

2019 SENATE APPROPRIATIONS

SB 2008

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2008
1/8/2019
JOB # 30546

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Alice Delzer and Alicia Larsgaard

Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation to defray the expenses of the Public Service Commission.

Minutes:

1. Testimony of the Public Service Commission

Chairman Holmberg: Called the Committee to order on SB 2008. All committee members were present. Stephanie Gullickson, OMB, Chris Kadrmas, Legislative Council were also present. We do have a subcommittee on this one: Senator Gary Lee, Chair, Senator Wanzek and Senator Grabinger.

Brian Kroshus, Chairman of Public Service Commission: Testified in favor of SB 2008 and presented attachment # 1- Testimony – which lists the responsibilities of the department of PSC (Public Service Commission), the budget needs, and the appropriation they are seeking for their department. **(11.20)** We receive a considerable amount from federal funds. He continued on page 8 – Rail Safety program. We have been operating the Rail Safety program since 2015. Federal rail inspectors are out there. They only inspect 2/10ths of a percent of the rail operations nationally each year. So 99.8% go uninspected. The program has been successful in the sense that they continue to find defects. The track inspector has conducted 470 inspections, noted 2,917 defects, and has issued 29 violations with civil penalties. Our mechanical inspector has conducted 429 inspections, noting 3,440 defect, and has issued 63 violations with civil penalties. We are asking for continued funding for the safety of our citizens of ND driven by the need for having third party inspectors in the field. This is particularly as rail shipments from the Bakken continue to increase because of the limited pipeline take away capacity. At 1.4 million barrels of production in the Bakken, the pipeline capacity is full. The only way to move product from the oil field to market is by rail. We will continue see an increase in rail shipments. Protecting public safety is the goal. Accounting Budget Specialist: (see page 8) We have a small staff. We have one person in our accounting department at the moment. When you look at the internal controls, they are spread out to different staff members. They are not specifically trained in the areas they are involved with. It is not a long term fix. We just had an audit. You won't see any findings but it was for the previous biennium when we had two people in the accounting department. **(14.52)**

He continued with Capital Assets on page 8. We have two machines that are 8 years old and one that is 6 years old. In terms of changes to federal funding levels, for the upcoming biennium, we do not expect any material changes. Summary- Page 11. We are seeing more wind facility signing cases coming before the commission. Our work load doesn't slow down even if crude oil pricing decreases and drops. This is due to the oil-gas ratio in the Bakken and the fact that we have more natural gas coming off the well head. It requires more processing facilities which equates to more citing cases and more transmission pipeline citing cases in addition to the processing.

Chairman Holmberg: Anyone else testifying on the budget?

V. Chairman Wanzek: On the highly publicized case of insolvency, you said the PSC has spent \$10,000 in processing that claim? Do you have any idea as to what that situation might end up at?

Brian Kroshus: It is an open case. These have not all been verified. They are between the 5-6-million-dollar range. Bonding levels will not come close to covering that. As the result the case will span over a period of time and be expensive. It would be speculative in nature at this point until we verify claims that have been made. We are in the early stages. It is not a good situation.

V. Chairman Wanzek: You say the bonding will not cover much. Will come of the credit sale contracts fall under the indemnity fund?

Brian Kroshus: I do not know.

V. Chairman Wanzek: These may be more personal interest questions. This is an ongoing case, so I apologize for that.

Senator Poolman: I have a question about page 13 regarding your optional budget request. On the bottom you talk about how you have serious concerns about access to the statewide litigation poll. Can you talk about what those concerns would be?

Brian Kroshus: We do have concerns in terms of being able to quickly move on any potential litigation that should come before the commission. These are specialized cases that you can argue are not unique in the sense that they typically are. We are looking for certainty in terms of knowing the funds are available, being able to move quickly, and come to a favorable outcome for the state of ND. It's really about speed of delivery in terms of tackling the case and being able to move quickly.

Chairman Holmberg: Closed the hearing on SB 2008.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2008
1/22/2019
Job # 31193

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Rose Laning / Marne Johnson
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Explanation or reason for introduction of bill/resolution:

A bill to provide an appropriation for defraying the expenses of the public service commission; to amend and reenact sections 49-01-05 and 57-43.2-19 of the North Dakota Century Code, relating to the salary of the commissioners and the transfer, deposit, and distribution of funds in the highway tax distribution fund; to provide for a study; to provide for reports; and to provide for a transfer.

Minutes:

No Attachments

Legislative Council: Alex Cronquist
OMB: Larry Martin

The Senate Appropriations Committee met to discuss the agency bills and others that have been presented thus far and wanted to get input from the whole committee on what should be the focus of each sub-committee.

Chairman Holmberg said that we're not going thru salaries at this time.

SB 2001 – Governor (sub-committee: Hogue, Lee, Mathern)

- The 10% movement of moving money between line items. Have a standard response for them.
- Discuss the governor's salary - this reduces salary just short of \$200,000 & what happens to the rest of it. They took their 5% cut. (Language needs to be revisited)
- Council said by putting it in a line item, then it couldn't get spent in other areas.
- Transfer language - limited it to 10% before going to emergency commission

SB 2002 – Secretary of State (sub-committee: Hogue, Oehlke, Grabinger)

- Voting equipment – replacing voting machines (matching requirement by state)
- Emergency clause should be there.
- 10% line item transfers

SB 2003 – Attorney General (sub-committee: Sorvaag, Bekkedahl, Mathern)

- Litigation authority
- Amount of money for Litigation
- Joining in with other states suing the federal government
- New line in OMB to tap into litigation pool
- Human trafficking grants added to AG bill

SB 2004 – State Auditor (sub-committee: Oehlke, Dever, Mathern)

- Looking at number of FTE requests
- FTEs between University system and Auditor's office
- ITD FTEs.

SB 2005 – State Treasurer (sub-committee: Bekkedahl, Dever, Robinson)

- Investments of the Veterans Post War Trust Fund (low interest)
- Treasurer's salary

SB 2006 – Tax Commissioner (sub-committee: Wanzek, Bekkedahl, Mathern)

- Discovery of compliance of businesses with no physical sales tax.
- Concern about staffing – many retirees and loss of senior staff.
- Authority for line item transfers between the Homestead Tax Credit and Disabled Veteran's Credit programs.
- Litigation funds – or funds in litigation pool.

SB 2007 – Labor & Human Rights (sub-committee: Poolman, Sorvaag, Robinson)

- Salary of Commissioner as she will be in charge of Dept of Labor and Human Rights as well as the Dept. of Commerce.

SB 2008 – Public Service Commissioner (sub-committee: Lee, Wanzek, Grabinger)

- Wanting additional staff for indemnity issues
- Additional staff
- \$100,000 increase in budget

JOB # 31232 -

SB 2009 – Agriculture Commissioner (sub-committee: Wanzek, Erbele, Grabinger)

- Want to move APUC and Trade Office to his office.
- 2 less FTEs
- Ag bio-science program – an appropriation bill. Should it be added to the budget or let it a stand-alone bill.

SB 2010 – Insurance Commissioner (sub-committee: Oehlke, Erbele, Grabinger)

- Moving the Fire & Tornado fund over to the ND Insurance Reserve Fund
- Boiler inspection program

- Fire Departments & Sheriff's tax on insurance

SB 2011 – Securities Commission (sub-committee: Krebsbach)

- Money for a FINTECH position
- Section 3 appropriation of any income from federal funds (14:17)

Larry Martin: Like the transfer language, we added a lot of the language to spend additional federal or other funds to the cabinet agencies. Again, some of them receive money from outside sources, so we wanted them to have the ability to pay out. Job Service has similar language currently because they do get additional federal money so they have to be able to spend it out. We added that language to all the cabinet bills.

SB 2012 – Human Services (sub-committee: Dever, Erbele, Mathern)

- Provider rates. Governor 1-1. They want 3-3-3.
- Medicaid – reauthorization of the expansion. Do we reimburse?
- Behavioral Health
- State Hospital – support the move from New England for the women? Justification for the state hospital – a study?
- Policy and how its structured – for whole department. \$182M
- Nursing Homes
- Study the 36 Critical Access Hospitals - Commercial rates vs. traditional rates
- Study resolution of medical care in the future for the state
- 1915(i) needs support.
- Commercial vs. traditional rates

SB 2013 – Public Instruction; Library, Blind & Deaf (sub-committee: Holmberg, Poolman, Robinson)

- Will have some meetings but need to wait for Education Committee to complete policy. Governor's school information is confusing.
- 1 FTE reinstated.
- Adult education.
- FTEs at school at Devils' Lake
- Governor moved pre-school money from Commerce to DPI (where is the money?)
- Transportation grants

SB 2014 – Protection & Advocacy (sub-committee: Sorvaag, Krebsbach, Grabinger)

- Adding of one employee
- Additional operating expenses
- Transferring guardianship programs to P & A.

SB 2015 – Office of Management & Budget (sub-committee: Holmberg, Bekkedahl, Robinson)

- Transferring money – \$1B of oil revenue to general funds.
If we put \$1B in and oil prices go down and we have less money in the general fund, we might have a risk with allotments.
Do we want to expose ourselves more in the general fund by putting \$1B in the general fund from direct oil revenue?
- Fees or dues for several organizations. Last session we reduced dues by 10%.
- WICHE (Western Interstate Commission for Higher Ed) dues were in OMB and Commission was placed under Higher Ed. Did the \$15,000 get transferred?

SB 2016 – Office of Adjutant General (sub-committee: Hogue, Holmberg, Grabinger)

- Land Acquisition - Proposed 6,000 acres of land in south Camp Grafton. Want to ask the adjutant, you have \$15M set aside to acquire 6000 continuous acres and will not exercise the power of eminent domain. How much will they pay an acre?
How did they come up with \$15M?
- \$15M set aside to gain land - long term leases. Be wary of setting precedent for cost/acre.
- Locals are not on board?

SB 2017 – Game & Fish (sub-committee: Oehlke, Wanzek, Grabinger)

- Section 5 on green sheet – additional amounts appropriated to Game & Fish Dept. There is appropriated additional income from the feds from other funds to that agency. Would the federal funds go to their agency first?
- If they're receiving monies from federal, they can spend them out.
- Section 6 - Require them to hang onto \$15M unless we have a budget section meeting and have an exception for some emergency. They have to invest it and its not making money where its being invested. They'd like it to be invested by the state investment board.
- Sportsman's clubs – raise the fishing licenses; boat tax/gas tax.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2008
1/23/2019
Job # 31306

☒ Subcommittee
☐ Conference Committee

Committee Clerk Signature: Rose Laning
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Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation to defray the expenses of the Public Service Commission.

Minutes:

No attachments

Legislative Council: Chris Kadrmas
OMB: Stephanie Gullickson

Chairman Lee called the sub-committee to order on SB 2008. Sub-committee members **Senator Wanzek** and **Senator Grabinger** were also present.

(Senator Lee's microphone was not turned on until 2:54 of the audio.)

Senator G. Lee: Said they will not be going over the salaries at this stage. He started to list the optional adjustment requests stating that they started the biennium with 45 FTE positions and they will be losing one grain inspector and repurposing one position to a gas pipeline inspector.

Brian Kroshus, Chairman, Public Service Commissioner

You're asking what the governor put in – the pipeline inspector? That was based on requirements that we have at the federal level, in terms of having the appropriate number of inspection days. Out in the field, there's a formula that we have to adhere to. The governor looked at that and put that position in to the executive budget.

Currently we have 45 FTEs, but we only have funding for 44. One individual moved upstairs. That was repurposing. It was a public utility division position that was in as an FTE but without funding, so then the pipeline inspector was inserted.

Senator G. Lee: The governor did that? (Yes) Is that acceptable to you or do you want something different?

Brian Kroshus: In the ideal world, it would be nice to have a third inspector. Our duties are ever continuing to expand. I think it would stretch existing staff for number of inspection days that we would need. We're at that fine line of getting it done, meeting fed requirements, not having our formula negatively impacted. There's a penalty if you don't have enough

inspection days in the field. I hate to ask for anything we don't need, but this one is getting to that tipping point. It would be nice to have the position. Could we stretch out a little longer? We're looking at that.

(6:19) Senator Grabinger: Could there be a safety factor? You could take it from the standpoint, from your leadership that it would provide a safety factor. Is that true?

Brian Kroshus: There's no question that it would, we'd insure that we'd meet the threshold and be able to have more inspection days in the field. There's more miles to inspect. It isn't necessarily looking at a buried pipeline; what procedures do they have in place to make sure they're doing the right things to prevent bad things from happening. It's a pro-active approach. Still have to deal with formula.

Senator G. Lee: Removal of one grain inspector. You're requesting to put that FTE back plus another. Tell me about taking it out and what it means?

Brian Kroshus: I don't think taking it out is an option. We need to have at least two inspectors in the field, frankly even a 3rd. There's a lot of ground to cover out there. Not just about FTEs, but what we pay them. What we need is for them to be proactive and catch problems before they happen. We need more, frankly to be able to do the job. Strongly opposed to taking out the position.

Senator Wanzek: We have two inspectors and this removes 1?

Brian Kroshus: We have 2 FTE's but only 1.75 in terms of funding. If you removed 1 FTE we'd go down to .75.

Senator Wanzek: We're bonded and licensed on a specialty crop on our farm. They inspect the farm inventory? (Correct) Right now there's no authority for them to secure financial records or statements? (Correct) It's getting highly publicized, I'm not sure we could have written any laws to prevent what happened in this situation. Maybe they need more oversight on the front end. Gatekeeping and how they get this licensure.

Brian Kroshus: I agree. You have the reactive part for when things go south, but there's no substitute for proactivity. They meet the requirements so there, but now they're legally entitled. It's easier to get a home loan, than to get a grain license on a commodity. Screening process, so every detail looks good. There are many more things we can be doing to be proactive. To stop people that shouldn't have licenses. If you have a bad actor out there and things get pushed, you're looking at financials on an annual basis. It needs to be done, but if you have someone who is behaving badly, if they really want to take advantage of the system, they're probably going to. But what can we do in advance.

Senator Wanzek: This is not meant to be a finger pointing, but I'm hearing from farming groups, the frustration. Someone sells grain and he's bonded and licensed, they make assumptions. Could the state ever be vulnerable to a lawsuit? I have a bill introduced, and we have to have that discussion. If we expand the scope of what you're going to be doing, you're going to need resources. I'm hearing from farmers there's not enough protection for them.

Brian Kroshus: I couldn't agree more. We have recognized this for quite some time. This asking for more and having things in place.

(15:44) Senator G. Lee: One of the other things the budget does is reduces funding for rail rate compliance, to a total of 790,954. It takes out \$109,000. You're asking for it to be restored? What are your thoughts?

Brian Kroshus: Yes. It's the same thought process, in terms of having adequate pipeline inspection in the field. We have 2 people out there; they are very busy. They continue to find defects. Some are very serious defects. The federal rail inspectors can only inspect 2 10ths of a percent of lines. We're inspecting Bakken crude through our small town. We saw what happened in Casselton, what if an accident happened in a down town area? I don't agree with removing that money.

Senator G. Lee: Revolving loan fund, the bank holds that? (Correct) Damages are paid back to the fund as expenses.

Brian Kroshus: BND is good with the way things are set up. The \$900,000, it's a club. It lets railroad know if you are manipulating prices and creating a disadvantage for one part of the state. We have the resources to go after them.

Senator G. Lee: Have you ever used it?

Brian Kroshus: I haven't. But there was a problem. You could move grain cheaper to move from Casselton to west coast than Beach to west coast. The fund was established and then things were immediately corrected by the railroads.

Senator G. Lee: Is there a demand for that money, if they weren't holding it for you, is there someone standing in line waiting for it?

Brian Kroshus: No, it's coming from the Farmer loan fund. They haven't been in a pinched situation. It provides protection, but also for the beginning farmers. Those funds (\$900,000) hasn't caused any hardship

Senator Wanzek: I remember it cost more to ship wheat from Beach, than Casselton, to west coast. This got put in there, and straightened out, and it's never been used. That's fine with me. There is nothing on the horizon that's been a problem. If someone is not getting a beginning farmer loan, because the money is sitting there, I'd want to change that. As long as no one is being prohibited.

Brian Kroshus: We've vetted that with BND and there's no problem with railroad, but they know the money is there.

Senator Grabinger: FTE issue, you were asked to make cuts. When doing that, did you site a different FTE? You made compelling argument about this grain inspection. Is there another FTE that you could single out if you were to illuminate one? If we gotta go somewhere, we have something to go on.

(22:15) Brian Kroshus: We talked about this at length, there's not a safe solution. I know you've heard this from everyone. Our duties aren't contracting. We're finding new efficiencies in department. Thinking back on those conversations, and which FTE it would be...

Senator Grabinger: In your discussions you've never had anything jump out at you with like "Maybe if we'd have to cut one position, it would be ____". What did you tell the governor's office?

Brian Kroshus: We eliminated an admin position, our Large Scale Quality Assurance Inspector and eliminated then the Grain Licensing.

Senator Grabinger: In this budget, or previous year?

Brian Kroshus: No, that was a part of the 10%.

Senator G. Lee: The governor's budget also reduced the specialized legal funds. Just left the federal dollars. Not sure what that total was, the only thing left is federal funding for specialized legal services. I want to see what that number is, must have been larger than 336. Those can only be used for certain programs? Pipeline, hazardous safety material, surface mines.

(25:40) Jill Kringstad, Accounting Budget Specialist, Public Service Commission: We had base versus one time. We had a mix in our specialized legal services line. For the current biennium, we had \$530,000 total. \$30,000 of that is general fund; \$100,000 is SIIF (Strategic Investment & Improvement Fund) and the remaining is from the federal fund. We requested the same amount of funding.....

Chris Kadrmas: For the current biennium, there is \$94,000 from the general fund that is in their base budget. Then there is \$336,000 for one-time funding – that's the federal funds.

Jill Kringstad: There are limitations to what we could use the federal funding for. It would have to be part of the federal program, so yes, either through OSM or with PHMSA. I believe the caveat was we would have access to the statewide litigation pool that OMB set up.

Senator G. Lee: In terms of restoring the money or restoring the \$94,000 as opposed to using the litigation fund, why not use the litigation fund?

Chris Kadrmas: The \$94,000 is included in their base budget so that wouldn't have to be restored. That exists in their budget in the governor's recommendation, so that wouldn't need to be restored. The only change to the base budget is the additional one-time funding of the \$336,000 unless the committee were to choose to reduce their \$94,000 base budget.

Senator G. Lee: In terms of that litigation pool as opposed to having these funds, it's there to be used by everyone. What's the concern?

Brian Kroshus: The concerns relate to having certainty; knowing we can make the choice and the decision to pursue legal action and having the funding available. And also speed.

You don't know what the timing of these things are going to be would be and if there are different elements from other agencies, other influences hitting all at the same time. It moves us a step closer having the people within our agency who really understand. Having dealt with it. It's more linear in nature in terms of working with whomever we need to work with from a legal standpoint to fend against lawsuits and various legal actions.

(29:50) Senator Wanzek: In my view, the most significant issue is the grain bonding and licensing. As far as warehouse inspector, I don't know if that would qualify as someone who can also review financial. Shouldn't it be auditor type person?

Brian Kroshus: At least one of the positions would have to be focused on what happens in the field. A person who is qualified and catch the things they need to catch. An auditor type, accounting background needed to accomplish that.

Senator Wanzek: A number of us have been called by the media and AgWeek. This is going to be a big issue. We will have to address it.

Brian Kroshus: I agree. On a closing note, we are asking for an accounting budget specialist. We have good people on staff that are performing duties to have a segregation of duties within the agency. Going back to training, they don't always have the type of training to catch things. It's a very important position for us.

Senator G. Lee: Closed the hearing on SB 2008.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2008
1/31/2019
Job # 31951

☒ Subcommittee
☐ Conference Committee

Committee Clerk Signature Rose Laning / Florence Mayer
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Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation to defray the expenses of the Public Service Commission.

Minutes:

Testimony Attached # 1 – 2.

Legislative Council: Adam Mathiak
OMB: Stephanie Gullickson

Chairman Lee: Called the sub-committee to order on SB 2008. Sub-committee members Senator Wanzek and Senator Grabinger were also present.

Brian Kroshus, Public Service Commissioner:

Handed out 2019-21 Requested Changes from Base Budget – Attached # 1.
We are stretching federal inspectors thin. They can only cover less than 2/10ths of a percent of the track. This is a public safety issue and we continue to find defects.

Chairman Lee: Are the 2 FTEs that are in the rail safety portion included in the 44? (That was confirmed.)

Any additional costs by continuing it as part of the budget as opposed to the pilot? (He was told no; the program would remain the same.)

Senator Wanzek: You say you find a lot of defects, then you report it to the railroad. Do they get fixed then or is there a fine?

Brian Kroshus: It is noting the defect and then the railroad will follow up. Sometimes it is setting aside equipment that isn't safe to use, sometimes it's more proactive. A defect is a defect once it's over the threshold of acceptance. They have to fix it. We have a good relationship with the railroads, but you can also tell they are getting stretched thin.

(5:32) Senator Grabinger: How much money is there in that fund? We're funding it with \$285,000 now, how much tax is paid by the railroad that we're taking that money out of? At what point do you expand that or ask for another inspector and is there money available to do that?

Brian Kroshus: We would have to look at the numbers, but I believe there is money available.

Senator Grabinger: Looking ahead with how rail is going to be used even more, the need for this will be even greater to prevent accidents. Should we be progressive in our thinking and take a look at that?

Brian Kroshus: I would agree. If we moved 2M barrels of oil production per day, that will drive construction of a new pipeline. We would do well in providing a 3rd inspector. I would agree, with the number of defects we are finding now it certainly won't lessen.

Senator G. Lee: Adam Mathiak can you find that exact number? I think it's larger than 250. Next on your list is the Accounting budget specialist. What can you tell us about that need?

Adam Mathiak, Legislative Council: Handed out PSC Base Level Funding Changes Attachment # 2.

Brian Kroshus: That is a position that we've had in the past. Due to budget constraints it was cut. We have very good people at the PSC, they are a second set of eyes. These people are fulfilling functions that they aren't trained for. In our next audit, we will most likely get dinged. There will be some deficiencies. Jill is top notch, but she can't inspect her own work. We're a regulatory agency. When we make decisions, the public should have confidence in us. If we have a deficient audit, the public trust is undermined. Having that second person is very important.

Senator G. Lee: Would that increase your FTE number to 45?

Brian Kroshus: It would not. We would utilize an existing FTE position, but we would need funding for that.

(13:04) Senator Wanzek: The accounting budget specialist was in the Executive Recommendation.

Brian Kroshus: It's a 2nd set of eyes. We need this position to prevent any abuse. We did put the position into the Executive Budget, but it wasn't included. We have 45 currently so that wouldn't raise our FTE count.

Senator G. Lee: The next thing you're asking for is a \$15,000 pool to prioritize replacement of office machines.

Brian Kroshus: Correct, we are simply asking for some flexibility. If did not replace those machines over the next biennium, we would start the next biennium with 2 machines that are eight years old and 1 at six. The software capability is very important with the entities that we deal with. It has become quite dated. One of those machines might be in the \$16,000 range. We can't do a lot with any type of replacement right now. We have a very small window with the \$5,000 to \$10,000 range now.

Senator G. Lee: Your base budget has \$10,000 capital assets, we would just add \$15 to that? (Correct)

Senator Wanzek: That \$15,000 request is general fund? (Yes.)

Senator G. Lee: Continuing on with grain licensing. Currently you have 1 $\frac{3}{4}$ FTEs working in that program? (That was confirmed.)

When we were visiting before, you were looking for funding for that $\frac{1}{4}$ FTE to bring the number up to 2 FTEs. We also discussed a FTE of the finance audit and accounting background, to help with program as well? (That was confirmed.)

You want to also include an accounting budget specialist, is that correct?

Brian Kroshus: That is correct. Just to clarify, we would be utilizing an additional FTE position, but asking for the funding. The accounting budget specialist would have a support function as a part of their duties for the grain licensing program.

(18:55) Senator G. Lee: Then you would have 3 FTEs, if we refunded the $\frac{1}{4}$ in grain licensing and inspection. Plus, also the support of the budget specialist? (Correct)

Senator Wanzek: We had hearing on SB 2346 this morning. If that passes, we need to address the resources needed. The House said they cut the budget for public warehouse licensing division, of which they shouldn't of. I believe it was the legislature that forced them to look into cutting those budgets. There is also another House bill that is talking about moving the entire program to the ag department. In my opinion we need to focus on keeping it in the PSC and trying to prevent insolvencies. That bill would give more authority to the public service commission to ask for financial info they deem necessary. I've heard from the private agriculture sector that they need 2-3 more FTEs to inspect warehouses. Including someone knowledgeable in that area. If we're going to beef up this program, you're going to need resources. This is a huge issue.

Brian Kroshus: I couldn't agree more. There is a false sense of security in ag world in terms of the program and what it does. There is no doubt that more inspection tools and more rigorous screening process will do a lot. We need to look at minimizing potential damage to the ag community. Even the most rudimentary screening would catch things we aren't already. I am hopeful to implement some meaningful changes into the program, but right now it is a mess.

Senator Wanzek: I'll ask our chairman, if SB 2346 passes, I assume we'll address it before it goes to the House.

Chairman Holmberg: Is there any money in SB 2346?

Senator Wanzek: There isn't any money, but there would be a fiscal note. I have heard from multiple sources that we need to put more money into the licensing situation. We need boots on the ground inspectors and accountants. We can't put extra requirements on you and expect you to use the same budget you have.

Brian Kroshus: Just to clarify what we're asking for to support the grain program if SB 2346 is passed. We are asking for 3 full time inspectors, funding for the $\frac{1}{4}$ position, and funding

for another inspector. That would be 3 inspectors on the ground, we are also looking to enhance the pay of 2 of the 3. We have asked for the \$49,000 to make sure they have the funds necessary.

Senator G. Lee: With all the FTEs, they would add up to 46? Need more funding for that ¼ and budgeting specialist and a grain licensing person.

(29:57) Brian Kroshus: We would utilize an existing FTE for the accounting budget specialist. Would then go up 1 for the additional inspector in the field. So yes 46.

Senator Holmberg: You actually have a couple routes that you could take. One option is to work on the budget and not anticipate anything happening on SB 2346. Or wait for SB 2346 to see what happens. I'm not asking ag to put the money in, that would go in the budget. The question is do you wait? We've done it both ways in the past. I wouldn't wait for the House with the rail safety. They might oppose it again.

Senator G. Lee: You have a onetime funding for specialized legal service.

Jill Kringstad, Accounting Budget Specialist, PSC:

The Governor's budget included \$336,000 which was all federal funding, and access to the statewide litigation pool. The only thing in the base budget currently is the \$94,000. That is composed of \$30,000 general funds and \$64,000 in federal funds. We're asking for additional one-time funding. We have \$436,000 in there now. Currently it is made up of \$100,000 from SIFF and \$336,000 in federal funding.

(33:35) Senator G. Lee: How do you get the \$336,000 of federal funding?

Jill Kringstad: You'd give us the appropriation for it and in order to spend it we would utilize it through one of the existing grants. Either through the office of surface mining or the pipeline safety administration. They would have to agree we could charge that through the grant. There is a general fund matching requirement tied to both of those programs. For pipeline safety it's 50-50. For reclamation it's a 36% general fund share.

Senator G. Lee: Then the other potential is the litigation pool?

Jill Kringstad: Correct, and the commissioner has talked about some of the concerns with that.

Senator G. Lee: Any other requests you wanted to review with us?

Brian Kroshus: I don't believe so. I realize there are a lot of budgets to balance. We talked in our meet about what to ask for. The federal government shut down slowed us down. There is a potential penalty stroke we could incur, in terms of the amount of federal funding we get to help support the pipeline safety program. At some point in time, as a state, we will want 3 inspectors. I think it is a manageable risk, we are estimating the penalty to be \$15,000-\$20,000. Hopefully we can restructure to get enough inspection days in.

Senator G. Lee: The executive budget included a pipeline inspector. Did they repurpose a grain handling FTE? (Referred to someone behind him) If we wanted a pipe inspector it would be an additional FTE. With the federal match it's about 50-50.

Senator Grabinger: In the budget reduction, it eliminates one of the inspectors for weights and measures. I have heard complaints with the speed that the inspections get done. What is this going to do? I know a gas station that needed a pump inspected, and they've been waiting over 2 months.

Brian Kroshus: There are two parts of that. The position the governor proposed to eliminate was the large scale inspector. That's a quality assurance program. One person, travelling the state, looking at large scales. The small scale inspectors, which would cover gas pumps, are in high demand. We charge \$11 to inspect a pump. If you have private inspector come in it would be \$60-70. One of the arguments for leaving the rates so low which creates this demand.

Senator G. Lee: Is there a requirement to be inspected every so often?

Brian Kroshus: Yes, every year with a 30-day grace period.

Senator G. Lee: Your base budget has the FTEs in it? (That was confirmed.)

Senator Wanzek: I don't mean to belabor the point. If SB 2346 passes, the grain inspector would be restored. You want another inspector, so you'd have 3? (Correct.) I'm still trying to understand. If that passes, how many more FTEs will you need?

Brian Kroshus: We'd need one more FTE. We have supervisory oversight. When you look at the administrative support that we apply to the program, with support from the director level, commissioner level, and that of hopefully an accounting budget specialist. I think it would equate to an FTE in the office as well.

Senator Wanzek: So 2 more then what you're requesting now?

Brian Kroshus: We have 2 FTEs. We are asking for the missing ¼ funding and one more inspector on top of that. So 3 fulltime inspectors in the field and then an FTE in the office. Through both existing FTEs and then if the accounting budget specialist was approved.

Senator Wanzek: That person would also be involved with licensing applications?

Brian Kroshus: Yes, one of the inspectors in the field would have an accounting background as well as the expertise we would house in the office.

Senator Wanzek: I think of the grain inspector as the person who comes out to the farm and they want to see everything. Scale tickets, credit sale contracts, daily position reports, etc. I am thinking of them as the boots on the ground inspector. Is it the same person who handles when someone applies for a license?

Brian Kroshus: If we could get all the people in the field to have accounting backgrounds, that would be fantastic. But let's say 2 of them are gathering the basic info. They become gatherers and verifiers, then what they gather we inspect with trained eyes. It will be a mix.

Senator G. Lee: In terms of total FTEs, its' only adding one? (Correct.)

Senator G. Lee: Closed the hearing on SB 2008.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2008
2/6/2019
Job # 32286

☒ Subcommittee
☐ Conference Committee

Committee Clerk Signature Rose Laning / Florence Mayer
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Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation to defray the expenses of the Public Service Commission.

Minutes:

Testimony Attached # 1.

Legislative Council: Chris Kadrmas
OMB: Stephanie Gullickson

Senator G. Lee: Called the sub-committee to order on SB 2008. Senator Wanzek and Senator Grabinger were also present.

Chris Kadrmas: Handed out the Base Level Funding Changes – Attachment # 1.

Senator G. Lee: We want to finish this bill today hopefully. Senator Wanzek has info on a bill that will affect this one, which he will share later. The bill will include what the Senate has approved for the salary & health insurance. 2 % the first year, 3% the second year. The rail inspectors, has finished the pilot program and it would transfer to a full time status commission. I am in favor of accepting that recommendation. Do we want to keep that as a pilot or advance to regular part of budget with 2 FTEs with \$564,000 with diesel fund?

Chris Kadrmas: There would be a slight adjustment because of the 2-3. The rail safety program, based on the senate's version of 2-3 and retirement increase, would be \$589,310.

Senator Wanzek: We're at a point where we make it permanent or pilot? With what I've heard, they've identified issues that led to preventing some serious incidents. The program has been working and has paid off. I would support making it permanent. Even if it is permanent, doesn't mean we can't change it down the road or adjust it.

Senator Grabinger: I would agree. It is an effective program and has kept us from many serious accidents. I think we should fund it properly. I did receive an email on the funding that is in the Rail Safety Fund right and how much money is coming off of that tax. The fund as of January 31, shows \$271,232. The numbers the tax raises are a little over \$5M.

Chris Kadrmas: For the 2015-2017 biennium the special fields excise tax paid by railroads in total, was \$6.3M. \$550,000 was allocated to the PSC. This biennium to date the fund had received \$5.1M, of the which the PSC will receive \$570,000. If the committee decides to continue with the program and funding it from the same revenue source, Section 5 of the Governor's recommendation would have to be looked at. At the current appropriation it would be \$19,310 short of revenue to support the program. That committee may want to consider whether or not to keep it the same and just leave it short, or to make an adjustment. It is a little short of revenue.

Senator G. Lee: Is that because of the salary increase? (That was confirmed.)
My understanding is, we'll move the rail safety program to a permanent status and add the \$19,310 additional in section 5. Currently they have 45 FTEs funding for 42. They want to repurpose on to accounting and budget specialist.

(8:12) Senator Grabinger: I think there was testimony on if we didn't fund that. There was a reason, Brian could you update us on that?

Brian Kroshus, Chairman, Public Service Commission: I talked about the fact that we would not perform adequately in our next audit. Having less than expert personnel in that field. The most knowledgeable person is Jill. We need a 2nd set of eyes. Their support for the grain support inspection as well. That's a key individual that would help with many areas.

Senator G. Lee: There was \$45,000 in operating costs, but no dollars in line with that position? (Correct.)
We have the accounting budget specialist and 2 grain inspectors funded at 1.75 so we want to add the quarter. Then an additional 1 FTE in finance, audit, accounting person for the grain inspection.

Senator Wanzek: We are currently funding 1 $\frac{3}{4}$ grain inspectors. We have 2, but 1 is only being funded at 75%. The governor is asking to eliminate 1, but we're saying we should keep that and add the other 25%, plus add another, so we want 3 grain inspectors. In addition, we have the budgeting specialist accountant that would help the 3 others. So we're asking for 1 $\frac{1}{4}$ grain inspectors plus the 1 repurposed accountant.

(12:42) Brian Kroshus: We are asking to increase by 1 FTE and funding by 1.25, to make the $\frac{3}{4}$ positions whole for gain.

Senator Wanzek: The funding for 1.25 would be \$245,281. There are operating expenses of \$49,000, so the total would be \$294,281? (Correct.)

Jill Kringstad, Accounting Budget Specialist, PSC: Of those grain inspectors, one would have audit/finance background.

Senator Wanzek: The emphasis coming out of session is to have a better job of preventing insolvencies. When farmers lose money and can't pay their bills, it affects the entire community. Even grain dealers themselves say they have to tighten it up and give the PSC more authority to research those situations. If there is suspicion that there might be financial problems. We need to give them the ability to do that.

Brian Kroshus: I would agree. Both additional resources, as well as authority to do a much better job inspecting applications at the onset of someone wanting a license, ongoing inspections, and focusing on that from a preventative standpoint rather the reactive.

Senator Grabinger: Playing the devil's advocate, I'll support this, but it will be a real tough sell on the other side. If we have to give somewhere on the FTEs, where could we go? I'll support this because I want the rail safety.

(16:06) Chris Kadrmas: The committee is increasing funding for 1 rail grain inspector, to make it a 100% funded position, currently it is only 75%. That would not be an authorization of an additional FTEs, just a funding increase. Adding one additional grain inspector. Adding 1 FTE authorization and full funding for the 1.25 positions is \$245,281, with operating funds of \$49,000. Then repurposing the public utility analyst position to an accounting budget specialist, and is there a dollar amount for that?

Jill Kringstad: I can refer you to what we submitted in IBars for the Governor's budget. That was \$165,493 in salary and then \$5,000 in operating for a total of \$170,493. T

Chris Kadrmas: I would also make an adjustment for salaries and benefit changes.

Senator G. Lee: That puts the FTE count up to 46? (That was confirmed.) And we are okay with that number.

Senator Wanzek: Wouldn't that raise it to 46 ¼?

Brian Kroshus: No, because we are authorized a full FTE for the grain position that is only ¾ funded, but they are already authorized.

Senator G. Lee: I think we have accounted for the FTEs. The next thing is the Capital assets replacement pool dollars of \$15,000, for multi-function machines in the office. I think it is a reasonable thing. They get 3 or 4 matches on a rotation that allows them to replace as needed. Chris, we'll move that one. The next think is one time specialized legal services. The only thing in the base budget is \$94,000. They were looking for the \$336 in federal dollars and bringing it up to \$100,000 with SIIF in general funds.

(20:35) Chris Kadrmas: The base level \$94,000, of which \$30,000 is from the general fund, \$64,000 was from federal. The committee is proposing to make \$100,000 the base level? (Correct.) Adding an additional \$6000 from the general fund? (Okay.)

Jill Kringstad: \$100,000 in addition or total in general fund.

Senator G. Lee: \$100,000 total and then federal dollars.

Jill Kringstad: So the request was for \$100,000 total in general, onetime funding. Then we also made a note that since this is a repeated onetime funding request, we would support that amount to the base budget.

Chris Kadrmas: The only showing up regarding Specialized Legal Services is the \$336,000 in Executive Recommendation. Included in their base is \$30,000 general fund and \$64,000 federal funds, as ongoing funding.

Senator G. Lee: Where does the \$336,000 come from, it's federal but why are they getting it?

Chris Kadrmas: It was one-time funding provided last biennium. They asked for it again with spending authority.

Senator Grabinger: On this testimony, page 9, I'm reading the onetime funding of \$426,000. The majority of money is federal and they want spending authority again. Is that correct?

Jill Kringstad: The \$436 includes the \$100,000 of State special funds. Then 336,000 in federal funds.

Senator Grabinger: Then why were you saying say \$30,000.

Jill Kringstad: The \$30,000 is the general fund piece correct in the base budget. The amount the testimony is referencing is the 1 people funding amount.

(25:12) Senator Wanzek: \$30,000 is in the base budget, not in one time? Under operations or what?

Jill Kringstad: Under specialized legal services.

Chris Kadrmas: The worksheet doesn't break out by line and by bill. I could provide that. Part of the confusion is that, the 2017 legislative session provided the PSC \$436 of 1 time funding for legalized services. Of which \$336,000 was federal funds, \$100,000 was from special funds within the agency. They are requesting they receive an appropriations for \$436,000 in place of the \$336,000.

Senator Wanzek: We would need to come up with \$6,000 to grant that? There is federal money of \$336,000, there's a base of \$94,000. So you're \$6,000 short.

Jill Kringstad: No, we were asking for an additional \$436,000 in one-time funding. Of that \$336,000 is federal appropriation, \$100,000 is either general fund or SIIF fund. In total we would have 130,000 in these funds. Then 336,000 in federal, is what the total ask was for.

Senator G. Lee: Why is the \$94,000 in your base budget?

Chris Kadrmas: The specialized legal services used to be for \$30,000 of general fund and \$64,000 of federal. That was in the base budget up until they started to receive additional 1-time funding. There is a combo of 1-time funding and on-going. They are content with a total specialized legal service funding of \$436,000. Are you looking to continue your ongoing funding? (That was confirmed.) If the agency were to request \$436,000 in one time funding and keep it's \$94,000 of ongoing funding for a total of \$530,000.

Jill Kringstad: Which is what we're currently at for the current biennium.

Chris Kadrmas: So the agency is asking for a total of \$530,000 of which \$436,000 would be one-time funding. That would be split between 2 revenue sources, one would be federal and funds and then \$100,000 from another source whether that be the general fund or the SIIF fund. During this biennium it was \$100,000 was provided from SIIF. The ongoing funding is \$30,000 of general funds, \$64,000 is from federal or other funds.

Senator Wanzek: So what's being asked is \$100,000 more than the executive budget. Where are you proposing to get the other \$100,000?

Senator G. Lee: It was from SIIF before? (Correct.)

Senator Wanzek: So with the base budget, do we already have the 94, isn't 64 of the 94 coming out of the SIIF fund for the next biennium too?

Chris Kadrmas: None of the base funding is coming out of SIIF. The \$64,000 is from federal funds, on an ongoing basis.

Senator Wanzek: If we do nothing but keep the bill as is, they're getting \$30,000 in general fund and \$64,000 in federal funds? (Correct.) And we want to give them the authority to spend another \$336,000 of federal funds in one-time funding. (Correct.) Now they would like to keep that base budget plus the \$336,000 plus another hundred? (Correct.)

Senator Grabinger: How much of that was spent last biennium? Did you utilize it? Why are you requesting the additional?

(32:01) Senator Lee: So that's the other part of this, we could move the \$336,000 in federal money over into our column from the executive budget and then have them use the litigation pool as well.

Brian Kroshus: The history is; in 2013-15 biennium we were at \$143,000 in expenditures, 2015-17 \$154,000. The current biennium, I think that amount doubled, and it will continue to grow because of the current grain insolvency that we're dealing with. That will run in the 80-100,000 range. We are also looking at the Meridian Refinery as well being contested.

Senator Grabinger: I'm okay with leaving it how it is in the base budget, not the extra \$100,000. I think we've covered it before. Yes, there will be an increase, if they need it they can go there and get it.

Senator G. Lee: We're going to have to account for these additional FTEs in terms of costs.

Senator Wanzek: That is my concern too, to sell this to the whole committee, we need to decide a priority. The pool of money being proposed in OMB, do we need to give them the authority to use it?

Chris Kadrmas: The agencies can request funding for the litigation, nothing has to be included in their bill for it.

Senator G. Lee: They could also go to the emergency fund or commission if they need extra dollars. You're suggesting we move the \$336,000 from the executive budget over, then leave them at the base budget? (That was confirmed.)

Chris Kadrmas: That was to move over the federal one-time funding, and only that? (That was confirmed.)

Chris Kadrmas: One item that hasn't been addressed would be the base payroll changes. That has to do with adjustments the agency makes for their base payrolls. The agency would need to explain why they made those adjustments and if they would still want what is included in the governor's recommendation for base payroll changes. At the very top of the sheet, there are adjustments that are made to an agencies payroll, because employees base levels may be lower or higher depending on adjustments that are made in staffing.

Senator G. Lee: That's just in the executive budget?

Chris Kadrmas: Correct, if the agency still want's it's base payroll changes, that would have to be approved by the committee.

Senator G. Lee: Is that something you guys have requested?

Jill Kringstad: That was something in the executive budget, at this point we don't think if we are restored to base level, we don't anticipate we need those moved over.

(36:52) Chris Kadrmas: The natural gas pipeline inspector.

Senator G. Lee: There was discussion about that possibility. Seemed to be some softness of if it was needed or not.

Brian Kroshus: With everything else we are requesting, if there has to be some give for this biennium, we could absorb it. We are looking to make sure our inspection days are in line with requirements and having minimal impact in terms of federal funding received.

Chris Kadrmas: I just want to confirm, no underfunding of salaries and wages? Any adjustments to the operating expenses?

Jill Kringstad: The only additional costs would be associated with any additional FTEs. The \$49,000 for the grain and the \$5,000 for the accounting budget specialist.

Senator Wanzek: The Senate version is authorizing \$900,000 from the Beginning Farmer Fund, whereas the executive branch goes to \$799,054. Trying to recall from testimony, why did we reduce that?

Jill Kringstad: In order to meet the required 5% special funds reduction.

Senator Wanzek: It's always been described as a big stick.

Jill Kringstad: It's just the authorization. The transfer only occurs if we have expenses.

Senator G. Lee: Might have to meet one more time to go through the amendments.
Hearing on SB 2008 is closed.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2008
2/12/2019
JOB # 32620

☒ Subcommittee
☐ Conference Committee

Committee Clerk: Alice Delzer

Explanation or reason for introduction of bill/resolution:

A Subcommittee hearing for PSC

Minutes:

1.Base Level Funding Changes

Senator Gary Lee: called the Subcommittee to order on SB 2008 at 3:30 pm in the Harvest Room. Let the record show that all subcommittee members were present: Senator Gary Lee, Chair., Senator Wanzek and Senator Grabinger. Chris Kadrmas, Legislative Council and Stephanie Gullickson, OMB were also present. all we have to do is make sure we have the right things in and the right things out.

Chris Kadrmas, Legislative Council submitted Attachment # 1, Base level funding changes and explained the base level funding changes for the Public Service Commission. Any questions regarding any of those amounts that will be included in section 1 of the bill?

Senator Gary Lee: (2.29) You said a total of capital assets of \$25,000 total. that was confirmed.

Chris Kadrmas: Correct. Because their base level's \$10,000 currently so then adding the \$15,000 to it brings it up to \$25,000.

Senator Gary Lee: Where does that 10 show up? He was told the 10 shows up in their base level.

Senator Wanzek: had questions about the retirement contribution increase. we pulled that out of other budgets.

Chris Kadrmas: None of my agencies going through the Senate currently have a retirement contribution.

Senator Wanzek: I see we are not adding that in. That was confirmed.

Senator Gary Lee: The quarter FTE that we're paying, moving the 1.75 to two FTE paid is that in the \$294?

Chris Kadrmas: Correct. That's in the \$294,281.00. That \$294,281.00 contains funding for 1 ¼ FTE but they only require one FTE authorization.

Senator Wanzek: We are going to add 3 grain inspectors? That was confirmed.

Senator Gary Lee: and move the total FTEs to 46. That was confirmed.

Senator Wanzek: the repurposed FTE accountant budget specialist. what was the definition of that FTE before we repurposed it? What was their role?

Chris Kadrmas: It was a public utility analyst position.

Senator Wanzek: That FTE will be available to provide some financial assistance in dealing with financial reports that you might secure for licensing a elevator. that was confirmed.

Chris Kadrmas: (5.29) continued explaining the conditions in the Bill.

Senator Gary Lee: Does that include a 2 and a 3 in that line?

Chris Kadrmas: That's correct. Their salary increase falls underneath a specific line item in their bill for the railroad safety program and then for salary increase it's about \$15,182.00 and then for the health insurance increase it's about \$9,400.00 and that's included.

Senator Gary Lee: They were benefited FTE's before?

Chris Kadrmas,: The one was. At one point it was one FTE and a temporary FTE and I'm not sure if they received benefits at that time but then last session it was made a full FTE.

Senator Gary Lee: General funds, those are the total numbers along the FTE line.

Chris Kadrmas: That is Correct. (8.03) For general fund increase from their base level is \$766,525.00 total. Then total increase from their base level for other funds is \$529,658.00 total.

Senator Wanzek: The section 5, deposits of special fuel taxes into the rail safety fund, which is used to pay the 2 rail inspectors. That would be listed as other funds. that was confirmed.

Senator Wanzek: Moved the Base Level Funding Changes. 2nd by Senator Grabinger.

Senator Gary Lee: Call the roll on the Motion made by Senator Wanzek.

A Roll Call vote was taken. Yea: 3; Nay:0; Absent:0. Motion carried.

Senator Gary Lee: It should be ready to go tomorrow. The subcommittee hearing on SB 2008 was adjourned.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2008
2/13/2019
Job # 32639

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Rose Laning

Explanation or reason for introduction of bill/resolution:

This was a vote on the Public Service Commission's budget.

Minutes:

Amendment 19.0221.01001

Legislative Council: Adam Mathiak
OMB: Larry Martin

Chairman Holmberg called the committee to order on SB 2008.

Senator G. Lee: Presented and explained amendment 19.0221.01001.

Senator Wanzek: moved amendment 19.0221.01001.

Senator Grabinger: seconded the motion.

Voice vote carried.

Senator Wanzek: moved Do Pass on SB 2008 as Amended.

Senator Grabinger: seconded the motion.

A Roll Call Vote was taken: Yes: 14 No: 0 Absent: 0.

Motion carried.

Senator G. Lee: will carry the bill.

Chairman Holmberg: Closed the hearing on SB 2008.

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2008

Page 1, line 2, after the semicolon insert "to amend and reenact sections 49-01-05 and 57-43.2-19 of the North Dakota Century Code, relating to the salary of the commissioners and the transfer, deposit, and distribution of funds in the highway tax distribution fund; to provide for a report;"

Page 1, replace lines 10 through 23 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,197,284	\$866,541	\$10,063,825
Operating expenses	1,829,826	54,000	1,883,826
Capital assets	10,000	15,000	25,000
Grants	20,000	0	20,000
Abandoned mined lands contractual	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	564,668	24,642	589,310
Specialized legal services	<u>94,000</u>	<u>336,000</u>	<u>430,000</u>
Total all funds	\$18,615,778	\$1,296,183	\$19,911,961
Less estimated income	<u>11,985,016</u>	<u>529,658</u>	<u>12,514,674</u>
Total general fund	\$6,630,762	\$766,525	\$7,397,287
Full-time equivalent positions	45.00	1.00	46.00"

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

Page 2, line 2, after "biennium" insert "and the 2019-21 biennium one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace lines 4 through 7 with:

"Specialized legal services	<u>\$436,000</u>	<u>\$336,000</u>
Total all funds	\$436,000	\$336,000
Total special funds	<u>436,000</u>	<u>336,000</u>
Total general fund	\$0	\$0

The 2019-21 biennium one-time funding amounts are not a part of the entity's base budget for the 2021-23 biennium. The public service commission shall report to the appropriations committees of the sixty-seventh legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2019, and ending June 30, 2021."

Page 2, after line 16, insert:

"SECTION 4. AMENDMENT. Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

49-01-05. Salary of commissioners.

The annual salary of a commissioner is one hundred ~~fifty~~ thirty thousand ~~four~~ hundred ~~and~~ ninety-one hundred ~~and~~ twenty-nine dollars through June 30, ~~2016~~ 2020, and one hundred

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~~eight~~fourteen thousand ~~six~~one hundred ~~fifty-six~~fifty-four 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 5. AMENDMENT. Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-19. Transfer, deposit, and distribution of funds. (~~Effective July 1, 2015, through June 30, 2019~~)

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

~~**Transfer, deposit, and distribution of funds. (Effective after June 30, 2019)**~~
All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - Senate Action

	Base Budget	Senate Changes	Senate Version
Salaries and wages	\$9,197,284	\$866,541	\$10,063,825
Operating expenses	1,829,826	54,000	1,883,826
Capital assets	10,000	15,000	25,000
Grants	20,000		20,000
Abandoned mined lands contractual	6,000,000		6,000,000
Rail rate complaint case	900,000		900,000
Railroad safety program	564,668	24,642	589,310
Specialized legal services	94,000	336,000	430,000
Total all funds	\$18,615,778	\$1,296,183	\$19,911,961
Less estimated income	11,985,016	529,658	12,514,674
General fund	\$6,630,762	\$766,525	\$7,397,287
FTE	45.00	1.00	46.00

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Department 408 - Public Service Commission - Detail of Senate Changes

	Adds Funding for Salary and Benefit Increases ¹	Adds Grain Warehouse Inspector Position and Additional Funding ²	Adds Funding for an Accounting Budget Specialist Position ³	Increases Funding for Capital Assets ⁴	Adds Funding for Specialized Legal Services ⁵	Total Senate Changes
Salaries and wages	\$455,767	\$245,281	\$165,493			\$866,541
Operating expenses		49,000	5,000			54,000
Capital assets				\$15,000		15,000
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	24,642					24,642
Specialized legal services					\$336,000	336,000
Total all funds	\$480,409	\$294,281	\$170,493	\$15,000	\$336,000	\$1,296,183
Less estimated income	193,658	0	0	0	336,000	529,658
General fund	\$286,751	\$294,281	\$170,493	\$15,000	\$0	\$766,525
FTE	0.00	1.00	0.00	0.00	0.00	1.00

¹ The following funding is added for 2019-21 biennium salary adjustments of 2 percent on July 1, 2019, and 3 percent on July 1, 2020, and increases in health insurance premiums from \$1,241 to \$1,427 per month:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Salary increase	\$169,759	\$118,779	\$288,538
Health insurance increase	116,992	74,879	191,871
Total	\$286,751	\$193,658	\$480,409

² Funding is added from the general fund for one grain warehouse inspector position, related operating expenses, and an increase in funding for the salaries and wages line item for an existing grain warehouse inspector position underfunded during the 2017-19 biennium.

³ Funding is added for salaries and wages (\$165,493) and related operating expenses (\$5,000) for the reclassification of an existing underfunded FTE position as an accounting budget specialist position.

⁴ Funding is increased for capital assets to provide a total of \$25,000.

⁵ One-time funding from federal funds is added for specialized legal services.

This amendment also:

- Provides the statutory changes to increase the Public Service Commissioners' salaries. The Public Service Commissioners' annual salaries would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$114,154, effective July 1, 2020, to reflect the 2 percent and 3 percent salary increases.
- Amends North Dakota Century Code Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to continue the allocation to the rail safety fund and to increase the allocation amount from \$285,000 per year to \$294,655 per year.

Date: 2-12-19Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES**
BILL/RESOLUTION NO. 2008

Senate Appropriations

Committee

☒ Subcommittee

Amendment LC# or Description:

Moved the Base Level Funding Changes

Recommendation:

☒ Adopt Amendment☐ Do Pass☐ Do Not Pass☐ Without Committee Recommendation☐ As Amended☐ Rerefer to Appropriations☐ Place on Consent Calendar

Other Actions:

☐ Reconsider☐

Motion Made By

Wanzek

Seconded By

Brabinger

Senators	Yes	No	Senators	Yes	No
Senator Holmberg			Senator Mathern		
Senator Krebsbach			Senator Grabinger	<input checked="" type="checkbox"/>	
Senator Wanzek	<input checked="" type="checkbox"/>		Senator Robinson		
Senator Erbele					
Senator Poolman					
Senator Bekkedahl					
Senator G. Lee	<input checked="" type="checkbox"/>				
Senator Dever					
Senator Sorvaag					
Senator Oehlke					
Senator Hogue					

Total (Yes) 3 No 0Absent 0

Floor Assignment _____

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

Date: 2-13-2019Roll Call Vote #: 1

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2008**

Senate Appropriations

Committee

☐ SubcommitteeAmendment LC# or Description: 19.0221.01001

Recommendation:

☒ Adopt Amendment☐ Do Pass☐ Do Not Pass☐ Without Committee Recommendation☐ As Amended☐ Rerefer to Appropriations☐ Place on Consent Calendar

Other Actions:

☐ Reconsider☐

Motion Made By

Wanzek

Seconded By

Grabinger

Senators	Yes	No	Senators	Yes	No
Senator Holmberg			Senator Mathern		
Senator Krebsbach			Senator Grabinger		
Senator Wanzek			Senator Robinson		
Senator Erbele					
Senator Poolman					
Senator Bekkedahl					
Senator G. Lee					
Senator Dever					
Senator Sorvaag					
Senator Oehlke					
Senator Hogue					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

*Voice Vote
Carried*

Date: 2-13-19Roll Call Vote #: 2

**2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2008**

Senate Appropriations Committee☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
 Other Actions: ☐ Reconsider ☐ _____

Motion Made By Wanzek Seconded By Grabinger

Senators	Yes	No	Senators	Yes	No
Senator Holmberg	✓		Senator Mathern	✓	
Senator Krebsbach	✓		Senator Grabinger	✓	
Senator Wanzek	✓		Senator Robinson	✓	
Senator Erbele	✓				
Senator Poolman	✓				
Senator Bekkedahl	✓				
Senator G. Lee	✓				
Senator Dever	✓				
Senator Sorvaag	✓				
Senator Oehlke	✓				
Senator Hogue	✓				

Total (Yes) 14 No 0Absent 0Floor Assignment G. Lee

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

REPORT OF STANDING COMMITTEE

SB 2008: Appropriations Committee (Sen. Holmberg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2008 was placed on the Sixth order on the calendar.

Page 1, line 2, after the semicolon insert "to amend and reenact sections 49-01-05 and 57-43.2-19 of the North Dakota Century Code, relating to the salary of the commissioners and the transfer, deposit, and distribution of funds in the highway tax distribution fund; to provide for a report;"

Page 1, replace lines 10 through 23 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,197,284	\$866,541	\$10,063,825
Operating expenses	1,829,826	54,000	1,883,826
Capital assets	10,000	15,000	25,000
Grants	20,000	0	20,000
Abandoned mined lands contractual	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	564,668	24,642	589,310
Specialized legal services	<u>94,000</u>	<u>336,000</u>	<u>430,000</u>
Total all funds	\$18,615,778	\$1,296,183	\$19,911,961
Less estimated income	<u>11,985,016</u>	<u>529,658</u>	<u>12,514,674</u>
Total general fund	\$6,630,762	\$766,525	\$7,397,287
Full-time equivalent positions	45.00	1.00	46.00"

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

Page 2, line 2, after "biennium" insert "and the 2019-21 biennium one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace lines 4 through 7 with:

"Specialized legal services	<u>\$436,000</u>	<u>\$336,000</u>
Total all funds	<u>\$436,000</u>	<u>\$336,000</u>
Total special funds	<u>436,000</u>	<u>336,000</u>
Total general fund	\$0	\$0

The 2019-21 biennium one-time funding amounts are not a part of the entity's base budget for the 2021-23 biennium. The public service commission shall report to the appropriations committees of the sixty-seventh legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2019, and ending June 30, 2021."

Page 2, after line 16, insert:

"SECTION 4. AMENDMENT. Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

49-01-05. Salary of commissioners.

The annual salary of a commissioner is one hundred ~~fifty~~ fourteen thousand ~~four~~ eight hundred ~~ninety-one~~ eighty ~~two~~ four dollars through June 30, ~~2016~~ 2020, and one hundred ~~eight~~ eighty ~~fourteen~~ four thousand ~~six~~ eighty ~~one~~ four hundred ~~fifty-six~~ eighty ~~four~~ four 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 5. AMENDMENT. Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-19. Transfer, deposit, and distribution of funds. (~~Effective July 1, 2015, through June 30, 2019~~)

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

~~Transfer, deposit, and distribution of funds. (Effective after June 30, 2019)~~ All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - Senate Action

	Base Budget	Senate Changes	Senate Version
Salaries and wages	\$9,197,284	\$866,541	\$10,063,825
Operating expenses	1,829,826	54,000	1,883,826
Capital assets	10,000	15,000	25,000
Grants	20,000		20,000
Abandoned mined lands contractual	6,000,000		6,000,000
Rail rate complaint case	900,000		900,000
Railroad safety program	564,668	24,642	589,310
Specialized legal services	94,000	336,000	430,000
Total all funds	\$18,615,778	\$1,296,183	\$19,911,961
Less estimated income	11,985,016	529,658	12,514,674
General fund	\$6,630,762	\$766,525	\$7,397,287
FTE	45.00	1.00	46.00

Department 408 - Public Service Commission - Detail of Senate Changes

	Adds Funding for Salary and Benefit Increases ¹	Adds Grain Warehouse Inspector Position and Additional Funding ²	Adds Funding for an Accounting Budget Specialist Position ³	Increases Funding for Capital Assets ⁴	Adds Funding for Specialized Legal Services ⁵	Total Senate Changes
Salaries and wages	\$455,767	\$245,281	\$165,493			\$866,541
Operating expenses		49,000	5,000			54,000
Capital assets				\$15,000		15,000
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	24,642					24,642
Specialized legal services					\$336,000	336,000
Total all funds	\$480,409	\$294,281	\$170,493	\$15,000	\$336,000	\$1,296,183
Less estimated income	193,658	0	0	0	336,000	529,658
General fund	\$286,751	\$294,281	\$170,493	\$15,000	\$0	\$766,525
FTE	0.00	1.00	0.00	0.00	0.00	1.00

¹ The following funding is added for 2019-21 biennium salary adjustments of 2 percent on

July 1, 2019, and 3 percent on July 1, 2020, and increases in health insurance premiums from \$1,241 to \$1,427 per month:

	<u>General Fund</u>	<u>Other Funds</u>	<u>Total</u>
Salary increase	\$169,759	\$118,779	\$288,538
Health insurance increase	<u>116,992</u>	<u>74,879</u>	<u>191,871</u>
Total	\$286,751	\$193,658	\$480,409

² Funding is added from the general fund for one grain warehouse inspector position, related operating expenses, and an increase in funding for the salaries and wages line item for an existing grain warehouse inspector position underfunded during the 2017-19 biennium.

³ Funding is added for salaries and wages (\$165,493) and related operating expenses (\$5,000) for the reclassification of an existing underfunded FTE position as an accounting budget specialist position.

⁴ Funding is increased for capital assets to provide a total of \$25,000.

⁵ One-time funding from federal funds is added for specialized legal services.

This amendment also:

- Provides the statutory changes to increase the Public Service Commissioners' salaries. The Public Service Commissioners' annual salaries would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$114,154, effective July 1, 2020, to reflect the 2 percent and 3 percent salary increases.
- Amends North Dakota Century Code Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to continue the allocation to the rail safety fund and to increase the allocation amount from \$285,000 per year to \$294,655 per year.

2019 HOUSE APPROPRIATIONS

SB 2008

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division Medora Room, State Capitol

SB2008
3/7/2019
Recording Job# 33361

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Sheri Lewis

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 provide for a transfer.

Minutes:

Attachments A and B

Chairman Vigesaa: Opened the hearing on SB2008.

Roll Call taken.

Julie Fedorchak, Commissioner, ND Public Service Commission: See testimony attachment A.

Representative Bellew: Where do you get your special funds from?

Julie Fedorchak: The special funds in the operating are for the rail safety program.

Julie Fedorchak continued with her testimony.

Vice Chairman Brandenburg: You said \$50,000.00 of general funds?

Julie Fedorchak: It's \$30,000.00 of general funds.

Julie Fedorchak continued with her testimony.

Chairman Vigesaa: Are you an agency that can access the OMB litigation pool should you have additional funds necessary for litigation?

Julie Fedorchak: We currently access this pool; and this is our preference. We feel it's important as a constitution agency to be able to determine when we need to access these extra legal sources and services; and not to jump through hoops.

Chairman Vigesaa: How consistently have you had the funds? Those federal funds you can access, is that a pretty consistent amount from biennium to biennium?

Julie Fedorchak: Page 6 shows the breakdown of specialized legal services by funding source.

Julie Fedorchak continued with her testimony.

Vice Chairman Brandenburg: The Senate added 2 FTE's for warehouse bonding; one warehouse field inspector and one budget specialist.

Julie Fedorchak: They increased the 75% inspector to full time, added an additional field grain inspector and then added the funding for the budget specialist; that FTE currently exists, we just didn't have funding for it.

Vice Chairman Brandenburg: So it's 2.25 FTE's?

Julie Fedorchak: Correct. It's one full FTE and funding for 2.25 FTE's.

Julie Fedorchak continued with her testimony.

Representative Bellew: Who do you hire to inspect the rails? Is it a former railroad employee?

Julie Fedorchak: Our two inspectors both came to us with a lot of rail experience; one of them was a long time employee of BNSF and worked on the track. The other one worked more in some of the service yards.

Representative Bellew: I have a son that used to work for BNSF as a rail inspector for them and I didn't know if that's where you picked up yours or not.

Julie Fedorchak: The railroads do have a large staff of inspectors themselves that work every day and work on this effort to keep their system safe.

Julie Fedorchak continued with her testimony.

Representative Beadle: During that same time do you have data showing rail traffic and how it's adjusted during that time.

Julie Fedorchak: On pages 9 and 10 is where that information is located.

Representative Howe: We have added inspectors that took away inspectors for grain insolvency. Can you comment on that?

Julie Fedorchak: The two programs operate completely independently. The state rail program is funded by special funds. I'm overseeing the lead on the rail program; commissioner Christmann is the lead on the grain licensing program. The grain licensing program is funded by general funds. We could not cut the rail program and meet any of their requirements in the last two biennium for budget cuts; those were focused on general funds. The staff is also completely separate.

Representative Howe: If we were to not move over what the Senate did into the House budget and didn't make this permanent or even include the special funding for the railroad; that still wouldn't help our grain inspection problem. That would still have to be addressed through the general fund?

Julie Fedorchak: That's correct.

Chairman Vigesaa: On the statistics that you provided, under the track inspector, what would you consider a unit?

Julie Fedorchak: The units might be a certain stretch of rail; they're much longer and larger than the mechanical units. There are a lot more units in a mechanical inspection.

Chairman Vigesaa: The mechanical inspection would include the cars on the track?

Julie Fedorchak: That's correct.

Chairman Vigesaa: The track inspector is primarily the track itself and anything that's attached to the track as far as equipment?

Julie Fedorchak: That's correct. There are five different FRA disciplines; and we cover two of them. We cover track and mechanical.

Chairman Vigesaa: How do you coordinate with the federal inspectors?

Julie Fedorchak: Our inspectors are in contact with the FRA inspectors and coordinate the schedules with them on a pretty consistent basis.

Chairman Vigesaa: If you've inspected a stretch of track, do the federal individuals stay off of that section?

Julie Fedorchak: I can't say how long they might stay off or avoid re-inspecting the same stretch. We have a strong working relationship with the FRA. One of our goals when we started this program was to fully cooperate and coordinate with the FRA.

Representative Howe: Our inspectors did find something that the feds missed.

Julie Fedorchak: It had previously been inspected by the industry inspectors.

Representative Bellew: The commissioner stated that they get 11% of the diesel taxes that the rails provide, can council find out from DOT what they do with the other 89% and how much that amounts to?

Julie Fedorchak continued with her testimony.

Vice Chairman Brandenburg: In the lignite research fund we gave them authority to use \$4.5 million to use for possible litigation. Do you have to have a separation between the PSC and the lignite research.

Randy Christmann, Commissioner, ND Public Service Commission: The things that we would be doing in the PSC with this litigation fund; there could be times when they could have similar goals. In general, it's completely different subject matter.

Julie Fedorchak continued with her testimony.

Vice Chairman Brandenburg: These roving grain buyers are a problem. It's something we need to figure out; because by law right now they can do it.

Julie Fedorchak: I share your commitment in wanting to improve the program. This is not a new conversation.

Representative Bellew: Do you inspect the short line railroads also?

Julie Fedorchak: We do.

Representative Bellew: Does anyone other than the PSC do that? Do the railroads themselves do that?

Julie Fedorchak: They have their own inspectors; but they are also inspected by the FRA.

Representative Howe: The violations that are issued. What are the fines assessed with that? What does that amount to and where do those funds go?

Julie Fedorchak: Because of the authority of the FRA allows states to do that. When there are violations found those are turned over to the FRA for enforcement. All the fines go to the FRA. We don't have the enforcements of the carry through of the violations.

Representative Howe: What sums of money are we talking about?

Julie Fedorchak: It is my understanding that the railroads and their attorneys coordinate with the FRA and they work through them either case by case or on a lump sum basis; and it's a negotiation of what they ultimately pay.

Representative Howe: What is the relationship like with the railroads and our state inspectors? Is it a welcoming thing?

Julie Fedorchak: We have worked very hard to make it clear to the railroads that our goal is to improve the safety culture. We want our inspectors to be working with their personnel to improve their understanding about how things should be done. If they're doing things improperly, how to improve it. It's been a positive relationship; the railroads have never opposed this program.

Randy Christmann, Commissioner, ND Public Service Commission: See testimony attachment A.

Vice Chairman Brandenburg: Looking at the roving grain buyers I'm wondering if we shouldn't have some more discussion on the level of bonds. Some of these bonding companies are very well respected and some are questionable.

Randy Christmann: We couldn't age discriminate; but I'm open to discussing on the bonding levels.

Attachment B was handed out but not discussed.

Chairman Vigesaa: Closed the hearing.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division Medora Room, State Capitol

SB2008
3/13/2019
Recording Job# 33672

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Sheri Lewis

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 provide for a transfer.

Minutes:

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Chairman Vigesaa: Opened the discussion on SB2008.

Chairman Vigesaa: Discussed the worksheet. Attachment B March 7, 2019

Representative Bellew: They added funding for one.

Representative Beadle: The Senate did that.

Chairman Vigesaa: This isn't that increase of two over what the governor recommended?

Representative Beadle: When he decided to remove that grain inspector did he put him in ag? Did that conversation start in ag?

Chairman Vigesaa: No. That started in policy.

Chairman Vigesaa continued with the worksheet.

Chairman Vigesaa: They funding for an accounting budget specialist that the Senate added in. It's just the funding, so did they have a position already?

Representative Howe: On page 9 of the testimony it says due to restrictions in the 2017-2019 biennium the commission could not replace an accounting budget specialist position.

Representative Beadle: They are authorized for 45 FTE's but only funding for 43.75 FTE's.

Representative Bellew: What's in the beginning farmers loan fund? They're transferring \$900,000.00 for the rail program.

Alex Cronquist, Fiscal Analyst, ND Legislative Council: That section has been in the PSC bill for several biennium.

Representative Bellew: We authorized them to do that rail inspection. Right?

Alex Cronquist: The \$900,000.00 is for rail rate complaint cases.

Chairman Vigesaa continued to discuss the worksheet.

Alex Cronquist: According to their testimony they haven't used this. As far as the \$790,000.00 in the executive budget, as part of the 10% budget reduction, they reduced both special funds and general funds; this is part of their budget reduction.

Chairman Vigesaa: Then the Senate restored that?

Alex Cronquist: Right.

Vice Chairman Brandenburg: In section 5 the \$285,000.00 from special fuels tax; is that the money they're using to pay for those two rail inspectors?

Alex Cronquist: That would be my understanding.

Vice Chairman Brandenburg: Dealing with the grain inspection, how many FTE's did we have doing grain inspection going back a couple of bienniums? I thought that there were four FTE's. Did they get shifted in to pipe line inspectors?

Alex Cronquist: I'll pass that question on.

Representative Howe: One of the criticisms was that we gave those to the rail safety program; but we didn't because those grain inspectors are general fund FTE's and these have been special fund FTE's. I asked the commissioner if we were to get rid of the rail safety program and those two inspectors, it still doesn't help our grain inspection program.

Chairman Vigesaa: The Senate did put this one back in and didn't reduce the one that the governor asked for; so from the executive budget, it's an increase of two in that grain inspection and warehouse division

Vice Chairman Brandenburg: Where was it before we started having pipeline inspectors and rail inspectors?

Representative Bellew: I think in the testimony that this rail safety inspection program, this bill makes it a permanent program instead of having to ask for it every biennium.

Vice Chairman Brandenburg: If that's true, I don't know if we can do that because we have to look at all the FTE's.

Chairman Vigesaa: If we stay silent, does it just continue?

Alex Cronquist: It was effective through June 30, 2019. The Senate overstruck that so right now it doesn't end. So in the bill it keeps going.

Representative Bellew: I have some concerns with that. They get 11% of the diesel tax revenue from this. What does DOT do with the other 89%?

Alex Cronquist: I did ask Chris Kadrmas in our office and he said that it's for projects around railroad crossings on roads.

Representative Bellew: It's for arms and things of that nature.

Alex Cronquist: I'm not sure if it would be used for arms or just the actual road.

Representative Bellew: Can I get a further explanation on that?

Vice Chairman Brandenburg: See if that applies to both the mainline and the short line.

Chairman Vigesaa: Can you point out in the bill where that pilot project changes?

Alex Cronquist: That would be in section 5.

Chairman Vigesaa: That is funded out of that diesel fuel?

Alex Cronquist: Correct.

Chairman Vigesaa: The rail safety fund is where the salaries and benefits come from?

Alex Cronquist: Yes.

Chairman Vigesaa continued with the worksheet.

Vice Chairman Brandenburg: Is that the money they requested out of the litigation fund?

Alex Cronquist: That amount is from federal funds.

Vice Chairman Brandenburg: Where are they getting that from?

Chairman Vigesaa: Referenced testimony attachment A March 7, 2019.

Chairman Vigesaa continued with the worksheet.

Vice Chairman Brandenburg: This account budget specialist was applied to looking at financial reports for grain bonds.

Chairman Vigesaa: Is that what that position is for?

Alex Cronquist: Chris Kadrmas is saying that position will be intended to help with reviewing financials of the elevators.

Chairman Vigesaa: So that position has been unfunded for just one biennium?

Alex Cronquist: He says it's in the 2017 session; with the budget reductions they unfunded that position.

Vice Chairman Brandenburg: Did we un-fund it or did they un-fund it? Was it part of the grain licensing division to do inspections with elevators?

Alex Cronquist: The agency chose to un-fund that position in 2017.

Representative Bellew: Was that part of the allotment?

Alex Cronquist: I'm not sure if it happened in the special session in 2016 or the regular session.

Chairman Vigesaa: Closed the discussion.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division Medora Room, State Capitol

SB2008
3/22/2019
Recording Job# 34180

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Sheri Lewis

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 provide for a transfer.

Minutes:

Attachments A through B

Chairman Vigesaa: Opened the discussion on SB2008.

Chris Kadrmas, Fiscal Analyst, ND Legislative Council: Explained attachment A.

Chairman Vigesaa: In the governor's recommendation where there was just funding for the natural gas inspector but no FTE assigned to that, was that something that was authorized as an FTE but didn't get funding previously?

Chris Kadrmas: Correct. They were going to repurpose a position that the FTE authorization but no funding.

Chairman Vigesaa: The PSC was going to remove a warehouse inspector, but the Senate did not do that.

Vice Chairman Brandenburg: They basically added two FTE's in this budget, the grain warehouse inspector and the budget specialist?

Chris Kadrmas: That's incorrect. The budget specialist position was the same as the governor was recommending; the natural gas pipeline inspector by repurposing an FTE position that just doesn't have any funding do to the amount of underfunding in salaries and wages from the previous biennium. So they're just repurposing that position and adding the funding so they can utilize it.

Vice Chairman Brandenburg: They took the natural gas line inspector and moved down to the budget specialist or the warehouse inspector.

Chris Kadrmas: Correct.

Chairman Vigesaa: The FTE's that they actually added was one warehouse inspector and another inspector. Is that correct that they added two FTE's?

Chris Kadrmas: They added one FTE authorization but funding for two positions.

Representative Howe: The natural gas pipeline inspector, in the Senate version there are 46 FTE's and there is an FTE accounted for a natural gas pipeline inspector; it's just not funded.

Chris Kadrmas: No. The PSC does have natural gas pipeline inspectors. The governor's recommendation would have just increased it by one.

Vice Chairman Brandenburg: Wasn't the account budget specialist already in there?

Chris Kadrmas: They eliminated an accounting position in the 2017 session because of the reductions that were required.

Vice Chairman Brandenburg: They were at 44 FTE's and they added two.

Chris Kadrmas: That's incorrect. They were at 45 FTE's for the base level and they're at 46 FTE's with the Senate's version.

Chairman Vigesaa: The \$336,000.00 for specialized legal services federal funds; is that for a specific case?

Chris Kadrmas: They built within their budget to assist with litigation. The \$336,000.00 is the same amount that's provided for one-time funding in the 2017-2019 biennium.

Vice Chairman Brandenburg: In the OMB budget, the PSC has a request for funds for litigation and the Senate did authorize that. Is that correct.

Becky Deichert, Budget Analyst, ND Office of Management and Budget: I don't think that they are part of that pool.

Vice Chairman Brandenburg: What litigation were they involved in for the \$336,000.00?

Chris Kadrmas: It's not for any particular litigation; it's just the funding they have potentially available from federal funds for litigation. The \$336,000.00 goes all the way back to 2013.

Becky Deichert: You're correct. They are part of litigation funding and their request was \$400,000.00.

Vice Chairman Brandenburg: I think there are some fees that get paid in some of this process.

Chris Kadrmas: The \$336,000.00 is already identified from federal funds within their budget. It is only special funds authority; so it is possible that it could be made up through another special funds source.

Representative Kempenich: Did they have their fund balances?

Chris Kadrmas: I'd have to print those and provide those to the committee.

Chairman Vigesaa: Discussed attachment A.

Vice Chairman Brandenburg: How many dollars are coming from that special fuels?

Chris Kadrmas: They received \$570,000.00 for the 2017-2019 biennium and for the 2019-2021 biennium it will be \$581,310.00.

Chairman Vigesaa: If we didn't have the rail inspection program, would that all go into the general fund?

Chris Kadrmas: It would go into the highway fund.

Chairman Vigesaa: We are taking highway tax distribution funds to fund the rail inspection program?

Chris Kadrmas: Correct.

Chairman Vigesaa: In section 5 where the effective dates are lined up that turns it in to an ongoing program?

Chris Kadrmas: Correct.

Chairman Vigesaa: Can the salary increase and the health care increases raise the budget by that much if that is all there is?

Chris Kadrmas: It factors in the new FTE, the increased funding for the FTE that doesn't have funding and also factors in the Senate's compensation package and the health insurance increase.

Chairman Vigesaa: There would be one FTE and funding for another FTE over the base.

Chris Kadrmas: Correct.

Chairman Vigesaa: The FTE's are in question with moving potentially to ag.

Representative Howe: Do we know what education and environment is doing with the ag budget?

Chairman Vigesaa: There doing what we're doing.

Vice Chairman Brandenburg: See attachment B.

Chairman Vigesaa: Is there any cap on these funds?

Chris Kadrmas: Not that I'm aware of.

Representative Kempenich: There was \$100,000.00 transferred into this budget from SIIF?

Chris Kadrmas: It would have to do with the specialized legal services. I believe they received some additional funding during the 2017-2019 biennium for that.

Vice Chairman Brandenburg: Is that how they funded that last biennium?

Chris Kadrmas: Correct. There's exactly \$100,000.00 in SIIF for that particular purpose.

Vice Chairman Brandenburg: Is that how they funded that position last biennium with that \$100,000.00 out of SIIF?

Chris Kadrmas: No. This was just for the specialized legal services funding.

Chairman Vigesaa: That additional \$100,000.00 was in addition to the federal funds?

Chris Kadrmas: Correct.

Chairman Vigesaa: Closed the discussion.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division Medora Room, State Capitol

SB2008
4/5/2019
Recording Job# 34568

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk:

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 provide for a transfer.

Minutes:

Attachment A

Chairman Vigesaa: Opened the discussion on SB2008.

Chairman Vigesaa: See attachment A.

Chairman Vigesaa: Do you know what we would need to do if we moved that entire department out of this budget?

Chris Kadrmas, Fiscal Analyst, ND Legislative Council: We would not add the one additional inspector that was provided by the Senate. We would need to remove the two positions from the agency along with their salaries and possibly operating expenses tied to them.

Representative Bellew: Would we have to put another section on the bill explaining what we did?

Chris Kadrmas: We would not have to.

Chairman Vigesaa: In the Senate version there was adding for an accounting budget specialist; that was also in regard to the grain inspection program?

Chris Kadrmas: Yes. That position was being added for two reasons; one was to support the work of the grain warehouse licensing inspectors and the other was to support the operations of agency as a whole. That was just the funding addition of \$174,493.00.

Chairman Vigesaa: Do they have an open position or authorization for an FTE and just had the funding but not the authorization?

Chris Kadrmas: Correct. They currently have an unfunded FTE position; and so it would repurpose that position.

Chairman Vigesaa: They primarily indicated in testimony that it was for the further examination of grain warehouses.

Representative Bellew: When we do the changes I'd like to see that settled in conference committee.

Chairman Vigesaa continued discussing the attachment.

Representative Bellew: Made a motion to remove the funding for the account budget specialist, to remove the grain house inspector and all employees and operating expenses related to the grain inspection program.

Representative Beadle: Seconded the motion.

Voice Vote made.

Motion Carried.

Chairman Vigesaa continued with his explanation.

Chairman Vigesaa: Is the rail line program is currently at its expiration.

Chris Kadrmas: The expiration date affects the funding source for those positions. That would expire at the end of the 2017-2019 biennium.

Chairman Vigesaa: That would be primarily removing the sunset?

Chris Kadrmas: Yes it would be to remove the sunset clause.

Representative Howe: I would like to bring this on the bill to full committee.

Representative Bellew: I'll agree with Representative Howe, but I may make a motion to remove it in full committee.

Chairman Vigesaa: We could extend the period for another biennium.

Representative Bellew: Made a motion to change the ending date to the 2019-2021 biennium.

Chairman Vigesaa: If this went through with the way it is in the bill right now; with the sunset being removed, I don't see anything about a continuing appropriation. Would it become a continuing appropriation if the sunset is removed?

Chris Kadrmas: No. It would still have to be appropriated by the legislative assembly; they would still have to request it in their budget.

Representative Bellew: This would not become part of their base if we removed the sunset?

Chris Kadrmas: Even if you remove the sunset clause or leave it there; the FTE authorizations and the amount they had been provided will continue to be part of their base.

Representative Bellew: Would that be a separate line item?

Chris Kadrmas: No. It's currently another line item in their bill already; and it will continue to be that way until we're directed otherwise.

Chairman Vigesaa: In section 5 where it's lined out, what would happen there if we extended the program for another two years?

Chris Kadrmas: All of the items on that page that are overstruck are in order to make it permanent.

Chairman Vigesaa: If we extend the program another two years, would that still be lined out?

Chris Kadrmas: No. Those would no longer be lined out. The only parts that would be lined out would be the effective dates and they would change to reflect that they're going to be continued into 2019-2021 biennium.

Representative Kempenich: We can do it in full committee to take this section out.

Representative Howe: Technology is increasing and getting there. But as we've heard with the revenue forecast, the pipelines are full and there will be increased rail traffic. I don't have a problem with putting a two year sunset on it again.

Chairman Vigesaa: Can we incorporate some language that if it stays in with the sunset, that the department look into technology as a way to make this program more efficient with potentially less FTE's? We want to encourage the commission to look for ways without necessarily having to fund two FTE's. Is it two?

Chris Kadrmas: It is two FTE's.

Chairman Vigesaa: Would that be appropriate in a budget bill to have that type of language?

Chris Kadrmas: We could include a section that would direct the PSC to review electronic or technology means to inspect tracks and rail cars.

Representative Kempenich: I think that if you want to go in that direction, the commission will look at technology that's coming in to use.

Chris Kadrmas: The only issue that I can foresee is that the agency is going to say that somebody has to review this technology.

Representative Kempenich: It's the commission that's going to have to review it; not the inspectors.

Chris Kadrmas: No, they're not going to ask for an FTE to do that. It's if they were to have the technology, somebody has to review the technology.

Representative Bellew: Made a motion to extend the rail inspection program for another 2 years and to add a section for technology.

Chris Kadrmas: The section is written so it provides just enough funding for that agency. With the salary package change, right now it's at \$294,655.00 per year; what would be necessary would \$294,509.00 per year.

Representative Beadle: Seconded the motion.

Voice Vote made.

Motion Carried.

Representative Bellew: When we did the grain inspectors, did it include the budget accounting specialist?

Chris Kadrmas: Yes.

Representative Beadle: Made a motion to adopt the changes.

Representative Howe: Seconded the motion.

Voice Vote made.

Motion Carried.

Representative Kempenich: Made a motion for a "Do Pass as Amended."

Representative Beadle: Seconded the motion.

Roll Call Vote: 5 Yeas 0 Nays 2 Absent.

Motion Carried.

Chairman Vigesaa: Closed the discussion

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division
Medora Room, State Capitol

SB2008
4/8/2019
Recording Job# 34581

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Sheri Lewis

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 provide for a transfer.

Minutes:

Attachment A

Chairman Vigesaa: Opened the discussion on SB2008.

Roll Call taken.

Chairman Vigesaa: See attachment A.

Representative Howe: It was more of an encouragement to have the department look at it.

Vice Chairman Brandenburg: I'm thinking about bringing up in the full committee that the PSC can't require a voluntary letter for approval from game and fish for projects.

Chairman Vigesaa: You've worked the whole session on mitigation; so I think you have the best knowledge of how that system works.

Vice Chairman Brandenburg: It really doesn't belong in the game and fish budget.

Representative Howe: Hearing the words voluntary and requirement in the same description throws me off a little bit.

Vice Chairman Brandenburg: It's supposed to be voluntary but it's not.

Chairman Vigesaa: Did you find out anything out about that other language we were looking for?

Adam Mathiak, Fiscal Analyst, ND Legislative Council: It looks like Chris might be in another meeting and I haven't heard back from him. I'm assuming there might be something else coming that has that language in it.

Chairman Vigesaa: Closed the discussion.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee – Government Operations Division
Medora Room, State Capitol

SB2008
4/9/2019
Recording Job# 34620

☐ Subcommittee
☐ Conference Committee

Committee Clerk: Sheri Lewis

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 provide for a transfer.

Minutes:

Attachment A

Chairman Vigesaa: Opened the discussion on SB2008.

Roll Call taken.

Representative Mock: Made a motion to reconsider their actions.

Representative Howe: Seconded the motion.

Voice Vote taken.

Motion Carried.

Vice Chairman Brandenburg: See amendment 19.0221.02003 attachment A.

Vice Chairman Brandenburg: Made a motion to adopt amendment 19.0221.02003.

Representative Beadle: Seconded the motion.

Voice Vote taken.

Motion Carried.

Representative Bellew: If that is true, why do we need this?

Vice Chairman Brandenburg: We just want to make sure that the public service commission knows we're watching them.

Representative Bellew: If they both pass will this be codified into one?

Chris Kadrmas, Fiscal Analyst, ND Legislative Council: When it goes through and they all pass, they will be meshed together assuming there's no conflicting language. If there's any conflicting language, the last one to pass will be adopted.

Vice Chairman Brandenburg: Made a motion to adopt the changes.

Representative Beadle: Seconded the motion.

Voice Vote taken.

Motion Carried.

Vice Chairman Brandenburg: Made a motion for a "Do Pass as Amended".

Representative Beadle: Seconded the motion.

Representative Bellew: It was brought to my attention about the grain inspectors going to the ag department's budget.

Vice Chairman Brandenburg: It moved the FTE's over the to the ag commissioner and took them out of the PSC.

Representative Bellew: I brought this up because there are farmers that don't support this.

Representative Howe: There are farmers that do support this move also.

Roll Call Vote: 7 Yeas 0 Nays 0 Absent

Motion Carried.

Chairman Vigesaa: Closed the discussion.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2008
4/9/2019
34628

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Risa Bergquist

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; to amend and reenact sections 49-01-05 and 57-43.2-19 of the North Dakota Century Code, relating to the salary of the commissioners and the transfer, deposit, and distribution of funds in the highway tax distribution fund; to provide for a report; and to provide for a transfer.

Minutes:

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Chairman Delzer: Called the meeting to order for SB 2008.

Representative Brandenburg: We will be working off of amendment 19.0221.02003. Provides changes to the salaries and also creates new section for public service commission to dealing with game and fish, voluntary letter dealing with direct and indirect impacts. Looking at the rail, the highway tax distribution tax fund is provided for the rail safety fund. They increase allocations from 285 thousand to 295 thousand per year. The senate removed the expiration date and increased it. Public service commission to study the 2019 interim technology for the rail road equipment, track inspections and the commission salaries report. We had an in-depth discussion about what they are doing in the rail inspections going out and looking at the rails and the cars. In this amendment is also transfers the grain warehouse inspection program to the ag commissioner. The budget is about 6 million 544 thousand dollars.

Chairman Delzer: I thought we were getting rid of the rail inspectors?

Representative Brandenburg: They are funded with the highway tax distribution fund it comes off the diesel tax. Committee felt that they are needed.

Chairman Delzer: I thought last time was supposed to be the last time that we funded the rail inspectors.

Representative Monson: I don't think we had a sunset on it or anything, the senate was pretty adamant that they needed them.

Representative Brandenburg: There was an expiration date but the senate took the expiration date off.

Representative Howe: We left them in for this upcoming biennium but we did add a sunset. We also added that they should do a study. There's some new technology becoming available so we thought to keep them in there and look at the new technologies as they become available. We thought with the increase of oil being hauled it would be in our best interest to have these guys.

Representative Brandenburg: Right now at this point we don't have anything else set up to replace these.

Representative J. Nelson: The issue we had earlier was that this is the responsibility of the federal government and there is a railroad program. What is the status of that?

Representative Brandenburg: Yes, there is collaboration between them.

Representative Howe: The federal program still exists; they feel that the federal program is spread pretty thing.

Representative Vigesaa: Track inspector found 2,878 defects and 29 violations were issued and mechanical inspector identified 3,536 defects and 63 violations were issued. We don't have a breakdown of what those defects where but it did indicate that between the two they found over 6,000 violations and those where things that the federal program missed.

Chairman Delzer: What kind of percentage of things they looked at is that?

Representative Vigesaa: Total units that were inspected where 9,641, mechanical inspector inspected 92,000 units. I don't have a breakdown of what those violations where.

Representative Howe: A lot of states with heavy rail traffic like North Dakota do have their own rail inspectors.

Chairman Delzer: Further discussion?

Representative Brandenburg: I will move the amendment 19.0221.02003

Representative Howe: Second

Chairman Delzer: We have a motion to amend SB 2008, further discussion? In the end you only have 2 reductions even though you took 3 out for the grain inspectors.

Representative Brandenburg: The senate game them 1.

Representative Monson: The sunset was extended to 2021? So that will sunset and then you will have your study? One of the reason we put the money into the UAS was because the UAS said they could inspect the rails.

Representative J. Nelson: I am trying to understand the position that was added. I see the 3 positions that were removed where did the senate add the 1 position?

Representative Brandenburg: I believe the PSC was looking at adding more duties to the accounting specialist, we just took the money and moved it over for the accounting specialist.

Chairman Delzer: If you look at the green sheets the senate added 1 grain house inspector, if we moved everything that they had why is there only a reduction of 2?

Representative Brandenburg: It's a reduction of 3 because the senate added 1.

Representative J. Nelson: The addition the senate added was in the grain inspector?

Representative Brandenburg: Yes.

Representative Vigesaa: The governor's recommendation was to remove a grain warehouse inspector and the senate restored that position and added another one. There's an existing FTE that was still remaining in the PSC for another FTE in that grain area. The funding was added for the accounting specialist because it most has already been in existence.

Chairman Delzer: Back side of the second page of the green sheet will show the senate and the executive recommendation.

Representative Boe: PSC removed 3 FTEs because the fiscal analyst was a vacant FTE that had been funded for the purpose of helping with grain inspection, when we moved it we had to create 4 FTEs because we did not have that vacant position.

Chairman Delzer: Further discussion on the motion to amend? **Voice vote, All in Favor, Motion Carries.** Any further amendments to come before us?

Representative J. Nelson: Did you guys talk about the rail rate complaint case? Do we have any money left in that fund?

Representative Brandenburg: It's still there, if we would need it.

Chris Kadrmas, Legislative Council: There is 900 thousand is factored in. It's set aside until it's needed and historically it hasn't been needed.

Representative Brandenburg: I would make a motion for SB 2008 as **a Do Pass as Amended.**

Representative Howe: Second

Chairman Delzer: We have a motion for a Do Pass as Amended, any further discussion on the motion?

A Roll Call vote was taken. Yea: 18 Nay: 2 Absent: 1

Motion Carries, Representative Brandenburg will carry the bill.

Chairman Delzer: With that we will close the meeting.

2019 HOUSE STANDING COMMITTEE MINUTES

Appropriations Committee Roughrider Room, State Capitol

SB 2008
4/11/2019
SB 34690

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk: Risa Bergquist

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, relating to the salary of the commissioners and the transfer, deposit, and distribution of funds in the highway tax distribution fund; to provide for a report; and to provide for a transfer.

Minutes:

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Chairman Delzer: Called the meeting to order for SB 2008, we need to reconsider our actions on this bill. There's one section on there that is causing some problems. There are also some parts in there that would be better taken care of in other bills.

Representative Vigesaa: I would like to make a **Motion to Reconsider our Actions.**

Representative Howe: Second

Chairman Delzer: We have a motion to reconsider our actions on SB 2008, Further discussion? **Voice vote, All in Favor, Motion Carries.**

Representative Brandenburg: Discussion is on section 5 and 6 to remove those sections from SB 2008. It's talking about the mitigation issue.

Representative Vigesaa: I will make a motion to further amend SB 2008 and Remove section 5 and 6 from the amendment.

Representative Brandenburg: Second

Chairman Delzer: We have a motion to further amend, to remove sections 5 and 6 from 19.0221.02003 which is on the bill, we are not removing the whole amendment just those sections.

Representative Nathe: So those sections will be on another bill?

Chairman Delzer: It will probably be worded different but they are looking at HB 1383 the mitigation bill. Further discussion on the motion? **Voice vote, All in favor, Motion carries.**

Representative Brandenburg: I would move a Do Pass as Amended

Representative Howe: Second

Chairman Delzer: We have a motion for a do pass as amended, any further discussion? Seeing none we will call the roll.

Motion Carries, Representative Brandenburg will carry the bill.

Chairman Delzer: We will close this meeting.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 1, line 2, after the semicolon insert "to create and enact a new section to chapter 49-22 and a new section to chapter 49-22.1, relating to consideration of information or documents from the game and fish department;"

Page 1, line 4, after the first semicolon insert "to provide for a study;"

Page 1, line 4, replace "a report" with "reports"

Page 1, remove lines 15 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$9,197,284	\$132,783	\$9,330,067
Operating expenses	1,829,826	(71,000)	1,758,826
Capital assets	10,000	15,000	25,000
Grants	20,000	0	20,000
Abandoned mined lands contractual	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	564,668	24,350	589,018
Specialized legal services	94,000	336,000	430,000
Total all funds	\$18,615,778	\$437,133	\$19,052,911
Less estimated income	11,985,016	523,460	12,508,476
Total general fund	\$6,630,762	(\$86,327)	\$6,544,435
Full-time equivalent positions	45.00	(2.00)	43.00"

Page 2, line 29, replace "fourteen" with "thirteen"

Page 2, line 30, remove "one"

Page 2, line 30, overstrike "hundred"

Page 2, line 30, replace "fifty-four" with "six hundred"

Page 3, after line 2, insert:

"**SECTION 5.** A new section to chapter 49-22 of the North Dakota Century Code is created and enacted as follows:

Mitigating adverse environmental impacts.

The commission may not request, receive, or consider any information or documents from the game and fish department relating to any adverse direct or indirect environmental or wildlife impact of a proposed site, corridor, route, or facility for purposes of mitigation.

SECTION 6. A new section to chapter 49-22.1 of the North Dakota Century Code is created and enacted as follows:

Mitigating adverse environmental impacts.

The commission may not request, receive, or consider any information or documents from the game and fish department relating to any adverse direct or indirect environmental or wildlife impact of a proposed site, corridor, route, or facility for purposes of mitigation."

Page 3, line 5, remove the overstrike over "~~(Effective July 1, 2015,~~"

Page 3, line 6, remove the overstrike over "~~through June 30,~~"

Page 3, line 6, after "~~2019)~~" insert "2021)"

Page 3, line 10, replace "six hundred fifty-five" with "five hundred nine"

Page 3, line 14, remove the overstrike over "~~Transfer, deposit, and distribution of funds.~~
~~(Effective after June 30,~~"

Page 3, line 14, after "~~2019)~~" insert "2021)"

Page 3, line 14, remove the overstrike over "~~All taxes,~~"

Page 3, remove the overstrike over lines 15 through 17

Page 3, after line 17, insert:

"SECTION 8. RAILROAD INSPECTION STUDY. During the 2019-20 interim, the public service commission shall study technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission shall report its findings and any related budget recommendations to the appropriations committees of the sixty-seventh legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - House Action

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$9,197,284	\$10,063,825	(\$733,758)	\$9,330,067
Operating expenses	1,829,826	1,883,826	(125,000)	1,758,826
Capital assets	10,000	25,000		25,000
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	6,000,000	6,000,000		6,000,000
Rail rate complaint case	900,000	900,000		900,000
Railroad safety program	564,668	589,310	(292)	589,018
Specialized legal services	94,000	430,000		430,000
Total all funds	\$18,615,778	\$19,911,961	(\$859,050)	\$19,052,911
Less estimated income	11,985,016	12,514,674	(6,198)	12,508,476
General fund	\$6,630,762	\$7,397,287	(\$852,852)	\$6,544,435
FTE	45.00	46.00	(3.00)	43.00

Department 408 - Public Service Commission - Detail of House Changes

	Adjusts Funding for Salary Increases ¹	Transfers Grain Warehouse Inspection Program to the Agriculture Commissioner ²	Total House Changes
Salaries and wages	(\$5,259)	(\$728,499)	(\$733,758)
Operating expenses		(125,000)	(125,000)
Capital assets			
Grants			
Abandoned mined lands contractual			
Rail rate complaint case			
Railroad safety program	(292)		(292)
Specialized legal services			
Total all funds	(\$5,551)	(\$853,499)	(\$859,050)
Less estimated income	(6,198)	0	(6,198)
General fund	\$647	(\$853,499)	(\$852,852)
FTE	0.00	(3.00)	(3.00)

¹ Funding is adjusted to provide for employee salary increases of 2 percent on July 1, 2019, with a minimum monthly increase of \$120 and a maximum monthly increase of \$200, and an increase of 2.5 percent on July 1, 2020. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.

² Transfers the grain warehouse license and inspection program to the Agriculture Commissioner as follows:

	Salaries and Wages	Operating Expenses	Total General Fund
Removes 3 FTE grain warehouse inspectors	\$563,006	\$120,000	\$683,006
Removes funding for an accounting budget specialist	165,493	5,000	170,493
Total removed	\$728,499	\$125,000	\$853,499

This amendment also:

- Provides the statutory changes to increase the Public Service Commissioners' salaries. The Public Service Commissioners' annual salaries would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$113,600, effective July 1, 2020, to reflect the 2 percent and 2.5 percent salary increases. The Senate proposed salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.
- Creates new sections to North Dakota Century Code Chapters 49-22 and 49-22.1 to preclude the Public Service Commission from requesting, receiving, or considering any information or documents from the Game and Fish Department relating to any adverse direct or indirect environmental or wildlife impact of a proposed site, corridor, route, or facility for purposes of mitigation.
- Amends Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to provide for the allocation to the rail safety fund to continue until June 30, 2021, and to increase the allocation amount from \$285,000 per year to \$294,509 per year. The Senate removed the expiration date and provided an increase to \$294,655 per year.
- Requires the Public Service Commission to study, during the 2019-20 interim, technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission shall report its findings and related budget recommendations to the 67th Legislative Assembly.

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 1, line 4, after the first semicolon insert "to provide for a study;"

Page 1, line 4, replace "a report" with "reports"

Page 1, remove lines 15 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$9,197,284	\$132,783	\$9,330,067
Operating expenses	1,829,826	(71,000)	1,758,826
Capital assets	10,000	15,000	25,000
Grants	20,000	0	20,000
Abandoned mined lands contractual	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	564,668	24,350	589,018
Specialized legal services	<u>94,000</u>	<u>336,000</u>	<u>430,000</u>
Total all funds	\$18,615,778	\$437,133	\$19,052,911
Less estimated income	<u>11,985,016</u>	<u>523,460</u>	<u>12,508,476</u>
Total general fund	\$6,630,762	(\$86,327)	\$6,544,435
Full-time equivalent positions	45.00	(2.00)	43.00"

Page 2, line 29, replace "fourteen" with "thirteen"

Page 2, line 30, remove the overstrike over "six"

Page 2, line 30, remove "one"

Page 2, line 30, remove "fifty-four"

Page 3, line 5, remove the overstrike over "~~(Effective July 1, 2015,~~"

Page 3, line 6, remove the overstrike over "~~through June 30,~~"

Page 3, line 6, after "~~2019~~)" insert "2021)"

Page 3, line 10, replace "six hundred fifty-five" with "five hundred nine"

Page 3, line 14, remove the overstrike over "~~Transfer, deposit, and distribution of funds.~~
~~(Effective after June 30,~~"

Page 3, line 14, after "~~2019~~)" insert "2021)"

Page 3, line 14, remove the overstrike over "~~All taxes,~~"

Page 3, remove the overstrike over lines 15 through 17

Page 3, after line 17, insert:

"SECTION 6. RAILROAD INSPECTION STUDY. During the 2019-20 interim, the public service commission shall study technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission shall report its findings and any related budget recommendations to the appropriations committees of the sixty-seventh legislative assembly."

DA 4/2/19
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Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - House Action

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$9,197,284	\$10,063,825	(\$733,758)	\$9,330,067
Operating expenses	1,829,826	1,883,826	(125,000)	1,758,826
Capital assets	10,000	25,000		25,000
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	6,000,000	6,000,000		6,000,000
Rail rate complaint case	900,000	900,000		900,000
Railroad safety program	564,668	589,310	(292)	589,018
Specialized legal services	94,000	430,000		430,000
Total all funds	\$18,615,778	\$19,911,961	(\$859,050)	\$19,052,911
Less estimated income	11,985,016	12,514,674	(6,198)	12,508,476
General fund	\$6,630,762	\$7,397,287	(\$852,852)	\$6,544,435
FTE	45.00	46.00	(3.00)	43.00

Department 408 - Public Service Commission - Detail of House Changes

	Adjusts Funding for Salary Increases ¹	Transfers Grain Warehouse Inspection Program to the Agriculture Commissioner ²	Total House Changes
Salaries and wages	(\$5,259)	(\$728,499)	(\$733,758)
Operating expenses		(125,000)	(125,000)
Capital assets			
Grants			
Abandoned mined lands contractual			
Rail rate complaint case			
Railroad safety program	(292)		(292)
Specialized legal services			
Total all funds	(\$5,551)	(\$853,499)	(\$859,050)
Less estimated income	(6,198)	0	(6,198)
General fund	\$647	(\$853,499)	(\$852,852)
FTE	0.00	(3.00)	(3.00)

¹ Funding is adjusted to provide for employee salary increases of 2 percent on July 1, 2019, with a minimum monthly increase of \$120 and a maximum monthly increase of \$200, and an increase of 2.5 percent on July 1, 2020. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.

² Transfers the grain warehouse license and inspection program to the Agriculture Commissioner as follows:

	Salaries and Wages	Operating Expenses	Total General Fund
Removes 3 FTE grain warehouse inspectors	\$563,006	\$120,000	\$683,006
Removes funding for an accounting budget specialist	165,493	5,000	170,493
Total removed	\$728,499	\$125,000	\$853,499

This amendment also:

- Provides the statutory changes to increase the Public Service Commissioners' salaries. The Public Service Commissioners' annual salaries would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$113,600, effective July 1, 2020, to reflect the 2 percent and 2.5 percent salary increases. The Senate proposed salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.
- Amends Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to provide for the allocation to the rail safety fund to continue until June 30, 2021, and to increase the allocation amount from \$285,000 per year to \$294,509 per year. The Senate removed the expiration date and provided

DP 4/12/19
3 of 3

an increase to \$294,655 per year.

Requires the Public Service Commission to study, during the 2019-20 interim, technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission shall report its findings and related budget recommendations to the 67th Legislative Assembly.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2008**

House Appropriations - Government Operations Division Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Bellew Seconded By Representative Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Vigesaa			Representative Mock		
Vice Chairman Brandenburg					
Representative Beadle					
Representative Bellew					
Representative Howe					
Representative Kempenich					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

A motion to remove funding for the account budget specialist, to remove the grain house inspector and all related employees and operating expenses to the grain inspection program.
Motion Carried.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2008**

House Appropriations - Government Operations Division Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Bellew Seconded By Representative Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Vigesaa			Representative Mock		
Vice Chairman Brandenburg					
Representative Beadle					
Representative Bellew					
Representative Howe					
Representative Kempenich					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

A motion to extend the rail inspection program for 2 years and add a section with regard to technology.

Motion Carried.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2008**

House Appropriations - Government Operations Division Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Beadle Seconded By Representative Howe

Representatives	Yes	No	Representatives	Yes	No
Chairman Vigesaa			Representative Mock		
Vice Chairman Brandenburg					
Representative Beadle					
Representative Bellew					
Representative Howe					
Representative Kempenich					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
A motion to adopt the changes.
Motion Carried.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2008**

House Appropriations - Government Operations Division Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Kempenich Seconded By Representative Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Vigesaa	X		Representative Mock		
Vice Chairman Brandenburg					
Representative Beadle	X				
Representative Bellew	X				
Representative Howe	X				
Representative Kempenich	X				

Total (Yes) 5 No 0

Absent 2

Floor Assignment Representative Kempenich

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

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2008**

House Appropriations - Government Operations Division Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☒ Reconsider ☐ _____

Motion Made By Representative Mock Seconded By Representative Howe

Representatives	Yes	No	Representatives	Yes	No
Chairman Vigasaa			Representative Mock		
Vice Chairman Brandenburg					
Representative Beadle					
Representative Bellew					
Representative Howe					
Representative Kempenich					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
To reconsider their actions.
Motion Carried.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2008**

House Appropriations - Government Operations Division Committee

☐ Subcommittee

Amendment LC# or Description: 19.0221.02003

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Vice Chairman Brandenburg Seconded By Representative Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Vigesaa			Representative Mock		
Vice Chairman Brandenburg					
Representative Beadle					
Representative Bellew					
Representative Howe					
Representative Kempenich					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2008**

House Appropriations - Government Operations Division Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Vice Chairman Brandenburg Seconded By Representative Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Vigesaa			Representative Mock		
Vice Chairman Brandenburg					
Representative Beadle					
Representative Bellew					
Representative Howe					
Representative Kempenich					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:
Motion to adopt the changes.
Motion Carried.

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB2008**

House Appropriations - Government Operations Division Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Vice Chairman Brandenburg Seconded By Representative Beadle

Representatives	Yes	No	Representatives	Yes	No
Chairman Vigesaa	X		Representative Mock	X	
Vice Chairman Brandenburg	X				
Representative Beadle	X				
Representative Bellew	X				
Representative Howe	X				
Representative Kempenich	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Vice Chairman Brandenburg

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

Date: 4/9/2019
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2008**

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: 19.0221.02003

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Brandenburg Seconded By Representative Howe

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich					
Representative Anderson			Representative Schobinger		
Representative Beadle			Representative Vigesaa		
Representative Bellew					
Representative Brandenburg					
Representative Howe			Representative Boe		
Representative Kreidt			Representative Holman		
Representative Martinson			Representative Mock		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

Voice Vote/Motion Carries

Date: 4/9/2019
Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2008**

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Brandenburg Seconded By Representative Howe

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X			
Representative Kempenich	A				
Representative Anderson	X		Representative Schobinger	X	
Representative Beadle	X		Representative Vigesaa	X	
Representative Bellew		X			
Representative Brandenburg	X				
Representative Howe	X		Representative Boe	X	
Representative Kreidt	X		Representative Holman	X	
Representative Martinson	X		Representative Mock	X	
Representative Meier	X				
Representative Monson	X				
Representative Nathe	X				
Representative J. Nelson	X				
Representative Sanford	X				
Representative Schatz	X				
Representative Schmidt	X				

Total (Yes) 18 No 2

Absent 1

Floor Assignment Representative Brandenburg

Motion Carries

Date: 4/11/2019
Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2008**

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☒ Reconsider ☐ _____

Motion Made By Representative Vigesaa Seconded By Representative Howe

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich					
Representative Anderson			Representative Schobinger		
Representative Beadle			Representative Vigesaa		
Representative Bellew					
Representative Brandenburg					
Representative Howe			Representative Boe		
Representative Kreidt			Representative Holman		
Representative Martinson			Representative Mock		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

Voice Vote/Motion Carries

Date: 4/11/2019
Roll Call Vote #: 2

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2008**

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: Remove section 5&6 from Amendment 19.0221.02003

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Vigesaa Seconded By Representative Brandenburg

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer					
Representative Kempenich					
Representative Anderson			Representative Schobinger		
Representative Beadle			Representative Vigesaa		
Representative Bellew					
Representative Brandenburg					
Representative Howe			Representative Boe		
Representative Kreidt			Representative Holman		
Representative Martinson			Representative Mock		
Representative Meier					
Representative Monson					
Representative Nathe					
Representative J. Nelson					
Representative Sanford					
Representative Schatz					
Representative Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

Voice Vote/Motion Carries

Date: 4/11/2019
Roll Call Vote #: 3

**2019 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2008**

House Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Representative Brandenburg Seconded By Representative Howe

Representatives	Yes	No	Representatives	Yes	No
Chairman Delzer		X			
Representative Kempenich	X				
Representative Anderson	X		Representative Schobinger	X	
Representative Beadle	X		Representative Vigesaa	X	
Representative Bellew		X			
Representative Brandenburg	X				
Representative Howe	X		Representative Boe	X	
Representative Kreidt	X		Representative Holman	X	
Representative Martinson	X		Representative Mock	X	
Representative Meier	X				
Representative Monson	X				
Representative Nathe	X				
Representative J. Nelson	X				
Representative Sanford	X				
Representative Schatz	X				
Representative Schmidt	X				

Total (Yes) 19 No 2

Absent 0

Floor Assignment Representative Brandenburg

Motion Carries

REPORT OF STANDING COMMITTEE

SB 2008, as engrossed: Appropriations Committee (Rep. Delzer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (19 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). Engrossed SB 2008 was placed on the Sixth order on the calendar.

Page 1, line 4, after the first semicolon insert "to provide for a study;"

Page 1, line 4, replace "a report" with "reports"

Page 1, remove lines 15 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$9,197,284	\$132,783	\$9,330,067
Operating expenses	1,829,826	(71,000)	1,758,826
Capital assets	10,000	15,000	25,000
Grants	20,000	0	20,000
Abandoned mined lands contractual	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	564,668	24,350	589,018
Specialized legal services	<u>94,000</u>	<u>336,000</u>	<u>430,000</u>
Total all funds	\$18,615,778	\$437,133	\$19,052,911
Less estimated income	<u>11,985,016</u>	<u>523,460</u>	<u>12,508,476</u>
Total general fund	\$6,630,762	(\$86,327)	\$6,544,435
Full-time equivalent positions	45.00	(2.00)	43.00"

Page 2, line 29, replace "fourteen" with "thirteen"

Page 2, line 30, remove the overstrike over "six"

Page 2, line 30, remove "one"

Page 2, line 30, remove "fifty-four"

Page 3, line 5, remove the overstrike over "~~(Effective July 1, 2015,~~"

Page 3, line 6, remove the overstrike over "~~through June 30,~~"

Page 3, line 6, after "~~2019~~" insert "2021"

Page 3, line 10, replace "six hundred fifty-five" with "five hundred nine"

Page 3, line 14, remove the overstrike over "~~Transfer, deposit, and distribution of funds.~~
~~(Effective after June 30,~~"

Page 3, line 14, after "~~2019~~" insert "2021"

Page 3, line 14, remove the overstrike over "~~All taxes,~~"

Page 3, remove the overstrike over lines 15 through 17

Page 3, after line 17, insert:

"SECTION 6. RAILROAD INSPECTION STUDY. During the 2019-20 interim, the public service commission shall study technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission shall report its findings and any related budget recommendations to the appropriations committees of the sixty-seventh legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - House Action

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$9,197,284	\$10,063,825	(\$733,758)	\$9,330,067
Operating expenses	1,829,826	1,883,826	(125,000)	1,758,826
Capital assets	10,000	25,000		25,000
Grants	20,000	20,000		20,000
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Less estimated income	11,985,016	12,514,674	(6,198)	12,508,476
General fund	\$6,630,762	\$7,397,287	(\$852,852)	\$6,544,435
FTE	45.00	46.00	(3.00)	43.00

Department 408 - Public Service Commission - Detail of House Changes

	Adjusts Funding for Salary Increases ¹	Transfers Grain Warehouse Inspection Program to the Agriculture Commissioner ²	Total House Changes
Salaries and wages	(\$5,259)	(\$728,499)	(\$733,758)
Operating expenses		(125,000)	(125,000)
Capital assets			
Grants			
Abandoned mined lands contractual			
Rail rate complaint case			
Railroad safety program	(292)		(292)
Specialized legal services			
Total all funds	(\$5,551)	(\$853,499)	(\$859,050)
Less estimated income	(6,198)	0	(6,198)
General fund	\$647	(\$853,499)	(\$852,852)
FTE	0.00	(3.00)	(3.00)

¹ Funding is adjusted to provide for employee salary increases of 2 percent on July 1, 2019, with a minimum monthly increase of \$120 and a maximum monthly increase of \$200, and an increase of 2.5 percent on July 1, 2020. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.

² Transfers the grain warehouse license and inspection program to the Agriculture Commissioner as follows:

	Salaries and Wages	Operating Expenses	Total General Fund
Removes 3 FTE grain warehouse inspectors	\$563,006	\$120,000	\$683,006
Removes funding for an accounting budget specialist	165,493	5,000	170,493
Total removed	\$728,499	\$125,000	\$853,499

This amendment also:

- Provides the statutory changes to increase the Public Service Commissioners' salaries. The Public Service Commissioners' annual salaries would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$113,600, effective July 1, 2020, to reflect the 2 percent and 2.5 percent salary increases. The Senate proposed salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.
- Amends Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to provide for the allocation to the rail safety fund to continue until June 30, 2021, and to increase the allocation amount from \$285,000 per year to \$294,509 per year. The Senate removed the expiration date and provided

- an increase to \$294,655 per year.
- Requires the Public Service Commission to study, during the 2019-20 interim, technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission shall report its findings and related budget recommendations to the 67th Legislative Assembly.

2019 CONFERENCE COMMITTEE

SB 2008

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2008
4/23/2019
JOB #34938

☐ Subcommittee
☒ Conference Committee

Committee Clerk: Alice Delzer and Alicia Larsgaard
--

Explanation or reason for introduction of bill/resolution:

A Conference Committee hearing for Public Service Commission (PSC)

Minutes:

1. Base Level Funding Changes

SENATORS: Gary Lee, Terry Wanzek, John Grabinger
REPRESENTATIVES: Mike Brandenburg, Larry Bellew, Corey Mock

Stephanie Gullickson, OMB
Chris Kadrmas, Legislative Council

Chris Kadrmas, Legislative Council: Submitted Attachment #1 – Base Level Funding Level.

Senator Gary Lee: Called the Conference Committee to order on SB 2008 at 11:00 in the Harvest Room. Roll call was taken. All committee members were present. This is the first time we have met on this one. Representative Brandenburg, are there any areas that you would like to talk to us about in terms of making some adjustments?

Representative Brandenburg: Just looking over the House version, we matched up sections 3 and 4. Section 5 is just the same thing dealing with fuel taxes. We also added a study in there for the interim for public service for creating efficiencies to reduce cost for railroad equipment and track inspections. That is a study that we put in. Other than that, I think we would stand for any questions. The study is in the back of the bill on 2004. That would be the highlighted section 6.

Chris Kadrmas, Legislative Council: The study didn't make it to the worksheet, but it is section 6, page 3 of the bill.

Senator Gary Lee: Part of the discussion that isn't here is the FTE's you mentioned.

Representative Brandenburg: The FTEs went from 45 to 43, and they followed with the grain inspection that went to the Ag Department.

Senator Gary Lee: It is the 3 FTE's?

Representative Brandenburg: The Senate put one in then it went to 46. They reduced the base and that shows how it went from 45 to 43. There was 3 FTE's because the Senate did go from 45 to 46. We are at 43 now and they went to the Ag budget.

Senator Gary Lee: Those 3 going to the Ag is the reason you took them out?

Representative Brandenburg: That is for the grain inspection program.

Senator Gary Lee: What is the rational for that in general?

Representative Brandenburg: The Ag community and the grain people have had a lot of discussion about that. I can't remember the bill number but I think it was moved this morning. They laid out the amendments. I don't think it is all done, but it is part of this budget too.

Senator Gary Lee: Have they acted on the Ag budget yet?

Representative Brandenburg: I am not sure. I know they have had discussions. I do not know where they ended up. I know amendments were presented. I do not know if they adopted them. I've seen Chairman Johnson, but I don't know if they acted on the amendments yet. I did not have enough time to talk to him. It would probably be appropriate that we have the discussion with this bill too until it's finalized or whatever happens.

Senator Wanzek: I recall when we had the budget on our side, with the grain inspectors; if someone from PSC can answer this, I always thought they had 1¾ of FTE for grain inspection. Have we only funded 1¾? Were there actually two there? Then we gave them another one so there would be three grain inspectors.

Chris Kadrmas: The Senate's version, they had two FTE authorizations already in the agency. That was only funding for 1.75. So, the Senate funded to make that a fully funded position and then they added the one FTE authorization and the funding for that. Along with that, there was the addition of funding for the accounting budget specialist. The intent was for them to repurpose an existing position they had that had no funding for it. The testimony behind that was that that position would also assist with the grain warehousing licensing inspection process.

Senator Wanzek: The House removed that county specialist as well?

Chris Kadrmas: All the increases that were provided by the Senate were removed. The full 2 FTEs for the grain warehousing licensing inspectors and funding for that, basically that entire package that the Senate provided, was taken out of the PSC bill and put into the Ag Commissioner's bill. That does include funding for the accounting budget specialist. In the Ag Commissioner's bill, they had to add one FTE because they did not have an empty position. So basically, the Senate's version was taken out of the bill and put in the Ag Commissioner's budget with the addition of one FTE.

(0.07.41) Senator Wanzek: So, my understanding is that the accounting specialist was needed for more than just the grain inspection service and that they were going to provide some of the help in the grain inspection piece but they were also needed for another purpose.

Chris Kadrmas: That is correct. That position would have been a dual purpose. It would have assisted with the grain warehouse licensing inspection and other duties within the PSC. That was mentioned during testimony.

Senator Gary Lee: Is one of the positions that moved to the Ag Department that position? Is that what they expected?

Chris Kadrmas: That is the county budget specialist position. It is my understanding that in the Ag Commissioner's bill, the only duties are it was essentially transferred with the grain and warehouse licensing inspection. The assumption would be that their duties would revolve around that and it would be up to the agency if they had other duties.

Senator Gary Lee: That might mean they will be shorted a position in PSC, or part of a position at least, for that particular type of work. That is if it was expected to have a dual role between grain warehousing.

Chris Kadrmas: The PSC wouldn't be receiving any additional assistance. They would be no different than they are now. They would not have received the additional assistance that is requested through that position.

Senator Gary Lee: Are there any other comments or questions?

Senator Wanzek: I think we have to address that the need is there and whether we leave that one particular accounting specialist in the PSC, if the grain buying bonding licensing program leaves. I agree that we are not completely sure the way it's going to go. I have been involved in some of the discussions. I know that committee is meeting today. I am sure we will know by the end of the day.

Representative Brandenburg: So, I understand, listening to your thought process, you are thinking they might be short half an FTE with this accounting specialist. Is that correct?

Senator Wanzek: Before I would take a vote on this, I want to make sure that I'm comfortable with that accounting specialist. I want to make sure they are not needed if I am going to vote for that.

Senator Gary Lee: Looking back at my notes, I had 1 FTE grain warehouse inspector that we added. We funded a $\frac{1}{4}$ an FTE to add to the $\frac{3}{4}$ that already existed. So, that would be two. We then reclassified an FTE to an accounting budget specialist position. Then we added the salary and expenses for that particular person.

Representative Brandenburg: I see what you are saying. We should check that out.

Senator Gary Lee: I think we need to know what happens in the Ag Department and what the committee is doing in terms of making a decision before we can completely deal with this.

It looks like it is down to those FTEs and whether we try to put them back in here or leave it to go to the Ag Department. I do not see any other issues that we are going to deal with. The rail safety thing has changed from a continuing appropriation in ours to a sunset after the biennium.

Representative Brandenburg: That will come out in the study.

Senator Wanzek: Were you mentioning Section 5? (yes) I was going to ask, why the sunset?

Representative Brandenburg: We did our best to keep it in there. There are some that would just as soon see it go. We felt it should be in there and we should have a study and make a determination next session as to where it goes. It's important to some people and we want to make sure we don't do something wrong. The study language is in section 5 of the bill.

Senator Gary Lee: He forgot to get it on the sheet. You forgot to say anything about the study. What is it going to do and look for?

Chris Kadrmas: The study just says that during the 2019-2020 interim, the PSC shall study technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The Commission shall report its findings and related budget recommendations to the Appropriations committees of the 67th Legislative Assembly. It is somewhat broad. My apologies, I failed to include the study on the work sheet.

Senator Gary Lee: Are there any questions? If not, we will have to reschedule again after the Ag meeting and we will see what happens with the Ag Commissioner's budget.

The meeting was adjourned.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2008
4/24/2019
JOB #34981

☐ Subcommittee
☒ Conference Committee

Committee Clerk: Alice Delzer and Alicia Larsgaard
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Explanation or reason for introduction of bill/resolution:

A Conference Committee hearing for the public service commission (PSC)

Minutes:

No testimony submitted

SENATORS: Gary Lee, Terry Wanzek, John Grabinger

REPRESENTATIVES: Mike Brandenburg, Larry Bellew, Corey Mock

Chris Kadrmas, Legislative Council
Stephanie Gullickson, OMB

Senator Gary Lee: Called the Conference Committee to order on SB 2008 at 2:00 pm in the Harvest Room. Roll call was taken. All committee members were present.

Senator Gary Lee: We adjourned yesterday and we were waiting for action on SB 2346 that had the transfer of the grain inspection program to the Ag Department. That failed on the floor of the Senate. That leaves us the program in here with no money and FTEs. Is there any conversation on where we are at?

Representative Brandenburg: As I understand it, all the FTEs and the language are in the ag budget too. I don't know that we can do anything here.

Senator Gary Lee: We can move those FTEs back into this budget. We can recede from the House amendments and there they are. If everything else stays, then we put them back in. It is that simple.

Senator Wanzek: I would make a motion that the House recede from their amendments and further amend and I don't know if we have to further amend because of the salary issue. That would reflect the numbers with the 2% and 2.5% increase and the minimum \$120 per month of the first year and the health insurance changes if there's any.

Senator Gary Lee: We have a motion to recede from the House amendments and further amend. That includes the salary and wages. Is there a second?

2nd by Senator Grabinger

Senator Gary Lee: Any discussions? Chris, with that amendment, that keeps everything in the bill such as the railroad pilot program and railroad study, commission salary. Those things are in the bill now.

Chris Kadrmas: If the House is receding, the inclusion of those changes would need to be included in the motion also.

Senator Gary Lee: So there is nothing in the bill right now?

Chris Kadrmas: It would be the Senate's version. Based on the motion, it would be the Senate version with the House's changes to salaries and wages regarding the salary increase. It would not include the sections of the bill that were amended in the House. So, those would need to be added to the motion if that is the desire of the Senate.

Senator Gary Lee: So, sections 2, 3, 4, 5, and 6 would need to be included in the motion of the 04000 version? Or I mean the 02004 version?

Chris Kadrmas: Correct. If the desire is to have essentially the House's version with the exception of the grain warehouse licensing transfer, the cleanest way would be to have a motion for the House to recede from its amendments and to further amend the House's version of the bill to restore or exclude the transfer of the grain warehouse licensing inspection program.

Senator Gary Lee: The motion is that we have everything except the warehouse.

Chris Kadrmas: It would be the transfer of the grain warehouse licensing inspection program to the Ag Commissioner.

Senator Gary Lee: Say that again.

Chris Kadrmas: The motion would be that the House recede from these amendments and to further amend the House's version with the exception of the transfer of the grain warehouse licensing inspection program. So they would exclude that portion of it and it would stay within the Public Service Commission (PSC). All the funding and the FTEs would stay with the PSC.

Senator Gary Lee: Everything is in the bill now that we want to have in the bill with that motion, correct?

Chris Kadrmas: Based on my understanding of what the Senate wants to include, yes.

Senator Gary Lee: Everyone understand what the motion is. any other discussion? No further discussion we'll ask the clerk to take the roll.

A Roll Call vote was taken: Yea: 3 Nay: 3 Absent: 0

Yea Vote:	Nay Vote:
Senator Gary Lee	Representative Brandenburg
Senator Wanzek	Representative Bellew
Senator Grabinger	Representative Mock

Senator Gary Lee: The Motion fails.

Senator Wanzek: In all honesty I kind of expected that vote. I am not sure there is much more that we in conference committee can do until we reconcile between the House and the Senate as to where we want this program.

Representative Brandenburg: I would agree with those comments.

Senator Gary Lee: We'll stand adjourned.

2019 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

SB 2008
4/25/2019
JOB # 35005

☐ Subcommittee
☒ Conference Committee

Committee Clerk: Alice Delzer / Pam Dever

Explanation or reason for introduction of bill/resolution:

A Conference Committee Hearing for the public service commission (PSC)

Minutes:

1.Proposed Amendment # 19.0221.02008

SENATORS: Gary Lee, Terry Wanzek, John Grabinger
REPRESENTATIVES: Mike Brandenburg, Larry Bellew, Corey Mock

Chris Kadrmas, Legislative Council
Stephanie Gullickson, OMB

Senator Gary Lee: called the Conference Committee to order on SB 2008 at 7:00 pm in the Harvest Room. Roll call was taken. All committee members were present.

Chris Kadrmas, Legislative Council explained the amendment. (.44) It is the House version of the bill with the exception of section 4 on page 1. This provides an appropriation from special funds derived from other income to be received the agricultural commissioner in the amount of \$100,000 to the public Service commission for purpose of continuing to provide consultation with the Ag commissioner services related to grain insolvency litigation initiated before July 1, 2019. This is considered a onetime funding item. Go to page 2, at the bottom, there are no adjustments up in section 1 of the bill at all. (1.31) That section appropriates the funds outside of section 1. On the back on the SPA, the additional change is going to be the additional accounting budget specialist position. That will be a total of \$170, 493. That change is reflected up in section 1 of the bill. You will see an increase in salaries and wages of \$165,493. There will be an increase in operating expenses of \$5,000. This is a total of \$170, 493. On page 3, a note ties to the \$100,000 that is being appropriated in section 4 of the bill. So the changes are section 4 being added for appropriation of \$100,00 and funding for the repurposing of an FTE position to an accounting budget specialist position. (2.39)

Representative Bellew: Section 4, involving solvency litigation, it says prior to July 1st. Shouldn't that be an emergency clause on that.

Chris Kadrmas, Legislative Council: No. As soon as July 1, this section will be affected and we are just noting the time period that the litigation is initiated. We picked July 1, so it was initiated before it was allowed.

V. Chairman Wanzek: A couple of hours ago, I talked to Ms. Claire Ness and Allen Knudson, about this section 4. It was words for legal expenses and it was changed because when they take control of that the insolvent situation, they also have expenses. There is another part of the Code, 60-10-04 or 60-2.1 and they are identical. One is the grain buyer's version and one is in the public warehouse version that say that any expenses have to be reimbursed from the credit sale indemnity fund or the trust fund. That \$100,000 will come out of the pockets of the claimants because the state requires to reimburse expenses from there. We were going to make it not withstanding that law. I don't see any words in here. We were going to exempt, and have the resources to close it out, for the sake of the claimants. I don't see any reference to the other sections.

Chris Kadrmas, Legislative Council: It is my understanding that there was a section in the ag commissioner's budget that was amended to say not withstanding a specific section of law. I believe it had to do with the indemnity fund.

Senator Wanzek: I am assuming that would be in the PSC budget, too. Maybe it is resolved in the Ag budget.

Senator Gary Lee: Its' coming from the ag commissioner.

Senator Wanzek: 60-10-04 when I read it requires the PSC to go to the trust fund of the insolvent elevator and reimburse any expenses out of there instead of using this \$100,000. They would have to give them money back. (7.35)

Representative Brandenburg: What are you saying, Sen. Wanzek?

Chris Kadrmas, Legislative Council: In the amendment as drafted for the Ag commissioner budget, within the appropriation that is in there, the \$100,000 exempts that is appropriated there, it exempts that \$100,000 from those sections of law that you are speaking about. So any payments you are describing, would not be subject to that. (8.59)

Senator Wanzek: Does that carry over to the PSC?

Chris Kadrmas, Legislative Council: The \$100,000 that the PSC is receiving is based on funds exempt from the Ag commissioner to be paid to the PSC for the services that they need to continue the litigation. I did ask Allen if it needed to be added to each section and labeling it.

Senator Wanzek: It is in the record that is what are intent is.

Representative Brandenburg: I understand what Sen. Wanzak is saying. I would agree. (9.59)

Senator Gary Lee: Are we ready to move on?

Senator Wanzek: I would move the amendment .02008.

Representative Brandenburg: I second.

Senator Gary Lee: The House recede from House amendments and amend as follows.

A Roll Call vote was taken. Yea: 6; Nay: 0; Absent: 0. The motion carried.

Senator Lee and Representative Brandenburg will carry the bill in their respective chambers.

The hearing was closed on SB 2008. (11.30)

to 4/25/19
1083

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

That the House recede from its amendments as printed on pages 1627-1629 of the Senate Journal and pages 1836-1838 of the House Journal and that Engrossed Senate Bill No. 2008 be amended as follows:

Page 1, line 4, after the first semicolon insert "to provide for a study;"

Page 1, remove lines 15 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$9,197,284	\$298,276	\$9,495,560
Operating expenses	1,829,826	(66,000)	1,763,826
Capital assets	10,000	15,000	25,000
Grants	20,000	0	20,000
Abandoned mined lands contractual	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	564,668	24,350	589,018
Specialized legal services	<u>94,000</u>	<u>336,000</u>	<u>430,000</u>
Total all funds	\$18,615,778	\$607,626	\$19,223,404
Less estimated income	<u>11,985,016</u>	<u>523,460</u>	<u>12,508,476</u>
Total general fund	\$6,630,762	\$84,166	\$6,714,928
Full-time equivalent positions	45.00	(2.00)	43.00"

Page 2, after line 24, insert :

"SECTION 4. APPROPRIATION - GRAIN INSOLVENCY LITIGATION. There is appropriated from special funds derived from other income to be received from the agriculture commissioner, the sum of \$100,000, or so much of the sum as may be necessary, to the public service commission, for the purpose of continuing to provide, in consultation with the agriculture commissioner, services related to grain insolvency litigation initiated prior to July 1, 2019. The funding provided in this section is considered a one-time funding item."

Page 2, line 29, replace "fourteen" with "thirteen"

Page 2, line 30, remove the overstrike over "six"

Page 2, line 30, remove "one"

Page 2, line 30, remove "fifty-four"

Page 3, line 5, remove the overstrike over "~~(Effective July 1, 2015,~~"

Page 3, line 6, remove the overstrike over "~~through June 30,~~"

Page 3, line 6, after "~~2019~~," insert "2021,"

Page 3, line 10, replace "six hundred fifty-five" with "five hundred nine"

Page 3, line 14, remove the overstrike over "~~Transfer, deposit, and distribution of funds.~~
~~(Effective after June 30,~~"

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2 of 3

Page 3, line 14, after "~~2019~~" insert "2021)"

Page 3, line 14, remove the overstrike over "All taxes,"

Page 3, remove the overstrike over lines 15 through 17

Page 3, after line 17, insert:

"SECTION 7. RAILROAD INSPECTION STUDY. During the 2019-20 interim, the public service commission shall study technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission shall report its findings and any related budget recommendations to the appropriations committees of the sixty-seventh legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Salaries and wages	\$9,197,284	\$10,063,825	(\$568,265)	\$9,495,560	\$9,330,067	\$165,493
Operating expenses	1,829,826	1,883,826	(120,000)	1,763,826	1,758,826	5,000
Capital assets	10,000	25,000		25,000	25,000	
Grants	20,000	20,000		20,000	20,000	
Abandoned mined lands contractual	6,000,000	6,000,000		6,000,000	6,000,000	
Rail rate complaint case	900,000	900,000		900,000	900,000	
Railroad safety program	564,668	589,310	(292)	589,018	589,018	
Specialized legal services	94,000	430,000		430,000	430,000	
Grain licensing			100,000	100,000		100,000
Total all funds	\$18,615,778	\$19,911,961	(\$588,557)	\$19,323,404	\$19,052,911	\$270,493
Less estimated income	11,985,016	12,514,674	93,802	12,608,476	12,508,476	100,000
General fund	\$6,630,762	\$7,397,287	(\$682,359)	\$6,714,928	\$6,544,435	\$170,493
FTE	45.00	46.00	(3.00)	43.00	43.00	0.00

Department 408 - Public Service Commission - Detail of Conference Committee Changes

	Adjusts Funding for Salary Increases ¹	Transfers Grain Warehouse Inspection Program to the Agriculture Commissioner ²	Adds Funding for an Accounting Budget Specialist Position ³	Adds Funding for Grain Licensing Services ⁴	Total Conference Committee Changes
Salaries and wages	(\$5,259)	(\$728,499)	\$165,493		(\$568,265)
Operating expenses		(125,000)	5,000		(120,000)
Capital assets					
Grants					
Abandoned mined lands contractual					
Rail rate complaint case					
Railroad safety program	(292)				(292)
Specialized legal services					
Grain licensing legal services				\$100,000	100,000
Total all funds	(\$5,551)	(\$853,499)	\$170,493	\$100,000	(\$588,557)
Less estimated income	(6,198)	0	0	100,000	93,802
General fund	\$647	(\$853,499)	\$170,493	\$0	(\$682,359)
FTE	0.00	(3.00)	0.00	0.00	(3.00)

¹ Funding is adjusted to provide for employee salary increases of 2 percent on July 1, 2019, with a minimum monthly increase of \$120 and a maximum monthly increase of \$200, and an increase of 2.5 percent on July 1, 2020, the

same as the House version. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.

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3 w!

² Transfers the grain warehouse license and inspection program to the Agriculture Commissioner, the same as the House version, as follows:

	Salaries and Wages	Operating Expenses	Total General Fund
Removes 3 FTE grain warehouse inspectors	\$563,006	\$120,000	\$683,006
Removes funding for an accounting budget specialist	<u>165,493</u>	<u>5,000</u>	<u>170,493</u>
Total removed	\$728,499	\$125,000	\$853,499

³ Adds funding for the repurposing of an existing unfunded FTE position to an accounting budget specialist position (\$165,493) and related operating expenses (\$5,000), to assist with accounting duties of the agency.

⁴ Adds a section to provide one-time funding from special funds to continue providing services related to grain insolvency litigation initiated prior to July 1, 2019. The funding will be provided by the Agriculture Commissioner. Neither the House nor the Senate version included this section.

This amendment also:

- Provides the statutory changes to increase the Public Service Commissioners' salaries. The Public Service Commissioners' annual salaries would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$113,600, effective July 1, 2020, to reflect the 2 percent and 2.5 percent salary increases, the same as the House version. The Senate adjusted salaries by 2 percent on July 1, 2019, and 3 percent on July 1, 2020.
- Amends North Dakota Century Code Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to provide for the allocation to the rail safety fund to continue until June 30, 2021, and to increase the allocation amount from \$285,000 per year to \$294,509 per year, the same as the House version. The Senate removed the expiration date and provided an increase to \$294,655 per year.
- Requires the Public Service Commission to study, during the 2019-20 interim, technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission is to report its findings and related budget recommendations to the 67th Legislative Assembly. The House also included this section.

**2019 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. 2008 as (re) engrossed

Senate Appropriations Committee

- Action Taken** ☐ **SENATE accede to House Amendments**
☐ **SENATE accede to House Amendments and further amend**
☐ **HOUSE recede from House amendments**
☒ **HOUSE recede from House amendments and amend as follows**
- ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Wanzek Seconded by: Senator Grabinger

Senators	4/23	4/24		Yes	No		Representatives	4/23	4/24		Yes	No
Senator Lee	x	x		X			Representative Brandenburg	x	x			X
Senator Wanzek	x	x		X			Representative Bellew	x	x			X
Senator Grabinger	x	x		X			Representative Mock	x	x			X
Total Senate Vote				3	0		Total Rep. Vote				0	3

Vote Count Yes: 3 No: 3 Absent: 0

Senate Carrier _____ House Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

FAILED

**2019 SENATE CONFERENCE COMMITTEE
ROLL CALL VOTES**

BILL/RESOLUTION NO. 2008 as (re) engrossed

Senate Appropriations Committee

- Action Taken** ☐ **SENATE accede to House Amendments**
☐ **SENATE accede to House Amendments and further amend**
☐ **HOUSE recede from House amendments**
☒ **HOUSE recede from House amendments and amend as follows**
- ☐ **Unable to agree**, recommends that the committee be discharged and a new committee be appointed

Motion Made by: Senator Wanzek Seconded by: Representative Brandenburg

Senators	4/25			Yes	No	Representatives	4/25			Yes	No
Senator Lee	x			X		Representative Brandenburg	x			X	
Senator Wanzek	x			X		Representative Bellew	x			X	
Senator Grabinger	x			X		Representative Mock	x			X	
Total Senate Vote				3	0	Total Rep. Vote				3	0

Vote Count Yes: 6 No: 0 Absent: 0

Senate Carrier Senator G. Lee House Carrier Rep. Brandenburg

LC Number 19.0221 . 02008 of amendment

LC Number 19.0221 . 05000 of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

Insert LC: 19.0221.02008
Senate Carrier: G. Lee
House Carrier: Brandenburg

REPORT OF CONFERENCE COMMITTEE

SB 2008, as engrossed: Your conference committee (Sens. G. Lee, Wanzek, Grabinger and Reps. Brandenburg, Bellew, Mock) recommends that the **HOUSE RECEDE** from the House amendments as printed on SJ pages 1627-1629, adopt amendments as follows, and place SB 2008 on the Seventh order:

That the House recede from its amendments as printed on pages 1627-1629 of the Senate Journal and pages 1836-1838 of the House Journal and that Engrossed Senate Bill No. 2008 be amended as follows:

Page 1, line 4, after the first semicolon insert "to provide for a study;"

Page 1, remove lines 15 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$9,197,284	\$298,276	\$9,495,560
Operating expenses	1,829,826	(66,000)	1,763,826
Capital assets	10,000	15,000	25,000
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Railroad safety program	564,668	24,350	589,018
Specialized legal services	94,000	336,000	430,000
Total all funds	\$18,615,778	\$607,626	\$19,223,404
Less estimated income	11,985,016	523,460	12,508,476
Total general fund	\$6,630,762	\$84,166	\$6,714,928
Full-time equivalent positions	45.00	(2.00)	43.00"

Page 2, after line 24, insert :

"SECTION 4. APPROPRIATION - GRAIN INSOLVENCY LITIGATION.

There is appropriated from special funds derived from other income to be received from the agriculture commissioner, the sum of \$100,000, or so much of the sum as may be necessary, to the public service commission, for the purpose of continuing to provide, in consultation with the agriculture commissioner, services related to grain insolvency litigation initiated prior to July 1, 2019. The funding provided in this section is considered a one-time funding item."

Page 2, line 29, replace "fourteen" with "thirteen"

Page 2, line 30, remove the overstrike over "six"

Page 2, line 30, remove "one"

Page 2, line 30, remove "fifty-four"

Page 3, line 5, remove the overstrike over "~~(Effective July 1, 2016,~~"

Page 3, line 6, remove the overstrike over "~~through June 30,~~"

Page 3, line 6, after "~~2019~~" insert "2021)"

Page 3, line 10, replace "six hundred fifty-five" with "five hundred nine"

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Insert LC: 19.0221.02008
Senate Carrier: G. Lee
House Carrier: Brandenburg

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Page 3, remove the overstrike over lines 15 through 17

Page 3, after line 17, insert:

"SECTION 7. RAILROAD INSPECTION STUDY. During the 2019-20 interim, the public service commission shall study technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission shall report its findings and any related budget recommendations to the appropriations committees of the sixty-seventh legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Salaries and wages	\$9,197,284	\$10,063,825	(\$568,265)	\$9,495,560	\$9,330,067	\$165,493
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Capital assets	10,000	25,000		25,000	25,000	
Grants	20,000	20,000		20,000	20,000	
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Department 408 - Public Service Commission - Detail of Conference Committee Changes

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Capital assets					
Grants					
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Railroad safety program	(292)				(292)
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Grain licensing legal services				\$100,000	100,000
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Less estimated income	(6,198)	0	0	100,000	93,802
General fund	\$647	(\$853,499)	\$170,493	\$0	(\$682,359)
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¹ Funding is adjusted to provide for employee salary increases of 2 percent on July 1, 2019, with a minimum monthly increase of \$120 and a maximum monthly increase of \$200, and an increase of 2.5 percent on July 1, 2020, the same as the House version. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.

Insert LC: 19.0221.02008
Senate Carrier: G. Lee
House Carrier: Brandenburg

² Transfers the grain warehouse license and inspection program to the Agriculture Commissioner, the same as the House version, as follows:

	Salaries and Wages	Operating Expenses	Total General Fund
Removes 3 FTE grain warehouse inspectors	\$563,006	\$120,000	\$683,006
Removes funding for an accounting budget specialist	165,493	5,000	170,493
Total removed	\$728,499	\$125,000	\$853,499

³ Adds funding for the repurposing of an existing unfunded FTE position to an accounting budget specialist position (\$165,493) and related operating expenses (\$5,000), to assist with accounting duties of the agency.

⁴ Adds a section to provide one-time funding from special funds to continue providing services related to grain insolvency litigation initiated prior to July 1, 2019. The funding will be provided by the Agriculture Commissioner. Neither the House nor the Senate version included this section.

This amendment also:

- Provides the statutory changes to increase the Public Service Commissioners' salaries. The Public Service Commissioners' annual salaries would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$113,600, effective July 1, 2020, to reflect the 2 percent and 2.5 percent salary increases, the same as the House version. The Senate adjusted salaries by 2 percent on July 1, 2019, and 3 percent on July 1, 2020.
- Amends North Dakota Century Code Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to provide for the allocation to the rail safety fund to continue until June 30, 2021, and to increase the allocation amount from \$285,000 per year to \$294,509 per year, the same as the House version. The Senate removed the expiration date and provided an increase to \$294,655 per year.
- Requires the Public Service Commission to study, during the 2019-20 interim, technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission is to report its findings and related budget recommendations to the 67th Legislative Assembly. The House also included this section.

Engrossed SB 2008 was placed on the Seventh order of business on the calendar.

2019 TESTIMONY

SB 2008

**Department 408 - Public Service Commission
Senate Bill No. 2008**

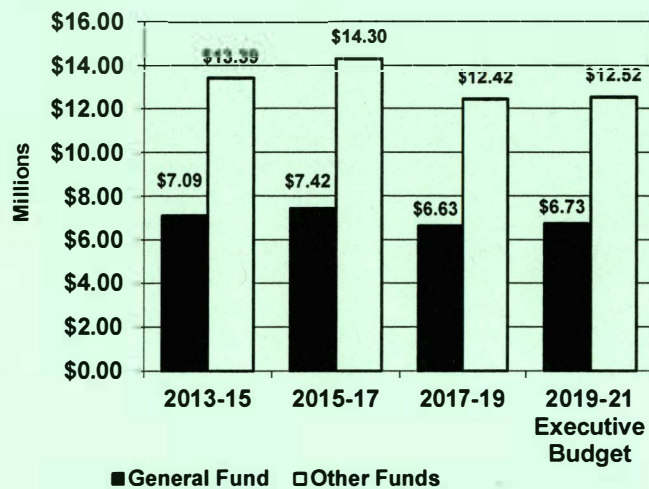
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2019-21 Executive Budget	44.00	\$6,734,836	\$12,515,165	\$19,250,001
2017-19 Legislative Appropriations	45.00	6,630,762	12,421,016	19,051,778
Increase (Decrease)	(1.00)	\$104,074	\$94,149	\$198,223

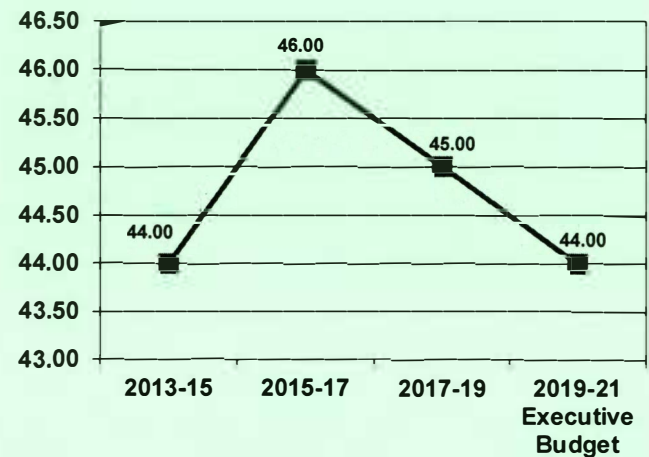
Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2019-21 Executive Budget	\$6,734,836	\$0	\$6,734,836
2017-19 Legislative Appropriations	6,630,762	0	6,630,762
Increase (Decrease)	\$104,074	\$0	\$104,074

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2019-21 Executive Budget	\$6,734,836	\$12,515,165	\$19,250,001
2019-21 Base Level	6,630,762	11,985,016	18,615,778
Increase (Decrease)	\$104,074	\$530,149	\$634,223

Attached as an appendix is a detailed comparison of the executive budget to the agency's base level appropriations.

Executive Budget Highlights

	General Fund	Other Funds	Total
1. Adds funding for state employee salary and benefit increases, of which \$424,421 is for salary increases, \$162,503 is for health insurance increases, and \$53,784 is for retirement contribution increases	\$385,594	\$255,114	\$640,708
2. Adds funding for a natural gas pipeline inspector (\$260,604) and related operating expenses (\$70,000)	\$165,301	\$165,303	\$330,604
3. Removes 1 FTE grain warehouse inspector position	(\$133,259)	\$0	(\$133,259)
4. Underfunds salaries and wages	(\$291,674)	\$0	(\$291,674)
5. Adjusts funding for operating expenses	(\$143,653)	\$13,000	(\$130,653)
6. Reduces funding for rail rate complaint cases to provide a total of \$790,954 from the beginning farmer revolving loan fund	\$0	(\$109,046)	(\$109,046)
7. Adds one-time funding from federal funds for specialized legal services	\$0	\$336,000	\$336,000

**Other Sections Recommended to be Added in the Executive Budget
(As Detailed in the Attached Appendix)**

Beginning farmer revolving loan fund - Section 3 would authorize a \$790,954 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.

Salary of commissioners - Section 4 would provide the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$113,002, effective July 1, 2019, and to \$115,262, effective July 1, 2020, to reflect the 4 percent and 2 percent recommended salary increase.

Railroad safety pilot program - Section 5 would amend North Dakota Century Code Section 57-43.2-19 to continue to deposit \$285,000 per year from special fuels taxes into the rail safety fund through June 30, 2021.

Continuing Appropriations

Siting process expense recovery fund - Section 49-22-22 - Siting process application fees received are deposited in the siting process expense recovery fund to pay expenses incurred in the siting process.

Credit-sale contract indemnity fund - Sections 60-02-19.1 and 60-10-02 - An assessment is placed on the value of all grain sold in this state under a credit-sale contract, which is submitted by the licensee purchasing the grain to the Public Service Commission for reimbursement to any person who sold grain under a credit-sale contract and who was not fully compensated in accordance with the contract and associated administration costs.

Performance assurance fund - Section 49-21-31 - Money received by the Public Service Commission under a performance assurance plan is to be deposited in the performance assurance fund until the balance equals \$100,000. The money in the fund may be used by the Public Service Commission to monitor the operation and effect of the performance assurance plan.

Utility valuation expense recovery - Section 49-05-04 - Any public utility requesting an increase in its rates above the maximum approved or prescribed by the commission shall furnish the commission the required documents and an application fee in the amount of \$175,000. Upon request of the commission and with the approval of the Emergency Commission, the applicant shall pay such additional fees as are reasonably necessary for completion of the application process by the commission. The commission shall pay the expenses of investigating a rate increase application under this section from the application fee paid by the public utility in accordance with Section 49-02-02. The commission may waive or reduce the fee.

Deficiency Appropriation

There are no deficiency appropriations for this agency.

Significant Audit Findings

There are no significant audit findings for this agency.

Major Related Legislation

Senate Bill No. 2100 - Amends Section 49-02-27 to authorize the Public Service Commission to adopt rules governing the decommissioning of commercial solar energy conversion facilities.

Senate Bill No. 2122 - Creates a new section to Chapter 49-02 to require applicants who file under a title for which there is no application fee, to pay the cost of publishing any notice issued by the Public Service Commission for the application.

Public Service Commission - Budget No. 408**Senate Bill No. 2008****Base Level Funding Changes**

Executive Budget Recommendation				
	FTE Position	General Fund	Other Funds	Total
2019-21 Biennium Base Level	45.00	\$6,630,762	\$11,985,016	\$18,615,778
2019-21 Ongoing Funding Changes				
Base payroll changes		\$121,765	(\$130,222)	(\$8,457)
Salary increase		255,235	169,186	424,421
Health insurance increase		98,067	64,436	162,503
Retirement contribution increase		32,292	21,492	53,784
Adds natural gas pipeline inspector		165,301	165,303	330,604
Removes 1 FTE grain warehouse inspector	(1.00)	(133,259)		(133,259)
Underfunds salaries and wages		(291,674)		(291,674)
Adjusts operating expenses		(143,653)	13,000	(130,653)
Reduces funding for rail rate complaint case			(109,046)	(109,046)
Total ongoing funding changes	(1.00)	\$104,074	\$194,149	\$298,223
One-time funding items				
Adds specialized legal services			\$336,000	\$336,000
Total one-time funding changes	0.00	\$0	\$336,000	\$336,000
Total Changes to Base Level Funding	(1.00)	\$104,074	\$530,149	\$634,223
2019-21 Total Funding	44.00	\$6,734,836	\$12,515,165	\$19,250,001

Other Sections for Public Service Commission - Budget No. 408

Executive Budget Recommendation	
Beginning farmer revolving loan fund	Section 3 would authorize a \$790,954 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.
Salary of commissioners	Section 4 would provide the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$113,002, effective July 1, 2019, and to \$115,262, effective July 1, 2020, to reflect the 4 percent and 2 percent recommended salary increase.
Railroad safety pilot program	Section 5 would amend North Dakota Century Code Section 57-43.2-19 to continue to deposit \$285,000 per year from special fuels taxes into the rail safety fund through June 30, 2021.

Department 408 - Public Service Commission

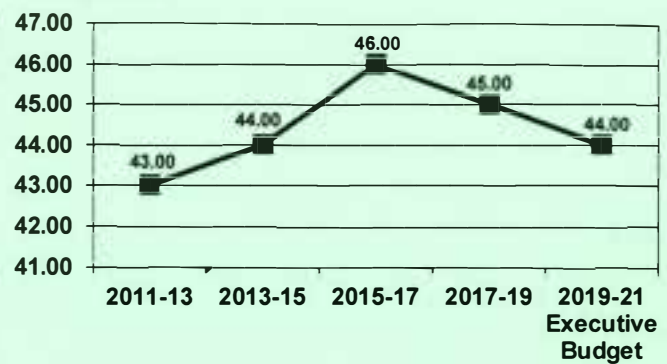
Historical Appropriations Information

Ongoing General Fund Appropriations Since 2011-13

Ongoing General Fund Appropriations (in Millions)



FTE Positions



Ongoing General Fund Appropriations					
	2011-13	2013-15	2015-17	2017-19	2019-21 Executive Budget
Ongoing general fund appropriations	\$6,020,215	\$6,667,660	\$7,175,827	\$6,630,762	\$6,734,836
Increase (decrease) from previous biennium	N/A	\$647,445	\$508,167	(\$545,065)	\$104,074
Percentage increase (decrease) from previous biennium	N/A	10.75%	7.62%	(7.60%)	1.6%
Cumulative percentage increase (decrease) from 2011-13 biennium	N/A	10.75%	19.20%	10.14%	11.9%

Major Increases (Decreases) in Ongoing General Fund Appropriations

2013-15 Biennium

- | | |
|--|-----------|
| 1. Added 1 FTE weights and measures position and related operating expenses | \$203,828 |
| 2. Added 1 FTE gas pipeline inspector position | \$113,201 |
| 3. Added 1 FTE public utility analyst III position | \$199,345 |
| 4. Increased funding for travel costs | \$54,956 |
| 5. Added funding for legal fees relating to grain elevator insolvency cases and reclamation/abandoned mined lands lawsuits | \$500,000 |

2015-17 Biennium

- | | |
|---|-----------|
| 1. Added 1 FTE public utility analyst position (\$257,747) and relating operating expenses (\$40,000) | \$297,747 |
| 2. Added funding for a temporary weights and measures inspector (this item was affected by the August 2016 budget reductions) | \$200,000 |

2017-19 Biennium

- | | |
|--|-------------|
| 1. Removed 2 FTE undesignated positions | (\$286,240) |
| 2. Reduced salaries and wages in anticipation of savings from vacant positions and employee turnover | (\$250,000) |
| 3. Reduced funding for operating expenses | (\$47,736) |
| 4. Reduced funding for capital assets to provide a total of \$10,000 | (\$16,400) |
| 5. Removed funding from the general fund for specialized legal services | (\$56,000) |

2019-21 Biennium (Executive Budget Recommendation)

- | | |
|--|-------------|
| 1. Adds funding for a natural gas pipeline inspector (\$130,301) and related operating expenses (\$35,000) | \$165,301 |
| 2. Removes 1 FTE grain warehouse inspector position | (\$133,259) |
| 3. Underfunds salaries and wages | (\$291,674) |
| 4. Reduces funding from the general fund for operating expenses | (\$143,653) |

**GOVERNOR'S RECOMMENDATION FOR THE
PUBLIC SERVICE COMMISSION AS SUBMITTED
BY THE OFFICE OF MANAGEMENT AND BUDGET**

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the public service commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2019, and ending June 30, 2021, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,197,284	\$405,104	\$9,602,388
Operating expenses	1,829,826	(60,653)	1,769,173
Capital assets	10,000	0	10,000
Grants	20,000	0	20,000
Abandoned mined lands contractual	6,000,000	0	6,000,000
Rail rate complaint case	900,000	(109,046)	790,954
Railroad safety program	564,668	62,818	627,486
Specialized legal services	94,000	336,000	430,000
Total all funds	\$18,615,778	\$634,223	\$19,250,001
Less estimated income	11,985,016	530,149	12,515,165
Total general fund	\$6,630,762	\$104,074	\$6,734,836
Full-time equivalent positions	45.00	(1.00)	44.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-SIXTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-fifth legislative assembly for the 2017-19 biennium and the 2019-21 one-time funding items included in the appropriation in section 1 of this Act:

<u>One Time Funding Description</u>	<u>2017-19</u>	<u>2019-21</u>
Specialized legal services	<u>\$436,000</u>	<u>\$336,000</u>
Total all funds	\$436,000	\$336,000
Total special funds	<u>436,000</u>	<u>336,000</u>
Total general fund	\$0	\$ 0

The 2019-21 one-time funding amounts are not a part of the entity's base budget for the 2021-23 biennium. The public service commission shall report to the appropriations committees of the sixty-seventh legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2019, and ending June 30, 2021.

SECTION 3. TRANSFER AND REPAYMENT - BEGINNING FARMER REVOLVING LOAN

FUND. The Bank of North Dakota shall transfer from the beginning farmer revolving loan fund to the public service commission the sum of \$790,954, or so much of the sum as may be necessary, included in the estimated income line item in section 1 of this Act to pay for costs associated with a rail rate complaint case. Transfers must be made during the biennium beginning July 1, 2019, and ending June 30, 2021, upon order of the commission. If any amounts are spent pursuant to this section, the public service commission shall reimburse the beginning farmer revolving loan fund

using amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case.

SECTION 4. AMENDMENT. Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

49-01-05. Salary of commissioners.

The annual salary of a commissioner is ~~one hundred eight thousand six hundred fifty six dollars through June 30, 2018, one hundred thirteen thousand two dollars through June 30, 2020 and one hundred fifteen thousand two hundred sixty two 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 5. AMENDMENT. Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-19 (Effective July 1, 2019 through June 30, 2021) Transfer, deposit, and distribution of funds. All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund, except fuels excise taxes, collected on sales of diesel fuels to a railroad under section 57-43.2-03 of up to two hundred eighty-five thousand dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

Senate Bill 2008

SB 2008
1-8-19

attached 1
p1

Presented by: Brian Kroshus, Chairman
Public Service Commission

Before: Senate Appropriations Committee
Honorable Ray Holmberg, Chairman

Date: January 8, 2019

TESTIMONY

Mr. Chairman and members of the committee, I'm Brian Kroshus, Chairman of the Public Service Commission, here to present our 2019-2021 biennial budget request. Commissioners Julie Fedorchak and Randy Christmann are also in attendance today and available for any questions you may have. Thank you for the opportunity to present our budget bill and explain why we feel it benefits the State of North Dakota. I look forward to answering any questions you may have at the end of my testimony.

Introductions and Responsibilities

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

- Coal mining and reclamation;
- Abandoned mine lands;

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- Energy transmission and generation facility siting;
- Pipeline safety;
- Electric, gas and telephone public utility regulation;
- Damage prevention (enforcement of the One-Call Law);
- Grain warehouses and licensing;
- Commercial scales and measuring devices;
- Railroad safety;
- Auctioneers. (Department Overviews are attached)

The following information provides details regarding the PSC's budget priorities for the upcoming biennium and addresses the information requested in Legislative Council's letter dated December 19, 2018. As a result of energy development in North Dakota, the workload of the Commission continues to increase.

The Commission runs a very lean operation, which makes further budget reductions challenging. The Commission went through a reorganization during the last biennium that resulted in greater efficiencies. The Compliance Division was created by consolidating three different programs under one director using a repurposed position: (1) the Licensing Program, (2) the Weights and Measures Program, and (3) the Railroad Safety Program. The restructuring allows for a more efficient and effective approach to regulatory enforcement and compliance with these programs. An online licensing program is now being utilized, eliminating the need for staff to process paper applications. In addition, the director of economic

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P3

regulation position was eliminated and our Public Utilities Division was streamlined under one director.

The Commission has developed a plan to deal with current budget shortfalls by increasing duties on existing staff. While this has been necessary due to budget constraints, there is a concern that services to the citizens will be compromised by a continued reduction of resources.

The Commission is currently authorized 45 FTEs, however we only have funding for 44 FTEs. Through our extensive efforts to reorganize and prioritize, the Commission has been able to increase caseload and regulatory responsibilities during a period of dynamic energy sector growth while adding only one FTE since 2009-11.

We also face the challenge of far more expensive litigation related to grain licensing and environmental issues. We're proud of the fact that the Commission has more jurisdiction than most public utility commissions nationwide, yet operates effectively with one of the smallest staffs.

The Commission is generally supportive of the base budget, but believes minor enhancements will make a positive impact on how the Commission completes its duties and serves North Dakota citizens.

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Major Components Making up 17-19 Budget:

The following line items make up the major components of our base level funding:

Salaries and wages	\$9.2 million	Approx. 40% Fed. Funds
Operating	\$1.83 million	Approx. 40% Fed./Special Funds
AML Contractual	\$6 million	100% Fed. Funds
Rail Rate Complaint Case	\$900,000	100% Special Funds
Railroad Safety Program	\$564,668	100% Special Funds
Specialized Legal Services*	\$94,000 (\$30,000 gen. funds)	Approx. 68% Fed Funds

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

Estimated 2017-19 Spending:

The Commission has a positive variance in its salary line item for the current biennium due to turn over and retirements. These open positions have been difficult to fill due to unique skill set requirements and limited applications received because of low unemployment rates along with perceived uncertainties with state employment. Currently, over 20% of the Commission's employees are eligible for retirement. Most of these employees are long-term state employees and would

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receive significant pay-outs upon retirement. The loss of institutional knowledge is also a concern and succession planning is critical.

The Commission also has a positive variance in our operating line. Some of this is due to more normalized travel costs, especially in oil impacted areas. The open positions discussed above have contributed to our positive operating variance. Due to initial concerns about operating funding, professional development and training opportunities for staff were reduced in order to ensure a sustainable budget. While this was necessary in the short-term, we do not feel this is prudent in the long-term.

The rest of our appropriation lines are projected to have minimal variances or are composed of mostly federal or special funds, which limits how they can be expended.

One-Time Spending:

Specialized legal services: The funds benefit the Commission by allowing the hiring of specialized professionals with qualifications specifically to address federal lawsuits, grain insolvencies, and other litigation. Having this one-time spending allows the Commission to have funding available for litigation as needed. In instances where reimbursement is available, it may take years to receive. Even if the Commission receives reimbursement, our budget can only be reimbursed for costs expended in the current biennium (the remaining is returned to the general fund).

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As of Dec. 31, 2018, the Commission spent approximately \$10,500 of the appropriation for specialized legal services on one federal lawsuit, one grain elevator insolvency (expenses for this biennium were reimbursed) and one Dakota Access Pipeline related case.

Historical view of Specialized Legal Services:

Specialized Legal Services Expenses				
	2013-2015	2015-2017	2017-2019	Total
Federal Lawsuits	\$128,648	\$ 74,694	\$ 10,035	\$213,377
Grain Insolvencies	\$ 14,088	\$ 67,237	*	\$ 81,326
Mining Permit		\$ 12,279		\$ 12,279
Dakota Access Pipeline Related Case			\$ 527	\$ 527
Total	\$142,736	\$154,210	\$ 10,562	\$307,508

*\$8,159 spent and reimbursed in 2017-2019

We were fortunate to have limited insolvency costs and more energy-friendly federal policy that resulted in the lowest amount spent since the inception of the fund. We consider this amount to be an anomaly.

In the 2013-15 biennium, the Commission spent approximately \$143,000 and \$154,000 in the 2015-17 biennium. The Commission is in the beginning stages of a new grain insolvency case. This case covers two facilities and multiple licensees and is expected to be very legally complex. Our last insolvency case spanned three bienniums and cost approximately \$80,000. We also face a legal challenge to our siting laws from outside environmental groups.

Having litigation funds available is critical in order to provide certainty, expedite the legal process, and ensure the Commission can effectively address

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potential lawsuits. These funds allow the Commission, when necessary, to fight attacks against the fossil fuel industry, whether a result of EPA regulations or lawsuits by environmental groups attacking coal mining or reclamation. These attacks are difficult to predict, extremely challenging to budget for and often demand specialized outside legal counsel to effectively counter.

We are requesting the same level of state one-time funding for the 2019-21 biennium. Currently we receive \$436,000 in one-time funding (\$100,000 from the Strategic Investment and Improvements Fund and \$336,000 federal funds). Any federal funding could only be used for an Office of Surface Mining or Pipeline Hazardous Materials Safety Administration (PHMSA) approved case.

2019-21 Budget Changes:

The Commission's budget is impacted by the indirect cost reimbursement received through our federal programs. Our rate of reimbursement is recalculated each biennium and every budget reduction or addition has an impact on the amount of reimbursement received. Budget changes the past biennium have had a negative impact on our reimbursement, and as a result we lost approximately \$85,000. This amount needs to be made up with state funds. Despite this reduction, federal indirect cost reimbursements for the 2019-21 biennium are projected to cover approximately half of the salary and benefits for personnel identified as support to the federal programs.

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Rail Safety: The North Dakota 64th Legislative Assembly approved funding for a state run pilot program intended to supplement federal oversight of rail safety. This pilot program ends at the end of this biennium and will need to be renewed by Legislature. The Rail Safety Program is funded not with general funds, but with an existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements. This is a state investment initially implemented due to rising concerns because of increased traffic by the oil industry. The Commission feels it's important to make the program permanent. More information on the results of this program is available later in this presentation.

Accounting Budget Specialist: Due to reductions in the 2017-19 biennium, the Commission could not replace an Accounting/Budget Specialist position. The Commission is requesting funding for the position, plus operating expenses to strengthen internal controls, aid in succession planning and ensure best practices are followed to prevent waste, fraud, and abuse. This position will utilize an existing FTE position.

Capital Assets: The Commission has several multi-function office machines supporting engineering, scientific, and GIS roles. These machines are due for replacement. We request a \$15,000 base budget change in order to establish a standard replacement schedule for these pieces of equipment. It is critical to replace one machine next biennium. If a change to the base budget is not made, one-time funding would be needed.

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1-8-19
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2019-21 One-Time Funding Needs:

As discussed earlier, having access to funding for specialized legal services is crucial. The Commission has just started a new grain elevator insolvency case which will be very complex and expensive. We face a legal challenge from environmental groups. There is always the possibility we will need to intervene on state or federal cases. These are attacks that are difficult to predict, nearly impossible to budget for and often demand specialized outside legal counsel to effectively counter.

These funds allow the Commission, when necessary, to fight attacks against the fossil fuel industry, whether it's through EPA regulations or lawsuits by environmental groups attacking coal mining or reclamation. The Commission opposes the creation of a statewide litigation pool. The Commission's main concern is access to a statewide fund and the level of funding that would be available. As a constitutional agency, this spending authority should reside directly in the Commission's budget.

In the 2017-19 biennium, the Commission received one-time funding of \$436,000. The majority of this one-time funding is federal appropriation and only \$100,000 came from state special funds. As previously mentioned, there are limits on what the federal appropriation can be used for, so the state funding is imperative. We are requesting the same level of one-time funding for the 2019-21 biennium. The Commission would also be supportive of moving this funding to our base budget as it has become a repeated one-time funding request and we anticipate a continued need for funding.

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Changes to Federal Funding Levels:

The Commission receives funds from the federal Office of Surface Mining for the Abandoned Mine Lands (AML) program from the collection of a federal reclamation fee that is collected on all coal that has been mined since the late 1970s. The current AML fee on North Dakota lignite is eight cents per ton. These funds are distributed as federal grants to AML programs in 28 states and tribes, including North Dakota. The AML fee that funds the AML Program will expire September 30, 2021. Unless re-authorization of the fee is enacted by Congress, it is expected that over \$20 million of reclamation work will not be completed at sites on the current inventory of abandoned coal mines in North Dakota. This could ultimately cost the state in general funds when sinkholes cause damage to roads.

Listing of proposed budget reductions to meet the Governor's budget:

Please see chart on page 12 outlining a listing of the proposed budget reductions identified by the Commission to meet the Governor's 90 and 95 percent budget request guideline.

Comparison of Optional Adjustments to Executive Recommendation:

Please see chart on page 13 outlining optional adjustment requests to those included in the Executive Recommendation.

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Requested Changes to the Executive Recommendation:

Please see page 14 outlining the requested changes from the Executive Recommendation.

Summary:

The Commission has been able to operate within its appropriation for the current biennium during a period of dynamic energy development. We also share concern over current oil prices and their impact on the energy industry and future state revenues. Often as a boom subsides, industry uses the lull in drilling activity to reinforce and buildout supporting infrastructure in anticipation of future development. This causes the Commission's workload to remain consistent or increase after drilling activities subside, not necessarily when drilling is at its peak. The Commission has been dedicated to doing its part to reduce general fund expenditures, while ensuring statutory programs remain effective. Efficiency improvements, restructuring, elimination of positions, and increased workloads on current employees with no salary increase the past two years has been difficult. We support a salary increase and maintaining current benefits for employees who serve the citizens of North Dakota on a daily basis.

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

Proposed 90% / 95% Budget Reductions (one-pager)

Through extensive efforts to reorganize and prioritize, the Commission has been able to increase our caseload and regulatory responsibility during the energy boom while adding only one FTE since 2009-11. We continue to seek new efficiencies and ways to address increased workload without growing staff. However we have real concerns that additional reductions in staff or operational dollars will negatively impact our ability to meet the Commission's statutory responsibilities.

If funding for the Grain Licensing Program and Weights and Measures Large-Scale Program is eliminated, legislative changes will be needed to the Commission's statutory responsibilities. The Commission believes these are both important programs that protect North Dakota citizens and should not be eliminated.

The plan developed to meet the 90% general fund budget limit would require the Commission to:

- Eliminate the Grain Licensing Program, cutting two inspector positions and applicable operating expenses.
- Eliminate funding for the large-scale weights and measures inspector and applicable operating expenses.
- Eliminate funding for an administrative assistant position.
- Reduce operating expenses ever further.

The Commission also requested approximately \$30,000 in special funding from the Rail Safety Fund to pay for a portion of the director's salary, which is currently entirely general fund.

In order to meet the 95% special fund budget limit, the Commission reduced funding for the Rail Rate Complaint Case.

Optional Adjustment Requests (one-pager)

Description	Executive Recommendation	Comments
Restore two grain licensing inspectors and one Weights & Measures inspector and operating expenses	Retained one grain inspector & operating expenses	Total restoration is necessary to effectively run the Grain Program. Large-scale weights & measures quality assurance program is eliminated.
Restore general, federal, and special fund operating expenses related to projected DOT fleet cost increases	Restored federal and special funding.	Most federal programs have a state matching requirement, therefore the majority of this funding is unusable.
Temporary Salaries	Not included	Interim help for: 1) absences in critical positions that have no backup; 2) speed and enhance the deployment of archival information; 3) assist with grain insolvency.
Capital Assets	Not included	Budget change to establish a standard replacement schedule. At a minimum, one-time funding is needed.
Accounting Budget Specialist	Not included	Strengthen internal controls, aid in succession planning and ensure best practices are followed to prevent waste, fraud, and abuse.
Natural Gas Pipeline Inspector	Included	PHMSA likely will require additional gathering line inspections due to infrastructure growth in the last decade.
Specialized Legal Services	Provides one-time federal funds and access to statewide litigation pool.	Federal regulations limit how federal funds are utilized, consequently most of this funding is unusable. As a constitutional agency there are serious concerns about access to the statewide litigation pool.

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Requested Changes to the Executive Recommendation (one-pager)

The Commission requests restoration to base level of the following:

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- Restore Grain Licensing inspectors and Weights & Measures inspector and operating expenses
- Restore general fund operating expenses related to projected DOT increases.
- Restore Administrative Assistant position

In addition, the Commission requests:

- Rail Safety program to be made permanent (Governor's budget extends to 2021)
- Accounting Budget Specialist
- Specialized Legal Services - general or special (SIIF) funds
- Additional Capital Asset funding

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Department Overview

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

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The Reclamation Division of the Public Service Commission is responsible for administering and enforcing the state's reclamation law for minimizing the environmental effects of surface coal mining and ensuring mined lands are properly reclaimed. There are 7 active surface coal mining operations (5 lignite and 2 leonardite mines) operating in the state.

- Approximately 134,600 acres are currently permitted for mining activities under 27 mine permits.
- During the 2017-2019 biennium, approximately 2,000 acres have been added to existing permit areas and approximately an additional 650 acres are proposed to be added to existing permit areas and are pending Commission approval.
- To date, approximately 16,000 acres have received final bond release (met all the requirements of the reclamation law) and Commission jurisdiction has ended.
- Despite several legal challenges, the Commission's decision to issue the permit for the Coyote Creek Mine has been upheld and mining and reclamation activities have begun.
- The PSC's coal regulatory and Abandoned Mine Lands programs continue to receive excellent annual evaluation reports from the federal Office of Surface Mining.

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

The goal of the AML Program is to eliminate hazards related to coal mining that was conducted prior to the enactment of the 1977 Federal Reclamation Act. PSC staff in the AML Program design and manage the reclamation projects; and private contractors, selected by competitive bidding, conduct the field construction work. A federal fee assessed on coal production funds the AML Program. The current AML fee on North Dakota lignite is eight cents per ton. These funds are distributed as federal grants to AML programs in 28 states and tribes, including North Dakota. The AML fee that funds the AML Program will expire September 30, 2021, unless Congress reauthorizes legislation to extend it.

- In the current biennium, 8 abandoned mine land reclamation projects were completed, totaling about \$3.8 million in construction costs.
- About 340 dangerous sinkholes caused by the collapse of underground mine workings were filled in the past two years.
- Since 1982, 172 primary reclamation projects and 32 emergency projects have been conducted to eliminate hazardous conditions, totaling \$54 million.
- More than 37 miles of dangerous surface mine highwalls have been eliminated since the AML reclamation program began.
- We have records of more than 1700 abandoned coal mine sites in North Dakota. At the current rate of federal funding, we estimate it will take at least 20 years and \$40 million to address the highest priority AML problems in our state.

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Regulation of electric, natural gas, and telephone utilities

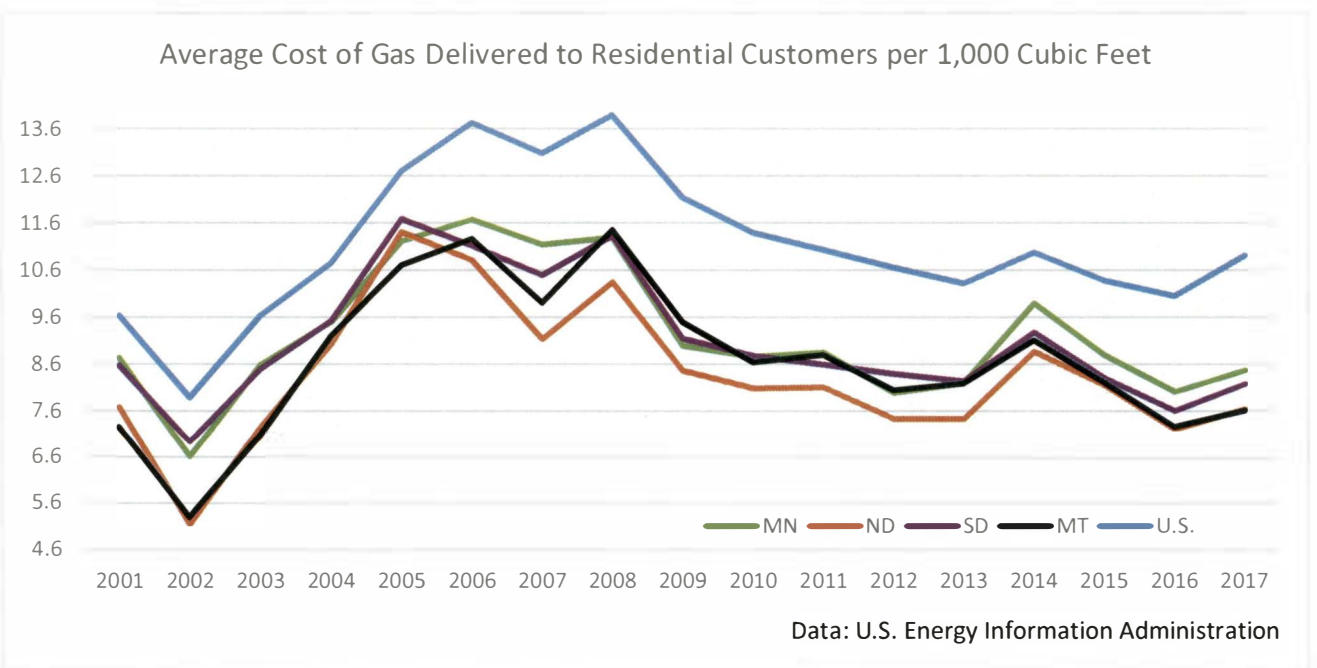
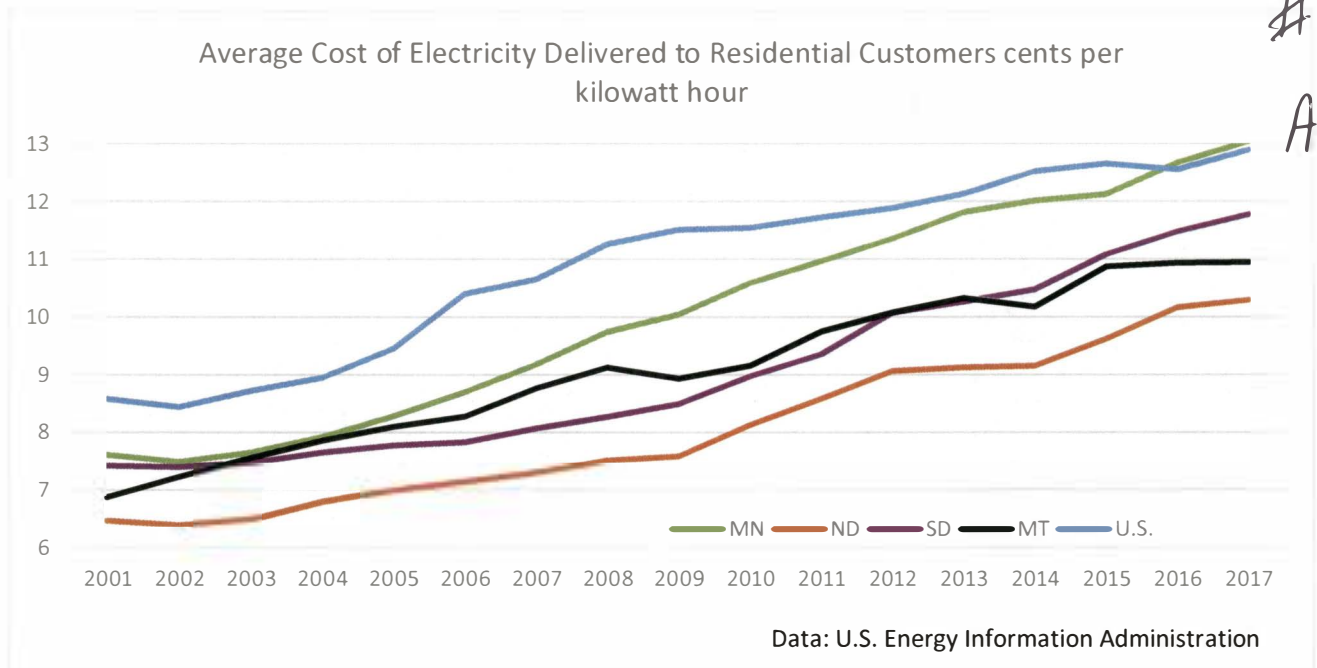
North Dakota continues to have among the lowest electric and natural gas utility rates in the nation. Biennium to date, the PSC has decided three general rate cases for Montana-Dakota Utilities Co's natural gas operations, Great Plains Natural Gas's natural gas operations, and Otter Tail Power Company's electric operations.

In addition to the rate cases, the PSC has either required rate reductions or special accounting treatment due to the reduced expenses to investor-owned public utilities caused by the Tax Cuts and Jobs act for Montana-Dakota Utilities electric service and Northern States Power Company (both electric and natural gas service).

Consistent with the Commission's least-cost standard, the PSC has also made six advanced determination of prudence decisions on new or modified electric generation including over 1,850 megawatts of new wind generation to be added to Northern States Power Company's system, a 48-megawatt expansion of Montana-Dakota Utilities Co's Thunder Spirit wind generation facility, a 250-megawatt simple cycle natural gas facility, a 150-megawatt wind facility to be added to Otter Tail Power Company's system, and finally an agreement to terminate three high-cost power purchase agreements with biomass fuel facilities in Minnesota.

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Attachment 1 – Department Overview

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Pipelines

Description	Miles	County	Est. Project Cost
Andeavor Field Services LLC	59	McKenzie, Billings, Stark	46,000,000
Hess North Dakota Pipelines LLC	19	McKenzie	114,000,000
ONEOK Rockies Midstream, L.L.C.	45	McKenzie, Williams	31,000,000
Cenex Pipeline, LLC	150	Williams, Mountrail, Ward	115,000,000
Total	273		306,000,000

Electric Transmission

Description	Miles	County	Est. Project Cost
Northern States Power Company	20.5	Ward, McHenry	50,500,000
Totals	20.5		50,500,000

Wind Generation

Description	MW	County	Est. Project Cost
Langdon Wind, LLC (addition of 12.7 MW)	12.7	Cavalier	113,000,000
Foxtail Wind, LLC	150.0	Dickey	400,000,000
Montana-Dakota Utilities Co. (Thunder Spirit addition of 5.5 MW)	5.5	Adams	86,500,000
Glacier Ridge Wind Farm, LLC: Phase I	300.1	Barnes	202,000,000
Totals	318.3		801,500,000

Note: 3053 MW of total wind generation in service as of December 20, 2018. Anticipate another 99 MW in service by approximately year end 2018, and another 750 MW scheduled in service

Gas Processing

Description	MMSCFD	County	Est. Project Cost
Hiland Partners Holdings LLC	150	McKenzie	234,000,000
ONEOK Rockies Midstream, L.L.C. (increase processing by 95 MMscfd)	95	Dunn	250,000,000
Arrow Field Services, LLC	120	McKenzie	136,000,000
Oasis Midstream Services, LLC	345	McKenzie	125,000,000
Totals	710		745,000,000

Note: Million standard cubic feet per day (MMSCFD)

These tables represent completion of the complex siting process of 273 miles of pipelines, 20.5 miles of electric transmission lines, over 318 MW of wind generation, and gas processing capacity of another 710 MMSCFD. It represents almost \$1.9 billion of economic investment in North Dakota.

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

On behalf of the Pipeline and Hazardous Materials Safety Administration (PHMSA), the PSC conducts a Pipeline Safety Program in North Dakota involving intrastate gas transmission systems and gas distribution systems. The goal of the program is to enhance public safety by enforcing state laws governing gas pipeline safety through inspections and enforcement regarding qualification of pipeline personnel, pipeline components, design, construction, cathodic protection, operations, maintenance, public awareness programs, and emergency response.

Commission inspectors perform audits of three natural gas distribution system operators, one liquefied petroleum gas distribution system operator, eight transmission system operators, seven gathering system operators, and one liquefied natural gas facility operator.

Attachment 1 – Department Overview

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Gas pipeline safety inspectors conduct inspections dealing with records audits, compliance follow-up, design/testing and construction, gas incidents, on-site operator training, operator qualifications, and integrity management.

Staff for the program includes a program manager/inspector and one full-time inspector. For 2018, PHMSA calculates that the North Dakota gas pipeline safety program must perform inspections/audits totaling 166 inspection days, or 332 inspection days for a biennium.

Damage Prevention

The PSC has authority for enforcement of the state's One-Call Excavation Notice System law. The goal of the law is to prevent damage to underground infrastructure. Biennium to date, the PSC has processed 34 complaints regarding alleged violations of the One-Call law. As a result of these proceedings, the PSC has levied fines totaling \$58,250. These fines are deposited directly into the general fund.

Damage Prevention Cases Processed:

2009-2011	1
2011-2013	18
2013-2015	58
2015-2017	52
2017-2019	34 to date (55 projected)

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In total the PSC has levied 107 fines totaling \$244,650 since beginning enforcement of the program in 2009. Since inception, the PSC has not been given any additional resources to process these cases. The workload has fallen to existing staff.

Grain Licensing and Inspection

As of August 1, 2018, North Dakota had 161 firms operating 267 public grain warehouses, 20 firms operating 110 federal facilities, and 99 roving grain buyers, totaling 476 licensees (public warehouses, facility-based grain buyers, and roving grain buyers). All of these firms/elevators are licensed, bonded, and open to PSC inspectors.

Grain storage capacity increased 2.3% from 485.3 million bushels as of August 1, 2017, to 496.9 million bushels as of August 1, 2018. These figures do not include private, on-farm storage which is not licensed by the PSC.

As reported by the USDA, the total production value of grain produced in North Dakota for 2017, exceeded \$7.3 billion. The grain inspection program, comprised of one full-time inspector and a 3/4 part-time inspector, completed 384 inspections, this biennium to date.

Currently, the PSC is in the very early stages of processing two insolvencies, one licensed roving grain buyer and the other, a grain warehouse operating two licensed locations. Insolvencies are becoming more litigious and complex, expanding through several bienniums, emphasizing the need for Specialized Legal Services funding.

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Licensed auctioneers and auction clerks

The PSC currently licenses 356 auctioneers and 165 clerks.

Weights and Measures

The Weights and Measures Program, comprised of three full-time employees, is designed to meet the needs of both the buyer and seller in the commercial marketplace. This is accomplished through the enforcement of the state's weights and measures laws by the inspection and testing of commercial weighing and measuring devices such as supermarket scales, grain elevator truck scales, livestock scales, and gas station pumps, to name a few. Some of the accomplishments and work of the program include:

- Testing and inspecting 5,183 commercial devices from July 1, 2017, to June 30, 2018.
- Conducting quality control testing and monitoring the documentation of 17,095 weighing or measuring devices installed or serviced by registered service companies.

Additionally, the Commission is continuing work on the heavy-scale quality assurance program. This program has allowed the PSC to review the work of registered service companies and addresses concerns with their operations along with responding to heavy-scale complaints. This biennium to date, the PSC has conducted quality assurance inspections on 160 heavy scales, of which 29 failed the inspection.

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The Weights and Measures Program is minimally staffed with much of the work being done with private contractors and oversight being done by the Public Service Commission. Due to the nominal testing fees outlined in statute for the state weights and measures program which have not changed in many years, the revenue collected for this service does not cover the cost of operating the program. The state inspectors are utilized primarily by small town businesses who find our fees significantly more attractive compared to private contractors. With the implementation of the medical marijuana program, the Commission is faced with additional time intensive inspection requirements for these facilities. Without the proper oversight by the large-scale quality assurance inspector, assurance of fairness for the public is lacking.

Railroad Safety

The PSC is the clearinghouse for rail service and safety issues statewide. We host annual meetings on service and safety for all the statewide stakeholders including ag producers, grain marketers, emergency responders, county and city leaders to address issues with railroad representatives. This biennium to date, the PSC fielded complaints and intervened on behalf of 17 communities and citizens on rail-related issues.

Since 2015, the PSC has been operating a Rail Safety Program, which supplements federal rail safety oversight. The Federal Rail Administration (FRA) only has the resources to inspect 0.2 percent of railroad operations nationally each year. Federally certified state inspectors constitute 30 percent of the FRA's total

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inspection force and are critical to ensuring safe rail operations. Having state inspectors that are dedicated to North Dakota is a big benefit and helps to ensure adequate inspections in our state; whereas, federal inspectors have responsibility over multiple states. Funding for the state Rail Safety Program comes not from the general fund, but from existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements.

The goal of the program is to reduce the number of accidents, derailments and other equipment failures in order to reduce fatalities, injuries, economic losses and environmental impacts. As one measure of the program's effectiveness, the number of defects found are decreasing after increasing for several years. Since 2015 (the year the program was launched), main line accidents in North Dakota have decreased by 68 percent (2015-18), and all significant accidents greater than \$100,000 are down by 72 percent. Overall, rail tonnage through the state has decreased, however crude by rail shipments have been increasing and are at their highest since February 2017.

The program employs two full-time inspectors in the areas of track and motive power and equipment (mechanical), who conduct announced and unannounced inspections of track infrastructure and mechanical inspections of railcars and locomotives. Inspectors place extra emphasis on routes carrying hazardous materials. The state inspectors coordinate with and complement the federal inspectors to maximize coverage but are autonomous and entirely accountable to the Public Service Commission.

Attachment 1 – Department Overview

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The track inspector has conducted 470 inspections, noting 2,917 defects, and has issued 29 violations with civil penalties. The mechanical inspector has conducted 429 inspections, noting 3,440 defects, and has issued 63 violations with civil penalties.

A more comprehensive summary of the rail program's accomplishments since its inception is available upon request.

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2019-21 Requested Changes from Base Budget:

Rail Safety: The North Dakota 64th Legislative Assembly approved funding for a state run pilot program intended to supplement federal oversight of rail safety. This pilot program ends at the end of this biennium and will need to be renewed by Legislature. The Rail Safety Program is funded not with general funds, but with an existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements. This is a state investment initially implemented due to rising concerns because of increased traffic by the oil industry. The Commission feels it's important to make the program permanent. More information on the results of this program is available.

Accounting Budget Specialist: Due to reductions in the 2017-19 biennium, the Commission could not replace an Accounting/Budget Specialist position. The Commission is requesting funding for the position, plus operating expenses to strengthen internal controls, aid in succession planning and ensure best practices are followed to prevent waste, fraud, and abuse. This position will utilize an existing FTE position.

