

**2013 HOUSE APPROPRIATIONS**

**HB 1148**

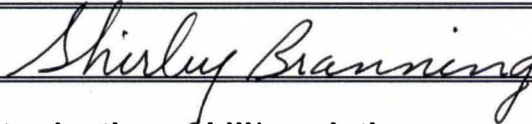
# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Roughrider Room, State Capitol

HB 1148  
January 22, 2013  
17494

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation for defraying the expenses of the public service commission; and to authorize a transfer.

## Minutes:

Attachment # 1

**Chairman Skarphol:** Called the committee top order to hear HB 1148. Announcing that Neil Howe brought the fourth grade book for North Dakota studies and they will be on the shelf.

Today at 3:00 pm Jerry Coleman from the Department of Public Instruction (DPI) will go through the weeded formula issues with regard to the current funding situation.

Wednesday at 4:00 pm Mr. Hertzgard will give a presentation in the Brynhild Hougland room with regard to the Fargo diversion.

Fiscal review and audit is on Thursday PM in the Roughrider Room.

He introduced the discussion of the bill HB 1148, which is the other bill that was experimented with last session, designed to move forward in a different way, the proposed Governor's recommendation for agency budgets as an amendment to what was the previously passed budget for that agency. You also have information to the questions that we asked for the last time.

### 3:30 to 5:25

**Randy Christmann, Public Service Commissioner:** Distributed Attachment 1 and reviewed testimony PP. 1-8 related to the Public Service Commission (PSC) budget.

**Chairman Skarphol:** You currently have one inspector that is funded roughly 50-50 and the second one should be funded 40-60.

### 5:40 to 14:21

**Christmann:** Continuing with P. 3 of Attachment 1. Sometimes reference is made to the Department of Transportation (DOT) and sometimes to the Pipeline Safety and Hazardous Material Safety Administration (PHMSA) which is a part of the DOT.

**Chairman Skarphol:** Is the training center located somewhere else?

**Christmann:** Oklahoma City. The first position is included in the Governor's budget, the second one is the Public Utility Analyst, also approved in the Governor's budget. Continuing with 10:21 Continuing with testimony p. 4-

**Rep. Williams:** Are the Environmental Protection Agency (EPA) standards a concern in this?

**Christmann:** When regulations require the building in of safety standards, that cost goes to the customer and this is what the utility analyst does..

**Chairman Skarphol:** In the Western part of the state there is a proliferation of high voltage power lines, 80' poles. Does that quantify as a distribution line rather than a transmission or conversion line? If it is a distribution line, does the PSC have oversight or do the constructing entities file a report?

**Patrick Fahn, Director of the Compliancy and Competitive Markets Division:** The commission has citing jurisdiction over electric transmission lines or lines that are greater than 115 kilowatt. Anything less is constructed without coming to the commission for a citing certificate.

**Chairman Skarphol:** Do you have control over the layout of these things so that you can do your analysis or do you have to research it to make decisions regarding transmission lines?

**Fawn:** We find a route that produces lowest impact based on environmental studies.

**16:33 to 25:13**

**Christmann:** Continuing with P. 2 of Attachment # 1

**Chairman Skarphol:** What does the \$446,000 due to the average within your agency as far as the 95% to 100% ranking?.

**Christmann:** Moving on to operating expenses, p. 5 Referring to Appendix # 1 and citing various cases. The North Dakota Attorney General's office assists when possible, their rates being less and they are helpful. They do not have the ability to take on PSC litigation needs. Therefore, outsourcing is necessary in some cases.

Moving to Abandoned Mine Lands (AML) discussion, p. 6

Providing his own position, has confidence that funding will be provided. Environmental case filings need to be defended.

**Vice Chairman Monson:** Referring to # 2 on P. 2, was that in the Governor's budget?

**Christmann:** Yes, but not enough to get through these cases.

**Chairman Skarphol:** Do you have the amount that you have had to invest in outside legal counsel in this biennium?

**Christmann:** About \$60,000 for the reclamation cases, and the AML is about \$50,000, \$12,000 on the elevator insolvency.

**Chairman Skarphol:** Did you have enough available to cover that in your current budget or have you had to find it elsewhere?

**Josh Gallion, Accountant for the Public Service Commission:** We were not originally budgeted for this money; we found it in savings from the weights and measures program. We have had extended vacancies that saved about \$7,000 to \$8,000 a month in operating costs.

**Chairman Skarphol:** You have had to find the money elsewhere to cover the legal costs that you have incurred.

**Rep. Williams:** You are asking \$300,000. Does the Governor have \$150,000 in here for you? You are asking for an increase up to \$450,000.

29:18

**Christmann:** Continuing with P. 2, other operating expenses. Moving to Capital Assets.

**Chairman Skarphol:** Of the \$176,155 what was recommended in the Governor's budget?

**Christmann:** The Governor's budget allowed us these two FTEs but also took away two of our four weights and measures employees. He was probably able to put less money into the transportation and lodging line because we would have two less employees on the road. This is larger than the Governor's number.

**Chairman Skarphol:** Addressing Sheila Peterson, Office of Management and Budget (OMB) Analyst: The request amount is \$176,155 can you compare that to the Governor's amount? What is the Governor's actual recommendation for that subcategory?

**Peterson:** The net in travel is a decrease of \$106,927. That is a net related to an increase in fleet costs and a decrease for the weights and measures that were repurposed in the budget. He recommended a minus \$106,926 by comparison.

38:53

**Christmann:** Next are the Information Technology (IT) capital costs, confusing as well.

**Chairman Skarphol:** The \$53,000 is for onetime projects that are going to be completed. New projects will cost \$60,065. Geographic Information System (GIS) server replacement, are we duplicating things because there is a GIS elsewhere in State Government. Is it linking with the one you have so that there is not duplication?

**Steven Kahl, Technology Director for PSC:** There is not duplication; we share information that is on the GIS Direct Connect (DC) hub.

**Chairman Skarphol:** How does it compare to the state's volume?



**Kahl:** it is about three-fourths the size. It is a cooperative effort with the office of surface mining. I provide hardware and support, they provide actual software and licensing for the GIS system

**Rep. Streyle:** Is it a physical box?

**Kahl:** Yes, running two servers one being the core part of the GIS server, the other is the data base for the GIS server.

**43:30 to 45:15**

**Christmann:** Moving on to items 7 and 9 on P. 2 and moving to P. 8, item # 9 and summarizing.

**Vice Chairman Monson:** On p. 8, do you have oversight of railroad crossings?

**Christmann:** This is Quiet Zones, or other disputes.

**Chairman Skarphol:** What is the distribution between license and inspection?

**Christmann:** It is 40% and it comes from the weights and measures program and 60% from licensing.

**Chairman Skarphol:** Your audit made a point of the fact that you are not charging enough for your services. What would have to happen to the rates in order for you to charge enough?

**Christmann:** It varies in different types of licensing such as gas pumps, small scales and large scales. In some cases it could be 50% of what the competitors charge. In some situations it is one-tenth. We tag scales, if they are wrong we don't replace them. We don't currently have the option to raise the prices because they are set in statute.

**Chairman Skarphol:** Giving a short recess to Commissioner Christmann to discuss the format if the committee would wish to change. There is no total at the bottom and if we wanted it, there would be additional information here. We should share that with the chairman if he wants to continue to experiment with this two years from now.

**Rep. Streyle:** I like it if it would include the Governor's recommendations from the previous two biennium's so we could see trending; if it were four to five columns so we could understand how the trending is going.

**Chairman Skarphol:** If we were to do that would you envision a document similar to BARS when we do the request recommendation comparison. Which format is most favorable? This one is not complete enough.

**Rep. Streyle:** A Budget Analysis Reporting System (BARS) format would be more favorable.

**Vice Chairman Monson:** The old one was easier to understand. If you had more columns in this one it might be workable. We don't have enough information to make it usable.


**Chairman Skarphol:** I like the concept but there needs to be more comparative data provided but I also like the extent of the detail that is here. **Concluding discussion of HB 1148.**

# 2013 HOUSE STANDING COMMITTEE MINUTES

House Appropriations Education and Environment Division  
Roughrider Room, State Capitol

HB 1148  
February 18, 2013  
19137

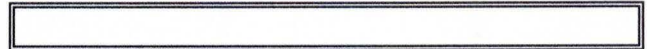
Conference Committee



**Explanation or reason for introduction of bill/resolution:**

Public Service Commission

**Minutes:**



**At 14:21 on recording 19137 a vote on HB 1148 occurred.**

**Chairman Skarphol:** HB 1148 obviously we can't pass two budgets. Streyle is carrying PSC. We need a motion on 1148.

**Rep. Streyle:** I move a do not pass.

**Chairman Skarphol:** A motion for a do not pass, second Rep. Monson, discussion. We'll have to have continuing conversation about the format.

**Chairman Skarphol:** We'll have the clerk take the roll on a do not pass on HB 1148. 8-0-0.

**Rep. Streyle:** Would you want me to carry that as well and stack those, is that your plan?

**Chairman Skarphol:** That's what we'll do is put them together.

# 2013 HOUSE STANDING COMMITTEE MINUTES

## House Appropriations Committee Roughrider Room, State Capitol

HB 1148  
February 25, 2013  
19418

Conference Committee

Committee Clerk Signature



### Minutes:

You may make reference to "attached testimony."

Chairman Delzer: This was the bill we put in to take a look at the difference of having bills come in with the Governor's recommendations in the bill compared to having the bill come in the same as last time's recommendations and then amending the bill to cover what parts of the Governor's recommendation the legislature decides it wants to move forward with. The reason to look at that is, because in the end, it is a legislative budget. The governor's recommendations are simply recommendations to us. Yet, so much of the time when we deal with the bills put in the way the Governor has them with all of his recommendations in the bill, we're accused of changing the budget, in an essence we're not, because in the end we change the budget from what we passed last time to what we passed this time. That's the reason for the bill.

Rep. Streyle: I move amendment 13.0524.01001 (see attached #1).

Rep. Skarphol: Second the motion.

Rep. Streyle: Explained the amendment; Sections 3, 4, 5, 7, and 8.

Chairman Delzer: The funding for the legal fees, was there money in the base budget, we're adding this much to it, but how much was originally there.

Rep. Streyle: The governor's budget was for \$150,000; we left that at \$150,000. There was a lot of discussion that that needs to be higher with the amount of lawsuits they are defending; but it was the committee's thought to bring it to full committee and possibly looking at creating a pool of money for the different agencies being there are a lot of them that are under lawsuits right now.

Chairman Delzer: Was there money in the current biennium for legal fees at the PSC?

Rep. Streyle: I can't recall what the amount of that was. They had requested \$300,000 and the Governor had funded \$150,000.

Chairman Delzer: You see that almost everything is adding; with the exception of a few and it shows what we are doing to last time's budget. It doesn't show what we are doing to the governor's proposed budget.



Rep. Skarphol: It would have been nice if we had a green sheet for this bill as well; we have it for the other one that explains things but it would have been nice if you are going to do a comparison to have it for this budget as well. If I'm not mistaken, I believe there is a similar set of documents on the other side and my request would be whether or not it's possible to get a green sheet provided for both of those if we are going to be dealing with both of them on this side. I would have found it useful right now in looking at this for comparative purposes to have that green sheet, because there would be things that would be more apparent.

Chairman Delzer: I think the green sheet would be the same for both bills.

Rep. Skarphol: I don't disagree with that, except the references would be somewhat different, in some ways, simply because this is reducing the Governor's increase on the other one and this one would show the additions of.

Chairman Delzer: You couldn't do the green sheet until after you did the amendment, because the bill itself is the same as what we had last time.

Rep. Skarphol: If the governor has a recommendation, the green sheet could reflect the Governor's recommendation, could it not.

Chairman Delzer: It could, it would be the green sheet off of the PSC bill. We could have had those copied with 1148 listed on it. If we do this again next session, we'll do that.

Rep. Hawken: At least two sessions ago, we put in the money for the rail complaint case, how much of that have we spent?

Chairman Delzer: Not a penny.

Rep. Hawken: So we have that.

Rep. Streyle: The \$900,000 did not change, it is still coming from the Beginning Farmer program.

Chairman Delzer: It sits there, but hasn't been used.

Rep. Streyle: Correct, it is earmarked; they can't go out and spend that money. It's not in their checking account, so to speak.

Chairman Delzer: Further questions? Seeing none, a voice vote was done and the motion carried. We now have the bill before us as amended. What are your wishes.

Rep. Streyle: I move a Do Pass as amended.

Rep. Skarphol: Second the motion.

22 YES 0 NO 0 ABSENT

DO PASS AS AMENDED

CARRIER: Rep. Streyle

VR  
2/25/13  
143

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1148

Page 1, line 2, replace "and" with "to amend and reenact section 49-01-05 of the North Dakota Century Code, relating to the salary of public service commissioners; to provide for a legislative management study;"

Page 1, line 2, after "transfer" insert "; and to declare an emergency"

Page 1, replace lines 12 through 15 with:

"Salaries and wages	\$7,482,074	\$774,551	\$8,256,625
Accrued leave payments	0	168,278	168,278
Operating expenses	1,972,572	4,825	1,977,397
Capital assets	53,000	(1,835)	51,165
Grants	16,000	4,000	20,000"

Page 1, replace lines 18 through 20 with:

"Total all funds	\$18,423,646	\$949,819	\$19,373,465
Less estimated income	<u>12,403,431</u>	<u>591,828</u>	<u>12,995,259</u>
Total general fund	\$6,020,215	\$357,991	\$6,378,206"

Page 2, replace lines 4 through 7 with:

"Federal stimulus funds	\$658,217	\$0
Hydraulic soil probe	<u>0</u>	<u>28,000</u>
Total all funds	\$658,217	\$28,000
Total special funds	<u>658,217</u>	<u>17,920</u>
Total general fund	\$0	\$10,080"

Page 2, after line 11, insert:

**"SECTION 3. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**49-01-05. Salary of commissioners.**

The annual salary of a commissioner is ~~ninety-two~~ninety-eight thousand ~~eight~~four hundred ~~twenty-six~~seventy-nine dollars through June 30, ~~2012~~2014, and ~~ninety-five~~one hundred ~~one~~thousand six hundred ~~eleven~~thirty-three dollars thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state.

**SECTION 4. LEGISLATIVE MANAGEMENT STUDY.** The legislative management shall consider studying during the 2013-14 interim civil penalties assessed and collected by state agencies, including a review of the funds into which the collections are deposited and the appropriateness of the use of funds collected. The legislative management shall report its findings and recommendations, together

with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

**SECTION 5. INFORMATION TECHNOLOGY HARDWARE - TRANSFER TO SECURE DATA CENTER.** The public service commission shall transfer all appropriate information technology hardware to the information technology department secure data center during the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 2, after line 20, insert:

**"SECTION 7. LEGISLATIVE INTENT - GAS PIPELINE SAFETY INSPECTOR.** It is the intent of the legislative assembly that the public service commission proceeds in the hiring process of a gas pipeline safety inspector position that has been repurposed in the commission's 2013-15 biennium budget from the weights and measures program prior to June 30, 2013.

**SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure."

Re-number accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1148 - Public Service Commission - House Action**

	Base Budget	House Changes	House Version
Salaries and wages	\$7,482,074	\$774,551	\$8,256,625
Operating expenses	1,972,572	4,825	1,977,397
Capital assets	53,000	(1,835)	51,165
Grants	16,000	4,000	20,000
Abandoned mined lands contractual services	8,000,000		8,000,000
Rail rate complaint case	900,000		900,000
Accrued leave payments		168,278	168,278
	<u>\$18,423,646</u>	<u>\$949,819</u>	<u>\$19,373,465</u>
Total all funds			
Less estimated income	<u>12,403,431</u>	<u>591,828</u>	<u>12,995,259</u>
	<u>\$6,020,215</u>	<u>\$357,991</u>	<u>\$6,378,206</u>
General fund			
	43.00	0.00	43.00
FTE			

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

	Agency Budget Request Changes <sup>1</sup>	Executive Budget Changes <sup>2</sup>	State Employee Compensation Package <sup>3</sup>	Provides Separate Line Item for Accrued Leave Payments <sup>4</sup>	Adds Funding for Capital Assets <sup>5</sup>	Total House Changes
Salaries and wages	\$258,390	\$271,810	\$412,629	(\$168,278)		\$774,551
Operating expenses		4,825				4,825
Capital assets	(53,000)	28,000			\$23,165	(1,835)
Grants	4,000					4,000
Abandoned mined lands contractual services						
Rail rate complaint case						
Accrued leave payments				168,278		168,278
Total all funds	<u>\$209,390</u>	<u>\$ 304,635</u>	<u>\$ 412,629</u>	<u>\$ 0</u>	<u>\$ 23,165</u>	<u>\$949,819</u>
Less estimated income	<u>178,757</u>	<u>260,205</u>	<u>152,866</u>			<u>591,828</u>
General fund	<u>\$30,633</u>	<u>\$44,430</u>	<u>\$259,763</u>	<u>\$0</u>	<u>\$23,165</u>	<u>\$357,991</u>
FTE	0.00	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> This amendment incorporates changes made in the **agency budget request**, including:

	FTE	General Fund	Special Funds	Total
Base payroll change		\$83,633	\$174,757	\$258,390
Increase funding for North Dakota geological survey passthrough funds			4,000	4,000
Remove 2011-13 funding for capital assets		(53,000)		(53,000)
<b>Total</b>		<b>\$30,633</b>	<b>\$178,757</b>	<b>\$209,390</b>

<sup>2</sup> This amendment incorporates items recommended in the **executive budget**, including:

	FTE	General Fund	Special Funds	Total
Add one-time funding for hydraulic soil probe		\$10,080	\$17,920	\$28,000
Add funding for 2 FTE positions repurposed for energy impact	2.00	95,601	167,085	262,686
Add funding for increased travel costs		54,956	11,199	66,155
Add funding for legal fees for grain elevator insolvency cases and reclamation/abandoned mined lands lawsuits		86,000	64,000	150,000
Base payroll change	(2.00)	(202,207)	1	(202,206)
<b>Total</b>	<b>0.00</b>	<b>\$44,430</b>	<b>\$260,205</b>	<b>\$304,635</b>

<sup>3</sup> Funding for the state employee compensation package is added providing:

- Performance-based salary increases of from 2 percent to 4 percent each year of the biennium.
- Market equity salary increases of up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium.
- Health insurance premium increase of \$95 per month to provide a total of \$982 per month per employee.

<sup>4</sup> A portion of salaries and wages funding from the general fund (\$105,071) and from other funds (\$63,207) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

<sup>5</sup> Funding is added for information technology equipment over \$5,000 for a hearing room teleconference upgrade (\$8,500) and a standard large format plotter (\$14,665).

This amendment also adds sections to:

- Provide legislative intent and an emergency clause to allow the Public Service Commission to fill the pipeline safety inspector position that was repurposed from a weights and measures position prior to the 2013-15 biennium.
- Provide for a Legislative Management study of civil penalties.
- Require the Public Service Commission to transfer its appropriate information technology hardware to the Information Technology Department secure data center.
- Provide for salary increases for the Public Service Commissioners of 3 percent on July 1, 2013, and 3 percent on July 1, 2014.

Date: 2-18-13  
Roll Call Vote #: 5

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1148

House Education and Environment Division Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Streyle Seconded By Rep. Monson

Representatives	Yes	No	Representatives	Yes	No
Chairman Robert Skarphol	✓		Rep. Clark Williams	✓	
Vice Chairman David Monson	✓		Rep. Tracy Boe	✓	
Rep. Bob Martinson	✓				
Rep. Roscoe Streyle	✓				
Rep. Mark Dosch	✓				
Rep. Bette Grande	✓				

Total (Yes) 8 No 0

Absent 0

Floor Assignment Rep. Streyle

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



Date: 2/28/13  
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE  
ROLL CALL VOTES  
BILL/RESOLUTION NO. 1148

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number .01001

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Streyle Seconded By Rep. Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer			Rep. Streyle		
Vice Chairman Kempenich			Rep. Thoreson		
Rep. Bellew			Rep. Wieland		
Rep. Brandenburg					
Rep. Dosch					
Rep. Grande			Rep. Boe		
Rep. Hawken			Rep. Glassheim		
Rep. Kreidt			Rep. Guggisberg		
Rep. Martinson			Rep. Holman		
Rep. Monson			Rep. Williams		
Rep. Nelson					
Rep. Pollert					
Rep. Sanford					
Rep. Skarphol					

Total Yes \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

*voice vote carrier*

Date: 2/25/13  
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 1148**

House Appropriations Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep. Streyle Seconded By Rep. Skarphol

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer	X		Rep. Streyle	X	
Vice Chairman Kempenich	X		Rep. Thoreson	X	
Rep. Bellew	X		Rep. Wieland	X	
Rep. Brandenburg	X				
Rep. Dosch	X				
Rep. Grande	X		Rep. Boe	X	
Rep. Hawken	X		Rep. Glassheim	X	
Rep. Kreidt	X		Rep. Guggisberg	X	
Rep. Martinson	X		Rep. Holman	X	
Rep. Monson	X		Rep. Williams	X	
Rep. Nelson	X				
Rep. Pollert	X				
Rep. Sanford	X				
Rep. Skarphol	X				

Total Yes 22 No 0

Absent 0

Floor Assignment Rep. Streyle

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

**REPORT OF STANDING COMMITTEE**

**HB 1148: Appropriations Committee (Rep. Delzer, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (22 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1148 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "and" with "to amend and reenact section 49-01-05 of the North Dakota Century Code, relating to the salary of public service commissioners; to provide for a legislative management study;"

Page 1, line 2, after "transfer" insert "; and to declare an emergency"

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department secure data center during the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 2, after line 20, insert:

**"SECTION 7. LEGISLATIVE INTENT - GAS PIPELINE SAFETY INSPECTOR.**  
It is the intent of the legislative assembly that the public service commission proceeds in the hiring process of a gas pipeline safety inspector position that has been repurposed in the commission's 2013-15 biennium budget from the weights and measures program prior to June 30, 2013.

**SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1148 - Public Service Commission - House Action**

	Base Budget	House Changes	House Version
Salaries and wages	\$7,482,074	\$774,551	\$8,256,625
Operating expenses	1,972,572	4,825	1,977,397
Capital assets	53,000	(1,835)	51,165
Grants	16,000	4,000	20,000
Abandoned mined lands contractual services	8,000,000		8,000,000
Rail rate complaint case	900,000		900,000
Accrued leave payments		168,278	168,278
<b>Total all funds</b>	<b>\$18,423,646</b>	<b>\$949,819</b>	<b>\$19,373,465</b>
Less estimated income	12,403,431	591,828	12,995,259
<b>General fund</b>	<b>\$6,020,215</b>	<b>\$357,991</b>	<b>\$6,378,206</b>
FTE	43.00	0.00	43.00

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

	Agency Budget Request Changes <sup>1</sup>	Executive Budget Changes <sup>2</sup>	State Employee Compensation Package <sup>3</sup>	Provides Separate Line Item for Accrued Leave Payments <sup>4</sup>	Adds Funding for Capital Assets <sup>5</sup>	Total House Changes
Salaries and wages	\$258,390	\$271,810	\$412,629	(\$168,278)		\$774,551
Operating expenses		4,825				4,825
Capital assets	(53,000)	28,000			\$23,165	(1,835)
Grants	4,000					4,000
Abandoned mined lands contractual services						
Rail rate complaint case						
Accrued leave payments				168,278		168,278
<b>Total all funds</b>	<b>\$209,390</b>	<b>\$304,635</b>	<b>\$412,629</b>	<b>\$0</b>	<b>\$23,165</b>	<b>\$949,819</b>
Less estimated income	178,757	260,205	152,866			591,828
<b>General fund</b>	<b>\$30,633</b>	<b>\$44,430</b>	<b>\$259,763</b>	<b>\$0</b>	<b>\$23,165</b>	<b>\$357,991</b>
FTE	0.00	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> This amendment incorporates changes made in the agency budget request, including:

	FTE	General Fund	Special Funds	Total
Base payroll change		\$83,633	\$174,757	\$258,390
Increase funding for North Dakota geological survey passthrough funds			4,000	4,000
Remove 2011-13 funding for capital assets		(53,000)		(53,000)
<b>Total</b>		<b>\$30,633</b>	<b>\$178,757</b>	<b>\$209,390</b>



<sup>2</sup> This amendment incorporates items recommended in the executive budget, including:

	FTE	Gen-Fund Req'd	Special Funds	Total
Add funding for <del>energy impact</del> cell tower		\$6,000	\$17,500	\$23,500
Add funding for 2 FTE positions occupied for energy impact	200	\$0.00	\$0.00	\$0.00
Add funding for increased food cost		\$4,000	\$1,000	\$5,000
Add funding for legislative for grain elevator technology costs and for <del>energy impact</del> related fund credit		\$4,000	\$4,000	\$8,000
Net total change	(200)	(\$7,200)	\$0.00	(\$7,200)
Total	0.00	\$44,800	\$22,500	\$67,300

<sup>3</sup> Funding for the state employee compensation package is added providing:

- Performance-based salary increases of from 2 percent to 4 percent each year of the biennium
- Market equity salary increases of up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium
- Health insurance premium increase of \$95 per month to provide a total of \$982 per month per employee.

<sup>4</sup> A portion of salaries and wages funding from the general fund (\$105,071) and from other funds (\$59,207) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

<sup>6</sup> Funding is added for information technology equipment over \$5,000 for a hearing room teleconference upgrade (\$8,500) and a standard large format plotter (\$14,665).

This amendment also adds sections to:

- Provide legislative intent and an emergency clause to allow the Public Service Commission to fill the pipeline safety inspector position that was repurposed from a weights and measures position prior to the 2013-15 biennium
- Provide for a Legislative Management study of civil penalties.
- Require the Public Service Commission to transfer its appropriate information technology hardware to the Information Technology Department secure data center.
- Provide for salary increases for the Public Service Commission of 3 percent on July 1, 2013, and 3 percent on July 1, 2014.



**2013 TESTIMONY**

**HB 1148**

HB 1148  
House approp. Educ & Environ  
January 22, 2013  
attachment A

## House Bill 1148

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

**Before:** House Appropriations – Education and Environment  
Representative Robert J. Skarphol, Chairman

**Date:** January 22, 2013

### TESTIMONY

Mister Chairman and committee members, I'm Randy Christmann Public Service Commissioner, here to provide my thoughts on House Bill 1148. Also in attendance is my colleague Julie Fedorchak. Commissioner Kalk is unable to join us today due to previous out-of-town commitments. Thank you for the opportunity to discuss our operations, statutory mandates, resource needs and answer any questions you may have.

Our goal today is to share our thoughts and discuss the Commission's request for appropriations. You have before you House Bill 1148, which outlines our spending levels for the 2011-2013 biennium, providing for 6,020,215 million dollars in general fund appropriation and 43 FTEs.

Using this as a baseline for the upcoming biennium, our agency is asking for the following increases:

**Salary and Wages**

**Funding Distribution**

	Total Proposed	Gen	Fed
1) Gas Pipeline Safety Inspector	278,474.44	40%	60%
2) Public Utility Analyst III	195,541.84	100%	0%
3) Paralegal	153,419.18	60%	40%
4) Equity Package			
Requested	446,601		
Admin	68,452	41,071	27,381
Testing and Licensing	102,431	64,749	37,682
Public Utilities	56,455	56,455	0
Reclamation and AML	219,263	59,686	159,577
<b>Operating Expenses</b>			
5) Additional Legal Funds			
Requested	300,000		
6) Fleet, Lodging, Per Diem, & Airfare			
Requested	176,155		
Administration	5,000	5,000	0
Testing and Licensing	155,157	151,347	3,810
Public Utilities	4,453	4,453	0
Reclamation and AML	11,545	4,156	7,389
<b>Capital Assets</b>			
7) Hydraulic Soil Probe			
One Time Request	28,000	10,080	17,920
8) IT Capital Assets			
Net Increase	7,665		
11-13 Base Budget	53,000		
13-15 Total Request	60,665		
Disk Upgrade	19,500	19,500	0
Hearing Room Upgrade	8,500	8,500	0
GIS Server Replacement	18,000	18,000	0
Large Format Plotter	14,665	14,665	0
<b>Grants</b>			
9) Geological Survey Grant			
Grant Increase	4,000	0	4,000

I'd like to provide additional background information on some of the priority requests, including the new positions and the additional operating funds for legal expenses.

### **Gas Pipeline Safety Inspector**

The Commission is responsible for ensuring that gas pipeline facilities used for the intrastate distribution and transmission of gas are designed, constructed, and operated to meet the pipeline safety standards set forth in regulations of the United States Department of Transportation. Each year the Commission enters into an agreement with the United States Department of Transportation which grants state authority to conduct a gas pipeline safety program. As part of this agreement, approximately 50 percent of the cost of the North Dakota gas pipeline safety program is funded by the federal government.

The gas pipeline safety program currently consists of one full-time employee. Federal pipeline safety legislation enacted as long ago as 2002 and as recently as 2011 has resulted in the promulgation of additional federal safety standards that substantially increased state enforcement responsibilities and activities. Some of the recent federal rulemaking is the result of major gas pipeline incidents across the United States.

