

House Bill 1008

Presented by: **Randy Christmann, Chair**
 Public Service Commission

Before: **Senate Appropriations Committee,**
 Government Operations Division
 Terry Wanzek, Chairman

Date: **March 11, 2025**

TESTIMONY

Mr. Chair and members of the committee, I'm Commissioner Randy Christmann, Chair of the Public Service Commission, here to present our 2025-2027 biennial budget request. Commissioner Sheri Haugen-Hoffart is also in attendance today and available for any questions you may have. Commissioner Jill Kringstad unfortunately was scheduled to attend a MISO meeting and is not able to be here today. Thank you for the opportunity to present our budget bill and explain why we feel it benefits the State of North Dakota. I look forward to answering any questions you may have at the end of my testimony.

Introductions and Responsibilities:

The Public Service Commission (PSC) is a constitutional agency with varying degrees of statutory authority over the following areas:

- Coal mining and reclamation;
- Abandoned mine lands;
- Siting of energy conversion, transmission and generation facilities;

- Regulation of electric, gas and telephone public utilities;
- Pipeline safety of intrastate natural gas pipelines;
- Damage prevention (enforcement of the One-Call Law);
- Commercial scales and measuring devices;
- Railroad safety.

Attachment A will provide you with a summary of each program, including citations to the applicable North Dakota Century Code chapter(s) associated with that program, major statutory responsibilities, and current biennium accomplishments.

The work at the Commission continues at a brisk pace. This biennium to date we have sited 339.4 miles of pipelines, 68.6 miles of electric transmission lines, and 462.26 MW of wind generation. This represents more than \$5.08 billion of economic investment in North Dakota. Biennium to date, the PSC has received four general utility rate cases, three of which have been completed. We also review on an annual basis rate riders where each of the electric Investor-Owned Utilities (IOUs) recover expenses for transmission, generation and renewable resource investments.

The Reclamation Division currently has more than 137,000 acres permitted for mining activities. During the current biennium, more than 6,000 acres were added to existing permit areas. There are 6 active surface coal mining operations (4 lignite and 2 leonardite mines) and one coal mine in reclamation operating in the state. To date, approximately 18,860 acres have received final bond release and the Commission's jurisdiction has ended. The Abandoned Mine Lands

Program completed 8 projects, and 183 dangerous sinkholes were filled in the past two years in the following counties: Adams, Bowman, Golden Valley, McLean, Mercer, Morton, Stark, and Williams. Total cost for filling the sinkholes was more than \$137,000.

The PSC's coal regulatory and Abandoned Mine Lands programs continue to receive excellent annual evaluation reports from the federal Office of Surface Mining Reclamation and Enforcement (OSMRE), which concluded that no issues or concerns were raised. In their report they stated that the Reclamation Division "continues to implement the program in a professional, cooperative, and fair manner. The NDPSC has the necessary technical expertise for carrying out its functions to ensure that all requirements of SMCRA are met."

In their report of the AML Program, OSMRE stated that "the state administers an excellent program in full compliance with their approved plan." Additional statements included "The NDPSC continues to administer an efficient and successful AML program. These projects have reduced the likelihood of death or injury to property owners and the public."

Our Compliance Division continues to educate about the importance of Call Before You Dig and has received 47 complaints and processed 27 complaints for this biennium to date, which resulted in \$38,200 in fines which were deposited into the general fund. The Weights and Measures Program oversees more than 20,500 commercial weighing devices in the state. They have inspected over 4,600 devices and also verify the work of commercial testers. The Rail Safety Program fielded complaints and intervened on behalf of 23 communities and citizens on rail-related

issues this biennium to date. This biennium to date, rail safety inspectors have conducted more than 500 inspections.

The following information provides details regarding the PSC's budget priorities for the upcoming biennium.

2021-23 Audit Findings:

The Commission's 2021-23 audit did not identify any areas of concern. This is the second consecutive audit with no findings.

Federal Recovery Funding:

The Commission did not receive any federal recovery funding from the November 2021 special legislative session.

One-Time Funding-Current Biennium:

Indirect Cost Recovery:

The PSC has an indirect cost agreement with the federal government that allows the agency to negotiate an indirect cost percentage and apply this percentage to federal salary and benefit costs involving the Reclamation, AML and Pipeline Safety programs. This indirect cost recovery is used to support employee salary costs for critical positions that support the entire agency, which subsequently reduces the need for general funds. This indirect cost agreement is based on actual expenditures negotiated every two years.

Our indirect cost agreement in the 2023-25 budget had a 4% rate reduction due to staff turnover in the preceding biennium, which led to additional general fund needs of approximately \$101,700 to support base salaries of current staff. We are using this funding to support base payroll, especially in light of the underfunding and existence of the new/vacant FTE pool.

Drone for Reclamation and AML:

In the 2023-25 budget we requested \$20,000 to purchase a drone that would be used by two divisions at the PSC: the Reclamation Division and the Abandoned Mine Lands Division. The Reclamation Division could use the drone when mine access is restricted or hazardous, to create timely aerial imagery when adding acres to a new or existing permit, at bond release, at end of the year, or for landowner complaints about land impacts. It would also be useful to create timely digital surface models (DSM)s to estimate mine reclamation progress, estimate earthwork volumes, identify surface water flow paths, identify surface water ponding, and find erosional features.

The Abandoned Mine Lands (AML) division would use the drone to inspect areas where access is limited or terrain presents challenges on foot. Images collected can be used to make maps, monitor progress and collaborate with other AML staff, contractors, landowners, other agencies, and the public. Autonomous flight missions would allow AML to create digital elevation models of existing ground conditions much faster than traditional survey methods. This would help

AML compute earthwork volumes more efficiently and accurately for reclamation projects.

When we began the procurement process to purchase a drone the federal government announced a new grant with additional federal funding through the Bipartisan Infrastructure Law (BIL). The BIL funds provide financial and technical assistance necessary to maximize data enhancements and use of the enhanced AML Inventory System. The amount allocated to North Dakota is just under \$300,000. As a result of this available funding, we re-evaluated and researched the equipment available. We did not use any of this funding; however, we are requesting additional equipment funding this biennium to use this federal grant. This is discussed in more detail later in this testimony.

Weights and Measures Equipment:

The Commission received \$70,000 to purchase a prover trailer to allow the PSC's Weights and Measures Program to test high-flow devices, verify the work of registered service companies or technicians who certify high-flow diesel dispensers, or respond to complaints on these devices. This equipment was purchased and delivered in Dec. 2024.

Copier Replacement:

The Commission replaced a copier purchased in June 2015. A new copier was purchased in 2023.

Major Funding Components in the Base Budget (2023-25):

The following line items make up the major components of our base level. These amounts are based on our original appropriation for the 2023-25 biennium and do not include any appropriation adjustments for OMB equity, retirement contributions, or requests from the new/vacant FTE pool:

Appropriation	General Funds	Federal Funds	Special Funds	TOTAL
Salaries and Wages	\$5,832,193	\$4,464,833	\$625,000	\$10,922,026
Operating	\$1,578,717	\$501,770	\$125,000	\$2,205,487
Capital Assets	\$106,800	18,200		\$125,000
Grants		\$20,000		\$20,000
AML Contractual		\$6,000,000		\$6,000,000
Rail Rate Complaint Case			\$900,000	\$900,000
Railroad Safety Program		\$20,000	\$649,318	\$669,318
Specialized Legal Services*	\$20,000	\$400,000		\$420,000
TOTAL	\$7,537,710	\$11,424,803	\$2,299,318	\$21,261,831

*Federal funds are only available for rare and specific federal cases and must be approved by the applicable federal agency. As a result, the Commission relies on state general fund appropriation for this line item.

Self-Funding:

During the 2021-23 biennium, the Legislature implemented a self-funding model at our agency to self-fund a portion of our Public Utility and Weights and Measures Divisions. The total amount budgeted to be self-funded is \$625,000 and is made up of fixed and variable funding sources. Last biennium, the Legislature modified the requirements for the siting administration fee by doubling the fee per \$1 million of investment and doubling the maximum cap to \$50,000. The Legislature also allowed us to keep \$60,000 in turn back and transfer it into our

self-funding. As you can see from the following report, these changes implemented by the Legislature were very helpful.

Variable Funding Sources (as of Jan. 31, 2025):

	23-25 Revenue as of Jan. 31, 2025	23-25 Biennium to Date Budget	Difference	Total Budget
Interest	2,260			
W&M - Scale Inspection Fees	126,038			
W&M - Registered Service Companies	22,050			
Total W&M	148,088	138,542	9,547	175,000
Siting Admin. Fee	293,393	118,750	174,643	150,000

Siting Administration Fee Revenue (as of Jan. 31, 2025):

Siting Admin. Revenue		
Project	Case	Amount Collected
Wildrose Pipeline Co/Hawthorn Oil Transfer	PU-23-287	600
200 MW Oliver Wind IV Energy	PU-23-317	50,000
Cerilon GTL ND	PU-23-325	50,000
Oliver Wind 345kv Trans. Line - Oliver/Mercer	PU-23-318	9,000
Basin Electric 345kv Trans. Line - Williams Co	PU-23-338	6,200
DGC Transfer - Corridor #223, Route #233	PU-23-347	5,000
Basin Electric 345kv Trans-Dunn/McKenzie	PU-23-361	14,800
Caliber ND LLC - Transfer Certs & Permits	PU-24-79	1,513
Thunder Butte Pipeline	PU-24-86	3,920
Missouri River Pipeline Crossing-Williams/McKenzie	PU-24-311	640
Milton R. Young Transmission Line Reroute - Oliver	PU-24-321	640
Flickertail Solar Project	PU-24-351	50,000
Basin 345kv Mercer-McLean-Ward-Mountrail-Williams Cty	PU-24-361	50,000
MN Power & Light HVDC Modernization Project - Oliver County	PU-24-381	50,000
GRE - HVDC Modernization Project - Oliver County	PU-24-382	1,080
		293,393

Fixed Funding Sources:

The PSC will receive \$300,000 per biennium from an economic regulation assessment that is proportionally assessed based on each electric and gas utility's respective gross operating revenues from the retail sale of gas and electric service within the state.

Self-Funding Status (as of Jan. 31, 2025)

Funds collected this biennium	\$668,740
Self-Funding budget	\$625,000

Strategic Organizational Changes/Employee Retention and Development:

In the past decade, the PSC has undergone significant reorganization in order to meet the increasing demands of the industries we regulate. This includes the utility industries that are undergoing major transformations driven by new technology, aging infrastructure and policy changes, as well as the significant growth of North Dakota's oil and gas industry. Our agency has worked hard to meet these needs by restructuring staff, increasing the use of technology, and improving administrative efficiencies.

We consolidated weights and measures, rail safety, pipeline safety, damage prevention and risk management under one Compliance Division, which allows for a more efficient and effective approach to regulatory enforcement and compliance with these programs. In addition, the director of economic regulation position was eliminated and we organized our Public Utilities Division under one

director. We have also streamlined our administrative group to better align and serve our newly organized divisions.

Our licensing jurisdiction has also seen significant changes with the grain licensing program moving to the Dept. of Agriculture and the auctioneer/auction clerks licensing program deregulating and now registering with the Secretary of State's Office.

As we look forward, the state is projecting to have historic turnover in the next five years, resulting in loss of efficiency and critical institutional knowledge. However, due to numerous retirements of long-term employees, the PSC is already ahead of this turnover trend. Since Jan. 2019, 85 percent of PSC employees are new or have been hired into a new or expanded role. It has been a challenge to manage this turnover while maintaining the level of service expected throughout all our programs and finding a way to effectively pass on institutional knowledge. This places an increased burden on experienced staff who spend a large portion of their time training and mentoring new employees while still performing their full-time job duties. Sadly, there are limited ways to recognize and compensate veteran employees for their increased workload.

Recruitment has also been a tremendous challenge as current state compensation levels are drastically behind the private sector. This is compounded due to the energy industry interacting with and competing for many of our people. Many positions at the Commission are extremely technical and specialized with a limited applicant pool to draw from. Fortunately, our current employees have been strong advocates for our agency and have helped us recruit a number of key

individuals to fill our vacant positions. However, often we have had to provide new hires the same or higher compensation as current employees. This has led to several equity problems throughout our agency. The equity package provided by the Legislature last session resolved some of these issues, but we are still experiencing inequity at our agency for positions HRMS has designated as hard-to-fill/hard-to-retain.

We've been fortunate to have hired excellent recruits and built a positive agency culture. New staff's limited experience will require extensive training to be as effective and efficient as previous employees with many years of experience. We are grateful that the Legislature has recognized the importance of professional development for staff by providing funding for training now and in the future.

The PSC hit a significant milestone in April 2024 when we achieved full employment. One vacancy was created when Governor Armstrong appointed a new Commissioner in January, but we expect to have that position filled prior to the upcoming biennium. With limited vacancies currently at our agency, we anticipate minimal salary savings and turn back in the future. This makes the existence and underfunding of the new/vacant FTE pool especially concerning to our agency. We take great pride in managing our budget responsibly and have serious concerns about the public perception of a deficiency appropriation that leaves the impression the Commission overspent our budget. While we have concerns about the new/vacant FTE pool, if the Legislature wishes to continue utilizing this concept, we would request a process that allows elected officials the ability to recover the full amount of funding removed from budgets for the

new/vacant FTE pool without a deficiency appropriation and are willing to work with the committee on the best options to achieve this.

One of the challenges of having a fully staffed agency with many new employees is building a positive and impactful culture. We were very pleased with the results of the 2023 Gallup employee engagement survey, which showed our agency scored well over the average mean for employee satisfaction. Information about those results is included as an attachment on page 26.

Maintaining professional, trained staff and minimizing turnover whenever possible is critical to the smooth functioning of our agency. Competitive salary and benefit packages are a key part of recruitment and retention. The Commission is supportive of Governor Armstrong's proposed compensation increases for employees and would encourage the Legislature to consider even higher salary increases to keep up with inflation.

Summary of PSC Budget Request:

23-25 Vacant FTE funding pool and NDIT rate increases:

Engrossed HB 1008 makes significant strides toward meeting our needs. As I explain our requests, you will see the current status of each.

Our first request was for restoration of the 2023-25 Vacant FTE funding. Engrossed HB 1008 restores this funding. We are also requesting funding for NDIT rate increases. The total NDIT increases for our agency are approximately 29.5 percent. Engrossed HB 1008 includes the additions for NDIT rate increases.

Cost to Continue Salary Increases:

Our second request was to cover costs to continue salary increases.

Engrossed HB 1008 covers the cost to continue salary increases for the 2025-27 biennium.

Federal Intervention Funding:

The Commission continues to see overreach from federal agencies such as the Federal Energy Regulatory Commission (FERC), the federal Environmental Protection Agency (EPA), and Department of Interior. The Commission continues to increase engagement on rulemaking and litigation with federal agencies to ensure reliable, safe, secure, and efficient economical energy for consumers at a reasonable cost. We need to ensure we have adequate resources to review and identify the critical issues negatively impacting North Dakota and actively engage in protecting North Dakota from federal agency overreach. This is essential and requires early and aggressive intervention, comments, and litigation under extremely short time constraints. State Utility Commissions have a special standing during FERC proceedings.

It is essential the Commission intervene on federal litigation to ensure North Dakota's interests and voices are being heard in the discussions on energy generation mix, resource planning and pricing, and grid reliability. In order to make a convincing legal case, we need the resources to hire consultants and legal contractors with subject matter expertise.

Last biennium, the Legislative Assembly supported our efforts to engage at FERC by providing money to hire a contractor. We expect to expend all of the money allocated by the Legislature on two cases. We are requesting to expand the use of the current funding for other federal interventions in addition to FERC, as well as requesting additional funding. We initially requested a base budget increase of \$380,000. Engrossed HB 1008 provided one-time funding in the amount of \$250,000. We are requesting the original \$380,000, which is an increase of \$130,000 over Engrossed HB 1008.

Professional Development for Staff:

We are requesting additional funding for professional development and travel costs associated with professional development for our staff. The agency had reached full employment and 83% of the agency has less than 10 years of experience. The Commission is comprised of highly technical and hard-to-fill positions such as economists, engineers, scientists, accountants and attorneys. We need adequate resources to train and retain our current staff. We requested a base budget increase of \$25,000. The House did not include any additional funding as requested. We continue to support our initial request of \$25,000.

Targeted Equity:

The Commission received some equity funding in the 23-25 biennium that was distributed and solved most of the equity issues in the agency. However, we still have a few areas that are designated by HRMS as hard-to-fill, hard-to-retain

positions which require equity. Some of these employees were not eligible for the prior equity allocation from the Legislature due to their probationary status as a new employee. In the past, we could have addressed these issues through normal agency salary administration if we were not underfunded due to the new/vacant FTE pool. The loss of agency flexibility to appropriately manage our salary funding has had a negative impact on our staff. The House did not include funding for this request. We requested \$40,000 and continue to support this request.

Cost to Continue State Provided Services:

This includes costs to cover increases for services from other state agencies including NDIT, DOT motor pool, and OMB facilities rent.

- NDIT Increases: Costs to cover the projected NDIT rate increases not covered in the OMB base budget.
- DOT Motor Pool: Costs to cover the projected state fleet increases related to our Weights and Measures Program.
- OMB Facilities Rent: Costs to cover the projected rent increases at the state capitol complex. This includes a 5% increase in office space rental and 46% increase in storage space rental. (The amount of space we are renting has not increased.)

The PSC has numerous inspectors who frequently travel across the state performing testing, inspection, quality assurance and enforcement duties. The travel costs in these program areas are higher due to the overnight lodging, meals and state fleet costs. The Commission has done their best to absorb inflationary

increases associated with travel in their budget and has not submitted a budget request since the oil boom in the 2015-17 biennium. We are at full employment in our inspection programs and are requesting inflationary increases for costs associated with inspector travel including lodging and per diem. The requested amounts were included in Engrossed HB 1008.

There are also anticipated increases for postage and OMB Central Supply; however, the Commission will absorb those costs and is not requesting additional funding for those services.

Capital Assets:

The Commission currently has no base funding to purchase federal capital assets. This means if we receive funding through our existing federal grant programs, we are unable to purchase any equipment. This appropriation would give us the ability to use federal grant funding to purchase equipment for federal programs in a more timely and cost effective manner.

As previously mentioned, our initial purchase would be a drone that would be beneficial to two divisions at the PSC. The Reclamation division could use the drone when mine access is restricted or hazardous, to create timely aerial imagery when adding acres to a new or existing permit, at bond release, at end of the year, and for landowner complaints about land impacts. It can also be used to create timely digital surface models (DSM)s to estimate mine reclamation progress, estimate earthwork volumes, identify surface water flow paths, identify surface water ponding, and find erosional features.

The Abandoned Mine Lands (AML) division would use the drone to inspect areas where access is limited, or terrain presents challenges on foot. Images collected can be used to make maps, monitor progress and collaborate with other AML staff, contractors, landowners and the public. Autonomous flight missions would allow AML to create digital elevation models of existing ground conditions much faster than traditional survey methods. This would help AML compute earthwork volumes more efficiently and accurately for reclamation projects.

The model of drone will need to be a U.S. Department of Defense cleared drone. The Commission explored the option of a cooperative purchase; however, due to federal grant requirements, we are prohibited from sharing with other agencies as it must be used for a specific federal program. This funding was included in Engrossed HB 1008.

Weights and Measures Large-Scale Inspector:

Currently, the Commission has one large-scale inspector in the Weights and Measures Program to provide quality assurance on large scales (i.e. truck scales, large platform scales, livestock scales, hopper scales) in the entire state. If the large-scale inspector position is vacant, we are 0% effective and cannot respond to complaints. This position is hard to fill as it requires a CDL license. The average growth of large-scale devices in the state is approximately 6% per biennium over the last decade. As the number of large-scale devices continues to grow, we are capped at the number of large scales we can test due to drive time and only one inspector.

This position would allow more comprehensive oversight of scales certified by private service providers to ensure scales used for commerce are fair and accurate to the consumer and business, as well as being useful in interstate commerce.

We are requesting one FTE, salary and benefit costs, plus operating funding for lodging, per diem, DOT motor pool costs, training, uniforms, and metrology certification of equipment. NDDOT would also be responsible for providing a vehicle for this inspector. The funding was not included in Engrossed HB 1008. We requested \$356,540 for this position and continue to support this request.

