed by the commission of not to exceed two hundred thousand dollars for each violation for each day that the violation continues, except that the maximum penalty may not exceed two million dollars for any related series of violations. A civil penalty may be compromised by the commission. In determining the amount of a civil penalty, or the amount agreed upon in compromise, the commission shall consider the appropriateness of the penalty to the size of the business of the person charged, the nature, circumstances, and gravity of the violation, the degree of culpability, any history of prior violations, the effect on ability to continue to do business, the good faith of the person charged in attempting to achieve compliance, after notification of a violation, and such other matters as justice may require. The amount of the penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the state of North Dakota to the person charged or may be recovered in a civil action in the district court of Burleigh County.

**49-07-06. Cumulative penalties - Not a bar to contempt.**

All penalties accruing under this title shall be cumulative and a suit for the recovery of one penalty shall not: