

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2008

2007 SENATE APPROPRIATIONS

SB 2008

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2008


Senate Appropriations

☐ Check here for Conference Committee

Hearing Date: 01/12/07

Recorder Job Number 1020

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2008 with roll call and indicating the sub-committee would include Senators Christmann, Kilzer, and Krauter.

Susan Wefald, President, Public Service Commission, presented written testimony (1), introduced Commissioners Kevin Cramer, Tony Clark, the executive secretary and other division directors, and discussed the operations, statutory mandates, and resource needs of the PSC. She requested favorable support of the budget in addition to additional funding requests. The Governor's budget includes some changes, however, the PSC is also requesting an additional monetary amount to purchase weights and measures equipment. She discussed the Public Utilities, the Licensing, the Agriculture Rail Rate and Service Fund, the Administration, the Reclamation, the Abandoned Mine Lands, the Testing and Safety, and presented a summary.

Questions were raised about the needs for a new building, the cell phone service in rural North Dakota, what department the federal monies come from as well as the accountability of the money, whether there was money leftover in the Rail Rate and Service Fund, and the ability to roll over those funds.

1-12-07

Dan Wagsland, Executive Director, ND Grain Growers Association, presented written testimony (2) in support of the Agriculture Rail Rate and Service Fund line item. He indicated since the implementation of this fund, lines of communication have been opened and improved between BNSF and the producers, rail rates and fuel surcharges were restructured by BNSF, rail service has improved.

Woody Barth, Lobbyist, ND Farmers Union, testified (no handout) in support of the budget but he preferred the money not be taken from the Beginning Farmers Loan Fund as the fund is being drawn down and there is a need to use the funds as they were intended, for beginning farmers.

John Rush, testified (no handout) on the Agriculture Rail Rate and Service Fund and suggested the fund name be changed to Public Interest Rail Fund which would then enable employees to work with the PSC.

Senator Krauter requested that an analysis be provided to the appropriations of the Beginning Farmers Loan Fund.

Chairman Holmberg closed the hearing on SB 2008.

Written testimony from **Steve Strege, Executive Vice President, ND Grain Dealers Association**, was submitted after the hearing closed and is included with this file.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2008

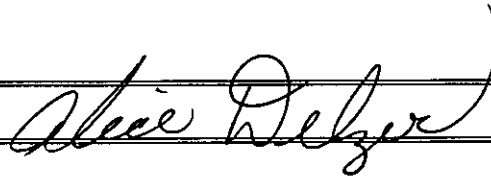
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02-01-07

Recorder Job Number: 2574

Committee Clerk Signature



Minutes:

Chairman Christmann opened the Subcommittee hearing on SB 2008 on February 1, 2007.

Senators Kilzer and Krauter were also present at this hearing. Discussion followed regarding Weight and Measures Equipment, FTE's , Salary issues, Wireless cell phone and RR employees.

Senator Krauter had questions regarding a listing of contract services from all agencies. It was requested at the beginning of the session, and has not received that information yet. OMB said they would resend it out on Email. He also requested information Risk Management, the GPS system, if funds were appropriated regarding GPS system and operating expenses

Chairman Christmann had questions regarding the GIS Support Person, Mine permit applications, the energy industry, the involvement of the federal government. There was discussion about visiting the lab.

Other persons at the meeting are as follows: All from PSC, Tony Clark, Kevin Hanson, Al Moch, Kevin Cramer and Mike Diller.

The Subcommittee hearing on SB 2008 was closed.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2008

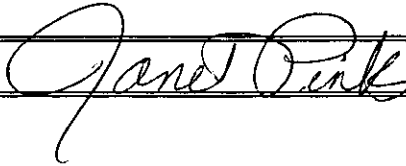
Senate Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: 02-12-07

Recorder Job Number: 3371

Committee Clerk Signature



Minutes:

Chairman Holmberg opened the hearing on SB 2008 indicating this is the PSC bill.

Senator Christmann distributed amendment .0102 and discussed the amendment indicating the subcommittee had voted on this amendment.

Senator Krauter discussed the amendment for the utility valuation investment and increased fund allows additional amounts to defray costs of investigation to specific wireless carriers.

Senator Christmann clarified the procedure for the amendments with responses from Chairman Holmberg and Senator Grindberg.

Senator Christmann moved a do pass on amendment .0102, **Senator Kilzer** seconded.

Discussion followed. A roll call vote was taken resulting in 5 yes, 9 no, 0 absent this is do not pass on this amendment.

Senator Christmann distributed amendments .0101 and 0103 and discussed them.

Senator Krauter moved a do pass on amendment .0103, **Senator Seymour** seconded.

Discussion followed. A roll Call vote was taken resulting in 5 yes, 9 no and 0 absent.

The motion failed resulting in a do not pass on amendment .0103.

Senator Christmann moved a do pass on amendment .0101, **Senator Krauter** seconded.

An oral vote was taken resulting in a do pass on amendment .0101.

Page 2

Senate Appropriations Committee

Bill/Resolution No. 2008

Hearing Date: 02/12/07

Senator Christmann moved a do pass on SB 2008 as amend with .0101, Senator Krauter seconded. Discussion followed. The resulting vote was 14 yes, 0 no, 0 absent. The motion carried and Senator Christmann will carry the bill.

Chairman Holmberg closed the hearing on SB 2008.

FISCAL NOTE
Requested by Legislative Council
04/24/2007

Amendment to: Engrossed
SB 2008

1A. 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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	(\$96,789)	\$0	(\$96,789)	\$0
Expenditures	\$0	\$0	\$32,235	\$0	\$32,235	\$0
Appropriations	\$0	\$0	\$32,235	\$0	\$32,235	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This fiscal note is limited to the revenue impact of the conf committee changes. The changes eliminated an FTE and reduced the mandatory frequency of device testing. Revenue impact will vary depending on how the changes are implemented. (see previous fiscal note for impact of original measure)

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.*

Sections 6, 7 and 8 of the bill reduce the frequency of mandatory weighing and measuring device testing.

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.*

Estimated revenue per biennium per light duty inspector is \$96,789, so reducing frequency to that which can be tested by 2 rather than 3 light duty inspectors could reduce revenue by \$96,789. A different option would be to eliminate state testing of a certain type of device, for example, bulk fuel meters. Estimated revenue loss due to not testing bulk fuel meters (truck and stationary) is \$55,740.

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.*

(see previous fiscal note)

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 is also included in the executive budget or relates to a continuing appropriation.*

(see previous fiscal note)

Name:	Illona Jeffcoat-Sacco	Agency:	PSC
Phone Number:	701-328-2407	Date Prepared:	04/24/2007

FISCAL NOTE
Requested by Legislative Council
01/02/2007

Bill/Resolution No.: SB 2008

1A. 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.*

	2005-2007 Biennium		2007-2009 Biennium		2009-2011 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$32,235	\$0	\$32,235	\$0
Appropriations	\$0	\$0	\$32,235	\$0	\$32,235	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2005-2007 Biennium			2007-2009 Biennium			2009-2011 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

SB 2008 is the PSC's appropriation bill. It also includes statutory increases in commissioners' salaries for each year of the 2007-2009 biennium. This fiscal note is limited to the incremental impact of the commissioners statutory salary increases and related variable benefits.

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.*

Section 5 of the bill provides for salary increase for the commissioners. See note to 2A

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.*

n/a

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.*

\$32,235 each biennium (07-09 and 09-11) See note to 2A

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 is also included in the executive budget or relates to a continuing appropriation.*

\$32,235 each biennium (07-09 and 09-11) See note to 2A

Name:	Illona Jeffcoat-Sacco	Agency:	PSC
Phone Number:	328-2407	Date Prepared:	01/09/2007

PROPOSED AMENDMENTS TO SENATE BILL NO. 2008

Page 1, line 2, remove the first "and"

Page 1, line 3, after "commissioners" insert "; and to limit a portion of funding from the utility valuation fund"

Page 1, line 22, replace "220,048" with "295,048"

Page 1, line 23, replace "18,989" with "49,473"

Page 2, line 4, replace "1,608,577" with "1,714,061"

Page 2, line 5, replace "1,068,231" with "1,143,231"

Page 2, line 6, replace "540,346" with "570,830"

Page 2, line 13, replace "1,628,201" with "1,703,201"

Page 2, line 14, replace "107,500" with "137,984"

Page 2, line 18, replace "12,908,565" with "13,014,049"

Page 2, line 19, replace "8,005,382" with "8,080,382"

Page 2, line 20, replace "4,903,183" with "4,933,667"

Page 2, line 21, after "EXEMPTION" insert "- LIMIT"

Page 2, line 25, after the period insert "The \$800,000 appropriated in section 3 of this Act from the beginning farmer revolving loan fund is limited to the amount of any unspent beginning farmer revolving loan funds from the 2005-07 biennium appropriation, as contained in section 3 of chapter 8 of the 2005 Session Laws."

Page 3, after line 3, insert:

**"SECTION 6. USE OF VALUATION FUND - ELIGIBLE
TELECOMMUNICATIONS CARRIER CASES.** The amount of \$75,000 included in section 3 of this Act from the utility valuation fund may only be used to defray the costs of investigating and processing eligible telecommunications carrier cases."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - Senate Action

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$5,764,864		\$5,764,864
Operating expenses	1,628,201	\$75,000	1,703,201
Capital assets	107,500	30,484	137,984

Grants	8,000		8,000
Abandoned mined lands	4,500,000		4,500,000
contractual services			
Agriculture rail rate and	900,000		900,000
service fund			
Total all funds	\$12,908,565	\$105,484	\$13,014,049
Less estimated income	<u>8,005,382</u>	<u>75,000</u>	<u>8,080,382</u>
General fund	\$4,903,183	\$30,484	\$4,933,667
FTE	42.00	0.00	42.00

Dept. 408 - Public Service Commission - Detail of Senate Changes

	ADDS FUNDING FOR FUEL TESTING EQUIPMENT 1	ADDS FUNDING FOR INVESTIGATIONS 2	TOTAL SENATE CHANGES
Salaries and wages			
Operating expenses		\$75,000	\$75,000
Capital assets	\$30,484		30,484
Grants			
Abandoned mined lands			
contractual services			
Agriculture rail rate and			
service fund			
Total all funds	\$30,484	\$75,000	\$105,484
Less estimated income		<u>75,000</u>	<u>75,000</u>
General fund	\$30,484	\$0	\$30,484
FTE	0.00	0.00	0.00

1 Adds funding for a prover to be used to test high flow retail dispensers.

2 Adds funding from the utility valuation fund to defray the costs of investigating and processing eligible telecommunications carrier cases.

Date:

Roll Call Vote #:

2/12/07
12007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.Senate Appropriations

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

0102

Action Taken

D P Amend

Motion Made By

Christman

Seconded By

Kilzer

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm		✓	Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm		✓	Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm		✓	Senator Tim Mathern	✓	
Senator Randel Christmann		✓	Senator Larry J. Robinson	✓	
Senator Tom Fischer		✓	Senator Tom Seymour		✓
Senator Ralph L. Kilzer		✓	Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach		✓			
Senator Rich Wardner		✓			

Total (Yes)

5

No

9

Absent

Floor Assignment

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

dead

PROPOSED AMENDMENTS TO SENATE BILL NO. 2008

Page 1, line 2, remove the first "and"

Page 1, line 3, after "commissioners" insert "; and to limit a portion of funding from the utility valuation fund"

Page 1, line 22, replace "220,048" with "295,048"

Page 1, line 23, replace "18,989" with "49,473"

Page 2, line 4, replace "1,608,577" with "1,714,061"

Page 2, line 5, replace "1,068,231" with "1,143,231"

Page 2, line 6, replace "540,346" with "570,830"

Page 2, line 13, replace "1,628,201" with "1,703,201"

Page 2, line 14, replace "107,500" with "137,984"

Page 2, line 18, replace "12,908,565" with "13,014,049"

Page 2, line 19, replace "8,005,382" with "8,080,382"

Page 2, line 20, replace "4,903,183" with "4,933,667"

Page 2, line 21, after "EXEMPTION" insert "- LIMIT"

Page 2, line 25, after the period insert "The \$800,000 appropriated in section 3 of this Act from the beginning farmer revolving loan fund is limited to the amount of any unspent beginning farmer revolving loan funds from the 2005-07 biennium appropriation, as contained in section 3 of chapter 8 of the 2005 Session Laws."

Page 3, after line 3, insert:

**"SECTION 6. USE OF VALUATION FUND - ELIGIBLE
TELECOMMUNICATIONS CARRIER CASES.** The amount of \$75,000 included in section 3 of this Act from the utility valuation fund may only be used to defray the costs of investigating and processing wireless eligible telecommunications carrier cases."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - Senate Action

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$5,764,864		\$5,764,864
Operating expenses	1,628,201	\$75,000	1,703,201
Capital assets	107,500	30,484	137,984

Grants	8,000		8,000
Abandoned mined lands	4,500,000		4,500,000
contractual services			
Agriculture rail rate and	900,000		900,000
service fund			
Total all funds	\$12,908,565	\$105,484	\$13,014,049
Less estimated income	<u>8,005,382</u>	<u>75,000</u>	<u>8,080,382</u>
General fund	\$4,903,183	\$30,484	\$4,933,667
FTE	42.00	0.00	42.00

Dept. 408 - Public Service Commission - Detail of Senate Changes

	ADDS FUNDING FOR FUEL TESTING EQUIPMENT 1	ADDS FUNDING FOR INVESTIGATIONS 2	TOTAL SENATE CHANGES
Salaries and wages		\$75,000	\$75,000
Operating expenses			30,484
Capital assets	\$30,484		
Grants			
Abandoned mined lands			
contractual services			
Agriculture rail rate and			
service fund			
Total all funds	\$30,484	\$75,000	\$105,484
Less estimated income		<u>75,000</u>	<u>75,000</u>
General fund	\$30,484	\$0	\$30,484
FTE	0.00	0.00	0.00

1 Adds funding for a prover to be used to test high flow retail dispensers.

2 Adds funding from the utility valuation fund to defray the costs of investigating and processing eligible wireless telecommunications carrier cases.

Date: 2/12/07
Roll Call Vote #:

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1008

Senate Appropriations

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

0103

Action Taken

DR amend

Motion Made By

Krauter

Seconded By

Seymour

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm		✓	Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm		✓	Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓	✓	Senator Tim Mathern	✓	
Senator Randel Christmann		✓	Senator Larry J. Robinson	✓	
Senator Tom Fischer		✓	Senator Tom Seymour		✓
Senator Ralph L. Kilzer		✓	Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach		✓			
Senator Rich Wardner		✓			

Total (Yes)

5

No

9

Absent

0

Floor Assignment

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

PROPOSED AMENDMENTS TO SENATE BILL NO. 2008

Page 1, line 23, replace "18,989" with "49,473"

Page 2, line 4, replace "1,608,577" with "1,639,061"

Page 2, line 6, replace "540,346" with "570,830"

Page 2, line 14, replace "107,500" with "137,984"

Page 2, line 18, replace "12,908,565" with "12,939,049"

Page 2, line 20, replace "4,903,183" with "4,933,667"

Page 2, line 21, after "EXEMPTION" insert "- LIMIT"

Page 2, line 25, after the period insert "The \$800,000 appropriated in section 3 of this Act from the beginning farmer revolving loan fund is limited to the amount of any unspent beginning farmer revolving loan funds from the 2005-07 biennium appropriation, as contained in section 3 of chapter 8 of the 2005 Session Laws."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - Senate Action

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$5,764,864		\$5,764,864
Operating expenses	1,628,201		1,628,201
Capital assets	107,500	\$30,484	137,984
Grants	8,000		8,000
Abandoned mined lands contractual services	4,500,000		4,500,000
Agriculture rail rate and service fund	900,000		900,000
Total all funds	\$12,908,565	\$30,484	\$12,939,049
Less estimated income	<u>8,005,382</u>		<u>8,005,382</u>
General fund	\$4,903,183	\$30,484	\$4,933,667
FTE	42.00	0.00	42.00

Dept. 408 - Public Service Commission - Detail of Senate Changes

	ADDS FUNDING FOR FUEL TESTING EQUIPMENT 1	TOTAL SENATE CHANGES
Salaries and wages		
Operating expenses		
Capital assets	\$30,484	\$30,484
Grants		
Abandoned mined lands contractual services		
Agriculture rail rate and service fund		
Total all funds	<u>\$30,484</u>	<u>\$30,484</u>

Less estimated income

General fund	\$30,484	\$30,484
FTE	0.00	0.00

¹ Adds funding for a prover to be used to test high flow retail dispensers.

Date: 2/12/07
Roll Call Vote #: 3

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2008

Senate Appropriations Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 0101

Action Taken DP as amend

Motion Made By Christmann Seconded By Krauter

Senators	Yes	No	Senators	Yes	No
Senator Ray Holmberg, Chrm			Senator Aaron Krauter	✓	
Senator Bill Bowman, V Chrm	✓		Senator Elroy N. Lindaas	✓	
Senator Tony Grindberg, V Chrm	✓		Senator Tim Mathern	✓	
Senator Randel Christmann	✓		Senator Larry J. Robinson	✓	
Senator Tom Fischer	✓		Senator Tom Seymour	✓	
Senator Ralph L. Kilzer	✓		Senator Harvey Tallackson	✓	
Senator Karen K. Krebsbach	✓				
Senator Rich Wardner	✓				

Total (Yes) 14 No —

Absent —

Floor Assignment Christmann

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

REPORT OF STANDING COMMITTEE

SB 2008: 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). SB 2008 was placed on the Sixth order on the calendar.

Page 1, line 23, replace "18,989" with "49,473"

Page 2, line 4, replace "1,608,577" with "1,639,061"

Page 2, line 6, replace "540,346" with "570,830"

Page 2, line 14, replace "107,500" with "137,984"

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Page 2, line 20, replace "4,903,183" with "4,933,667"

Page 2, line 21, after "**EXEMPTION**" insert "**- LIMIT**"

Page 2, line 25, after the period insert "The \$800,000 appropriated in section 3 of this Act from the beginning farmer revolving loan fund is limited to the amount of any unspent beginning farmer revolving loan funds from the 2005-07 biennium appropriation, as contained in section 3 of chapter 8 of the 2005 Session Laws."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - Senate Action

	EXECUTIVE BUDGET	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$5,764,864		\$5,764,864
Operating expenses	1,628,201		1,628,201
Capital assets	107,500	\$30,484	137,984
Grants	8,000		8,000
Abandoned mined lands contractual services	4,500,000		4,500,000
Agriculture rail rate and service fund	900,000		900,000
Total all funds	\$12,908,565	\$30,484	\$12,939,049
Less estimated income	<u>8,005,382</u>		<u>8,005,382</u>
General fund	\$4,903,183	\$30,484	\$4,933,667
FTE	42.00	0.00	42.00

Dept. 408 - Public Service Commission - Detail of Senate Changes

	ADDS FUNDING FOR FUEL TESTING EQUIPMENT ¹	TOTAL SENATE CHANGES
Salaries and wages		
Operating expenses		
Capital assets	\$30,484	\$30,484
Grants		
Abandoned mined lands		

REPORT OF STANDING COMMITTEE (410)
February 12, 2007 6:35 p.m.

Module No: SR-29-2967
Carrier: Christmann
Insert LC: 78032.0101 Title: .0200

contractual services
Agriculture rail rate and
service fund

Total all funds	\$30,484	\$30,484
Less estimated income		
General fund	\$30,484	\$30,484
FTE	0.00	0.00

¹ Adds funding for a prover to be used to test high flow retail dispensers.

2007 HOUSE APPROPRIATIONS

SB 2008

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2008

House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 2/27/07

Recorder Job Number: 3919

Committee Clerk Signature

Kanya Voegeli

Minutes:

Chairman Carlson opened the hearing on SB 2008.

Susan Wefald, President of the Public Service Commission, spoke in support of the bill. See testimony 2008.2.27.07 A.

Chairman Carlson: How does the money get increased from the Credit-Sale Contract Indemnity Fund?

Susan Wefald: The legislature authorized us to spend fund from the fees collected for the credit-sale contracts.

Representative Kempenich: Where did the \$45,000 from the rail rate case go?

Don Wolf: There was \$20,000 carryover authority from the state rail fund and there was a \$25,000 reduction in special funds.

Representative Kempenich: What could this money be intended for, do you have a budget prepared for this money? The language could be broader about what you could spend this money on.

Susan Wefald: In my mind the PSC will still use the fund for the STB case. However if there would be another issue that came forward that the commission believed was very significant, that may be used for that.

Chairman Carlson: Have we changed our focus to the instead of going after the railroads we are going after the STB?

Susan Wefald: The only way we can address railroad issues is to go through the STB.

Chairman Carlson: Who did Montana sue the railroad or the STB?

Susan Wefald: They went to the service transportation board but their case was different.

Representative Kempenich: I have issues in expanding this focus. One thing is this \$900,000 could get us started into something that could be a lot bigger.

Susan Wefald: The commission has taken a conservative view in the past on how to use the funds. The commission would honor it if the legislators would make language to change it.

Representative Glassheim: Would it impede what you are trying to do if there was some language that you would have to go to budget section for approval to use the money?

Susan Wefald: It may. We would be happy to consider it.

Chairman Carlson: Last time we set money aside this time we are creating a fund is that correct?

Commissioner Clark: Last years budget, \$800,000 came from the Beginning Farmer Loan Fund, the remainder came from the agricultural stakeholders. The other part that made up the balance is \$20,000 carry over from the biennium before. All that was spent was the \$20,000 carry over. The Beginning Farmer Loan Fund was never tapped at all. The commitments were not spent either. Because of the language from last session we were not able to access any of the \$800,000 until there was a case pending.

Chairman Carlson: So when you say special funds it is really unfunded funds.

Commissioner Clark: \$100,000 of it is unfunded. The other \$800,000 is special funds.

Chairman Carlson: Are we transferring money from the Beginning Farmer Loan Fund?

Tammy Dolan: My understanding is that we were going to take the money from the Beginning Farmer Loan Fund to this new fund.

Commissioner Clark: The Governor's rationale for making it not just a rate fund instead of a service fund is as the commission and stakeholder groups work through this process, we are coming to find was a lot of the questions that we were getting from shippers and a lot of the problems were not necessarily always related to rates.

Vice Chairman Carlisle: Any turn back or carry over?

Susan Wefald: About \$35,000.

Ms. Wefald continued her testimony on the bottom page seven.

Representative Kempenich: Do you compete with Geological Survey for employees?

Susan Wefald: If we receive these funds we would have to advertise the position. We also have to give the job description to Human Resources to classify the position.

Representative Skarphol: Is it the department's intent to use the existing GIS hub and merely apply your information on that hub?

Steve Kahl: Yes it is our intention to use the GIS hub. We are currently part of the GIS Technical Committee. We are working together with a number of agencies.

Representative Skarphol: Are there federal requirements in regard to reclamation and your services that have to be met?

Steve Kahl: Yes. Through the office of surface mining where a vast majority of the costs for the GIS within the agency is.

Representative Skarphol: Are there federal funds available?

Steve Kahl: We have tapped all of the federal funds that are available.

Chairman Carlson: Are we duplicating things with the GIS department? How many people are trained in using the GIS system in other departments?

Steve Kahl: There are a number of agencies who have GIS personnel and typically it is the personnel within the agencies that are dealing with the business requirements of that agency. GIS can be used in a wide variety of ways to integrate into the business. We are primarily using GIS not necessarily as a mapping project but as an analysis tool to analyze the data that has been corrected over a period of time.

Chairman Carlson: In terms of data you mean pipelines and transmission lines, what kind of things are you doing with it?

Steve Kahl: That as well as information collected on mines and other information.

Chairman Carlson: Is this being duplicated?

Representative Skarphol: Their work is primarily in the coal mining aspect of it.

Steve Kahl: That is primarily true although we do have data on pipelines that have been sited as well as some transmission lines.

Representative Skarphol: With the difficulty of finding IT people, would it be an advantage to have the ability to contract for those services in the event you can't hire an individual?

Steve Kahl: It would be possible to contract but with the tremendous amount integration of the staff it would be difficult.

Representative Kempenich: Is this somebody new? How many people do you have now?

Steve Kahl: This is a new position; we have one other programmer and me in the office right now.

Ms. Wefald continued with testimony on bottom of page nine.

Representative Kempenich: Does the federal government use this AML money for anything other than reclamation?

Susan Wefald: The Commission has been asking that question for years.

Representative Skarphol: Getting back to the GIS, why would it not be appropriate to use federal dollars to assist in paying the salary of the new person?

Susan Wefald: The commission is planning to use some federal dollars. We are hiring a staff person that will deal with GIS.

Representative Skarphol: So you will have more than the one individual shown on the green sheet that is coming from General Funds?

Susan Wefald: We will be hiring one person from General Funds and we will be using some of the Federal Funds to hire a GIS person.

Chairman Carlson: Can you take the federal money and use them for salary?

Susan Wefald: With the AML money we are able to use some for staff and administrative costs.

Chairman Carlson requested a summary of what the federal funds can be used for.

Steve Kahl: To help clarify a little bit. The programmer/analyst will be partially funded through the federal dollars from the indirect cost reimbursement.

Chairman Carlson: Are you losing any federal funds?

Susan Wefald: We could see a reduction in funds for reclamation.

Chairman Carlson: What kind of real dollars are we talking?

Jim Deutsch: I am guessing we could be short about \$50,000 in the second year of the biennium.

Chairman Carlson: How would you cover those costs?

Jim Deutsch: We could go to the emergency commission or reduce a staff position.

Chairman Carlson: Do you have the ability for line item changes?

Jim Deutsch: No

Ms. Wefald continued her testimony on page eleven.

Chairman Carlson: How close are the fees to covering the costs?

Susan Wefald: We have thought about increasing the fees but got word from the Governor's Office that they are not interested in increasing fees.

Chairman Carlson requested a summary of the fees vs. the costs.

Vice Chairman Carlisle: You do have funding if you do have to farm the lab items to Minnesota?

Susan Wefald: Yes, the governor gave us \$30,000 to pay them.

Chairman Carlson: How many people are in the lab?

Susan Wefald: One half time person. He would move to the weights and measures program and in the gas line safety program. The one-sixth person would move to the weights and measures division.

Representative Glasheim: Could the subcommittee get a balance sheet with information if the lab were to remain open vs. contracting it out.

Susan Wefald: We will get that to you.

Representative Glassheim: I see on the attachments roughly it would cost \$240,000 to maintain a proper lab.

Susan Wefald: That is correct.

Chairman Carlson: Committee, do you want them to explore the BSC option?

Representative Thoreson: Yes

Representative Glassheim: Yes

Representative Kempenich: Yes

Representative Skarphol: The customers that you refer to in the testimony, what is their response to the closing of the lab?

Susan Wefald: It depends on in a three year period we could have 50 or we could have 35. We have 35 service providers. The service providers are the folks who, in addition to our state people, go out and check the weights and measures across the state. Those service providers need to be licensed by the state lab half of which are located in the eastern part of the state. It will not be much farther for them to travel to St. Paul than it would be for them to travel to Bismarck however the fee structure in St. Paul is higher.

Representative Skarphol: So the with facility that we currently have, do the private vendors use that facilities?

Susan Wefald: Yes.

Chairman Carlson: On the green sheet for GIS it says we are restoring one FTE. What is the difference?

Susan Wefald: It was taken out to make the governor's budget request guidelines. We are now restoring it.

Don Wolf: The PSC actually took it out for submission as an optional request and the governor funded it.

Susan Wefald: In order to submit the request we have to prioritize. After the budget is submitted we can ask for supplemental income to fund optional requests. That was funded.

Representative Kroeber: How many open positions do you have?

Susan Wefald: Four. Two were Administrative Assistants and two were in the AML division.

Representative Kroeber: How long have they been open?

Susan Wefald: Both of the Administrative Assistants left in Dec. One went from AML to reclamation division.

Chairman Carlson: Tammy, what is the status of the PSC and the equity pool?

Tammy Dolan: \$29,000 total \$18,584 is from General Fund.

Representative Kempenich: What is your staff, classified or unclassified?

Illona Jeffcoat-Sacco: We have one unclassified position which is me. All of the others are classified.

Ms. Wefald introduced the staff present.

Representative Skarphol: What is the bill number for the Credit Sale Contract change?

Susan Wefald: 1086

Hearing was closed.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2008

House Appropriations Committee
Government Operations Division

☐ Check here for Conference Committee

Hearing Date: 3/15/07

Recorder Job Number: 5231

Committee Clerk Signature *Kanya Voegeli*

Minutes:

Chairman Carlson opened discussion on Senate Bill 2008.

Amendment 78032.0202

A motion was made by Representative Thoreson, seconded by Vice Chairman Carlisle to adopt amendment 78032.0202. The committee vote was 5 Yeas, 3 Nays and 0 Absent and Not Voting. Motion carried.

Discussion

Representative Thoreson explained the amendment. This amendment removes the \$900,000 for the Agriculture rail rate and service fund.

Chairman Carlson: Tell me your logic for doing that.

Representative Thoreson: I think we have had quite a bit of discussion about this. Again we talked about whether it's prudent to have money sitting around just for the purpose of suing or threatening to sue, to use the funds for hiring attorneys out side of North Dakota. I just feel that that may not the best use of earmarking money for government to do so. I think while a case may be made that the rail roads did change their policy due to this money being around it could be that they changed it for other reasons. I am not convinced that was the case. I truly

don't believe at any point we are going to outspend them in the first place and I also have trouble with expanding this to other areas we have not entered before. That is why I would just like to see the money removed.

Verbal Amendment regarding the Metrology Lab

Representative Kroeber: This would be an increase of \$31,600 to fund the Metrology Lab.

Chairman Carlson: Is there any language that goes with it?

Representative Kroeber: The other language is to note that Facilities Management must agree on the removal of the equipment.

A motion was made by Representative Kroeber, seconded by Representative Glassheim to adopt the verbal amendment regarding the Metrology Lab. Motion carried by voice vote.

Verbal Amendment regarding the progress of the GIS System

Representative Skarphol: I would make a motion that the PSC should report back to the Appropriations committee on the progress of the GIS initiative that was authorized in the 2007 session.

A motion was made by Representative Skarphol, seconded by Representative Thoreson to adopt the verbal amendment regarding the reporting of the GIS system. Motion carried by voice vote.

Verbal Amendment regarding the removal of Number 9 on the green sheet. (Restores 1 FTE weights and measures inspector position and related funding for salaries and wages (\$83,882), travel (\$55,736), and equipment over \$5,000 (\$39,000))

A motion was made by Representative Thoreson, seconded by Representative Skarphol to adopt the verbal amendment regarding the FTE. Motion carried by voice vote.

A motion was made by Representative Thoreson, seconded by Representative Kempenich for a DO PASS AS AMENDED recommendation to the full committee. The committee vote was 8 Yeas, 0 Nays and 0 Absent and Not Voting. The bill will be carried by Representative Kempenich.

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. SB 2008

House Appropriations Committee

☐ Check here for Conference Committee

Hearing Date: March 22, 2007

Recorder Job Number: 5431

Committee Clerk Signature

Heidi N. Sand

Minutes:

Rep. Svedjan opened the hearing on SB 2008.

Rep. Kempenich distributed amendment .0203 (Attachment A).

Rep. Kempenich: We will be working off the amendments and the green sheet. Basically coming over from the Senate this bill didn't have any changes in it from the way it was presented. Our section took out the \$900,000 completely. This money from the rail rate cases is out of the PSC. What we did then was we came in and took out weights and measures. We kind of got to quiz them a little bit. It was our feeling that if it was so easy to take that in and out, and leave it out. What is happening now is that there are private inspectors out there too and the PSC doesn't deal with the weights and measures. It was indicated that they couldn't pick up with slacks. We have decided to take out one inspector on that side of it. That is what we did. We put the amendments in. We did add back in a little money for the lab. It was our feeling that it is a service that doesn't make money for the state. It is also an expense for the citizens that use this. To go to Minneapolis, St. Paul, Helena, or Denver we felt it was something that was a little ownerless because not everything we do is going to make money. So what they did do is stuck some money into the lab to bring the equipment up to date. We do have one issue with that. I'm hoping over the next two years that there are some plans for this building on the north side of the capitol. The biggest issue was the loader parked in the bay

that they used for their lab. There are ramifications for the metrology lab and where it is located. It doesn't need a lot of space but we have had a hard time trying to find a space for this because they need air. It is a lab so they need certain circulation, air quality, the floors need to be thicker, and so on. We are trying to figure something out before the time session is over of where we want to go with this. That is basically what they did with that. The other thing that we did do that is on the amendments is the GIS. What they decided to do is we wanted to report on this geographic information system. We have seen that in some other budgets where the GIS is adding people. We wanted to have a report on that. That is basically what we have done with the PSC coming over from the Senate.

Rep. Kempenich motioned to adopt amendment .0203. Rep. Carlisle seconded the motion.

Rep. Svedjan: Is there any discussion?

Rep. Klein: Is this a duplication? There is some in the State Water Commission, there are a number of other agencies. Are we doing the same thing?

Rep. Kempenich: We are in the same area but we aren't doing the same thing. We asked that same question because we have had GIS show up and the Industrial Commission. We have got three initiatives going on. They are into different areas. That is why we wanted the report on it.

Rep. Gulleason: I've got some concerns about the removing the money on the rail rate case. Can you tell me, based on what you heard, what has been the activity and status of that?

Rep. Kempenich: What happened in the last two years is they have come down on what has been charged. In testimony they figured about a \$10 million swing as far as what has

happened on rates plus charges have come down too. It was the feeling of the majority of the committee to see if this had anything to do with it. They figured they would test the rails and see if this was some initiative or what caused it. The biggest problem is as far as the rail rate case itself is that they decided to change the rules. Right now the circus transportation board is changing the rules on these single ship rate cases. The money as it stood when we passed it out two years ago wasn't going to be used. What the PSC proposed was to change the scope and add service into it which would be a dramatic increase in what they would be looking at. I did have some problems with that too because it would have got spent. It was a feeling of a lot of the committee then that is what the PSC is supposed to be doing now is looking into the service part of this. Of all the utilities to speak, not that they have a lot of authority on the railroad, but that is part of their mission. That is why I don't think there were very many members wanting to look into the service part of it. There were some other litigations that didn't go anywhere so they got taken out.

