

**Sixty-seventh Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 5, 2021**

HOUSE BILL NO. 1008
(Appropriations Committee)

AN ACT to provide an appropriation for defraying the expenses of the public service commission; to create and enact two new sections to chapter 49-01, subsection 4 of section 49-22-22, subsection 4 of section 49-22.1-21, and a new section to chapter 64-02 of the North Dakota Century Code, relating to a public service commission program fund, a public utility assessment, siting process administrative fees, and fees for registered service companies and to license and test a registered service person; to amend and reenact sections 49-01-05, 57-43.2-19, 64-02-10, and 64-02-12 of the North Dakota Century Code, relating to the salary of the commissioners, the transfer and distribution of funds in the highway tax distribution fund, fees to test or calibrate weighing and measuring devices, and the deposit of fees; to provide a report; to provide for a transfer; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the public service commission for the purpose of defraying the expenses of the public service commission, for the biennium beginning July 1, 2021, and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,495,560	\$495,928	\$9,991,488
Operating expenses	1,763,826	37,744	1,801,570
Capital assets	25,000	120,000	145,000
Grants	20,000	0	20,000
Abandoned mined lands contractual services	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	589,018	25,706	614,724
Specialized legal services	94,000	326,000	420,000
Total all funds	\$18,887,404	\$1,005,378	\$19,892,782
Less estimated income	12,172,476	1,289,219	13,461,695
Total general fund	\$6,714,928	(\$283,841)	\$6,431,087
Full-time equivalent positions	43.00	0.00	43.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

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

The 2021-23 biennium one-time funding amounts are not a part of the entity's base budget for the 2023-25 biennium. The public service commission shall report to the appropriation committees of the

sixty-eighth legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2021, and ending June 30, 2023.

SECTION 3. TRANSFER AND REPAYMENT - BEGINNING FARMER REVOLVING LOAN FUND.

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

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

Public service commission program fund - Transfer to general fund.

1. A special fund is established in the state treasury and designated as the public service commission program fund. Moneys deposited in the fund may be spent by the public service commission pursuant to legislative appropriation to defray the expenses of the commission.
2. Revenue from the following sources must be deposited in the public service commission program fund:
 - a. Any fees collected to test or calibrate weighing and measuring devices and licensing of registered service companies and persons;
 - b. All money received from the public utility assessment;
 - c. All money received from the siting administrative fee; and
 - d. All interest and investment income earned on the balance of the fund.
3. The office of management and budget shall transfer any balance in the public service commission program fund that exceeds one million one hundred thousand dollars to the general fund at the end of each biennium.

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

Public utility fee.

1. The commission shall assess each electric and gas utility a fee in proportion to the utility's respective gross operating revenues from the retail sale of gas and electric service within the state during the preceding calendar year. The total of the combined assessments may not exceed three hundred thousand dollars per biennium. The fee must be paid quarterly and deposited in the public service commission program fund.
2. In January of each year, each electric and gas public utility shall file with the public service commission the amount of gross receipts derived from the company's customers within the state during the preceding calendar year. The commission shall review the gross receipts annually and adjust the fee for each utility in proportion to the gross operating revenues.

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

49-01-05. Salary of commissioners.

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

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

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

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

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

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

57-43.2-19. Transfer, deposit, and distribution of funds. (Effective through June 30, 20242025)

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

Transfer, deposit, and distribution of funds. (Effective after June 30, 20242025) All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

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

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

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

SECTION 11. 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 overhead monorail, track, dormant, deck, and hanging scale of one thousand pounds [453 kilograms] or less capacity	53.00 <u>95.00</u>
2. Test movable platform scale	41.00 <u>20.00</u>
3. Test counter or computing scale	41.00 <u>20.00</u>
4. Test hanging scale of fifty pound [22.68 kilogram] capacity or less	41.00 <u>20.00</u>
5. Test a retail motor fuel device	41.00 <u>20.00</u>
6. Test or calibrate weighing and measuring standards, per metrologist, per quarter hour or fraction thereof	17.00
7. Test mobile delivery gasoline and fuel oil meter	24.00 <u>45.00</u>
8. 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 <u>95.00</u>
9. Test propane, ag chemical, or liquid fertilizer meter	39.00 <u>70.00</u>
10. Test or calibrate weighing and measuring devices other than the above and those set by rule, per inspector per quarter hour or fraction thereof	41.00 <u>20.00</u>
11. 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 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. If 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 12. AMENDMENT. Section 64-02-12 of the North Dakota Century Code is amended and reenacted as follows:

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

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

SECTION 13. EMERGENCY. Sections 4, 7, 8, and 12 of this Act are declared to be an emergency measure.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-seventh Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1008 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 79 Nays 5 Absent 10

Speaker of the House

Chief Clerk of the House

This certifies that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 47 Nays 0 Absent 0

President of the Senate

Secretary of the Senate

Received by the Governor at _____ M. on _____, 2021.

Approved at _____ M. on _____, 2021.

Governor

Filed in this office this _____ day of _____, 2021,
at _____ o'clock _____ M.

Secretary of State