

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1008

Page 1, line 2, after the semicolon insert "to create and enact two new sections to chapter 49-01, subsection 4 of section 49-22-22, subsection 4 of section 49-22.1-22, 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;"

Page 1, replace lines 10 through 24 with:

"	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,495,560	\$199,086	\$9,694,646
Operating expenses	1,763,826	2,744	1,766,570
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	24,608	613,626
Specialized legal services	<u>94,000</u>	<u>326,000</u>	<u>420,000</u>
Total all funds	\$18,887,404	\$672,438	\$19,559,842
Less estimated income	<u>12,172,476</u>	<u>1,206,850</u>	<u>13,379,326</u>
Total general fund	\$6,714,928	(\$534,412)	\$6,180,516
Full-time equivalent positions	43.00	0.00	43.00"

Page 2, line 1, after "**FUNDING**" insert "**- EFFECT ON BASE BUDGET - REPORT TO THE SIXTY-EIGHTH LEGISLATIVE ASSEMBLY**"

Page 2, line 2, after "biennium" insert "and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act"

Page 2, lines 5 and 6 with:

"Grain insolvency litigation	100,000	0
Real-time kinematic equipment	0	<u>120,000</u>
Total all funds	\$436,000	\$120,000
Less estimated income	<u>436,000</u>	<u>114,600</u>
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."

Page 2, after line 15, insert:

"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 twice the amount of the current biennium's appropriation 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 public utility fee may not exceed two hundred twenty-five 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~~<sup>fifteen</sup> thousand ~~eight~~<sup>thirteen</sup> hundred ~~twenty-nine~~<sup>four</sup> dollars through June 30, 2020~~2021~~<sup>2022</sup>, and one hundred ~~thirteen~~<sup>seventeen</sup> thousand ~~six hundred~~<sup>thirty-four</sup> 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 fund.

**SECTION 8.** Subsection 4 of section 49-22.1-22 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 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, 2024~~2025~~)**

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-six thousand ~~five~~eight hundred ~~nineteen~~thirteen 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, 2024~~2025~~)** 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                              | <del>53.00</del> <u>95.00</u>       |
| 2.  | Test movable platform scale  | <del>11.00</del> <u>20.00</u>       |
| 3.  | Test counter or computing scale  | <del>11.00</del> <u>20.00</u>       |
| 4.  | Test hanging scale of fifty pound [22.68 kilogram] capacity or less  | <del>11.00</del> <u>20.00</u>       |
| 5.  | Test a retail motor fuel device  | <del>11.00</del> <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   | <del>24.00</del> <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 | <del>53.00</del> <u>95.00</u>       |
| 9.  | Test propane, ag chemical, or liquid fertilizer meter  | <del>39.00</del> <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      | <del>11.00</del> <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.**

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."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

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

	<b>Base Budget</b>	<b>House Changes</b>	<b>House Version</b>
Salaries and wages	\$9,495,560	\$199,086	\$9,694,646
Operating expenses	1,763,826	2,744	1,766,570
Capital assets	25,000	120,000	145,000
Grants	20,000		20,000
Abandoned mined lands contractual	6,000,000		6,000,000
Rail rate complaint case	900,000		900,000
Railroad safety program	589,018	24,608	613,626
Specialized legal services	94,000	326,000	420,000
<b>Total all funds</b>	<b>\$18,887,404</b>	<b>\$672,438</b>	<b>\$19,559,842</b>
Less estimated income	12,172,476	1,206,850	13,379,326
General fund	\$6,714,928	(\$534,412)	\$6,180,516
FTE	43.00	0.00	43.00

**Department 408 - Public Service Commission - Detail of House Changes**

	<b>Adjusts Funding for Base Payroll Changes<sup>1</sup></b>	<b>Adds Funding for Salary and Benefit Increases<sup>2</sup></b>	<b>Underfunds Salaries and Wages<sup>3</sup></b>	<b>Provides Funding for Pipeline Inspector<sup>4</sup></b>	<b>Increases Funding for Specialized Legal Services<sup>5</sup></b>	<b>Reduces Funding for Operating Expenses<sup>6</sup></b>
Salaries and wages	\$15,404	\$201,134	(\$150,000)	\$132,548		
Operating expenses				35,000		(\$32,256)
Capital assets						
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	(5,289)	9,897				
Specialized legal services					\$326,000	
<b>Total all funds</b>	<b>\$10,115</b>	<b>\$211,031</b>	<b>(\$150,000)</b>	<b>\$167,548</b>	<b>\$326,000</b>	<b>(\$32,256)</b>
Less estimated income	(65,384)	84,086	550,000	167,548	336,000	0
General fund	\$75,499	\$126,945	(\$700,000)	\$0	(\$10,000)	(\$32,256)
FTE	0.00	0.00	0.00	0.00	0.00	0.00