One-Time Funding Requests:

LiDAR Technology:

In December 2023, the Office of Surface Mining Reclamation and Enforcement (OSMRE) issued a notice of funding opportunity for federal grant money to provide states with financial and technical assistance necessary to maximize data enhancements and the use of the enhanced Abandoned Mine Lands Inventory System. The intention is to improve overall engineering and survey collection processes, site integrity, accuracy and reliability in the system and to address anticipated growth of the inventory, field reconnaissance activities and the use of technologies to efficiently collect site detail. The Commission is proposing to purchase a drone and LiDAR imaging technology. This is one-time funding to purchase the imaging technology to be carried by the drone discussed

in the federal capital asset funding request. This funding was included in Engrossed HB 1008.

Comparison of Major Budget Requests to
House Recommendation (one-pager)

Description	House's Recommendation	Comments
Cost to Continue Salary Increases	Included	Costs to continue salary increases provided by the 68 th Legislative Assembly
Federal Intervention Funding	Partially Included	Amount was reduced from \$380,000 to \$250,000 and moved to One-time Funding
Professional Development for Staff	Not Included	Training to further ND's interests and development of new staff
Targeted Equity	Not Included	Hard-to-fill, hard-to-retain positions which require equity
Cost to Continue State Provided Services	Included	Costs to cover increases for services from other state agencies, including NDIT, DOT motor pool and OMB facilities rent. (NDIT costs of \$26,719 included initially on Decision Package 5 was moved and included as IT Cost line item by Legislative Council.)
Capital Assets	Included	Appropriation authority to purchase federal equipment
LiDAR Technology	Included	One-time funding to purchase federal equipment
Weights and Measures Large-Scale Inspector	Not Included	Funding for additional Weights and Measures inspector, including travel costs

Requested Changes to Engrossed HB 1008 (one-pager)

The Commission requests the following changes to Engrossed

HB 1008:

- Additional \$130,000 for Federal Intervention Funding
- Funding for Professional Development – \$25,000
- Funding for Targeted equity – \$40,000
- Funding for Weights and Measures Large-Scale Inspector – \$356,540
- 25-27 New/Vacant FTE pool - Engrossed HB 1008 removed \$379,621 from our salaries and wages for the 25-27 New/Vacant FTE pool. Of this amount, only \$265,735 is returned to our budget in the New/Vacant FTE pool line. This leaves us underfunded in our salary line by \$113,886. We anticipate that the agency will be fully staffed for the majority of the 2025-27 biennium and will achieve minimal, if any, savings from vacant positions. Should this be accurate, we would be short \$113,886 which would result in a statewide elected official having to request a deficiency appropriation from the legislature to maintain currently authorized staffing levels. This deficiency appropriation is an indication to the general public that the agency has failed to properly manage its finances during the biennium. As mentioned above, we need full access to the amount that has been removed from our budget and are willing to work with the committee on the best options to achieve this.

SUMMARY:

The Commission has been able to operate a very lean and effective budget for the current biennium during a time of ongoing and in many ways unprecedented change locally, regionally and nationally in the industries we regulate. Challenges in the oil and gas and coal mining and reclamation industry are constant. That, combined with the revolution occurring in the electric industry of differing generation resources and increasing power needs, demands that we have a strong and able staff. We need staff who are high-quality professionals who can be full players advocating in multistate and federal arenas for the interests of North Dakota citizens and rate payers.

We strive for continual improvement and innovation in our agency. We embrace technology and are constantly seeking ways to be more responsive to the public and the industries we regulate, to recognize the burden we place on business and reduce unnecessary red tape, while also recognizing the important oversight role North Dakota citizens count on us to fulfill.

This budget proposal continues our tradition of operating efficiently while offering innovative solutions to the constant challenges we face. We appreciate all the work the House did on Engrossed HB 1008. We stand ready to work with you in the coming weeks and months to design the best possible budget solution for the Public Service Commission. Thank you Mr. Chair and I look forward to answering questions from you and your committee.

Additional Requested information:

Agency Collections:

General Fund Collections:

- Various fines – The Commission has the authority to assess fines for noncompliance with laws and rules. No anticipated changes in 2023-25 biennium or upcoming 2025-27 biennium.
- Fees assessed for new coal mining permits – No anticipated changes in the current or upcoming biennium.

Current Biennium Appropriation Compared to Next Biennium Recommendations

Appropriation	Current 2023-25 Biennium Appropriation	2025-27 Governor Burgum's Recommendation	2025-27 Governor Armstrong's Recommendation	25-27 House Recommendation
Salaries and Wages	\$11,796,655.96	\$12,594,003	\$12,496,074	\$12,134,387
New and vacant FTE pool				\$265,735
Operating Expenses	\$2,205,487	\$2,697,654	\$2,500,112	\$2,622,654
Capital Assets	\$125,000	\$230,000	\$230,000	\$230,000
Grants	\$20,000	\$20,000	\$20,000	\$20,000
Abandoned Mine Lands Contractual	\$6,000,000	\$6,000,000	\$6,000,000	\$6,000,000
Rail Rate Complaint Case	\$900,000	\$900,000	\$900,000	\$900,000
Railroad Safety Program	\$672,206	\$736,080	731,164	\$713,230
Specialized Legal Services	\$420,000	\$400,166	\$400,166	\$400,166
FTEs	45	45	45	45
General Funds	\$8,128,631	\$9,255,954	\$8,997,041	\$9,051,704

*Note: Current Biennium Appropriations include 7 adjustments from the original appropriation

New Positions/Employee Turnover/Vacant Positions

New Positions:

The 68th Legislative Assembly provided our agency with two additional FTE positions. Both positions are highly technical and required multiple job postings (two for the electrical engineer and six for the environmental scientist specializing in range/cropland) before we were able to fill the positions. Our persistence and patience paid off and both positions are currently filled by highly-skilled individuals. Engrossed HB 1008 adds back in the 23-25 new/vacant FTE pool funding for these positions moving forward as approved by the 68th Legislative Assembly. The two positions are listed for you in the following chart:

Position	Hire Date	Funding Appropriated	FTE Pool Transfer	Est. Cost for 23-25 Biennium
Electrical Engineer	11/8/2023	\$287,068	\$239,582	\$239,582
Environ. Scientist	2/12/2024	\$216,564	\$175,091	\$175,091

Agency Vacancy Savings (as of Jan. 31, 2025)

A spreadsheet showing our agency's vacancy savings is shown on the next page.