Rep. Gulleason: I just think that based on what you referenced in terms of some of the relief that we have seen, I think the pressure needs to stay on. There is no doubt that it hanging over their head has brought upon some changes. That has been very effective and I would hate to see us remove that at this time.

Rep. Carlson: I'm just going to read to you Commissioner Wefald's comments on this issue. He said, "This fund will be available to allow the states to address a wide variety of abusive rail industry practices including excessive rates, discriminatory practices, rail service issues, fuel surcharges, and the federal service transportation board rule making procedures. I think that we have proven that we had a threat and they reduced the rates by about \$10 million to our shippers. This expanded the focus of that to service, which is a huge step forward. If we expect unit trains to be filled in one time and three railroad cars to be in another one because it

is a small user, it will create a mixed message. I think if you can have a carrot or you can have a stick. We tried the stick and it seemed to have worked but I think now that we could show in good faith that we take this money away. The source of the money change, the stakeholder contributions were removed from this language. If you remember last time we included that it said there had to be a letter upfront of credit from the Farm Bureau, Farmers Union, Grain Growers, and various organizations. That is gone now. The only stakeholder in this now is the state of ND. I'm sorry but when you look at who has more money between the state of ND and BNSF, I would probably say its BNSF. They spent \$14 million litigating in MT and they finally dropped the suit. It was a bigger suit on the bigger lines. We thought that they have shown some progress that we should remove this money. If they surely don't work with us we put the money back in. That was the rational on our committee and it wasn't unanimous. We discussed this at length because it is a controversial issue.

Rep. Kerzman: My question was along the same lines. I know in our area that we are basically captive to one rail. When you compare our basis with the surrounding states and areas, it is still traditionally high. I think we have to keep the pressure on. It looks to me that this money is not coming out of the general fund but it is coming out the special fund of the Bank of ND. I presume that that is what is coming out of there. I think we need to keep the pressure on that. Also when you look at the Lignite industry it is very captive to the rail system that we have in the state. It is basically a single system. We are having incidents where they are charging them an excessive amount to move coal a short distance. It is allowing the out of state coal to be very competitive with the instate coal which is detrimental to the industry. I think we just need to keep the pressure on and I don't see any other way around it.

Rep. Pollert: I'm in the grain industry. Yeah we need our railroads but the reason why there was a reduction in rate matters. We are disappointed the money was taken out but we have to

agree with Rep. Carlisle. There was also a little deal about rail charges that was an issue. We got a favorable ruling out of the STB and that was just done here lately. The only reasons why we get that is because of the constant pressure from the states and the other grower groups. There are some problems out there but yes they are a good business partner for the state of ND. They are also out for themselves. Yes they do have our thoughts in mind but we are secondary. That is my feeling. I guess this is probably one of these trust me votes. I'm disappointed that it is out of there and I'm hoping there will be some discussion in the conference committee if there is one. Those are my feelings.

Rep. Skarphol: I agree that we have to keep the pressure on the railroads. I think the PSC has a responsibility to do their job too. I think if the PSC feels compelled in some way to take an action that they deem appropriate, I also think it is appropriate that they come to the budget section and ask for our approval. They can do that at any time. They can ask for a section of approval to take some type of action and the emergency commission can grant them any needed monies that may need to be there. They just set up a fund for just some case, I don't think is appropriate. We can do that in every agency. We have a lot of money sitting into funds again. I think the actions of our committee are appropriate at this time.

Rep. Nelson: Did your committee think about restricting the expanded authority within that line item and just leave the money in their for it's intended purposes which was the rail rate case?

Rep. Carlisle: Yes we did discuss that. Part of our dislike for this was the fact that service, which was a pretty broad area, was added into the discussion. What could help someone in one situation in a town could hurt someone else. We could have a big elevator and a small elevator on different sides of the same issue on what they view as good service.

Rep. Nelson: Why didn't you just strike service from the line and leave the money alone? In my opinion you are playing Russian roulette with an industry that has gotten a benefit in the

last biennium of not only better service, but a \$10 million boost to the economy. How many times do we say in this legislative body that we need to save money. That fund is working for us. It is creating interest within the fund. That stick has benefited agriculture producers and shippers across the state. What more could you ask for as a conservative?

Rep. Carlisle: If we felt comfortable that \$900,000 would handle a lawsuit and solve your problems, we would be more than happy to do that. You might be talking \$10 million and then we are talking real money if you want to get some of these things solved that you are talking about. You aren't going to do anything but hire some NY and Washington DC attorney's to hopefully go to the STB Board which has a lot more power than we do. \$900,000 isn't going to cut it. If you want to go full blown lawsuit then put the money in to do it. I don't think the \$900,000 is solving any of our problems. That is a personal opinion. You can put it back in if you want. It comes out of another fund, it's not general fund money. The railroads have been working with the state of ND. Rep. Thoreson has an interesting news article from a newspaper where the same issue from 70-80 years ago was discussed. We didn't have any lawsuit back then, we didn't have any fund back then. The PSC has a job. Part of it maybe that we believe the PSC has a job to regulate. They have the job to negotiate and protect the interest of the farmers. Do we need a separate fund besides what their job already is? That should be part of the debate.

Rep. Nelson : We built a nuclear arsenal in this country which we have never used and that seems to deter some things as well.

Rep. Thoreson: I thought it would be interesting to show the newspaper article I was going to discuss on facts on freight rates. A couple of quotes out of this were "the state of ND has the authority to make railroads come and give their rates. An attempt was made at the last session of the legislator. Then it says the next session of the legislator, freight rates will be adjusted so

they will be operated as a profit instead of a loss. This was from a newspaper article from the non partisan leader in August 1917. 90 years ago this same issue was before the legislator and here we are debating it today. I don't think that \$900,000 will change what 90 years hasn't.

Rep. Pollert: I will just make a few comments. So this has been a problem for 80 years and this is still a problem. We will still have it 80 years from now except we will only have 8-10 super elevators. I have to agree that it does provide an opportunity for value added elevators which our industry is going to. They changed the rules in the middle of the stream. Two years ago there was a process in place that would have cost us \$900,000-1.5 million. Because of the pressure from some companies that has been changed drastically. It is going to cost \$5-10 million to bring a case. I understand what you are saying about that. That does tell you that there are some outside pressures going on. I'm just expressing frustration.

Rep. Klein: Isn't this \$900,000 what was appropriated from the general fund last go around to start this lawsuit?

Rep. Svedjan: No it was the beginning farm or loan fund. It was a special fund.

Rep. Glassheim: I have amendments which I will pass out when we are done with these that will respond to some of the questions that have been brought up in an attempt to salvage some of the money for the fund and put some restrictions on it. I will pass those out.

Rep. Thoreson: I understand the frustration but I just feel that this money is going to a group of outside lawyers to enhance them. I don't know that the state of ND has that much influence and authority to change these things. I would hope we would but I'm not certain we do.

Rep. Gulleason: The reality is that every generation of farmer can tell you that this has been the history. We have been captive to railroads. To just lay down and die is not right. It's pretty clear that putting that fund in place got their attention. They brought it to the table and we have seen a reduction in rates. That is an effective use of \$900,000 in my view.

Rep. Carlson: We aren't heartless people. We discussed the fact that rail rates aren't the only situation where ND businesses are at a disadvantage. MN over the years has added externalities saying that our energy from coal cannot go into MN. We have had to deal with the externalities. There is discussion in the Senate of setting up a litigation fund that will deal with those issues that disadvantage ND and its businesses. We can set up a fund here and a fund there but maybe we should look at the bigger picture. In this case we aren't getting the service but in many cases if we do not have our power shipped out of state, we aren't going to have any more power development because we can't use it. It's not that this is the only issue and I'm completely in favor of establishing a litigation fund that has some teeth to it so that when we need to defend ourselves against unfair practices, we can do that. But to just establish the one year and there I don't think is solving the problem for us. Are we against helping the railroads? Absolutely not. We are helping our farmers by getting the grain out. It's not an approach that has enough backbone to it. If we really want to get into a dogfight, this isn't even the beginning of the money. If you think that \$900,000 is scaring a multi billion dollar company, you are kidding yourself. They aren't scared with our \$900,000. We can say that it made all the difference in the world but if they didn't feel like lowering their rates, they wouldn't have lowered them.

Rep. Kreidt: When you are dealing with BNSF, that \$900,000 is not even dust in the pocket for those people. If we had a fund of \$15-20 million for litigation then we would be some threat. At this point I don't see where we are a threat at all in regard to rates.

The motion to adopt amendment .0203 carried by voice vote and the amendment was adopted.

Rep. Glassheim distributed amendment .0204 (Attachment B).

Rep. Glassheim motioned to further amend by adopting amendment .0204. **Rep. Gulleson** seconded the motion.

Rep. Glassheim: This does a number of things. It restores \$450,000 from the same source. It requires 10% match from private sources so that they've said they have something at stake. It requires the PSC to get approval from budget sections for any expenditures over \$20,000. The purpose of that is so they can't commit us to our \$20 million case without us saying its ok. They have to justify it to the budget section. It keeps this fund alive. The money is not spent unless it is spent. It's still sitting there as it was from before. The fund it came from is not a burden. No one has been turned down. The other thing it does is removes service also. It keeps it to the original, more narrow concern of the case. In those 3 or 4 different ways, it narrows the request down and I'm hoping we can retain it in the bill.

Rep. Bellew: With your amendment you restore the employee that the other amendment took out. Is that what you wanted to do?

Rep. Glassheim: It restores an employee?

Rep. Bellew: Well you removed an employee. This one here brings it back to the way it was. Am I misreading that?

Rep. Skarphol: Maybe legislative council would like to comment about it but I think this is in addition to.

Don Wolf: What the amendment does is further amend. It's not in lew of, it's to restore the funding for the rail rate complaint case. It is to further amend.

Rep. Glassheim: The problem comes because it does say 42 FTE's. If we adopt this it would just change section 5 and it would be integrated into the whole bill. We have already adopted the other amendments which would show back to the 41.

Don Wolf: That is correct.

Rep. Svedjan: So we are square on the FTE?

Rep. Kerzman: I would hope that we could support this amendment. I realize that PSC can get involved if they want to. I think that just having the state on board means a lot. I realize that the \$900,000 isn't going to go very far. At least we say that the state of ND is behind us. We are basically a land locked state. I think as most of us realize. If we look at the whole picture and what we are doing with our highways, in our area in particular we lost 2 rail lines. We have to haul grain up to the main line. It's truck after truck. I know there are a lot of trucks that are going the full distance. They shouldn't even be in the game with the railroads for as far as moving bulk quantities. The rail should be the cheapest way to go. You look at other countries that are developed and they are expanding their rail system. We just don't seem to be doing that in this country. I think it is costing us a lot more money and a lot more wear and tear on our highway system with moving bulk quantities with trucks. We are using up a lot more fuel reserves. I just don't think we are going in the right direction in this country. It should have been detrimental in our area.

Rep. Aarsvold: Over the last few years those of us in the production side of agriculture have invested 10's of millions of dollars in new facilities to provide easier access for the rails to get to our product and for us to get that product to the rail. I guess I for one would like to see some kind of commitment from the state to match the kind of dollars that we individually as farmers have put up with the facilities.

Rep. Nelson: I will support the amendment. I am disappointed that if \$900,000 didn't do the trick, \$450,00 is going to do less of that. It does keep the issue alive. I'm flabbergasted that we would consider it when we had a successful program that was working for us, and now are considering dropping this. During the interim the Ag and Natural Resource committee met in the interim and Commissioner Clark testified several times to the effectiveness of this fund and how it was working. Did he testify before your subsection and if he did, what was his testimony?

Rep. Carlson: Commissioner Clark did not testify, Commissioner Wefald did the budget presentation to us. I read you the comments of the President of this.

Rep. Nelson: I remember distinctly because I think Commissioner Clark was the lead commissioner on this rail rate case. If my memory serves me right, in his testimony for the interim committee it wasn't the fact that we were going to file the case. It was the threat. I know that was prior to the change of the service transportation board rate filing requirements. At that point in time he said in testimony that this is a threat and it was responsible for the 10 cent decrease in shipping rates which resulted in a 10 cent increase in the producers of this state. Also, the other charges that the rail industry was charging. There was no question in his mind that it was the reason. When we go back to 1919 and look at that problem, ND didn't sit on his hands in 1919 and complain. That is when they built the state mill and elevator which isn't a necessarily a conservative piece of work. This is. All the money does is sit there and draw interest and we can't spend it.

Rep. Carlson: I think we have taken the approach, they have given us some relief. Let's back off of this. Let's build a relationship with these people. Instead of a threat let's try the other side of the issue. They listed the details of the Job descriptions of the commission. That is their job for the budget that totals \$ 9 million. They have staff attorneys, they have access to the

Attorney General. That is on top of their duties that they are already assigned with the PSC.

You can do as you wish with this but I'm not going to die on this mountain. It is their job to defend your interest and it has been since it has been established. It didn't seem to work so we needed a special fund. It is their job to defend their interest.

Rep. Glassheim: If we don't fund them to do that part of their job then they can't do that part of their job. We have consistently cut the duties of the PSC over the last 25 years. They do what they do. The people they have employed are doing what they are doing. They don't have anybody to do this activity should it occur. If you want them to do it there has to be money available to do it. On the other matter, Commissioner Clark did come and testify later. He said about what Rep. Nelson said that the fund was working. Having it there had been helpful on bringing some of the rights down to a reaching agreement. That is my recollection of his appearance.

Rep. Skarphol: We ask every agency to prioritize what they need to do. Quite Frankly if the PSC do not believe that this is important enough for them to do within the budget that we have given them, maybe they ought to be replaced. This is a fund that is just there to play games. They can do the job. They have access to the Attorney General's office and they have staff attorneys. If the need be they can come to us and to the emergency commission to get more money.

Rep. Svedjan: Just back to the exchange between Rep. Glassheim and Carlson, what I was hearing Rep. Carlson say is that we don't set up a special fund for the PSC to work with other utilities but we do in this case. What I heard them say was it is part of their assigned duty and some of this should happen out of the appropriation that goes to them out of their budget. We don't need to set up special funds to deal with the phone companies or this and that.

Rep. Kroeber: I would request a recorded roll call vote.

Rep. Glassheim: I'm sure we would all be interested in having an amendment in the effect of a larger litigation fund. The bill would have support in the chamber. If we mean that then it would be an interesting way to go.

The motion to adopt amendment .0204 carried by a roll call vote of 16 ayes, 8 nays and 0 absent and not voting.

Rep. Kempenich motioned for a Do Pass as Amended. Rep. Metcalf seconded the motion.

Rep. Svedjan: Is there any further discussion?

Rep. Bellew: I just have to be sure that the jest of this amendment does not effect the previous amendment with the FTE's?

Rep. Svedjan: We have been assured that this does not restores the FTE that was removed.

Don Wolf: There will be another amendment prepared that will combine the two amendments.

The motion for a Do Pass as Amended to SB 2008 carried by a roll call vote of 23 ayes, 1 nay and 0 absent and not voting. Rep. Kempenich was designated to carry the bill.

Rep. Bellew: I just want the record to show that I'm expecting Rep. Nelson to receive another 5 cent discount on the rail rates because of half the money half the cut.

Date: 3/15/07

Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2008

House _____ Appropriations- Government Operations _____ Committee

☐ Check here for Conference CommitteeLegislative Council Amendment Number 78032Action Taken ~~Time~~ Adopt Amendment Voice VoteMotion Made By Kroeber Seconded By Glassheim

Representatives	Yes	No	Representatives	Yes	No
Chairman Al Carlson			Vice Chairman Ron Carlisle		
Rep Keith Kempenich			Rep Bob Skarphol		
Rep Blair Thoreson			Rep Eliot Glassheim		
Rep Joe Kroeber			Rep Clark Williams		

Total Yes ✓ No _____

Absent _____

Floor Assignment _____

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

Metrology lab.Increase of \$31,600 to fund the Metrology lab.leg. Intent

Roll Call Vote #:

House	Appropriations- Government Operations	Committee
-------	---------------------------------------	-----------

Legislative Council Amendment Number 18032.

Action Taken Adopt Amendment by Voice Vote

Motion Made By SKARPITON Seconded By Thoreson

[illegible]

Total	Yes	No
1	1	0
2	2	0
3	3	0
4	4	0
5	5	0
6	6	0
7	7	0
8	8	0
9	9	0
10	10	0
11	11	0
12	12	0
13	13	0
14	14	0
15	15	0
16	16	0
17	17	0
18	18	0
19	19	0
20	20	0
21	21	0
22	22	0
23	23	0
24	24	0
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26	26	0
27	27	0
28	28	0
29	29	0
30	30	0
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35	35	0
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37	37	0
38	38	0
39	39	0
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41	41	0
42	42	0
43	43	0
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69	69	0
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74	74	0
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83	83	0
84	84	0
85	85	0
86	86	0
87	87	0
88	88	0
89	89	0
90	90	0
91	91	0
92	92	0
93	93	0
94	94	0
95	95	0
96	96	0
97	97	0
98	98	0
99	99	0
100	100	0

Absent

Floor Assignment

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

Report to 61st Approp. Committee on
the progress of the GIS System implemented
in the 60th Session.

Date: 3/15/07

Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2008

House _____ Appropriations- Government Operations _____ Committee

☐ Check here for Conference CommitteeLegislative Council Amendment Number 78032.Action Taken Adopt Amendment by Voice VoteMotion Made By Thoreson Seconded By Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Al Carlson			Vice Chairman Ron Carlisle		
Rep Keith Kempenich			Rep Bob Skarphol		
Rep Blair Thoreson			Rep Eliot Glassheim		
Rep Joe Kroeber			Rep Clark Williams		

Total Yes ✓ No _____

Absent _____

Floor Assignment _____

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

Remove #9 from Green Sheet.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 2, line 2, replace "(945,000)" with "(945,000)"

Page 2, remove line 3

Page 2, line 4, replace "1,639,061" with "739,061"

Page 2, line 5, replace "1,068,231" with "168,231"

Page 2, line 16, replace "4,500,000" with "4,500,000"

Page 2, remove line 17

Page 2, line 18, replace "12,939,049" with "12,039,049"

Page 2, line 19, replace "8,005,382" with "7,105,382"

Page 2, remove lines 21 through 28

Page 3, after line 7, insert:

"SECTION 5. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The total general fund appropriation line item in section 3 of this Act includes \$50,484 for the one-time funding items identified in this section. This amount is not a part of the agency's base budget to be used in preparing the 2009-11 executive budget. The public service commission shall report to the appropriations committees of the sixty-first legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2007, and ending June 30, 2009.

Videoconferencing equipment	\$20,000
Prover	30,484
Total	\$50,484"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - House Action

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$5,764,864	\$5,764,864		\$5,764,864
Operating expenses	1,628,201	1,628,201		1,628,201
Capital assets	107,500	137,984		137,984
Grants	8,000	8,000		8,000
Abandoned mined lands	4,500,000	4,500,000		4,500,000
contractual services				
Agriculture rail rate and service fund	900,000	900,000	(\$900,000)	
Total all funds	\$12,908,565	\$12,939,049	(\$900,000)	\$12,039,049
Less estimated income	<u>8,005,382</u>	<u>8,005,382</u>	<u>(900,000)</u>	<u>7,105,382</u>
General fund	\$4,903,183	\$4,933,667	\$0	\$4,933,667
FTE	42.00	42.00	0.00	42.00

Dept. 408 - Public Service Commission - Detail of House Changes

	REMOVES FUNDING FOR RAIL RATE CASE ¹	TOTAL HOUSE CHANGES
Salaries and wages		
Operating expenses		
Capital assets		
Grants		
Abandoned mined lands		
contractual services		
Agriculture rail rate and service fund	(\$900,000)	(\$900,000)
Total all funds	(\$900,000)	(\$900,000)
Less estimated income	(900,000)	(900,000)
General fund	\$0	\$0
FTE	0.00	0.00

¹ The House removed funding from the beginning farmer revolving loan fund (\$800,000) and other unspecified funds (\$100,000) for a rail rate complaint case and removed references in the bill to the agriculture rail rate and service fund.

The House added a section identifying one-time funding included in the budget and providing for a report to the 61st Legislative Assembly on the agency's use of the one-time funding.

Date: 3/15/07
Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2008

House _____ Appropriations- Government Operations _____ Committee _____

☐ Check here for Conference Committee

Legislative Council Amendment Number 78032.0702

Action Taken Adopt Amendment

Motion Made By Thoreson Seconded By Carlisle

Representatives	Yes	No	Representatives	Yes	No
Chairman Al Carlson	✓		Vice Chairman Ron Carlisle	✓	
Rep Keith Kempenich		✓	Rep Bob Skarphol	✓	
Rep Blair Thoreson	✓		Rep Eliot Glassheim		✓
Rep Joe Kroeber		✓	Rep Clark Williams	✓	

Total Yes 5 No 3

Absent _____

Floor Assignment Thoreson

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

Date: 3/15/07

Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2008

House _____ Appropriations- Government Operations _____ Committee

☐ Check here for Conference CommitteeLegislative Council Amendment Number 78032Action Taken Do PASS As AmendedMotion Made By Thoreson Seconded By Kempenich

Representatives	Yes	No	Representatives	Yes	No
Chairman Al Carlson	✓		Vice Chairman Ron Carlisle	✓	
Rep Keith Kempenich	✓		Rep Bob Skarphol	✓	
Rep Blair Thoreson	✓		Rep Eliot Glassheim	✓	
Rep Joe Kroeber	✓		Rep Clark Williams	✓	

Total Yes 8 No 0Absent 0Floor Assignment Kempenich

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

78032.0203

Title.

Fiscal No. 2

Prepared by the Legislative Council staff for
House Appropriations - Government
Operations

March 16, 2007

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 1, line 2, after "commission" insert "; to provide for a legislative council report"

Page 1, line 21, replace "642,032" with "558,150"

Page 1, line 22, replace "220,048" with "175,912"

Page 1, line 23, replace "49,473" with "30,473"

Page 2, line 2, replace "(945,000)" with "(945,000)"

Page 2, remove line 3

Page 2, line 4, replace "1,639,061" with "592,043"

Page 2, line 5, replace "1,068,231" with "168,231"

Page 2, line 6, replace "570,830" with "423,812"

Page 2, line 12, replace "5,764,864" with "5,680,982"

Page 2, line 13, replace "1,628,201" with "1,584,065"

Page 2, line 14, replace "137,984" with "118,984"

Page 2, line 16, replace "4,500,000" with "4,500,000"

Page 2, remove line 17

Page 2, line 18, replace "12,939,049" with "11,892,031"

Page 2, line 19, replace "8,005,382" with "7,105,382"

Page 2, line 20, replace "4,933,667" with "4,786,649"

Page 2, remove lines 21 through 28

Page 3, after line 7, insert:

"SECTION 5. GEOGRAPHIC INFORMATION SYSTEM INITIATIVE - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The public service commission shall provide a report to the sixty-first legislative assembly regarding the status of the department's geographic information system initiative.

SECTION 6. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The total general fund appropriation line item in section 3 of this Act includes \$50,484 for the one-time funding items identified in this section. This amount is not a part of the agency's base budget to be

used in preparing the 2009-11 executive budget. The public service commission shall report to the appropriations committees of the sixty-first legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2007, and ending June 30, 2009.

Videoconferencing equipment
Prover
Total

\$20,000
30,484
\$50,484"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - House Action

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$5,764,864	\$5,764,864	(\$83,882)	\$5,680,982
Operating expenses	1,628,201	1,628,201	(44,136)	1,584,065
Capital assets	107,500	137,984	(19,000)	118,984
Grants	8,000	8,000		8,000
Abandoned mined lands contractual services	4,500,000	4,500,000		4,500,000
Agriculture rail rate and service fund	900,000	900,000	(900,000)	
Total all funds	\$12,908,565	\$12,939,049	(\$1,047,018)	\$11,892,031
Less estimated income	<u>8,005,382</u>	<u>8,005,382</u>	<u>(900,000)</u>	<u>7,105,382</u>
General fund	\$4,903,183	\$4,933,667	(\$147,018)	\$4,786,649
FTE	42.00	42.00	(1.00)	41.00

Dept. 408 - Public Service Commission - Detail of House Changes

	REMOVES FUNDING FOR RAIL RATE CASE 1	REMOVES 1 FTE WEIGHTS AND MEASURES INSPECTOR POSITION 2	ADDS FUNDING FOR METROLOGY PROGRAM 3	TOTAL HOUSE CHANGES
Salaries and wages		(\$83,882)		(\$83,882)
Operating expenses		(55,736)	\$11,600	(44,136)
Capital assets		(39,000)	20,000	(19,000)
Grants				
Abandoned mined lands contractual services				
Agriculture rail rate and service fund	(\$900,000)			(900,000)
Total all funds	(\$900,000)	(\$178,618)	\$31,600	(\$1,047,018)
Less estimated income	<u>(900,000)</u>			<u>(900,000)</u>
General fund	\$0	(\$178,618)	\$31,600	(\$147,018)
FTE	0.00	(1.00)	0.00	(1.00)

1 The House removed funding from the beginning farmer revolving loan fund (\$800,000) and other unspecified funds (\$100,000) for a rail rate complaint case.

2 The House removed 1 FTE weights and measures inspector position and related funding for salaries and wages, travel, and equipment.

3 The House provided \$31,600 of additional funding for costs to continue the state metrology program and provided for the \$30,000 of funding in the budget to have weights and measures equipment calibrated by Minnesota for National Institute of Standards and Technology-recognized services instead be applied to costs necessary to maintain the state program.

The House added a section identifying one-time funding included in the budget and providing for a report to the 61st Legislative Assembly on the agency's use of the one-time funding.

The House added a section providing for the Legislative Assembly to provide a report to the 61st Legislative Assembly regarding the department's geographic information system initiative.

Date: 3/22/07
Roll Call Vote #: _____

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2008

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 78032.0203

Action Taken Adopt Amendment 0203

Motion Made By Kempenich Seconded By Carlisle

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan					
Vice Chairman Kempenich					
Representative Wald			Representative Aarsvold		
Representative Monson			Representative Gulleeson		
Representative Hawken					
Representative Klein					
Representative Martinson					
Representative Carlson			Representative Glassheim		
Representative Carlisle			Representative Kroeber		
Representative Skarphol			Representative Williams		
Representative Thoreson					
Representative Pollert			Representative Ekstrom		
Representative Bellew			Representative Kerzman		
Representative Kreidt			Representative Metcalf		
Representative Nelson					
Representative Wieland					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voic Vote - carries

Date: 3/22/07
Roll Call Vote #: 2

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2008

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 78032.0204

Action Taken Adopt Amend .0204

Motion Made By Glassheim Seconded By Hullison

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan		✓			
Vice Chairman Kempenich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleson	✓	
Representative Hawken	✓				
Representative Klein		✓			
Representative Martinson	✓				
Representative Carlson		✓	Representative Glassheim	✓	
Representative Carlisle		✓	Representative Kroeber	✓	
Representative Skarphol		✓	Representative Williams	✓	
Representative Thoreson		✓			
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew		✓	Representative Kerzman	✓	
Representative Kreidt		✓	Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 16 No 8

Absent 0

Floor Assignment _____

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

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 2, line 2, replace "(945,000)" with "(450,000)"

Page 2, remove line 3

Page 2, line 4, replace "1,639,061" with "1,234,061"

Page 2, line 5, replace "1,068,231" with "663,231"

Page 2, replace line 17 with:

"Rail rate complaint case 495,000"

Page 2, line 18, replace "12,939,049" with "12,534,049"

Page 2, line 19, replace "8,005,382" with "7,600,382"

Page 2, line 21, replace "\$800,000" with "\$450,000"

Page 2, line 25, remove "agriculture", replace "and service fund" with "complaint case", and replace "\$800,000" with "\$450,000"

Page 2, after line 28, insert:

**"SECTION 5. RAIL RATE COMPLAINT CASE - BUDGET SECTION
APPROVAL - PRIVATE SECTOR MATCH.** Any expenditures by the public service commission for a rail rate complaint case from the beginning farmer revolving loan fund shall be matched by ten percent private sector funds. The public service commission shall request approval from the budget section for any expenditures relating to a rail rate complaint case in excess of \$20,000."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - House Action

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$5,764,864	\$5,764,864		\$5,764,864
Operating expenses	1,628,201	1,628,201		1,628,201
Capital assets	107,500	137,984		137,984
Grants	8,000	8,000		8,000
Abandoned mined lands	4,500,000	4,500,000		4,500,000
contractual services				
Agriculture rail rate and	900,000	900,000	(\$900,000)	
service fund				
Rail rate complaint case			<u>495,000</u>	<u>495,000</u>
Total all funds	\$12,908,565	\$12,939,049	(\$405,000)	\$12,534,049
Less estimated income	<u>8,005,382</u>	<u>8,005,382</u>	<u>(405,000)</u>	<u>7,600,382</u>
General fund	\$4,903,183	\$4,933,667	\$0	\$4,933,667
FTE	42.00	42.00	0.00	42.00

Dept. 408 - Public Service Commission - Detail of House Changes

	REDUCES FUNDING FOR RAIL RATE COMPLAINT CASE 1	TOTAL HOUSE CHANGES
Salaries and wages		
Operating expenses		
Capital assets		
Grants		
Abandoned mined lands		
contractual services		
Agriculture rail rate and	(\$900,000)	(\$900,000)
service fund		
Rail rate complaint case	<u>495,000</u>	<u>495,000</u>
Total all funds	(\$405,000)	(\$405,000)
Less estimated income	<u>(405,000)</u>	<u>(405,000)</u>
General fund	\$0	\$0
FTE	0.00	0.00

¹ This amendment provides \$495,000, of which \$450,000 is from the beginning farmer revolving loan fund and \$45,000 is other funds from the private sector for a rail rate complaint case. The references to the agriculture rail rate and service fund are removed. Total expenditures for a rail rate complaint case shall include a ten percent match from private sector funding. Any expenditures for a rail rate complaint case over \$20,000 require Budget Section approval.

Date: 3/22/07
Roll Call Vote #: 3

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2008

House Appropriations Full Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 78032.0203 and 78032.0204

Action Taken No Pass as amended

Motion Made By Kempnich Seconded By Waters

Representatives	Yes	No	Representatives	Yes	No
Chairman Svedjan	✓				
Vice Chairman Kempnich	✓				
Representative Wald	✓		Representative Aarsvold	✓	
Representative Monson	✓		Representative Gulleson	✓	
Representative Hawken	✓				
Representative Klein	✓				
Representative Martinson	✓				
Representative Carlson	✓		Representative Glassheim	✓	
Representative Carlisle	✓		Representative Kroeber	✓	
Representative Skarphol	✓		Representative Williams	✓	
Representative Thoreson		✓			
Representative Pollert	✓		Representative Ekstrom	✓	
Representative Bellew	✓		Representative Kerzman	✓	
Representative Kreidt	✓		Representative Metcalf	✓	
Representative Nelson	✓				
Representative Wieland	✓				

Total (Yes) 23 No 1

Absent 0

Floor Assignment Kempnich

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

REPORT OF STANDING COMMITTEE

SB 2008, as engrossed: Appropriations Committee (Rep. Svedjan, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (23 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). Engrossed SB 2008 was placed on the Sixth order on the calendar.

Page 1, line 2, after "commission" insert "; to provide for a legislative council report; to provide for budget section approval"

Page 1, line 21, replace "642,032" with "558,150"

Page 1, line 22, replace "220,048" with "175,912"

Page 1, line 23, replace "49,473" with "30,473"

Page 2, line 2, replace "(945,000)" with "(450,000)"

Page 2, remove line 3

Page 2, line 4, replace "1,639,061" with "1,087,043"

Page 2, line 5, replace "1,068,231" with "663,231"

Page 2, line 6, replace "570,830" with "423,812"

Page 2, line 12, replace "5,764,864" with "5,680,982"

Page 2, line 13, replace "1,628,201" with "1,584,065"

Page 2, line 14, replace "137,984" with "118,984"

Page 2, replace line 17 with:

"Rail rate complaint case 495,000"

Page 2, line 18, replace "12,939,049" with "12,387,031"

Page 2, line 19, replace "8,005,382" with "7,600,382"

Page 2, line 20, replace "4,933,667" with "4,786,649"

Page 2, line 21, replace "\$800,000" with "\$450,000"

Page 2, line 25, remove "agriculture", replace "and service fund" with "complaint case", and replace "\$800,000" with "\$450,000"

Page 2, after line 28, insert:

"SECTION 5. RAIL RATE COMPLAINT CASE - BUDGET SECTION APPROVAL - PRIVATE SECTOR MATCH. Any expenditures by the public service commission for a rail rate complaint case from the beginning farmer revolving loan fund shall be matched by ten percent private sector funds. The public service commission shall request approval from the budget section for any expenditures relating to a rail rate complaint case in excess of \$20,000."

Page 3, after line 7, insert:

"SECTION 7. GEOGRAPHIC INFORMATION SYSTEM INITIATIVE - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The public service commission shall provide a report to the sixty-first legislative assembly regarding the status of the department's geographic information system initiative.

SECTION 8. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The total general fund appropriation line item in section 3 of this Act includes \$50,484 for the one-time funding items identified in this section. This amount is not a part of the agency's base budget to be used in preparing the 2009-11 executive budget. The public service commission shall report to the appropriations committees of the sixty-first legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2007, and ending June 30, 2009.

Videoconferencing equipment	\$20,000
Prover	<u>30,484</u>
Total	\$50,484"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - House Action

	EXECUTIVE BUDGET	SENATE VERSION	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$5,764,864	\$5,764,864	(\$83,882)	\$5,680,982
Operating expenses	1,628,201	1,628,201	(44,136)	1,584,065
Capital assets	107,500	137,984	(19,000)	118,984
Grants	8,000	8,000		8,000
Abandoned mined lands	4,500,000	4,500,000		4,500,000
contractual services				
Agriculture rail rate and	900,000	900,000	(900,000)	
service fund				
Rail rate complaint case			<u>495,000</u>	<u>495,000</u>
Total all funds	\$12,908,565	\$12,939,049	(\$552,018)	\$12,387,031
Less estimated income	<u>8,005,382</u>	<u>8,005,382</u>	<u>(405,000)</u>	<u>7,600,382</u>
General fund	\$4,903,183	\$4,933,667	(\$147,018)	\$4,786,649
FTE	42.00	42.00	(1.00)	41.00

Dept. 408 - Public Service Commission - Detail of House Changes

	REDUCES FUNDING FOR RAIL RATE CASE 1	REMOVES 1 FTE WEIGHTS AND MEASURES INSPECTOR POSITION 2	ADDS FUNDING FOR METROLOGY PROGRAM 3	TOTAL HOUSE CHANGES
Salaries and wages		(\$83,882)		(\$83,882)
Operating expenses		(55,736)	\$11,600	(44,136)
Capital assets		(39,000)	20,000	(19,000)
Grants				
Abandoned mined lands				
contractual services				
Agriculture rail rate and	(\$900,000)			(900,000)
service fund				
Rail rate complaint case	<u>495,000</u>			<u>495,000</u>
Total all funds	(\$405,000)	(\$178,618)	\$31,600	(\$552,018)
Less estimated income	<u>(405,000)</u>			<u>(405,000)</u>

REPORT OF STANDING COMMITTEE (410)
March 27, 2007 10:32 a.m.

Module No: HR-54-6319
Carrier: Kempenich
Insert LC: 78032.0205 Title: .0300

General fund	\$0	(\$178,618)	\$31,600	(\$147,018)
FTE	0.00	(1.00)	0.00	(1.00)

¹ The House provided \$495,000, of which \$450,000 is from the beginning farmer revolving loan fund and \$45,000 is other funds from the private sector, for a rail rate complaint case. The references to the agriculture rail rate and service fund are removed. Total expenditures for a rail rate complaint case shall include a 10 percent match from private sector funding. Any expenditures for a rail rate complaint case over \$20,000 require Budget Section approval.

² The House removed 1 FTE weights and measures inspector position and related funding for salaries and wages, travel, and equipment.

³ The House provided \$31,600 of additional funding for costs to continue the state metrology program and provided that the \$30,000 of funding in the budget to have weights and measures equipment calibrated by Minnesota for National Institute of Standards and Technology-recognized services instead be applied to costs necessary to maintain the state program.

The House added a section identifying one-time funding included in the budget and providing for a report to the 61st Legislative Assembly on the agency's use of the one-time funding.

The House added a section providing for the Legislative Assembly to provide a report to the 61st Legislative Assembly regarding the department's geographic information system initiative.

2007 SENATE APPROPRIATIONS

CONFERENCE COMMITTEE

SB 2008

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2008

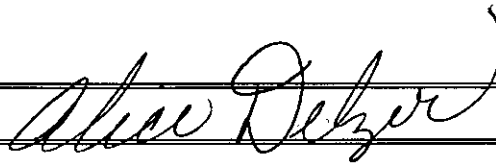
Senate Appropriations Committee

☒ Check here for Conference Committee

Hearing Date: 04-04-07

Recorder Job Number: 5747

Committee Clerk Signature



Minutes:

Chairman Christmann opened the Conference Committee hearing at 3:30 pm on April 4, 2007 regarding SB 2008 Public Service Commission. Roll call was taken with all committee members present. They are Senators Kilzer and Krauter; Representatives Kempenich, Thoreson, and Kroeber. Don Wolf, Leg. Council and Tammy Dolan, OMB were also present. He asked someone from the House go through the amendments with the committee and we'll have a more accurate understanding of what and why you did what you did.

Representative Kempenich presented amendment #.0205. We usually walk through the green sheets and this pretty much mirrors that. The first thing we did in Section 5 we adjusted some of the rail rate money and address some private sector contributions. In our subsection taken out completely and then the full committee this language was added back in to go with \$450,000. Our thought was to use it as a discovery fund not so much as funding any type of litigation fees but use it if there ever was something that came about again. The other thought process we had to maybe have just a litigation fund was something we wanted to talk about other than rail fund. If there needed to be litigation it would possibly involve the Attorney General's Office or a North Dakota Attorney or something like that and experts in the field may need to be called in (meter 03.44)

Chairman Christmann said the money that was in there before would just go back into this fund.

Senator Krauter asked if we want to talk about these one by one or come back. He was told we'll walk through them first.

Representative Kempenich said the next Section #7 on the amendments is the Geographical Information System (GIS) basically we are requiring a report. We have a number of agencies this session with GIS and we want to be able to follow up on that. He was asked if that was addressed in the executive budget and was told yes. In Section 8 we've been putting all the bills that we have had one time money into and we've been labeling this one-time money. That was in the budget too. He also talked about the Videoconferencing Equipment and the Prover and they are line items in the budget. The House removed 1 FTE weights and measures inspector position and related funding for salaries and wages, travel, and equipment. It is a flexible position just we left it out. There are private companies that do this. (meter 07.52) PSC does the majority of those weights and measures and it came out they are cheaper than the private sector. On the metrology side of things we added \$30,000 for Minnesota but that was basically for PSC people to go to Minnesota and had nothing to do with private industry. Our feeling is that some things in state government just doesn't make any money but it is a service. So it was our feeling to leave that where it is at and they needed more equipment so we added another \$30,000 so the total is \$61,000 to go to metrology. Hopefully we can find a place for them in Montana. I can't believe we can't find a home for this metrology system. More discussion followed regarding this issue. (meter 12.24)

Chairman Christmann asked where does the \$30,000 show up in the budget. He was told in the operating line. And will \$61,000 be enough to continue operating metrology? He was told with the equipment and some adjustments like the lab and other items they felt it would be

enough. The chairman then asked if anyone is from out of town and not able to come back if we don't get through all this or has questions. He was told no.

Senator Krauter had questions regarding Section 5 and the rail rate and the wording change from agriculture case to railroad case.

Representative Kempenich stated it wasn't a direct intention. There's a bigger issue. It was more of discovery fund is what this is intended to do.

Don Wolf, Leg Council asked if they're talking about the railroad complaint case and why it's not Ag rail. It was changed at the beginning of this biennium in the executive budget they changed it from the railway complaint case to rail complaint service fund which was more broad and the request of the House was to go back so it could only be used for agriculture rail cases. It's simply the terminology of railrate complaint cases that we used last biennium.

Chairman Christmann said the amendment removes agriculture.

Representative Thoreson said that is how it was in the executive budget. We went back to the language that it was last biennium.

Don Wolf said the intention of OMB was if you're making it a fund the money would actually come out of the Beginning Farmer Revolving Loan Fund into this new fund whereas before it would stay in the beginning farmer loan fund until needed.

Senator Krauter asked if it stays in the Beginning Farmer Loan Fund until needed. He was told yes. A question was raised concerning the match and the private sector.

Senator Kilzer asked what is the reason for the match and who do you have in mind?

Representative Kempenich said last session we did this the players involved that could benefit from this were the ones that were matching the money. In that case they were agriculture related industries.

Representative Thoreson said there was a document given to them by the Grain Growers Association listing the groups. It was the Grain Growers Association, the Wheat Commission, The North Dakota Farm Bureau, the Grain Dealers Association, ND Farmers Union and the US Durum Growers Association which pooled their resources together two years ago.

Senator Kilzer asked when you have PSC and private sectors do they need each others permission and cooperation to initiate a suit. He asked later if this ties the hand of the PSC.

Chairman Christmann had comments that the private organizations don't have the money to do this on there own. He has concerns concerning this matter (meter 21.29)

Senator Kilzer stated he assumes this involves the Attorney General and I would think that he is the person that really makes the decision whether to pursue some action or not. Then they've got this 10%, they have a part of the decision and that doesn't make much sense to me.

Representative Kempenich stated the problem is we did this 4 years ago and we're back to square one in this deal because what we knew two years ago was no longer in existence The STB is rewriting the rules so we're back to basically what we said earlier, it's more of a discovery to see if we do have a case and it's our feelings that the players should have a little bit of a say. The other thing is the PSC this last time didn't use the Attorney General's office before and I'd like us use the resources we have in the state (meter23.39)

Senator Krauter comment the way it was set up last time based upon the history of 03-05 and had the availability to access Beginning Farmer Loan Fund make the world wake up and realize that we are serious about a railway case and through that process we would see some benefits and I think we are in the right direction. And I think by leaving that system where we're at using general fund dollars but we have access to 900 or 1 million leave that impression and we if we look , I agree with the idea of taking away agriculture out of it because we are getting

in to the next stage of intermodal and moving all these things through different types of containers and we are at that stage where that is going to be the next issue. I think we are in the right direction of where we were proceeding but now if we reduce the funding and we requires a 10% match and all of a sudden it creates a hurdle.

Representative Kempenich said I don't think that's the intent. Things that we know two years ago, we could be in a suit or something and looking at it now and truthfully in my mind I'd like to see as a starting point again because, like I said four years ago we put in \$250,000 and we're kind of that point again after they changed the rules, if we're looking at a rail issue and I'd like to see a litigation type discovery fund started. I think we have issues with Minnesota and some externality issues. There are a lot of issues where we're going to need some money, whether we use the Beginning Farmer Loan money is another issue too. (meter 25.54)

Senator Krauter said we appropriated \$500,000 in the Beginning Farmer Trust Fund so we addressed that there and that's an energy issue and this is a rail issue. They're totally different.

Chairman Christmann said he needs some information on just how the process would have worked with filing a case in the past, who makes that decision, what prior approval is needed so we can follow that process. With that we are adjourned.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2008

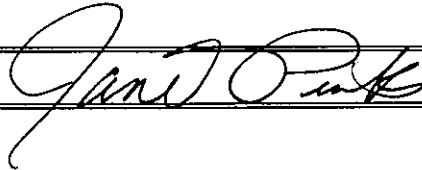
Senate Appropriations Committee

☒ Check here for Conference Committee

Hearing Date: 04-06-07

Recorder Job Number: 5808

Committee Clerk Signature



Minutes:

Senator Christmann opened the conference committee on SB 2006 indicating all are present and reviewing the differences on the railway complaint case that the money was cut in half and the change in the terminology of a GIS report and adding the money to keep the metrology lab open and reducing the money for one inspector position. Regarding the metrology position, Senator Christmann talked with a grocer and petroleum marketer to gather thoughts on the program getting pros and cons. The private sector sees a big increase for them. Now we send the inspector out and something is off, they are just told it's off and have to get someone to fix it. If you are in the private sector, it would get fixed on the same trip. He asked someone from the PSC to go through the inspector program for weights and measures.

Tony Clark, Public Service Commissioner, testified indicating he could testify or walk through the distributed sheet. He indicated there are five traveling weights and measures inspectors, three devoted to small scale gas pumps and grocery scales primarily split throughout the state. There are two other inspectors for large scale; grain scales, livestock scales like that. If one FTE is reduced we have to probably reduce the small scale inspector. This means not all of the scales would be checked. Roughly one third of the devices would need to be checked by the private sector. There are adjustments that need to be made regardless of how this is handle the FTE's. The House amendments reduced the travel by

\$55,736 and that was tied to reduction of the FTE but that reduction should properly only be \$36,945. The reduction of the weights and measures FTE is not something the PSC supports but if it is done, the travel should be reduced by \$18,791.

Senator Christmann asked how the numbers got to be that far off. The response was that all of the travel budget decrease for the whole agency was put into that one category.

Representative Kempenich, indicated we put money in for metrology last session and part of that got used for travel expenses too. Where did the rest of it go in the budget? The response was some of went to equipment for metrology.

Sandy indicated the agency turned back about \$28,000 to the general fund.

Mr. Clark then discussed the equipment line item, but even with FTE being eliminated, we still need the equipment.

Representative Kroeber questioned the loss of revenue to the state. The response was he was directed to the last page of the handout is \$92,578.

Senator Christmann asked who the private inspectors. The response was there are companies registered with the state.

Senator Christmann then asked if they have to come in and get their equipment tested at the metrology lab. The response was they have to testimony their equipment in some way.

Senator Christmann then asked if we would be out of compliance if we eliminated all three of our small scale inspectors. Mr. Clark responded that if the committee chooses to get rid of all three inspectors their suggestion would be to get out of the certification business. We would need some sort of spot enforcement program and some sort of government agency to check the checkers so you might go to one inspector.

Senator Krauter indicated at one time there must have been a need for this because there were no providers of that service.

Senator Krauter asked if there are the providers in or out of state and could you provide a listing. The response was a list would be provided; there are approximately 40 registered companies in the state. On the other hand if we close the metrology lab we only have St. Paul or Helen, MT. Additional discussion followed about service providers and their locations and possible duplication of services.

Senator Christmann asked how long the inspection fees have been in place and whether they are in statute. The response was it has been perhaps three biennium's ago. We were told that this year would not be acceptable to submit a fee increase request.

Senator Christmann is there any concern or thoughts from the commission besides the commission report. The response was no.

Senator Christmann asked about the addition the House made is that adequate if the pay loader is parked elsewhere and you had this much money is the problem solved. The response was he addressed the second point. The House removed the travel that was required to take the weights and measures to St. Paul to be checked and a certain amount was added back in to cover the operating expenses. This was not enough to cover upgrades required. If we go that route we would request an additional \$33,000 be added. The intent of the House was to have the grader and the clause was removed but there is nothing in writing about this. Discussion on this followed regarding upgrades, facility management, repairs, and the most serious noncompliance issue.

Sandy indicated the \$30,000 did remain in the budget when it left the House.

Representative Kempenich discussed the funding.

Senator Christmann indicated if we are going to keep the lab we need to add \$33,000 more plus find a place for the loader. The response was that is correct and facility management is who deals with that.

Senator Christmann indicated if we eliminate the inspector, we need to add \$48,000 because of the travel and operating expenses. If we keep the third inspector, I presume we would add that \$48,000 regardless plus \$86,000 that we are short for the inspector and that inspector would generate more income. The response was that is correct.

Senator Christmann what will the difference be in the bottom line? The response is we need to increase the lab by \$33,000.

It was requested that when the next meeting is held all of the above be laid for us exactly amount what amount would be saved by keeping or eliminating the FTE.

Senator Christmann adjourned the session!

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2008

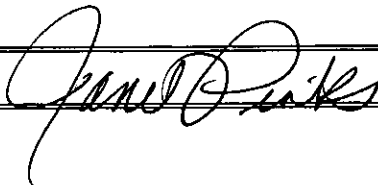
Senate Appropriations Committee

☒ Check here for Conference Committee

Hearing Date: 04-12-07

Recorder Job Number: 5957

Committee Clerk Signature



Minutes:

Senator Christmann opened the conference committee on SB 2008 with roll call.

Senator Christmann indicated the rail rate case money the fact house save metrology lab but need to add funding and need to adequately fund the other four. I also have concerns with the requirement that humps and scales be checked every 12-15 months and if we go to 2 inspectors we won't get those done. It would be grossly unfair to have some private inspections and some state inspections.

Representative Kempenich indicated on the House side, it is our intent to keep the metrology going whether we need to add \$32,000 to try to make work but looks like we need to have an operational facility.

Senator Christmann asked if he was suggesting that we add funding to have this operational. The response is that is how we would keep the lab open and get them what they need to have it with as high specks as we can.

Representative Kroeber stated the intent to keep the lab running.

Senator Christmann indicated we can expect to agree on the lab and add funds.

Senator Christmann thoughts on inspect is somewhere around \$58,000 to have the existing employees do what they are doing.

Representative Kempenich indicated the metrology money got used for travel last year and on the House side that was one of issues they were dealing with. We need to talk about the salaries further. I don't think there will be a big issue for travel but for the FTE there is.

Senator Christmann asked if it is your thoughts that travel and equipment are unreasonable and unnecessary or just travel.

Representative Kempenich indicated that when the House took out the whole \$178,000. But the travel and equipment is something they will need.

Senator Krauter expressed concerns on the comments of removing the \$178,000 and moving the weights and measures inspector. In order for the department to continue that service, the suggestion has been thrown that we lengthen the inspection from 15 months to 24 months. To me the PSC should be regulating when the inspection happens and the timeliness. That is why the degree of error increases I hope we can come to common ground

Representative Kempenich indicated that is why I want this to percolate for a day or so.

Senator Christmann asked if this is something we should pursue or you on your own.

Representative Kempenich SD has pursued something and I want to see what happens with them.

Senator Christmann assigned Representative Kempenich the task of gathering information and perhaps we can meet tomorrow and perhaps wrap up.

Senator Christmann raised the rail rate issue.

Representative Kempenich stated that personally he doesn't have a problem with putting this back the way it was.

Representative Thoreson indicated he would hope to keep this at the level it is at that is where the house set it and I would support that.

Representative Kroeber indicated he would like to see it go back up the way it was as it gave incentives to reduce the rail rates and expand use.

Senator Krauter indicated it is not general funds; it is a bill to use beginning farm funds and it is sect

Representative Thoreson indicated the railroad did make some changes. It is on us to see if they do what they said or if we leave it at a lower amt

Senator Christmann asked what was changed on the title.

Representative Kempenich indicated the fund had been known as rail rate complaint case and that is the way it was this biennium it is the Agricultural rail rate and service fund. The House felt by adding the additional it would broaden fund that could be used for any issue.

Representative Thoreson indicated in coming from the Senate the way it was put together was taking \$900,000 out of the beginning farmer's fund. The way it was in this biennium with \$450,000 was a match required if they went with this. When this comes to it, the state can't bring a case; almost need private entity to start something and the state come along to help. We were looking at a simplified case and if the state went into it, they can't represent one they have to do it as a whole. This is the reason for a match. It would be that they have ownership in this that is why the match.

Senator Krauter stated we have stake holders, of agricultural groups across the state that have committed dollars and are representing a large portion of the sector. It is a pretty well laid out case for a connection between the PSC starting this. We don't need a match and this is what this is. I don't think that is what we want.

Representative Kroeber indicated it is 10 percent match. I didn't think that was the intent. Discussion continued about the match and monies designated. (16.40)

Senator Krauter who is unhappy with the results or who is not satisfied with what we did last session.

Representative Kempenich the rail industry did move and put some relief on rates and there was feeling from the House to see if this is for real or a jest. There wasn't the rule change and the House didn't have a problem leaving it there. The feeling was to see if things would hold.

Senator Christmann asked Sheila OMB what the discussion was as to how this switched from rail rate to the agriculture rail rate and service fund.

Sheila I know we had the discussion and reasoning but I don't recall. I will get that information. There was an expansion to cover something broader.

Senator Christmann asked if Sheila would e-mail something out to the committee.

Sheila indicated yes she would.

Representative Kroeber indicated it was going to be a simplified rail case with one person, one elevator.

In going in the service fund, they thought they might be able to expand into surcharges.

Representative Thoreson read something that looks to greatly expand the focus of the fund. That was PSC in front of house appropriation by Commissioner Wefald.

Senator Christmann have to resolve that and how to handle inspect and how to have after beyond bill file deadline there was issue of how auctioneers handling real estate sales and it didn't warrant a delayed bill and I chose this bill to do a study to view real estate trans at auction.

Representative Kempenich House did talk about this study and may be venue.

Senator Christmann closed the conference committee on SB 2008.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2008

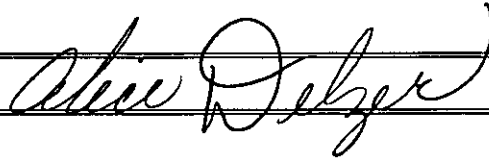
Senate Appropriations Committee

☒ Check here for Conference Committee

Hearing Date: 04-16-07

Recorder Job Number: 6045

Committee Clerk Signature



Minutes:

Let it be noted that the recorder was not working at the time the hearing was opened.

Chairman Christmann opened the Conference Committee Hearing on SB 2008 regarding the Public Service Commission (PSC) at 10:00 am on April 16, 2007. Roll call was taken with all conferees present. They are Senators Kilzer, Krauter; Representatives Kempenich, Thoreson, and Kroeber. Don Wolf, Leg. Council and Sandy Paulson, OMB were also present,. Chairman Christmann presented amendment .0206 to the committee and explained Section 6 includes a Legislative Council Study regarding Real Estate Auctions. He stated there were concerns regarding the real estate sales and the Auctioneer Association. There was an issue in Mandan concerning this matter and someone felt the sale was not handled in a forthright manner and the question came up whether we need to have some type of regulatory practice concerning real estate being sold by auctioneers.

Representative Thoreson asked if the auctioneers have a practice for selling real estate in place.

Chairman Christmann stated they are fairly unregulated. The problem is there is nothing in place to enforce anything at this time. We will table this amendment and add language into the amendment regarding this matter.

Representative Kempenich asked if the auctioneers have to be licensed to sell real estate as far as being a broker.

Chairman Christmann stated the way he understands it they can auction off the property but a real estate agent has to intervene.

He stated regarding the weights and measures inspector position if we eliminate one FTE in that position we need to add money back into the budget.

Representative Kempenich had comments regarding the use of a small truck rather than the larger truck.

Chairman Christmann said we chose to eliminate this position we need to add almost \$50,000 back into the budget. He asked if that was the general consensus of the committee to do that. He personally hates to see us do that because he has concerns that some businesses get the state inspector and others get the private inspector. The private inspector would cost more to the business but if the state cannot get around to all the businesses in the time frame they are allotted, they have to go with the private inspector.

Representative Kroeber asked what a business would do if they wanted to have the state inspector come and check their scales and they would not be able to come in the time frame that they need to be inspected.

Chairman Christmann said his own thought is if we are going to eliminate that inspector we need to change the regulations on how frequently they're inspected and maybe give the PSC some discretion in deciding how frequently they're inspected but maybe not to exceed two years. At least there should be some minimum requirement of how often they can be and I hope they can continue to do them as often as possible. I don't think we can leave it at one year or 15 months or however it is worded now. Cut an inspector out and know they can't get it done and some one will have to get a different type of inspector.

Representative Kroeber stated we received the information that each inspectors take in approximately \$97,000 a year so we would not have that income coming in to the general fund so we would have a loss to the general fund of that about that amount of dollars.

Representative Kempenich had questions regarding the 15 month requirement.

Chairman Christmann stated he thinks 15 months was adopted one time when they couldn't get done in 12 months. Since three couldn't do it in twelve I think we are pretty sure that two aren't going to get it done in 15 months. He asked if there are second thoughts from the House regarding this position. He stated he could live with it if PSC extends the time requirement,.

Representative Kempenich stated the biggest problem was it was easy to take out to balance the budget. These are full time, other states use part-time people I think right now we're not against leaving an increase in time to get the inspection done because he thinks that this position would be mostly with the smaller scales. He was told that amendments will be drafted regarding this issue. (meter 04.25)

Representative Kroeber stated the other option we have to look at is the increase in fees. They said an increase of 48%, which I think is very large, would be approximately \$140,000. We are well below the private sector, I guess I would not be in favor of a 48% increase in fees but certainly trying to keep these divisions as a service to the people of North Dakota we might also want to take some thought making a fee increase of some amount to help cover some of these costs.

Representative Kempenich said he thought this is something we could look at in the next biennium. That's the problem when you hold this back so long it does become a substantial increase.

Chairman Christmann asked who would disagree with this statement: If we want to leave all the inspectors we just leave it exactly as the Senate had; if we want to eliminate the one inspector we need to add almost \$58,000 back and give the PSC the authority to extend that time frame. I will have two amendments drafted that will do one thing or the other.

Senator Krauter said I don't think we need to eliminate the position.

Representative Kroeber said on that idea if we're going to add \$58,000 plus lose \$97,000 that's \$155,000. I think we're losing more money by doing that than if we would have kept the inspector. He was told they will draft amendments and look at it again.

Representative Kempenich stated there is about 18,000 inspections done during the course of the biennium.

Chairman Christmann said let's talk about the Metrology Lab. It is my understanding is if we're going to keep the lab we need another \$33,000 to make it functional. My own thought, it we are going to keep that we're still not solving all the problems regarding the loader and that. I think we want to attach a study on here that they study the future of metrology lab and whether it's going to stay here and we're going to do something else in that building; get them a garage for the loader in two years and have that be part of the governor's budget. Or if the loader is staying in there are we going to eliminate metrology or are we going to get a different building somewhere else for metrology but it is hard to make these big adjustments when they weren't in the governor's budget. There has been some discussion that they could do the metrology work over the summer months that needs to be done in an onsite location so the loader could be parked outside in the summer.

Representative Kempenich stated we've got some blueprints to look at. I think there is some solution here. (meter 10.01) The House's intent is that the Capitol grounds makes arrangements until we get something squared away with metrology. Another issue too is that

the state when we were up at OMB talked about moving everybody out of there so there must have been some talk for future plans.

Senator Krauter suggested that the metrology Lab does their work in the summer. That has a lot of merit. Then you have other months where you could work something out regarding storage. If everyone around the state knows the schedule it should work.

Senator Christmann said it may not be the permanent solution but they can work it out for a couple more years. So on the lab is it the consensus that we need to add \$33,000 for their operating fund and do some work on studying the long-term future of the lab and it's location? We'll get something drafted to that effect. On the Rail Rate Case the Senate is determined to keep that at the level we had it and to not accept the House's amendments regarding this issue.

Representative Thoreson stated the House feels the opposite of the Senate.

Senator Krauter asked on the House side is it the dollar amount or is it the situation where there has not been a rail rate case file.

Representative Thoreson stated both of those issues play into the field. He further talked about this issue. (meter 14.16) He stated there has not been a lot of support to extend it into the service fund, perhaps just as a rail rate fund but not as a service fund.

Senator Krauter said look at the history, a lot of it didn't happen during the 05-07 biennium, it happened before when we spent a couple \$100,000. I think what we did in the 05-07 biennium set the bar out there pretty high and we are serious. It didn't cost us anything so my thought is that if it's working why change it? Maybe put a sunset on it then we have to come back and look at it again.

Senator Kilzer said I echo the comments of Senator Krauter. What happened two years ago, this is not a new problem and it has not gone away, it is working, when we did this two years

ago there was no talk of reducing it by half. I think it absolutely needs to continue at the same level.

Representative Kempenich stated if something happened in the future it will take more than \$900,000 but the service part if that would have sold last session as part of the package would have been one thing but to bring it in now under the same umbrella I have some problems with that too.. If it would have been a separate bill or issue brought forward it would have been a lot easier to bring it in. I think that is where members on our side are struggling.

Chairman Christmann stated it wasn't quite as important two years ago because we were in the middle of a particular case. The service part of it may not be as important to some of the big elevators right now, but talking to the people in some of the small elevators where service is their issue it's very important to them.

Senator Krauter said that is exactly what I wanted to say. The word service is the whole issue, businesses not getting left out or not because you are a 110 car unit facility, you're just not a player anymore. That's to me what that means, it's not about other types of things, it still is focused in on rail cars.

Representative Thoreson said if we add the service in we are going down another road that this was not originally thought of.

Senator Christmann said we need to address the GIS study. House added it in and I have no problem with that. He stated when we get together we need to both compromise. On one time funding my question is if we do eliminate the inspector position, or regardless, do we want to add the \$30,000 to the one-time item. Further discussion followed and it was determined it is operating expenses.

Representative Kroeber stated he is not in favor of 48% increase in fees but I do think that fees, inspector positions and metrology lab is extremely important as far as providing service

to the people of North Dakota and I think we want to do some things to make it more fallible economically so. I would hate to see us not look into some kind of small increase in fees to begin this process so we don't end up next time in having to say we're going to need a 50% increase if we were to do half that at 24% or 15% this time that would help a great deal in hopefully trying to save these positions in the lab in the future.

Chairman Christmann adjourned the Conference Committee Hearing on SB 2008.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2008

Senate Appropriations Committee

☒ Check here for Conference Committee

Hearing Date: 04-17-07

Recorder Job Number: 6078

Committee Clerk Signature



Minutes:

Senator Christmann opened the conference committee on SB 2008 on 4/17/07 and distributed amendments to keep the metrology lab, leave the rail study, leaves the inspector position, the auctioneer study the 33,000 is not one time money but adds 39,000 for the inspector position, the auctioneer study, and the other keeps the position in. He discussed the 40 % fee increase to pay for the salary and benefits to pay for that inspector position. It seemed like a pretty dramatic increase in fees but that person would bring in \$90,000 in revenues so in subtracting out the revenues that that position would bring in leaves a lot smaller amount for a fee increase. The incremental amount of that employee would only require about a 15% fee increase. The PSC came up with a sampling of how to distribute that and so I handed that out. Additional thoughts were discussed about the fee schedule. There may be other thoughts to building in fees to pay for the position.

Representative Kempenich it does give some increase and we should look at them periodically whether we have a surplus in money or not.

Representative Thoreson if feel that with a surplus we should not look at an increase,

Senator Christmann we are trying to figure which way to do this, scrap position or figure way to amend.

Representative Kempenich at this point it is our option to leave out and unfund the position.

Senator Krauter this is just the fee increase this doesn't change anything else as to time line.

Senator Christmann if house adamant about holding position as to eliminate position.

Representative Kroeber I think we need to look at fee increase or not provide service. If we don't supply service it would cause the people to pay a lot more. I think the position should be saved.

Senator Kilzer I am concerned by bad service in reducing staff by 1/3.

Senator Christmann distributed amendment 0208.

Representative Kroeber with increased activity out west could this be an issue.

Representative Kempenich there very well could be.

Senator Christmann a lot of that activity falls in the bigger categories that the other inspectors handle. Not on gas pumps and that sort of thing. I do think ultimately an enormous problem if we leave a situation where they are forced to have inspections and we don't provide inspectors. This amendment is generally what I am hearing from the committee, amendments may cover this. On the first page section 6 – section 8, lays out fees in law now and does not change them, but in there because that is where it is addressed about frequency of inspections. This proposal allows the PSC to establish frequency. This is open for discussion .

Senator Christmann is this direction House would like to move as far as the inspector. If that is your strongly held position we will work in that direction. I expect we will hear from grocers, fuel people on feedback on that. Open rest of bill for discussion

Representative Kempenich on page 4, most follows in until we get to the rail rate service fund and that was a hotly debated topic -- I think the House passed it with 450 and 900 may be a number in the past. The service part of this will be a major sticking point. We had a hard time getting what we did. Keep the concept alive as far as a railway case.

Senator Christmann wants to see about feedback from people who will use this law. Am I hearing you would be comfortable with this and that you would take this proposal to floor for a vote?

Representative Thoreson the issue with railway case may be something we can take to house with leave as railway rate complaint case rather than service case. The number of \$450,000 is where we had settled and the \$900,000 could be taken to the House.

Senator Christmann asked where the distinction is as to where you would find the railway rate complaint case acceptable to involve the state in and the service case you would not.

Representative Thoreson we had specific issue with railway complaint. -- We had a specific issue with the rates and the service broadens it. A case could be made that issue a is a service issue and issue b is a service issue etc. If other issues come up they may have to be handled as such.

Senator Christmann if you had anything that you need to be concerned about what is your response to rural elevators.

Representative Kempenich the issue as much as anything is this was sold as a rate complaint case. By expanding this if there is a separate issue on service we need to look at that. In diving into this we are getting into another realm as to how this plays out. The rails are trying to make money as much as anyone else. If they are not servicing their clients that is another issue

Senator Christmann asked if they have a proposal as to how to deal with this.

Representative Kempenich indicated four years ago there was a discovery fund to discover the issues - if we separate this out there should be a separate discovery fund. In the railway case we did have discovery fund --

Senator Christmann are you suggesting another fund?

Representative Kempenich if that is what it would take it would be preferable to me.

Senator Christmann how much are you thinking of putting in there?

Representative Kempenich It wouldn't be any more than a couple hundred thousand dollars.

Senator Christmann asked do you want to take that from the student loan trust fund?

Representative Kempenich I wish I would have brought it forward earlier.

Senator Christmann I don't think we were implying tying it together -- this is the way the bill came from Governor's office in the beginning.

Representative Thoreson indicated regarding the \$450-\$900 thousand, or somewhere between, issue of whether we bring it together with the service, I don't think the number is an issue. I think there will be a real resistance to it. The way you read this it implies the service is with the railroad but again, you could say this any kind of service. We have hashed this over many times on the House side.

Senator Krauter this is not my first session and I believe there have been decisions made in and out of conference. The history is well established in that type of reporting. When the Attorney General makes an opinion, they go back to see what the Legislature intended. This is a rail rate and rail service. I can see where the Governor's office and OMB wrote this and made it clearer. We had good hearings on this. This is not the general fund. I would give this a try rather than remove the inspector.

Senator Christmann Adjourned the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. 2008

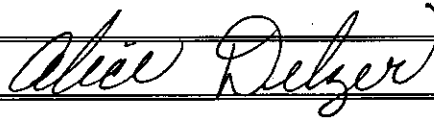
Senate Appropriations Committee

☒ Check here for Conference Committee

Hearing Date: 04-20-07

Recorder Job Number: 6213

Committee Clerk Signature



Minutes:

Chairman Christmann opened the Conference Committee hearing on SB 2008 on April 20, 2007. Roll call was taken with all conferees present,. They are Senators Kilzer, Krauter; Representatives Kempenich, Thoreson, and Kroeber. Don Wolf, Leg. Council and Sandy Paulson, OMB were also present. He asked Representative Kempenich to explain the amendments # .0209 but hold off with the motion.

Representative Kempenich explained the amendment #.0209 to the committee members.

Changes were noted in Sections 7, 8, and 10.

It was noted wrong copies were distributed and that was rectified. The amendments .0209 were then distributed

Chairman Christmann said to the commissioners that the only difference you are going to find is the terminology on that rail case. (meter 04.07)

Representative Kempenich continued explaining amendments. He stated the rail rate is basically what we passed last session. (meter 05.33)

Senator Christmann had questions regarding dollar amount to Rail Rate Service Fund in amendment .0208 and why it isn't addressed in the amendment .0209 in the paragraph like that on the two amendments.

Don Wolf, Leg. Council stated it is addressed in footnote #3 so I didn't think it was necessary to have it in the .0208 did not have the footnote so that we had a separate section than 0208 we weren't changing anything.

Chairman Christmann asked if Representative was finished with the amendment. He was told yes. He then stated he had some to offer with different options, 1 has reference to the service rate and the other would keep the other inspector position in. He said he sees no point in trying to go back on forth on these issues.

Senator Krauter said he has questions regarding section 11 concerning sharing the facility and providing a report and the future of the metrology lab. Discussion followed regarding these matters. Senator Krauter was informed that there would be a place found for the lab someplace in North Dakota, may not be in Bismarck but out east as a lot of business in the eastern part of the state.

Representative Kempenich moved amendment .0209. **Seconded by Representative Thoreson.** A roll call vote was taken resulting in 5 yeas, 1 nay. The motion carried.

Senator Christmann stated motion carried and the bill goes to the floor.

The Conference Hearing was closed and the Conference Committee dissolved.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

That the House recede from its amendments as printed on pages 1125-1127 of the Senate Journal and pages 1167-1169 of the House Journal and that Engrossed Senate Bill No. 2008 be amended as follows:

Page 1, line 2, remove the first "and"

Page 1, line 3, after "commissioners" insert "; and to provide for a legislative council study"

Page 3, after line 7, insert:

"SECTION 6. LEGISLATIVE COUNCIL STUDY - REAL ESTATE AUCTIONS.

The legislative council shall consider studying, during the 2007-08 interim, the practices and laws relating to the sale of real estate by auctioneers. The study must include a review of the sale of multiple parcels of property at a single sale. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly."

Renumber accordingly

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

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Page 1, line 2, remove the first "and", replace "section" with "sections", and after "49-01-05" insert ", 64-02-10, 64-02-13, and 64-02-13.1"

Page 1, line 3, after "commissioners" insert "and testing of weighing and measuring devices; to provide for a legislative council study; to provide for a report to the legislative assembly; and to provide for a report to the budget section"

Page 1, line 21, replace "642,032" with "558,150"

Page 1, line 22, replace "220,048" with "227,703"

Page 1, line 23, replace "49,473" with "69,473"

Page 2, line 4, replace "1,639,061" with "1,582,834"

Page 2, line 6, replace "570,830" with "514,603"

Page 2, line 12, replace "5,764,864" with "5,680,982"

Page 2, line 13, replace "1,628,201" with "1,635,856"

Page 2, line 14, replace "137,984" with "157,984"

Page 2, line 18, replace "12,939,049" with "12,882,822"

Page 2, line 20, replace "4,933,667" with "4,877,440"

Page 3, after line 7, insert:

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

64-02-10. Fees to test or calibrate weighing and measuring devices. The commission shall collect the following fees to:

- | | |
|---|----------|
| 1. Test railroad track or truck scale | \$171.00 |
| 2. Test livestock and vehicle scale | 171.00 |
| 3. Test livestock scale if the sales
ring or buying station scale owner
transports to the scale and furnishes
all test weights and manpower needed
to properly test the scale | 96.00 |

4.	Test auxiliary beam on livestock, motor truck, and motor truck dump scale	24.00
5.	Test overhead monorail, track, hopper, dormant, deck, and hanging scale	53.00
6.	Test movable platform scale	11.00
7.	Test counter or computing scale	11.00
8.	Test hanging scale of fifty pound [22.68 kilogram] capacity or less	11.00
9.	Test a retail motor fuel device	11.00
10.	Test or calibrate weighing and measuring standards, per metrologist, per quarter hour or fraction thereof	17.00
11.	Test mobile delivery gasoline and fuel oil meter	24.00
12.	Test gasoline, LPG, or fuel oil meter on common carrier pipelines, or any other meter used in loading railway cars, transports, or other conveyances	53.00
13.	Test propane, ag chemical, or liquid fertilizer meter	39.00
14.	Test crane scale	107.00
15.	Test or calibrate weighing and measuring devices other than the above and those set by rule, per inspector per quarter hour or fraction thereof	11.00
16.	Witnessing any of the above tests	Fifty percent of the applicable fee

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

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

SECTION 7. AMENDMENT. Section 64-02-13 of the North Dakota Century Code is amended and reenacted as follows:

64-02-13. Commission to test weighing or measuring devices annually. The commission may test or calibrate weighing or measuring devices ~~annually~~. The owner of any weighing or measuring device used in this state is responsible for its

accuracy and condition, ~~and may have it tested annually, but must have it tested at least every fifteen months.~~ The public service commission is to determine the frequency of required testing for each category of weighing and measuring device, which may not exceed twenty-four months. If upon testing the weighing or measuring device is within the permitted tolerance, it must be sealed. Inspections and testing of farm milk bulk tank equipment may be made only by the state dairy department under section 4-30-18. Inspections and testing of oil and gas production meters and measuring devices may be made only by or under the direction of the industrial commission under section 38-08-04. If upon complaint the commission finds the weighing or measuring device is within the permitted tolerance, the cost of the test, unless waived by the commission, must be paid by the complainant; and in all other cases the cost of testing must be paid by the owner of the equipment.

SECTION 8. AMENDMENT. Section 64-02-13.1 of the North Dakota Century Code is amended and reenacted as follows:

64-02-13.1. Exception from annual regularly scheduled test of weighing or measuring device. A weighing or measuring device used to conduct sales by a transient vendor is exempt from this chapter.

SECTION 9. LEGISLATIVE COUNCIL STUDY - REAL ESTATE AUCTIONS. The legislative council shall consider studying, during the 2007-08 interim, the practices and laws relating to the sale of real estate by auctioneers. The study must include a review of the sale of multiple parcels of property at a single sale. The legislative council shall report its finding and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 10. GEOGRAPHIC INFORMATION SYSTEM INITIATIVE - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The public service commission shall provide a report to the sixty-first legislative assembly regarding the status of the department's geographic information system initiative.

SECTION 11. METROLOGY PROGRAM - REPORT TO BUDGET SECTION. The public service commission and facility management division shall develop a schedule for metrology services to be conducted within the current metrology facility and when the facility can be used for other functions during the 2007-09 biennium. The public service commission and facility management division shall provide a report regarding the facility use agreement and the future of the metrology laboratory to the office of management and budget and budget section by July 1, 2008.

SECTION 12. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The total general fund appropriation line item in section 3 of this Act includes \$89,484 for the one-time funding items identified in this section. This amount is not a part of the agency's base budget to be used in preparing the 2009-11 executive budget. The public service commission shall report to the appropriations committees of the sixty-first legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2007, and ending June 30, 2009.

Weights and measures equipment	\$39,000
Videoconferencing equipment	20,000
Prover	<u>30,484</u>
Total	\$89,484"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Salaries and wages	\$5,764,864	\$5,764,864	(\$83,882)	\$5,680,982	\$5,680,982	
Operating expenses	1,628,201	1,628,201	7,655	1,635,856	1,584,065	\$51,791
Capital assets	107,500	137,984	20,000	157,984	118,984	39,000
Grants	8,000	8,000		8,000	8,000	
Abandoned mined lands contractual services	4,500,000	4,500,000		4,500,000	4,500,000	
Agriculture rail rate and service fund	900,000	900,000		900,000		900,000
Rail rate complaint case					495,000	(495,000)
Total all funds	\$12,908,565	\$12,939,049	(\$56,227)	\$12,882,822	\$12,387,031	\$495,791
Less estimated income	8,005,382	8,005,382		8,005,382	7,600,382	405,000
General fund	\$4,903,183	\$4,933,667	(\$56,227)	\$4,877,440	\$4,786,649	\$90,791
FTE	42.00	42.00	(1.00)	41.00	41.00	0.00

Dept. 408 - Public Service Commission - Detail of Conference Committee Changes

	REMOVES 1 FTE WEIGHTS AND MEASURES INSPECTOR POSITION 1	ADDS FUNDING FOR METROLOGY PROGRAM 2	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	(\$83,882)		(\$83,882)
Operating expenses	(36,945)	\$44,600	7,655
Capital assets		20,000	20,000
Grants			
Abandoned mined lands contractual services			
Agriculture rail rate and service fund			
Rail rate complaint case			
Total all funds	(\$120,827)	\$64,600	(\$56,227)
Less estimated income			
General fund	(\$120,827)	\$64,600	(\$56,227)
FTE	(1.00)	0.00	(1.00)

1 The House removed 1 FTE weights and measures inspector position and related funding for salaries and wages, travel, and equipment. The conference committee agreed to eliminate the position but restored \$39,000 for equipment and \$18,791 for travel costs.

2 The House provided \$31,600 of additional funding for costs to continue the state metrology program and provided that the \$30,000 of funding in the budget to have weights and measures equipment calibrated by Minnesota for National Institute of Standards and Technology-recognized services instead be applied to costs necessary to maintain the state program. The conference committee appropriated an additional \$33,000 for operating costs to maintain the weights and measures program.

The House added a section identifying one-time funding included in the budget and providing for a report to the 61st Legislative Assembly on the agency's use of the one-time funding. The conference committee agreed with the House action.

The House added a section providing for the Legislative Assembly to provide a report to the 61st Legislative Assembly regarding the department's geographic information system initiative. The conference committee agreed with the House action.

The conference committee added a section providing for the Legislative Council to consider studying the practices and laws relating to the sale of real estate by auctioneers.

The conference committee added a section providing for the Public Service Commission to develop a plan for the use of the metrology laboratory building and to provide a report to the Budget Section and the Office of Management and Budget regarding the future of the metrology program.

The conference committee authorized \$800,000 from the beginning farmer revolving loan fund and \$100,000 from other funds for the agriculture rail rate and service fund.

The conference committee changed the requirement that weighing and measuring devices be tested every 15 months to a frequency as determined by the Public Service Commission, not to exceed 24 months. The required frequency for testing may vary depending on the type of weights and measures device.

Jo
4-20-07
lot 5

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

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Page 1, line 21, replace "642,032" with "558,150"

Page 1, line 22, replace "220,048" with "227,703"

Page 1, line 23, replace "49,473" with "69,473"

Page 2, line 2, replace "(945,000)" with "(45,000)"

Page 2, remove line 3

Page 2, line 4, replace "1,639,061" with "1,582,834"

Page 2, line 6, replace "570,830" with "514,603"

Page 2, line 12, replace "5,764,864" with "5,680,982"

Page 2, line 13, replace "1,628,201" with "1,635,856"

Page 2, line 14, replace "137,984" with "157,984"

Page 2, line 17, replace "Agriculture rail rate and service fund" with "Rail rate complaint case"

Page 2, line 18, replace "12,939,049" with "12,882,822"

Page 2, line 20, replace "4,933,667" with "4,877,440"

Page 2, line 25, remove "agriculture" and replace "and service fund" with "complaint case"

Page 3, after line 7, insert:

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|---------------------------------------|----------|
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2 of 5

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Prover
Total

30,484
\$89,484"

4 of 5

Renumber accordingly

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Senate Bill No. 2008 - Public Service Commission - Conference Committee Action

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Abandoned mined lands contractual services	4,500,000	4,500,000		4,500,000	4,500,000	
Agriculture rail rate and service fund	900,000	900,000	(900,000)			
Rail rate complaint case			900,000	900,000	495,000	405,000
Total all funds	\$12,908,565	\$12,939,049	(\$56,227)	\$12,882,822	\$12,387,031	\$495,791
Less estimated income	8,005,382	8,005,382		8,005,382	7,600,382	405,000
General fund	\$4,903,183	\$4,933,667	(\$56,227)	\$4,877,440	\$4,786,649	\$90,791
FTE	42.00	42.00	(1.00)	41.00	41.00	0.00

Dept. 408 - Public Service Commission - Detail of Conference Committee Changes

	REMOVES 1 FTE WEIGHTS AND MEASURES INSPECTOR POSITION ¹	ADDS FUNDING FOR METROLOGY PROGRAM ²	CHANGES FUNDING TO RAIL RATE COMPLAINT CASE ³	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	(\$83,882)			(\$83,882)
Operating expenses	(36,945)	\$44,600		7,555
Capital assets		20,000		20,000
Grants				
Abandoned mined lands contractual services				
Agriculture rail rate and service fund			(\$900,000)	(900,000)
Rail rate complaint case			900,000	900,000
Total all funds	(\$120,827)	\$64,600	\$0	(\$56,227)
Less estimated income				
General fund	(\$120,827)	\$64,600	\$0	(\$56,227)
FTE	(1.00)	0.00	0.00	(1.00)

¹ The House removed 1 FTE weights and measures inspector position and related funding for salaries and wages, travel, and equipment. The conference committee agreed to eliminate the position but restored \$39,000 for equipment and \$18,791 for travel costs.

² The House provided \$31,600 of additional funding for costs to continue the state metrology program and provided that the \$30,000 of funding in the budget to have weights and measures equipment calibrated by Minnesota for National Institute of Standards and Technology-recognized services instead be applied to costs necessary to maintain the state program. The conference committee appropriated an additional \$33,000 for operating costs to maintain the weights and measures program.

³ The conference committee authorized \$800,000 from the beginning farmer revolving loan fund and \$100,000 from other funds for a rail rate complaint case rather than the agriculture rail rate and service fund.

The House added a section identifying one-time funding included in the budget and providing for a report to the 61st Legislative Assembly on the agency's use of the one-time funding. The conference committee agreed with the House action.

The House added a section providing for the Legislative Assembly to provide a report to the 61st Legislative Assembly regarding the department's geographic information system initiative. The conference committee agreed with the House action.

The conference committee added a section providing for the Legislative Council to consider studying the practices and laws relating to the sale of real estate by auctioneers.

The conference committee added a section providing for the Public Service Commission to develop a plan for the use of the metrology laboratory building and to provide a report to the Budget Section and the Office of Management and Budget regarding the future of the metrology program.

The conference committee changed the requirement that weighing and measuring devices be tested every 15 months to a frequency as determined by the Public Service Commission, not to exceed 24 months. The required frequency for testing may vary depending on the type of weights and measures device.

**REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE)**

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

Date: 4/20/07

Your Conference Committee _____

For the Senate:

<i>Christmann</i>	<i>4/20</i>	<i>Vote</i>
<i>Kilger</i>	<i>✓</i>	<i>yes</i>
<i>Krauter</i>	<i>✓</i>	<i>no</i>

For the House:

<i>Kempenich</i>	<i>4/20</i>	<i>Vote</i>
<i>Thoreson</i>	<i>✓</i>	<i>yes</i>
<i>Kroeber</i>	<i>✓</i>	<i>yes</i>

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)

the (Senate/House) amendments on (SJ/HJ) page(s) _____ -- _____

_____ and place _____ on the Seventh order.

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

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

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

DATE: _____

HOUSE CARRIER: _____

SENATE CARRIER: _____

LC NO.	of amendment
LC NO.	of engrossment
Emergency clause added or deleted	
Statement of purpose of amendment	

MOTION MADE BY: *Kempenich*

SECONDED BY: *Thoreson*

VOTE COUNT: _____ YES _____ NO _____ ABSENT

Motion Carried
Thoreson

REPORT OF CONFERENCE COMMITTEE

SB 2008, as engrossed: Your conference committee (Sens. Christmann, Kilzer, Krauter and Reps. Kempenich, Thoreson, Kroeber) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 1125-1127, adopt amendments as follows, and place SB 2008 on the Seventh order:

That the House recede from its amendments as printed on pages 1125-1127 of the Senate Journal and pages 1167-1169 of the House Journal and that Engrossed Senate Bill No. 2008 be amended as follows:

Page 1, line 2, remove the first "and", replace "section" with "sections", and after "49-01-05" insert ", 64-02-10, 64-02-13, and 64-02-13.1"

Page 1, line 3, after "commissioners" insert "and testing of weighing and measuring devices; to provide for a legislative council study; to provide for a report to the legislative assembly; and to provide for a report to the budget section"

Page 1, line 21, replace "642,032" with "558,150"

Page 1, line 22, replace "220,048" with "227,703"

Page 1, line 23, replace "49,473" with "69,473"

Page 2, line 2, replace "(945,000)" with "(45,000)"

Page 2, remove line 3

Page 2, line 4, replace "1,639,061" with "1,582,834"

Page 2, line 6, replace "570,830" with "514,603"

Page 2, line 12, replace "5,764,864" with "5,680,982"

Page 2, line 13, replace "1,628,201" with "1,635,856"

Page 2, line 14, replace "137,984" with "157,984"

Page 2, line 17, replace "Agriculture rail rate and service fund" with "Rail rate complaint case"

Page 2, line 18, replace "12,939,049" with "12,882,822"

Page 2, line 20, replace "4,933,667" with "4,877,440"

Page 2, line 25, remove "agriculture" and replace "and service fund" with "complaint case"

Page 3, after line 7, insert:

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

64-02-10. Fees to test or calibrate weighing and measuring devices. The commission shall collect the following fees to:

- | | |
|---------------------------------------|----------|
| 1. Test railroad track or truck scale | \$171.00 |
| 2. Test livestock and vehicle scale | 171.00 |

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

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

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

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

SECTION 7. AMENDMENT. Section 64-02-13 of the North Dakota Century Code is amended and reenacted as follows:

64-02-13. Commission to test weighing or measuring devices annually. The commission may test or calibrate weighing or measuring devices ~~annually~~. The owner of any weighing or measuring device used in this state is responsible for its accuracy and condition, ~~and may have it tested annually, but must have it tested at least every fifteen months.~~ The public service commission shall determine the frequency of required testing for each category of weighing and measuring device, which may not exceed twenty-four months. If upon testing the weighing or measuring device is within the permitted tolerance, it must be sealed. Inspections and testing of farm milk bulk tank equipment may be made only by the state dairy department under section 4-30-18. Inspections and testing of oil and gas production meters and measuring devices may be made only by or under the direction of the industrial commission under section 38-08-04. If upon complaint the commission finds the weighing or measuring device is within the permitted tolerance, the cost of the test, unless waived by the commission, must be paid by the complainant; and in all other cases the cost of testing must be paid by the owner of the equipment.

SECTION 8. AMENDMENT. Section 64-02-13.1 of the North Dakota Century Code is amended and reenacted as follows:

64-02-13.1. Exception from ~~annual~~ regularly scheduled test of weighing or measuring device. A weighing or measuring device used to conduct sales by a transient vendor is exempt from this chapter.

SECTION 9. LEGISLATIVE COUNCIL STUDY - REAL ESTATE AUCTIONS. The legislative council shall consider studying, during the 2007-08 interim, the practices and laws relating to the sale of real estate by auctioneers. The study must include a review of the sale of multiple parcels of property at a single sale. The legislative council shall report its finding and recommendations, together with any legislation required to implement the recommendations, to the sixty-first legislative assembly.

SECTION 10. GEOGRAPHIC INFORMATION SYSTEM INITIATIVE - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The public service commission shall provide a report to the sixty-first legislative assembly regarding the status of the department's geographic information system initiative.

SECTION 11. METROLOGY PROGRAM - REPORT TO BUDGET SECTION. The public service commission and facility management division shall develop a schedule for metrology services to be conducted within the current metrology facility and when the facility can be used for other functions during the 2007-09 biennium. The public service commission and facility management division shall provide a report regarding the facility use agreement and the future of the metrology laboratory to the office of management and budget and budget section by July 1, 2008.

SECTION 12. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-FIRST LEGISLATIVE ASSEMBLY. The total general fund appropriation line item in section 3 of this Act includes \$89,484 for the one-time funding items identified in this section. This amount is not a part of the agency's base budget to be used in preparing the 2009-11 executive budget. The public service commission shall report to the appropriations committees of the sixty-first legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2007, and ending June 30, 2009.

Weights and measures equipment	\$39,000
Videoconferencing equipment	20,000
Prover	<u>30,484</u>
Total	\$89,484"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - Conference Committee Action

	EXECUTIVE BUDGET	SENATE VERSION	CONFERENCE COMMITTEE CHANGES	CONFERENCE COMMITTEE VERSION	HOUSE VERSION	COMPARISON TO HOUSE
Salaries and wages	\$5,764,864	\$5,764,864	(\$83,882)	\$5,680,982	\$5,680,982	
Operating expenses	1,628,201	1,628,201	7,655	1,635,856	1,584,065	\$51,791
Capital assets	107,500	137,984	20,000	157,984	118,984	39,000
Grants	8,000	8,000		8,000	8,000	
Abandoned mined lands contractual services	4,500,000	4,500,000		4,500,000	4,500,000	
Agriculture rail rate and service fund	900,000	900,000	(900,000)			
Rail rate complaint case			<u>900,000</u>	<u>900,000</u>	<u>495,000</u>	<u>405,000</u>
Total all funds	\$12,908,565	\$12,939,049	(\$56,227)	\$12,882,822	\$12,387,031	\$495,791
Less estimated income	<u>8,005,382</u>	<u>8,005,382</u>		<u>8,005,382</u>	<u>7,600,382</u>	<u>405,000</u>
General fund	\$4,903,183	\$4,933,667	(\$56,227)	\$4,877,440	\$4,786,649	\$90,791
FTE	42.00	42.00	(1.00)	41.00	41.00	0.00

Dept. 408 - Public Service Commission - Detail of Conference Committee Changes

	REMOVES 1 FTE WEIGHTS AND MEASURES INSPECTOR POSITION 1	ADDS FUNDING FOR METROLOGY PROGRAM 2	CHANGES FUNDING TO RAIL RATE COMPLAINT CASE 3	TOTAL CONFERENCE COMMITTEE CHANGES
Salaries and wages	(\$83,882)			(\$83,882)
Operating expenses	(36,945)	\$44,600		7,655
Capital assets		20,000		20,000
Grants				
Abandoned mined lands contractual services				
Agriculture rail rate and service fund			(\$900,000)	(900,000)
Rail rate complaint case			<u>900,000</u>	<u>900,000</u>
Total all funds	(\$120,827)	\$64,600	\$0	(\$56,227)
Less estimated income				
General fund	(\$120,827)	\$64,600	\$0	(\$56,227)
FTE	(1.00)	0.00	0.00	(1.00)

1 The House removed 1 FTE weights and measures inspector position and related funding for salaries and wages, travel, and equipment. The conference committee agreed to eliminate the position but restored \$39,000 for equipment and \$18,791 for travel costs.

2 The House provided \$31,600 of additional funding for costs to continue the state metrology program and provided that the \$30,000 of funding in the budget to have weights and measures equipment calibrated by Minnesota for National Institute of Standards and Technology-recognized services instead be applied to costs necessary to maintain the state program. The conference committee appropriated an additional \$33,000 for operating costs to maintain the weights and measures program.

3 The conference committee authorized \$800,000 from the beginning farmer revolving loan fund and \$100,000 from other funds for a rail rate complaint case rather than the agriculture rail rate and service fund.

The House added a section identifying one-time funding included in the budget and providing for a report to the 61st Legislative Assembly on the agency's use of the one-time funding. The conference committee agreed with the House action.

The House added a section providing for the Legislative Assembly to provide a report to the 61st Legislative Assembly regarding the department's geographic information system initiative. The conference committee agreed with the House action.

The conference committee added a section providing for the Legislative Council to consider studying the practices and laws relating to the sale of real estate by auctioneers.

The conference committee added a section providing for the Public Service Commission to develop a plan for the use of the metrology laboratory building and to provide a report to the Budget Section and the Office of Management and Budget regarding the future of the metrology program.

The conference committee changed the requirement that weighing and measuring devices be tested every 15 months to a frequency as determined by the Public Service Commission, not to exceed 24 months. The required frequency for testing may vary depending on the type of weights and measures device.

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

2007 TESTIMONY

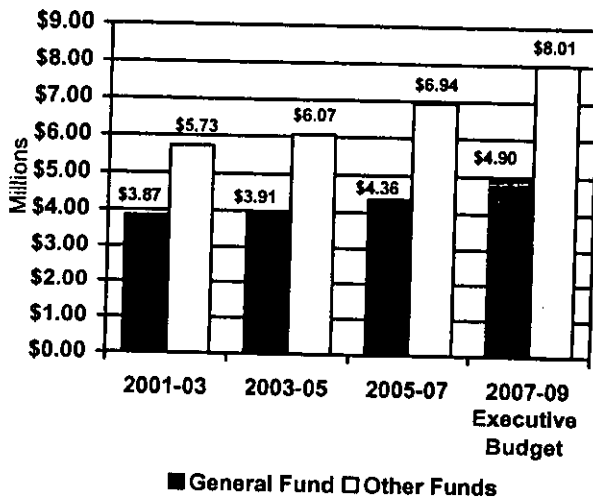
SB 2008

**Department 408 - Public Service Commission
Senate Bill No. 2008**

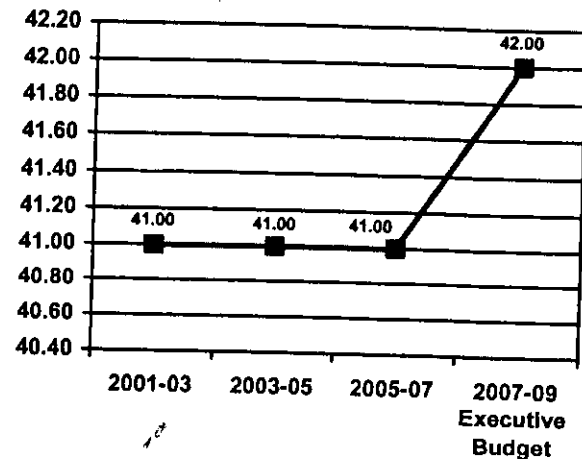
	FTE Positions	General Fund	Other Funds	Total
2007-09 Executive Budget	42.00	\$4,903,183	\$8,005,382	\$12,908,565
2005-07 Legislative Appropriations	41.00	4,362,837	6,937,151	11,299,988 ¹
Increase (Decrease)	1.00	\$540,346	\$1,068,231	\$1,608,577

¹The 2005-07 appropriation amounts include \$60,000 of additional general fund spending authority relating to 2005 Senate Bill No. 2133, which was an emergency measure to refund siting application fees collected after August 1, 2004, in excess of expenses incurred for the evaluation and designation process.

Agency Funding



FTE Positions



Executive Budget Highlights

Administration

- Provides funding for information technology equipment over \$5,000 for a large format plotter (\$18,000), high-speed scanner (\$7,000), and server update (\$7,500)
- Adds funding for 1 FTE position and related salaries and wages (\$131,388) and operating expenses (\$66,500) for the geographic information system (GIS) initiative
- Provides funding for videoconferencing equipment (**executive budget identified as one-time funding**)
- Adds funding for various operating costs, including information technology data processing (\$11,732), information technology equipment (\$14,019), and information technology communications (\$8,000)

General Fund

Other Funds

Total

\$32,500 \$32,500

\$197,888 \$197,888

\$20,000 \$20,000

\$49,783 \$49,783

Testing, licensing, and certification

- Removes funding for a "simplified" rail rate case from the beginning farmer revolving loan fund (\$800,000), carryover authority from the state rail fund (\$20,000), and from other sources, including a shipper participating in the rail rate case (\$125,000)
- Adds contingent spending authority from the beginning farmer revolving loan fund (\$800,000) and other special funds (\$100,000) for a rail rate complaint case
- Adds funding to have weights and measures equipment calibrated by Minnesota for National Institute of Standards and Technology-recognized metrology services (see **metrology laboratory** section below)

(\$945,000) (\$945,000)

\$900,000 \$900,000

\$30,000 \$30,000

8. Decreases funding for various operating costs, including travel (\$15,518) and information technology software (\$13,381)	(\$27,975)	\$1,410	(\$26,565)
9. Restores 1 FTE weights and measures inspector position and related funding for salaries and wages (\$83,882), travel (\$55,736), and equipment over \$5,000 (\$39,000)	\$178,618		\$178,618
10. Adds funding to have weights and measures weights calibrated, which is required every 10 years	\$11,000		\$11,000

Public utilities

No major changes in public utilities

Reclamation programs

11. Provides funding for equipment over \$5,000 for a bore hole camera cable (\$10,000) and seismograph (\$6,000)	\$2,100	\$13,900	\$16,000
12. Increases federal funds spending authority for abandoned mine land reclamation project grants		\$831,508	\$831,508
13. Increases federal funding to complete electronic conversion of abandoned mine land maps		\$41,670	\$41,670
14. Adds federal funds spending authority for salary and wages per adjustment made in the executive budget to reflect changes after budget was submitted		\$36,000	\$36,000
15. Adds funding for various operating costs, including travel (\$22,550)	\$22,966	\$48,692	\$71,658

Other Sections in Bill

Section 4 of Senate Bill No. 2008 authorizes \$800,000 from the beginning farmer revolving loan fund for a rail rate complaint case and provides that the funding may be carried forward from the 2005-07 biennium.

Section 5 of House Bill No. 2008 provides the statutory changes as necessary to increase a Public Service Commissioner's salary as follows:

Annual salary authorized by the 2005 Legislative Assembly:

July 1, 2005	\$72,669
July 1, 2006	\$75,576

Proposed annual salary recommendation in the 2005-07 executive budget:

July 1, 2007	\$78,599
July 1, 2008	\$81,743

The executive recommendation provides funding for elected officials' salary increases equal to 4 percent of salaries effective July 1, 2007, and 4 percent effective July 1, 2008.

Metrology laboratory - The executive recommendation provides for discontinuance of the state metrology laboratory and to have the Public Service Commission Testing, Licensing and Certification Division utilize the Minnesota metrology laboratory for calibration services at a cost of \$15,000 per year. The state will avoid the cost of relocation and construction of a new laboratory and the purchase of laboratory equipment necessary to meet National Institute of Technology Standards and Technology standards.

Continuing Appropriations

Siting process expense recovery fund - NDCC 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 - NDCC Sections 60-10-02 and 60-02-19.1 - An assessment is placed on the value of all grain sold in this state under a credit-sale contract, which is submitted by the licensee purchasing the grain to the Public Service Commission for reimbursement to any person who sold grain under a credit-sale contract and who was not fully compensated in accordance with the contract and associated administration costs.

Performance assurance fund - NDCC 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 moneys in the fund may be used by the Public Service Commission to monitor the operation and effect of the performance assurance plan.

Major Related Legislation

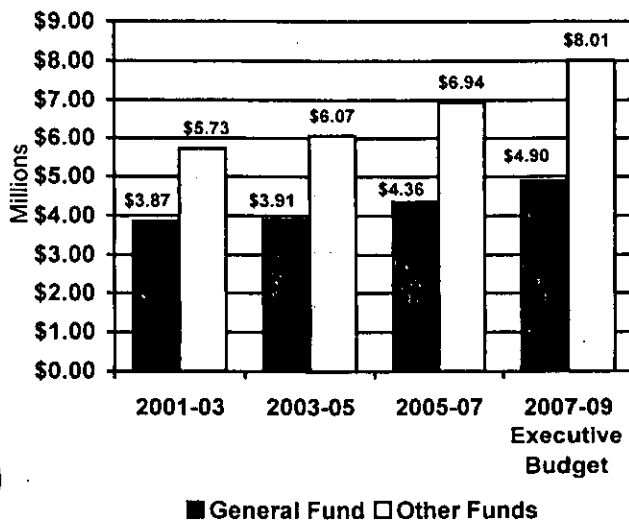
Senate Bill No. 2031 - This bill provides for an expedited rate adjustment to recover transmission facility costs and allows for change in the tariff to allow the rate adjustment. The Public Service Commission is required to approve a rate adjustment unless the rate adjustment does not comply with the tariff or the incurred costs are not reasonable or prudent.

**Department 408 - Public Service Commission
Senate Bill No. 2008**

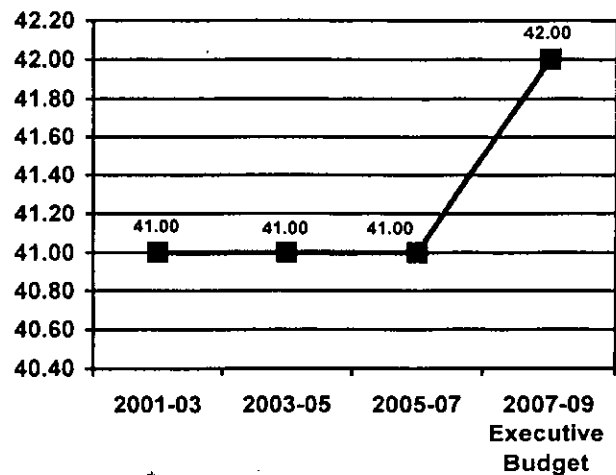
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¹The 2005-07 appropriation amounts include \$60,000 of additional general fund spending authority relating to 2005 Senate Bill No. 2133, which was an emergency measure to refund siting application fees collected after August 1, 2004, in excess of expenses incurred for the evaluation and designation process.

Agency Funding



FTE Positions



First House Action

Attached is a summary of first house changes.

Executive Budget Highlights

	General Fund	Other Funds	Total
Administration			
1. Provides funding for information technology equipment over \$5,000 for a large format plotter (\$18,000), high-speed scanner (\$7,000), and server update (\$7,500)	\$32,500		\$32,500
2. Adds funding for 1 FTE position and related salaries and wages (\$131,388) and operating expenses (\$66,500) for the geographic information system (GIS) initiative	\$197,888		\$197,888
3. Provides funding for videoconferencing equipment (executive budget identified as one-time funding)	\$20,000		\$20,000
4. Adds funding for various operating costs, including information technology data processing (\$11,732), information technology equipment (\$14,019), and information technology communications (\$8,000)	\$49,783		\$49,783
Testing, licensing, and certification			
5. Removes funding for a "simplified" rail rate case from the beginning farmer revolving loan fund (\$800,000), carryover authority from the state rail fund (\$20,000), and from other sources, including a shipper participating in the rail rate case (\$125,000)		(\$945,000)	(\$945,000)
6. Adds contingent spending authority from the beginning farmer revolving loan fund (\$800,000) and other special funds (\$100,000) for a rail rate complaint case		\$900,000	\$900,000

7. Adds funding to have weights and measures equipment calibrated by Minnesota for National Institute of Standards and Technology-recognized metrology services (see metrology laboratory section below)	\$30,000		\$30,000
8. Decreases funding for various operating costs, including travel (\$15,518) and information technology software (\$13,381)	(\$27,975)	\$1,410	(\$26,565)
9. Restores 1 FTE weights and measures inspector position and related funding for salaries and wages (\$83,882), travel (\$55,736), and equipment over \$5,000 (\$39,000)	\$178,618		\$178,618
10. Adds funding to have weights and measures weights calibrated, which is required every 10 years	\$11,000		\$11,000

Public utilities

No major changes in public utilities

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Continuing Appropriations

Siting process expense recovery fund - NDCC 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 - NDCC Sections 60-10-02 and 60-02-19.1 - An assessment is placed on the value of all grain sold in this state under a credit-sale contract, which is submitted by the licensee purchasing the grain to the Public Service Commission for reimbursement to any person who sold grain under a credit-sale contract and who was not fully compensated in accordance with the contract and associated administration costs.

Performance assurance fund - NDCC 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 moneys in the fund may be used by the Public Service Commission to monitor the operation and effect of the performance assurance plan.

Major Related Legislation

Senate Bill No. 2031 - This bill provides for an expedited rate adjustment to recover transmission facility costs and allows for change in the tariff to allow the rate adjustment. The Public Service Commission is required to approve a rate adjustment unless the rate adjustment does not comply with the tariff or the incurred costs are not reasonable or prudent.

TACH:1

02/21/07

STATEMENT OF PURPOSE OF AMENDMENT:**Senate Bill No. 2008 - Funding Summary**

	Executive Budget	Senate Changes	Senate Version
Public Service Commission			
Salaries and wages	\$5,764,864		\$5,764,864
Operating expenses	1,628,201		1,628,201
Capital assets	107,500	30,484	137,984
Grants	8,000		8,000
Abandoned mined lands contractual service	4,500,000		4,500,000
Agriculture rail rate and service fund	900,000		900,000
Total all funds	<u>\$12,908,565</u>	<u>\$30,484</u>	<u>\$12,939,049</u>
Less estimated income	<u>8,005,382</u>	<u>0</u>	<u>8,005,382</u>
General fund	<u>\$4,903,183</u>	<u>\$30,484</u>	<u>\$4,933,667</u>
FTE	42.00	0.00	42.00
Bill Total			
Total all funds	\$12,908,565	\$30,484	\$12,939,049
Less estimated income	8,005,382	0	8,005,382
General fund	<u>\$4,903,183</u>	<u>\$30,484</u>	<u>\$4,933,667</u>
FTE	42.00	0.00	42.00

Senate Bill No. 2008 - Public Service Commission - Senate Action

	Executive Budget	Senate Changes	Senate Version
Salaries and wages	\$5,764,864		\$5,764,864
Operating expenses	1,628,201		1,628,201
Capital assets	107,500	30,484	137,984
Grants	8,000		8,000
Abandoned mined lands contractual service	4,500,000		4,500,000
Agriculture rail rate and service fund	900,000		900,000
Total all funds	<u>\$12,908,565</u>	<u>\$30,484</u>	<u>\$12,939,049</u>
Less estimated income	<u>8,005,382</u>	<u>0</u>	<u>8,005,382</u>
General fund	<u>\$4,903,183</u>	<u>\$30,484</u>	<u>\$4,933,667</u>
FTE	42.00	0.00	42.00

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

	Adds Funding for Fuel Testing Equipment ¹	Total Senate Changes
Salaries and wages		
Operating expenses		
Capital assets	30,484	30,484
Grants		
Abandoned mined lands contractual service		
Agriculture rail rate and service fund		
Total all funds	\$30,484	\$30,484
Less estimated income	0	0
General fund	\$30,484	\$30,484
FTE	0.00	0.00

¹ Adds funding for a prover to be used to test high flow retail dispensers.

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S. B. 2008

Presented by: Susan Wefald, President
Public Service Commission

Before: Senate Appropriations
Honorable Ray Holmberg, Chairman

Date: January 12, 2007

TESTIMONY

Mr. Chairman and committee members, I am Susan Wefald, president of the Public Service Commission. I testify today on behalf of the Public Service Commission. Commissioners Kevin Cramer and Tony Clark are with me today in support of our budget. Also with us are our executive secretary and a number of our division directors. Thank you for the opportunity to discuss our operations, statutory mandates, and resource needs.

With the addition of funding for weights and measures equipment, the Governor's executive budget recommendation provides us with the resources we need to continue our high level of service to the people of North Dakota. We request your favorable support of the budget that is before you and of our additional funding request.

Mr. Chairman and committee members, except for a few specific items which I will discuss in more detail below, this is largely a status quo budget proposal. The commission is not proposing any new programs. We do not, however, want to leave you with the impression that the commission is a status quo agency – it definitely is not.

The commission's main areas of responsibility, which are well known to you, include:

- Regulation of telephone, electric, and natural gas utilities;
- Pipeline safety inspections;
- Licensing and inspecting grain elevators and grain buyers;

- Licensing auctioneers;
- Testing and certifying weighing and measuring devices;
- Overseeing coal mining and reclamation;
- Eliminating hazards at abandoned mine sites;
- Siting power plants, power lines, and pipelines; and
- Representing state rail interests in federal proceedings.

Despite few changes in jurisdiction, the commission has been immersed in a rapidly changing regulatory environment, some of which is mandated by federal and state statutory changes and some of which is related to structural changes within the industries with which the commission interacts. The commission has met its challenges in a variety of ways and with a very small staff. For example, the commission continues to participate in several multi-state collaborative efforts. In addition, the commission continues to maximize its use of technology in collaboration with industry and our federal partners.

The Governor's budget recommendation does include a few changes from our current appropriation, and we are requesting one addition to the Governor's budget. The Governor's recommended budget includes:

- one additional FTE and associated costs to support Geographic Information Systems technology;
- an agriculture rail rate and service fund to guard against abusive rail industry practices;
- one time funding to add video conferencing capabilities to the commission's renovated hearing room; and
- the elimination of one existing PSC program, our Metrology Program, which would eliminate the need for funding a compliant lab and equipment, but slightly increase our operating expenses in order to have our weights and measures standards calibrated at another lab.

Finally, we are requesting an addition of \$30,484 to the Governor's recommended budget to purchase weights and measures equipment.

Public Utilities

The Public Utilities Division protects the public interest by implementing policy and regulating natural gas, telecommunication, electric, and pipeline companies in a fair, efficient, and cooperative manner. The division helps promote the provision of safe, reliable and high quality utility services through its work with utility companies, rulemaking, educating consumers and resolving customer disputes.

Following are some of the projects handled by the division:

- Track, comment on, and participate in the continued development of the regional wholesale electric market through the Midwest Independent Transmission System Operator and the State Energy Assistance Taskforce. The regional wholesale market is important not only for efficiency and reliability but also for the future exportation of electricity from North Dakota.
- Investigate, analyze, advocate, provide testimony and implement rate and rate design changes through the regulation of retail electric and gas service provided by investor owned utilities. The staff conducts annual reviews of earnings levels and processes rate increase applications. Xcel Energy currently has a gas rate increase application pending before the commission.
- Direct and enforce safety requirements for electric service provided by all utilities.
- Investigate, analyze, implement and provide assurances to the extent possible for using the state's abundant natural resources for the production of power through the division's siting activities and overall regulatory authority. Through its siting authority, the commission oversees the location and construction of CO₂ pipelines, generating stations and applicable water lines, wind farms, electric transmission lines, and oil and gas pipelines and related pumping stations and other facilities. There are currently 16 open siting cases.
- Advocate for better wireless services for customers in North Dakota through its Wireless Initiative to inform the public and service providers of coverage gaps, a.k.a. Zap the Gap.
- Investigate, analyze, advocate and provide testimony concerning advance prudence applications by regulated utilities for electric resource additions. Determining prudence prior to building an asset or entering a contract reduces the utility's risk, litigation costs and the cost of service to North Dakota ratepayers. Currently, the commission is evaluating the need for constructing the Big Stone II generating facility located in South Dakota as part of the generation fleet of Montana-Dakota Utilities Co. and Otter Tail

Power Company. We expect more of these types of filings as a new cycle of generation and transmission build-out is expected for the next several years.

- Track, comment on, and implement federal telecommunication mandates including oversight and facilitation of the wholesale telecommunications market and the transition to competitive services. These types of cases include intercompany access disputes, inter-carrier compensation disputes, monitoring quality of service through regional efforts, overseeing the allocation of telephone numbers, rural exemption challenges and so on.
- Resolve territorial disputes between investor owned electric companies and rural cooperatives. The commission rendered its decision in a very public dispute between Montana-Dakota Utilities Co. and Capital Electric concerning Bismarck's Boulder Ridge development. The commission's decision has been appealed to the North Dakota Supreme Court. A similar dispute has arisen in Bismarck's Promontory Point III development.
- Investigate, analyze, provide testimony and implement merger and acquisition applications. The commission is currently reviewing the application of Montana-Dakota Utilities Co. to acquire Cascade Natural Gas Corporation. Cascade is engaged in the business of distributing natural gas in the states of Washington and Oregon.
- Process the occasional formal dispute between customers and a utility company that cannot be resolved quickly and privately. In these cases, a formal complaint is filed by the customer or the commission staff and the commission then may conduct a formal hearing and order a resolution. In the case of a telecommunications slamming violation, the commission recently issued a cease and desist order against the company and fined the company \$5,000. Similarly, a customer has filed a formal complaint with the commission against his cell provider because of poor cell phone coverage. The commission will stay active in pursuing satisfaction for the state's consumers to the degree it can.

The commission will continue efforts to educate consumers and competitors about the evolving utility marketplaces and the changing role of regulation, striving to identify and implement ways to lessen the regulatory burden on companies while strengthening and preserving necessary consumer protections. The relationships between utilities, and the management and the allocation of costs, will continue to challenge us and those with whom we do business. Regional impacts and environmental priorities and concerns will contribute to the challenges facing policymakers, regulators and interested parties.

The public utility efforts are undertaken with a staff of approximately 5.6 full time employees—by far the smallest staff of any public utility commission.

Licensing

The Licensing Division oversees the licensing and bonding of all the grain elevators and grain buyers in North Dakota and processes all grain elevator insolvency cases. The division also oversees the licensing and bonding of all auctioneers and auction clerks. The division is comprised of a director, two inspectors and receives part time assistance from the consumer affairs and public outreach specialist. Some major accomplishments during the biennium include:

- Credit-sale contract indemnity fund collections totaling approximately \$3.1 million, to date. Collections continue until the indemnity fund reaches a level of \$10 million. There have been no claims filed against the credit-sale contract indemnity fund.
- Continuing efforts to maintain state jurisdiction over merchandising despite attempts to preempt state protections at federally licensed grain warehouses.
- Completion of 237 grain warehouse and 40 roving grain buyer inspections, as well as 11 credit-sale contract indemnity fund reviews from July 1, 2005 through December 31, 2006.
- Revenues generated for the general fund for license fees received during this same period of time total \$318,120.

The Licensing Division upgraded its computer software program with funds allocated during the 2005 Legislative Session. The new software is a valuable asset to the commission's inspection program which provides for indemnity fund functions, built in WinZip functions, volumetric storage input for all bin types, improved flat storage and the ability to handle multiple bagged commodities.

Agriculture Rail Rate and Service Fund

The Governor's executive budget recommendation contains an appropriation of \$900,000 for an agriculture rail rate and service fund. This item relates to our request and the Governor's support of a fund that will sit in reserve to guard against abusive rail industry practices. This fund would be available to

allow the state to address a wide variety of abusive rail industry practices including excessive rates, discriminatory practices, rail service issues, fuel surcharges, and federal Surface Transportation Board (STB) rulemaking proceedings.

Last session the Legislature appropriated \$925,000 to fund a rail rate complaint case before the STB. \$800,000 of the amount was appropriated from the beginning farmer loan fund. Decisions about how to proceed with the rate case were held in close consultation between the commission and the agricultural stakeholders (North Dakota Wheat Commission, North Dakota Grain Growers, North Dakota Grain Dealers Association, North Dakota Farm Bureau, and North Dakota Farmers Union). The agricultural stakeholders committed to funding over \$100,000 of the appropriated amount.

During the time the commission and the agricultural stakeholders were preparing to file a rate complaint, the rail industry implemented a series of rate reductions on grain shipments which we believe were in response to the state's impending rate case. These rate reductions total nearly \$10 million annually according to calculations prepared by the Upper Great Plains Transportation Institute.

In another major development, the STB released proposed rules for the filing and processing of small shipper rate complaint cases. If the proposed rules are approved as written, the process for bringing small rate complaint cases will be substantially changed and much of the precedent-setting value of a case brought under the existing rules would likely be lost.

The proposed STB rule changes would be very damaging to North Dakota agricultural shippers. The eligibility criteria for streamlined small shipper complaint cases would be changed so that few if any North Dakota shippers would qualify. The commission and the agricultural stakeholders filed joint comments with the STB on the proposed rules, and also joined in comments filed on behalf of numerous national and state agricultural and industrial shipper groups opposing the damaging aspects of the proposed changes and

recommending positive changes. The STB has scheduled a public hearing in the proceeding for January 31, 2007.

The commission and the agricultural stakeholder group considered the effects that the pending STB rulemaking would likely have on a rate complaint as well as our fiduciary responsibility regarding the expenditure of state funds, and made the unanimous decision not to proceed with a rail rate complaint under those circumstances.

We have learned from this process the value of having a readily accessible fund of money to pursue regulatory relief against the railroad industry. For many years state complaints about rail industry practices were treated with a deaf ear. It has been since the Legislature appropriated nearly one million dollars to pursue a rate case that we have gotten some positive relief. The Legislature is to be commended for its foresight in appropriating this money. We are concerned, however, that when this biennium ends, our negotiating position will also end. Establishment of the agriculture rail rate and service fund as proposed in the Governor's budget will ensure a strong state position to guard against abusive rail industry practices.

Administration

The Administrative Division provides support services to the other divisions. Accordingly, a portion of the administrative division's funding comes from the federal government due to the federal programs we administer. The division is currently comprised of three commissioners and 8.66 supporting FTEs. These positions include administrative support, information technology, and allocated time from the executive secretary, attorney and accountant.

In addition, the administrative budget includes a new position for a programmer analyst II for purposes of implementing and supporting a Geographic Information System (GIS). We believe that GIS technology holds the same promise as the electronic spreadsheets and word programs of old.

A geographic information system is a system for capturing, storing, analyzing, and managing data which are spatially referenced to the earth. GIS is a tool that allows users to create interactive queries and analyze data relative to

spatial information. GIS technology can be used for scientific investigations, resource management, environmental impact assessments, route planning, and more.

The commission stands ready to support economic development and energy development in North Dakota but its relatively small staff has been substantially downsized since the last energy development cycle. New technologies such as GIS will assist the commission in providing accurate and timely information to current and prospective industries and allow us to make smart use of our resources.

The need for additional programming skills is critical to the success of our agency. In the early 1990's, the commission released one of its programmers when the workload no longer justified the position. The addition of a programmer analyst II today will return our computer operations staff to pre-existing levels.

The primary responsibility of the position will be programming and customization support for GIS. The position will work closely with the divisions' GIS experts and users providing programming and IT support. The position will also provide technical support for the agency in planning, design, development, installation, and maintenance of agency applications with respect to GIS and its integration throughout the entire agency.

Reclamation

The Reclamation Division is responsible for ensuring that active coal mining is carried out in an environmentally sound manner and that mined lands are adequately reclaimed. There are currently four large and two small coal mines operating in North Dakota producing about 31 million tons of coal annually. There are 105,000 acres of land presently under permit and between 1,500 and 2,000 acres of land are disturbed and reclaimed each year in North Dakota. The disturbed and reclaimed acres are monitored by the commission to ensure compliance with state reclamation laws.

A significant and increasing workload has been involved with final bond release on reclaimed lands. Mining companies cannot apply for final bond release until mined lands have been reclaimed and seeded for at least ten years.

When, final bond release is requested, data must be presented showing that lands with an agricultural use produce as well as they did before mining. In the past four years, over 4,000 acres have received final bond release.

Reclamation Division staff have also been working with Great Northern Power Development and its consultants on baseline studies for the proposed South Heart Mine and an application which adds 5,000 acres to the Falkirk Mine is presently under review. Additional baseline studies may be undertaken during the 2007-09 biennium for future projects that include another unit at the Milton Young Power Station near Center, the proposed coal to liquid fuels project, and others being considered.

In the present biennium the Reclamation Division started developing a Geographic Information System to store, evaluate and more efficiently use the vast amount of data and maps that the commission receives from mining companies. Once the data and maps are converted into the appropriate format and entered into the GIS, this data is downloaded onto tablet pc's and used by staff during routine mine inspections. While converting the maps and data into the GIS format is time consuming, the GIS allows staff to carry out their job duties more efficiently. The federal Office of Surface Mining, which oversees coal regulatory programs in all coal producing states under the federal reclamation law, already considers North Dakota's program as one of the most efficient and well run programs in the country. About 8.5 FTEs are currently assigned to the Reclamation Division and this number of FTEs is much less than that of other states having similar acreage to that which is disturbed and reclaimed each year in North Dakota.

The federal government, through annual grants from the Office of Surface Mining, currently pays for 65 percent of the coal regulatory program costs and the state general fund covers the other 35 percent. However, we have concerns that the Office of Surface Mining will not receive sufficient funds from Congress to fully fund the federal share of state coal regulatory programs. If federal funding levels are not increased nationwide, we may not receive enough federal

funds to meet our program needs during the second year of the 2007-09 biennium.

Abandoned Mine Lands

The mission of the Abandoned Mine Lands (AML) Division is to reclaim abandoned coal mine lands that pose a safety hazard. Sites eligible for reclamation under Title IV of the federal Surface Mining Control and Reclamation Act include areas mined for coal that were disturbed prior to the existence of any state or federal reclamation law. These sites are prioritized on the basis of perceived hazard and reclaimed based on priority ranking and the available funds. The AML program is 100 percent federally funded. Major reclamation projects during the 2005-07 biennium involved underground mine sites near Beulah, Garrison, and Williston and abandoned surface mines near Columbus and Leith.

The funding source for the AML program comes from a federal reclamation fee that is assessed to all active coal mines. North Dakota coal companies currently pay about 3 million dollars (10 cents/ton) per year into the federal AML fund and the commission receives roughly half of that money for funding North Dakota's AML program. However, Congress recently approved legislation that extends the fee collection until 2021 and it appears funding for our program will increase from 1.6 million dollars for the first year of the 2007-09 biennium to 3 million dollars for the second year of the biennium. AML staff estimates that it will cost more than 40 million dollars to complete reclamation work on the higher priority mine sites in the state. The AML Division is starting a project to develop a GIS to store and display information about the AML sites in North Dakota. Our goal is to have much of this information posted on the commission's website so it will be readily available to the public.

Testing and Safety

The Testing and Safety Division has three main areas of responsibility: the Gas Pipeline Safety Inspection Program, the Weights and Measures Inspection Program, and the Metrology Program.

Gas Pipeline Safety Inspection Program

The commission is granted regulatory jurisdiction over the safety of North Dakota gas utility distribution and transmission facilities under state law. The commission enters into an agreement with the United States Department of Transportation annually which grants the state authority to conduct the federal gas pipeline safety program. As part of this agreement, a portion of the cost of the North Dakota Gas Pipeline Safety Program is funded by the federal government.

Weights and Measures Inspection Program

The Weights and Measures Program is designed to meet the needs of both the buyer and seller in the commercial marketplace. This is accomplished through the enforcement of the state's weights and measures laws by the inspection and testing of commercial weighing and measuring devices such as supermarket scales, grain elevator truck scales, livestock scales, and gas station pumps, etc. Some of the accomplishments of the program during the biennium include:

- Testing and inspecting 12,802 commercial devices from January 1, 2006 to December 31, 2006.
- Conducting quality control testing and monitoring the documentation of 6,816 weighing or measuring devices installed or serviced by the state's registered service companies.
- Generating revenues totaling \$283,110 for the general fund as a result of the above testing during that time period.

The Testing and Safety Division must reorganize its light duty inspection route which is responsible for the annual testing and certification of all commercial liquid measuring devices and small commercial scales. This is a result of the need to upgrade field test standards to comply with the Federal Department of Commerce, National Institute of Standards and Technology (NIST) and the Office of Weights and Measures.

The light duty route is currently divided between three inspectors who share testing of all the commercial devices equally. In order to save equipment dollars and still meet current federal testing requirements, one of the inspectors

will be designated to test large volume liquid measuring devices only, while the other two inspectors will test retail and retail high flow liquid measuring devices and small scales.

We believe that the Governor's executive budget recommendation reinstating the funding for one weights and measures inspector FTE, together with funding to replace outdated testing equipment, provides us with the resources we need to continue providing service to both North Dakota buyers and sellers. We request your favorable support.

However, through the Request for Proposal process the commission learned that a design change will require an additional \$30,484. These dollars are needed to purchase one new trailer mounted 100 gallon prover to be used to test high flow retail dispensers. Without this prover, state inspectors would not be able to test these dispensers accurately as the law requires.

The commission was not aware of this design change at the time of the budget preparation so funding for this equipment was not included in our budget request. The commission is asking this committee to add funding to the Governor's recommended budget for the purchase of one new, trailer mounted 100 gallon refined fuel prover to be used to test high flow retail fuel dispensers and bulk fuel truck dispensers.

Metrology Program

An integral part of weights and measures is the science of metrology. All of the field standards used by state inspectors and private service providers are certified in our metrology laboratory. The laboratory also offers certification services to other interested parties including Tesoro, the Federal Grain Inspection Service, Bobcat, North Dakota Highway Patrol and a large number of the state's grain terminals. The certification process uses intricate balances and measuring vessels to compare the state's working standards to all of the field standards to insure their traceability to the international standards.

The state's metrology laboratory is currently housed in the southwest corner of the Capitol Maintenance Shop located north of the State Capitol building. Currently, this laboratory is conditionally "recognized" by NIST.

Conditional recognition means that many problems at the lab with equipment and physical space must be addressed before our metrology lab can receive unconditional recognition from NIST.

As a result of a 2004 NIST laboratory audit, North Dakota is in jeopardy of losing its conditional recognition as a NIST-approved tolerance testing laboratory. Tolerance testing is the most basic level of three possible levels of metrology testing that is recognized by NIST. North Dakota must continue to make forward progress to mitigate areas of noncompliance in order to continue to receive that conditional recognition.

The audit showed that the physical condition of the building housing the laboratory was not to NIST standards and that certain balances used for tolerance testing were either wearing out or unable to meet tolerance testing specifications. None of the compliance issues associated with the physical structure of the building housing the laboratory has been mitigated. We now know that to completely mitigate those would require approximately \$180,000 per biennium to lease a building suitable for a metrology laboratory. Also, only some of the compliance issues associated with the laboratory equipment have been mitigated. Approximately \$100,000 for new measuring equipment is needed over the next four years to address the remaining issues.

The Governor's recommended budget, and the commission is in agreement with this recommendation, did not include funding associated with leasing a new laboratory building and replacement of old laboratory balances. The State Metrology Laboratory will be closed if no funding is provided for equipment and improved space. Instead, the Governor recommends that both state and private working standards be sent to the NIST-accredited metrology laboratory in St. Paul, Minnesota.

We caution this committee that this small but expensive program cannot sustain itself and will require continual general fund support in order to operate in compliance with federal requirements. If the program is not properly funded, it should be ended. Insufficient funding harms the integrity of this program. During the last legislative session, the commission received \$70,000 earmarked for a

lease on a new metrology building. However, upon completion of the Request for Proposal process the commission learned that the \$70,000 appropriated was insufficient to cover even a one year lease on the type of building it would need to house a metrology laboratory. The \$70,000 was eventually used to cover shortfalls in the Testing & Safety division's travel budget.

The commission recognizes that closing the metrology laboratory is a major policy decision for the Legislature to make. There are benefits and disadvantages to each course of action. Both public and private working standards could be sent to a NIST-accredited metrology laboratory, at a fraction of the cost that it would take to fund the continuation of the state's metrology program. Closing the lab would not negatively impact staffing, but rather free up existing staff resources to concentrate on the other higher priority division responsibilities.

Closing the lab presents some disadvantages. Current customers, including 83 North Dakota grain elevators, who use working standards may have to travel or ship their standards to a NIST-approved laboratory at a higher cost. State metrology labs have a scheduling priority and out of state customers are usually lower in priority. This is a concern because if inspectors or service providers miss their annual recertification, this could cause poor, inefficient service to the state's commercial device operators. Some of North Dakota's metrology lab customers may have to travel up to 600 miles for service, adding additional costs to their operating expenses which may be passed on to their customers. Due to the differences in laws between states, some standards accepted by North Dakota may not be accepted for calibration in other states, forcing those service providers to stop testing commercial devices until they purchase and certify new, compliant equipment.

Summary

Of the commission's overall budget, about 54 percent comes from federal sources, 38 percent is general fund money, and 8 percent is special funds. The commission generates about \$1 million per biennium in income from statutory

license and inspection fees. Indirectly, this income covers about 20 percent of the general fund money that is being requested in S.B. 2008.

The commission recorded 1,164 complaints and inquiries during the current biennium. The vast majority of these concerned traditional public utility services, but many involve matters such as grain elevator operations, mining, and weights and measures.

During the current biennium, the commission opened 812 cases. The commission attempts to process these cases as quickly and at as low a level of formality as possible. As a result, approximately 98 percent of these cases were processed without the need for a formal hearing and over half were processed and closed in less than thirty days. Only 17 of these cases required formal hearings, several of which were mandated by state law.

The commission's staff has been reduced in size from 60 FTEs over twenty years ago to 41 today. This has been accomplished by increased efficiencies and productivity, despite very few changes in jurisdiction. To continue to support economic development and protect the citizens of North Dakota, the commission respectfully requests adoption of the Governor's executive budget, plus the addition of \$30,484 for satisfactory weights and measures equipment.

Mr. Chairman, this concludes our testimony.

Attached are:

1. Schedule required by Section 34 of 2003 S.B. 2015 showing revenue and expenditures for our three continuing appropriation funds,
2. PSC 2007 – 09 budget request organizational chart, and
3. North Dakota Metrology Program fact sheet.

We would be happy to answer any questions you might have.

Continuing Appropriations

Attachment 1

Schedule Required by Section 34 of 2003 Senate Bill No. 2015
January 12, 2007

Performance Assurance Fund

Fund No. 280

Statutory Authority: NDCC 49-21-31.

	Biennium Ending		B.T.D. 1/2/07	Projected	
	2001-2003	2003-2005		1/02/07 to 6/30/07	2007-09
Beginning Balance	\$ -	\$ 53,750	\$ 100,000	\$ 93,690	\$ 99,190
Revenues	54,231	98,443	8,500	10,000	7,500
Total Available	\$ 54,231	\$ 152,193	\$ 108,500	\$ 103,690	\$ 106,690
Expenditures	481	19,986	14,810	4,500	
Returned to General Fund		32,207			6,690
Ending Balance	\$ 53,750	\$ 100,000	\$ 93,690	\$ 99,190	\$ 100,000

Credit Sale Contract Indemnity Fund

Fund No. 395

Statutory Authority: NDCC 60-10.

	Biennium Ending		B.T.D. 1/2/07	Projected	
	2001-2003	2003-2005		1/02/07 to 6/30/07	2007-09
Beginning Balance	\$ -		\$ 1,956,355	\$ 3,243,081	\$ 4,003,071
Revenues		1,955,813	1,286,726	759,990	1,997,874
Total Available	\$ -	\$ 1,955,813	\$ 3,243,081	\$ 4,003,071	\$ 6,000,945
Expenditures		542	-	-	-
Ending Balance	\$ -	\$ 1,956,355	\$ 3,243,081	\$ 4,003,071	\$ 6,000,945

Siting Process Expense Recovery

Fund No. 301

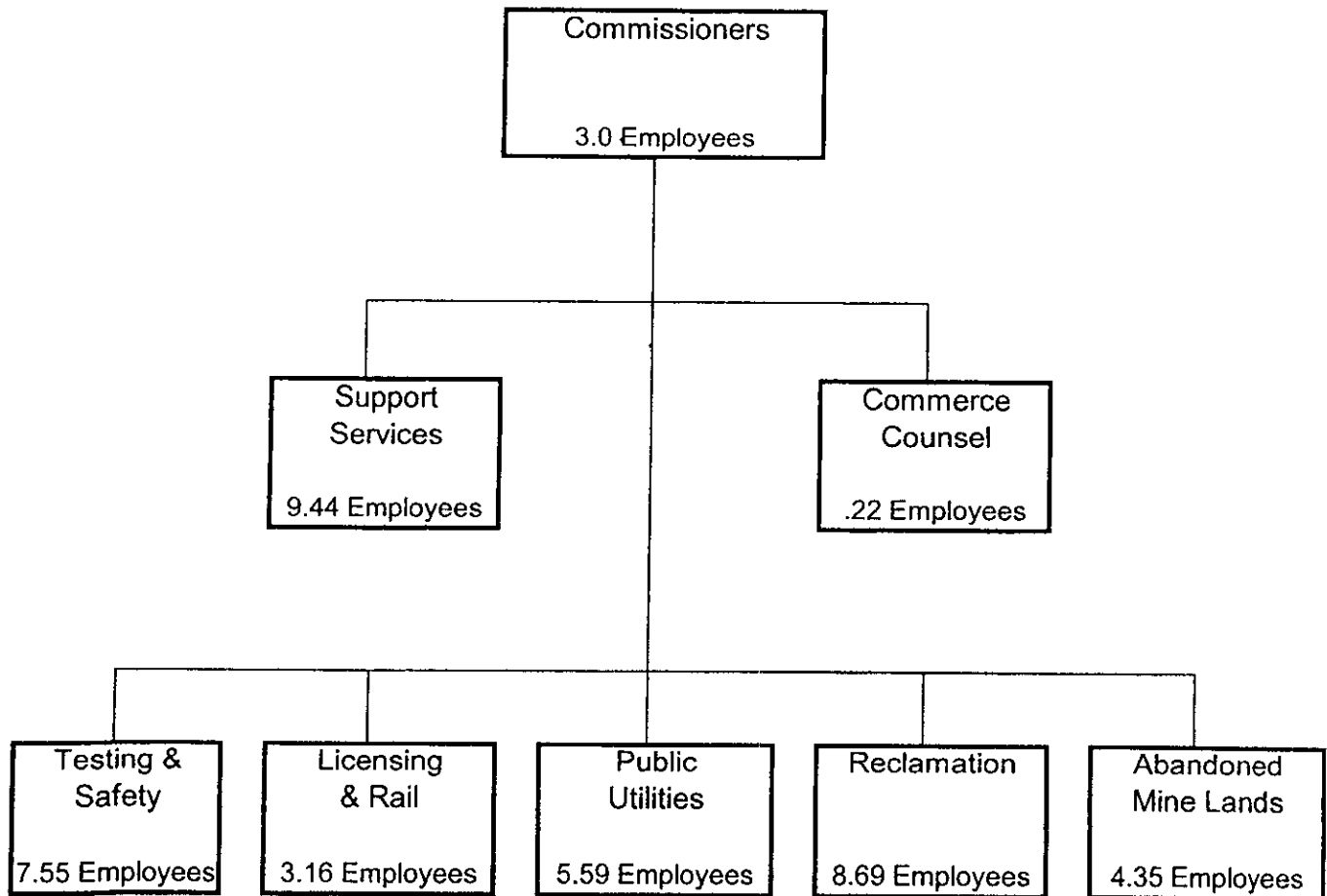
Statutory Authority: NDCC 49-22-22.

	Biennium Ending		B.T.D. 1/2/07	1/02/07 to	
	2001-2003	2003-2005		6/30/07	2007-09
Beginning Balance	\$ -	\$ -	\$ 134,921	\$ 445,884	\$ 425,884
Revenues		135,750	326,478	200,000	60,000
Total Available	\$ -	\$ 135,750	\$ 461,399	\$ 645,884	\$ 485,884
Expenditures		829	15,515	20,000	20,000
Refunds				200,000	200,000
Ending Balance	\$ -	\$ 134,921	\$ 445,884	\$ 425,884	\$ 265,884

Public Service Commission

2007-09 Budget Request

Organizational Chart



Full-time Employees: 42

The North Dakota Metrology Program FACT SHEET January 2007

Who are the customers of the North Dakota Metrology Program?

Industry, including Registered Service Companies, and Government Customers: Industry and government customers are able to maintain traceability of their field standards to NIST through the North Dakota Metrology Lab. In the 2003-2005 biennium, 50 industry and registered service companies were provided metrology lab services. The staff devoted 515 hours to calibration of industry standards during the biennium. In addition, annually the North Dakota Highway Patrol uses equipment in the state lab to calibrate approximately 200 portable wheel load weighers per year, which are used to monitor truck weights on state highways.

The North Dakota Weights and Measures Inspection and Testing Program: All of the field standards used by state inspectors are calibrated in the North Dakota Metrology Lab.

NIST Recognition

The North Dakota Metrology Lab was conditionally recognized as an Echelon III lab for Mass and a Volume Transfer Lab for Volume in 2006. The Commission submitted in November 2006 NIST's required reports to apply for NIST recognition in 2007.

Technical Staff of the North Dakota Metrology Program

- Kevin Hanson, Chief Metrologist (Mr. Hanson is also head of the Weights and Measures Inspection and Training Program) *Mr. Hanson has completed Basic NIST Training and is qualified to do Echelon III and Volume Transfer.*
- JP Robbins, Assistant State Metrologist (Mr. Robbins is also a state weights and measures inspector) *Mr. Robbins has completed Basic NIST Training and is considered a "trainee" for Echelon III and Volume Transfer.*

What quality control programs are in place at the North Dakota Metrology Lab?

The program operates under a quality manual. Each year staff participates in the NIST Laboratory Auditing Program, Regional Measurement Assurance Program, and an annual self review process. The Metrology staff devotes approximately 200 hours to laboratory traceability annually.

What equipment is in the North Dakota Metrology Lab?

- Check Standards of Mass and Volume
- Primary Standards of Mass and Volume
- Working Standards of Mass and Volume
- Calibration Equipment

Does the North Dakota Metrology Lab use outside calibration services?

The North Dakota Metrology Lab uses NIST recognized Echelon II metrology labs for calibration of its *primary and working* standards. The North Dakota Metrology Lab which provides Echelon III services is not able to calibrate *primary and working* standards.

What is the income from Metrology Lab services?

- *Calendar Year 2004:* \$19,686; *Calendar Year 2005:* \$12,087; *Calendar Year 2006:* \$18,309

What new costs are anticipated so that the North Dakota Metrology Lab meets NIST standards?

Estimates at this time are:

- \$80,000 to \$100,000 for new calibration equipment (equipment in the lab is 30 or more years old and needs to be replaced over the next 4 years)
- Approximately \$90,000 per year for leasing a new lab which meets NIST standards

What is the history of the North Dakota Metrology Lab and NIST?

In 1965, Congress funded NIST to establish the State Standards Program to provide new standards of mass, volume, and length to the States, to update their weights and measures laboratories and increase their measurement capabilities. The program also provided the laboratory equipment necessary for the states to use the standards in their measurement services. As part of the States' responsibilities in the distribution of standards and equipment, each jurisdiction was required to provide an acceptable laboratory facility meeting specifications established under the State Standards Program and to maintain acceptable staffing. The laboratory metrologist was required to complete training at NIST in the use of the standards and equipment.

In 1968, in the Annual Report of the Public Service Commission to the Governor, the report states, "A new weights and measures laboratory and Shop building has been built on the Capitol Grounds and is being equipped with standards supplied by the National Bureau of Standards at a cost of \$80,000."

S. B. 2008

Presented by: Susan Wefald, President
Public Service Commission

Before: House Appropriations
Government Operations Division
Honorable Al Carlson, Chairman

Date: February 27, 2007

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TESTIMONY

Mr. Chairman and committee members, I am Susan Wefald, president of the Public Service Commission. I testify today on behalf of the Public Service Commission. Commissioners Kevin Cramer and Tony Clark are with me today in support of our budget. Also with us are our executive secretary and a number of our division directors. Thank you for the opportunity to discuss our operations, statutory mandates, and resource needs.

With the addition of funding for weights and measures equipment, the Governor's executive budget recommendation provides us with the resources we need to continue our high level of service to the people of North Dakota. We request your favorable support of the budget that is before you and of our additional funding request.

Mr. Chairman and committee members, except for a few specific items which I will discuss in more detail below, this is largely a status quo budget proposal. The commission is not proposing any new programs. We do not, however, want to leave you with the impression that the commission is a status quo agency – it definitely is not.

The commission's main areas of responsibility, which are well known to you, include:

- Regulation of telephone, electric, and natural gas utilities;
- Pipeline safety inspections;
- Licensing and inspecting grain elevators and grain buyers;

- Licensing auctioneers;
- Testing and certifying weighing and measuring devices;
- Overseeing coal mining and reclamation;
- Eliminating hazards at abandoned mine sites;
- Siting power plants, power lines, and pipelines; and
- Representing state rail interests in federal proceedings.

Despite few changes in jurisdiction, the commission has been immersed in a rapidly changing regulatory environment, some of which is mandated by federal and state statutory changes and some of which is related to structural changes within the industries with which the commission interacts. The commission has met its challenges in a variety of ways and with a very small staff. For example, the commission continues to participate in several multi-state collaborative efforts. In addition, the commission continues to maximize its use of technology in collaboration with industry and our federal partners.

The Governor's budget recommendation does include a few changes from our current appropriation, and the Senate authorized one addition to the Governor's budget at our request. The Governor's recommended budget includes:

- one additional FTE and associated costs to support Geographic Information Systems technology;
- an agriculture rail rate and service fund to guard against abusive rail industry practices;
- one time funding to add video conferencing capabilities to the commission's renovated hearing room; and
- the elimination of one existing PSC program, our Metrology Program, which would eliminate the need for funding a compliant lab and equipment, but slightly increase our operating expenses in order to have our weights and measures standards calibrated at another lab.

The Senate agreed with the Governor's recommendation and also included our requested addition of \$30,484 to the Governor's recommended budget to purchase weights and measures equipment.

Public Utilities

The Public Utilities Division protects the public interest by implementing policy and regulating natural gas, telecommunication, electric, and pipeline companies in a fair, efficient, and cooperative manner. The division helps promote the provision of safe, reliable and high quality utility services through its work with utility companies, rulemaking, educating consumers and resolving customer disputes.

Following are some of the projects handled by the division:

- Track, comment on, and participate in the continued development of the regional wholesale electric market through the Midwest Independent Transmission System Operator and the State Energy Assistance Taskforce. The regional wholesale market is important not only for efficiency and reliability but also for the future exportation of electricity from North Dakota.
- Investigate, analyze, advocate, provide testimony and implement rate and rate design changes through the regulation of retail electric and gas service provided by investor owned utilities. The staff conducts annual reviews of earnings levels and processes rate increase applications. Xcel Energy currently has a gas rate increase application pending before the commission.
- Direct and enforce safety requirements for electric service provided by all utilities.
- Investigate, analyze, implement and provide assurances to the extent possible for using the state's abundant natural resources for the production of power through the division's siting activities and overall regulatory authority. Through its siting authority, the commission oversees the location and construction of CO₂ pipelines, generating stations and applicable water lines, wind farms, electric transmission lines, and oil and gas pipelines and related pumping stations and other facilities. There are currently 16 open siting cases.
- Advocate for better wireless services for customers in North Dakota through its Wireless Initiative to inform the public and service providers of coverage gaps, a.k.a. Zap the Gap.
- Investigate, analyze, advocate and provide testimony concerning advance prudence applications by regulated utilities for electric resource additions.

Determining prudence prior to building an asset or entering a contract reduces the utility's risk, litigation costs and the cost of service to North Dakota ratepayers. Currently, the commission is evaluating the need for constructing the Big Stone II generating facility located in South Dakota as part of the generation fleet of Montana-Dakota Utilities Co. and Otter Tail Power Company. We expect more of these types of filings as a new cycle of generation and transmission build-out is expected for the next several years.

- Track, comment on, and implement federal telecommunication mandates including oversight and facilitation of the wholesale telecommunications market and the transition to competitive services. These types of cases include intercompany access disputes, inter-carrier compensation disputes, monitoring quality of service through regional efforts, overseeing the allocation of telephone numbers, rural exemption challenges and so on.
- Resolve territorial disputes between investor owned electric companies and rural cooperatives. The commission rendered its decision in a very public dispute between Montana-Dakota Utilities Co. and Capital Electric concerning Bismarck's Boulder Ridge development. The commission's decision has been appealed to the North Dakota Supreme Court. A similar dispute has arisen in Bismarck's Promontory Point III development.
- Investigate, analyze, provide testimony and implement merger and acquisition applications. The commission is currently reviewing the application of Montana-Dakota Utilities Co. to acquire Cascade Natural Gas Corporation. Cascade is engaged in the business of distributing natural gas in the states of Washington and Oregon.
- Process the occasional formal dispute between customers and a utility company that cannot be resolved quickly and privately. In these cases, a formal complaint is filed by the customer or the commission staff and the commission then may conduct a formal hearing and order a resolution. In the case of a telecommunications slamming violation, the commission recently issued a cease and desist order against the company and fined the company \$5,000. Similarly, a customer has filed a formal complaint with the commission against his cell provider because of poor cell phone coverage. The commission will stay active in pursuing satisfaction for the state's consumers to the degree it can.

The commission will continue efforts to educate consumers and competitors about the evolving utility marketplaces and the changing role of regulation, striving to identify and implement ways to lessen the regulatory burden on companies while strengthening and preserving necessary consumer protections. The relationships between utilities, and the management and the allocation of costs, will continue to challenge us and those with whom we do

business. Regional impacts and environmental priorities and concerns will contribute to the challenges facing policymakers, regulators and interested parties.

The public utility efforts are undertaken with a staff of approximately 5.6 full time employees—by far the smallest staff of any public utility commission.

Licensing

The Licensing Division oversees the licensing and bonding of all the grain elevators and grain buyers in North Dakota and processes all grain elevator insolvency cases. The division also oversees the licensing and bonding of all auctioneers and auction clerks. The division is comprised of a director, two inspectors and receives part time assistance from the consumer affairs and public outreach specialist. Some major accomplishments during the biennium include:

- Credit-sale contract indemnity fund collections totaling approximately \$3.7 million, to date. Collections continue until the indemnity fund reaches a level of \$10 million. There have been no claims filed against the credit-sale contract indemnity fund.
- Continuing efforts to maintain state jurisdiction over merchandising despite attempts to preempt state protections at federally licensed grain warehouses.
- Completion of 237 grain warehouse and 40 roving grain buyer inspections, as well as 11 credit-sale contract indemnity fund reviews from July 1, 2005 through December 31, 2006.
- Revenues generated for the general fund for license fees received during this same period of time total \$318,120.

The Licensing Division upgraded its computer software program with funds allocated during the 2005 Legislative Session. The new software is a valuable asset to the commission's inspection program which provides for indemnity fund functions, built in WinZip functions, volumetric storage input for all bin types, improved flat storage and the ability to handle multiple bagged commodities.

Agriculture Rail Rate and Service Fund

The Governor's executive budget recommendation contains an appropriation of \$900,000 for an agriculture rail rate and service fund. This item relates to our request and the Governor's support of a fund that will sit in reserve to guard against abusive rail industry practices. This fund would be available to allow the state to address a wide variety of abusive rail industry practices including excessive rates, discriminatory practices, rail service issues, fuel surcharges, and federal Surface Transportation Board (STB) rulemaking proceedings.

Last session the Legislature appropriated \$925,000 to fund a rail rate complaint case before the STB. \$800,000 of the amount was appropriated from the beginning farmer loan fund. Decisions about how to proceed with the rate case were held in close consultation between the commission and the agricultural stakeholders (North Dakota Wheat Commission, North Dakota Grain Growers, North Dakota Grain Dealers Association, North Dakota Farm Bureau, and North Dakota Farmers Union). The agricultural stakeholders committed to funding over \$100,000 of the appropriated amount.

During the time the commission and the agricultural stakeholders were preparing to file a rate complaint, the rail industry implemented a series of rate reductions on grain shipments which we believe were in response to the state's impending rate case. These rate reductions total nearly \$10 million annually according to calculations prepared by the Upper Great Plains Transportation Institute.

In another major development, the STB released proposed rules for the filing and processing of small shipper rate complaint cases. If the proposed rules are approved as written, the process for bringing small rate complaint cases will be substantially changed and much of the precedent-setting value of a case brought under the existing rules would likely be lost.

The proposed STB rule changes would be very damaging to North Dakota agricultural shippers. The eligibility criteria for streamlined small shipper complaint cases would be changed so that few if any North Dakota shippers would qualify. The commission and the agricultural stakeholders filed joint

comments with the STB on the proposed rules, and also joined in comments filed on behalf of numerous national and state agricultural and industrial shipper groups opposing the damaging aspects of the proposed changes and recommending positive changes. The STB held a public hearing in the proceeding on January 31, 2007.

The commission and the agricultural stakeholder group considered the effects that the pending STB rulemaking would likely have on a rate complaint as well as our fiduciary responsibility regarding the expenditure of state funds, and made the unanimous decision not to proceed with a rail rate complaint under those circumstances.

We have learned from this process the value of having a readily accessible fund of money to pursue regulatory relief against the railroad industry. For many years state complaints about rail industry practices were treated with a deaf ear. It has been since the Legislature appropriated nearly one million dollars to pursue a rate case that we have gotten some positive relief. The Legislature is to be commended for its foresight in appropriating this money. We are concerned, however, that when this biennium ends, our negotiating position will also end. Establishment of the agriculture rail rate and service fund as proposed in the Governor's budget will ensure a strong state position to guard against abusive rail industry practices.

Administration

The Administrative Division provides support services to the other divisions. Accordingly, a portion of the administrative division's funding comes from the federal government due to the federal programs we administer. The division is currently comprised of three commissioners and 8.66 supporting FTEs. These positions include administrative support, information technology, and allocated time from the executive secretary, attorney and accountant.

In addition, the administrative budget includes a new position for a programmer analyst II for purposes of implementing and supporting a Geographic Information System (GIS). We believe that GIS technology holds the same promise as the electronic spreadsheets and word programs of old.

A geographic information system is a system for capturing, storing, analyzing, and managing data which are spatially referenced to the earth. GIS is a tool that allows users to create interactive queries and analyze data relative to spatial information. GIS technology can be used for scientific investigations, resource management, environmental impact assessments, route planning, and more.

The commission stands ready to support economic development and energy development in North Dakota but its relatively small staff has been substantially downsized since the last energy development cycle. New technologies such as GIS will assist the commission in providing accurate and timely information to current and prospective industries and allow us to make smart use of our resources.

The need for additional programming skills is critical to the success of our agency. In the early 1990's, the commission released one of its programmers when the workload no longer justified the position. The addition of a programmer analyst II today will return our computer operations staff to pre-existing levels.

The primary responsibility of the position will be programming and customization support for GIS. The position will work closely with the divisions' GIS experts and users providing programming and IT support. The position will also provide technical support for the agency in planning, design, development, installation, and maintenance of agency applications with respect to GIS and its integration throughout the entire agency.

Reclamation

The Reclamation Division is responsible for ensuring that active coal mining is carried out in an environmentally sound manner and that mined lands are adequately reclaimed. There are currently four large and two small coal mines operating in North Dakota producing about 31 million tons of coal annually. There are 105,000 acres of land presently under permit and between 1,500 and 2,000 acres of land are disturbed and reclaimed each year in North Dakota. The disturbed and reclaimed acres are monitored by the commission to ensure compliance with state reclamation laws.

A significant and increasing workload has been involved with final bond release on reclaimed lands. Mining companies cannot apply for final bond release until mined lands have been reclaimed and seeded for at least ten years. When, final bond release is requested, data must be presented showing that lands with an agricultural use produce as well as they did before mining. In the past four years, over 4,000 acres have received final bond release.

Reclamation Division staff have also been working with Great Northern Power Development and its consultants on baseline studies for the proposed South Heart Mine and an application which adds 5,000 acres to the Falkirk Mine is presently under review. Additional baseline studies may be undertaken during the 2007-09 biennium for future projects that include another unit at the Milton Young Power Station near Center, the proposed coal to liquid fuels project, and others being considered.

In the present biennium the Reclamation Division started developing a Geographic Information System to store, evaluate and more efficiently use the vast amount of data and maps that the commission receives from mining companies. Once the data and maps are converted into the appropriate format and entered into the GIS, this data is downloaded onto tablet pc's and used by staff during routine mine inspections. While converting the maps and data into the GIS format is time consuming, the GIS allows staff to carry out their job duties more efficiently. The federal Office of Surface Mining, which oversees coal regulatory programs in all coal producing states under the federal reclamation law, already considers North Dakota's program as one of the most efficient and well run programs in the country. About 8.5 FTEs are currently assigned to the Reclamation Division and this number of FTEs is much less than that of other states having similar acreage to that which is disturbed and reclaimed each year in North Dakota.

The federal government, through annual grants from the Office of Surface Mining, currently pays for 65 percent of the coal regulatory program costs and the state general fund covers the other 35 percent. However, we have concerns that the Office of Surface Mining will not receive sufficient funds from Congress

to fully fund the federal share of state coal regulatory programs. If federal funding levels are not increased nationwide, we may not receive enough federal funds to meet our program needs during the second year of the 2007-09 biennium.

Abandoned Mine Lands

The mission of the Abandoned Mine Lands (AML) Division is to reclaim abandoned coal mine lands that pose a safety hazard. Sites eligible for reclamation under Title IV of the federal Surface Mining Control and Reclamation Act include areas mined for coal that were disturbed prior to the existence of any state or federal reclamation law. These sites are prioritized on the basis of perceived hazard and reclaimed based on priority ranking and the available funds. The AML program is 100 percent federally funded. Major reclamation projects during the 2005-07 biennium involved underground mine sites near Beulah, Garrison, and Williston and abandoned surface mines near Columbus and Leith.

The funding source for the AML program comes from a federal reclamation fee that is assessed to all active coal mines. North Dakota coal companies currently pay about 3 million dollars (10 cents/ton) per year into the federal AML fund and the commission receives roughly half of that money for funding North Dakota's AML program. However, Congress recently approved legislation that extends the fee collection until 2021 and it appears funding for our program will increase from 1.6 million dollars for the first year of the 2007-09 biennium to 3 million dollars for the second year of the biennium. AML staff estimates that it will cost more than 40 million dollars to complete reclamation work on the higher priority mine sites in the state. The AML Division is starting a project to develop a GIS to store and display information about the AML sites in North Dakota. Our goal is to have much of this information posted on the commission's website so it will be readily available to the public.

Testing and Safety

The Testing and Safety Division has three main areas of responsibility: the Gas Pipeline Safety Inspection Program, the Weights and Measures Inspection Program, and the Metrology Program.

Gas Pipeline Safety Inspection Program

The commission is granted regulatory jurisdiction over the safety of North Dakota gas utility distribution and transmission facilities under state law. The commission enters into an agreement with the United States Department of Transportation annually which grants the state authority to conduct the federal gas pipeline safety program. As part of this agreement, a portion of the cost of the North Dakota Gas Pipeline Safety Program is funded by the federal government.

Weights and Measures Inspection Program

The Weights and Measures Program is designed to meet the needs of both the buyer and seller in the commercial marketplace. This is accomplished through the enforcement of the state's weights and measures laws by the inspection and testing of commercial weighing and measuring devices such as supermarket scales, grain elevator truck scales, livestock scales, and gas station pumps, etc. Some of the accomplishments of the program during the biennium include:

- Testing and inspecting 12,802 commercial devices from January 1, 2006 to December 31, 2006.
- Conducting quality control testing and monitoring the documentation of 6,816 weighing or measuring devices installed or serviced by the state's registered service companies.
- Generating revenues totaling \$283,110 for the general fund as a result of the above testing during that time period.

The Testing and Safety Division must reorganize its light duty inspection route which is responsible for the annual testing and certification of all commercial liquid measuring devices and small commercial scales. This is a result of the need to upgrade field test standards to comply with the Federal Department of Commerce, National Institute of Standards and Technology (NIST) and the Office of Weights and Measures.

The light duty route is currently divided between three inspectors who share testing of all the commercial devices equally. In order to save equipment dollars and still meet current federal testing requirements, one of the inspectors will be designated to test large volume liquid measuring devices only, while the other two inspectors will test retail and retail high flow liquid measuring devices and small scales.

The Governor's executive budget recommendation reinstates funding for one weights and measures inspector FTE and funds the replacement of outdated testing equipment. The Governor's budget plus the Senate addition of \$30,484 provides us with the resources we need to continue providing service to both North Dakota buyers and sellers. We request your favorable support.

We would like to provide some background for the addition we requested of the Senate. Through the Request for Proposal process the commission learned that a design change will require an additional \$30,484. These dollars are needed to purchase one new trailer mounted 100 gallon prover to be used to test high flow retail dispensers. Without this prover, state inspectors would not be able to test these dispensers accurately as the law requires.

The commission was not aware of this design change at the time of the budget preparation so funding for this equipment was not included in our budget request. The commission is asking this committee to maintain the Senate's addition to the Governor's recommended budget for the purchase of one new, trailer mounted 100 gallon refined fuel prover to be used to test high flow retail fuel dispensers and bulk fuel truck dispensers.

Metrology Program

An integral part of weights and measures is the science of metrology. All of the field standards used by state inspectors and private service providers are certified in our metrology laboratory. The laboratory also offers certification services to other interested parties including Tesoro, the Federal Grain Inspection Service, Bobcat, North Dakota Highway Patrol and a large number of the state's grain terminals. The certification process uses intricate balances and

measuring vessels to compare the state's working standards to all of the field standards to insure their traceability to the international standards.

The state's metrology laboratory is currently housed in the southwest corner of the Capitol Maintenance Shop located north of the State Capitol building. Currently, this laboratory is conditionally "recognized" by NIST. Conditional recognition means that many problems at the lab with equipment and physical space must be addressed before our metrology lab can receive unconditional recognition from NIST.

As a result of a 2004 NIST laboratory audit, North Dakota is in jeopardy of losing its conditional recognition as a NIST-approved tolerance testing laboratory. Tolerance testing is the most basic level of three possible levels of metrology testing that is recognized by NIST. North Dakota must continue to make forward progress to mitigate areas of noncompliance in order to continue to receive that conditional recognition.

The audit showed that the physical condition of the building housing the laboratory was not to NIST standards and that certain balances used for tolerance testing were either wearing out or unable to meet tolerance testing specifications. NIST's primary problem with the current lab space is related to having incompatible tenants in the same building. The current lab shares a building with the Department of Transportation where they store and operate diesel-powered heavy equipment. This causes vibration and pollution, contributing to an unstable laboratory environment. It also raises security issues. None of the compliance issues associated with the physical structure of the building housing the laboratory has been mitigated. We now know that to completely mitigate those would require approximately \$180,000 per biennium to lease a building suitable for a metrology laboratory. Also, only some of the compliance issues associated with the laboratory equipment have been mitigated. Approximately \$100,000 for new measuring equipment is needed over the next four years to address the remaining issues.

Senator Christmann approached the commission about exploring the option to house the metrology lab at Bismarck State College. As requested by

Senator Christmann, a fact sheet explaining the physical requirements for a metrology laboratory has been sent to Dr. Wayne Boekes at the College. If this is an option that the committee members would like the Commission to pursue further, we will be happy to do so.

The Governor's recommended budget, and the commission is in agreement with this recommendation, did not include funding associated with leasing a new laboratory building and replacement of old laboratory balances. The State Metrology Laboratory will be closed if no funding is provided for equipment and improved space. Instead, the Governor recommends that both state and private working standards be sent to the NIST-accredited metrology laboratory in St. Paul, Minnesota.

We caution this committee that this small but expensive program cannot sustain itself and will require continual general fund support in order to operate in compliance with federal requirements. If the program is not properly funded, it should be ended. Insufficient funding harms the integrity of this program. During the last legislative session, the commission received \$70,000 earmarked for a lease on a new metrology building. However, upon completion of the Request for Proposal process the commission learned that the \$70,000 appropriated was insufficient to cover even a one year lease on the type of building it would need to house a metrology laboratory. The \$70,000 was eventually used to cover shortfalls in the Testing & Safety division's travel budget.

The commission recognizes that closing the metrology laboratory is a major policy decision for the Legislature to make. There are benefits and disadvantages to each course of action. Both public and private working standards could be sent to a NIST-accredited metrology laboratory, at a fraction of the cost that it would take to fund the continuation of the state's metrology program. Closing the lab would not negatively impact staffing, but rather free up existing staff resources to concentrate on the other higher priority division responsibilities.

Closing the lab presents some disadvantages. Current customers, including 83 North Dakota grain elevators, who use working standards may have

to travel or ship their standards to a NIST-approved laboratory at a higher cost. State metrology labs have a scheduling priority and out of state customers are usually lower in priority. This is a concern because if inspectors or service providers miss their annual recertification, this could cause poor, inefficient service to the state's commercial device operators. Some of North Dakota's metrology lab customers may have to travel up to 600 miles for service, adding additional costs to their operating expenses which may be passed on to their customers. Due to the differences in laws between states, some standards accepted by North Dakota may not be accepted for calibration in other states, forcing those service providers to stop testing commercial devices until they purchase and certify new, compliant equipment.

Summary

Of the commission's overall budget, about 54 percent comes from federal sources, 38 percent is general fund money, and 8 percent is special funds. The commission generates about \$1 million per biennium in income from statutory license and inspection fees. Indirectly, this income covers about 20 percent of the general fund money that is being requested in S.B. 2008.

The commission recorded 1,164 complaints and inquiries during the current biennium. The vast majority of these concerned traditional public utility services, but many involve matters such as grain elevator operations, mining, and weights and measures.

During the current biennium, the commission opened 812 cases. The commission attempts to process these cases as quickly and at as low a level of formality as possible. As a result, approximately 98 percent of these cases were processed without the need for a formal hearing and over half were processed and closed in less than thirty days. Only 17 of these cases required formal hearings, several of which were mandated by state law.

The commission's staff has been reduced in size from 60 FTEs over twenty years ago to 41 today. This has been accomplished by increased efficiencies and productivity, despite very few changes in jurisdiction. To continue to support economic development and protect the citizens of North

Dakota, the commission respectfully requests adoption of the Governor's executive budget, plus the addition of \$30,484 for satisfactory weights and measures equipment.

Mr. Chairman, this concludes our testimony.

Attached are:

1. Schedule required by Section 34 of 2003 S.B. 2015 showing revenue and expenditures for our three continuing appropriation funds,
2. PSC 2007 – 09 budget request organizational chart, and
3. North Dakota Metrology Program fact sheet.

We would be happy to answer any questions you might have.



January 11, 2007

Chairman Holmberg,

Members of the Senate Appropriations Committee,

For the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. I appear before you today in support of the Agriculture Rail Rate and Service Fund line item of \$900,000 contained in the budget of the North Dakota Public Service Commission.

Mr. Chairman, Members of the Committee, all of you are well aware of the proposed rail rate case that was envisioned by the 2005 Legislative Assembly. At that time, the North Dakota Public Service Commission, in conjunction with the North Dakota Grain Growers Association, North Dakota Wheat Commission, North Dakota Farm Bureau, North Dakota Grain Dealers Association, North Dakota Farmers Union and the U.S. Durum Growers Association, pooled the necessary resources to move forward with a rail rate case. This was a necessary step that had to be taken to address the unfair rail rates and unacceptable service that was being experienced by North Dakota producers and commodity shippers.

Since that time, much has happened. In response to the proposed North Dakota rail rate case, rail rates and fuel surcharges were restructured by BNSF. Rail service has been improved. Most importantly, lines of communication have been opened between producers and BNSF so that rail issues such as rates and service can be openly discussed and debated. To be sure, the atmosphere between BNSF and producers has vastly improved.

That said, more work needs to be done and thus the need for the proposal before the Committee. History tells us that rail issues are a dynamic reality of agriculture. Giving the North Dakota Public Service Commission the ability to react to adverse rail rate and service issues that arise is essential for their proper oversight on behalf of North Dakota producers and shippers. Creation of the Agriculture Rail Rate and Service Fund will help provide the Public Service Commission the tools to be proactive in rail rate and service issues on behalf of North Dakota agriculture.

Mr. Chairman, Members of the Committee, according to the UGPTI, it is estimated that 82 percent of all of the grains and oilseeds shipped in and from North Dakota will travel by rail to its destination.

NDGGA provides a voice for wheat and barley producers on domestic policy issues – such as crop insurance, disaster assistance and the Farm Bill – while serving as a source for agronomic and crop marketing education for its members.

With that in mind the North Dakota Grain Growers Association is committed to continuing the dialogue between producers and the railroad industry to foster a better understanding within agricultural interests in our state. We also intend to work with the PSC, the North Dakota Legislature others to ensure that producer interests are protected. By working together we best serve the agricultural interests of the state of North Dakota.

January 12, 2007

TO: Senate Appropriations Committee
FROM: North Dakota Grain Dealers Association
RE: SB 2008, Public Service Commission budget

Chairman Holmberg and members of the committee, the North Dakota Grain Dealers Association strongly supports including \$900,000 in the PSC budget for an agriculture rail rate and service fund.

The work of the North Dakota Legislature in funding the investigation into a rate complaint back in 2003, and then in 2005 making funds available to actually prosecute a complaint, have paid off for our state. Some rates have been reduced and saved millions of dollars. In comparison, little in public and private money was spent to get this far. This fund in SB 2008 keeps our powder dry. It says North Dakota stands ready and has the resources available to formally challenge rate and service problems.

I will point out that just because a formal complaint is not now underway doesn't mean all is well with rail rates and service. Many rates remain subject to challenge under the federal rate reasonableness formula. The risk/reward ratio of bringing a formal case must be weighed, and right now the actual rules of the game for challenging rates are being amended through a Surface Transportation Board proceeding. North Dakota parties are involved in that.

Including "service" in the fund name is very appropriate. Even good rates without service are meaningless. North Dakota has years of experience with severe service problems such as railcar orders being several weeks behind. Such delivery disruptions are costly. Farmers can't deliver, grain backs up, late penalties are paid, and marketing opportunities are missed. In addition, North Dakota has an important interest in maintaining service to shipment sizes of less than 100 or 110 cars. Those less-than-trainload sizes are often not a priority for railroads, but are used by both small and large elevators in our state.

We urge your support of the \$900,000, or even more, for the agriculture rail rate and service fund.

Sorry I can't be with you in person today. Our 95th annual convention starts Sunday in Fargo. If committee members have questions please call me at 1-800-342-4778. Thank you.

Respectfully submitted,
Steve Strege, Executive Vice President



February 26, 2007

Chairman Carlson,

Members of the House Appropriations Committee,

For the record my name is Dan Wogsland, Executive Director of the North Dakota Grain Growers Association. I appear before you today in support of the Agriculture Rail Rate and Service Fund line item of \$900,000 contained in SB 2008, the budget of the North Dakota Public Service Commission.

Mr. Chairman, Members of the Committee, all of you are well aware of the proposed rail rate case that was envisioned by the 2005 Legislative Assembly. At that time, the North Dakota Public Service Commission, in conjunction with the North Dakota Grain Growers Association, North Dakota Wheat Commission, North Dakota Farm Bureau, North Dakota Grain Dealers Association, North Dakota Farmers Union and the U.S. Durum Growers Association, pooled the necessary resources to move forward with a rail rate case. This was a necessary step that had to be taken to address the unfair rail rates and unacceptable service that was being experienced by North Dakota producers and commodity shippers.

Since that time, much has happened. In response to the proposed North Dakota rail rate case, rail rates and fuel surcharges were restructured by BNSF. Rail service has been improved. Most importantly, lines of communication have been opened between producers and BNSF so that rail issues such as rates and service can be openly discussed and debated. To be sure, the atmosphere between BNSF and producers has vastly improved.

That said, more work needs to be done and thus the need for the proposal before the Committee. History tells us that rail issues are a dynamic reality of agriculture. Giving the North Dakota Public Service Commission the ability to react to adverse rail rate and service issues that arise is essential for their proper oversight on behalf of North Dakota producers and shippers. Creation of the Agriculture Rail Rate and Service Fund will help provide the Public Service Commission the tools to be proactive in rail rate and service issues on behalf of North Dakota agriculture.

Mr. Chairman, Members of the Committee, according to the UGPTI, it is estimated that 82 percent of all of the grains and oilseeds shipped in and from North Dakota will travel by rail to its destination.

With that in mind the North Dakota Grain Growers Association is committed to continuing the dialogue between producers and the railroad industry to foster a better understanding within agricultural interests in our state. We also intend to work with the PSC, the North Dakota Legislature others to ensure that producer interests are protected. By working together we best serve the agricultural interests of the state of North Dakota.

Therefore the North Dakota Grain Growers Association respectfully requests that the Agriculture Rail Rate and Service Fund in SB 2008 be maintained.

Thank you!



Public Service Commission

State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
Kevin Cramer
Tony Clark

Executive Director
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.nd.gov/psc
e-mail: ndpsc@nd.gov
TTY 800-366-6888 or 711
Fax 701-328-2410
Phone 701-328-2400

March 12, 2007

MEMO TO: Members of the House Appropriations
Government Ops Subcommittee

FROM: North Dakota Public Service Commission

SUBJECT: SB 2008

This summer the Commission hosted an open house of the North Dakota Metrology Lab and invited area legislators. The attached documents were distributed to these legislators in July 2006, and are still pertinent today. They include a July 6 memo, "Metrology Lab Budget Options", and a July 28 memo which provides updated numbers for remodeling the present lab. Please contact us if you need additional information.



**Public Service Commission
July 6, 2006
Metrology Lab Budget Options**

Use the Minnesota State Metrology Lab for NIST Recognized Metrology Services (Included in 2007-09 regular budget)

Cost: This budget option (see Attachment D) removes \$41,304 a biennium in costs for the state metrology program (staff costs are not removed, since their services are needed in other programs. See "Advantages" below.) No subsidy is required for the metrology program for this option. However, a new \$30,000 biennium cost for the State Weights and Measures Program is for professional services from the Minnesota State Weights and Measures Lab, and for travel expenses to and from that lab. The State Weights and Measures Program is proposing a fee increase to cover this and higher travel costs in general.

Advantages: Staff (1/2 time metrologist and 1/6 time assistant metrologist) are needed in other programs. The 1/2 time metrologist, who is also certified as a state pipeline inspector, is needed in the gas pipeline safety program. The 1/6 time assistant metrologist, is needed in the weights and measures program.) The North Dakota State Weights and Measures program would have the services of a NIST NVLAP accredited metrology laboratory.

Disadvantages: Travel expenses and staff time spent traveling would increase to access the services of the Minnesota State Metrology Lab. These same expenses would also increase for private service providers and other industry in the state who use our services. We would not have an instate metrology lab, and such a lab may be attractive to industry interested in expanding or relocating in our state.

Build a New Lab which Meets NIST Standards (Included in 2007-09 supplemental budget)

Cost: The commission's supplemental budget shows a new expense of \$160,000 (\$80,000 a year) for leasing a new building which would meet NIST Standards. The budget also includes an annual investment in new equipment of \$12,529. Using these assumption, the Metrology Lab operations shows a \$233,250 deficit of revenues to expenditures for the 2007-09 biennium. (The proposed budget includes raising fees to \$85 per hour and includes assumed income from charging our North Dakota Weights and Measures Program \$14,208. See income and expense sheet Attachment B and C.)

Advantages: North Dakota would have a NIST recognized lab in 2008. The State of North Dakota would continue to have its own Metrology Program, which would be helpful to the State of North Dakota Weights and Measures Program, to private service providers, and to other private industry in the state.

Disadvantages: The main disadvantage is the cost. North Dakota, at this time, has only around 50 customers a year at the state lab, and the cost per customer is quite high.

Other Options

Stay in Present Lab and Make Repairs to Meet NIST Standards

Cost: Staff estimates that it would take about \$60,000 initially to take care of existing problems and then \$10,000 a year, for the next 6 years, to take care of additional facility problems in the present lab building (See Attachment A page 1- Budget for Renovations suggested for 2007-09). The draft budget for Metrology Lab shows a \$143,250 deficit of expenses to revenues generated for the 2007-09 biennium. (The proposed budget includes raising fees to \$85 per hour and includes an assumed income stream from our North Dakota Weights and Measures Program of \$15,121 a year to recognize the value of service internally. See income and expense sheet Attachment A page 2.)

Advantages: The State of North Dakota would continue to have its own Metrology Program, which would be helpful to the State of North Dakota Weights and Measures Program, to private service providers, and to other private industry in the state.

Disadvantages: The present North Dakota Metrology Lab has "conditional recognition" from NIST. Renovations may not be enough for NIST to change our status from "conditional" to normal recognition because deficiencies exist in our present facility that cannot be alleviated by renovation. Our Weights and Measures customers and private industry at a minimum, need services from a NIST recognized Metrology Lab and as industry continues to move towards certification to ISO 9000 series standards the Metrology Lab will also need to move towards NIST accreditation and ISO 17025 compliance through the NIST National Voluntary Laboratory Auditing Program (NVLAP).

Do Nothing – Operate the North Dakota State Metrology Lab and Do Not Put Money Into New Equipment or an Improved Facility

Cost: With this option the State provides a subsidy of \$73,251 a biennium for the State Metrology Lab. See attachment E.

Advantages: lower costs for the state.

Disadvantages: At the present time, the North Dakota State Metrology Lab only has conditional recognition from NIST. This is not a good situation. Our State Weights and Measures Program and private industry deserve services from a NIST recognized lab. This is very important since all of the states weights and measures services and the majority of all private service company services are based on the field standards calibrated by our state lab. Also, NIST would probably withdraw even "conditional" recognition if the state shows no interest in improving the existing program.

**METROLOGY LAB RENOVATION LIST/COSTS
2007 - 2009 Budget**

Page 1 Attachment A

<u>Project</u>	<u>Approximate Cost</u>
Build outer front entryway/install door	\$10,000
Build wall & install door on north end of Large Mass Lab	\$6,000
Repair locking mechanism on double door/add rubber seal to bottom of all lab doors	\$500
Build and install on existing isolation pad in Small Mass Lab a concrete table (pedestal could be build from square concrete chimney blocks to 18" high with a 2" x 2' x 2' marble-slab for the top)	\$1,500
Install a floor basin style sink somewhere in the facility in a convenient location that will not conflict with current metrological area functions. Basin volume must be a minimum of 10 gallons.	\$1,800
Repaint/cover floors in truck bay and Large Mass Lab	\$1,900
Install HVAC control in Small Mass Lab/transfer control	\$1,500
Purchase and install new sign	\$400
Purchase and install new HVAC system in Large Mass Lab complete with a/c and humid/de-humid	\$20,000
Purchase and install one environmental monitor unit for the large volume lab. Then purchase software to monitor all 4 lab areas continuously 24/7 (lab view?)	\$6000
Clean, re-seal, and repaint entire facility	\$5,000
Install large exhaust fan, walls & accordion door in NE corner of tool room (to be used as paint room)	5,000
Install small exhaust hood in lead room	1,000
Fumigate facility for insects and rodents	<u>1,000</u>
Total:	\$61,600

Note: Facilities Management must agree to never park any of their equipment in our large liquids lab again.

agm
5/1/06

North Dakota Public Service Commission
Metrology Lab/WM
Annual Expenses

<i>Expenses:</i>	<u>Amount</u>
Metrologist - 1/2 FTE	\$29,257
Assistant Metrologist - 1/6 FTE	\$6,066
Total Salaries and Benefits	<u>\$35,323</u>
Travel	\$3,000
Professional Supplies Unique to Metrology	\$200
Ten Year Recalibration (Amortized)	\$1,408
Miscellaneous Supplies	\$500
Building, Grounds & Vehicle Supplies	\$132
Other Equipment under \$5,000	\$1,000
Equipment over \$5,000	\$12,529
Insurance	\$133
Existing Building Repairs	\$35,000
Repairs	\$250
IT Communications Unique to Metrology	\$150
Professional Development	\$350
Professional Services	<u>\$1,000</u>
Total Projected Operating Expenses	<u>\$55,652</u>
Indirect Costs	<u>\$11,554</u>
Projected 2007 Metrology Expense	<u>\$102,529</u>
 Projected 2007/09 Metrology Expense	 \$205,058
 Biennial Income	
Projected 2007 Metrology Revenue	\$23,800
Projected 2007/09 Metrology Revenue	\$47,600
<i>**Value of Service Provided to W&M</i>	\$14,208
<i>Total 2007/09 Metrology Revenue</i>	\$61,808
 Total Biennial Subsidy	 \$143,250

North Dakota Public Service Commission
Metrology Lab/WM
Annual Expenses

<i>Expenses:</i>	<u>Amount</u>
Metrologist - 1/2 FTE	\$29,257
Assistant Metrologist - 1/6 FTE	\$6,066
Total Salaries and Benefits	<u>\$35,323</u>
Travel	\$3,000
Professional Supplies Unique to Metrology	\$200
Ten Year Recalibration (Amortized)	\$1,408
Miscellaneous Supplies	\$500
Building, Grounds & Vehicle Supplies	\$132
Other Equipment under \$5,000	\$1,000
Equipment over \$5,000	\$12,529
Insurance	\$133
Building Lease	\$80,000
Repairs	\$250
IT Communications Unique to Metrology	\$150
Professional Development	\$350
Professional Services	\$1,000
Total Projected Operating Expenses	<u>\$100,652</u>
Indirect Costs	<u>\$11,554</u>
Projected 2007 Metrology Expense	<u>\$147,529</u>
 Projected 2007/09 Metrology Expense	 \$295,058

North Dakota Public Service Commission
Metrology Lab
Rate Design

<u>Description</u>	<u>Amount</u>
<i>Metrology Income:</i>	
Billable Annual Hours	280
*Proposed Metrology Fee per Hour	\$85
Projected 2007 Metrology Revenue	<u>\$23,800</u>
Projected 2007/09 Metrology Revenue	<u>\$47,600</u>
**Value of Service Provided to W&M	\$14,208
Total 2007/09 Metrology Revenue	<u>\$61,808</u>
Less Projected 2007/09 Metrology Expenses	\$295,058
Amount to be subsidized from the General Fund	<u><u>-\$233,250</u></u>

*Fee Increased From \$68 to \$85/Hr.

**Annual Cost of Sending all Working Standards to MN x 2 Years

North Dakota Public Service Commission
Metrology Lab/WM
Annual Expenses

Expenses:

	<u>Amount</u>	
Metrologist - 1/2 FTE	\$29,257	<i>metrology expense to</i>
Assistant Metrologist - 1/6 FTE	\$6,066	<i>be removed for the</i>
Total Salaries and Benefits	<u>\$35,323</u>	<i>MN option</i>
Travel	\$3,000	\$3,000
Professional Supplies Unique to Metrology	\$200	\$200
Ten Year Recalibration (Amortized)	\$1,408	\$1,408
Miscellaneous Supplies	\$500	\$500
Building, Grounds & Vehicle Supplies	\$132	\$132
Other Equipment under \$5,000	\$1,000	\$1,000
Equipment over \$5,000	\$12,529	\$12,529
Insurance	\$133	\$133
Building Lease	\$80,000	
Repairs	\$250	\$250
IT Communications Unique to Metrology	\$150	\$150
Professional Development	\$350	\$350
Professional Services	\$1,000	\$1,000
Total Projected Operating Expenses	<u>\$100,652</u>	<i>Annual</i> <i>*\$20,652</i>
Indirect Costs	<u>\$11,554</u>	
Projected 2007 Metrology Expense	<u><u>\$147,529</u></u>	
Projected 2007/09 Metrology Expense (Biennial)	\$295,059	\$41,304

**New \$30,000 bienneum cost for the state weights
and measures program for professional services
from Minnesota lab*

North Dakota Public Service Commission
Metrology Lab/WM
Annual Expenses with no Improvements

Expenses:	Amount
Metrologist - 1/2 FTE	\$29,257
Assistant Metrologist - 1/6 FTE	\$6,066
Total Salaries and Benefits	<u>\$35,323</u>
Travel	\$3,000
Professional Supplies Unique to Metrology	\$200
Ten Year Recalibration (Amortized)	\$1,408
Miscellaneous Supplies	\$500
Building, Grounds & Vehicle Supplies	\$132
Other Equipment under \$5,000	\$1,000
Equipment over \$5,000	\$12,529
Insurance	\$133
Building Lease	
Repairs	\$250
IT Communications Unique to Metrology	\$150
Professional Development	\$350
Professional Services	<u>\$1,000</u>
Total Projected Operating Expenses	<u>\$20,652</u>
Indirect Costs	<u>\$11,554</u>
Projected 2007 Metrology Expense	<u><u>\$67,529</u></u>
 Projected 2007/09 Metrology Expense	 \$135,059
 Biennial Income	
Projected 2007 Metrology Revenue	\$23,800
Projected 2007/09 Metrology Revenue	\$47,600
<i>**Value of Service Provided to W&M</i>	\$14,208
<i>Total 2007/09 Metrology Revenue</i>	\$61,808
 Biennial Subsidy	 \$73,251

Wefald, Susan E.
From: Wefald, Susan E.
Sent: Friday, July 28, 2006 3:54 PM
To: Dever, Dick D.; Martinson, Bob W.; Kilzer, Ralph L.; Carlisle, Ron D.
Cc: -Grp-PSC Commissioners
Subject: FW: Updated Existing Metrology Facility Remodeling List & Costs

Attachments: LabRenov06.doc

Thanks for your interest in the State Metrology Lab.

This is an updated estimate of what it would cost to renovate the existing metrology lab so that it could receive NIST recognition. In addition to these costs, current estimates are that we would need approximately \$80,000 for new balances over the next 6 years.

The only changes from the last document on renovating the existing metrology lab are

- Installing a floor basin style sink: previous estimate \$1,800; new estimate \$4,800.
- Repainting floors in truck bay and Large Mass Lab: previous estimate \$1,900; new estimate \$2,900.
- Total costs for renovating the metrology lab: Previous estimate \$61,600; new estimate \$66,100 (with options for spending less).

See the attachment below for more detailed information.



LabRenov06.doc (30 KB)

We have verified our numbers with Facility Management staff and adjusted them accordingly. We have also made optional two items on the list. These items could be budgeted for during the 2009 - 2011 session.

Alan G. Moch, Director
Testing & Safety Division
ND PSC
701-328-2413
amoch@nd.us

Updated METROLOGY LAB RENOVATION LIST/COSTS
2007 – 2009 Budget

<u>Project</u>	<u>Approximate Cost</u>
Install new truck bay door with built-in side entry	\$10,000 (optional)
Build wall & install door on north end of Large Mass Lab	\$6,000
Repair locking mechanism on double door/add rubber seal to bottom of all lab doors	\$1,000
Build and install on existing isolation pad in Small Mass Lab a concrete table (pedestal could be build from square concrete chimney blocks to 18" high with a 2" x 2' x 2' marble-slab for the top)	\$1,500
Install a floor basin style sink somewhere in the facility in a convenient location that will not conflict with current metrological area functions. Basin volume must be a minimum of 10 gallons.	\$4,800
Repaint/cover floors in truck bay and Mass Labs	\$2,900
Install HVAC control in Small Mass Lab/transfer control	\$1,500
Purchase and install new sign	\$400
Purchase and install new HVAC system in Large Mass Lab complete with a/c and humid/de-humid	\$20,000
Purchase and install one environmental monitor unit for the large volume lab. Then purchase software to monitor all 4 lab areas continuously 24/7 (lab view?)	\$6000
Clean, re-seal, and repaint labs/bay	\$5,000
Install large exhaust fan, walls & accordion door in NE corner of tool room (to be used as paint room)	5,000 (optional)
Install small exhaust hood in lead room	2,000
Subtotal:	\$51,000
Total (with options):	\$66,100

Note: Facilities Management must agree to work with the Commission in regard to parking any of their equipment in the large liquids lab (truck bay) during prover calibration season (May 1st to October 1st of each year).

agm
7/18/06



Public Service Commission State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
Kevin Cramer
Tony Clark

Executive Director
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.nd.gov/psc
e-mail: ndpsc@nd.gov
TTY 800-366-6888 or 711
Fax 701-328-2410
Phone 701-328-2400

15 March 2007

Honorable Alan Carlson, Chairman
Appropriations – Government Operations Division
North Dakota House
600 East Boulevard Avenue
Bismarck, ND 58505

Re: Senate Bill 2008

Dear Chairman Carlson:

Thank you for providing us the opportunity to further discuss our proposed budget. We appreciate your interest.

At the meeting you asked how much of the proposed budget represented by Engrossed SB 2008 is related to the Metrology Program. We can confirm that only \$30,000 in the operating line item is related directly to the Metrology Program. As you noted, other costs, including salaries and office expenses, that today may be allocated to metrology are allocated to other programs in the Testing and Safety Division in our proposed budget.

Attached is a list of building upgrades needed to bring the Metrology Program into compliance, together with the estimated costs of those upgrades, and a list of equipment needed this biennium and its estimated cost. This attachment was prepared from the one first drafted in July 2006 (of which you have a copy) and was updated to reflect estimated costs as of today, 15 March 2007. The attachment shows a slight increase in costs for building renovation, the reasons for which are noted at the bottom of the document. With the equipment, total costs are estimated at \$94,000, or \$64,000 more than is currently included for the Metrology Program in Engrossed SB 2008.

Please note that as stated in our original testimony on Engrossed SB 2008, a functioning, compliant Metrology Program will require additional funding in the future to fund replacement of outdated equipment. Future needs could range from \$25,000 to \$50,000 per biennium, depending on the replacement cycle chosen, inflation, and other

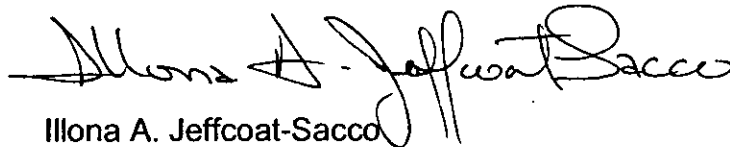
Honorable Alan Carlson, Chairman
Appropriations – Government Operations Division
Page 2
15 March 2007

factors affecting equipment costs. The important point is that if the Metrology Program is to continue, the Commission is committed to upgrading equipment as required to reach and maintain a compliant lab.

Please also note that none of the Metrology Program costs indicated here relate to the additional funds for Weights and Measures equipment that we requested in the Senate and that the Senate included in Engrossed SB 2008. The additional funds included by the Senate for Weights and Measures equipment are needed whether or not we continue the Metrology Program.

Thank you again for your consideration of our requests.

Best regards,



Illona A. Jeffcoat-Sacco
Executive Director

c: Rep. Ron Carlisle, Vice Chairman	Rep. Keith Kempenich
Rep. Bob Skarphol	Rep. Blair Thoreson
Rep. Eliot Glassheim	Rep. Joe Kroeber
Rep. Clark D. Williams	

Attachment

**METROLOGY LAB EQUIPMENT AND RENOVATION LIST/COSTS
2007 – 2009 Budget**

<u>Project</u>	<u>Approximate Cost</u>
Install new truck bay door with built-in side entry	\$10,000
Build wall & install door on north end of Large Mass Lab	\$ 6,000
Repair locking mechanism on double door/add rubber seal to bottom of all lab doors	\$ 1,000
Build and install on existing isolation pad in Small Mass Lab a concrete table for balance	\$ 1,500
Install 10 gallon capacity floor basin style sink in large liquid Lab area	\$ 4,800
Repaint/cover floors in truck bay and Mass Labs	\$ 2,900
Install HVAC control station from Facilities Mgmt to Small Mass	\$ 5,000*
Purchase and install new sign	\$ 400
Purchase and install new HVAC system in Large Mass Lab complete with a/c and humid/de-humid	\$25,000**
Purchase and install one environmental monitor unit for the large volume lab. Then purchase software to monitor all 4 lab areas continuously 24/7 (lab view?)	\$ 6,000
Clean, re-seal, and repaint labs/bay	\$ 5,000
Install large exhaust fan, walls & accordion door in NE corner of tool room (to be used as paint room)	\$ 5,000
Install small exhaust hood in lead room	\$ <u>2,000</u>
Renovation Subtotal:	\$74,600

<u>Equipment:</u>	<u>Approximate Cost</u>
<u>One new Small Mass Lab Balance</u>	<u>\$20,000</u>
Grand Total:	\$94,600

*Increased cost from \$1,500 to \$5,000 – need a work station to gain control of existing Facilities Mgmt system (not just a control as was previously advised).

**Increased cost from \$20,000 to \$25,000 after visiting with local HVAC provider.

S.B. 2008

Information for the Conference Committee

Prepared by the North Dakota Public Service Commission

April 10, 2007

Public Service Commission Metrology Laboratory Design Criteria

NIST Environmental System Requirements in Metrological Areas

The large mass and small volume/small mass metrological areas must meet the "Echelon III" laboratory environmental control criteria in table 6 below. The large volume metrological area also needs environmental control but need not be as stringent as the "Echelon III" requirements. (See NIST HB-143 ATTACHMENT)

Facility Considerations

The metrology laboratory facility will need about 2,700 square feet with no less than three metrological areas.

- The large mass metrological area should be about 700 square feet
- *The small volume/small mass metrological area should be about 360 square feet
- The large volume metrological area should be about 900 square feet
- Two offices should be about 120 square feet each = 240 square feet
- Conference/training room should be about 180 square feet
- A restroom and utility room account for the balance of the 2,700 square feet

**The small volume area may be a shared space with the small mass area provided there is adequate space, a water supply, a counter sink, and a floor basin style sink.*

The facility must be located in close proximity to the interstate highway system with access free from any load restrictions.

The location must also be free of transient vibrations from railroads, large truck traffic, heavy industrial manufacturing, etc

The location zoning must be compatible with the intended use of the facility.

The location must have high speed internet access available.

The metrology laboratory balance tables, Russell balance slab, and floor scale slab need to be very stable and isolated from the adjacent floor. Any rebar used in the balance table tops must be fiberglass, not metal (See reference drawings pages 8-12). Our current small mass balance table is similar except it is on a 6"+ isolated slab (whether footings were used is unknown).

Special consideration must be given to all mechanical systems in the facility that may create transient vibration that could detrimentally affect measurement accuracy.

A wall space must be set aside that is long enough and wide enough to install the 18 foot long length bench for tape calibrations. The wall needs to be stronger than a normal steel stud sheetrock type wall with the extra supports located in the areas noted on the attached drawing. (See reference drawing page 13)

The facility should have electrical receptacles on dedicated circuits for electronic equipment and marked on the face plate to indicate to the user they are protected.

The facility should have adequate and assigned parking for customers and staff with at least one parking space adequate for large trucks.

A 3 ton hoist and rail system is needed to facilitate the handling and movement of weights to and from the large volume area into the large mass area.

See attached drawings for isolation specifications for balance tables, Russell balance slab, and floor scale slab.

HVAC System Special Considerations

The environmental HVAC systems in the large mass and small volume/small mass metrological areas must be able to dehumidify, humidify, cool, and heat.

HVAC system air movement must be low velocity high volume. The more air you move, the easier it is to control temperature. However, high air velocities are incompatible with accurate measurements.

The HVAC sensors in the small volume/small mass metrological area must be of adequate sensitivity to maintain the environment within "Echelon III" parameters.

The HVAC systems in the small volume/small mass area should not be a binary or on/off type of control system. The system should have Proportional-Integral-Derivative (PID) control. These systems provide immediate and damped response to an offset.

All HVAC systems in metrological areas should run 24/7 and not shut off at night.

The metrological areas must have adequate wall and ceiling; insulation for temperature control, vapor barriers for humidity control, and sealed joints to ensure stability of the temperature and humidity.

NIST HB-143 ATTACHMENT

NIST HB-143 environmental requirements

MASS

6.2.4 Accommodation and Environment

To be deemed capable of making adequate measurements, calibration laboratories should provide an environment with adequate environmental controls appropriate for the level of measurements to be made, according to echelons defined herein. The environmental conditions are summarized in Table 6.

Table 6. Environmental facility guidelines for mass laboratories

Echelon	Temperature	Relative Humidity
III	18 °C to 27 °C, maximum change 2 °C/h	40% to 60% ± 20%

NOTE: The environmental conditions should also be within the specifications of the weighing instruments where applicable.

6.2.4.2 Cleanliness guidelines are usually met without clean-room type air handling systems by maintaining clean-room type practices. Excessive air exchange rates negatively affect balance performance. The laboratory should maintain limited access to the calibration area and minimize contamination (provide a clean surface) for locations where calibration items are being tested. Activities such as smoking, eating, or drinking and items such as paper products, printers, and files contribute to the difficulty of maintaining adequate cleanliness and are not recommended. A positive pressure, laminar-type air flow is usually needed to maintain cleanliness recommendations and to minimize air currents.

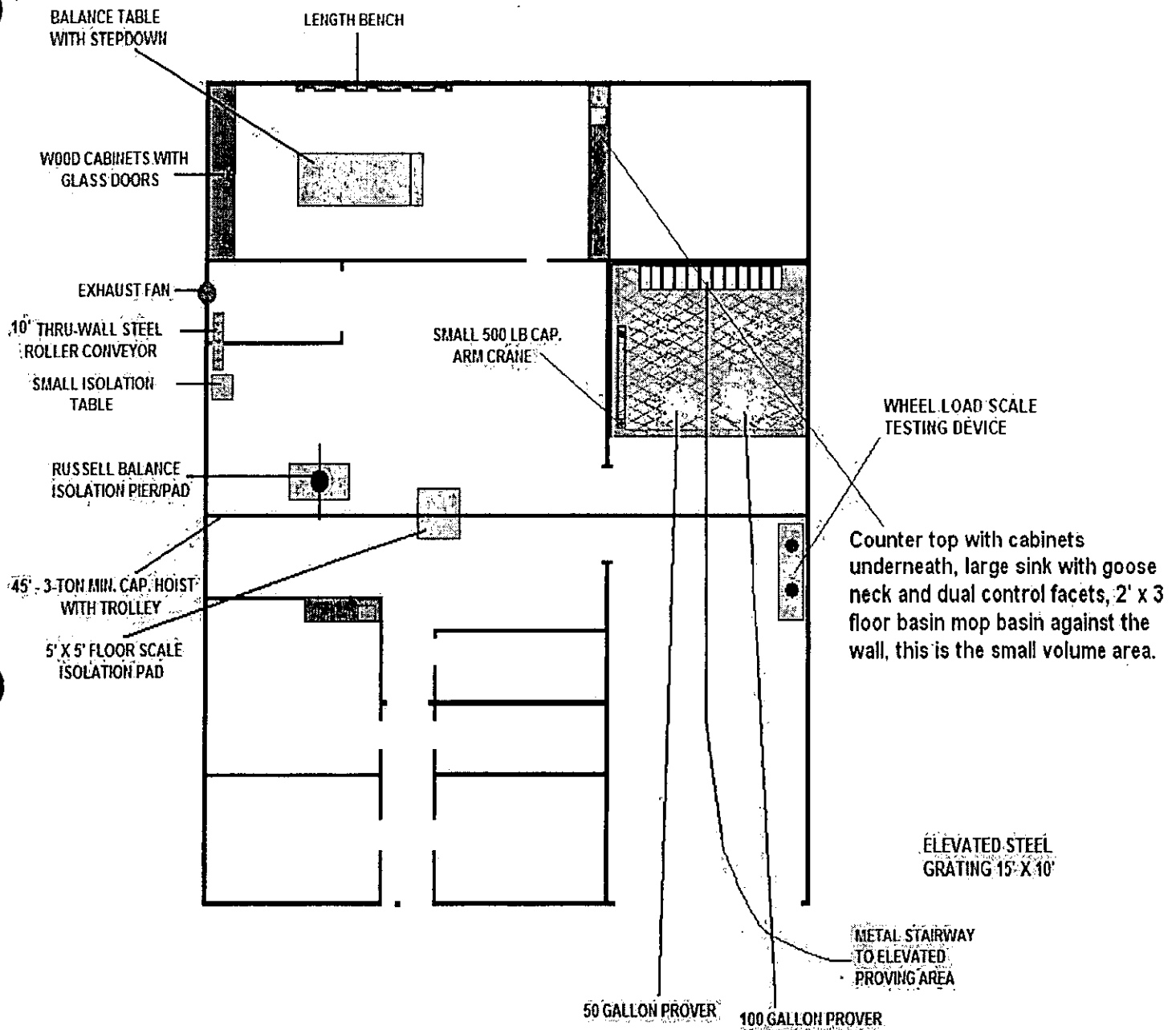
6.2.4.3 Vibration should not diminish the performance of precision analytical balances and mass comparators. Proximity to heavy machinery, railways, heavily traveled highways, or similar sources of known vibration is not recommended. Steps are often taken to attenuate vibration to an acceptable level of stability with methods such as massive piers (solid marble or concrete tables), isolated foundations, or elimination of the source. Balances and mass comparators used for Echelons I and II generally require massive piers, independent piers, and/or an isolated foundation; pneumatic or hydraulic tables are inappropriate.

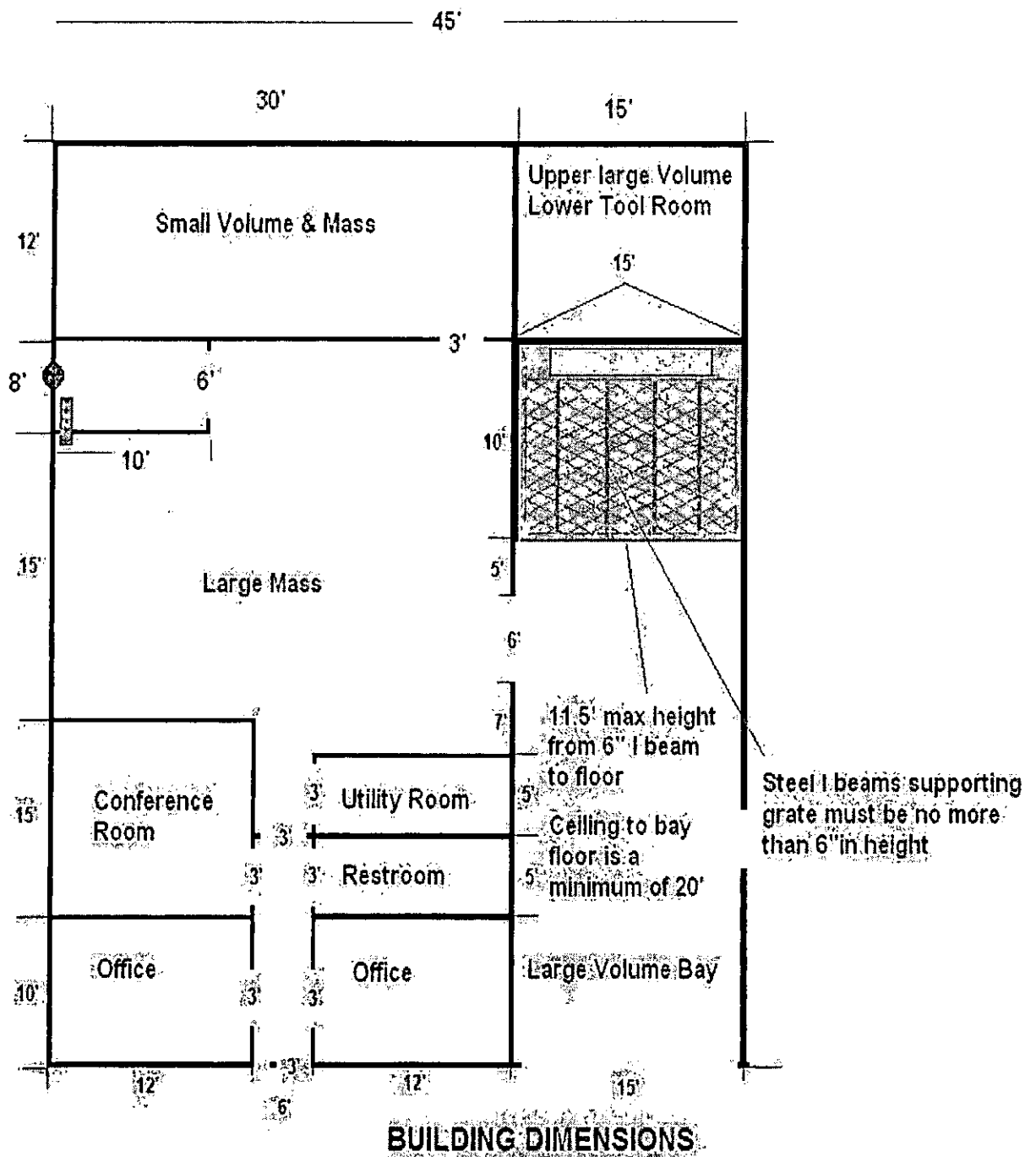
6.2.4.4 Undesirable effects due to static electricity should be controlled, if needed, with methods such as humidity, anti-static de-ionizing radiation devices, the grounding of balances or operators, or with the use of special conductive flooring and selection of proper clothing for staff.

The following is from the original draft of the Public Service Commissions proposed facility specifications and should be used for reference purposes only!

NOTE: the following small mass balance table, Russell balance slab, and floor scale slab drawings are similar in design to the existing ones in our current lab facility. We are asking for no more than status quo.