	<b>Adds Funding for Railroad Inspector Training<sup>7</sup></b>	<b>Adds One-time Funding for Equipment<sup>8</sup></b>	<b>Total House Changes</b>
Salaries and wages			\$199,086
Operating expenses			2,744
Capital assets		\$120,000	120,000
Grants			
Abandoned mined lands contractual			
Rail rate complaint case			
Railroad safety program	\$20,000		24,608
Specialized legal services			326,000
<b>Total all funds</b>	<b>\$20,000</b>	<b>\$120,000</b>	<b>\$672,438</b>
Less estimated income	20,000	114,600	1,206,850
General fund	\$0	\$5,400	(\$534,412)
FTE	0.00	0.00	0.00

<sup>1</sup> Funding is adjusted for base payroll changes.

<sup>2</sup> The following funding is added for 2021-23 biennium salary adjustments of 1.5 percent on July 1, 2021, and July 1, 2022, with a minimum monthly increase of \$100 and a maximum monthly increase of \$250; and increases in health insurance premiums from \$1,427 to \$1,429 per month:

	<u>General Funds</u>	<u>Other Funds</u>	<u>Total</u>
Salary increase	\$125,687	\$83,201	\$208,888
Health insurance increase	<u>1,258</u>	<u>885</u>	<u>2,143</u>
Total	\$126,945	\$84,086	\$211,031

<sup>3</sup> Underfunds salaries and wages by reducing funding from the general fund (\$700,000) and increasing funding from other funds \$550,000 received from a public utility assessment, increased weights and measures fees, and the addition of an administrative fee charged to an applicant in the siting process.

<sup>4</sup> Funding from federal funds is added for the reclassification of an unfunded administrative support FTE position to a natural gas pipeline inspector position (\$132,548) and related operating expenses (\$35,000).

<sup>5</sup> Funding from the general fund for specialized legal services is reduced by \$10,000 and federal funding is increased by \$336,000.

<sup>6</sup> Funding from the general fund is reduced for travel (\$20,000) and professional development (\$16,993) and increased for Microsoft Office 365 license expenses (\$4,737).

<sup>7</sup> Funding of \$20,000 from federal funds is added for annual railroad inspector training.

<sup>8</sup> One-time funding is added from the general fund (\$5,400) and federal funds (\$114,600) to purchase surveying equipment.

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This amendment also:

- Creates a new section in Chapter 49-01 to establish the Public Service Commission program fund for the purpose of defraying the expenses of the commission. This section also requires fees collected from weights and measures, public utility assessment, and siting administrative fees, and investment income to be deposited in the Public Service Commission program fund. This section also requires the Office of Management and Budget to transfer any balance in excess of twice the current biennium self-funding appropriation to the general fund at the end of each biennium.
- Creates a new section in Chapter 49-01 to create a fee to be assessed to each electric and gas utility. The assessment may not exceed \$225,000 per biennium. This section requires electric and gas public utilities to file gross receipts each year with the commission, from which the assessment is applied.
- Provides the statutory changes to increase the Public Service Commissioners' salaries. The Public Service Commissioners' annual salaries are increased from the current level of \$113,600 to \$115,304, effective July 1, 2021, and to \$117,034, effective July 1, 2022, to reflect the 1.5 percent annual salary increase.
- Creates new subsections to Section 49-22-22 and 49-22.1-22 relating to siting process expense recovery. These provisions establish an administrative fee, on every applicant of \$100 for every \$1 million of original investment, not to exceed \$25,000. The fee must be deposited in the Public Service Commission program fund.
- Amends North Dakota Century Code Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to continue the allocation to the rail safety fund and to increase the allocation amount from \$294,509 per year to \$296,813 per year.
- Amends Section 64-02-10 to increase all fees to test or calibrate weighing and measuring devices.
- Amends Section 64-02-12 to deposit fees collected by the commission in the Public Service Commission program fund rather than the general fund, resulting in a general fund revenue reduction.