P.S.C

Correct version of Pg 25

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Agency Vacancy Saving Worksheet

Business Unit number: 40800

Business Unit name: Public Service Commission

Reporting Period: July 23 - January 25

	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24	Jan-25	Cumulative Total
Est. Vacancy Savings	54,637	48,498	41,494	27,893	29,581	24,854	30,435	26,212	20,372	10,098	426	426	426	426	426	426	426	426	11,549	329,033
Use of vacant position savings:																				
Accrued Leave Payouts	7,006			15,814															4,734	27,553
Extra Salary Increases																				-
Bonuses																				-
Incentive/location Pay																				-
Reclassifications																				-
Extra Temporary salary Funding	3,979	14,665	13,594	1,800	1,895		6,548	4,822	4,385	3,698	3,200	9,283	6,349	8,643	7,778	8,396	6,293	5,267	5,875	116,469
Extra Overtime Funding																				-
Other (identify)	480	480	480	480	480	480	480	480	480	480	480	480	480	480	480	480	480	480	1,147	9,787
Total	43,173	33,352	27,420	9,800	27,207	24,374	23,407	20,911	15,508	5,920	(3,254)	(9,337)	(6,403)	(8,697)	(7,832)	(8,450)	(6,347)	(5,321)	(207)	175,224
Vacant Positions:	6	5	4	3	3	2	3	2	2	-	-	-	-	-	-	-	-	-	1	

DO NOT MODIFY WORKSHEET FORMAT

October 2023 Gallup Engagement Survey

Agency Name	Total Respondents	Q12 Mean	Q00. Overall Satisfaction
Aeronautics Commission	5	4.73	5.00
Governor's Office	17	4.70	4.76
Veterans Affairs Department	7	4.54	4.71
Securities Commissioner	7	4.80	4.71
State Treasurer	5	4.75	4.60
Retirement & Investment Office	22	4.55	4.59
Public Service Commission	29	4.22	4.55
School for the Blind	18	4.35	4.50
Labor Commissioner	10	4.35	4.50
Workforce Safety & Insurance	235	4.32	4.41
State Auditor	20	4.30	4.40
Bank of North Dakota	130	4.19	4.35
Insurance Department	41	4.13	4.29
ND Public Retirement System	32	4.05	4.25
Game and Fish Department	158	3.94	4.20
Office of Mgmt & Budget	89	4.14	4.18
School for the Deaf	6	4.13	4.17
Job Service ND	120	4.22	4.16
Public Instruction	74	4.25	4.15
Department of Commerce	58	4.05	4.10
Dept of Financial Institutions	24	4.10	4.08
Housing Finance Agency	42	4.00	4.07
ND Department of Trust Lands	24	4.10	4.04
Historical Society	69	3.96	4.00
Adjutant General	58	4.20	3.98
Protection and Advocacy	17	3.84	3.94
Secretary of State	27	4.01	3.93
Highway Patrol	162	3.87	3.93
Information Technology Dept	398	3.99	3.92
Environmental Quality	130	3.96	3.89
Overall	5486	3.94	3.88
Attorney General	91	3.87	3.82
State Tax Commissioner	85	3.92	3.82
Dept. Of Mineral Resources	60	3.76	3.81
Department of Transportation	690	3.80	3.81
Department of Agriculture	13	3.75	3.77
ND Health and Human Services	1694	3.91	3.76
ND Parks & Recreation Dept	57	3.86	3.70
Department of Water Resources	72	4.02	3.64
Career and Technical Education	21	3.88	3.62
Seed Department	5	3.54	3.60
Corrections & Rehab	547	3.70	3.57
Council on the Arts	5	3.43	3.50
Legal Counsel for Indigents	21	3.49	3.43
State Library	23	3.62	3.43
Veterans' Home	25	3.25	3.00
Center For Distance Education	23	3.36	2.57

Department Overview

Reclamation Division (64% Federal Funds plus Indirect Cost Reimbursement)

The Reclamation Division of the Public Service Commission is responsible for administering and enforcing the state's reclamation law for minimizing the environmental effects of surface coal mining and ensuring mined lands are properly reclaimed. Under N.D.C.C § 38-14-1, the PSC administers a comprehensive program that consists of permitting and inspection and enforcement responsibilities. There are 6 active surface coal mining operations (4 lignite and 2 leonardite mines) and 1 coal mine in reclamation operating in ND.

- Approximately 137,690 acres are currently permitted for mining activities under 22 mine permits.
- During the current biennium, approximately 6,021 acres were added to existing permit areas by the Reclamation Division.
- To date, approximately 18,860 acres have received final bond release (met all the requirements of the reclamation law) and Commission jurisdiction has ended.
- A formal hearing was held for a surface owner objection to the approval of a renewal and corresponding revision applications for the Coyote Creek Mine in 2024.
- A formal hearing was held for a surface owner objection to approved grade approvals for the Coyote Creek Mine in 2023.

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- An informal conference was held for surface owners with concerns related to a revision application that added 2,661 acres to an existing permit area at the Center Mine operated by BNI Coal, Ltd.
- An informal conference was held at the request of Westmoreland Beulah Mining, LLC, in response to a notice of violation issued by the Reclamation Division.
- The Reclamation Division lost over 100 years of experience in 2021 due to retirements. The division became fully staffed again on February 1, 2022, and we are currently in the process of training the entire division as each employee is either newly hired or in a new position since the end of 2019 (with the exception of one employee who has twenty-seven years of experience).
- The PSC's coal regulatory and Abandoned Mine Lands programs continue to receive excellent annual evaluation reports from the federal Office of Surface Mining Reclamation and Enforcement (OSMRE), which concluded that no issues or concerns were raised. In their report they stated that the Reclamation Division "continues to implement the program in a professional, cooperative, and fair manner. The NDPSC has the necessary technical expertise for carrying out its functions to ensure that all requirements of SMCRA are met." In their report of the AML Program, OSMRE stated that "the state administers an excellent program in full compliance with their approved plan." Additional statements included "The NDPSC continues to administer an efficient and successful AML program.

These projects have reduced the likelihood of death or injury to property owners and the public.”

Abandoned Mine Lands (100% Federal Funds plus Indirect Cost Reimbursement)

The goal of the Abandoned Mine Lands (AML) Program is to eliminate hazards related to coal mining that occurred prior to the enactment of the 1977 Surface Mining Control and Reclamation Act (SMCRA). Under N.D.C.C. § 38-14.2, the PSC is authorized to develop and administer an abandoned mine reclamation plan on lands adversely affected by pre-SMCRA mining. N.D.C.C. § 38-14.2 also created a state abandoned mine reclamation fund to collect funds pursuant to title IV of Public Law 95-87 [91 Stat. 456; 30 U.S.C.1231 et seq.] and to disburse funds for the reclamation and restoration of land and water resources adversely affected by past mining as defined by section 38-14.2-06. PSC staff in the AML Program design and manage the reclamation projects. Private contractors, selected by competitive bidding, conduct the construction work. A federal fee assessed on coal production funds the AML Program. These funds are distributed as federal grants to AML programs in 28 states and tribes, including North Dakota. North Dakota typically receives about \$3 million annually.

The Office of Surface Mining Reclamation and Enforcement’s AML fee collection authority was extended through September 30, 2034, as part of the Infrastructure Investment and Jobs Act, commonly known as the Bipartisan Infrastructure Law (BIL), that was signed into law on November 15, 2021. The BIL

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reduced the reclamation fee rate for lignite coal from eight cents per ton to 6.4 cents per ton and extended the annual AML grant distributions to eligible states and tribes by 13 years. In addition to the extension of AML fee collections and mandatory AML grant distributions, \$11.293 billion in new funding was authorized to expand investment in the AML program over a 15-year period. North Dakota will receive \$3,101,700 in annual BIL grant distributions.

- In the current biennium, 8 abandoned mine land reclamation projects were completed.
- About 190 dangerous sinkholes caused by the collapse of underground mine workings were filled in the past two years.
- Since 1982, 200 primary reclamation projects and 36 emergency projects have been conducted to eliminate hazardous conditions, totaling approximately \$67 million.
- More than 40 miles of dangerous surface mine highwalls have been eliminated and over 1,500 acres of subsidence issues have been addressed since the AML reclamation program began.
- We have records of more than 1,500 abandoned coal mine sites in North Dakota. We estimate it will cost more than \$33.5 million to address the highest priority AML problems in our state based on OSMRE's eAMLIS database.

Regulation of electric, natural gas, and telephone utilities

Telecommunications: The Commission continued and refocused its efforts on telecommunications regulation. During the past biennium, the Commission collaborated with telecommunications companies operating in North Dakota and regulators in other states in our efforts to save numbering resources in our lone area code of 701.

As many may not be aware, North Dakota is one of a small number of states who retain a single area code across the entire state. However, this will not be the case in perpetuity. At present we are forecasted to exhaust the available numbers in the 701 area code by the second quarter of 2032. Absent the Commission's efforts to utilize phone numbers more efficiently and sparingly, we would already be looking to add another area code to our state. While the exhaust date does fluctuate over time, during the past biennium, we managed to push the exhaust date from 2028 to 2032.

During the past biennium we joined other states such as Maine, New Hampshire and Montana in filings before the Federal Communications Commission that would permit us to grant numbering resources to telecommunications companies in smaller blocks, thereby pushing our exhaust date out by many years.

Electric and Natural Gas: North Dakota continues to have among the lowest residential electric and natural gas utility rates in the nation, as shown in the charts on page A8 and A9. Biennium to date, the PSC has received four general rate

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cases for Montana-Dakota Utilities Co.'s natural gas operations, Otter Tail Power Company's electric operations, Northern States Power Company's natural gas operations, and the final for Northern States Power Company's electric operations.

Consistent with the Commission's least-cost standard, the PSC has made one advanced determination of prudence concerning the addition of a fuel inventory system to be added to Otter Tail Power Company's Astoria natural gas generation station. In accordance with N.D.C.C. § 49-05-16, the investor-owned electric utilities operating in North Dakota may request an advance determination of prudence for certain major capital investments.

The Commission continues to participate as a member of the organization of MISO States and Southwest Power Pool (SPP), which are both Regional Transmission Organizations (RTOs). MISO began operating a regional energy market in 2005 that continues to serve the loads of all MISO participants, including the three jurisdictional investor-owned electric utilities providing service in North Dakota: Montana-Dakota Utilities Co, Northern States Power Company (Xcel Energy), and Otter Tail Power Company. The SPP operates a similar regional energy market that serves Basin Electric Power Cooperative and its member Cooperatives. Both provide a centralized generating unit dispatch procedure that co-optimizes the energy and ancillary services markets to ensure that the lowest-cost generators are always being used throughout the regions regardless of utility control area boundaries. The markets establish Locational Marginal Prices (LMP's) for electric energy at specific local pricing nodes. All energy must be provided through the markets. Producers are paid the LMP for their energy at the time and

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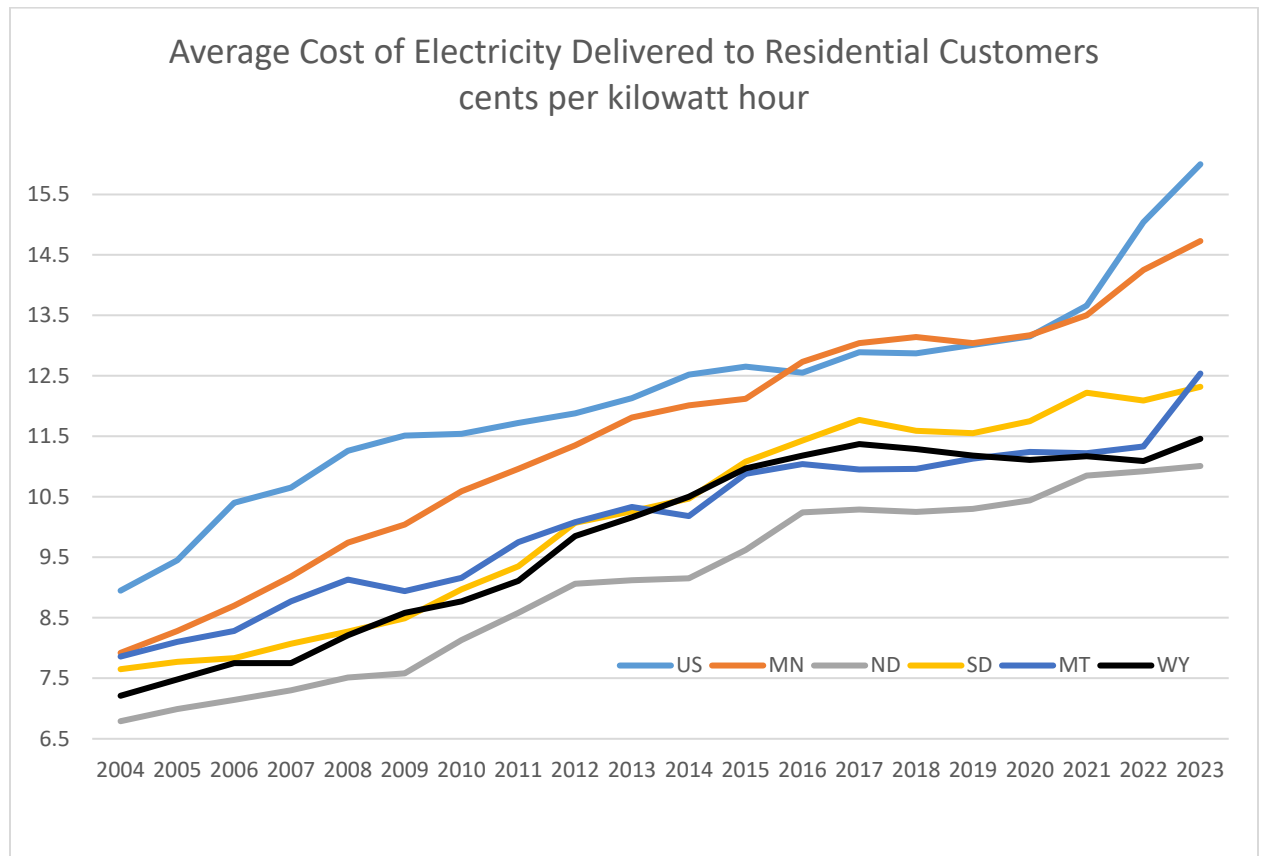
node where it enters the market. The load pays the LMP at the time and node where the energy is delivered.

