

2001 HOUSE APPROPRIATIONS

HB 1008

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1008

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date January 15, 2001

Tape Number	Side A	Side B	Meter #
01-15-01 tape #1	0 - 6222	0 - 1455	
Committee Clerk Signature <i>Kathleen Hall</i>			

Minutes:

The committee was called to order, and opened the hearing on HB 1008, the budget appropriation for the Public Service Commission.

Jon Mielke, Executive Secretary, Public Service Commission: Had written testimony handed out. Commissioners present. He will be presenting all testimony, but the others present are here to support him. He read the written testimony. With one exception the general fund portion of the executive budget recommendation is a status quo budget. The exception involves a weights and measures inspector position that was cut. The Commission asked that this position be restored, and it was, but no funding was provided to allow that inspector to conduct in-state inspections during the new biennium. The Commission requests \$51,000 for this need. The Commission's jurisdiction (duties) are listed on page 2 of the written testimony. The Commission has a 1999-2001 operating budget of \$9.2 million, of which 39% is general fund dollars (\$3.6). All the federal money is used to fund work related to reclamation activities in ND

active and abandoned mines. The Commission is an agency in transition - it no longer regulates trucking and its role in regulating rail industry has changed drastically because of federal preemption. Competition is finding its way into the telecommunication industry, including slamming and disputes between carriers. Changes are occurring in the electric industry. Computers have allowed the Commission to do more with less, doing inspections on computer and information is sent by computer and stored on disk.. The agency has redesigned in response to these changes, going from 60 to 41 employees in 20 years. The Commission handles over 1,200 cases per biennium, with over 96% processed without a formal hearing. There are however instances where a formal hearing cannot be avoided. In these cases the Commission functions like a court, and issues orders after holding formal hearings with presentations from all interested parties. Pages 4 and 5 list recent proceedings. There continues to be a vital need for the services that the agency provides. Pages 5 and 6 list comments from other agencies regarding the PSC.

The executive budget recommendation is a status quo proposal. It calls for the continuation of programs at continuing FTE levels. However, the Commission has reorganized and eliminated one federally funded FTE. The FTE authorization may be reduced to 41. The executive budget contains a 12.7% increase in travel. This is mainly used for travel related to grain elevator inspections, the certification of weighing and measuring devices, inspections at coal mines and related reclamation work, and monitoring contract work at abandoned mine sites. Remember that the executive budget restored a weights and measures inspector, but did not provide for travel expenses of this position. Travel costs are about \$23,500 per biennium. This travel and inspection generates about \$83,500 in general fund revenues. Fleet Services also advised agencies to budget 15-30% more to cover increased travel costs. The Commission

expects that it will experience an increase at the upper end of this range because of the vehicles used. The Commission's general fund inspection programs, through October of 2000, have cost \$190,000 for travel, and the expectation is that the biennial total will be \$285,000. The budget recommendation is only \$262,000, and it anticipated that there will be an additional \$51,000 in travel expenses, for the restored FTE travel and increased costs overall. The Commission has introduced two bills in this session that would increase license fees associated with the inspection programs. These fee increases would increase general fund revenues by \$93,000.

There were two other supplemental requests that were left out of the budget recommendation. The first was for an information officer position. This person would develop educational materials and programs. The Commission requested \$75,000 for this position, \$66,000 in general funds. The second was a request for \$100,000 in general fund money to pursue relief from monopolistic railroad practices. ND rail rates on grain are the highest in the country. It costs more to send grain from ND to Seattle than it does to ship grain from Iowa to Seattle. It costs more to ship wheat from ND to Portland than it does to ship wheat from Kansas or Nebraska to Portland. The Commission estimates that ND's annual transportation bill could be as much as \$100 million lower if we had effective competition for grain shipments. Page 9 continues to discuss the railroad issue. Page 10 summarizes the Commission's requests. They first seek the additional \$51,000 in travel costs.

Rep. Glassheim: You say that this is a status quo budget, but it's some 5% more than the last biennium. Why?

Response: The increases are due to the salary increases of staff and elected officials, inflation and travel costs.

Rep. Thoreson: Has the public been complaining about the increased heating costs.

Response, Ilona Jeffcoat-Sacco, Public Utilities Director: They have had a lot of public contact to increased costs and the department is trying to get more information to the public. There is not a lot the department can do to regulate the prices, but they have tried to help the utilities to get better information and additional information to the public as to why the costs are up and how to save.

Rep. Thoreson: You said you are distributing materials, do you have something you have printed up to show us?

Response, Ilona Jeffcoat-Sacco: Yes, I can get this to you. We have some information on the web site, and information collected from the utilities. (A packet of information was later provided to the committee members).

Rep. Carlisle: Are we looking at good, sufficient power supply for North Dakota?

Response, Ilona Jeffcoat-Sacco: The utilities say that all is good. The utilities have informed the Commission as to where the problems are and why, and this should not affect this state. We should have no fears, but everyone should be learning from the California experience, as to what can go wrong without long term planning.

Rep. Koppelman: Do you see less of a problem (power distribution) in ND than even in Minnesota? As to generation, transmission, distribution, what is the role of the Commission?

Response, Ilona Jeffcoat-Sacco: Minnesota has a lot greater load than ND has, and some transmission constraints. Regulators and policy makers have to be aware of how interdependent these issues are. The role is changing, and now the Commission does not have a great role in generation because no one under our jurisdiction is building any generation. If generation was being built, the Commission would deal with the siting of the power plant. The Commission

also has a role in an investor owned utility as to how they would recover the cost in rates. Much transmission is regulated by FERC, but we still have a role in siting, and have a role in a portion of the apportionment in the rates. Distribution is completely within the jurisdiction of the Commission except for cooperatives. We do have a big role in rates and where they go.

Rep. Koppelman: If alternative energy, like wind energy, is developed, how do you see that as having an impact on energy in our region and the Commission.

Response, Ilona Jeffcoat-Sacco: It can only be a good thing for ND. Economically its good, using a renewable resource and beginning to develop expertise in this would be good. The Commission would be involved in siting such facilities. We do have a siting application pending.

Chairman Byerly: Is there anything in the statutes of ND now that could cause us to end up like they are in California. I understand their legislature had passed some bills that decoupled generation from transmission and so on. Do we have anything like that hiding.

Response, Ilona Jeffcoat-Sacco: I don't think so, because it has been our opinion that we need legislation if we are going to restructure the electric industry in any way.

Rep. Skarphol: On the issue of wind energy, you mentioned a certain size. Do you regulate only a certain size?

Response, Ilona Jeffcoat-Sacco: The threshold is 50 megawatt and what we have had to date is much smaller than that. We do not regulate windmills on farms, like that. We have heard of two larger wind farm - one has filed a letter of intent.

Rep. Skarphol: There is some discussion in our Stanley area. I do not know the size, but are they below your threshold?

Response, Commissioner Wetald: Last week I attended the wind conference. She is aware of a project near Edgely. They are looking closely at their location. Each tower that generates wind is approximately 1 megawatt. So a 50 megawatt project would need about 50 wind turbines. You would need considerable amounts of land for this. The Edgely project would not be 50 megawatt, but maybe 20. If greater than 50 megawatts, the Commission would be involved in the siting. Ilona referred to one project bid by Exeel, formerly NSP. They would be putting in an 80 megawatt project, north of the Casselton area.

The distance apart of each wind generator is due to efficiency, not ND regulation.

Jon Mielke: Dean Peterson handed me a couple maps, available in the great hall this afternoon, and one is a mid-area power map and the other is a map showing the distribution system in the western US.

Rep. Skarphol: Your supplemental budget that you are asking for over and above the governors recommendation is \$224,00.

Response, Jon Mielke: If we could prioritize the requests, our first request is \$51,000 in travel needs. We want you to be aware of the information officer requested. The Commission feels much more strongly about the railroad position, and we think that is a long-term need. We see a potential return on our investment.

Rep. Skarphol: Why the reason for the difference in the rates?

Response, Jon Mielke: Lack of competition. If you look at the rates, the rail rates from IA have competition from the barge rates down the river. We do not have the competition from ND.

Rep. Skarphol: How many IT persons in the office. And AML contractual services, what does that mean?

Response: 2 persons. AML is Abandoned Mine Land program, which is 100% federally funded. We have a relatively small staff, 4 full time and an administrative assistant, who develop plans and let bids to eliminate safety hazards at mine sites mainly in western ND. We use the federal funds to design programs, and rather than have the state do the work, we contract out on bids and the staff monitors their work.

Rep. Skarphol: Asks a question on phone company access charges. He is told ND is one of 7 states that have these charges. What are they and why?

Response, Ilona Jeffcoat-Sacco: All states have access charges I think, but ND may have high access charges. She has heard this comment before, and she doesn't know that this is completely true. ND is a small market, and there are some steep charges for some services. Rural ND may be more costly than urban ND. They providers cannot charge whatever they want, but access rates are price capped or rate of return, which means they are subject to the statutory price cap or our jurisdiction on rate of return as the company chooses. The cost to provide services is higher in the rural area, and the company recovers those costs from local service and from access. This has been around for a long time, the subsidies, to make sure the service has been available in all area, but these charges are now showing up in strange way. There is another component that is costly to companies, the cost charged by the local company to the long distance companies for billing and connection. The feds are not involved in intrastate access. They are somewhat involved in interstate access.

Rep. Koppelman: I get constituents asking about what shows up on their phone bills. Is it a new trend to show all the taxes and charges on the bills? Is phone competition in ND growing?

Response, Ilona Jeffcoat-Sacco: It is a new trend since the Federal act in 1996, that required the charges to be disclosed, and unburied. I believe that competition is growing, lots of

companies authorized to provide service, but not all are currently providing. New companies are beginning marketing. That looks like it will continue to develop.

Chairman Byerly: There are three bills to increase rates, one for auctioneers, one for weights and measures, and one for grain buyers. Will these funds flow back to agency or general funds.

Response, Jon Mielke: All proceeds go to the general fund. The revenue projections are not developed on these bills increases.

Chairman Byerly: On the \$100,000 to start working on the railroad transportation issue, has there been any talk of going to the commodity groups for help in funding. Is there any coordination on this issue.

Response, Jon Mielke: I am aware of some studies done, but they weren't on the litigation side, they were more geared toward trends in the transportation industry. As to the various groups, we have had meetings with some entities, and some of their representatives are here today. Most are not in any position to give major financial support either.

Chairman Byerly: On the AML grants, it shows no increase or decrease, is there anything going on with the federal government in that area. Are the major abandoned mines being taken care of.

Response: ND is a minimum funding state, so we get the same funding each year, which is the minimum allowed. They have identified 600 + mine sites and categorized as to their hazardous nature, and they haven't done anything outside of the top two categories. There is more than enough work to keep busy for a lot of years.

Chairman Byerly: As we go through these budgets we find a strange mix of jobs, like licensing of auctioneers. Is this a PSC issue. How do we identify these changes, and how much time you are spending on these things.

Response: The licensing of auctioneers doesn't take much time. We don't investigate many complaints. I do not know how it got to the PSC in the first place. Some of the jobs may overlap. The combination of overseeing grain elevators and railroads actually is a good mix. So sometimes it works out.

Rep. Glasheim: Could you say a word or two about the commission and the Internet activity and any regulation in the next few years. Is there any role now, or any seen in the future. Any complaints of privacy.

Response, Ilona Jeffcoat-Sacco: Currently the people who regulate the utilities are not regulating the Internet. And the Internet issues are like taxes and privacy, and outside the utility regulations. The providers are using telecommunication services and so the underlying provider to the Internet provider is a regulated or competitive telecommunications company. The problems that people call about, are not telecommunications issues. So today we are not regulating, but we are staying on top of it, in case it changes. As to privacy, we don't regulate, and I really cannot say. It depends on where the technology goes.

Rep. Skarphol: Makes some comments as to his local CO2 pipeline and the gas smell it generates.

Mike McNamee, North Dakota Grain Dealers Association: Had written testimony handed out. HE made the trip today to emphasize the Association's strong support for adding to the PSC budget the requested \$100,000 in general fund money to seek relief from, railroad rate and service abuse. His written testimony explains the problems they have with the railroad service. The Association will offer \$10,000 of their funds if the budget appropriation is made.

Jim Peterson, Marketing Director for the ND Wheat Commission: Had written testimony handed out. He is testifying to support the supplemental \$100,000 budget request. His written testimony explains the problems and they deal with in relation to the railroad issue, and why they believe the funding is necessary. Our board has not considered helping fund this need, they are heavily involved in the Canada Wheat Board investigation.

Rep. Koppelman: The request in the budget is for \$100,000 and its to file a lawsuit. Is that money to pay for outside legal fees, or inside staff, or who?

Response, Jon Mielke: Our expected use of those funds is for outside counsel, because this is very specialized law. We would certainly have our counsel involved. Part of that is for technical costs, working on rail rates.

Rep. Skarphol: The money seems to be to initiate the process. Do you have an opinion as to the overall cost that you would need down the road?

Response, Jon Mielke: Its really difficult to say, what it would cost. Montana had a case that drug on for 17 years. And if those same rules were in place, we would not consider this request. But the rules have changed, and no one has brought forward a complaint under the new rules. So we think it would be far less time consuming and far less expensive than what Montana got hit with. If we could negotiate a settlement that would be good, a lawsuit is a final resort.

Rep. Koppelman: Are there other states that are in similar positions as ND.

Response, Jon Mielke: One other area that is hit as hard as ND is eastern Montana.

Chairman Byerly: Since we have the coal industry and power plants, are there any plans for any additional generation plants in the state.

John Dwyer: There is a feasibility study, and there is some interest and may be one more generation plant. That project to look at this possibility is ongoing. There are some problems to look at. But the demand is there; Minnesota uses lots of energy. We are optimistic.

Brian Kramer, ND Farm Bureau: He appears in support of the rail rate portion of the budget request. Spoke of the discriminatory railroad rate practice. The economy of ND needs this changed. His board has not discussed the possibility of putting some funds into the concern.

Rep. Koppelman: Because the PSC is supposed to regulate, but now asking for a specific amount of money for a specific purpose, is this not something you would want to pursue and find within the budget a way to do this regardless of whether the legislature comes up with the extra funds?

Response, Jon Mjelke: I wish we had the money in the budget to do that. The statutes do give the Commission the responsibility to represent the state's interest in rail matters, and direct dealings with carriers in federal proceedings, and we do the best we can with the resources available. This has been a very long term issue, but the rules have recently changed. We need the resources to pursue this matter.

Chairman Byerly: Recognizes the former Commissioner Hagen, and thanks him for his years of service to ND. (Mr. Hagen gives his support for the bill).

The chairman closed the hearing on this bill.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1008

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date January 17, 2001

Tape Number	Side A	Side B	Meter #
01-17-01 tape #1	-	0 - 2490	
Committee Clerk Signature <i>Kathleen Hall</i>			

Minutes:

The committee was called to order, and opened committee work on HB 1008, the budget appropriations for the Public Service Commissioner.

(The committee began discussion as to the wishes and budget wants of the Public Service Commissioner office. Rep. Glassheim thought that this agency had been squeezed a lot in the last few years. There were numerous comments as to the railroad transportation coalition. There were questions regarding the justification of the \$100,000 investment requested in the possible lawsuit).

Rep. Koppelman: Notes that the coalition is looking for someone with unique legal experience, not just an average attorney or the Attorney General's office.

Rep. Carlisle: Questioning what had already been done.

Rep. Glassheim: Stated that they are just in the process of putting together a package to make the railroad to change their position.

Rep. Byerly: States that what is done outside the state substantially affects what happens inside the state.

Rep. Skarphol: Questioned whether or not there were any successful attempts in lawsuits in the last 2 years.

Rep. Carlisle: Travel seems to be a priority. He asks if there is a specific dollar amount for all budgets. It appears that the PSC incurs a higher travel cost because of the vehicles they drive. (There was more general discussion about the Public Service Commission and the duties that they perform. It was discussed why some agency revenue goes into the general fund, and some into special funds. Discussion included topics of auctioneers, licenses and bonding issues).

Rep. Koppelman: States that the railroad issue raises other thoughts, such as any coordination overlap, and consultation between other agencies.

Rep. Skarphol: Asked if there was a history of cooperation between state agencies, and whether one knows what the other is doing.

Chairman Byerly: Noted that this can be done, however it does get really complicated. They can set up a special fund, and different agencies make contributions to it, and assign contingencies, and then appoint some budget to run the fund. It gets really complicated.

The chairman closed the committee work on this bill.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1008

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date January 29, 2001

Tape Number	Side A	Side B	Meter #
01-29-01 tape #1	-	328 - 904	
Committee Clerk Signature <i>Kelli Hall</i>			

Minutes:

The committee was called to order, and opened committee work on HB 1008.

Rep. Koppelman: Rep. Huether and I have met twice with the Commission. Speaking from memory, one of the main issues is the \$100,000 for the law action on the railroad monopoly issue. We have been exploring this closely. The grain dealers association offered to fund \$10,000 of that and he has encouraged them to look at teaming up with a neighboring state to cooperate so North Dakota does not have to pay for all of this. There is some history that they have tried to fight some of these issues before, and they are kind of beaten down, but he thinks they might be able to come up with some assistance. Rep. Koppelman's inclination at this point is to recommend some, \$50,000 or \$60,000 of the requested amount, thinking that the grain dealers will put in their share, that leaves maybe \$30,000 to get elsewhere, and the Commission is okay with that.

Page 2

Government Operations Division
Bill/Resolution Number HB 1008
Hearing Date January 29, 2001

Chairman Byerly: There is a somewhat related bill in the Senate in a way, SB #2110, that instructs the Attorney General's office to pursue antitrust actions against ag related industries.

Rep. Koppelman: Do keep in mind that railroads are immune from antitrust law. So this may or may not apply. Other areas basically, looking at IT kinds of things across the board, I am impressed with their efficiency in the technology in that department. They have a guy on staff that seems to know what that department needs and takes a fiscally common sense approach to the issue. They are asking for some \$15,000 for the purchase of laptop computers for the reclamation and field reps in the field. It sounds like a valid need. Other items can be discussed later. Overview on this is that this agency got cut pretty good last biennium and they seem pretty responsible as to their requests this year. Would lean toward granting requests, except for all of the railroad funds.

Rep. Skarphol: Asks about the ancillary bills, and the response was that the auctioneer bill amended out the fee increase, HB 1091 weights and measure passed as amended, and HB 1067 left the fees the same.

(Discussion as to whether or not the agency had based their budget on the increased fees, and the consensus was that it was not, that the fees would just go back into the general fund anyway.)

Rep. Koppelman: There was one unfilled FTE position, that he has not discussed with them, but it is one that they do not intend to fill, and have assigned duties to other persons. It is primarily as special fund position. He will do some further checking.

The chairman closed the committee work on this bill.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1008

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date February 1, 2001

Tape Number	Side A	Side B	Meter #
02-01-01 tape #1	3440 - 3700		
Committee Clerk Signature <i>[Handwritten Signature]</i>			

Minutes:

The committee was called to order, and opened committee work on HB 1008.

Rep. Koppelman: We, Bob Huether and I, have looked fairly deep into this budget, and there were some shifts done, some deficiencies, one place where they had shifted \$14,000, so we have some ideas. We do not have any amendments, and they have only been handed to me in handwritten form at this point.

Chairman Byerly: We can wait to work on this one then until next week, when the amendments have been prepared.

Rep. Thoreson: Wants to know what AML contractual services are?

Rep. Huether: Abandoned Mine reclamation.

(Some discussion as to abandoned mines, and how many are showing up, around Burlington, Dickinson, Fargo, Minot, north of Beulah).

The chairman closed the committee work on this bill.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1008

House Appropriations Committee
Government Operations Division

Conference Committee

Hearing Date February 7, 2001

Tape Number	Side A	Side B	Meter #
02-07-01 tape #1	0 - 1453		
Committee Clerk Signature <i>Arthur Hall</i>			

Minutes:

The committee was called to order, and opened committee work on HB 1008, the PSC budget. Rep. Koppelman: Handed out amendments, and explained them. As you recall the governor's recommendation did restore the weights and measures FTE, but did not restore the other FTE they requested. In addition, when you look at the FTE sheet that there was an unfilled FTE in that department for some time. The department indicated that they had no interest or intention of this FTE anymore, that they have redistributed that position's duty. We removed that FTE, which accounted for about \$12,000. The department assures us that they can secure federal funds also associated with this position through other means. We also realized some other savings in the operating expenses that were unusual. The amendment presents a budget that is revenue neutral, with some general fund dollars.

The intention in the amendment is to address the \$100,000 request for the rail litigation. We didn't feel that we had the extra dollars to fund this whole amount, but we felt that it was an

important initiative. So, what we are able to do, through the savings found earlier (\$30,000), we've allocated \$33,000, or a third of what was requested, to be allowed for that purpose. This is not in new spending, but comes from moneys they have saved from elsewhere in their budget. The grain dealers and others may contribute, and we have expressed our encouragement to the PSC to seek outside assistance.

Rep. Koppelman: Moved to adopt the amendment. Rep. Huether seconded.

(Some discussion with the LC staff as to the need of intent language attached to the \$33,000 allowed from the savings of general funds for the railroad litigation. Rep. Glassheim points out that the language, kind of, already appears in the amendment. It is decided that no other language is necessary).

(Some further discussion as to who else might be able to contribute funds toward the railroad litigation).

Rep. Koppelman: I did not mention earlier that there is a \$4,000 reduction for legal reference manual request that was in the governor's budget.

Sandy, OMB: On the \$26,000 that was removed for the central service cost. OMB added that to the budget because at the time the budget was prepared OMB didn't have the estimated cost for paying OMB for central service costs. After the budget was submitted they did have that, and it would increase by \$26,000. They don't pay this out of general fund, that is money from their federal grant. Why was this reduced. If we bill them this amount, they won't have the appropriation authority to pay it.

Don, LC: When he talked to Mike he said that it was already included and it was actually doubled as OMB had it.

Page 3
Government Operations Division
Bill/Resolution Number HB 1008
Hearing Date February 7, 2001

(OMB and LC and the committee has a short discussion as to whether this was doubled in the budget or not.)

Rep. Glassheim: On removing the vacant FTE, does this affect the federal funding attached?

The total estimated income is going down, and wants to make sure that income is still there.

Rep. Koppelman: It is our understanding that the federal funds are still available even if the FTE is cut, and the department assures us that this will not give them any problems.

Don, LC: Gives an explanation of this issue, and what the department has assured them as to the funds and the amendment.

Sandy, OMB: Also tries to explain that the department has probably already expended the funds.

Vote on the motion to adopt the amendment : 7 yes, 0 no. Motion passes.

Rep. Koppelman: Moves DO PASS AS AMENDED. Rep. Huether seconded.

Vote on the motion to pass as amended : 7 yes, 0 no. Motion passes.

Rep. Koppelman assigned to carry the bill to the full committee.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HB1008**

House Appropriations Committee

Conference Committee

Hearing Date **February 9, 2001**

Tape Number	Side A	Side B	Meter #
1	x		2788 - 3320
Committee Clerk Signature <i>L. J. Decker</i>			

Minutes:

HOUSE APPROPRIATIONS COMMITTEE ACTION ON HB1008.

Rep. Koppelman: HB1008 is the budget for the PSC and Rep. Heuther and I worked on this bill, and spent a fair amount of time with them, and the amendment before you essentially makes a couple of changes from the executive budget, as you can see, and the salary and wage line item deduction is simply the OMB adjustment, and we did remove 1 FTE and that is a position that the department has spread the duties out to other people and they did not intend to fill and that resulted in a \$12,000 general fund savings, and the special funds or federal funds that were available they are still able to access through the construction fund so it doesn't hamper them severely. So with that, I would move the amendments on HB1008, Seconded by Rep. Byerly.

Rep. Timm: There is a motion to adopt the amendments. Any discussion on the amendments?

Rep. Gulleason: I ask about the money for the railroad , and I think in the original budget, there was \$100,000, what was your thoughts on reducing that and what is the PSC's plan's then on being able to pursue that litigation?

Rep. Koppleman: The thinking was, and number one was that we were concerned about budgetary constraints and we didn't feel that we could find \$100,000 in new money, but we were sympathetic to the cause, so what we did in looking at their budget, there were a couple of items that we were able to reduce within their budget, and one that was mis categorized, and had actually been moved to another category but not removed from the original one, so we were able to find about \$27,000 that way, so we allocated \$33,000 specifically toward the effort, and the department has agreed to taking care of the \$27,000 for a total of \$60,000 of the \$100,000 toward that effort and the North Dakota Grain Dealers Association is offering \$10,000 to participate, so that brings us to \$70,000, and I have encouraged them to look at other areas that might be in the same kind of predicament with grain shipments and railroads of North Dakota and basically that is limited to Eastern Montana, so they are going to be talking with the State of Montana, with private organizations there, and maybe some other private organizations in North Dakota and try to cobble together the \$100,000 that they need.

Rep. Byerly: The \$100,000, was not in the governor's budget, this was an optional add in.

Rep. Aarsvold: Is this funding for contracted services or are we doing this in house with time from the existing staff?

Rep. Koppleman: It's my understanding that this would be outside expertise that is necessary for rail litigation which is a fairly unique area. I did discuss it with the Attorney General's office and while they are willing to help they agree that they don't have the in house expertise to go after something like this.

Page 3

House Appropriations Committee

Bill/Resolution Number HB1008

Hearing Date February 9, 2001

Rep. Timm: Any other discussion? All those in favor of adopting the amendments say AYE.

Voice Vote. Motion carried and the amendments are adopted. We have the bill before us.

Rep. Koppleman: I move a DO PASS as amended. Seconded by Rep. Heuther.

Rep. Timm: Any discussion? Roll call vote will be taken (19) YES (2) No Motion passes and

Rep. Koppleman will carry the bill to the floor.

End of Committee action on HB1008:

FISCAL NOTE

Requested by Legislative Council
12/14/2000

Bill/Resolution No.: HB 1008

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$24,727	\$0	\$31,830	
Appropriations	\$0	\$0	\$24,727	\$0	\$31,830	

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant your analysis.*

This bill proposes to increase Commissioner salaries by 3% effective 7/1/01, by another 3% effective 1/1/02, and by another 2% effective 7/1/02. The cumulative impact of these increases for three commissioners is \$24,727 for the 2001-03 biennium. During subsequent bienniums, the impact of these increases is \$31,830.

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.*

The salary increases proposed for Commissioners has no impact on revenues.

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.*

If Commissioners receive the salary increases proposed by this bill, the agency's general fund salary expenditures will increase by \$24,727 during the 2001-03 biennium and by \$31,830 for subsequent bienniums. This level of expenditure is reflected in this bill.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

If the Commissioners received the salary increases proposed by this bill, the agency's general fund appropriation will need to be increased by \$24,727 to provided for this expenditure during the 2001-03 biennium. This level of expenditure is reflected in the appropriation sought in this bill.

Name:	Jon Mielke	Agency:	Public Service Commission
Phone Number:	328-4082	Date Prepared:	12/15/2000

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1008

Page 1, line 11, replace "4,755,198" with "4,634,173"

Page 1, line 12, replace "1,182,662" with "1,185,662"

Page 1, line 16, replace "9,732,463" with "9,614,438"

Page 1, line 17, replace "5,842,274" with "5,724,433"

Page 1, line 18, replace "3,890,189" with "3,890,005"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	EXECUTIVE BUDGET	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$4,755,198	(\$121,025)	\$4,634,173
Operating expenses	1,182,662	3,000	1,185,662
Equipment	86,961		86,961
Grants	39,150		39,150
AML contractual services	<u>3,668,492</u>		<u>3,668,492</u>
Total all funds	\$9,732,463	(\$118,025)	\$9,614,438
Less estimated income	<u>5,842,274</u>	<u>(117,841)</u>	<u>5,724,433</u>
General fund	\$3,890,189	(\$184)	\$3,890,005
FTE	42.00	(1.00)	41.00

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

	ADJUST MARKET EQUITY SALARY INCREASE ¹	REMOVE VACANT PUBLIC SERVICE SPECIALIST POSITION	ADD FUNDING FOR RAILROAD LITIGATION	REDUCE FUNDING FOR CENTRAL SERVICE COSTS	REMOVE FUNDING FOR LEGAL REFERENCE MANUAL	TOTAL HOUSE CHANGES
Salaries and wages	(\$17,720)	(\$103,305)				(\$121,025)
Operating expenses			\$33,000	(\$26,000)	(\$4,000)	3,000
Equipment						
Grants						
AML contractual services						
Total all funds	(\$17,720)	(\$103,305)	\$33,000	(\$26,000)	(\$4,000)	(\$118,025)
Less estimated income	<u>(838)</u>	<u>(91,203)</u>		<u>(26,000)</u>		<u>(117,841)</u>
General fund	(\$17,082)	(\$12,102)	\$33,000	\$0	(\$4,000)	(\$184)
FTE	0.00	(1.00)	0.00	0.00	0.00	(1.00)

¹ This amendment reduces, from \$31,751 to \$14,031, the amount provided for a market equity salary increase for the commissioners and the executive secretary positions. The amount included in the bill will provide for monthly increases of \$166 for the commissioners and \$169 for the executive secretary.

Date: 2-7-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1008

House Appropriations - Government Operations Division Committee

Subcommittee on Government Operations
or

Conference Committee

Legislative Council Amendment Number 18008.0101

Action Taken to adopt amendment

Motion Made By Rep. Koppelman Seconded By Rep. Huether

Representatives	Yes	No	Representatives	Yes	No
Rep. Rex R. Byerly - Chairman	✓		Rep. Eliot Glassheim	✓	
Rep. Ron Carlisle - Vice Chairman	✓		Rep. Robert Huether	✓	
Rep. Kim Koppelman	✓				
Rep. Bob Skarphol	✓				
Rep. Blair Thoreson	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment _____

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

Date: 2-7-01
Roll Call Vote #: 2

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HR 1008

House Appropriations - Government Operations Division Committee

Subcommittee on Government Operations
or
 Conference Committee

Legislative Council Amendment Number 1008.0101

Action Taken DO PASS AS AMENDED.

Motion Made By Rep Koppelman Seconded By Rep Huether

Representatives	Yes	No	Representatives	Yes	No
Rep. Rex R. Byerly - Chairman	✓		Rep. Eliot Glassheim	✓	
Rep. Ron Carlisle - Vice Chairman	✓		Rep. Robert Huether	✓	
Rep. Kim Koppelman	✓				
Rep. Bob Skarphol	✓				
Rep. Blair Thoreson	✓				

Total (Yes) 7 No 0

Absent _____

Floor Assignment Rep. Koppelman

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

Date: 02/09/01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB1008

House APPROPRIATIONS Committee

- Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AS AMENDED

Motion Made By KOPPELMAN Seconded By HUETHER

Representatives	Yes	No	Representatives	Yes	No
Timm - Chairman	✓				
Wald - Vice Chairman	✓				
Rep - Aarsvold	✓		Rep - Koppelman	✓	
Rep - Boehm	✓		Rep - Martinson	✓	
Rep - Byerly	✓		Rep - Monson	✓	
Rep - Carlisle	✓		Rep - Skarphol	✓	
Rep - Delzer		✓	Rep - Svedjan	✓	
Rep - Glassheim	✓		Rep - Thoreson	✓	
Rep - Gulleson	✓		Rep - Warner		✓
Rep - Huether	✓		Rep - Wentz	✓	
Rep - Kempenich	✓				
Rep - Kerzman	✓				
Rep - Kliniske	✓				

Total (Yes) 19 No 2

Absent 0

Floor Assignment KOPPELMAN

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

YEAS: Aarsvold; Belfew; Belter; Berg; Boucher; Brandenburg; Brekke; Carlisle; Cleary; DeKrey; Delmore; Devlin; Disrud; Dosch; Drovdal; Eckre; Ekstrom; Fairfield; Froelich; Froseth; Grosz; Grumbo; Gufleson; Gunter; Hanson; Hawken; Herbel; Huether; Hunskor; Jensen; Johnson, D.; Johnson, N.; Kasper; Kelsch, R.; Kelsch, S.; Kerzman; Kingsbury; Klein, M.; Kliniske; Koppang; Koppelman; Kretschmar; Kroeber; Lemieux; Mahoney; Maragos; Martinson; Meier; Metcalf; Mueller; Nelson; Nicholas; Niemeier; Nottestad; Onstad; Pietsch; Polfert; Porter; Price; Ruby; Sandvig; Schmidt; Solberg; Thoreson, B.; Thoreson, L.; Tieman; Weiler; Weisz; Wentz; Wikenheiser; Winnich; Speaker Bernstein

NAYS: Boehm; Brusegaard; Byerly; Carlson; Clark; Delzer; Galvin; Glassheim; Grande; Haas; Keiser; Kempenich; Klein, F.; Klemin; Lloyd; Monson; Renner; Rennerfeldt; Skarphol; Svedjan; Thorpe; Timm; Wald; Warner; Wrangham

ABSENT AND NOT VOTING: Severson

Engrossed HB 1378 passed and the title was agreed to.

MOTION

REP. GRANDE MOVED that the vote by which HB 1228 passed be reconsidered and the motion to reconsider be laid on the table, which motion failed.

SECOND READING OF HOUSE BILL

HB 1413: A BILL for an Act to create and enact a new subsection to section 57-38-30.3 of the North Dakota Century Code, relating to credits allowed on the short-form income tax return; to amend and reenact subsection 4 of section 57-38.5-01 and sections 57-38.5-02, 57-38.5-03, and 57-38.5-05 of the North Dakota Century Code, relating to the seed capital investment tax credit; and to provide an effective date.

ROLL CALL

The question being on the final passage of the amended bill, which has been read, and has committee recommendation of DO PASS, the roll was called and there were 94 YEAS, 0 NAYS, 0 EXCUSED, 1 ABSENT AND NOT VOTING.

YEAS: Aarsvold; Belfew; Belter; Berg; Boehm; Boucher; Brandenburg; Brekke; Brusegaard; Carlisle; Carlson; Clark; Cleary; DeKrey; Delmore; Devlin; Disrud; Dosch; Eckre; Ekstrom; Fairfield; Froelich; Froseth; Galvin; Glassheim; Grande; Grosz; Grumbo; Gufleson; Gunter; Haas; Hanson; Hawken; Herbel; Huether; Hunskor; Jensen; Johnson, D.; Johnson, N.; Kasper; Keiser; Kelsch, R.; Kelsch, S.; Kempenich; Kerzman; Kingsbury; Klein, F.; Klein, M.; Klemin; Kliniske; Koppang; Koppelman; Kretschmar; Kroeber; Lemieux; Lloyd; Mahoney; Maragos; Martinson; Meier; Metcalf; Monson; Mueller; Nelson; Nicholas; Niemeier; Nottestad; Onstad; Pietsch; Polfert; Porter; Price; Renner; Rennerfeldt; Ruby; Sandvig; Schmidt; Skarphol; Solberg; Svedjan; Thoreson, B.; Thoreson, L.; Thorpe; Tieman; Timm; Wald; Warner; Weiler; Weisz; Wentz; Wikenheiser; Winnich; Wrangham; Speaker Bernstein

NAYS: Byerly; Delzer; Drovdal

ABSENT AND NOT VOTING: Severson

Engrossed HB 1413 passed and the title was agreed to.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)

MR. PRESIDENT: The House has concurred in the Senate amendments and subsequently passed: HB 1092 and HB 1180.

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The President has appointed as a new conference committee to act with a like committee from the House on:

HCR3003: Sens. Dever; Wardner; T. Mathern

MESSAGE TO THE HOUSE FROM THE SENATE (WILLIAM R. HORTON, SECRETARY)

MR. SPEAKER: The Senate has passed and your favorable consideration is requested on: SB 2115, SB 2251, SB 2302, SB 2307, SB 2325, SB 2328, SB 2340, SB 2341, SB 2366, SB 2370, SB 2381, SB 2396, SB 2412, SB 2440, SB 2443, SCR 4017, SCR 4021.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)
MR. PRESIDENT: The House has passed, the emergency clause carried, and your favorable consideration is requested on: HB 1089, HB 1218, HB 1452.

MESSAGE TO THE SENATE FROM THE HOUSE (MARK L. JOHNSON, CHIEF CLERK)
MR. PRESIDENT: The House has passed and your favorable consideration is requested on: HS 1170, HB 1181, HB 1193, HS 1237, HB 1244, HB 1251, HP 1276, HB 1284, HB 1304, HB 1341, HB 1346, HB 1405, HB 1448, HB 1457, HB 1475, HCR 3031, HCR 3015, HCR 3017, HCR 3023.

REPORT OF STANDING COMMITTEE

HB 1008: Appropriations Committee (Rep. Timm, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HB 1008 was placed on the Sixth order on the calendar.

Page 1, line 11, replace "4,755,198" with "4,634,173"

Page 1, line 12, replace "1,182,662" with "1,185,662"

Page 1, line 16, replace "9,732,463" with "9,614,438"

Page 1, line 17, replace "5,842,274" with "5,724,433"

Page 1, line 18, replace "3,890,189" with "3,890,005"

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	EXECUTIVE BUDGET	HOUSE CHANGES	HOUSE VERSION
Salaries and wages	\$4,755,198	(\$121,025)	\$4,634,173
Operating expenses	1,182,662	1,000	1,185,662
Equipment	86,961		86,961
Grants	39,150		39,150
AMI, contractual services	3,668,492		3,668,492
Total all funds	\$9,732,463	(\$18,025)	\$9,614,438
Less estimated income	5,842,274	117,841	5,724,433
General fund	\$3,890,189	(\$184)	\$3,890,005
FTE	42.00	1.00	41.00

Dept. 405 - Public Service Commission - Detail of House Changes

	ADJUST MARKET EQUITY SALARY INCREASE	REMOVE VACANT POSITIONS SPECIAL POSITIONS	ADD FUNDING FOR RATIONALIZATION	REDUCE FUNDING FOR CENTRAL SERVICE POSITS	REMOVE FUNDING FOR STATE POLICE TRAINING	TOTAL HOUSE CHANGES
Salaries and wages	(\$17,720)	(\$121,305)	\$33,300	\$25,000	\$4,000	(\$126,725)
Operating expenses						
Equipment						
Grants						
AMI, contractual services						
Total all funds	(\$17,720)	(\$121,305)	\$33,300	\$25,000	\$4,000	(\$126,725)
Less estimated income	(\$38)	(\$1,200)		25,000		(\$1,238)
General fund	(\$17,082)	(\$12,102)	\$33,300	\$0	\$4,000	(\$14,884)
FTE	0.00	(1.00)	0.00	0.00	0.00	(1.00)

This amendment reduces, from \$21,751 to \$14,031, the amount provided for a market equity salary increase for the commissioners and the executive secretary positions. The amount included in the bill will provide for monthly increases of \$166 for the commissioners and \$149 for the executive secretary.

REPORT OF STANDING COMMITTEE

HB 1009: Appropriations Committee (Rep. Timm, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1009 was placed on the Sixth order on the calendar.

2001 SENATE APPROPRIATIONS

HB 1008

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1008

Senate Appropriations Committee

Conference Committee

Hearing Date February 21, 2001

Tape Number	Side A	Side B	Meter #
Tape #1	x		0.0-54.9
Tape #1		x	0.0-1.8
Committee Clerk Signature <i>Jessie Pietech</i>			

Minutes:

Senator Nething opened the hearing on HB1008 - Public Service Commission.

Jon Mielke, Executive Secretary, Public Service Commission: presented the agency's testimony on this bill (a copy of his written testimony is attached).

Senator Thane: Grain elevators a concern? The shuttle train proposal -- does the Public Service have power to do something there?

Jon Mielke: Major concerns -- Number of elevators are down over the past 20 years. Small elevators are not able to buy the packages necessary to use the shuttles -- Half of the grain is shipped by 15-20 facilities. There is a huge impact on farmers, roads etc.

Public Service Commission (PSC) can't stop it -- can only hope no discrimination -- need to be aware --- not only the legislature but the DOT of the impact across the state.

Senator Robinson: Page 9, House went from 100 to 33 thousand --- significant cost to the ag economy. Is there a time line? Can we see the end of it soon for the relief to the farmers?

Jon Mielke: If we had adequate dollars -- within 2 years we hope for detailed studies and then might come forward for additional funding. We will have a better idea of what funds are needed to pursue. Perhaps some of the funding might come from those who benefit from the process.

Senator Robinson: Kansas and Iowa -- comparison done --- enough information to expedite --- going on 3-4 years now without relief for our farmers.

Jon Mielke: Only way to shorten this --- fund for completion -- or go to emergency commission for dollars --- or go for dollars from groups who benefit. House did ask that we talk to Montana on personnel perhaps do some partnering.

Senator Andrist: Only 2 major railroads in North Dakota -- do the establish rates together -- appear to be look steps?

Jon Mielke: Correct only two; at times they have different rates-- appear to be different ways of applying rates. At one time the BN published new rates at 10 am -- and by 11 am the Sioux had announced the same rate.

Senator Andrist: Seems rates differ -- grain going west from the Crosby area is higher than going through Fargo then west -- doing anything?

Jon Mielke: Does cost more to the west coast -- routes are longer for some railroads --- The Sioux has to connect with the BN at times; Sioux rate is higher due to partnering.

Senator Andrist: Why going west --- Connect in Vancouver or Portland?

Jon Mielke: Canadian rates --- there is talk about opening rails there.

Senator Thane: Shuttle trains a positive effect on trains? Capture quick shipments?

Jon Mielke: Shuttle train shippers enjoy rate -- they are profit maximizers --- if they can charge more, get the grain they'll do it.

Senator Thane: Effect on the elevators?

Jon Mielke: Consolidation -- long term savings in streamlining -- will abandon slow lines.

Steven Strege (Lobbyist #147), Executive Vice President of the North Dakota Grain Dealers Association, testified in support of the bill (a copy of his written testimony is attached).

In answer to Senator Thane's question-- lower on shuttle trains -- but the cost of the Hillsboro facility was 9-10 million --- will need to recover somewhere -- perhaps producers in that area that benefit from it --- the less buyers the less completion -- may close elevators; less paces for farmers to get supplies.

Senator Andrist: Working on unbundling? The power lines are separating --- have the railroads discussed unbundling, making rails available?

Steven Strege: Yes, we have tossed it around - especially in the Alliance Rails Compliance (ARC).

Senator Andrist: On the table--moving forward?

Steven Strege: Idea being discussed.

Senator Robinson: Discussion with Montana about partnering? Would it expedite it -- get the job done?

Steven Strege: Association of Elevators in Montana are not as active as we are in ND. Montana has gone through the process more than we have --- note there are less elevators, abandoned rail lines.

Neal Fisher, North Dakota Wheat Commission, urged support of the bill on behalf of the Commission. Commission has enjoyed a strong working relationship with other organizations and support the supplement funding. If we had higher wheat prices, perhaps we wouldn't be discussing high freight charges. Confident - Commission is also member of ARC . There are more resources put on Canada trade areas that expected.

Senator Andrist: Compare rates going through Saskatchewan ?

Neal Fisher: West bound is more expensive -- Saskatchewan going east is lower than shipping from your home town to Minneapolis. Moving our grain on Canadian lines -- need to continue work.

Daniel Kuntz (Lobbyist # 249) Burlington Northern Santa Fe Railroad, spoke against the bill. Statistics show the railroad is profitable -- but now excessive. BN has investing 10 billion dollars in new equipment, etc. Railroad is there for all companies, not just agriculture. He distributed a copy of the Burlington Northern Santa Fe Revenue report - ag products (a copy is attached). Rate cases are a complicated process. Lots of variables worked in -- crop production dynamics, etc. Lots of money spent by both sides in Montana on the McCarthy case -- ended up no burden of proof determined. BN thinks this will be more expensive; maybe PC can do it cheaper --- not all little coops in the country. Need to continue to upgrade, maintain facilities -- need dollars to do so --- case not justified.

Senator Lindaas: Seems a discrepancies in the rates of North Dakota to Iowa? Longer trip?

Dan Kuntz: Not involved in setting the rates. All factors/ variables work into the rate setting.

Senator Bowman: Do you have the chart for coal versus ag?

Dan Kuntz: This page was taken from a report of some 90 pages -- ag producers here, and so that is the one I chose to copy -- can certainly go back and provide you with a copy of that page.

Senator Bowman: Would appreciate it.

Dan Kuntz: Shows revenue -- reflects change for moving products.

Senator Robinson: Farmers lose dollars per acre on wheat --- they are customers of BN -- BN realizes a profit -- do you work with the customer, give a little?

Dan Kuntz: appreciate their tough go -- if we had \$8 wheat we wouldn't be talking --- important to have system in place -- costs are there, not all agree with the shuttle trains- rate adjustments.

Senator Tomac: We all pay high freight charges -- airline fees if we wish to travel --- farmers are in the same boat --- as responsible corporate citizens -- what are you doing?

Dan Kuntz: BN has been a responsible citizen. Lots of things go into price figuring; lots of time and money go through this model --- based on history.

Senator Tomac: Question is -- BN cost is 1-2 M ---recognize it up front ---any concessions?
Doing something?

Dan Kuntz: I'm not in a position to respond. There is a low ag price; and a significant portion of the profit is in transportation cost.

Senator Thane: BN has other business interests?

Dan Kuntz: Not a spokesman for that portion of BN --- not sure of the exact different business you are referring to --- know they have been selling property.

Thomas Kelsch (Lobbyist #399) Multi-state Associates Inc. spoke against HB1008. Concern on Canadian Pacific compliance -- will get information for committee.

Senator Lindaas: Does your railroad transport coal? Only ag products? Are you at a disadvantage?

Tom Kelsch: No coal, like to -- are interested in it.

No additional testimony; hearing closed.

Page 6

Senate Appropriations Committee

Bill/Resolution Number HB1008

Hearing Date February 21, 2001

3-29-01 Full Committee Action (Tape 2, Side A, Meter # 0.0 -10.5)

Senator Nething reopened the hearing on HB1008 -Public Service Commission.

Senator Schobinger, Subcommittee Chair, reviewed the bill, and reported the Subcommittee's findings. Discussion. Senator Schobinger presented amendments #18008.0201 and 18008.0202.

Discussion on both. Senator Schobinger moved the adoption of both amendments; Senator Kringstad seconded. Discussion; voice vote on 18008.0201; yes carried. Roll Call Vote called on amendment 18008.0202; 10 yes; 4 no; 0 no.

Discussion on the bill. Senator Schobinger moved a DO PASS AS AMENDED; seconded by Senator Kringstad. Call for vote: Roll Call Vote 14 yes; 0 no; 0 absent and not voting.

Senator Schobinger accepted the floor assignment.

18008.0201
Title.

Prepared by the Legislative Council staff for
Senator Schobinger
March 19, 2001

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

Page 1, line 3, after "commissioners" insert "; and to declare an emergency"

Page 2, after line 4, insert:

"SECTION 3. APPROPRIATION. There is appropriated from federal funds, the sum of \$27,560, or so much of the sum as may be necessary, to the public service commission for the call before you dig program, for the period beginning with the effective date of this section and ending June 30, 2001.

SECTION 4. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Dept. 408 - Public Service Commission - Senate Action

This amendment provides an appropriation for the 1999-2001 biennium of \$27,560 of federal funds to the Public Service Commission for the call before you dig program.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

Page 1, line 12, replace "1,185,662" with "1,152,662"

Page 1, line 16, replace "9,614,438" with "9,581,438"

Page 1, line 18, replace "3,890,005" with "3,857,005"

Re-number accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$4,765,198	\$4,634,173		\$4,634,173
Operating expenses	1,182,802	1,185,662	(\$33,000)	1,152,662
Equipment	88,981	88,981		88,981
Grants	39,150	39,150		39,150
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>
Total all funds	\$9,732,463	\$9,614,438	(\$33,000)	\$9,581,438
Less estimated income	<u>5,842,274</u>	<u>5,724,433</u>		<u>5,724,433</u>
General fund	\$3,890,189	\$3,890,005	(\$33,000)	\$3,857,005
FTE	42.00	41.00	0.00	41.00

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

	REMOVE FUNDING FOR RAILROAD LITIGATION ¹	TOTAL SENATE CHANGES
Salaries and wages		
Operating expenses	(\$33,000)	(\$33,000)
Equipment		
Grants		
AML contractual services		
Total all funds	(\$33,000)	(\$33,000)
Less estimated income		
General fund	(\$33,000)	(\$33,000)
FTE	0.00	0.00

¹ Removes the funding for railroad litigation, which was added in the House.

Date: 3-29-01

Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. _____

Senate Appropriations Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number 1000 *1000*

Action Taken _____

Motion Made By _____ Seconded By _____
Senator Senator

Senators	Yes	No	Senators	Yes	No
Dave Nething, Chairman	✓				
Ken Solberg, Vice-Chairman	✓				
Randy A. Schobinger	✓				
Elroy N. Lindaas		✓			
Harvey Tallackson		✓			
Larry J. Robinson		✓			
Steven W. Tomac		✓			
Joel C. Heitkamp	✓				
Tony Grindberg	✓				
Russell T. Thane	✓				
Ed Kringstad	✓				
Ray Holmberg	✓				
Bill Bowman	✓				
John M. Andrist	✓				

Total Yes 10 No 4

Absent _____

Floor Assignment Senator _____

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

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1008

Page 1, line 3, after "commissioners" insert "; and to declare an emergency"

Page 1, line 12, replace "1,185,602" with "1,152,662"

Page 1, line 16, replace "9,614,438" with "9,581,438"

Page 1, line 18, replace "3,890,005" with "3,857,005"

Page 2, after line 4, insert:

"SECTION 3. APPROPRIATION. There is appropriated from federal funds, the sum of \$27,560, or so much of the sum as may be necessary, to the public service commission for the "one call" call before you dig program, for the period beginning with the effective date of this section and ending June 30, 2001.

SECTION 4. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$4,756,198	\$4,834,173		\$4,834,173
Operating expenses	1,182,662	1,185,662	(\$33,000)	1,152,662
Equipment	86,981	86,981		86,981
Grants	39,150	39,150		39,150
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>
Total all funds	\$9,732,483	\$9,614,438	(\$33,000)	\$9,581,438
Less estimated income	<u>5,842,274</u>	<u>5,724,433</u>		<u>5,724,433</u>
General fund	\$3,890,189	\$3,890,005	(\$33,000)	\$3,857,005
FTE	42.00	41.00	0.00	41.00

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

	REMOVE FUNDING FOR RAILROAD LITIGATION ¹	TOTAL SENATE CHANGES
Salaries and wages		
Operating expenses	(\$33,000)	(\$33,000)
Equipment		
Grants		
AML contractual services		
Total all funds	(\$33,000)	(\$33,000)
Less estimated income		
General fund	(\$33,000)	(\$33,000)
FTE	0.00	0.00

¹ Removes the funding for railroad litigation, which was added in the House.

This amendment provides an appropriation for the 1999-2001 biennium of \$27,560 of federal funds to the Public Service Commission for the "one call" call before you dig program.

Date: 3/21/01

Roll Call Vote #: 2

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 1008

Senate Appropriations Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number 18008.0201 - 18008.0202 (10)

Action Taken All bills to be read

Motion Made By Senator Schobinger Seconded By Senator Schobinger

Senators	Yes	No	Senators	Yes	No
Dave Nething, Chairman	✓				
Ken Solberg, Vice-Chairman	✓				
Randy A. Schobinger	✓				
Elroy N. Lindaas	✓				
Harvey Tallackson	✓				
Larry J. Robinson	✓				
Steven W. Tomac	✓				
Joel C. Heitkamp	✓				
Tony Grindberg	✓				
Russell T. Thane	✓				
Ed Kringstad	✓				
Ray Holmberg	✓				
Bill Bowman	✓				
John M. Andrist	✓				

Total Yes 14 No 0

Absent 0

Floor Assignment Senator Schobinger

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

REPORT OF STANDING COMMITTEE

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

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

Page 1, line 3, after "commissioners" insert "; and to declare an emergency"

Page 1, line 12, replace "1,185,662" with "1,152,662"

Page 1, line 16, replace "9,614,438" with "9,581,438"

Page 1, line 18, replace "3,890,005" with "3,857,005"

Page 2, after line 4, insert:

"SECTION 3. APPROPRIATION. There is appropriated from federal funds the sum of \$27,560, or so much of the sum as may be necessary, to the public service commission for the "one-call" call before you dig program, for the period beginning with the effective date of this section and ending June 30, 2001.

SECTION 4. EMERGENCY. Section 3 of this Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

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

	EXECUTIVE BUDGET	HOUSE VERSION	SENATE CHANGES	SENATE VERSION
Salaries and wages	\$4,755,198	\$4,634,173		\$4,634,173
Operating expenses	1,182,662	1,185,662	(\$33,000)	1,152,662
Equipment	86,961	86,961		86,961
Grants	39,150	39,150		39,150
AML contractual services	<u>3,668,492</u>	<u>3,668,492</u>		<u>3,668,492</u>
Total all funds	\$9,732,463	\$9,614,438	(\$33,000)	\$9,581,438
Less estimated income	<u>5,842,274</u>	<u>5,724,433</u>		<u>5,724,433</u>
General fund	\$3,890,189	\$3,890,005	(\$33,000)	\$3,857,005
FTE	42.00	41.00	0.00	41.00

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

	REMOVE FUNDING FOR RAILROAD LITIGATION 1	TOTAL SENATE CHANGES
Salaries and wages		
Operating expenses	(\$33,000)	(\$33,000)
Equipment		
Grants		
AML contractual services		
Total all funds	(\$33,000)	(\$33,000)

REPORT OF STANDING COMMITTEE (410)
March 29, 2001 4:42 p.m.

Module No: SR-55-7218
Carrier: Schobinger
Insert LC: 18008.0203 Title: .0300

Loss estimated income

General fund	(\$33,000)	(\$33,000)
FTE	0 00	0 00

† Removes the funding for railroad litigation, which was added in the House

This amendment provides an appropriation for the 1999-2001 biennium of \$27,560 of federal funds to the Public Service Commission for the "one call" call before you dig program.

2001 TESTIMONY

HB 1008

**Department 408 - Public Service Commission
 House Bill No. 1008**

	FTE Positions	General Fund	Other Funds	Total
2001-03 Schafer Executive Budget	42.00	\$3,890,189	\$5,842,274	\$9,732,463
1999-2001 Legislative Appropriations	42.00	3,577,067	5,637,562	9,214,629 ¹
Increase (Decrease)	0.00	\$313,122	\$204,712	\$517,834

2001-03 Hoeven Executive Budget	42.00	\$3,890,189	\$5,842,274	\$9,732,463
Hoeven Increase (Decrease) to Schafer	0.00	\$0	\$0	\$0

¹The 1999-2001 appropriation amounts include \$12,487, \$7,987 of which is from the general fund, for the agency's share of the \$5.4 million funding pool appropriated to the Office of Management and Budget (OMB) for special market equity adjustments for classified employees and \$41, \$24 of which is from the general fund, for the agency's share of the \$1.4 million funding pool appropriated to OMB for assisting agencies in providing the \$35 per month minimum salary increases in July 1999 and July 2000. The 1999-2001 appropriation amounts do not include \$33,150 of additional spending authority resulting from Emergency Commission action during the 1999-2001 biennium.

Major Schafer Recommendations Affecting Public Service Commission 2001-03 Budget

	General Fund	Other Funds	Total
1. Provides increased salaries and wages funding based on the Central Personnel Division's salary market study for elected and appointed officials (commissioners and executive secretary positions).	\$30,608	\$1,143	\$31,751
2. Increases funding for travel costs, primarily related to the operation of inspection vehicles, per diem and lodging expense.	\$50,052	\$21,409	\$71,461
3. Reinstates 1 FTE weights and measures inspector position which was removed in the hold-even budget and increases equipment line item (computers) by \$5,000.	\$66,427		\$66,427
4. Increases special fund revenues to allow for estimated expenses and fee reimbursements related to the utility valuation fund (total of \$125,000).		\$25,000	\$25,000
5. Provides funding replacement of reclamation computer (\$10,000) and operations (\$15,000).	\$9,000	\$16,000	\$25,000
6. Provides general fund moneys for legal reference manual and increases operating from additional federal funds income.	\$4,000	\$26,000	\$30,000
7. Replaces general fund moneys with federal funds to reflect additional cost reimbursements available for support services.	(\$44,224)	\$44,224	\$0

**Major Hoeven Recommendations Affecting Public Service Commission
 Compared to the Bill as Introduced (Schafer Budget)**

	General Fund	Other Funds	Total
There are no changes from the Schafer recommendation.			\$0

Major Legislation Affecting the Public Service Commission

Section 2 of House Bill No. 1008 includes the statutory changes necessary to increase the Public Service Commissioners' salary as follows:

Annual salary authorized by the 1999 Legislative Assembly:

July 1, 1999	\$58,262
July 1, 2000	\$59,428
January 1, 2001	\$64,569

Proposed annual salary recommended in the 2001-03 executive budget:

July 1, 2001	\$66,509
January 1, 2002	\$68,504
July 1, 2002	\$69,874

House Bill No. 1067 increases the annual license fee for auctioneers and auction clerks from \$35 to \$50.

House Bill No. 1091 increases fee charges for testing and certifying weighing and measuring devices by 10 percent.

Senate Bill No. 2074 increases the annual license fee for grain warehouses and grain buyers by \$50.

**Department 408 - Public Service Commission
 House Bill No. 1008**

	FTE Positions	General Fund	Other Funds	Total
2001-03 Schafer Executive Budget	42.00	\$3,890,189	\$5,842,274	\$9,732,463
1999-2001 Legislative Appropriations	42.00	3,577,067	5,637,562	9,214,629
Increase (Decrease)	0.00	\$313,122	\$204,712	\$517,834

2001-03 Hoeven Executive Budget	42.00	\$3,890,189	\$5,842,274	\$9,732,463
Hoeven Increase (Decrease) to Schafer	0.00	\$0	\$0	\$0

The 1999-2001 appropriation amounts include \$12,487, \$7,987 of which is from the general fund, for the agency's share of the \$5.4 million funding pool appropriated to the Office of Management and Budget (OMB) for special market equity adjustments for classified employees and \$41, \$24 of which is from the general fund, for the agency's share of the \$1.4 million funding pool appropriated to OMB for assisting agencies in providing the \$35 per month minimum salary increases in July 1999 and July 2000. The 1999-2001 appropriation amounts do not include \$33,150 of additional spending authority resulting from Emergency Commission action during the 1999-2001 biennium.

Major Schafer Recommendations Affecting Public Service Commission 2001-03 Budget

	General Fund	Other Funds	Total
1. Provides funding for salary equity adjustments effective January 1, 2002 based on the Central Personnel Division's salary market study. The proposed increase is \$166.25 for the commissioners and \$168.83 for the executive secretary. The total increase required for the biennium, including benefits, is \$14,031 or \$17,720 less than the executive recommendation. (The House reduced this amount by \$17,720 for the market equity adjustment.)	\$30,608	\$1,143	\$31,751
2. Increases funding for travel costs, primarily related to the operation of inspection vehicles, per diem and lodging expense.	\$50,052	\$21,409	\$71,461
3. Reinstates 1 FTE weights and measures inspector position which was removed in the hold-even budget and increases equipment line item (computers) by \$5,000.	\$66,427		\$66,427
4. Increases special fund revenues to allow for estimated expenses and fee reimbursements related to the utility valuation fund (total of \$125,000).		\$25,000	\$25,000
5. Provides funding replacement of reclamation computer (\$10,000) and operations (\$15,000).	\$9,000	\$16,000	\$25,000
6. Provides general fund moneys for legal reference manual and increases operating from additional federal funds income. (The House removed the \$4,000 funding for legal reference manual.)	\$4,000	\$26,000	\$30,000
7. Replaces general fund moneys with federal funds to reflect additional cost reimbursements available for support services.	(\$44,224)	\$44,224	\$0

**Major Hoeven Recommendations Affecting Public Service Commission
 Compared to the Bill as Introduced (Schafer Budget)**

	General Fund	Other Funds	Total
There are no changes from the Schafer recommendation.			\$0

Major Legislation Affecting the Public Service Commission

Section 2 of House Bill No. 1008 includes the statutory changes necessary to increase the Public Service Commissioners' salary as follows:

Annual salary authorized by the 1999 Legislative Assembly:

July 1, 1999	\$58,262
July 1, 2000	\$59,428
January 1, 2001	\$64,569

Proposed annual salary recommended in the 2001-03 executive budget:

July 1, 2001	\$66,509
January 1, 2002	\$68,504
July 1, 2002	\$69,874

House Bill No. 1091 increases fee charges for testing and certifying weighing and measuring devices by 10 percent. (This bill has passed the House.)

Senate Bill No. 2074 increases the annual license fee for grain warehouses and grain buyers by \$50. (This bill has passed the Senate.)

Senate Bill No. 2410 provides for certain rural electric cooperatives and telecommunications companies to be under the jurisdiction of the Public Service Commission.

Summary of Legislative Changes Resulting From First House Action

See Statement of Purpose of Amendment (attached).

STATEMENT OF PURPOSE OF AMENDMENT:**House Bill No. 1008 - Funding Summary**

	Executive Budget	House Changes	House Version
Public Service Commission			
Salaries and wages	\$4,755,198	(\$121,025)	\$4,634,173
Operating expenses	1,182,662	3,000	1,185,662
Equipment	86,961		86,961
Grants	39,150		39,150
AML contractual services	3,668,492		3,668,492
Total all funds	\$9,732,463	(\$118,025)	\$9,614,438
Less estimated income	5,842,274	(117,841)	5,724,433
General fund	\$3,890,189	(\$184)	\$3,890,005
FTE	42.00	(1.00)	41.00
Bill total			
Total all funds	\$9,732,463	(\$118,025)	\$9,614,438
Less estimated income	5,842,274	(117,841)	5,724,433
General fund	\$3,890,189	(\$184)	\$3,890,005
FTE	42.00	(1.00)	41.00

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

	Executive Budget	House Changes	House Version
Salaries and wages	\$4,755,198	(\$121,025)	\$4,634,173
Operating expenses	1,182,662	3,000	1,185,662
Equipment	86,961		86,961
Grants	39,150		39,150
AML contractual services	3,668,492		3,668,492
Total all funds	\$9,732,463	(\$118,025)	\$9,614,438
Less estimated income	5,842,274	(117,841)	5,724,433
General fund	\$3,890,189	(\$184)	\$3,890,005
FTE	42.00	(1.00)	41.00

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

	Adjust Market Equity Salary Increase ¹	Remove Vacant Public Service Specialist Position	Add Funding for Railroad Litigation	Reduce Funding for Central Service Costs	Remove Funding for Legal Reference Manual	Total House Changes
Salaries and wages	(\$17,720)	(\$103,305)				(\$121,025)
Operating expenses			33,000	(26,000)	(4,000)	3,000
Equipment						
Grants						
AML contractual services						
Total all funds	(\$17,720)	(\$103,305)	\$33,000	(\$26,000)	(\$4,000)	(\$118,025)
Less estimated income	(638)	(91,203)	0	(26,000)	0	(117,841)
General fund	(\$17,082)	(\$12,102)	\$33,000	\$0	(\$4,000)	(\$184)
FTE	0.00	(1.00)	0.00	0.00	0.00	(1.00)

This amendment reduces from \$31,751 to \$14,031 the amount provided for a market equity salary increase for the commissioners and the executive secretary positions. The amount included in the bill will provide for monthly increases of \$166 for the commissioners and \$169 for the executive secretary.

1-15-01
HB 1008

H.B. 1008

Presented by: Jon Mielke, Executive Secretary
Public Service Commission

Before: House Appropriations Committee
Government Operations Division
Representative Rex Byerly, Chairman

Date: January 15, 2001

TESTIMONY

Chairman Byerly and committee members, my name is Jon Mielke. I am the Public Service Commission's executive secretary. I also serve as the director of the Commission's Licensing Division and as the primary staff person on railroad matters. This testimony is presented on behalf of the Commission.

Also with me this afternoon are Commissioners Leo Reinbold, Susan Wefald, and Tony Clark; Ilona Jeffcoat-Sacco, the director of the Commission's Public Utilities Division; and Mike Diller, the Commission's accountant. We welcome the opportunity to meet with you to discuss our operations, statutory mandates, and resource needs.

With one exception, the general fund portion of Executive Budget recommendation for the Commission is a status quo budget. The exception involves a Weights and Measures Inspector position that was cut as a part of the initial "hold even" budget submittal. The Commission asked that the position be restored when it submitted its supplemental budget request.

The executive budget did restore the position but it did not provide any operating funds to allow that inspector to conduct in-state inspections during the upcoming biennium. Based on current expense levels for this and other general fund inspection positions and a 10 percent increase to cover higher fuel costs, the Commission respectfully requests that its general fund travel line item be increased by \$51,000. These funds are absolutely necessary if the Commission's inspectors are to do their work.

There were other supplemental request items that were not included in the Executive Budget. We believe that the Legislature should be aware of these items. We will discuss them at the conclusion of our testimony.

Despite its relatively small size, the PSC has a very broad set of responsibilities. The Commission's jurisdictions include:

- Regulation of telephone, electric, and natural gas utilities;
- Pipeline safety inspections;
- Licensing grain elevators and auctioneers;
- Testing and certifying weighing and measuring devices;
- Overseeing coal mining;
- Eliminating hazards at abandoned mine sites;
- Siting power plants, power lines, and pipelines; and
- Representing state rail interests in federal proceedings.

The Commission's operating divisions function with two to eight employees; far fewer than comparable divisions in other states within the region. A copy of our current organizational chart is attached.

The Commission has a 1999-2001 operating budget of approximately \$9.2 million. Of this amount, just under \$3.6 million or about 39 percent is general fund money. Virtually all of remainder is federal money that is used to fund work related to reclamation activities at North Dakota's active and abandoned coal mines.

In many respects, the Commission is an agency in transition; it has been for many years. The agency no longer regulates trucking companies and its role in rail regulation has changed drastically because of federal preemption. Competition is finding its way into the telecommunications industry and the Commission is now often called on to resolve slamming complaints and disputes between competing carriers. Changes are occurring in the electric industry as a result of recent Federal Energy Regulatory Commission actions and more changes may be expected based on future congressional and legislative actions and California's recent experiences with deregulation. Computers have made it possible for the Commission to do more with less.

The Legislature and the Commission have redesigned the agency in response to these changes. Twenty years ago the agency had over 60 employees; today it has 41. Fifteen years ago the agency had a general fund budget of \$4.1 million. Its current general fund budget is less than \$3.6 million. Coal mine permit applications that once came in 20 volume sets can now be submitted on a single computer disc. Grain elevator inspections are done with computers instead of pencils and adding machines. Requested information is usually sent electronically and is often already available on the web.

The Commission was the subject of an interim study during the 1995-97 biennium. Among other things, the report said:

- "Although the role of state regulation has not been determined, representatives of various utilities testified that the regulatory role of the commission may be more significant in the future."
- "Representatives of the telecommunications industry testified that the Public Service Commission will be facing additional responsibilities in the near future as a result of the Federal Telecommunications Act of 1996."

These observations are still valid.

The Commission handles over 1,200 cases per biennium; over 96 percent are processed without a formal hearing.

There are, however, instances when formal hearings cannot be avoided. In these cases, the Commission functions like a court and issues orders after holding formal hearings with presentations by all interested parties. Recent major proceedings include:

- US West residential cost study and toll / access rebalancing hearings.
- A Federal Telecommunications Act of 1996 Section 271 investigation involving US West / Qwest's preparations to enter the long distance market.
- Local service disputes involving Western Wireless and Consolidated Communications.
- The siting of an Otter Tail Power and Northern States Power (Xcel) electric transmission line from Rugby to the Canadian Border.
- Mine reclamation complaints involving landowners and mining companies.

- Implementation of "Performance-Based Regulation" agreements with Northern States Power (Xcel) and Otter Tail Power.
- SRT's assimilation of the Minot phone system into the cooperative.
- Grain warehouse insolvencies involving Viking Seed and Custom Processors.
- A complaint against a fertilizer dealer for using uncertified and inaccurate devices to sell fertilizer.
- Proceedings before the federal government involving rules to govern future railroad mergers and rate complaints.

The Commission's functions have changed over the years but there continues to be a vital need for the services that the agency provides.

Several entities have acknowledged the Commission for its work. The following list includes some of the comments received:

- State Auditor -- "The North Dakota Public Service Commission also put extensive time and efforts into enhancing its visibility and customer service. The agency has implemented a user-friendly web site with all regulated industries listed that link to their five primary divisions . . . As compared to the neighboring states and several others across the nation we found this site to be better designed, easier to navigate and more inclusive of information."
- Federal Office of Surface Mining -- "The North Dakota program continues to operate very efficiently and effectively. This is especially impressive considering the number of mines, tonnage of coal produced, the amount of land disturbed and reclaimed each year, and the small number of staff . . . A very good working relationship is maintained with

their customers and they use a cooperative approach when working with interested parties, including industry, landowners, citizen groups and OSM. Any issues that arise are resolved in a fair and straightforward manner. The PSC carries out its responsibilities using the appropriate technical expertise and a high level of professionalism."

- Federal Office of Pipeline Safety – PSC received a perfect score (100/100) during the annual audit of North Dakota's gas pipeline safety program in both 1999 and 2000.
- Kensal Farmers Elevator – "Just called to let you know how much we appreciated working with your inspector this week. He was very knowledgeable and gave us some good suggestions. He was very professional and personable."

As we indicated in our introductory remarks, the general fund portion of the Executive Budget recommendation for the Commission is a "status quo" proposal. It calls for the continuation of existing programs at existing FTE levels. We would like to point out, however, that the proposed budget contains 42 FTEs. The Commission reorganized staff functions during the current biennium and has eliminated one federally funded FTE. The agency's FTE authorization may, therefore, be reduced to 41.

The Executive Budget contains a 12.7 percent increase in the travel line item. This money is used primarily for travel related to grain elevator inspections, the certification of weighing and measuring devices, inspections at coal mines and related reclamation work, and monitoring contractor work at abandoned mine sites.

As we noted earlier, the Executive Budget restored a Weights & Measures Inspector position that was cut as a part of the "hold even"

budget compilation. It is important to note, however, that the Executive Budget does not provide any travel money for this position. Travel costs associated with each of these positions total about \$23,500 per biennium. This travel and related inspections generate approximately \$83,500 in general fund revenues.

Fleet Services advised that agencies should budget an additional 15 – 30 percent to cover anticipated cost increases during the upcoming biennium. The Commission expects that it will experience increases toward the upper end of this range since most of its inspection trips require the use of less fuel-efficient vehicles such as four wheel drive utility vehicles and one ton and tandem axle trucks.

Through October of 2000, the Commission's general fund inspection programs expended approximately \$190,000 for travel. Virtually all of this travel was for in-state inspection work. The anticipated biennial total for these functions is \$285,000.

Increasing this amount by 10 percent to account for higher fuel costs over the next two years yields a budget requirement of \$313,000. The Executive Budget recommendation is only \$262,000. An additional \$51,000 is required in this line item. Of this amount, \$23,500 is needed to fund in-state travel for the restored position; the remainder is to offset higher fuel costs and to thereby maintain existing inspection levels.

It is important to note that the Commission has introduced two bills that would increase license fees associated with these inspection programs. Proposed fee increases for weights and measures inspections and grain elevator licenses would generate approximately

\$93,000 per biennium for the general fund. This increase in revenue would more than offset the increased cost of travel associated with these programs.

We would also like to make the Legislature aware of two supplemental request items that were ultimately left out of the Executive Budget recommendation. The first of these items was a request for an information officer position. This person would have developed educational materials and programs to help North Dakotans make more informed choices about the purchase and use of utility services in a deregulated environment.

The Commission requested \$75,000 for this position. Of this amount, \$66,000 would have been general fund money. The money would have been used to hire a person to develop educational materials and programs and to help people deal with service problems. Delivery mediums would have included brochures, classroom presentations, Internet, news releases, and working with groups such as social service agencies and farm and commodity groups. The Executive Budget does not contain funding for this position.

A second item that was not included in the Executive Budget recommendation was a request for \$100,000 in general fund money to pursue relief from monopolistic railroad practices.

North Dakota's rail rates on grain are among the highest in the country. It costs more to ship corn from North Dakota to Seattle than it does to ship exactly the same amount of corn several hundred miles further from Iowa to the same destination. Similarly, the rates on shipments of North Dakota wheat to Portland, Oregon, are higher

than the rates on wheat shipped from Kansas and Nebraska, even though the trip for North Dakota is several hundred miles shorter.

The Commission estimates that North Dakota's annual transportation bill would be as much as \$100 million lower if we had effective competition for grain shipments. This is money that should stay in the pockets of our farmers and grain elevators. Keeping this money in the state would be a great boost to our rural economy.

Federal rules on rate complaint matters have undergone several changes in the past two years. While it may have been virtually impossible to successfully challenge unreasonable rail rates a few years ago, winning such a case is now a possibility.

A rate complaint case would have to be brought before the federal Surface Transportation Board. While we recognize that it is unlikely that such a case could be brought and won for \$100,000, this amount will allow work to begin.

The returns on this "investment" would be huge if rail rates were lowered as a result of such an action. Each one-cent per bushel reduction in transportation costs would save North Dakota farmers \$5 million per year.

Some of these funds could also be used to contest discriminatory actions that are taking place relative to many of the state's grain elevators. Many firms fear that they might be forced out of business because of railroad car supply programs that will make it impossible for them to obtain cars under reasonable terms.

Funds for this effort are not included in the Executive Budget recommendation. We encourage the Legislature to rethink this matter.

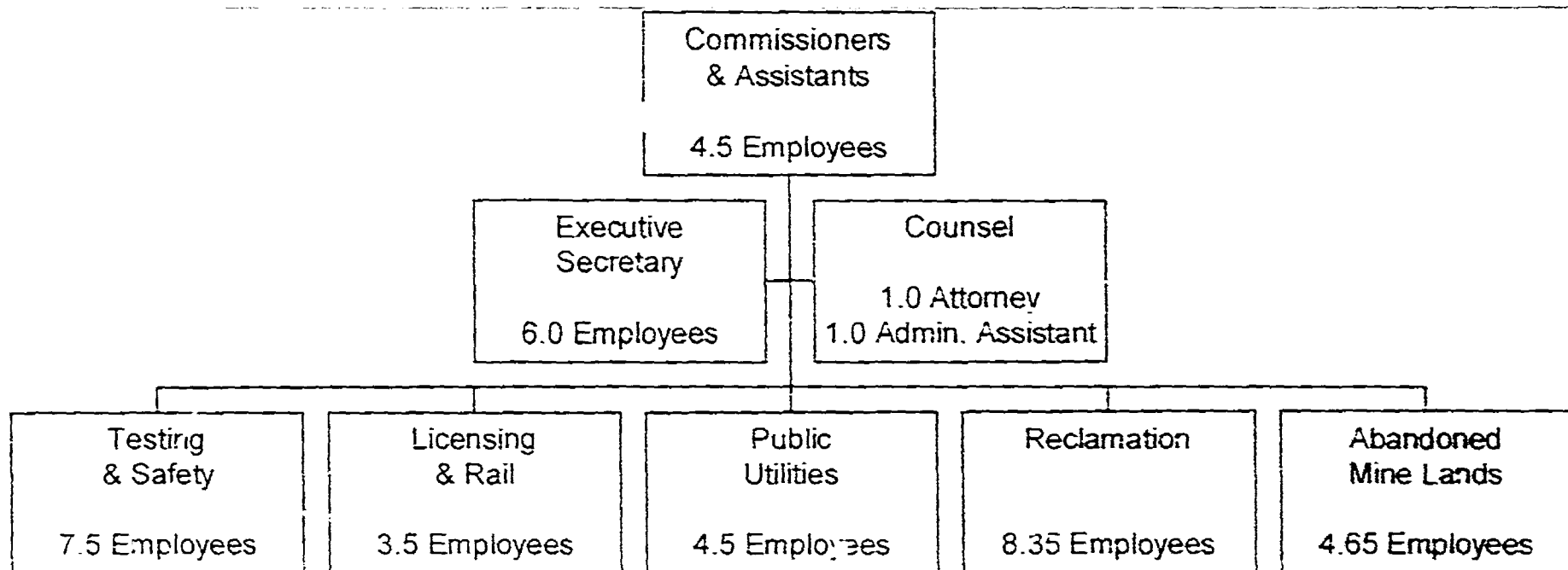
In conclusion, we want to reiterate that the budget before you is basically a status quo proposal. The Commission does, however, need an additional \$51,000 in general fund travel money to allow inspectors to complete their work.

Despite fundamental changes in some of the industries that the Commission regulates, there is still a need for the services that the agency provides. Some of these services have been revised to reflect changes in industry and many of our delivery methods have been revised to reflect changes in technology. The Commission is an agency in transition. The Legislature and the Commission have made these changes in response to changes that are taking place around us.

The Commission needs resources to do the work that the Legislature has assigned to it. With the exceptions noted in our testimony, the Commission urges your favorable support of the budget that is before you.

Mr. Chairman, that concludes our testimony. I would be happy to respond to questions.

Public Service Commission



Full-time Employees
January 15, 2001

HB 1008



Public Service Commission
State of North Dakota

600 B Boulevard Ave. Dept. 408
Bismarck, North Dakota 58505-0480
e-mail: sab@oracle.psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

COMMISSIONERS

Bruce Hagen
President
Susan B. Wefald
Leo M. Reinhold

January 16, 2001

Executive Secretary
Jon H. Mielke

Rep. Rex Byerly, Chairman
Government Operations Division
House Committee on Appropriations

RE: H.B. 1008 -- Supplemental Information

Dear Representative Byerly:

As requested at the PSC's appropriation hearing, I am providing you with copies of the fiscal notes on the three fee increase bills sponsored by the Commission. The following is a summary of these bills and the corresponding fiscal notes:

<u>Bill #</u>	<u>Industry</u>	<u>Proposed Increase</u>	<u>Revenue Impact</u>
1067	Auctioneers & Auction Clerks	\$15 per year	\$19,000
1091	Weights & Measures	Approx. 10%	\$45,000
2074	Grain Elevators & Grain Buyers	\$50 per year	\$48,000

As I indicated at the hearing, all of these funds would go directly to the general fund. These amounts were not included in the revenue projections in the Commission's original budget submittal. If any these bills are enacted, the increased income would be over and above the amounts projected earlier.

Your committee also requested additional information concerning natural gas pricing and wind turbines. Illona Jeffcoat-Sacco will be sending you that information in a separate transmittal.

Thank you for the courtesies extended to us at our hearing. Please call me at 8-4082 if you have further questions.

Sincerely,

FISCAL NOTE

Requested by Legislative Council
12/14/2000

Bill/Resolution No.: HB 1067

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$19,000	\$0	\$19,000	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill proposes to increase the annual license fee for auctioneers and auction clerks from \$35 to \$50. This fee was last increased in 1987. Increasing this fee to \$50 and imposing a \$25 surcharge for renewals that are submitted in an untimely manner would generate additional general fund income of approximately \$19,000 per biennium. The increase was recommended by the State Auditor in a March 2000 audit report.

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.*

The \$19,000 projected revenue increase is based on the current number of licensees (approx. 600) times the proposed \$15 increase.

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.*

No significant incremental costs will be incurred if this proposal is enacted.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

The proposal will not require additional appropriations.

Name:	Jon Mielke	Agency:	Public Service Commission
Phone Number:	328-4082	Date Prepared:	12/15/2000

FISCAL NOTE

Requested by Legislative Council
12/27/2000

REVISION

Bill/Resolution No.: HB 1091

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$45,000	\$0	\$45,000	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$165	\$350	\$0	\$165	\$350	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

HB 1091 proposes a 10 percent increase in the fees charged for testing and certifying weighing and measuring devices. The last significant increase in these fees was in 1993. At their current level, these fees are about 300 percent below those charged by private service providers. The proposed increase would generate an additional \$45,000 in biennial income for the general fund.

Some tests are performed for cities and counties. If testing fees are increased by 10 percent as proposed by this bill, these entities will experience a cumulative fiscal impact totaling approximately \$515 per biennium.

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.*

The fees charged for testing and certifying weighing and measuring devices currently generate about \$450,000 per biennium for the general fund. Increasing these fees by 10 percent would produce an additional \$45,000 in income per biennium for the general fund.

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.*

There are not incremental expenditures associated with this fee increase.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Passing HB 1091 would have no impact on the appropriation requested by the Public Service Commission or any other agency.

Name:	Jon Mielke	Agency:	Public Service Commission
Phone Number:	328-4082	Date Prepared:	12/27/2000

FISCAL NOTE

Requested by Legislative Council
12/26/2000

Bill/Resolution No.: SB 2074

Amendment to:

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.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$48,000	\$0	\$48,000	\$0
Expenditures	\$0	\$0	\$0	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

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

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2. Narrative: *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

This bill proposes to increase the annual license fee for grain warehouses and grain buyers by \$50 per year. The annual license fee for grain warehouses ranges from \$250 to \$500 per year depending on the size of the facility. The fee for facility-based grain buyers is \$250. The fee for roving grain buyers is \$150. Increasing these fees by \$50 would generate approximately \$48,000 per biennium for the general fund. The increase was recommended by the State Auditor in a March 2000 audit report.

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.*

The \$48,000 projected revenue increase is based on the current number of licensees times the proposed \$50 increase (480 licensees x \$50 x 2 years = \$48,000).

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.*

No incremental costs will be incurred if this proposal is enacted.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

This proposal will not require additional appropriations.

Name:	Jon Mielke	Agency:	Public Service Commission
Phone Number:	328-4082	Date Prepared:	12/27/2000

H.B. 1008

Presented by: Jon Mielke, Executive Secretary
Public Service Commission

Before: Senate Appropriations Committee
Senator David Nething, Chairman

Date: February 21, 2001

TESTIMONY

Chairman Nething and committee members, my name is Jon Mielke. I am the Public Service Commission's executive secretary. I also serve as the director of the Commission's Licensing Division and as the primary staff person on railroad matters.

In the interest of time and continuity, I will present our agency's testimony on this bill. Please note, however, that Commissioners Susan Wefald, Leo Reinbold, and Tony Clark are also here and are available to respond to questions.

Also with us are Ilona Jeffcoat-Sacco, the director of the Commission's Public Utilities Division, and Mike Diller, the Commission's accountant. We welcome the opportunity to meet with you to discuss our operations, statutory mandates, and resource needs.

Except for three items, this is largely a status quo budget proposal. Major deviations from our 1999-01 budget include:

- \$33,000 in new funding that the House provided to pursue a possible complaint case against nonopolistic railroad practices,
- \$23,500 that was requested but which has not been provided to cover travel expenses associated with a Weights and Measures inspector position, and
- Reducing the Commission FTE authorization from 42 to 41.

We will discuss each of these items in more detail towards the end of our testimony.

Despite its relatively small size, the PSC has a very broad set of responsibilities. The Commission's jurisdictions include:

- Regulation of telephone, electric, and natural gas utilities;
- Pipeline safety inspections;
- Licensing grain elevators and auctioneers;
- Testing and certifying weighing and measuring devices;
- Overseeing coal mining;
- Eliminating hazards at abandoned mine sites;
- Siting power plants, power lines, and pipelines; and
- Representing state rail interests in federal proceedings.

The Commission's operating divisions function with two to eight employees; far fewer than comparable divisions in other states within the region. A copy of our current organizational chart is attached.

The Commission has a 1999-2001 operating budget of approximately \$9.2 million. Of this amount, just under \$3.6 million or about 39 percent is general fund money. Virtually all of remainder is

federal money that is used to fund work related to reclamation activities at North Dakota's active and abandoned coal mines.

In many respects, the Commission is an agency in transition; it has been for many years. The agency no longer regulates trucking companies and its role in rail regulation has changed drastically because of federal preemption. Competition is finding its way into the telecommunications industry and the Commission is now often called on to resolve slamming complaints and disputes between competing carriers. Changes are occurring in the electric industry as a result of recent Federal Energy Regulatory Commission actions and more changes may be expected based on future congressional and legislative actions and California's recent experiences with deregulation. Computers have made it possible for the Commission to do more with less.

The Legislature and the Commission have redesigned the agency in response to these changes. Twenty years ago the agency had over 60 employees; today it has 41. Fifteen years ago the agency had a general fund budget of \$4.1 million. Its current general fund budget is less than \$3.6 million. Coal mine permit applications that once came in 20 volume sets can now be submitted on a single computer disc. Grain elevator inspections are done with computers instead of pencils and adding machines. Requested information is usually sent electronically and is often already available on the web.

The Commission was the subject of an interim study during the 1995-97 biennium. Among other things, the report said:

- "Although the role of state regulation has not been determined, representatives of various utilities testified that

the regulatory role of the commission may be more significant in the future."

- "Representatives of the telecommunications industry testified that the Public Service Commission will be facing additional responsibilities in the near future as a result of the Federal Telecommunications Act of 1996."

These observations are still valid.

The Commission handles over 1,200 cases per biennium; over 96 percent are processed without a formal hearing.

There are, however, instances when formal hearings cannot be avoided. In these cases, the Commission functions like a court and issues orders after holding formal hearings with presentations by all interested parties. Recent major proceedings include:

- US West residential cost study and toll / access rebalancing hearings.
- A Federal Telecommunications Act of 1996 Section 271 investigation involving US West / Qwest's preparations to enter the long distance market.
- Local service disputes involving Western Wireless and Consolidated Communications.
- The siting of an Otter Tail Power and Northern States Power (Xcel) electric transmission line from Rugby to the Canadian Border.
- Mine reclamation complaints involving landowners and mining companies.
- Implementation of "Performance-Based Regulation" agreements with Northern States Power (Xcel) and Otter Tail Power.

- SRT's assimilation of the Minot phone system into the cooperative.
- Grain warehouse insolvencies involving Viking Seed and Custom Processors.
- A complaint against a fertilizer dealer for using uncertified and inaccurate devices to sell fertilizer.
- Proceedings before the federal government involving rules to govern future railroad mergers and rate complaints.

The Commission's functions have changed over the years but there continues to be a vital need for the services that the agency provides.

Several entities have acknowledged the Commission for its work during the current biennium. Some of the comments received include:

- State Auditor – "The North Dakota Public Service Commission also put extensive time and efforts into enhancing its visibility and customer service. The agency has implemented a user-friendly web site with all regulated industries listed that link to their five primary divisions . . . As compared to the neighboring states and several others across the nation we found this site to be better designed, easier to navigate and more inclusive of information."
- Federal Office of Surface Mining – "The North Dakota program continues to operate very efficiently and effectively. This is especially impressive considering the number of mines, tonnage of coal produced, the amount of land disturbed and reclaimed each year, and the small number of staff . . . A very good working relationship is maintained with their customers and they use a cooperative approach when working with interested parties, including industry, landowners, citizen groups and OSM. Any issues that arise

are resolved in a fair and straightforward manner. The PSC carries out its responsibilities using the appropriate technical expertise and a high level of professionalism."

- Federal Office of Pipeline Safety – The PSC received a perfect score (100/100) during the annual audit of North Dakota's gas pipeline safety program in both 1999 and 2000.
- Kensal Farmers Elevator – "Just called to let you know how much we appreciated working with your inspector this week. He was very knowledgeable and gave us some good suggestions. He was very professional and personable."

As we indicated in our introductory remarks, except for three items, this budget is largely a "status quo" proposal. These exceptions involve the elimination of a vacant position, the lack of travel money for an inspection position, and the provision of funding to pursue a possible complaint proceeding against monopolistic railroad practices.

Regarding the vacant position, the Commission experienced a vacancy in a federally funded position last summer. Rather than fill the position, we decided to reassign the duties among several staff members and to leave the position vacant. We suggested to the House that the position could be deleted from our budget. It did so. This change will leave the Commission with 41 FTEs.

Concerning travel money, this budget contains a 12.7 percent increase in the travel line item. This money is used primarily for travel related to grain elevator inspections, the certification of weighing and measuring devices, inspections at coal mines and related reclamation work, and monitoring contractor work at abandoned mine sites.

While 12.7 percent sounds like a significant increase, it is important to note that Fleet Services advised that agencies should budget an additional 15 – 30 percent to cover anticipated cost increases during the upcoming biennium. The Commission expects that it will experience increases toward the upper end of this range since most of its inspection trips require the use of less fuel-efficient vehicles such as four wheel drive utility vehicles and one ton and tandem axle trucks.

It is also important to note that the Executive Budget restored a Weights & Measures inspector position that had been cut as a part of the "hold even" budget compilation. The Executive Budget did not, however, restore travel money associated with this position.

An average Weights & Measures inspector incurs travel costs of about \$23,500 per biennium. This travel and related inspections generate approximately \$83,500 in general fund revenues.

Through October of 2000, the Commission's general fund inspection programs expended approximately \$190,000 for travel. Virtually all of this travel was for in-state inspection work. Total biennial costs for these inspections will approach \$285,000.

Increasing this amount by 10 percent to account for higher fuel costs over the next two years yields a budget requirement of \$313,000. The Executive Budget recommendation for this function totals only \$262,000.

The Commission asked the House for an additional \$51,000 in travel money for the restored inspector position and to offset continuing inflationary increases. The House chose not to add

additional funding to this line item. We suspect that this was done in hopes of lower fuel prices in the future.

Given current trends, we doubt that significant savings can be achieved as a result of dropping fuel prices. We would appreciate your reconsideration of this request.

We would also like to point out that the Commission has introduced two bills that would increase license fees associated with these inspection programs. Proposed fee increases for weights and measures inspections (H.B. 1091) and grain elevator licenses (S.B. 2074) would generate approximately \$93,000 per biennium for the general fund and would indirectly help offset increased travel costs. These increases have both passed one house and are headed to the second for final consideration.

The final item that we would like to discuss with you is a request that we presented to the House concerning unreasonable rail rates and unfair operating practices.

North Dakota's rail rates on grain are among the highest in the country. It costs more to ship corn from North Dakota to Seattle than it does to ship exactly the same amount of corn several hundred miles further from Iowa to the same destination. Similarly, the rates on shipments of North Dakota wheat to Portland, Oregon, are higher than the rates on wheat shipped from Kansas and Nebraska, even though the trip for North Dakota is several hundred miles shorter.

The Commission estimates that North Dakota's annual transportation bill would be as much as \$100 million lower if we had effective competition for grain shipments. This is money that should stay in the pockets of our farmers and grain elevators. Keeping this

money in the state would be a great boost to our rural economy.

Federal rules on rate complaint matters have undergone several changes in the past two years. While it may have been virtually impossible to successfully challenge unreasonable rail rates a few years ago, winning such a case is now a possibility.

We originally asked the House for \$100,000 in general fund money to pursue relief from monopolistic railroad practices. The House version of this bill appropriates \$33,000 for this undertaking. We respectfully request that the Senate increase this amount to at least \$75,000. We hope that we could then go out to other groups in the state to raise the full amount required to get this project started.

We want to emphasize that it is unlikely that a rate complaint could be initiated and won for \$100,000. This amount would, however, allow work to begin.

It is important to note that the returns on this "investment" would be huge if rail rates were lowered as a result of such an action. Each one-cent per bushel reduction in transportation costs would save North Dakota farmers \$5 million per year.

It is also possible that some or all of these funds could also be used to contest discriminatory actions that are taking place relative to many of the state's grain elevators. Many firms fear that they might be forced out of business because of railroad car supply programs that will make it impossible for them to obtain cars under reasonable terms.

In conclusion, we want to reiterate that the budget before you is basically a status quo proposal. We do, however, appreciate your consideration of our specific requests concerning inspection-related

travel money and funding for the rail initiative.

Despite fundamental changes in some of the industries that the Commission regulates, there is still a need for the services that the agency provides. Some of these services have been revised to reflect changes in industry and many of our delivery methods have been revised to reflect changes in technology. The Commission is an agency in transition. The Legislature and the Commission have made these changes in response to changes that are taking place around us.

The Commission needs resources to do the work that the Legislature has assigned to it. With the exceptions noted in our testimony, the Commission urges your favorable support of the budget that is before you.

Mr. Chairman, that concludes our testimony. We would be happy to respond to questions.

HB 1008



Public Service Commission

State of North Dakota

600 E Boulevard Ave. Dept. 408
Bismarck, North Dakota 58505-0480
e-mail: sab@oracle.psc.state.nd.us
TDD 800-366-6888
Fax 701-328-2410
Phone 701-328-2400

COMMISSIONERS

Bruce Hagen
President
Susan E. Wefald
Leo M. Reinbold

Executive Secretary
Jon H. Mielke

19 January 2001

Honorable Rex Byerly, Chairman
Government Operations Division
House Committee on Appropriations
North Dakota Legislature

Re: H.B. 1008 – Supplemental Information

Dear Chairman Byerly:

As requested by the committee at our appropriations hearing, this letter responds to the wind turbine location question and includes copies of customer information on natural gas prices.

Regarding wind generation, I was asked about the limitations on the location of wind turbines in proximity to one another. It is my understanding that in order to minimize interference with wind flow, wind turbines should be located at least 600 feet apart, on every side.

I was also asked about the information the Commission has available to provide to gas customers and the public about the current high price of natural gas. Enclosed are copies of the following:

- A short explanation on gas prices for routine distribution;
- A copy of a particularly helpful MDU bill insert that my division also often provides to consumers;
- A copy of a suggested "tool kit" of information provided to the Commission by its national association, copies of which are available for distribution to the public as appropriate;
- A copy of Frequently Asked Questions from the American Gas Association, linked through the Consumer Information Page on the PSC web site;
- A copy of the American Gas Association's briefing paper "The Potential Impact of Higher Natural Gas Prices on Residential Consumers" also linked through the Consumer Information Page on the PSC web site.

Wind Energy -
Natural Gas Prices

Chairman Rex Byerly
Government Operations Division
House Committee on Appropriations
19 January 2001
Page 2.

- (Note: the PSC web site also contains each gas utility's current Purchased Gas Adjustment and links to other energy-related sites, including sites with energy conservation tips.)

I hope this information has answered the committee's questions. If you or any committee members have any additional questions or need any additional information, please do not hesitate to call me at 8-2407.

Best regards,



Ilona A. Jeffcoat-Sacco
Director, Public Utilities Division

encl.

c: Government Operations Division committee members w/encl.

Why are my natural gas bills so high this winter?

Each month your North Dakota Public Service Commission approves the price of the gas that XCEL (formerly NSP), MDU, and Great Plains pay for their gas supply. These companies buy natural gas for their customers through long-term contracts and at current market prices. When they buy gas in the summer they are putting some of that gas into storage for customers' winter use. This year, market prices for natural gas at the wellhead have been high in the summer as well as this fall, and so customers are going to pay more for natural gas this winter.

Natural gas is a commodity, and the price of natural gas shifts depending on supply and demand. The price of commodity gas was deregulated by Congress starting in 1978, with state and federal regulators having no jurisdiction over the commodity price. Rather, the market sets the price largely on the basis of actual and expected supply and demand conditions.

In the case of purchased gas, a gas utility typically buys gas wholesale and sells it to customers at cost. In the current situation, higher gas prices are the result of price increases at the wellhead for what is called commodity gas. In our state, and in most others, changes in the price of commodity gas get passed through to consumers on a monthly basis through a "purchased gas adjustment" mechanism or PGA. For the past 8 years, natural gas prices at the wellhead have been low, and North Dakotans have benefited by paying low prices for natural gas. However, this year the commodity price of gas has gone up dramatically.

How can I deal with higher gas prices and higher gas bills?

- One option is to conserve on the use of natural gas. Having the furnace serviced, turning down the thermostat when unoccupied or at night, turning down the gas hot water heater even a few degrees, change the furnace filter once a month, or caulking and weather stripping around windows and doors are just a few ideas on how to help cut your gas bills. More ideas are available from your power company, the Division of Community Service State Energy Program (701) 328-2697, and our web site (see below).
- A second option for consumers is to take advantage of balanced billing plans to even out their monthly gas bills. These plans allow consumers to reduce their winter gas bills by paying more during other times of the year when gas consumption is typically much lower.
- A third option is for consumers who qualify to take advantage of heating assistance. In North Dakota, customers can find out qualification information from their County Social Service Office. Heating assistance is available from October 1, 2000, through May 31, 2000. For example, in North Dakota a family of four qualifies for heating assistance if their income is \$30,601. Those qualifying for energy assistance can also receive reimbursements for furnace and chimney cleaning up to \$75.
- Consumers should always contact their utility if they are having problems paying their utility bills. This contact should be made prior to reaching the point of disconnection, so payment plans can be worked out or funds from assistance programs can be made available.
- Also see our web site: http://pc6.psc.state.nd.us/Content/psc/PUD/Consumer_Tips.htm

You may have noticed how energy prices, including natural gas, have steadily increased during the past year. Recent prices have been as high as they have ever been in more than 30 years in the industry. Nationwide, natural gas commodity prices are about 50 percent higher than last year and depending on this year's weather, they could go even higher. While one cannot predict exactly where the natural gas prices will go this winter, it is safe to say prices will remain higher than seen in recent years.

Why? There are three reasons:

• Greater demand for Natural Gas

It's the age-old law of supply and demand. Today, the demand side of the equation has the upper hand holding prices at record high levels even here in the northern plains where natural gas prices are among the lowest in the nation. Specifically, industrial growth, spurred by a healthy economy, has increased the demand for natural gas. Also, summer demand for natural gas has increased due to its use in gas-fired electric generating plants to produce electricity for air conditioning. In addition, storage inventories are below last year's levels and slightly below the five-year average.

• Less Exploration and Production

Low energy prices in 1998 and 1999 contributed to a decline in exploration and drilling activity leading to a decline in natural gas production being available for consumption and storage. Although production has turned around in the past 12 months, supplies are not expected to rebound in time to make much difference this heating season.

• Higher Energy Prices

The increase in overall fuel prices for other commodities such as crude oil, gasoline, propane and home heating oil has led consumers to switch to natural gas. Because of the increase in demand for natural gas, the price increased. Extreme weather conditions or volatility in the commodity price of these energy sources can create unexpected shifts in the prices customers pay.

Frequently asked questions about natural gas prices

Why are natural gas prices rising? Is this only occurring in certain areas, or nationwide? The price of natural gas is increasing throughout the United States. Like other commodities, such as wheat and orange juice, natural gas prices rise and fall as supply and demand change. Supplies of natural gas are temporarily tight, which has led to higher prices.

Is natural gas the only energy source whose price is rising? No, from gasoline at the pump to propane, fuel oil and electricity, all energy prices are rising.

Is the natural gas price increase temporary, or permanent? Natural gas producers have boosted their exploration and production activities, so it is anticipated that natural gas prices will moderate when new supplies come into the market. Typically, this could take 6-18 months. It's possible that natural gas customers will pay more throughout this upcoming winter season (2000-2001). And we may not ever experience again the low prices of the mid-1990s.

Is there a shortage of natural gas? No! Although supplies of natural gas are tight temporarily, the United States has abundant supplies of natural gas, thanks to a large and diverse resource base.

Why does it take up to 18 months for new natural gas discoveries to make it to the market? Before production can begin, producers must acquire mineral leases, interpret seismic data to locate reserves, purchase equipment and hire and train workers to drill for the reserves. Pipelines must then be built to transport the natural gas to the market.

How does Montana-Dakota Utilities Co. acquire natural gas supplies? Montana-Dakota buys natural gas from about 20 different suppliers in our region under varying contract terms. This coupled with access to gas storage fields assures supplies will be adequate to meet the needs of customers during the winter when demand is the highest.

Why doesn't Montana-Dakota Utilities Co. absorb the cost increases, instead of passing them along to customers?

As your natural gas provider, we remain committed to meeting your natural gas energy needs into the future. Our responsibility is to make prudent purchases to assure an adequate gas supply for all of our customers. Montana-Dakota does not make any profit on the natural gas it buys for delivery to customers but only passes on the price it has to pay. State regulations allow us to pass on to you increases and decreases in our monthly gas costs. When gas prices rise, the price you pay rises, when prices drop, yours drops.

Is natural gas still my best energy buy? Even with the current high gas prices, natural gas continues to be the fuel of choice and your best energy value. Families and businesses alike enjoy the warmth, comfort, reliability, and clean-burning efficiency of natural gas.

What can I as a customer do? There are several options:

Conserve Energy: Arrange for an inspection of your home appliances - to make sure they work efficiently and safely.

Replace aging appliances: Aging natural gas furnaces and water heaters should be replaced with new units, which use fuel more efficiently. High-efficiency units cost more to buy, but can save money over the long run.

Check out bill-payment options: The Montana-Dakota **Balanced Billing** program can help soften the blow of heating bills. With **Balanced Billing**, monthly gas bills are based on your average usage over the past 12 months at the current price of natural gas. For more information or to enroll in the **Balanced Billing** program, visit the Montana-Dakota Utilities Co. office noted on your bill or call 1-800-MDU-FAST (1-800-638-3278).

Request assistance: If paying your gas bill becomes too difficult, Montana-Dakota can work out a payment schedule and provide information on heating assistance programs that are available.

Fortney, Kathy M.
From: Scott, Deborah [DScott@naruc.org]
Sent: Friday, November 03, 2000 8:09 AM
To: NARUC Membership List
Cc: Mele, Chris
Subject: Gas Price Info Packet



Gas Price Info
Packet Final 10...



footer

> TO: ALL NARUC COMMISSIONERS

FROM: Commissioner Ed Holmes
Chair, NARUC Committee on Gas
Commissioner, Kentucky Public Service Commission
RE: NATURAL GAS PRICE DOCUMENT

The National Association of Regulatory Utility Commissioners (NARUC) has taken a proactive approach to the growing problem of rising natural gas prices. In a joint effort the NARUC Committee on Gas, the NARUC Staff Subcommittee on Gas, the National Regulatory Research Institute (NRRI) and the U.S. Department of Energy (DOE) have produced an information packet entitled "Information on the Problem of High Natural Gas Prices and Alternative Actions By State Public Utility Commissions." A copy of this document is attached to this e-mail.

The purpose of this packet is to serve as a "tool kit" for the public and State government officials by providing information that aims to (1) educate Public Utility Commissions (PUCs) and other State government officials on the recent developments in the natural gas sector leading to high gas prices, and (2) identify options PUCs and other State government agencies might consider to address the problem of high gas prices, including a communications strategy for disseminating the information contained in this packet. This information can also be used by consumers in better preparing themselves for the coming heating season.

This packet addresses several topics pertaining to high natural gas prices in a "frequently asked questions" (FAQ) format. The packet provides information on natural gas price projections, actions of PUCs and gas utilities to date, regulatory mechanisms for passing through higher gas costs to consumers, PUC options to mitigate the effect of high gas prices on consumers, different actions consumers can take to reduce their gas bills, available low-income assistance programs, and available emergency monies from governmental agencies.

The "Information on the Problem of High Natural Gas Prices and Alternative Actions by State Public Utility Commissions" document can also be found at the NARUC web site (www.naruc.org).

I hope you will take a moment to look at this information and find it useful. I also hope you will share this information with your staff. Thank you for taking the time to review this document. Should you have any questions please feel free to call me at (502) 564-3940.

<<Gas Price Info Packet Final 10-13-00.doc>>

[Home](#) | [About NARUC](#) | [Congressional Testimony](#) | [Resolutions & Policy Positions](#) | [Committees](#) | [Meetings](#) | [Publications](#)

[Affiliates & Regionals](#) | [Resources](#) | [Continuing Education](#) | [News](#) | [State PUCs](#) | [Search](#) | [NARUC International](#)



NARUC

News

**INFORMATION ON THE PROBLEM OF HIGH
NATURAL GAS PRICES AND ALTERNATIVE ACTIONS
BY STATE PUBLIC UTILITY COMMISSIONS**



An Information Packet for Commissions

October 13, 2000

Contributors:

NRRI
DOE
NARUC Committee on
Gas
NARUC Staff

Subcommittee on Gas

High Natural Gas Prices and Alternative Actions by State Public Utility Commissions

Introduction

The rapid rise in natural gas prices, starting earlier this year, has raised concerns about the effect it will have on consumers. The commodity price for natural gas is projected to increase by at least \$2 per Mcf over last winter's prices. These prices ultimately will fall on the shoulders of retail gas consumers, some of whom will find it especially difficult to absorb in view of budget and income constraints. Most industry observers perceive these gas price increases as reflecting the normal working of a commodity market where volatile prices are a common occurrence. In the current situation, tight gas supplies have resulted in price increases. Nevertheless, the harsh reality is such price fluctuations can impose serious hardship on many consumers. With good reason, state public utility commissions (PUCs) and other governmental entities are paying close attention to the developments in the natural gas sector and what effect they will have on consumers. PUCs have the specific responsibility of assuring the general public of the reasonableness of prices for utility services. This responsibility includes making utility services affordable to the general public.

The purpose of this Information Packet is to serve as a "tool kit" by assisting PUCs in their endeavors to serve the public interest during this time of rising gas prices. Specifically, it contains information that aims to (1) educate PUCs on the recent developments in the natural gas sector leading to high gas prices, and (2) identify options PUCs might consider to address the problem of high gas prices, including a communications strategy for disseminating the information contained in this packet. Some PUCs may want to use this information to assist gas consumers in better preparing themselves for this coming heating season. They also may want to disseminate the information to elected officials, gas utilities, community groups, and other governmental agencies.

This packet addresses several topics pertaining to high natural gas prices; in a "frequently asked questions" (FAQ) format, it provides information on natural gas price projections, actions of PUCs and gas utilities to date, regulatory mechanisms for passing through higher gas costs to consumers, PUC options to mitigate the effect of high gas prices on consumers, different actions consumers can take to reduce their gas bills, available low-income assistance programs, and available emergency monies from governmental agencies.

Q: What are the price projections for natural gas this winter, and how do they compare to last winter's prices?

A: The Energy Information Administration (EIA) in the U.S. Department of Energy is forecasting, as of September 1, that, assuming a normal winter, supplies of natural gas will be tight for the winter heating season. Reflecting these tight supply conditions, wellhead prices are projected to be nearly double the level from last winter. These higher wellhead prices, on a national level, translate into 25 percent higher unit costs for natural

gas delivered to residential consumers as compared to last winter.

Domestic production of natural gas is projected to increase by only 0.5 percent in 2000 compared to 1999 (from 18.66 to 18.76 Tcf). This is due in large part to low wellhead prices for natural gas in 1998 and 1999, causing domestic producers to reduce their exploration and development programs. The jump in prices since January 2000 has stimulated higher levels of drilling, but this will not boost supplies until after this winter. Coupled with the strong demand since Spring 2000 for natural gas for electric generation to meet high summer cooling demand in the West and Southwest, as well as high industrial demand, supplies of natural gas will remain tight through the coming winter heating season.

Natural gas wellhead prices are projected to average \$4.40/Mcf for the fourth quarter of 2000. This is nearly double the wellhead price (\$2.26/Mcf) from the fourth quarter of 1999. These higher wellhead prices, on a national level, translate into 25 percent higher prices for residential customers during that period.

Gas storage, which historically has been used by the industry to mitigate price volatility, is down in 2000 as compared to 1999. Working gas storage is expected to total 2,617 Bcf at the end of the third quarter this year compared to 2,884 Bcf at the end of the third quarter in 1999. Market analysts generally consider the current level of working gas storage adequate if the winter is normal, or warmer than normal, as forecasted.

EIA updates its forecasts of natural gas and petroleum markets on a monthly basis. These forecasts can be found on the EIA web site: www.eia.doe.gov.

NATURAL GAS SUPPLIES AND PRICES

	1Q99	2Q99	3Q99	4Q99	1Q00	2Q00	3Q00	4Q00	1Q01	2Q01
Wellhead Prices (\$/Mcf)	1.74	2.04	2.27	2.26	2.26	2.96	3.97	4.40	4.08	3.33
Prices to Residential Customers (\$/Mcf)	6.07	6.86	8.64	6.85	6.48	7.73	9.71	8.59	8.29	8.57
Domestic Production (Tcf)	4.69	4.66	4.64	4.67	4.61	4.71	4.72	4.72	4.72	4.73
Working Gas Storage at the End of the Quarter (Bcf)	1430	2157	2884	2509	1150	1756	2617	2252	910	1730

Source: EIA *September 2000 Short Term Energy Outlook*

Q: What actions have state PUCs and gas utilities taken to date?

A: Based on a recent survey conducted by the National Association of Regulatory Utility Commissioners (NARUC), some of the actions PUCs have already taken, or plan to take, include: (1) meeting with gas utilities in their states, (2) issuing news releases and meeting with media representatives to explain and publicize the problem, (3) educating the public about what to expect in terms of gas prices and bills, (4) reviewing the gas utilities' purchased gas adjustments (PGAs), (5) conducting hearings on high gas prices and mitigation alternatives, and (6) holding public forums. With regard to consumer complaints, PUCs will generally carry out normal procedures with their consumer affairs staff to be educated on the issues.

Many gas utilities are publicizing the fact that gas consumers will see higher gas bills this coming heating season. Some utilities have issued press releases, placed bill inserts or letters in customer bills, provided information on their websites, and worked with their local media in writing articles and giving interviews for radio and television. The American Gas Association (AGA) has distributed to state commissions and the news media, among others, a briefing packet on high gas prices.

Perhaps more than anything, state PUCs and gas utilities are working to avoid the situation where customers become outraged over the hardship suffered because of higher gas bills. The primary mechanism undertaken by both commissions and gas utilities has been the dissemination of information warning consumers about anticipated events. In terms of mitigation approaches, it seems that PUCs will largely rely on traditional approaches. For example, consumers will be reminded to take advantage of currently available mechanisms such as budget billing plans and energy assistance programs.

Q: How do higher gas costs for utilities lead to higher prices for consumers?

A: Throughout their history, PUCs have extensively applied the principle that prices charged to consumers should be based on the gas utility's cost of service. This pricing philosophy is consistent with the prevailing regulatory practice of requiring consumers to be responsible for those costs incurred by a gas utility to satisfy their demand. Under most commissions' practices, only those costs that are considered prudent and reasonable – i.e., reflective of efficient utility management – are allowed to be recovered from consumers.

In the case of purchased gas, a gas utility typically buys and resells gas without earning a profit. In the current situation, higher gas prices are the result of price escalation at the wellhead for what is called "commodity gas." In most states, commodity gas costs are recovered outside the forum of a general rate case through what is commonly called the "purchased gas adjustment" mechanism or PGA. PGAs, which grew rapidly in popularity after the 1973 oil price shock, were instituted to allow a gas utility to recover its commodity gas costs (plus, in many states, interstate pipeline costs) in a timely fashion that averts financial instability for a gas utility while avoiding the cost of filing a complete rate case. In some states, changes in commodity gas costs get passed-through to consumers on a monthly basis, while in other states pass-through occurs on a quarterly, seasonal, semi-annual, annual or on an as-needed basis.

During 1999, for the U.S. as a whole, commodity gas costs represented about 30 percent of the total gas bill of residential customers. This means, for example, if the commodity gas cost of a utility increases by 40 percent, the total gas bill would increase on average by 12 percent (40 percent x 30 percent). Of course, this assumes PUCs allow the entire increase to be recovered from consumers. It should be kept in mind the price of commodity gas was deregulated by Congress starting in 1978, with PUCs and federal regulators having no jurisdiction over price; rather, the market sets the price largely on the basis of actual and expected supply and demand conditions.

Q: What can consumers do to cope with, and prepare for, higher gas prices?

A: Higher gas prices inevitably translate into higher gas bills. While gas prices have increased over the last several months, most consumers have not yet felt the impact because of low consumption during the non-winter period. Consumers will begin to experience the brunt of high gas prices during this coming heating season. Especially if this winter turns out to be colder than normal, consumers' gas bills will be significantly higher than what they were over the last several winters.

Consumers can choose among various actions to reduce their winter gas bills:

- One option is to conserve on the use of natural gas. Lower consumption lessens the burden of higher gas prices by reducing the amount of dollars flowing from consumers for a given increase in price. In most markets, consumers cushion the impact of higher prices by cutting back on consumption. For example, the doubling of electricity prices this summer in San Diego caused people to reduce use of their home air conditioners in order to curtail electricity consumption. Although some conservation efforts may be costly, and prohibitively expensive for some consumers, others can be achieved at low cost.
- A second option for consumers is to take advantage of bill payment plans, if offered by their local gas utility, to even out their monthly gas bills. These plans allow consumers to reduce their winter gas bills by paying more during other times of the year when gas consumption is typically much lower.
- A third option is for consumers who qualify to take advantage of energy assistance programs administered by different levels of government. For example, several states have low-income programs that subsidize poor households who otherwise would find it difficult to pay their gas bills, especially during the winter months. As the gap between unsubsidized gas bills and "affordable" gas bills increases, it becomes more imperative for low-income households to avail themselves of assistance programs.
- A fourth option is for consumers to familiarize themselves with their gas utility's disconnection policies. (According to a recent survey conducted by NARUC, most state commissions do not have formal rules or policies prohibiting service disconnections during the winter heating season.) Consumers should also contact their utility prior to reaching the point of disconnection so payment plans can be worked out or funds from assistance programs can be made available.

Q: What assistance will be available to low-income households?

A: One major source of assistance is the Low Income Home Energy Assistance Program (LIHEAP). This program is a block grant program administered by the Department of Health and Human Services (HHS). Congress established the formula for distributing funds to the states based on each state's weather and low-income population. All fifty states and the District of Columbia receive LIHEAP grants each year.

To be eligible for a LIHEAP grant, a household's income must not exceed the greater of 150 percent of the poverty level or 60 percent of the state median income. The highest level of LIHEAP assistance goes to those households with the lowest incomes and highest energy costs or needs in relation to income, taking into account family size. States and other grantees must conduct outreach activities designed to ensure eligible households, especially households with elderly or disabled individuals and households with high home energy burdens, are made aware this assistance is available. States and other grantees also must coordinate their LIHEAP programs with similar and related programs.

LIHEAP funds may be made directly to eligible households or to home energy suppliers who agree to comply with the provisions of the statute. At the grantee's option, assistance may take the form of cash, vouchers, or payments to third parties, such as utility companies or fuel dealers, on behalf of eligible households. Owners and renters must be treated equitably.

The LIHEAP statute authorizes a contingency fund of up to \$600 million. The President may release these funds to assist with the home energy needs arising from an emergency situation. In the past, the President generally has released these funds in response to emergency situations arising from extreme weather conditions or energy price increases. Generally, these funds have been distributed based on the degree to which specific states are affected by the weather or energy price situation that led to the release of contingency funds.

Other sources of assistance for qualified low-income households include programs that are either state-mandated or implemented by a utility on a voluntary basis. Examples of such programs are demand side management programs, state-required or company-specific assistance programs, and customer assistance programs. Numerous demand side programs operate around the country. In Minnesota, for example, all jurisdictional gas utilities are required to spend at least 0.5 percent of their gross operating revenues on conservation improvement programs such as weather audits, weatherization and rebates towards the purchase of energy efficient appliances. PUCs can work closely with utilities and low-income groups to ensure the availability of these programs is effectively communicated to the public prior to the onset of winter.

An example of a state-required, company-specific program is the Ohio Percentage of Income Program or "PIP," as it is frequently called. Under this program, a qualifying consumer in Ohio pays the gas utility a fixed percentage of his or her income for utility service, regardless of usage. Some programs may require the consumer to make a monthly contribution on any arrearage. The Ohio PIP programs are individually administered by each gas utility and funded by mandatory contributions from the utilities' customers.

An example of a customer assistance program or "CAP," is a program currently operated by a Kentucky gas utility funded by a mandatory contribution from residential customers. The customer funding is matched, dollar for dollar, by the company's shareholders. The funding is capped at 1.5 cents per Mcf or about \$1.50 per customer per year. The program is administered by a local low-income advocacy organization.

Other innovative programs are found in Alabama and Illinois. In Alabama, there is a state-wide program called "Project Share." Through this program, utility customers can voluntarily contribute one dollar a month to the Project Share fund. The fund is administered by the American Red Cross, which uses the money to pay utility bills of customers in need.

In Illinois, there is a voluntary program known as "Hands-Up." This program is a community/utility partnership that allows customers to work off their utility bills at a rate of \$10 per hour by providing labor for community needs or by attending certain classes.

In sum, PUCs can play a proactive role in promoting assistance programs. Specifically, they can work closely with utilities and fund administrators to ensure the public is aware of the availability of funds from assistance programs and who should be contacted if the consumer is unable to pay his or her utility bill.

Q: In the event of a full-scale energy emergency, how will the federal government coordinate its response?

A: The U.S. Department of Energy (Department) created the Office of Energy Emergencies (OEE) in response to the energy price surge of winter 1999-2000 and in anticipation of summer electricity outages.

OEE will serve as the Department's lead office coordinating emergency preparedness and response activities related to the Nation's energy supply and distribution systems. OEE will work with other DOE offices through a newly created Energy Emergencies Task Force, which includes staff from each of the DOE energy-related offices. OEE will develop—with State energy agencies and program elements throughout the Department—the capability to provide early warnings and assessments of developing energy emergency situations and will work to ensure an integrated and coordinated Departmental response to all energy emergencies.

Additional questions about the Office of Energy Emergencies can be directed to (202) 586-5316.

Q: What options should state PUCs consider in addressing the high gas-price problem?

A: State PUCs should first consider developing an effective and comprehensive communication strategy to use within their own agency and other state agencies, with elected officials, with utilities, with typical intervenor groups and with local social service agencies and low-income groups. As part of a comprehensive communication strategy, states may also want to develop fact sheets or brochures explaining the potential for price

increases and the reasons for these increases; this information can be distributed in response to questions and complaints about high gas bills. State PUCs might also consider issuing press releases and meeting with the media. In addition, state PUCs may want to train personnel in their consumer services division to respond to questions about wholesale gas prices and wholesale gas markets and the ability of state commissions to regulate those markets.

State PUCs and the gas companies are generally planning to rely on traditional consumer protection practices and assistance mechanisms. States should review and perhaps modify these practices, which fall into four categories:

- The first is cold weather disconnection rules, where gas utilities are prohibited from cutting off service to customers under specified weather conditions. Existing service disconnection policies should be reviewed and state PUCs may want to consider precluding disconnection during the winter heating season. States that do not have cold weather disconnection policies or rules may want to consider whether emergency provisions are needed, and if so, whether this is possible under existing state laws.
- The second is levelized/budget billing plans, where customers can avoid unusually high gas bills during the heating season by paying more during other times of the year. If they have the legal authority, State PUCs may want to consider requiring utilities to offer budget payment plans if utilities are not required to do so. The availability of various payment options should be communicated to consumers. As a variation of conventional levelized/budget billing plans, commissions may want to encourage gas utilities to extend the arrearage repayment period for consumers. Such plans typically allow gas consumers to spread payments over the course of the year. One alternative is to stretch out the period over which consumers have to compensate the utility for shortfalls during the winter heating season. For example, instead of requiring consumers to make full payment by the end of the twelve-month cycle, they may be given a "grace" period of several months before full payment is due.
- The third is referrals of low-income households to energy assistance programs and local community agencies. Consideration should be given to approving emergency customer assistance programs (such as "PIP" or "CAP" programs) on at least a pilot basis, if none exist; in addition, regulators should identify those agencies and organizations that can assist consumers with payment problems. PUCs should communicate information regarding special assistance programs such as "PIP" and "CAP" programs. States may also want to consider innovative assistance programs, such as those in Alabama, Illinois and Kentucky and discussed earlier.
- The fourth is assistance, if available, for energy weatherization and other conservation programs to buffer the impact of high gas prices. In some states, this assistance is provided directly from utilities, and in other states it is provided by local community service agencies. States may want to consider encouraging or requiring the gas utilities in their states to expand, re-instate, or develop gas demand-side management energy conservation programs. In addition, states may want to communicate with consumers about the value of energy conservation; for example, reducing the thermostat from 72 degrees to 68 degrees, the potential benefits of energy efficient appliances, and techniques for winterizing homes.

With commissions more aggressively promoting energy conservation during this winter through education programs and other forms of information dissemination, consumers

can consequently become better aware of opportunities to reduce their consumption of natural gas during the heating season. Evidence around the country points to the fact that many gas consumers are not exploiting all conservation actions that can reduce their gas bills. Additional conservation efforts may be able to pay large dividends for many gas consumers. The U.S. Department of Energy has identified various actions that homeowners can take to conserve on their use of energy for heating. This information is published in the Department's brochures and on its websites at www.energy.gov and www.eren.doe.gov.

Other options may be available to PUCs, although these may require major commission actions or may not be feasible because of legal, institutional and other restrictions. All of these options have the objective of lowering consumers' gas bills during the heating season when, for most consumers, gas consumption is at its peak level.

One option calls for PUCs to review and closely monitor gas costs passed through to consumers. States may want to consider whether (1) the gas cost recovery mechanism in their state is working effectively in balancing the objectives of low-gas costs and low price risk, and (2) innovative regulatory tools such as performance-based or incentive gas cost recovery plans, or innovative financial mechanisms such as weather risk insurance, should be encouraged. States may also want to consider allowing utilities to defer a portion of their gas costs above a certain threshold for recovery in less heat sensitive months. As an example, a PUC may want to consider freezing the price of commodity gas that can be recovered from consumers, at some pre-specified level, during the winter months. To avert financial difficulties for a gas utility, the commission may allow the utility to recover any negative balances at a later time. In effect, the cap would smooth out the utility's recovery of fluctuating gas costs over the course of a year.

Another option, in States with unbundled services or gas choice programs, is for the PUC to consider providing consumers with additional information regarding the marketplace and publicizing the importance for consumers to understand and choose a supplier that has a pricing plan that meets their needs. The evidence for existing gas customer choice programs to date indicates consumers can reduce their gas bills by participating in choice programs. Although average savings have been small, relative to the total delivered price of gas, they have contributed toward holding down gas costs for consumers. As an additional benefit, many gas marketers offer fixed price options. These arrangements allow consumers to take gas over a one- or two-year period at an agreed-upon price that remains constant. While consumers in most situations pay a premium for avoiding price risk, they benefit from knowing their gas costs (exclusive of distribution charges) will not change.

Lastly, PUCs may want to consider authorizing their LDCs to implement weather-normalization adjustment mechanisms to help moderate gas bills during the winter months. For example, when winter weather is colder than normal, this mechanism would automatically reduce the total cost of gas charged to consumers. Of course, weather normalization can be a two-edge sword for consumers – a warm winter would raise the total cost of gas charged to consumers. Perhaps most important, weather normalization could mitigate the worst-case scenario where consumers pay extremely high gas bills during the coming winter season because of both high gas prices and high gas consumption.

Q: Why are natural gas prices high?

A: The average wellhead price for gas (i.e., the cost of the gas itself, excluding transmission and distribution charges) was as low as \$1.69 per Mcf in September 1998; in June 2000 prices reached \$3.58 per Mcf. This increase is not the result of a shortage caused by limited North American gas resources, which would be a long-term problem. Rather, it reflects a competitive-market reaction as supply has lagged in its response to a recent surge in demand. Relatively low natural gas prices throughout the mid-to-late 1990s led to a curtailment in drilling for natural gas. As prices began to creep up in 2000, gas exploration and production activity increased. However, increased drilling activity for gas has yet to be fully reflected in the quantity of additional supplies required to affect prices, due to lag-time from when drilling takes place to the point at which more production is placed on the market.

Gas demand in the past few years has increased for a number of reasons, chief among them the strong overall economy. In recent years we have seen the start of operations at new gas-fired electric-power generating units and increased new home construction, which promotes the use of natural gas for heating and cooking.

This combination of increased demand and fairly flat supply will likely cause natural gas prices to be much higher than last year through this winter. In addition, colder-than-normal temperatures could cause prices to go even higher before declining after the heating season.

Q: Is there additional information available that addresses the natural gas supply, demand and price situation?

A: The Energy Information Administration (EIA) has a number of products that provide useful information on current natural gas markets. Two weekly summary products are the *Natural Gas Weekly Market Update* and the *U.S. Natural Gas Fact Sheet*, released on Monday and Thursday of each week, respectively.

Products in development include two that will be released shortly—a brochure entitled, "Why Are Natural Gas Prices High? What are the Impacts on the Consumer?," and a feature article entitled "Status of Natural Gas Pipeline System Capacity Entering the 2000-2001 Heating Season."

These products, along with EIA's weekly, monthly, and annual natural gas data, are or will be available on the EIA website at www.eia.doe.gov/oil_gas/natural_gas/nat_frame.html.


[Home](#) | [Site Map](#) | [Contact AGA](#) | [Member Login](#) | [Get a Part 101](#)


[Advocacy Issues](#) | [Members Only](#) | [State & Studies](#) | [Events](#) | [Newsroom](#) | [Public Info](#) | [Publications](#) | [About AGA](#)

January 4, 2001

Frequently Asked Questions

[AGA Issue Brief on Natural Gas Prices](#)

Frequently Asked Questions

Published: 7/18/00
[Email your questions to us](#)

Q: Why are natural gas prices rising? Is this only occurring in certain areas, or nationwide?

[Energy Conservation Tips](#)

A: The price of natural gas is increasing throughout the United States. Like other commodities, such as wheat and orange juice, natural gas prices rise and fall as supply and demand change. Supplies of natural gas are tight temporarily, which has led to higher prices. In a nutshell, here's what's been happening recently:

[Frequently Asked Questions](#)
[Natural Gas Council Core Principles & Key Messages](#)

- **Demand:** The United States has enjoyed a strong economy for the past 7-8 years. As a result, demand for all forms of energy has increased. About 40 percent of the natural gas consumed in the U.S. is consumed by factories and other industrial customers, so on-going economic growth continues to push natural gas demand. Relatively high oil prices have kept many factories and electricity generators from switching from natural gas to fuel oil. While only 15 percent of the electricity generated in the U.S. comes from natural gas, in the future an increasing amount of electricity will come from natural gas because it burns more cleanly than other fossil fuels.
- **Supply (exploration and production):** Almost all of the natural gas consumed in the United States is produced in the U.S. During the past few years (1998 and 1999), the price that producers could get for natural gas was fairly low. This contributed to a decline in the number of rigs drilling for natural gas. This situation has reversed, and more rigs are drilling for natural gas than at any time during the last 15 years.
- **Storage:** Many natural gas utilities purchase gas and store it underground for use during times of strong customer demand. This year, because the price of natural gas was higher in the spring and early summer than it was last year, some utilities had to pay more for their gas supplies. Natural gas utilities are confident that the level of natural gas in storage will be adequate to meet customers' needs next winter, and strive to purchase those supplies at the best possible price.
- **Imports:** It is very exciting that additional pipeline capacity is becoming available to bring additional supplies of natural gas to the U.S. from Canada. During the last 10 years, the amount of natural gas imported from Canada has doubled, and now makes up about 13 percent of the natural gas consumed in the U.S.

[Natural Gas Facts](#)
[Natural Gas Prices/Natural Gas What You Should Know](#)
[Natural Gas Supply Fundamentals](#)
[Recent Articles on Natural Gas Prices](#)
[Sample Ads by Washington Gas](#)
[Transcript of AGA Teleconference on Natural Gas Prices](#)
[Up-to-date Commodity Price Information](#)
[Winter Weather Outlook](#)

Q: Is the natural gas price increase temporary, or permanent?

A: Natural gas producers have boosted their exploration and production activities, so it is anticipated that natural gas prices will moderate when fresh supplies come into the market. Typically, this could take six, 12 or 18 months. It's possible that natural gas customers will pay more until the end of next winter (2000-2001).

Weather is another important factor in determining how much a customer pays each month for natural gas service. When the weather is cold, residential customers use

month for natural gas service. When the weather is cold, residential customers use more natural gas to keep their homes warm – so their gas bills are higher, no matter how much each unit of natural gas costs.

Q: Is there a shortage of natural gas?

A: No! Although supplies of natural gas are tight temporarily, the United States has abundant supplies of natural gas, thanks to a large and diverse resource base. In fact, almost all of the natural gas used in our country comes from the United States and Canada. This is a sharp contrast to heating oil and other petroleum products, more than half of which must be imported to the U.S. from foreign countries.

Q: How do utilities acquire natural gas supplies?

A: A typical local natural gas utility purchases natural gas from North American producers, then resells it to customers without adding any profit. They work hard to obtain supplies at the best possible price for its customers.

Many utilities have standing contracts with several different pipeline suppliers, and can also purchase natural gas on the open ("spot") market. In addition, many utilities store natural gas underground for use during periods of strong demand.

In about 25 states, some or all residential natural gas customers have the option of purchasing their natural gas from non-utility suppliers, often called "marketers." Those companies, too, are trying to get a good price – but they often cannot guarantee that they can get a better price than the local utility.

Q: Why doesn't the utility just absorb the cost increases, instead of passing them along to customers?

A: Natural gas utilities do their best to anticipate changes in natural gas costs and to structure their rates accordingly. Extreme weather conditions or volatility in the commodity price of natural gas can create unexpected shifts in the costs that customers pay. Although residential customers are insulated from rapid ups and downs in the price of natural gas by the purchasing practices of local utilities, bill-payment options and state oversight, these customers must ultimately pay for what they use. Remember – natural gas utilities do not add a penny to the price of natural gas they buy for residential customers; they simply pass the costs through.

Some utilities use financial techniques -- such as weather risk insurance -- to help control the price of gas for their customers.

Q: What can customers do?

A: Customers have several options:

- **Conserve energy.** During the summer months, homeowners may wish to arrange for an inspection of their home appliances – especially heating and water-heating equipment – to make sure they work efficiently and safely. Some may also want to get a home energy audit, which will pinpoint ways to make the home more energy-efficient (such as adding storm windows or sealing drafty doors).
- **Replace aging appliances.** Consumers who have aging natural gas furnaces and water heaters should consider replacing them with new units, which use fuel more efficiently. High-efficiency units cost more to buy, but they save money over the long run. For example, by buying a high-efficiency (93 percent-efficient) natural gas furnace instead of a conventional unit (78 percent efficient), an average homeowner could save \$135 per year in energy bills – that's \$1,350 over the 10-year life of the equipment. (SOURCE: American Gas Association press release, Feb. 14, 2000.)

- **Check out bill-payment options.** Most utilities offer easy-payment plans, which help to even out the amount of each month's natural gas bill. This may be particularly helpful to individuals with fixed incomes.
- **Request special assistance.** Customers who truly cannot afford to pay some or all of their natural gas bills should contact their local natural gas distribution company for information about the Low Income Home Energy Assistance Program (LIHEAP), fuel fund assistance and other programs.

[[About AGA](#) | [Advocacy Issues](#) | [AGA Convention News](#) | [Events](#) | [Issue Focus](#) | [Members Only](#) | [Newsroom](#) | [Public Info](#) | [Publications](#) | [Stats & Studies](#)]

[[Contact AGA](#) | [Password FAQ](#) | [Site Map](#)]

[[Legal Notices and Copyright](#) | a service of digitalNATION]



Policy Analysis Issues

Policy Analysis Group
401 H. Capitol St., NW
Washington, DC 20001
www.aga.org

IB 2000-04 (Update)

November 6, 2000

THE POTENTIAL IMPACT OF HIGHER NATURAL GAS PRICES ON RESIDENTIAL CUSTOMERS

Introduction

During the first part of 2000, the price of natural gas in the spot and futures markets increased significantly. Because many gas suppliers have purchased some gas for consumption this winter at higher prices, it is likely that most consumers will pay significantly more for each unit of natural gas this winter than they did last winter.

A number of factors have influenced the price of gas in the marketplace:

- Natural Gas Production** -- Low wellhead prices in 1998 and into 1999 contributed to a decline in the number of working rigs drilling for natural gas. The situation has reversed and rig counts are now well above the levels of the same period last year. However, due to the historic time lag between increased drilling activity and a price response, it is unlikely that this increased drilling will have a significant impact on consumer bills this winter.
- Natural Gas Underground Storage** -- Although natural gas storage levels have been significantly lower this year than at the same time last year, they are only slightly lower than the average for the past five years. All indications are that they will be up to targeted volumes by the onset of the winter.
- Natural Gas Imports** -- Natural gas imports from Canada have grown well over 100 percent in the last decade, currently accounting for about 13 percent of U.S. gas consumption. Canadian imports are expected to continue to grow incrementally with U.S. demand growth.

Natural Gas Demand -- During the last decade demand for natural gas has increased in all sectors at an average rate of 2.8 percent per year. Forty percent of the natural gas consumed in the U.S. is used by factories and other industrial customers (including cogenerators), so the ongoing economic growth continues to push natural gas demand. Gas-fired electricity generation from electric utility plants and independent power producers is a smaller (approximately 15 percent) but faster growing component of gas demand. Data is not yet available to quantify the magnitude of the impact of the electricity generation market on current natural gas demand. Relatively high oil prices have kept many factories and electricity generators from switching from natural gas to fuel oil.

Impact of Higher Gas Prices on Consumer Bills

In understanding the possible impact of these current natural gas prices, it is important to keep the following in mind: weather is a key variable affecting residential gas bills during the winter heating season. Thus, a return to normal weather (from the mild levels of the winter of 1999-2000) -- even if natural gas prices were unchanged from their relatively low levels last year -- would increase consumers' heating bills. Consumers should expect significantly higher natural gas bills if the present increase in gas commodity prices combines with higher gas consumption due to colder (but normal) weather.

Almost all local natural gas utilities do not add any profit margin to the price they pay for each unit of natural gas. Their customers normally do not pay any more for gas than the utilities do. On average, the cost of gas makes up about one-third to one-half of a residential customer's bill. Therefore, an increase in the cost of the gas itself produces a lower overall percentage increase in the customer's total bill. The remainder of the customer's bill for service includes amounts for the transmission and distribution of gas, system maintenance, safety and inspection programs, customer service, metering, billing and other costs. It should be noted that state public service commissions regulate the prices that local natural gas utilities charge.

In many states purchased gas costs for gas utilities are averaged over a season or even a year and passed on to consumers as an average cost of gas. This does not mean that the purchase price for a gas utility's gas supplies cannot increase unexpectedly. What it does mean is that a particular spike in gas prices for a day or week or even months may be mitigated by the averaging of costs over the year.

Consumers should not attempt to estimate their monthly natural gas bills based on fluctuations in the daily "spot" prices of natural gas. Daily spot prices are not indicative of average gas costs to consumers because only a portion of all gas supplies (particularly during seasonal peaks) is purchased in the daily market. The majority of supplies are purchased under monthly, multi-month or even multi-year contracts. Some prices in these agreements are tied to various indices, while others are fixed.

Gas utilities use a portfolio approach for winter heating season and other gas purchases. Many companies employ a pricing strategy that includes a *basket of indices* from first-of-the-month to multi-month fixed price schedules. During the 1999-2000 winter heating season peak-day, companies in AGA's annual Winter Heating Season Survey indicated that over 90 percent of their gas purchases were made in a form other than daily spot purchases and were, therefore, not subjected directly to daily spot price volatility.

Source: *Monthly Energy Review*, Energy Information Administration, U.S. Department of Energy.

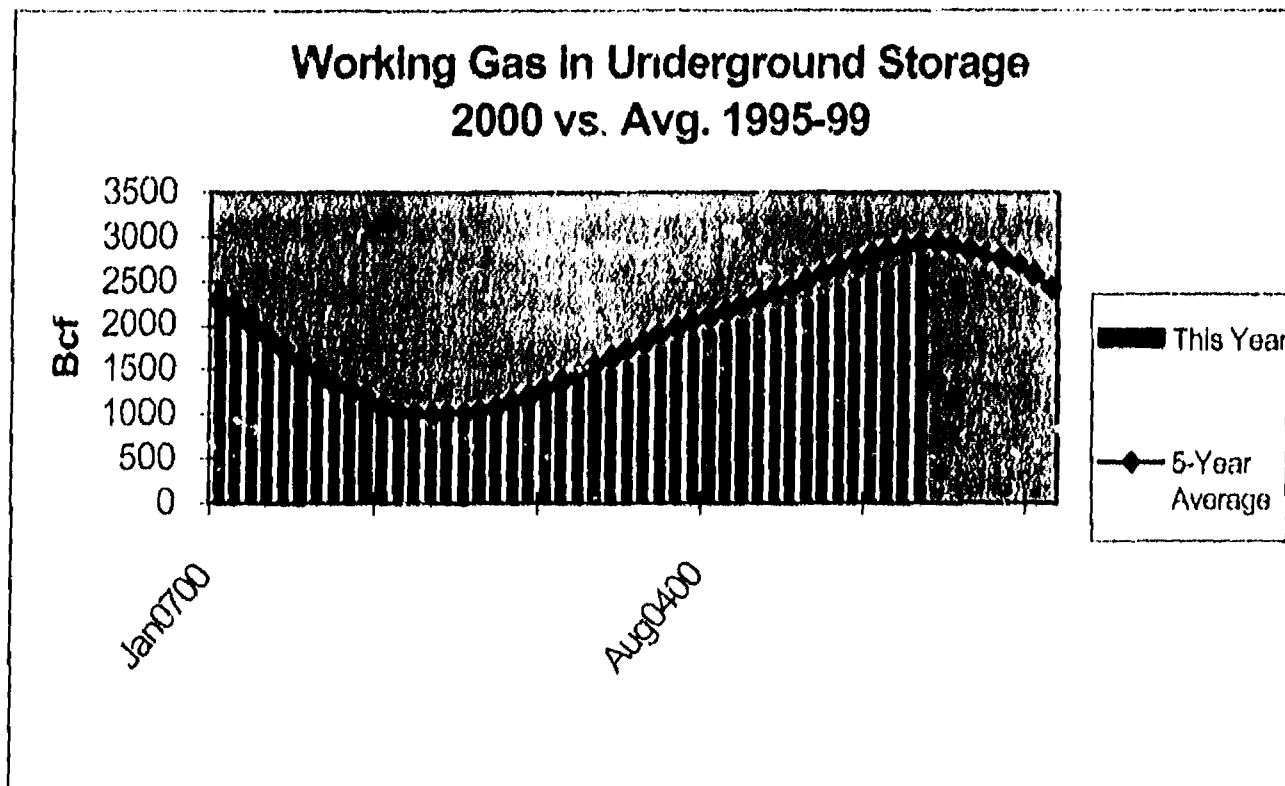
Natural Gas Production

Almost all (87 percent) of the natural gas used in the United States is produced in the United States. Most of the remainder (about 13 percent) comes from Canada. Natural gas production in the U.S. grew 10 percent from 1990 to year-end 1998 (17.2 Tcf annually in 1990 to 18.9 Tcf in 1998). Imports of natural gas to the U.S. from Canada grew over 130 percent during the same time period, from 1.4 Tcf in 1990 to 3.3 Tcf in 1998.

According to the Department of Energy's Energy Information Administration (EIA) the last year-to-year U.S. production increase came in 1998 (0.1 percent greater than 1997). Natural gas production in 1998 had been down 0.3 percent from 1997. Year-to-date estimates through August 2000 (*Natural Gas Monthly*, September 2000) show domestic gas production to be on pace with that of 1998 and perhaps set to exceed that productivity, as increased drilling fundamentals impact the supply market.

According to EIA, average wellhead prices were below \$2.00 per Mcf (thousand cubic feet) for nine straight months, August 1998-April 1999. As a result, by April 1999 most production indicators were very low -- that is, rigs drilling for gas were down to 371 monthly average, while gas well completions were only 656 for the month. Beginning May 1999, prices climbed above \$2.00 per Mcf and have been there since. In response to the wellhead price increase, natural gas exploration and production have improved dramatically. (See Figure 2 - Gas Directed Drilling Activity and Crude Oil and Gas Prices.) By October 1999 (after about five months of gas prices above \$2.00), more than 600 rigs were drilling for natural gas -- a more than a 60 percent increase from five months earlier -- and have essentially remained at that level or higher. Gas well completions also increased and have been greater than 1,000 per month since October 1999 (a 30+ percent increase).

These increases in drilling indicators point to an expectation that domestic production capability will remain strong and resilient in the foreseeable future and that price signals in the marketplace will encourage additional drilling, which will in turn produce downward pressure on prices over time. Rig counts attributable to gas-directed drilling today are at the highest level since 1985 (810 gas rigs in September 2000). However, historic experience indicates that there is a time lag between increased drilling and a significant price response. Therefore, price



Natural Gas Imports

Recent natural gas imports from Canada have exceeded 3 trillion cubic feet (Tcf) for two consecutive years and currently account for about 13 percent of the gas consumed in the U.S. This trend is expected to continue with Canadian imports growing incrementally with U.S. demand growth.

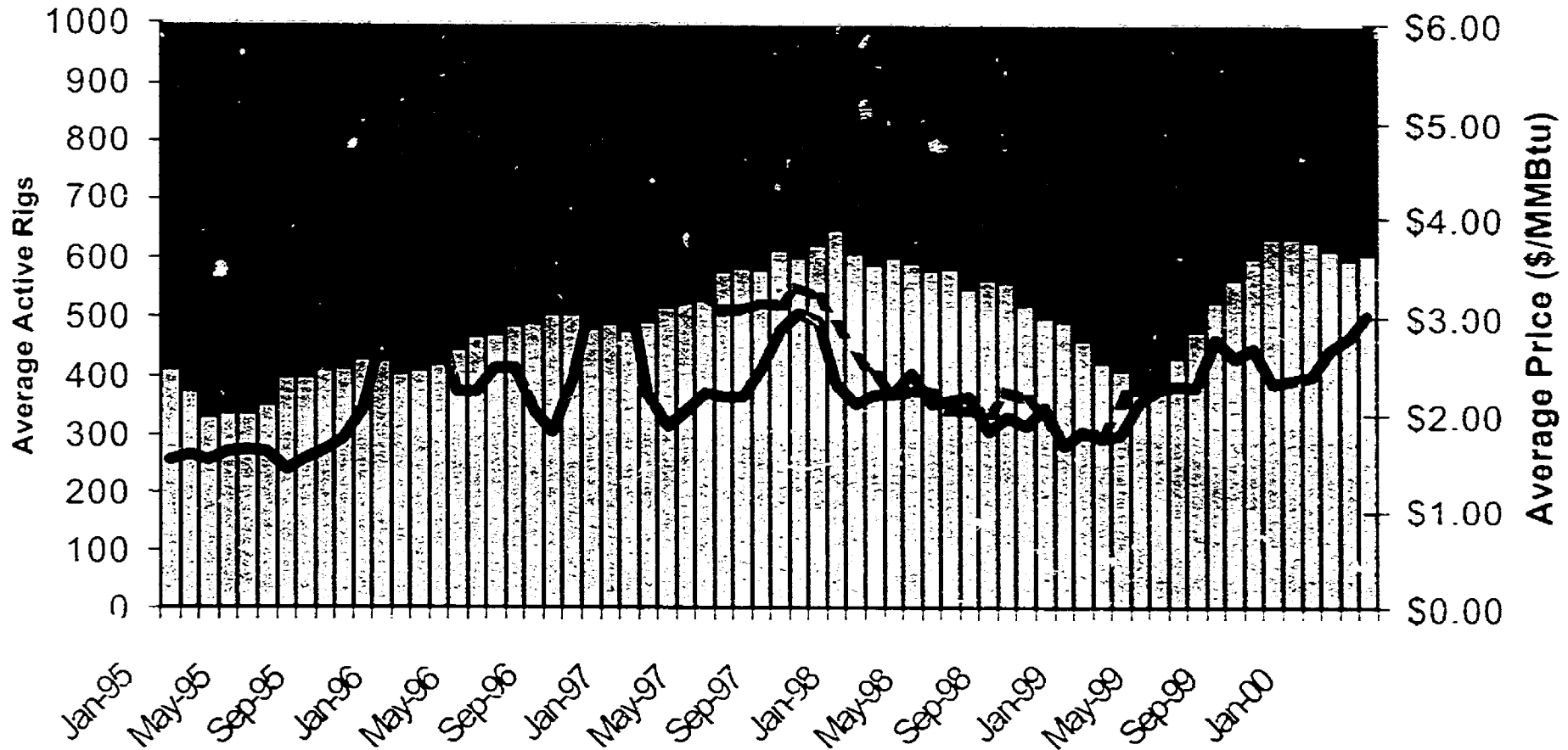
Recent additions to pipeline capacity moving Canadian gas to U.S. markets has added supply flexibility for U.S. consumers. The Northern Border Expansion, production from Sable Island (offshore eastern Canada) and the expectation that new gas supplies will begin flowing to Midwest markets through the Alliance pipeline in mid-November 2000 are representative of the new supply additions.

Conclusion: Natural gas is a clean, safe, efficient and reliable fuel, which is why the market is demanding natural gas, and why demand from all customer sectors is increasing. Recent fluctuations in natural gas prices indicate that market forces are attempting to balance supply and demand. Local natural gas utilities will have adequate supplies of natural gas to meet customer needs this winter, although consumers will pay more for natural gas than they did last year. However, it is precisely these price signals that point to increased drilling activity and the likelihood that gas acquisition costs are expected to moderate as new supplies come to market.

FIGURE 2

Gas Directed Drilling Activity and Crude Oil and Gas Prices

Source: Energy and Environmental Analysis



Rigs Drilling for Gas
 Average Henry Hub Spot Price
 Average U.S. Cr



HB 1008

Rail-roads

H.B. 1008

Presented by: Jim Peterson
Marketing Director
North Dakota Wheat Commission

Before: House Appropriations Committee
Government Operations Division
Representative Rex Byerly, Chairman

Date: January 15, 2001

TESTIMONY

Chairman Byerly and committee members, my name is Jim Peterson. I am the Marketing Director for the North Dakota Wheat Commission.

I am here to testify in support of the supplemental \$100,000 funding request of the Public Service Commission that would be used to pursue relief from monopolistic railroad practices.

4023 State Street
Bismarck, ND 58503-0690

Tel: 701/328-5111

Fax: 701/328-5115
e-mail: ndwheat@ndwheat.com
web site: <http://www.ndwheat.com>

Rail issues have always been important to the North Dakota Wheat Commission since our transportation options are limited and our producers pay some of the highest rail rates in the country. This not only keeps our producers from receiving the full export value for their products but threatens our ability to remain price competitive in an increasingly competitive global environment.

At the North Dakota Wheat Commission, we work to ensure the wheat grown in our state is competitive on price, quality and service. Rail issues certainly impact price and service. Rail costs encompass the lion's share of the spread between farm-gate prices and domestic and export delivered values.

Lowering rail costs will not only allow producers to capture higher farm-gate returns but a greater share of the export value as well. It will also ensure our producers remain competitive with producers in other parts of the U.S. and internationally.

North Dakota wheat producers have built a reputation for high-quality, specialty wheat. Customers have been willing to pay premiums for this wheat but producers have not been able to achieve the full value for this premium due to the inequitable rail rates charged by the railroads. Although railroads will claim the real costs of transportation have come down since deregulation, North Dakota producers continue to pay more than their fair share.

As Mr. Mielke has testified, recent changes in federal rules regarding rate complaint matters may make it easier to pursue and win a rate case. The North Dakota Wheat Commission has worked jointly with the Public Service Commission, the North Dakota Grain Dealers and N.D. farm and commodity groups on rail issues since rates and service impact all commodities. We have explored the possibilities of a rate case with these groups but realized that some preliminary study and strategic planning would be critical.

The time seems to be opportune to pursue some of that work. We believe the supplemental funding request of the Public Service Commission would be a strong starting point and urge you to consider including the request in H.B. 1008.

Thank you for your time. Mr. Chairman, I would be happy to respond to any questions the committee may have.

NORTH DAKOTA GRAIN DEALERS ASSOCIATION

STEVEN D. STREGE, Executive Vice President
CHERYL WELLE, Executive Assistant
CONNIE J. EIER, Administrative Assistant
Ph: 701-236-4184, Fax: 701-236-1020
118 Broadway, 606 Black Bldg., Fargo, ND 58102

LARRY PHILLIPS, Safety & Health Director
Ph: 701-251-9112, Fax: 701-251-1758
P.O. Box 6065, Jamestown, ND 58402-6065

STU LETCHER, Safety Specialist
Ph: 701-543-3110, Fax: 701-543-4183
P.O. Box 72, Hemon, ND 58240

TESTIMONY ON HB 1008
HOUSE APPROPRIATIONS COMMITTEE, GOVERNMENT OPERATIONS DIVISION
REPRESENTATIVE REX BYERLY, CHAIRMAN
JANUARY 15, 2001 - 2:00 P.M.

Good afternoon Mr. Chairman and members of the Committee. My name is Mike McNamee. I am here representing the North Dakota Grain Dealers Association, of which I am Second Vice President. I manage the Minot Farmers Elevator with headquarters at Voltaire, and several other stations in the surrounding area.

I'm going to do something different today. I will offer YOU money. But you'll have to wait until I read the rest of this to hear about that part.

I probably could have mailed you our testimony. But I made the trip today to emphasize our Association's strong support for adding to the PSC's budget the requested \$100,000 in general fund money to seek relief from, as the PSC calls it, monopolistic railroad practices. Another way of putting it is rate and service abuses.

North Dakota has been beholden to railroads since Territorial days. Since the railroads have consolidated and become fewer but larger, this situation has gotten worse. We pay the highest shipping rates of anyone in the United States on grain both in absolute terms and in what is called the revenue to variable cost ratio.

In my area of the state we are the break point between shipping west or east. Nearly one-third of the delivered value of wheat from my elevator shipped to the West Coast is the railroad rate.

Getting the highest rate for the best service is one thing, but paying the highest rate for inadequate service is another. North Dakota does not have effective transportation alternatives. The closest water transportation is more than 200 miles away from our eastern border in Duluth-Superior or the Twin Cities. Some trucking works there. But moving grain by truck to the West Coast is not economical.

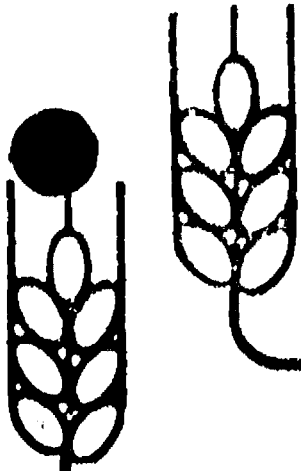
Most of us in the grain business have only one railroad running behind our elevator. I'm one of the lucky ones because my main station is on the Canadian Pacific Railway mainline running southeast to northwest across the state. The Burlington Northern Santa Fe is much bigger, controls more origination points in the state, and seems to be less shipper-friendly. That railroad is now pushing its shuttle train program, which will have a serious adverse affect on the North Dakota grain eleva'or system, road system, and communities.

That railroad is now talking about another program called SCOOTs. The trains would be smaller, but only shuttle loaders of 104 cars of wheat and 110 cars of corn would be eligible to participate. This is the type of discriminatory practice we must fight.

Our Association has worked very closely with the Public Service Commission on transportation matters. We routinely file joint statements with the Surface Transportation Board and participate in hearings. Sometimes the Wheat Commission and Barley Council join us. Our commitment to this \$100,000 appropriation is strong. We will volunteer to put our money where our mouth is. If the \$100,000 is put into the PSC's budget the North Dakota Grain Dealers Association will commit an additional \$10,000 of its own funds to be used in addition to the \$100,000 used to pursue relief from monopolistic railroad practices.

In the 1997 session the North Dakota Grain Dealers Association supported legislation to increase license fees by \$100 per location so that another warehouse inspector could be hired. This was meant to keep the inspection frequency at a level sufficient to assist us in maintaining a clean industry. We took that responsibility seriously. We also take seriously this responsibility to challenge the railroads when necessary. We now ask you to put that \$100,000 into the PSC budget for that same reason.

I will try to respond to any questions.



NORTH DAKOTA GRAIN DEALERS ASSOCIATION

515 W. 1st St., Suite 200, Bismarck, ND 58501
Phone: 701-224-1111 Fax: 701-224-1112
E-mail: info@ndga.org Website: www.ndga.org

515 W. 1st St., Suite 200, Bismarck, ND 58501
Phone: 701-224-1111 Fax: 701-224-1112
E-mail: info@ndga.org Website: www.ndga.org

515 W. 1st St., Suite 200, Bismarck, ND 58501
Phone: 701-224-1111 Fax: 701-224-1112
E-mail: info@ndga.org Website: www.ndga.org

TESTIMONY ON HB 1008 SENATE APPROPRIATIONS COMMITTEE SENATOR DAVID NETHING, CHAIRMAN FEBRUARY 21, 2001 -- 8:30 A.M.

Good morning Mr. Chairman and members of the Committee. My name is Steve Strege. I am the Executive Vice President of the North Dakota Grain Dealers Association.

I'm going to do something different today, offer YOU money. But please listen to the rest of this before you hear about that part.

I'm here today to emphasize our Association's strong support for adding to the PSC's budget the requested extra general fund money to seek relief from, as the PSC calls it, monopolistic railroad practices. Another way of putting it is rate and service abuses. That original supplemental request was for \$100,000. The House gave \$33,000. PSC now asks for \$75,000 total. We will be so bold as to ask you for the entire \$100,000, and we'll put some money on the table too.

North Dakota has been beholden to railroads since Territorial days. Since the railroads have consolidated and become fewer but larger, this situation has gotten worse. We pay the highest shipping rates of anyone in the United States on grain both in absolute terms and in what is called the revenue to variable cost ratio.

Usually a north-south line through Minot and Bismarck is the break point between shipping west or east. Nearly one-third of the delivered value of wheat from this area shipped to the West Coast is the railroad rate.

Getting the highest rate for the best service is one thing, but paying the highest rate for inadequate service is another. North Dakota does not have effective transportation alternatives. The closest water transportation is more than 200 miles away from our eastern border in Duluth-Superior or the Twin Cities. Some trucking works there. But moving grain by truck to the West Coast is not economical.

Most grain elevators have only one railroad. The Burlington Northern Santa Fe is dominant in North Dakota, and is now pushing its shuttle train program, which will have a serious adverse affect on the North Dakota grain elevator system, road system, and communities.

That railroad is now talking about another program called SCOOTERS. The trains would be smaller, but only shuttle loaders of 104 cars of wheat and 110 cars of corn would be eligible to participate. This will put out of business some of the 52 and 54 car loaders who have spent millions of dollars over the past 15 years to make themselves and the railroad more efficient. This is the type of discriminatory practice we must fight.

Our Association has worked very closely with the Public Service Commission on transportation matters. We routinely file joint statements with the Surface Transportation Board and participate in hearings. Sometimes the Wheat Commission and Barley Council join us. Our

commitment to this \$100,000 appropriation program. We will volunteer to put our money where our mouth is. If the \$100,000 is put into the PSC's budget, the North Dakota Grain Dealers Association will commit an additional \$10,000 of its own funds to be used in addition to the \$100,000 used to pursue relief from monopolistic railroad practices.

In the 1997 session the North Dakota Grain Dealers Association supported legislation to increase license fees by \$100 per location so that another warehouse inspector could be hired. This was meant to keep the inspection frequency at a level sufficient to assist us in maintaining a clean industry. We took that responsibility seriously. We also take seriously this responsibility to challenge the railroads when necessary. We now ask you to put that \$100,000 into the PSC budget for that same reason.

At our convention last month here in Bismarck our delegates unanimously approved the following resolution of support for this money.

RESOLUTION ON PSC APPROPRIATION

WHEREAS most grain elevators have only one railroad to ship grain to market on, and
WHEREAS this railroad monopoly gives the railroad a dominating position on rate and service issues, and

WHEREAS North Dakota rail rates for grain are among the highest anywhere and are very profitable to the railroads, and

WHEREAS some railroad practices do not provide equitable treatment among shipment sizes, and

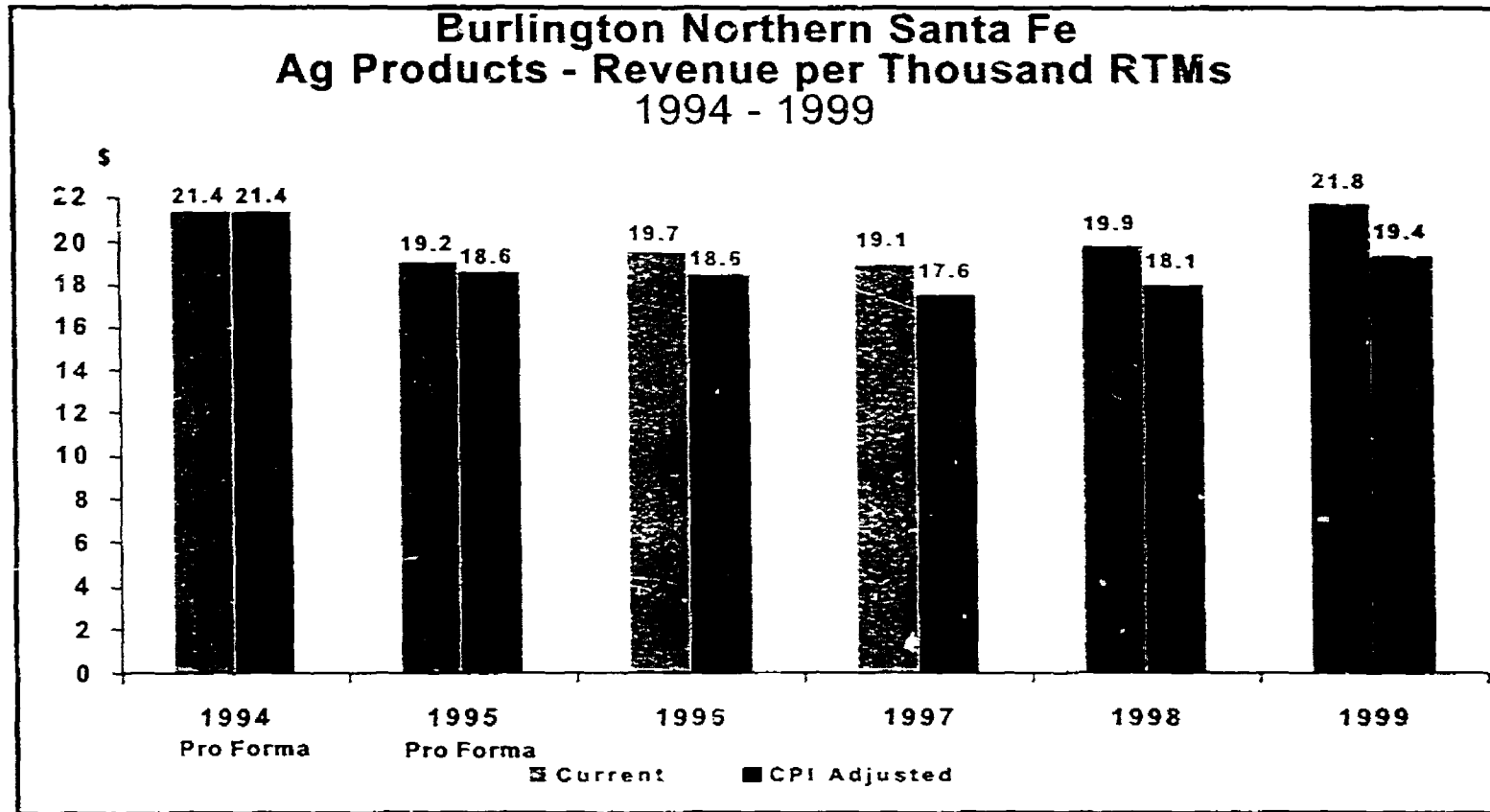
WHEREAS because of railroad policies, changes happening in the grain elevator industry have a serious adverse effect on the North Dakota grain elevator system, North Dakota road system, and rural North Dakota communities, and

WHEREAS railroads have aggressively combined to form larger more controlling operations,
NOW THEREFORE BE IT RESOLVED that the North Dakota Grain Dealers Association supports the Public Service Commission's budget request for an additional \$100,000 "To pursue relief from monopolistic railroad practices."

AND BE IT FURTHER RESOLVED, the North Dakota Grain Dealers Association supports railroad programs that use the present country elevator system, and opposes railroad programs that require shippers to have greater track capacity than the size of the train in that particular program.

I will try to respond to any questions.

Chart No. 31



Current ag products revenue per 1000 RTMs rose 2%, and adjusted revenue/1000 RTMs is down 9% since 1994.

2/15/2008
 William J. ...