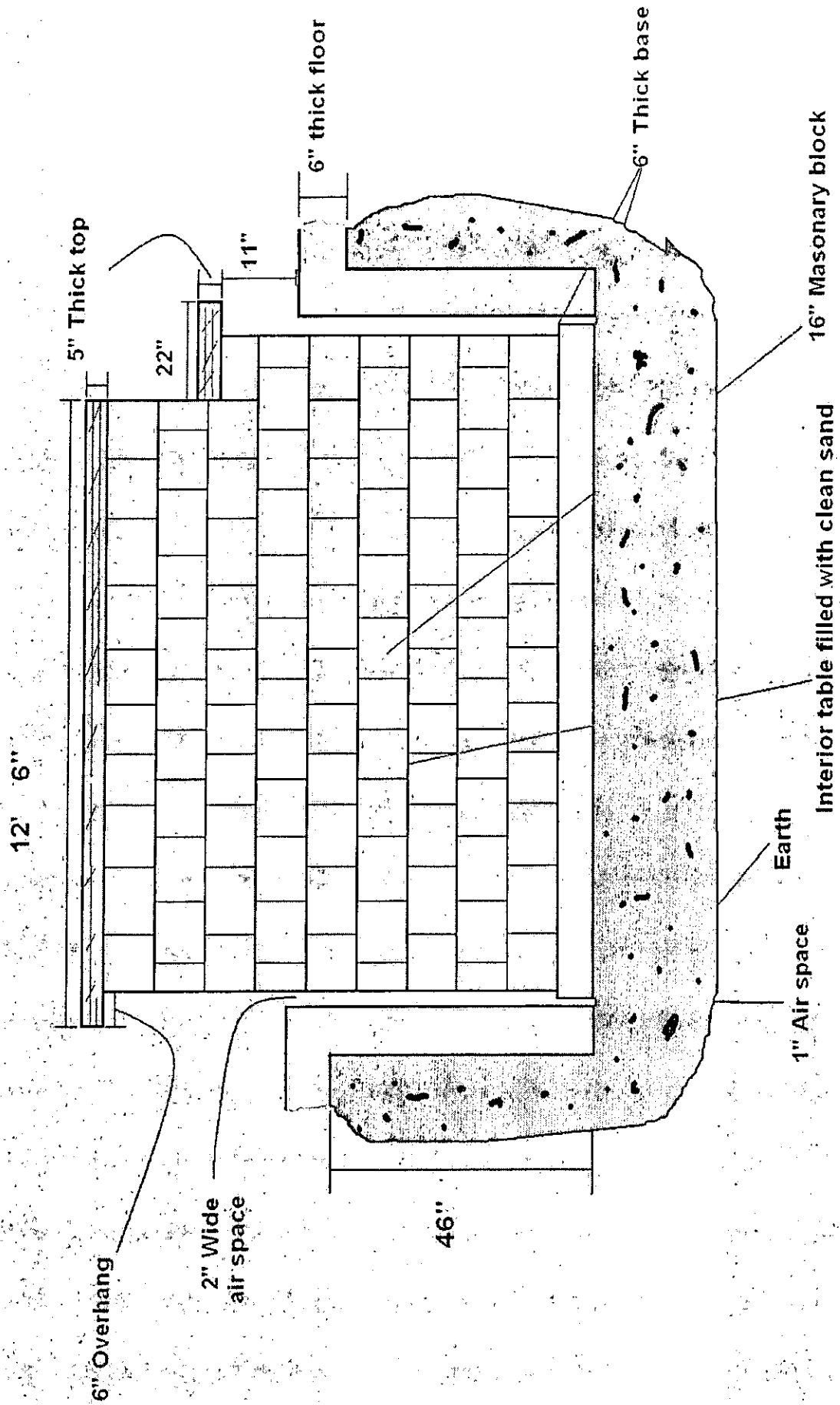
**GENERAL OVERVIEW
ROOM IDENTIFICATION
FACILITY DIMENSIONS**



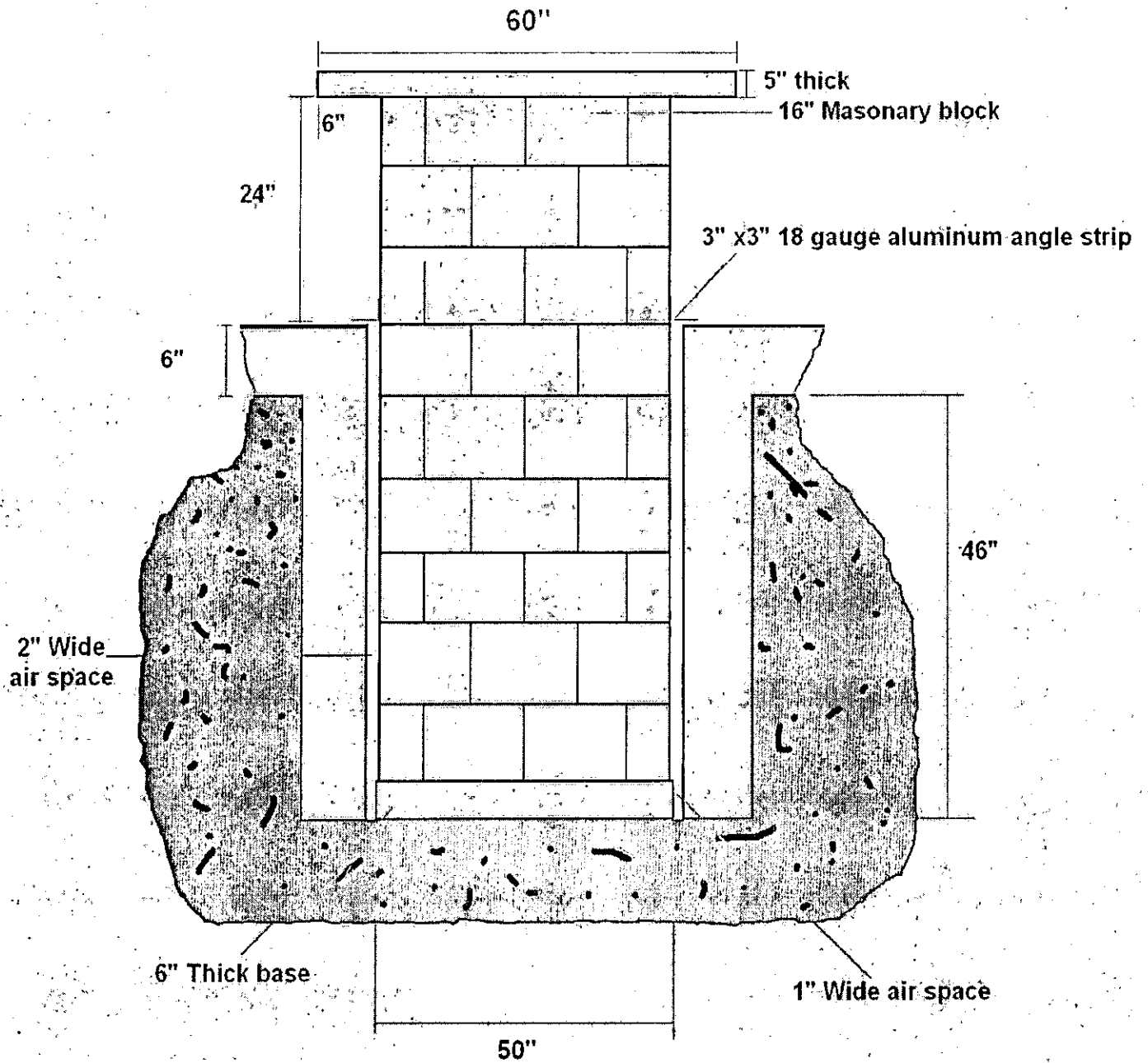


ISOLATION SPECIFICATIONS

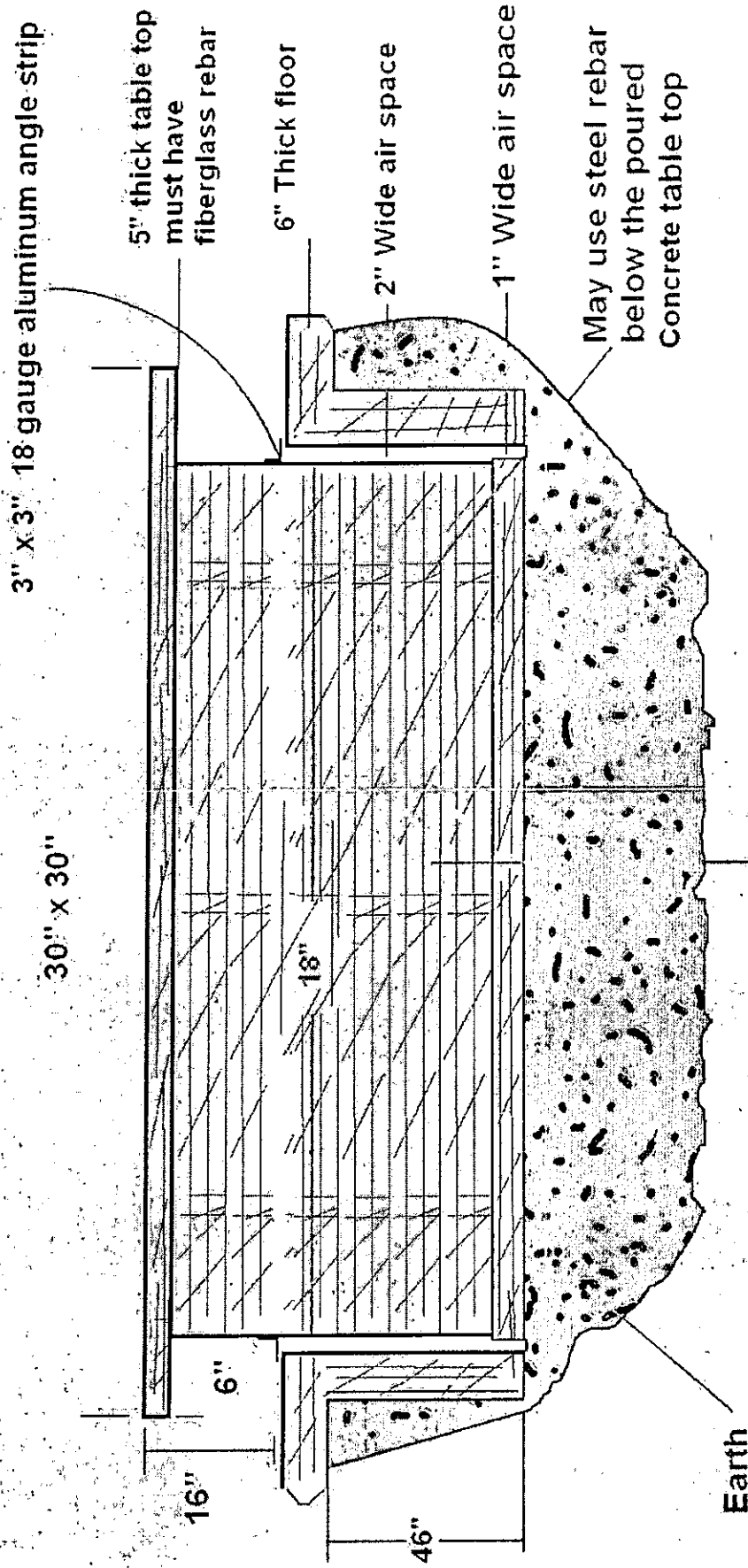
LAB WORK TABLE EXTERIOR LENGTH VIEW



LAB WORK TABLE EXTERIOR END VIEW



SMALL ISOLATION PAD DESIGN CRITERIA



Base is 4' deep and may be poured concrete or masonry block. If masonry block is used a 6" base is needed (shown) If poured concrete is use air gap may be 1" for entire height

RUSSELL BALANCE ISOLATION SLAB

Slab pier size

18" diameter round
or 18"x18" square

3/4" x 12" grade 8 steel L
anchors embedded into the
pier with a full 4" of thread
exposed above the pier top

Minimum height 4"
The full 4" must be threaded

Pier height is 24"

18"

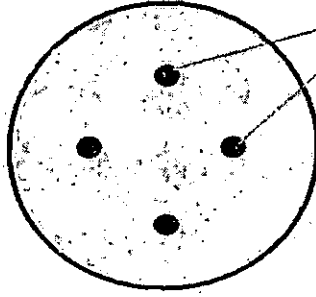
1" Wide air space

Normal 6" floor

Length of the slab is 10'. Thickness of the slab is 12".
Width of the slab is 40". Pier top above the slab may be
round or square with rounded corners. Steel rebar may be
used in both the slab and slab pier. Slab pier must be tied
into the slab. Max load on the slab pier will be 5500Lb

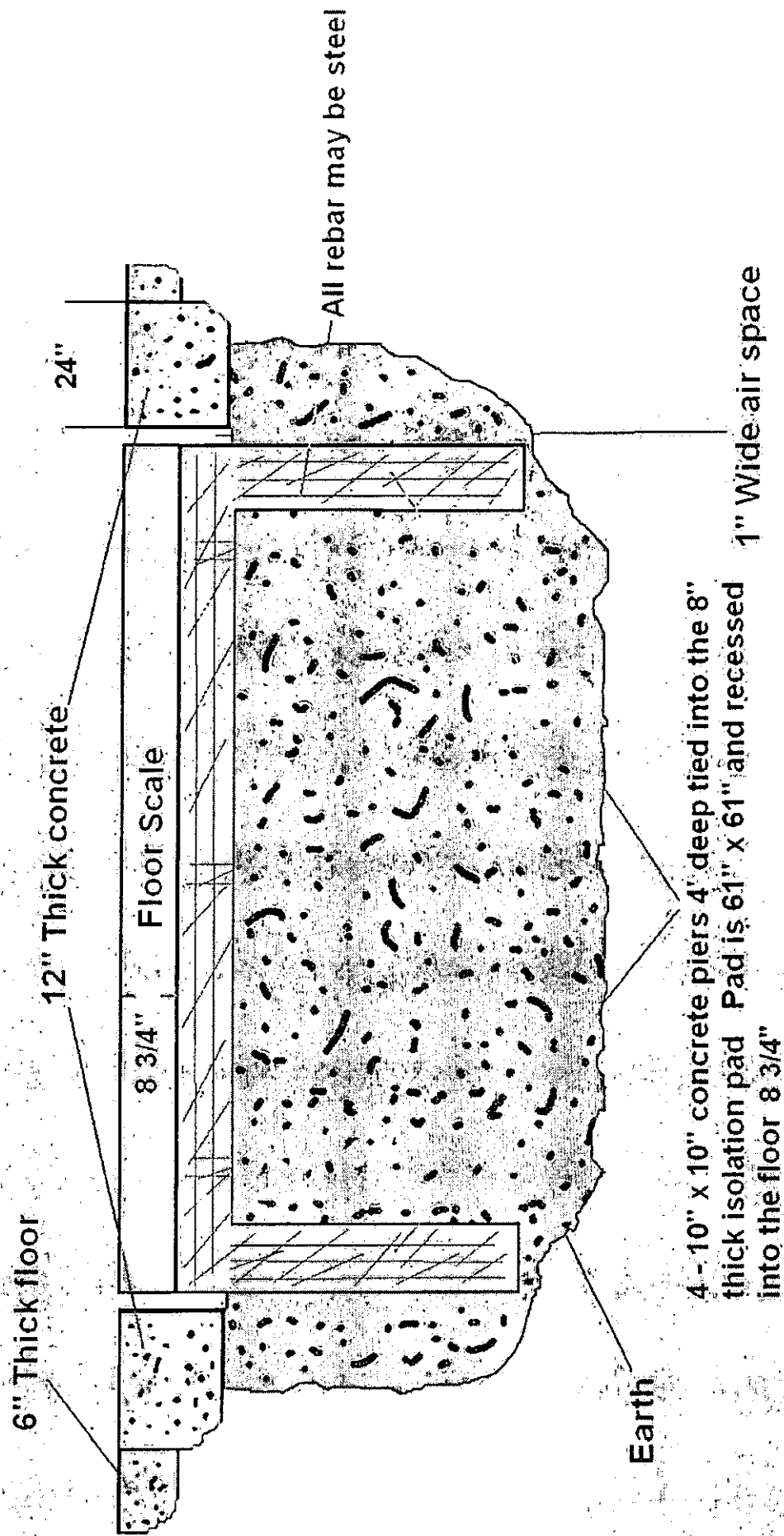
TOP OF PIER ROUND VIEW

Pier may be round or square with
rounded corners. Dimensions are
18" round diameter or 18" x 18" square



Four 3/4" x 12" grade 8 steel L anchors
embedded into the pier. Minimum height
is 4". The full 4" must be threaded. The
anchor placement is 9" on center

Scale Isolation Pad Design Criteria



lab wall

52 3/16" 50 3/16" 50 3/16" 52 3/16"

12" 12" 12" 12"

48"

3/4" stud

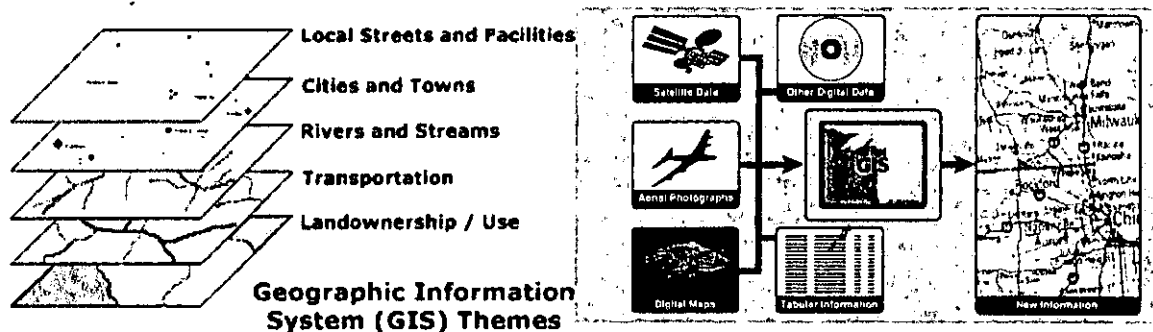
4x4

Lab floor

What is GIS and Why is it Vital?

Geographic Information Systems (GIS) are a rapidly growing technology that incorporates graphical features with tabular data in order to solve real-world problems. At the simplest level, GIS can be thought of as a high-tech equivalent of a map. While GIS can produce paper maps far quicker and more efficiently, it can also be used to display and analyze the spatial data and traditional database information represented on the map. This interconnection is what gives GIS its power: maps can be drawn from the database and data can be referenced from the maps. When a database is updated, the associated map can be updated as well. In short, GIS enables visualization of the data.

GIS databases include a wide variety of information including: geographic, social, scientific, political, environmental, and demographic. This storage of associated data in databases enables complex data analysis and modeling not previously possible. The reach of GIS expands into all disciplines and has been used for such widely ranged problems as prioritizing sensitive species habitat to determining optimal locations for industry.



It is estimated that at least 80% of all information has a "spatial" or geographic component. In other words, most information is tied to a place. So when making decisions about siting new power plants or transmission lines, designing new mines, analyzing cell phone coverage or broadband availability, protecting wetlands, or directing weights and measures vehicles geography plays a significant role. This is where GIS is vital, GIS is much more than maps. A GIS can perform complicated analytical functions and then present the results visually as maps, tables or graphs. Using GIS decision-makers can virtually see the issues before them and then determine the best course of action.

If North Dakota is to grow and prosper all North Dakotans must support economic development in everything we do. North Dakota cannot be just "as good" as other states it must be better. That means we must do it better, faster and cheaper than other states to draw economic opportunity to our state. GIS will allow the Public Service Commission to support coal and energy development in our state while protecting its citizens and quality of life.

PUBLIC SERVICE COMMISSION
Testing & Safety Division
 Budget Impact Statement for Not Funding One Inspector Position
 March 20, 2007

The following information outlines the probable economic impact to the business community and to the State's general fund should the legislature decide to not fund one of the Commission's weights and measures inspectors.

The Commission's Testing & Safety Division currently has seven positions: a director (who also serves as the State's chief gas pipeline safety inspector); an assistant director (who also serves as the State's metrologist and assistant gas pipeline safety inspector); two heavy duty weights and measures inspectors (one in the east and one in the west) who handle large capacity scales such as livestock and grain elevator scales; and three light duty inspectors located in the west, north central, and east (one who also serves as assistant metrologist) who handle small scales, bulk trucks, gasoline dispensers, etc.

The calculated impact that follows assumes a reduction in the light duty weights and measures workforce to minimize the economic and operational impacts of losing an inspector position. We believe the impact is conservatively stated since the fee comparisons **do not** include time and mileage charges typically billed by private service companies.

<u>Type of Test</u>	<u>Fees</u>		<u>% Incr.</u>	<u>% of Work</u>	<u>Weighted Difference</u>
	<u>PSC</u>	<u>Private</u>			
Fuel Dispenser	\$ 11	\$ 30	173%	65%	112%
Small Scale	\$ 11	\$ 110	900%	25%	225%
Bulk Fuel Meter	\$ 24	\$ 125	421%	8%	34%
Bulk LPG Meter	\$ 39	\$ 125	221%	2%	4%
Average Increase in Private Service Fees					<u>375%</u>

	<u>2007-09</u>
	<u>Impact</u>
Average Increase in Private Fees Compared to PSC	375%
Revenue per Inspector	\$ 92,578
Increased Cost to Customers	<u>\$ 347,491</u>
Reduction in Biennial State Revenues Collected	\$ 92,578
Cost to Include Position in the Budget	<u>178,618</u>
Net General Fund Savings to the State	<u>\$ 86,040</u>

AGM



Public Service Commission

State of North Dakota

COMMISSIONERS

Susan E. Wefald, President
Kevin Cramer
Tony Clark

Executive Director
Illona A. Jeffcoat-Sacco

600 E. Boulevard Ave. Dept 408
Bismarck, North Dakota 58505-0480
web: www.nd.gov/psc
e-mail: ndpsc@nd.gov
TTY 800-366-6888 or 711
Fax 701-328-2410
Phone 701-328-2400

12 April 2007

Honorable Randel Christmann
Conference Committee Chair
Appropriations Committee
North Dakota Senate
600 East Boulevard Avenue
Bismarck ND 58505

Re: PSC Budget, SB 2008

Dear Senator Christmann:

As you know, while the Public Service Commission tests commercial weighing and measuring devices once within every 12 month period, the law requires operators of those devices to have them tested and certified at least once every 15 months. The purpose of testing and certifying devices, of course, is to ensure the accuracy of all measurements underlying the state's commerce.

The Public Service Commission is aware that the Conference Committee is considering reducing the once every 15 month requirement to once every 24 months, due to the proposed reduction in the number of Weights and Measures FTEs in the current version of SB 2008. While we recognize that this proposal is intended to limit the cost impact on operators due to the proposed reduction in FTEs, the Commission believes the overall negative impact of requiring fewer tests far outweighs any potential benefit to operators.

Reducing the frequency of device testing will not benefit consumers, retailers, wholesalers or producers. This change will impact every weighing or measuring device used in commerce in North Dakota, from grocery stores to gas stations to grain elevators. As the interval between tests becomes greater, the possibility of error becomes greater because of normal device wear, placing each commercial transaction at more and more risk. Some examples of the cumulative impact of device errors are provided in the attached brochure. An error of one cubic inch at a gas pump could result in an impact of thousands of dollars over the course of a year, with similar impacts for other commodities in grocery and retail stores.

Honorable Randel Christmann
Page 2
12 April 2007

We believe the best way to protect North Dakota businesses and consumers is to maintain the Weights and Measures program as it is today. ***However, if retaining the FTE is not possible, we strongly urge the committee to maintain the existing testing frequency.***

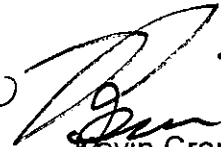
Best regards,



Tony Clark
Commissioner



Susan E. Wefald
President



Kevin Cramer
Commissioner

c: Sen. Ralph Kilzer
Sen. Aaron Krauter
Rep. Keith Kempenich
Rep. Joe Kroeber
Rep. Blair Thoreson

You should know...



North Dakota Public Service Commission

Issue WM-2 February 2002



North Dakota Public
Service Commission

Commissioners:
Susan E. Wefald
Kevin Cramer
Tony Clark

600 E Boulevard Ave.
Department 408
Bismarck ND
58505-0480

Telephone:
701-328-2400

Facsimile:
701-328-2410

TDD/TTY:
800-366-6888

E-mail:
ndpsc@nd.gov

Website:
www.psc.state.nd.us

Weights & Measures Consumer Tips

Small, seemingly insignificant errors can add up. If a scale used to weigh coffee beans is incorrect by 0.01 pound on each weighing, after 100 weighings a day for 300 days a year at a unit price of \$7.99 a pound, the resulting error will amount to \$2,397 per year.

The individual consumer would not be aware of the loss. The only way to know if the scale was in error would be to test it. To minimize the chance of this happening to you:

- Always check for a State Weights and Measures or Registered Service Company (a private weights and measures inspector) "TESTED AND APPROVED" seal, which by law, must be displayed on each commercial weighing or measuring device. This seal tells you that the device has been inspected for proper design and installation and tested for accuracy.
- Be sure that you can see the scale display and that nothing is blocking your view of the scale. This assures you that the scale is zeroed prior to the weighing and that additional weight is not being added to the scale out of your sight.
- There should not be anything on the scale or touching or obstructing the pan of the scale during the weighing. Sales clerks should remove their hand completely from any items being weighed. Also, check the clearance around the scale pan—is it free of

debris that could interfere with the weighing?

- Be cautious of scales that appear in poor condition and are not well maintained. Scales with broken glass or those that are not level can't be used commercially. These poorly maintained devices are more likely to be in error.

A gasoline pump is another device in which there is a potential for small errors to add up to big money. Errors are measured by "cubic inches". One cubic inch is approximately equal to one tablespoon. With 231 cubic inches in a gallon of gasoline, an error of one cubic inch at the average station (one that sells 100,000 gallons per month @ \$1.15 per gallon) will result in shortages to the consumer in excess of \$6,000 per year. Again, this is an error that individual consumers would not notice. An alert gas buyer might get suspicious if there was an error of thirty cubic inches (0.13 gallon), but the small errors require exact testing equipment to catch. To minimize the chance for error while purchasing gasoline, diesel fuel, or propane:

- Always check for a State Weights and Measures or Registered Service Company (a private weights and measures inspector) "TESTED AND APPROVED" seal, which by law, must be displayed on each commercial weighing or measuring device. This seal tells you that the device has been inspected for proper design and installation and tested for accuracy.
- If the dispensers appear to be poorly maintained outside, they are probably not

The reader agrees that use of this information is entirely at the customer's own risk. The Public Service Commission's services are provided "as is" without warranty of any kind, either expressed or implied, including without limitation any warranty for information provided through or in connection with this service.

Weights & Measures Consumer Tips

(cont.)

maintained inside. Broken glass, leaking hoses, unreadable displays, or automatic shut-off devices not working are some of the things to look for.

- Make sure the price on the advertising sign is the same as the price at the pump. If you really want to make sure it's the advertised price—stop dispensing fuel at exactly one gallon. The advertised price should match the pump price.

State law makes the owner of any commercial weighing or measuring device responsible for its maintenance, accuracy, and proper operation.

If you have any suspicions regarding the condition or operation of any commercial weighing or measuring device, call the Public Service Commission at 701-328-2400 or e-mail sbauske@state.nd.us.

2008

PREPARED BY PUBLIC SERVICE COMMISSION
April 12, 2007

**BRIEF COMPARISON OF THE NORTH DAKOTA/SOUTH DAKOTA
WM INSPECTION PROGRAMS**

NORTH DAKOTA

5 full time inspectors

- 3 light duty
- 2 heavy duty

These 5 inspectors test and inspect only commercial weighing & measuring devices.

Commercial devices are tested and inspected once per year not to exceed 15 months.

North Dakota's WM program is designed as a typical state WM program that follows NIST guidelines.

Fees - NDCC Section 64-02-10
(copy attached)

SOUTH DAKOTA

21 inspectors

- 3 full time (heavy duty)
- 18 part time (part time inspectors each spend about 15% of their time doing WM inspections)

Three of the above 21 inspectors test and inspect only commercial weighing and measuring devices. The other 18 inspectors also conduct various inspections for the following agencies:

- Agriculture Dept.
- Health Dept.
- Social Services
- Education Dept.
- Fire Marshall
- Video Lottery and Gaming

All commercial devices are tested and inspected once per year except for retail fuel dispensers and small scales which are tested and inspected once every 24 months.

South Dakota's WM program is designed as a typical state WM program that follows NIST guidelines except in the area of retail fuel dispensers and small scales. In those two areas it is a "spot check" type program.

Fees – 2006 Increases phased in over three years (copy attached)

South Dakota information provided by Dave Pfahler, Director, SD W&M

4. Have general supervision of the weighing or measuring devices used as standards in the state.
5. Upon the written request of any person, test or calibrate weighing or measuring devices used as standards in the state.
6. Keep a complete record of the standards, weighing or measuring devices, and all testing and sealing equipment owned by the state, and maintain traceability of the state standards to the United States standards.

64-02-08. Purchase, lease, or disposal of equipment. The commission shall purchase or lease any equipment necessary for carrying out the provisions of this title and may sell equipment which is obsolete or unsuitable. Proceeds from sale or disposal must be paid into the general fund of the state treasury.

64-02-09. Standards of weights and measures. The commission shall maintain the following standards of weights and measures, which must conform to the United States standards:

1. One surveyor's chain, thirty-three standard feet [10.06 meters] in length.
2. One yard [.9144 meters] measure.
3. One foot [.3048 meters] measure.
4. One inch [25.40 millimeters] measure.
5. One one hundred pound [45.36 kilograms] weight.
6. One fifty pound [22.68 kilograms] weight.
7. One twenty-five pound [11.34 kilograms] weight.
8. One ten pound [4.54 kilograms] weight.
9. One one pound [.4536 kilograms] weight.
10. One half-pound [.2268 kilograms] weight.
11. One quarter-pound [.1134 kilograms] weight.
12. One one-eighth of a pound [.0567 kilograms] weight.
13. One one-sixteenth of a pound [.0284 kilograms] weight or one ounce [28.35 grams] weight.
14. One set of apothecaries' weights from one pound [.4536 kilograms] to one grain [64.80 milligrams] and one set of troy weights from one pound [.3732 kilograms] to one grain [64.80 milligrams].
15. Other weighing and measuring devices necessary to test and calibrate standards.

These standards are the legal standards of weights and measures for this state, and must be used for testing the secondary standards used to test weighing or measuring devices.

64-02-10. Fees to test or calibrate weighing and measuring devices. The commission shall collect the following fees to:

- | | |
|---------------------------------------|----------|
| 1. Test railroad track or truck scale | \$171.00 |
|---------------------------------------|----------|

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

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

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

Type (# Facilities)	Current Fee (\$)	FY'08	FY'09	FY'10
Bulk LP *		40	58	76
LP Meter		20	36	52
Truck Meter		15	25	36
Pumps		5	8	11
Retail Scale <31 lbs		10	16	22
Retail Scale >31 lbs		10	16	22
WIC Scale		10	16	22
Wrestling Scale		10	16	22

"Heavy" Scales

Type	Current Fee (\$)	FY'08	FY'09	FY'10
1001 - 2000 LBS		15	20	24
2001 - 5000 LBS		25	33	41
5001 - 40,000 LBS		60	67	75
>40,000 LBS		75	84	94
Livestock		100	124	148

Metrology Lab

Type	Current Fee (\$)	FY'08	FY'09	FY'10
Hourly Fee		45	62	79

Service Agencies

Type	Current Fee (\$)	FY'08	FY'09	FY'10
Agency Fees	\$25	\$40	\$55	\$69
Agent Fees	\$5	\$7	\$8	\$10

* These are LPG Plant Master Meters which ND does not test.

S.B. 2008

Information for Conference Committee

Prepared by the Public Service Commission

4 April 2007

House Amendments-Corrected Amounts

- **Reduction of one Weights and Measures FTE**
 - House amendments reduced travel by \$55,736, but travel reduction for this position should be only \$36,945. Though the reduction of one Weights and Measures FTE is not something the PSC supports, if it is done, travel should be increased by \$18,791.
 - House amendments reduced equipment over \$5000 by \$39,000. This equipment is still needed even if FTE is eliminated. Equipment over \$5000 should be increased by \$39,000.
- **Metrology Lab**
 - House amendments increase operating expenses by \$41,600. Repairs for Metrology Lab require \$74,600 (itemized statement attached). Operating expenses should be increased by \$33,000.

Note: The \$74,600 for repairs to the metrology lab does not address the two most serious noncompliance issues: vibration and contamination, due to heavy equipment being housed in the same building.

House Amendments – Other Considerations

- **Reduction of one Weights and Measures FTE**
 - Loss of revenue to the state.
 - Increased costs to operators of weighing and measuring devices.
 - Estimate the minimum impact to operators of approximately \$350,000, with an estimated savings to the state of \$86,040 (example attached).
- **Options**
 - Estimate the state's average price to operators is 25% of what private companies charge.
 - Estimate that current Weights and Measures revenue covers about 50% of the costs of the program.
 - If the state doubled its fees, the PSC estimates it would fully recover the cost of the program. State fees would still be significantly less than those charged by the private sector.

S.B. 2008

Information for the Conference Committee

Prepared by the North Dakota Public Service Commission

April 10, 2007

Required Increases to Engrossed Senate Bill 2008 with House Amendments

To retain 4 of 5 weights and measures inspectors (red) *and* metrology lab (blue):

Increase travel by	\$18,791
Increase equipment over 5000 by	\$39,000
Increase operating by	\$33,000
<u>TOTAL</u>	<u>\$90,791</u>

To retain 5 weights and measures inspectors (red) *and* metrology lab (blue):

Increase travel by	\$55,736
Increase equipment over 5000 by	\$39,000
Increase salaries by	\$83,882
Increase operating by	\$33,000
<u>TOTAL</u>	<u>\$211,618</u>

To retain 4 of 5 weights and measures inspectors (red) *without* metrology lab:

Increase travel by	\$18,791
Increase equipment over 5000 by	\$39,000
<u>TOTAL</u>	<u>\$57,791</u>

To retain 5 weights and measures inspectors (red) *without* metrology lab:

Increase travel by	\$55,736
Increase equipment over 5000 by	\$39,000
Increase salaries by	\$83,882
<u>TOTAL</u>	<u>\$178,618</u>

S.B. 2008

Information for the Conference Committee

Prepared by the North Dakota Public Service Commission
April 10, 2007

Registered Service Companies

Total Number of In State Companies = 21

Total Number of Out of State Companies = 26

Service Company Name	Address	City	State	Type
Agassiz Seed & Supply Inc	445 7th St NW	West Fargo	ND	Small Scales
Anderson Industrial Scale Service	PO Box 629	Nisswa	MN	All Scales
Binstock Inspection Service	2163 Missouri Drive	Mandan	ND	Liquids
Bison Food Equipment Service Inc	17409 Beseau Lake Rd	Lake Park	MN	Small Scales
Burlington Northern Santa Fe Railroad	201 N 7th	Lincoln	NE	RR Track Scales
Canadian Pacific Railway	1100 200 Granville St	Vancouver	BC, CN	RR Track Scales
Capital Scale Co Inc	PO Box 2021	Bismarck	ND	All Scales
Co-ordinated Industries	1073 Nachtweg	Dickinson	ND	Liquids
Determan Brownie Inc.	1241 72nd Ave NE	Fridley	MN	Liquids
Fairbanks Scales	2500 Cleveland Ave. N.	St. Paul	MN	All Scales
Fairbanks Scales	4850 Broadway	Denver	CO	All Scales
Great Plains Scale Inc.	2014 15th St. S.	Moorhead	MN	All Scales
Hobart Sales & Service	PO Box 1663	Bismarck	ND	Small Scales
Hobart Sales & Service	18 S 14th St	Fargo	ND	Small Scales
Hobbs Inc.	2385 Hwy 10	Mandan	ND	Small Scales
K-Scale LLC	1701 W. Madison St.	Sioux Falls	SD	All Scales
Kennedy Scales, Inc.	PO Box 32365	Minneapolis	MN	All Scales
Lake County Scale Works Inc.	2511 60th St. NW	Wilmar	MN	All Scales
Midwest Meter Provers Inc.	2965 85th Ave SE	Jamestown	ND	NH3 Only
Midwest Pump & Tank	PO Box 2105	Aberdeen	SD	Liquids
MINDAK Scale	9628 Portal Dr	Eden Prairie	MN	All Scales
Montana Dakota Scale Service	RR 1 Box 1640	Fairview	MT	All Scales
NCR	1544 Prairie Hill Rd	St Cloud	MN	Small Scales
North Country Business Products	4626 Amber Valley Parkway	Fargo	ND	Small Scales
Northern Balance & Scale	9556 Bloomington Freeway	Bloomington	MN	Small Scales

Registered Service Companies

Service Company Name	Address	City	State	Type
Northwest Scale, Inc.	3702 20th St	Fargo	ND	All Scales
O'Day Equipment	PO Box 1487	Minot	ND	Liquids
Petroleum Calibration Services	203 E. Highway 61	Esko	MN	Liquids
O'Day Equipment Inc.	1301 40th St NW	Fargo	ND	Liquids
PCS Sales and Service	382063 Spillway Dr	Aberdeen	SD	All Scales
Prairie Scale System Inc	PO Box 69	Horace	ND	All Scales
Quam Petroleum Service Inc.	4720 Highway 6 S	Mandan	ND	Liquids
R & R Petroleum	5115 County Rd 81 N	Fargo	ND	Liquids
Reiter's Oil & Gas Equipment	P O Box 62	Surrey	ND	Liquids
Retail Data Systems	6566 Edenvale Blvd	Eden Prairie	MN	Small Scales
Rollies Sales & Service Inc.	PO Box E	Osakis	MN	Liquids
Scale Center	2900 W. Russell St.	Sioux Falls	SD	All Scales
S & L Computer Services Inc	704 28th St S	Fargo	ND	Small Scales
Specialty Products	1420 N 4th St	Fargo	ND	All Scales
T & T Measurements	10671 43rd St W	New Town	ND	Liquids
Troy's Repair	PO Box 114	Tower City	ND	Liquids
Valley Petroleum Equipment Inc	PO Box 13355	Grand Forks	ND	Liquids
Valley Store Supply	Box 1875	Minot	ND	Small Scales
Webster Scale Service	PO Box 127	Webster	SD	All Scales
Western Engineered Solutions	1911 Revere Dr	Bismarck	ND	Liquids
WestMor Industries	PO Box 683	Morris	MN	Liquids

AMENDED FEE SCHEDULE

64-02-10. Fees to test or calibrate weighing and measuring devices. The commission shall collect the following fees to:

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13. Test propane, ag-chemical , or liquid fertilizer meter	39.00	<u>45.00</u>
14. Test crane scale	107.00	
15. Test or calibrate weighing and measuring devices other than the above and those set by rule, per inspector per quarter hour or fraction thereof	44.00	<u>13.00</u>
16. Witnessing any of the above tests Fifty percent of the applicable fee		