Collaborating with MISO and SPP while representing North Dakota's interests in addressing gaps in an electric resource's ability to show up during times of need and to properly incentivize those resources for doing so will be increasingly important for a fleet undergoing significant change. Continuing to work with MISO and SPP to balance the cost and need for interstate transmission lines under federal jurisdiction with the cost and need for resources under local jurisdiction is critical to ensuring ratepayers are served with affordable and reliable electricity. Such transmission investments are forecasted to be significant, and the Commission must ensure both local and regional industries are working to advance ratepayers interests. Becoming more and more involved and keeping up with this complex system takes increased staff time and specific staff expertise.

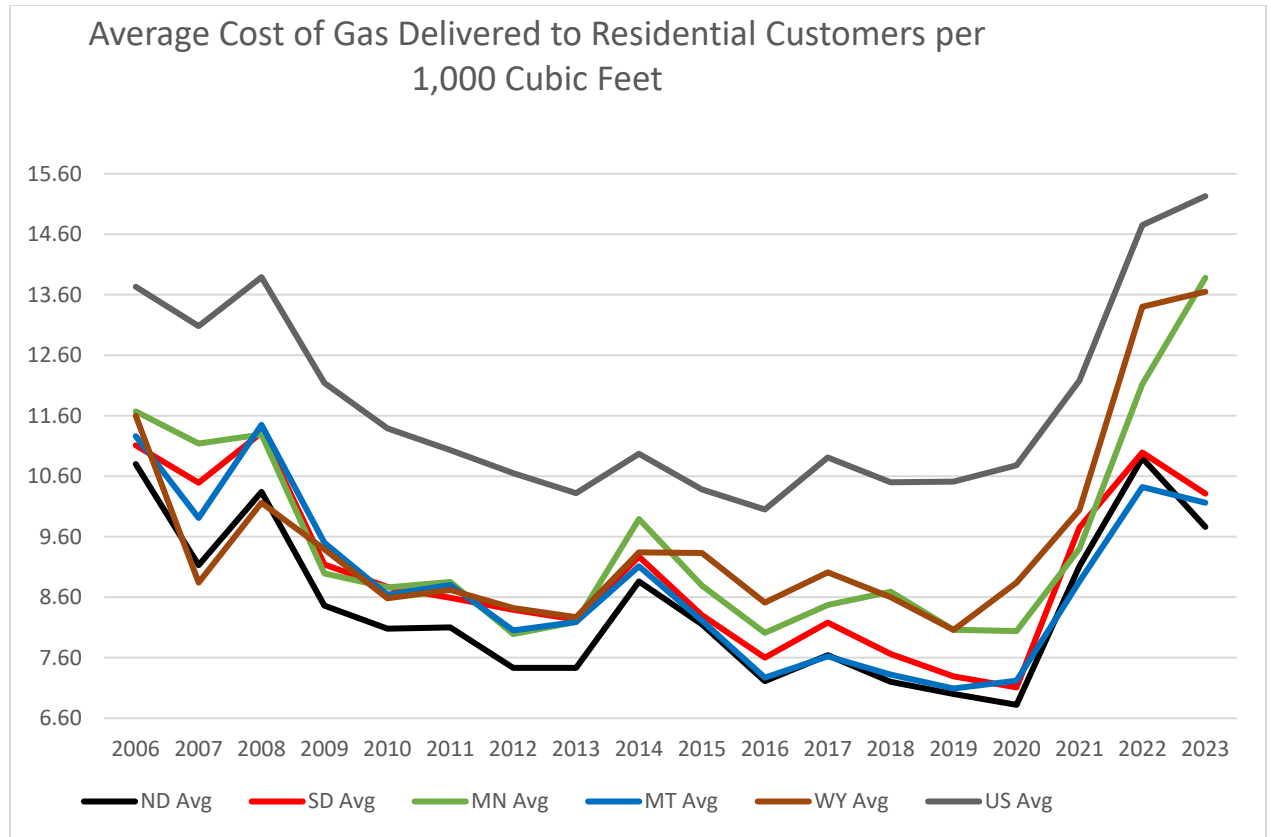
Participation in these regional groups is becoming more important as decisions they make impact all North Dakota utilities. States are ultimately responsible for resource adequacy. However, due to the interconnected nature of the power grid, steps that North Dakota takes to ensure its own reliability will not be considered when the entire grid is in need (just as we saw with winter storm Uri in February 2021). The Commission is involved in leadership roles within these organizations, but having adequate staffing to become more involved and keeping up with this complex system is necessary to ensure North Dakota has a voice in our long-term reliability and affordability of energy.

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In addition to the RTOs, another critical area for North Dakota is the Federal Energy Regulatory Commission (FERC). Just as we are seeing RTOs develop regional energy and transmission policies that have an impact on North Dakota, FERC is taking up many topics that will have an impact on North Dakota. Therefore, engaging in FERC cases and filing impactful comments is necessary to ensure that our voice is heard, and our citizens are protected from the added costs and reduced reliability that will result from the absence of our engagement. FERC cases are numerous, as are the filings within them. We must ensure we have adequate staff to review FERC cases and filings, make recommendations for comments, and take the appropriate steps to file comments.



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Siting (current biennium) – N.D.C.C. § 49-22 and 49-22.1

Pipelines

Description	Miles	County	Est. Project Cost
SCS Carbon Transport LLC	332	Burleigh, Cass, Dickey, Emmons, Logan, McIntosh, Moron, Oliver, Richland & Sargent	898,000,000
ONEOK Rockies Midstream, LLC	4	McKenzie	12,000,000
Tesoro Great Plains Gathering and Marketing LLC	2.4	Stark	4,000,000
Total	338.4		914,000,000

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Electric Transmission

Description	Miles	County	Est. Project Cost
Oliver Wind IV, LLC	19.5	Oliver & Mercer	43,000,000
Basin Electric Power Cooperative	14.6	Williams	31,000,000
Basin Electric Power Cooperative	32.5	Dunn & McKenzie	74,000,000
Basin Electric Power Cooperative	1	Williams	32,000,000
Minnkota Power Cooperative, Inc.	1	Oliver	3,200,000
Total	68.6		183,200,000

Wind Generation

Description	MW	County	Est. Project Cost
Oliver Wind IV, LLC	200	Oliver	316,000,000
Badger Wind, LLC	262.26	Logan & McIntosh	472,000,000
Total	462.26		788,000,000

Note: 4,249 MW of total wind generation in service as of December 20, 2024.

Other Generation/Refining

Description	MW	MMcf	County	Est. Project Cost
Cerilon GTL ND Inc.	162	580	Williams	3,200,000,000
Total	162	580		3,200,000,000

These tables represent completion of the complex siting process of 338.4 miles of pipelines, 68.6 miles of electric transmission line, and 462.26 MW of wind generation. It represents over \$5.08 billion of economic investment in North Dakota.