The Commission requests an additional gas pipeline safety inspector to meet the demands of the rapidly increasing gas pipeline infrastructure and address ongoing safety concerns surrounding pipeline failures nationwide. This position will also address new state and federal regulations that place an even greater burden on the existing program. It costs approximately 30,000 dollars to

train and certify a gas pipeline safety inspector and a second inspector will provide continuity and consistency within the growing program.

In addition to the reasons just noted supporting the additional position, the Pipeline Safety & Hazardous Material Safety Administration strongly encouraged the Commission to hire an additional pipeline safety inspector and committed increased funding to support this position. The Commission requests that an emergency clause be incorporation for this component of our appropriation in order to fill this position as soon as possible.

**Public Utility Analyst**

The Commission requests an additional public utility analyst to address the increase in North Dakota's energy infrastructure and to effectively regulate utility services.

The Commission's caseload for siting energy conversion and transmission infrastructure has increased substantially over the past decade, as noted in the below table.

Applications Filed	1990's	2000-2005	2006	2007	2008	2009	2010	2011	2012
Siting	19	21	7	14	24	19	18	23	15
Rate Increases	5	5	1	1	2	0	2	1	1
Advance Determination of Prudence	0	0	2	0	2	4	1	4	2

Since 2005, the Commission has approved route permits for facilities representing 1.65 billion dollars in oil pipeline investments and 844 million dollars in electric transmission investments. We have also issued siting certificates for facilities representing 3.7 billion dollars in wind generation investment. Looking forward, the challenges are even greater as we have letters of intent to build



nearly 13.6 billion dollars' worth of energy facilities, all of them requiring Commission oversight.

### **Legal Operating Funds**

The Commission faces increasing litigation in several areas of jurisdiction. (Please see Attachment 1.) The attorney positions at the Commission are mainly transactional positions, not litigation positions. While the Commission's attorneys may have the time and expertise to handle infrequent, less complex litigation, the Commission does not have the resources in-house to handle more frequent and more complex litigation. In larger regulatory agencies in other jurisdictions, when litigation arises, it is assigned to litigation attorneys and is not handled by the agency attorneys.

The Commission does use the services and expertise of the North Dakota Attorney General's Office when that office is available to assist us. While the Attorney General's rates are less than that of outside counsel, and the Assistant Attorneys General are extremely helpful whenever possible, the Attorney General's office often does not have availability to take on the Commission's litigation needs.

This past biennium the Commission has faced this issue on multiple fronts. Since 2007, grain warehouse and grain buyer insolvency cases handled by the Commission are occurring more frequently, and are increasingly complex with large dollar amounts at issue.

Since the Commission cannot predict how many insolvencies may be open or pending in a biennium, nor the complexity or size of those insolvencies,

the Commission believes it is more efficient and a wiser use of state funds to outsource litigation needs when necessary, rather than adding employee positions. This method offers the Commission, the taxpayers, and most importantly, the producers the benefit of representation by specific counsel targeted to the specific needs of any particular case, maximizing the return to the state on any particular expenditure.

Similar concerns arise with federal litigation involving the Commission's coal mining and reclamation program and contract dispute litigation involving the Commission's abandoned mine lands program. In each of these areas, specialized substantive expertise is necessary in order to defend the litigation. Also, to successfully defend the state against these lawsuits requires counsel with federal and state litigation expertise.

One lawsuit is directly concerned with the effect of campaign contributions on the duty of elected officials to carry out their statutory responsibilities, and the right of the state to implement and enforce its reclamation program. This is a case of first impression, with far-reaching potential state and federal impact, and has a very real possibility of going all the way to the United States Supreme Court. The second lawsuit directly concerns one important, long-standing component of North Dakota's reclamation program, as well as that of other states, and the federal government, and again challenges the right of North Dakota and other states to implement and enforce their own programs consistent with federal law and rules. Both cases involve extremely important states' rights and sovereignty issues and deserve the best defense possible.

Finally, the Commission is very rarely involved in contract dispute litigation, but when one does occur, it is imperative that counsel be retained with contract litigation experience. The potential damages against the Commission in the pending contract dispute are over one million dollars. The Commission can best defend against such substantial litigation by retaining outside counsel with expertise in contract dispute litigation. This enables the Commission to litigate most efficiently without incurring unnecessary expenses in times when we face no disputes.

### **One-time Spending**

We ask that you include 28,000 dollars in the appropriation for a hydraulic soil probe used by the Reclamation Division. This equipment purchase will replace the existing probe originally purchased in 1977. The soil probe is used to check and evaluate soil respread depths on reclaimed lands and the need for this work will continue for many years to come.

### **Operational Overview**

The Commission is a constitutional agency with varying degrees of statutory authority over the following:

- Regulation of electric, natural gas, and telephone utilities,
- Siting oil and gas processing plants, power plants, power lines, and transmission pipelines,
- Pipeline safety,
- Licensing and inspecting grain warehouses and grain buyers and administering insolvency cases,

- Licensing auctioneers and auction clerks,
- Certifying weighing and measuring devices,
- Overseeing active coal mining and reclamation,
- Eliminating hazards at abandoned mine sites,
- Representing state rail interests in federal proceedings,
- Railroad crossings.

### **Summary**

Of the Commission's overall requested budget, almost sixty percent comes from federal sources. The Commission currently generates approximately one million dollars per biennium in income from statutory license and inspection fees.

The Commission currently has forty-three full time equivalent positions, including the three Commissioners, plus two temporary seasonal employees to work with the Abandoned Mine Lands Division during the construction season.

Mister Chairman, this concludes our testimony. I will be happy to answer any questions.

**Public Service Commission – Cases Currently in Litigation**

**18 January 2013**

<i>Sierra Club &amp; DRC v. Ken Salazar</i> United States District Court (ND) Civil No. 1:12-cv-065	Case No. RC-12-676
<i>Dakota Resource Council v. PSC</i> United States District Court (ND) Civil No. 1:12-cv-064	Case No. RC-12-677
<i>City of Oxbow, et. al, Appellants v.</i> <i>North Dakota Public Service Commission, Appellee</i> Civil No. 09-2012-CV-03147	Case No. PU-07-759
<i>North Central Electric Cooperative, Inc., Appellant v.</i> <i>North Dakota Public Service Commission,</i> <i>Otter Tail Power Company, and</i> <i>Turtle Mountain Band of Chippewa Indians, Appellee</i> Civil No. 08-2012-CV-01464	Case No. PU-11-701
<i>Missouri Valley Communications, Inc., Plaintiff v.</i> <i>ND PSC and Kevin Cramer, Bonny Fetch &amp; Brian Kalk,</i> <i>in their official capacities as Commissioners of ND PSC</i> <i>and Midcontinent Communications, Defendants</i> United States District Court (ND) Civil No. 4:12-CV-00091	Case No. PU-11-697
<i>Smith Contacting, Inc., Plaintiff v.</i> <i>North Dakota Public Service Commission, Defendant</i> Civil No. 08-211-CV-01887	Case No. AM-10-37
<i>Public Service Commission, Petitioner v.</i> <i>Mitchell Feeds, Inc. &amp; Western Surety Company,</i> <i>Respondents</i> Civil No. 08-2011-CV-917	Case No. GE-11-51
<i>Public Service Commission, Plaintiff v.</i> <i>Falkirk Farmers Elevator Co., Defendant</i> Civil No. 28-2012-CV-00176	Case No. GE-12-769
<i>Public Service Commission, Petitioner v.</i> <i>Anderson Seed Co., Inc., Respondent</i> Civil No. 09-2012-CV-00693	Case No. GE-12-78



**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1148 - Public Service Commission - House Action**

	<b>Base Budget</b>	<b>House Changes</b>	<b>House Version</b>
Salaries and wages	\$7,482,074	\$1,177,170	\$8,659,244
Operating expenses	1,972,572	4,825	1,977,397
Capital assets	53,000	35,665	88,665
Grants	16,000	4,000	20,000
Abandoned mined lands contractual services	8,000,000		8,000,000
Rail rate complaint case	900,000		900,000
<b>Total all funds</b>	<b>\$18,423,646</b>	<b>\$1,221,660</b>	<b>\$19,645,306</b>
Less estimated income	12,403,431	678,652	13,082,083
<b>General fund</b>	<b>\$6,020,215</b>	<b>\$543,008</b>	<b>\$6,563,223</b>
FTE	43.00	0.00	43.00

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

	<b>Agency Budget Request Changes<sup>1</sup></b>	<b>Executive Budget Changes<sup>2</sup></b>	<b>Total House Changes</b>
Salaries and wages	\$285,390	\$891,780	\$1,177,170
Operating expenses		4,825	4,825
Capital assets	7,665	28,000	35,665
Grants		4,000	4,000
Abandoned mined lands contractual services			
Rail rate complaint case			
<b>Total all funds</b>	<b>\$293,055</b>	<b>\$928,605</b>	<b>\$1,221,660</b>
Less estimated income	201,757	476,895	678,652
<b>General fund</b>	<b>\$91,298</b>	<b>\$451,710</b>	<b>\$543,008</b>
FTE	0.00	0.00	0.00

<sup>1</sup> This amendment incorporates the following executive budget adjustments included in the **agency budget request**:

	<b>FTE</b>	<b>General Fund</b>	<b>Special Funds</b>	<b>Total</b>
Base payroll change		\$80,033	(\$243,460)	(\$163,427)
Removes American Recovery and Reinvestment Act of 2009 appropriations			(240,000)	(240,000)
Increase funding for information technology equipment over \$5,000		60,665		60,665
Increase funding for North Dakota Geological Survey passthrough funds			4,000	4,000
Adds funding for internship program		3,600		3,600
Removes funding for capital asset appropriations		(53,000)		(53,000)
<b>Total</b>		<b>\$91,298</b>	<b>(\$479,460)</b>	<b>(\$395,362)</b>

<sup>2</sup> This amendment incorporates the following changes included in the executive budget recommendation:

	FTE	General Fund	Special Funds	Total
Add one-time funding for hydraulic soil probe		\$10,080	\$17,920	\$28,000
Add funding for 2 FTE converted from weights and measures inspectors to a gas pipeline safety inspector and a public utility analyst		95,601	167,085	262,686
Add funding for increased travel costs		54,956	11,199	66,155
Add funding for additional legal fees to grain elevator insolvency cases and reclamation/abandoned mined lands lawsuits		86,000	64,000	150,000
Base payroll change		(202,207)	1	(202,206)
Add funding for state employee compensation package		407,280	239,690	646,970
Total		\$451,710	\$499,895	\$951,605

A section is added to provide for salary increases for the Public Service Commissioners on July 1, 2013, and July 1, 2014.



Public Service Commission  
State of North Dakota

HB 1008  
1148

COMMISSIONERS

Brian P. Kalk  
Randy Christmann  
Julie Fedorchak

Executive Secretary  
Darrell Nitschke

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February 1, 2013


Representative Robert J. Skarphol, Chairman  
Appropriations - Education and Environment Division Committee  
North Dakota House  
600 East Boulevard Avenue  
Bismarck, ND 58505

Re: House Bill 1008 and House Bill 1148

Dear Chairman Skarphol:

Representatives of the Public Service Commission met with Representative Streyle on Thursday, January 31, 2013 and discussed Information Technology issues related to House Bill 1008 and House Bill 1148. Enclosed for committee members are follow-up documents.

Best regards,

  
Illona A. Jeffcoat-Sacco  
General Counsel

c:w/encl  
Representative David Monson - Vice Chairman  
Representative Tracy Boe  
Representative Mark A. Dosch  
Representative Bette Grande  
Representative Bob Martinson  
Representative Roscoe Streyle  
Representative Clark Williams

## Background on PSC IT Functions

### Summary

31 January 2013

#### Technology Division FTE's

- Director of Technology
- Two programmer analyst II

#### Information Technology Equipment

##### Servers:

- Graphic Information System (GIS) Server. Provides GIS services primarily for Coal Mine Reclamation and Abandoned Mine Lands programs however, also supports other Commission business units. This server is a cooperative effort between the federal Office of Surface Mining. OSM supplies the software and the PSC provides the management and hardware. This requires close coordination among PSC, Industry and OSM.
- Database Server. Supports all business applications except GIS, and some scientific or engineering based applications. Supports applications developed by the PSC and ITD including PowerBuilder, java and .NET development platforms.
- File and Print Server for Coal Mine Reclamation and Abandoned Mine Lands programs. This server provides print services for all of the PSC and large file storage for data not stored in the GIS system for the coal programs. Such as electronic coal mine permit applications and supporting documentation.
- File Server supporting utility regulation, siting of energy related facilities, licensing of auctioneers and grain elevators, and monitoring weighing and measuring devices.
- Backup and Administrative Server. Provides backup, virtualization control and other administrative services.

Disk: Large storage is managed independently of the server infrastructure, and as such, a replacement strategy has been developed that requires replacement of the existing disk and related subsystems every 6 years. Given the constant increases in density of storage, the replacement strategy is often expected to be provided by expansion of storage capacity needs to support the PSC's business processes.

- Three Disk Units Totaling Approximately 30 TB (one unit purchased 2004)

##### Network:

- 24 port non-managed switch (server and disk control)
- 24 port non-managed iSCSI disk interconnect. (not connected to state network, iSCSI disk connect only)

##### Backup/disaster recovery:

- Two Tape Backup Units
- One Disk Backup Unit

**Rationale:**

The Public Service Commission (PSC) is a small agency with significant regulatory responsibilities involving key North Dakota industries. In 2005 the PSC was granted a permanent exemption from IT consolidation by OMB due to the technical and scientific nature of the agency's work. OMB and the State Chief Information officer continue to support this exemption.

The Director of the Office of Management accepted the following reasons to support this exemption in 2005 and the rationale remains the same today.

- The agency's IT infrastructure provides the backbone for our regulatory programs. Seamless coordination with industry is vital and occurs largely through integrated technology systems.
- Seemingly minor changes or disruptions to the regulatory process can be extremely detrimental to the industries. The agency and the industries it regulates are concerned about the impact a third party IT provider unfamiliar with the process could have on the program.
- The technical and scientific nature of the PSC's work makes this agency unique compared to many other state agencies. This technical regulatory work is accomplished by engineers and scientists who collect and compile the vast amount of data that pushes information technology far beyond its typical government uses.
- Managing the state's coal regulatory and reclamation program requires the PSC to be in sync with the federal Office of Surface Mining. Our business applications and server infrastructure are closely related and in some cases directly integrated with the Office of Surface Mining (OSM) and industry to facilitate easy electronic exchange of large data files.
- The PSC's IT evolution has allowed and encouraged specialized end-user development in conjunction with these companies to maximize performance and minimize total costs. For example, North Dakota initiated the first in the nation electronic permitting system for large surface mines facilitating faster, more efficient and more efficient than paper filings.
- The PSC's use of Geographic Information Systems (GIS) has increased significantly in the past ten years. This requires high volume data use and storage most efficiently accomplished by onsite servers.



- Flexibility allows the PSC to provide the highest quality service to the state at the lowest possible cost.

## **PSC IT Functions**

### **Detailed Background**

31 January 2013

The Public Service Commission (PSC) is a small agency with significant regulatory responsibilities involving key North Dakota industries. The PSC has been granted a permanent exemption from IT consolidation which is still supported to this day by both the Office of Management and Budget and the State Chief Information Officer. Industry depends on us to provide seamless coordination and minimum disruptions to the regulatory process because they can be extremely detrimental to the viability of their industry. The system used by our scientific and engineering professionals is a cooperative arrangement with both the federal Office of Surface Mining and regulated industry. The ability to be flexible and responsive is how our regulatory program ranks among the best in the Nation. In addition, the use of Geographical Information Systems (GIS) has increased exponentially over the past ten years and is expected to continue into the future. These systems require a high volume of data storage and specialized computers to analyze and model the necessary information. The large data sets are physically delivered to the Commission via Blu-ray and portable disc mediums. We believe it is in the State's best interest to continue this flexibility to provide the highest quality service at the lowest possible cost.

### **Background**

#### **Information Technology Equipment**

##### **Servers:**

- **Graphic Information System (GIS) Server.** Provides GIS services primarily for Coal Mine Reclamation and Abandoned Mine Lands programs however, also supports other Commission business units. This server is a cooperative effort between the federal Office of Surface Mining. OSM supplies the software and the PSC provides the management and hardware. This requires close coordination among PSC, Industry and OSM.
- **Database Server.** Supports all business applications except GIS, and some scientific or engineering based applications. Supports applications developed by the PSC and ITD including PowerBuilder, java and .NET development platforms.
- **File and Print Server for Coal Mine Reclamation and Abandoned Mine Lands programs.** This server provides print services for all of the PSC and large file storage for data not stored in the GIS system for the coal programs. Such as electronic coal mine permit applications and supporting documentation.
- **File Server supporting utility regulation, siting of energy related facilities, licensing of auctioneers and grain elevators, and monitoring weighing and measuring devices.**
- **Backup and Administrative Server.** Provides backup, virtualization control and other administrative services.

**Disk:** Large storage is managed independently of the server infrastructure, and as such, a replacement strategy has been developed that requires replacement

of the existing disk and related subsystems every 6 years. Given the constant increases in density of storage, the replacement strategy is often expected to be provided by expansion of storage capacity needs to support the PSC's business processes.

- Three Disk Units Totaling Approximately 30 TB (one unit purchased 2004)

**Network:**

- 24 port non-managed switch (server and disk control)
- 24 port non-managed iSCSI disk interconnect. (not connected to state network, iSCSI disk connect only)

**Backup/disaster recovery:**

- Two Tape Backup Units
- One Disk Backup Unit

**Technology Division FTE's**

- Director of Technology
- Two programmer analyst II

**Rationale:**

The Public Service Commission (PSC) is a small agency with significant regulatory responsibilities involving key North Dakota industries and is very concerned with the discussion about the possible consolidation of our IT infrastructure. Nearly half of the employees are scientists and engineers with expertise in separate, specific areas. The PSC aims to be flexible, fast and responsive to the needs of our citizens, industry and federal stakeholders. The need for exemptions from consolidation for technical and scientific agencies was thoroughly vetted in 2005. The PSC's permanent exemption granted under NDCC 54-59-22 by the Director of the Office of Management and Budget (OMB) in April 2005 has served the PSC and its stakeholders economically, efficiently and effectively for the last eight years.

We requested the exemption in 2005 because most of our duties are technical and scientific which are carried out by highly educated, technical personnel. The daily work of these individuals involves the use of multiple data sets and large files that contain maps, CAD, time sequenced aerial photography and scanned historical information. Specialized software is used for managing, analyzing and evaluating these data sets. The technical and scientific nature of the PSC's work makes this agency unique compared to other state agencies. This technical regulatory work is accomplished by engineers and scientists who collect and compile the vast amount of data that pushes Information Technology far beyond its typical government uses. The PSC's industry clients have been well served by our in-house IT capabilities.

The following information supports the PSC's in-house IT management:

The PSC's business applications and infrastructure on which they run are fundamentally related.

In-house management of hardware and software allows the PSC to keep in step and closely integrated with our business partners.

Managing the state's coal regulatory and reclamation program requires the PSC to be in sync with the federal Office of Surface Mining. Our business applications and server infrastructure are closely related and in some cases directly integrated with the Office of Surface Mining (OSM) and industry. Transferring this function to a unified state IT department that is unfamiliar with these scientific functions, the federal requirements, or the needs of industry would jeopardize the efficiency, seamlessness and cost effectiveness of the state's current coal regulatory process.

The Public Service Commission's IT work and development occurs primarily through the interaction between the agency's technical professionals and their counterparts in industry and with the federal Office of Surface Mining. Much efficiency is achieved by having software that is compatible with that used by the mining companies in order to exchange work files electronically.

The PSC's IT evolution has allowed and encouraged specialized end-user development in conjunction with these companies to maximize performance and minimize total costs. An example of this is the electronic mine permitting system, the first in the nation for a large surface mine, that was developed about ten years ago through negotiation and cooperation between the mines, the PSC and the Office of Surface Mining. This resulted in active mining permits being converted to an entirely electronic format. The electronic applications are processed faster and more efficiently than paper filings, and are more easily and cheaply maintained long term.

The PSC use of Geographic Information Systems (GIS) has increased significantly in the past ten years. The Reclamation Division has developed a GIS to track mining and reclamation activities and assist with the technical analysis of plans and data submitted by the mining companies. Mine information entered into the GIS includes recent high altitude air photos, permit boundaries, roads, stockpile locations, sedimentation ponds, bond release tracts, and related features. Much of this information is being loaded onto tablet computers equipped with Global Positioning System (GPS) receivers that our mine inspectors use when carrying out mine inspections. This allows for accurate tracking and recording of activities during mine inspections and for staff to otherwise carry out responsibilities more efficiently. Similarly, GIS is used by staff in designing and overseeing abandoned mine reclamation projects. The many types of geospatial data in the GIS have very large file sizes.

The PSC's reclamation and abandoned mine lands staff use a specialized suite of software, including the GIS applications, that has been provided by the federal Office of Surface Mining for exclusive use in these programs. If we had to purchase this software it would cost the PSC approximately \$700,000. Also, the PSC needs to maintain control of this federally owned software in order to continue to use it and received upgrades and new products that are exclusively used for the coal related programs. This federal IT software is integrated with that otherwise used by the Commission. Consolidation of IT services will greatly diminish our ability to react quickly and remain current with our business partners.

Flexibility is also needed to allow the Commission to implement technological advances to minimize cost and maximize effectiveness, in step with private enterprise. The interaction with business partners effectively leverages an optimum mix of state and



federal software, while maintaining strict compatibility with industry and other regulatory jurisdictions. This process provides benefits and efficiencies far above and beyond simply the federal dollars that help support our agency. This process allows us to provide the highest quality service to the state at the lowest possible cost.

**Conclusion**

For all of these reasons, the Commission believes it is not only appropriate, but also necessary, for the PSC to continue the exemption provided by the director of OMB as provided in NDCC 54-59-22.

Similarly, the Commission believes the Enterprise Architecture (EA) process is a very valuable and necessary process for state government. The Commission is, and has been, very heavily involved with Enterprise Architecture. Commission employees have been involved in the process at the Domain Team level, at the Architecture Review Board (ARB) and on special projects for EA and currently serves as the deputy chair of the ARB. We recognized very early the importance of EA, both to the Commission and to all of state government. We have consistently both contributed to and received value from the EA process.

The Commission is also an associate member of the GIS Technical Committee and an avid proponent of GIS in North Dakota.

The Commission is responsible for ensuring that its employees provide high quality services in the most cost-effective, efficient way possible. As a constitutional agency headed by three state-wide elected officials, it is the Commission's responsibility to make the business decisions necessary to accomplish this objective. Part of this decision making involves the Commission's ongoing assessment of its IT options, and its commitment to the success of the Enterprise Architecture process. The exemption from mandatory consolidation is a key component in this endeavor, and is necessary to ensure that the choices available to the Commission are not artificially limited.



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Title.

Prepared by the Legislative Council staff for  
House Appropriations - Education and  
Environment Division

February 22, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1148

Page 1, line 2, after the semicolon insert "to amend and reenact section 49-01-05 of the North Dakota Century Code, relating to the salary of public service commissioners; to provide for a legislative management study;"

Page 1, line 2, remove "and"

Page 1, line 2, after "transfer" insert "; and to declare an emergency"

Page 1, replace lines 12 through 15 with:

"Salaries and wages	\$7,482,074	\$774,551	\$8,256,625
Accrued leave payments	0	168,278	168,278
Operating expenses	1,972,572	4,825	1,977,397
Capital assets	53,000	(1,835)	51,165
Grants	16,000	4,000	20,000"

Page 1, replace lines 18 through 20 with:

"Total all funds	\$18,423,646	\$949,819	\$19,373,465
Less estimated income	<u>12,403,431</u>	<u>591,828</u>	<u>12,995,259</u>
Total general fund	\$6,020,215	\$357,991	\$6,378,206"

Page 2, replace lines 4 through 7 with:

"Federal stimulus funds	\$658,217	\$0
Hydraulic soil probe	0	<u>28,000</u>
Total all funds	\$658,217	\$28,000
Total special funds	<u>658,217</u>	<u>17,920</u>
Total general fund	\$0	\$10,080"

Page 2, after line 11, insert:

**"SECTION 3. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

**49-01-05. Salary of commissioners.**

The annual salary of a commissioner is ~~ninety-two~~ninety-eight thousand ~~eight~~four hundred ~~twenty-six~~seventy-nine dollars through June 30, ~~2012~~2014, and ~~ninety-five~~one hundred ~~one~~thousand six hundred ~~eleven~~thirty-three dollars thereafter. All fees received or charged by any commissioner for any act or service rendered in any official capacity must be accounted for and paid over by the commissioner monthly to the state treasurer and must be credited to the general fund of the state.

**SECTION 4. LEGISLATIVE MANAGEMENT STUDY.** The legislative management shall consider studying during the 2013-14 interim civil penalties assessed and collected by state agencies, including a review of the funds into which the collections are deposited and the appropriateness of the use of funds collected.

The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

**SECTION 5. INFORMATION TECHNOLOGY HARDWARE - TRANSFER TO SECURE DATA CENTER.** The public service commission shall transfer all appropriate information technology hardware to the information technology department secure data center during the biennium beginning July 1, 2013, and ending June 30, 2015."

Page 2, after line 20, insert:

**"SECTION 7. LEGISLATIVE INTENT - GAS PIPELINE SAFETY INSPECTOR.** It is the intent of the legislative assembly that the public service commission proceeds in the hiring process of a gas pipeline safety inspector position that has been repurposed in the commission's 2013-15 biennium budget from the weights and measures program prior to June 30, 2013.

**SECTION 8. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

**STATEMENT OF PURPOSE OF AMENDMENT:**

**House Bill No. 1148 - Public Service Commission - House Action**

	Base Budget	House Changes	House Version
Salaries and wages	\$7,482,074	\$774,551	\$8,256,625
Operating expenses	1,972,572	4,825	1,977,397
Capital assets	53,000	(1,835)	51,165
Grants	16,000	4,000	20,000
Abandoned mined lands contractual services	8,000,000		8,000,000
Rail rate complaint case	900,000		900,000
Accrued leave payments		168,278	168,278
Total all funds	\$18,423,646	\$949,819	\$19,373,465
Less estimated income	12,403,431	591,828	12,995,259
General fund	\$6,020,215	\$357,991	\$6,378,206
FTE	43.00	0.00	43.00

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

	Agency Budget Request Changes <sup>1</sup>	Executive Budget Changes <sup>2</sup>	State Employee Compensation Package <sup>3</sup>	Provides Separate Line Item for Accrued Leave Payments <sup>4</sup>	Adds Funding for Capital Assets <sup>5</sup>	Total House Changes
Salaries and wages	\$258,390	\$271,810	\$412,629	(\$168,278)		\$774,551
Operating expenses		4,825				4,825
Capital assets	(53,000)	28,000			\$23,165	(1,835)
Grants	4,000					4,000
Abandoned mined lands contractual services						
Rail rate complaint case						
Accrued leave payments				168,278		168,278
Total all funds	\$209,390	\$304,635	\$412,629	\$0	\$23,165	\$949,819
Less estimated income	178,757	260,205	152,866			591,828
General fund	\$30,633	\$44,430	\$259,763	\$0	\$23,165	\$357,991
FTE	0.00	0.00	0.00	0.00	0.00	0.00

<sup>1</sup> This amendment incorporates changes made in the **agency budget request**, including:

	FTE	General Fund	Special Funds	Total
Base payroll change		\$83,633	\$174,757	\$258,390
Increase funding for North Dakota geological survey passthrough funds			4,000	4,000
Remove 2011-13 funding for capital assets		(53,000)		(53,000)
Total		\$30,633	\$178,757	\$209,390

<sup>2</sup> This amendment incorporates items recommended in the **executive budget**, including:

	FTE	General Fund	Special Funds	Total
Add one-time funding for hydraulic soil probe		\$10,080	\$17,920	\$28,000
Add funding for 2 FTE positions repurposed for energy impact	2.00	95,601	167,085	262,686
Add funding for increased travel costs		54,956	11,199	66,155
Add funding for legal fees for grain elevator insolvency cases and reclamation/abandoned mined lands lawsuits		86,000	64,000	150,000
Base payroll change	(2.00)	(202,207)	1	(202,206)
Total	0.00	\$44,430	\$260,205	\$304,635

<sup>3</sup> Funding for the state employee compensation package is added providing:

- Performance-based salary increases of from 2 percent to 4 percent each year of the biennium.
- Market equity salary increases of up to 2 percent for employees in the first quartile of their salary range for the first year of the biennium.
- Health insurance premium increase of \$95 per month to provide a total of \$982 per month per employee.

<sup>4</sup> A portion of salaries and wages funding from the general fund (\$105,071) and from other funds (\$63,207) for permanent employees' compensation and benefits is reallocated to an accrued leave payments line item for paying annual leave and sick leave for eligible employees.

<sup>5</sup> Funding is added for information technology equipment over \$5,000 for a hearing room teleconference upgrade (\$8,500) and a standard large format plotter (\$14,665).

This amendment also adds sections to:

- Provide legislative intent and an emergency clause to allow the Public Service Commission to fill the pipeline safety inspector position that was repurposed from a weights and measures position prior to the 2013-15 biennium.
- Provide for a Legislative Management study of civil penalties.
- Require the Public Service Commission to transfer its appropriate information technology hardware to the Information Technology Department secure data center.
- Provide for salary increases for the Public Service Commissioners of 3 percent on July 1, 2013, and 3 percent on July 1, 2014.