North Dakota Generation Capacity and Output

Type	MW	2023 Energy Output (thousands of megawatt hours)
Coal	3832	22,525
Hydroelectric	510	2,119
Natural Gas	657	2,833
Wind	4250	14,477
Total	9249	41,954

Auctioneer and Auction Clerk Licensing

During the 68th Legislative Assembly, House Bill No. 1191 (H.B. 1191) amended North Dakota Century Code Chapter 51-05.1 which deals with the licensing of auctioneers and auction clerks. In addition to other changes, H.B. 1191 removed the auctioneer and auction clerk licensing requirement with the Commission and replaced it with a registration requirement with the North Dakota Secretary of State. This change became effective on January 1, 2024. Prior to January 1, 2024, the Commission licensed auctioneers and auction clerks and maintained regulatory authority over these individuals and entities.

Prior to January 1, 2024, applicable N.D.C.C. Chapters included 3-05, 9-06, and 51-05.1. and Commission statutory responsibilities included:

- Issuing and renewing auctioneer, auction clerk, and bank auction clerk licenses.
- Investigation of auction related complaints.

As of December 31, 2023, the Commission licensed 274 auctioneers and 134 clerks.

Weights and Measures

Applicable North Dakota Century Code Chapters include 64-01, 64-02, 64-03, and 64-04.

The Weights and Measures Program, comprised of three full-time inspectors, is designed to meet the needs of both the buyer and seller in the commercial marketplace. This is accomplished through the enforcement of the

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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, dockage scales, livestock scales, gas station pumps, liquified petroleum gas meters, bulk fuel and lubricant delivery trucks, and medical marijuana packaging scales, to name a few. Some of the accomplishments and work of the program include:

- Testing and inspecting 4,672 commercial devices from July 1, 2023, through June 30, 2024, by PSC inspectors.
- Conducting quality control testing and monitoring the inspection, testing, and documentation of 20,525 weighing or measuring devices installed or serviced by registered service companies from July 1, 2023, through June 30, 2024.
- Using one-time funding appropriated by the 68th Legislative Assembly to purchase a new fuel pump inspection trailer which will enable the Commission to test, inspect, and conduct quality assurance and complaint inspections on high-flow retail fuel dispensers. This trailer was just received by the Commission at the end of November 2024 with the goal of being placed into service in early 2025.

Additionally, the Commission is continuing work on the heavy-scale quality assurance program. This program has allowed the PSC to review the work of registered service companies and addresses concerns with their operations along with responding to heavy-scale complaints. In July 2023, the Commission hired a

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new heavy-scale inspector to replace the inspector that transitioned into a new state inspector position. From July 1, 2023, through June 30, 2024, the PSC conducted quality assurance inspections on 242 heavy scales, of which 37 failed the inspection.

The Weights and Measures Program is minimally staffed with much of the work being completed by private contractors under the oversight of the state weights & measures inspectors. The workload requirements for light duty inspectors do not allow for much, if any, quality assurance inspections on light duty devices (gas pumps, grocery store scales, etc.). Additional staffing would allow for increased quality assurance inspections in addition to being able to take on more testing and inspection service of commercial devices.

Railroad Safety and Regulation

Applicable North Dakota Century Code Chapters include 24-09, 49-01, 49-02, 49-09, 49-09.1, 49-10.1, 49-11, 49-16, 49-17.1, and 60-06.

The Commission is the clearinghouse for rail service and safety issues statewide. As part of public engagement and outreach, the Commission hosts an annual meeting on service and safety for all the statewide stakeholders including ag producers, grain marketers, emergency responders, county, and city leaders to address issues with railroad representatives. This biennium to date, the PSC fielded complaints and intervened on behalf of 23 communities and citizens on rail-related issues.

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Funding for the state Rail Safety Program comes not from the general fund, but from existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements. The goal of the program is to reduce the number of accidents, derailments and other equipment failures in order to reduce fatalities, injuries, economic losses and environmental impacts.

The Commission employs two certified inspectors, one of which is dual certified, meaning they can inspect in two out of the six Federal Railroad Administration (FRA) inspection disciplines. The three inspection disciplines the Commission inspectors are certified in are: (1) Track; (2) Motor Power & Equipment (Mechanical); and (3) Hazardous Materials (HAZMAT). The remaining three FRA inspection disciplines are Operating Practices; Signal and Train Control; and Grade Crossing Safety and Trespasser Prevention. The state inspectors coordinate with and complement the federal inspectors to maximize coverage, but are autonomous and entirely accountable to the Commission.

This biennium to date, the track inspector has conducted 244 inspections, noting 1,337 defects, and has issued 9 violations. The mechanical inspector has conducted 213 inspections, noting 1,371 defects, and has issued 4 violations in addition to 67 HAZMAT inspections, noting 33 defects, and has issued 1 violation.

Gas Pipeline Safety (Approx. 50% Federal Funds plus Indirect Cost Reimbursement)

Applicable North Dakota Century Code Chapters include 49-02 and 49-07.

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On behalf of the Pipeline and Hazardous Materials Safety Administration (PHMSA), the Commission conducts a Pipeline Safety Program in North Dakota covering intrastate natural gas transmission, gathering, and distribution systems, intrastate liquified natural gas (LNG) facilities, and a propane distribution system.

In November 2021, PHMSA published a final rule bringing previously unregulated natural gas gathering systems under the jurisdiction of PHMSA and thereby the Commission. This rule added seven new operators, bringing the total number of regulated operators to 30. Additionally, this rule added approximately 2,300 miles of pipeline, bringing the total number of regulated natural gas pipeline miles to over 9,900.

The goal of the program is to enhance public safety by enforcing state laws governing gas pipeline safety through inspections and enforcement regarding qualification of pipeline personnel, pipeline components, design, construction, integrity management, operations, maintenance, public awareness, damage prevention programs, and emergency response.

Commission inspectors perform inspections of four natural gas distribution system operators, 11 transmission system operators, and 15 gathering system operators.

Gas pipeline safety inspectors conduct inspections dealing with records audits, compliance follow-up, design/testing and construction, gas incidents, on-site operator training, operator qualifications, control-room management, drug and alcohol testing, damage prevention, public awareness, operations and maintenance, and integrity management.

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Staff for the program includes one program manager/inspector and two full-time inspectors. In calendar year 2024, Gas Pipeline Safety Inspectors completed a total of 352 inspection days.

Damage Prevention

Applicable North Dakota Century Code Chapter includes 49-23.

The Commission is charged with enforcement of the state's One-Call Excavation Notice System law, also known as 811 or Call Before You Dig.

The goal of the program is to require excavators to identify where they need to dig in order for underground facility operators to locate their facilities to prevent damage to the underground infrastructure. This biennium to date, the Commission investigated and processed 27 complaints regarding alleged violations of the One-Call law. As a result of these proceedings, the Commission levied fines totaling \$38,200. The fines are deposited into the general fund.

5 Biennium Damage Prevention Case Processing Trend				
2015 - 2017	2017 - 2019	2019 - 2021	2021 - 2023	2023 - 2025
52	64	51	58	27 to date

Since the beginning of the program in 2009, the Commission has levied 198 fines totaling \$440,450. Since inception, the Commission has not been given any additional resources to process these cases. This workload has fallen to existing staff.

North Dakota Public Service Commission 2025