Capital Assets: The Commission has several multi-function office machines supporting engineering, scientific, and GIS roles. These machines are due for replacement. We request a \$15,000 base budget change in order to establish a standard replacement schedule for these pieces of equipment. It is critical to replace one machine next biennium. If a change to the base budget is not made, one-time funding would be needed.

Public Service Commission

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Should the Grain Licensing program be enhanced by SB 2346, which we strongly support, additional applicable resources will be necessary.

2019-21 One-Time Funding Needs:

Having access to funding for specialized legal services is crucial. The Commission has just started a new grain elevator insolvency case which will be very complex and expensive. We face a legal challenge from environmental groups. There is always the possibility we will need to intervene on state or federal cases. These are attacks that are difficult to predict, nearly impossible to budget for and often demand specialized outside legal counsel to effectively counter.

These funds allow the Commission, when necessary, to fight attacks against the fossil fuel industry, whether it's through EPA regulations or lawsuits by environmental groups attacking coal mining or reclamation. The Commission opposes the creation of a statewide litigation pool. The Commission's main concern is access to a statewide fund and the level of funding that would be available. As a constitutional agency, this spending authority should reside directly in the Commission's budget.

In the 2017-19 biennium, the Commission received one-time funding of \$436,000. The majority of this one-time funding is federal appropriation and only \$100,000 came from state special funds. As previously mentioned, there are limits on what the federal appropriation can be used for, so the state funding is imperative. We are requesting the same level of one-time funding for the 2019-21 biennium. The Commission would also be supportive of moving this funding to our base budget as it has become a repeated one-time funding request and we anticipate a continued need for funding.

Proposed 90% / 95% Budget Reductions to meet Governor's Budget Guidelines

Through extensive efforts to reorganize and prioritize, the Commission has been able to increase our caseload and regulatory responsibility during the energy boom while adding only one FTE since 2009-11. We continue to seek new efficiencies and ways to address increased workload without growing staff. However, we have real concerns that additional reductions in staff or operational dollars will negatively impact our ability to meet the Commission's statutory responsibilities.

If funding for the Grain Licensing Program and Weights and Measures Large-Scale Program is eliminated, legislative changes will be needed to the Commission's statutory responsibilities. The Commission believes these are both important programs that protect North Dakota citizens and should not be eliminated.

The plan developed to meet the 90% general fund budget limit would require the Commission to:

- Eliminate the Grain Licensing Program, cutting two inspector positions and applicable operating expenses.
- Eliminate funding for the large-scale weights and measures inspector and applicable operating expenses.
- Eliminate funding for an administrative assistant position.
- Reduce operating expenses even further.

The Commission also requested approximately \$30,000 in special funding from the Rail Safety Fund to pay for a portion of the director's salary, which is currently entirely general fund.

In order to meet the 95% special fund budget limit, the Commission reduced funding for the Rail Rate Complaint Case.

Optional Adjustment Requests to Governor's Budget Guidelines

Description	Executive Recommendation	Comments	Green Sheet Executive Budget Highlights
Restore two grain licensing inspectors and one Weights & Measures inspector and operating expenses	Retained one grain inspector & operating expenses	At a minimum, total restoration is necessary to effectively run the Grain Program. Large-scale weights & measures quality assurance program is eliminated.	#3, #4, #5
Accounting Budget Specialist	Not included	Strengthen internal controls, aid in succession planning and ensure best practices are followed to prevent waste, fraud, and abuse. Support enhanced Grain Licensing program.	Not listed.
Restore general, federal, and special fund operating expenses related to projected DOT fleet cost increases	Restored federal and special funding.	Most federal programs have a state matching requirement, therefore the majority of this funding is unusable.	#5
Specialized Legal Services	Provides one-time federal funds and access to statewide litigation pool.	Federal regulations limit how federal funds are utilized, consequently most of this funding is unusable. As a constitutional agency there are serious concerns about access to the statewide litigation pool.	#7
Capital Assets	Not included	Budget change to establish a standard replacement schedule. At a minimum, one-time funding is needed.	Not listed.
Natural Gas Pipeline Inspector	Included	PHMSA likely will require additional gathering line inspections due to infrastructure growth in the last decade.	#2
Temporary Salaries	Not included	Interim help for: 1) absences in critical positions that have no backup; 2) speed and enhance the deployment of archival information; 3) assist with grain insolvency.	Not listed.

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Requested Changes to the Executive Recommendation

The Commission requests restoration to base level of the following:

- Restore Grain Licensing inspectors and Weights & Measures inspector and operating expenses
- Restore general fund operating expenses related to projected DOT increases.
- Restore Administrative Assistant position

In addition, the Commission requests:

- Rail Safety program to be made permanent (Governor's budget extends to 2021)
- Accounting Budget Specialist
- Specialized Legal Services - general or special (SIIF) funds
- Additional Capital Asset funding

Should the Grain Licensing program be enhanced by SB 2346, which we strongly support, additional applicable resources will be necessary.

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Public Service Commission - Budget No. 408
Senate Bill No. 2008
Base Level Funding Changes

	Executive Budget Recommendation				Senate Version				Senate Changes to Executive Budget Increase (Decrease) - Executive Budget			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2019-21 Biennium Base Level	45.00	\$6,630,762	\$11,985,016	\$18,615,778	45.00	\$6,630,762	\$11,985,016	\$18,615,778	0.00	\$0	\$0	\$0
2019-21 Ongoing Funding Changes												
Base payroll changes		\$121,765	(\$130,222)	(\$8,457)				\$0		(\$121,765)	\$130,222	\$8,457
Salary increase		255,235	169,186	424,421		169,759	118,779	288,538		(85,476)	(50,407)	(135,883)
Health insurance increase		98,067	64,436	162,503		116,992	74,879	191,871		18,925	10,443	29,368
Retirement contribution increase		32,292	21,492	53,784				0		(32,292)	(21,492)	(53,784)
Adds natural gas pipeline inspector		165,301	165,303	330,604				0		(165,301)	(165,303)	(330,604)
Removes 1 FTE grain warehouse inspector	(1.00)	(133,259)		(133,259)				0	1.00	133,259		133,259
Underfunds salaries and wages		(291,674)		(291,674)				0		291,674		291,674
Adjusts operating expenses		(143,653)	13,000	(130,653)				0		143,653	(13,000)	130,653
Reduces funding for rail rate complaint case			(109,046)	(109,046)				0			109,046	109,046
Total ongoing funding changes	(1.00)	\$104,074	\$194,149	\$298,223	0.00	\$286,751	\$193,658	\$480,409	1.00	\$182,677	(\$491)	\$182,186
One-time funding items												
Adds specialized legal services			\$336,000	\$336,000				\$0			(\$336,000)	(\$336,000)
Total one-time funding changes	0.00	\$0	\$336,000	\$336,000	0.00	\$0	\$0	\$0	0.00	\$0	(\$336,000)	(\$336,000)
Total Changes to Base Level Funding	(1.00)	\$104,074	\$530,149	\$634,223	0.00	\$286,751	\$193,658	\$480,409	1.00	\$182,677	(\$336,491)	(\$153,814)
2019-21 Total Funding	44.00	\$6,734,836	\$12,515,165	\$19,250,001	45.00	\$6,917,513	\$12,178,674	\$19,096,187	1.00	\$182,677	(\$336,491)	(\$153,814)

Other Sections for Public Service Commission - Budget No. 408

	Executive Budget Recommendation	Senate Version
Beginning farmer revolving loan fund	Section 3 would authorize a \$790,954 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.	Section 3 authorizes a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.
Salary of commissioners	Section 4 would provide the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$113,002, effective July 1, 2019, and to \$115,262, effective July 1, 2020, to reflect the 4 percent and 2 percent recommended salary increase.	Section 4 provides the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$114,154, effective July 1, 2020, to reflect the 2 percent and 3 percent salary increase.
Railroad safety pilot program	Section 5 would amend North Dakota Century Code Section 57-43.2-19 to continue to deposit \$285,000 per year from special fuels taxes into the rail safety fund through June 30, 2021.	

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Public Service Commission - Budget No. 408
Senate Bill No. 2008
Base Level Funding Changes

	Executive Budget Recommendation				Senate Version				Senate Changes to Executive Budget Increase (Decrease) - Executive Budget			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2019-21 Biennium Base Level	45.00	\$6,630,762	\$11,985,016	\$18,615,778	45.00	\$6,630,762	\$11,985,016	\$18,615,778	0.00	\$0	\$0	\$0
2019-21 Ongoing Funding Changes												
Base payroll changes		\$121,765	(\$130,222)	(\$8,457)				\$0		(\$121,765)	\$130,222	\$8,457
Salary increase		255,235	169,186	424,421		169,759	118,779	288,538		(85,476)	(50,407)	(135,883)
Health insurance increase		98,067	64,436	162,503		116,992	74,879	191,871		18,925	10,443	29,368
Retirement contribution increase		32,292	21,492	53,784				0		(32,292)	(21,492)	(53,784)
Adds natural gas pipeline inspector		165,301	165,303	330,604				0		(165,301)	(165,303)	(330,604)
Removes 1 FTE grain warehouse inspector	(1.00)	(133,259)		(133,259)				0	1.00	133,259		133,259
Underfunds salaries and wages		(291,674)		(291,674)				0		291,674		291,674
Adjusts operating expenses		(143,653)	13,000	(130,653)				0		143,653	(13,000)	130,653
Reduces funding for rail rate complaint case			(109,046)	(109,046)				0			109,046	109,046
Total ongoing funding changes	(1.00)	\$104,074	\$194,149	\$298,223	0.00	\$286,751	\$193,658	\$480,409	1.00	\$182,677	(\$491)	\$182,186
One-time funding items												
Adds specialized legal services			\$336,000	\$336,000				\$0			(\$336,000)	(\$336,000)
Total one-time funding changes	0.00	\$0	\$336,000	\$336,000	0.00	\$0	\$0	\$0	0.00	\$0	(\$336,000)	(\$336,000)
Total Changes to Base Level Funding	(1.00)	\$104,074	\$530,149	\$634,223	0.00	\$286,751	\$193,658	\$480,409	1.00	\$182,677	(\$336,491)	(\$153,814)
2019-21 Total Funding	44.00	\$6,734,836	\$12,515,165	\$19,250,001	45.00	\$6,917,513	\$12,178,674	\$19,096,187	1.00	\$182,677	(\$336,491)	(\$153,814)

Other Sections for Public Service Commission - Budget No. 408

	Executive Budget Recommendation	Senate Version
Beginning farmer revolving loan fund	Section 3 would authorize a \$790,954 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.	Section 3 authorizes a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.
Salary of commissioners	Section 4 would provide the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$113,002, effective July 1, 2019, and to \$115,262, effective July 1, 2020, to reflect the 4 percent and 2 percent recommended salary increase.	Section 4 provides the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$114,154, effective July 1, 2020, to reflect the 2 percent and 3 percent salary increase.
Railroad safety pilot program	Section 5 would amend North Dakota Century Code Section 57-43.2-19 to continue to deposit \$285,000 per year from special fuels taxes into the rail safety fund through June 30, 2021.	

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Public Service Commission - Budget No. 408
Senate Bill No. 2008
Base Level Funding Changes

	Executive Budget Recommendation				Senate Version				Senate Changes to Executive Budget Increase (Decrease) - Executive Budget			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2019-21 Biennium Base Level	45.00	\$6,630,762	\$11,985,016	\$18,615,778	45.00	\$6,630,762	\$11,985,016	\$18,615,778	0.00	\$0	\$0	\$0
2019-21 Ongoing Funding Changes												
Base payroll changes		\$121,765	(\$130,222)	(\$8,457)				\$0		(\$121,765)	\$130,222	\$8,457
Salary increase		255,235	169,186	424,421		169,759	118,779	288,538		(85,476)	(50,407)	(135,883)
Health insurance increase		98,067	64,436	162,503		116,992	74,879	191,871		18,925	10,443	29,368
Retirement contribution increase		32,292	21,492	53,784				0		(32,292)	(21,492)	(53,784)
Adds natural gas pipeline inspector		165,301	165,303	330,604				0		(165,301)	(165,303)	(330,604)
Removes 1 FTE grain warehouse inspector	(1.00)	(133,259)		(133,259)				0	1.00	133,259		133,259
Underfunds salaries and wages		(291,674)		(291,674)				0		291,674		291,674
Adds 1 FTE grain warehouse inspector and funding for existing inspector				0	1.00	294,281		294,281	1.00	294,281		294,281
Adds funding for an accounting budget specialist FTE				0		170,493		170,493		170,493		170,493
Adjusts operating expenses		(143,653)	13,000	(130,653)				0		143,653	(13,000)	130,653
Reduces funding for rail rate complaint case			(109,046)	(109,046)				0			109,046	109,046
Adds funding for capital assets				0		15,000		15,000		15,000		15,000
Total ongoing funding changes	(1.00)	\$104,074	\$194,149	\$298,223	1.00	\$766,525	\$193,658	\$960,183	2.00	\$662,451	(\$491)	\$661,960
One-time funding items												
Adds specialized legal services - federal funds			\$336,000	\$336,000			\$336,000	\$336,000			\$0	\$0
Total one-time funding changes	0.00	\$0	\$336,000	\$336,000	0.00	\$0	\$336,000	\$336,000	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	(1.00)	\$104,074	\$530,149	\$634,223	1.00	\$766,525	\$529,658	\$1,296,183	2.00	\$662,451	(\$491)	\$661,960
2019-21 Total Funding	44.00	\$6,734,836	\$12,515,165	\$19,250,001	46.00	\$7,397,287	\$12,514,674	\$19,911,961	2.00	\$662,451	(\$491)	\$661,960

Other Sections for Public Service Commission - Budget No. 408

	Executive Budget Recommendation	Senate Version
Beginning farmer revolving loan fund	Section 3 would authorize a \$790,954 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.	Section 3 authorizes a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.
Salary of commissioners	Section 4 would provide the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$113,002, effective July 1, 2019, and to \$115,262, effective July 1, 2020, to reflect the 4 percent and 2 percent recommended salary increase.	Section 4 provides the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$114,154, effective July 1, 2020, to reflect the 2 percent and 3 percent salary increase.
Railroad safety pilot program	Section 5 would amend North Dakota Century Code Section 57-43.2-19 to continue to deposit \$285,000 per year from special fuels taxes into the rail safety fund through June 30, 2021.	Section 5 amends North Dakota Century Code Section 57-43.2-19 to make permanent the deposit of special fuels taxes into the rail safety fund and changes the amount from \$285,000 per year to \$294,655 per year.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2008

Page 1, line 2, after the semicolon insert "to amend and reenact sections 49-01-05 and 57-43.2-19 of the North Dakota Century Code, relating to the salary of the commissioners and the transfer, deposit, and distribution of funds in the highway tax distribution fund;"

Page 1, replace lines 10 through 23 with:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,197,284	\$866,541	\$10,063,825
Operating expenses	1,829,826	54,000	1,883,826
Capital assets	10,000	15,000	25,000
Grants	20,000	0	20,000
Abandoned mined lands contractual	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	564,668	24,642	589,310
Specialized legal services	<u>94,000</u>	<u>336,000</u>	<u>430,000</u>
Total all funds	\$18,615,778	\$1,296,183	\$19,911,961
Less estimated income	<u>11,985,016</u>	<u>529,658</u>	<u>12,514,674</u>
Total general fund	\$6,630,762	\$766,525	\$7,397,287
Full-time equivalent positions	45.00	1.00	46.00"

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

Page 2, line 2, after "biennium" insert "and the 2019-21 biennium one-time funding items included in the appropriation in section 1 of this Act"

Page 2, replace lines 4 through 7 with:

"Specialized legal services	<u>\$436,000</u>	<u>\$336,000</u>
Total all funds	\$436,000	\$336,000
Total special funds	<u>436,000</u>	<u>336,000</u>
Total general fund	\$0	\$0

The 2019-21 biennium one-time funding amounts are not a part of the entity's base budget for the 2021-23 biennium. The public service commission shall report to the appropriations committees of the sixty-seventh legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2019, and ending June 30, 2021."

Page 2, after line 16, insert:

"**SECTION 4. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

49-01-05. Salary of commissioners.

The annual salary of a commissioner is one hundred ~~fiveten~~ thousand ~~four~~eight hundred ~~ninety-onetwenty-nine~~ dollars through June 30, 2016~~2020~~, and one hundred

#1 SB 2008
2-13-2019

~~eight~~fourteen thousand ~~six~~one hundred ~~fifty-six~~fifty-four 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. Pg2

SECTION 5. AMENDMENT. Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-19. Transfer, deposit, and distribution of funds. (~~Effective July 1, 2015, through June 30, 2019~~)

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

~~Transfer, deposit, and distribution of funds. (Effective after June 30, 2019)~~

~~All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19."~~

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - Senate Action

	Base Budget	Senate Changes	Senate Version
Salaries and wages	\$9,197,284	\$866,541	\$10,063,825
Operating expenses	1,829,826	54,000	1,883,826
Capital assets	10,000	15,000	25,000
Grants	20,000		20,000
Abandoned mined lands contractual	6,000,000		6,000,000
Rail rate complaint case	900,000		900,000
Railroad safety program	564,668	24,642	589,310
Specialized legal services	94,000	336,000	430,000
Total all funds	\$18,615,778	\$1,296,183	\$19,911,961
Less estimated income	11,985,016	529,658	12,514,674
General fund	\$6,630,762	\$766,525	\$7,397,287
FTE	45.00	1.00	46.00

Department 408 - Public Service Commission - Detail of Senate Changes

#1 SB 2008
2-13-2019
P43

	Adds Funding for Salary and Benefit Increases ¹	Adds Grain Warehouse Inspector Position and Additional Funding ²	Adds Funding for an Accounting Budget Specialist Position ³	Increases Funding for Capital Assets ⁴	Adds Funding for Specialized Legal Services ⁵	Total Senate Changes
Salaries and wages	\$455,767	\$245,281	\$165,493			\$866,541
Operating expenses		49,000	5,000			54,000
Capital assets				\$15,000		15,000
Grants						
Abandoned mined lands contractual						
Rail rate complaint case						
Railroad safety program	24,642					24,642
Specialized legal services					\$336,000	336,000
Total all funds	\$480,409	\$294,281	\$170,493	\$15,000	\$336,000	\$1,296,183
Less estimated income	193,658	0	0	0	336,000	529,658
General fund	\$286,751	\$294,281	\$170,493	\$15,000	\$0	\$766,525
FTE	0.00	1.00	0.00	0.00	0.00	1.00

¹ The following funding is added for 2019-21 biennium salary adjustments of 2 percent on July 1, 2019, and 3 percent on July 1, 2020, and increases in health insurance premiums from \$1,241 to \$1,427 per month:

	General Fund	Other Funds	Total
Salary increase	\$169,759	\$118,779	\$288,538
Health insurance increase	116,992	74,879	191,871
Total	\$286,751	\$193,658	\$480,409

² Funding is added from the general fund for one grain warehouse inspector position, related operating expenses, and an increase in funding for the salaries and wages line item for an existing grain warehouse inspector position underfunded during the 2017-19 biennium.

³ Funding is added for salaries and wages (\$165,493) and related operating expenses (\$5,000) for the reclassification of an existing underfunded FTE position as an accounting budget specialist position.

⁴ Funding is increased for capital assets to provide a total of \$25,000.

⁵ One-time funding from federal funds is added for specialized legal services.

This amendment also:

- Provides the statutory changes to increase the Public Service Commissioners' salaries. The Public Service Commissioners' annual salaries would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$114,154, effective July 1, 2020, to reflect the 2 percent and 3 percent salary increases.
- Amends North Dakota Century Code Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to continue the allocation to the rail safety fund and to increase the allocation amount from \$285,000 per year to \$294,655 per year.

Department 408 - Public Service Commission
Senate Bill No. 2008

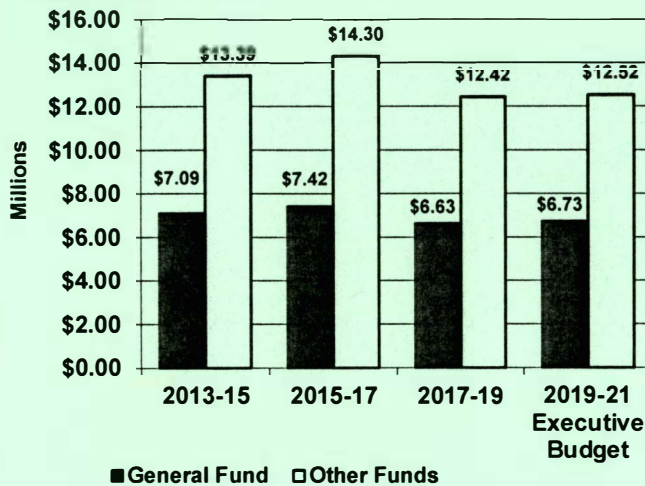
Executive Budget Comparison to Prior Biennium Appropriations

	FTE Positions	General Fund	Other Funds	Total
2019-21 Executive Budget	44.00	\$6,734,836	\$12,515,165	\$19,250,001
2017-19 Legislative Appropriations	45.00	6,630,762	12,421,016	19,051,778
Increase (Decrease)	(1.00)	\$104,074	\$94,149	\$198,223

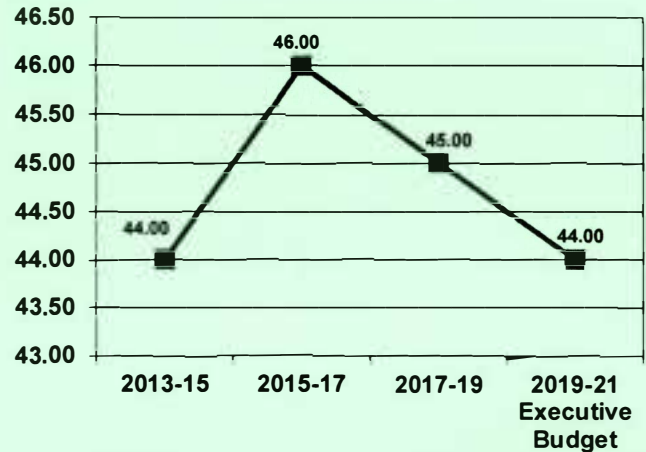
Ongoing and One-Time General Fund Appropriations

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2019-21 Executive Budget	\$6,734,836	\$0	\$6,734,836
2017-19 Legislative Appropriations	6,630,762	0	6,630,762
Increase (Decrease)	\$104,074	\$0	\$104,074

Agency Funding



FTE Positions



Executive Budget Comparison to Base Level

	General Fund	Other Funds	Total
2019-21 Executive Budget	\$6,734,836	\$12,515,165	\$19,250,001
2019-21 Base Level	6,630,762	11,985,016	18,615,778
Increase (Decrease)	\$104,074	\$530,149	\$634,223

First House Action

Attached is a comparison worksheet detailing first house changes to base level funding and the executive budget.

**Executive Budget Highlights
(With First House Changes in Bold)**

	General Fund	Other Funds	Total
1. Adds funding for state employee salary and benefit increases, of which \$424,421 is for salary increases, \$162,503 is for health insurance increases, and \$53,784 is for retirement contribution increases. The Senate added funding for salary adjustments of 2 percent for the 1st year and 3 percent for the 2nd year and increases in health insurance premiums from \$1,241 to \$1,427 per month. The Senate did not add funding for retirement contribution increases.	\$385,594	\$255,114	\$640,708
2. Adds funding for a natural gas pipeline inspector (\$260,604) and related operating expenses (\$70,000). The Senate did not add a natural gas pipeline inspector and related funding.	\$165,301	\$165,303	\$330,604

3. Removes 1 FTE grain warehouse inspector position. The Senate added 1 grain warehouse inspector position and increased funding for an existing grain warehouse inspector position.	(\$133,259)	\$0	(\$133,259)
4. Underfunds salaries and wages. The Senate increased funding for salaries and wages for the reclassification of an existing underfunded FTE position as an accounting budget specialist position.	(\$291,674)	\$0	(\$291,674)
5. Adjusts funding for operating expenses. The Senate did not adjust operating expenses.	(\$143,653)	\$13,000	(\$130,653)
6. Reduces funding for rail rate complaint cases to provide a total of \$790,954 from the beginning farmer revolving loan fund. The Senate did not reduce funding for rail rate complaint cases.	\$0	(\$109,046)	(\$109,046)
7. Adds one-time funding from federal funds for specialized legal services	\$0	\$336,000	\$336,000

Other Sections in Senate Bill No. 2008

Beginning farmer revolving loan fund - Section 3 authorizes a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.

Salary of commissioners - Section 4 provides the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$114,154, effective July 1, 2020, to reflect the 2 percent and 3 percent salary increase.

Railroad safety pilot program - Section 5 amends North Dakota Century Code Section 57-43.2-19 to continue the deposit of special fuels taxes into the rail safety fund and increases the amount from \$285,000 per year to \$294,655 per year.

Continuing Appropriations

Siting process expense recovery fund - Section 49-22-22 - Siting process application fees received are deposited in the siting process expense recovery fund to pay expenses incurred in the siting process.

Credit-sale contract indemnity fund - Sections 60-02-19.1 and 60-10-02 - An assessment is placed on the value of all grain sold in this state under a credit-sale contract, which is submitted by the licensee purchasing the grain to the Public Service Commission for reimbursement to any person who sold grain under a credit-sale contract and who was not fully compensated in accordance with the contract and associated administration costs.

Performance assurance fund - Section 49-21-31 - Money received by the Public Service Commission under a performance assurance plan is to be deposited in the performance assurance fund until the balance equals \$100,000. The money in the fund may be used by the Public Service Commission to monitor the operation and effect of the performance assurance plan.

Utility valuation expense recovery - Section 49-05-04 - Any public utility requesting an increase in its rates above the maximum approved or prescribed by the commission shall furnish the commission the required documents and an application fee in the amount of \$175,000. Upon request of the commission and with the approval of the Emergency Commission, the applicant shall pay such additional fees as are reasonably necessary for completion of the application process by the commission. The commission shall pay the expenses of investigating a rate increase application under this section from the application fee paid by the public utility in accordance with Section 49-02-02. The commission may waive or reduce the fee.

Deficiency Appropriation

There are no deficiency appropriations for this agency.

Significant Audit Findings

There are no significant audit findings for this agency.

Major Related Legislation

House Bill No. 1362 - Creates Chapter 49-09.1 relating to the right of utilities to cross over or under a railroad right of way and places restrictions on crossing fees.

House Bill No. 1383 - Amends Section 49-22-05.1 to restrict the Public Service Commission from identifying prime farmland, unique farmland, or irrigated land as exclusion or avoidance areas when evaluating and designating geographical areas for site, corridor, or route suitability. This bill also amends Section 49-22-09 to remove "indirect" environmental effects as a consideration in evaluation and designation of sites, corridors, and routes and prohibits the commission from requiring payment for mitigation of indirect effects or impacts or payment to a third-party nongovernmental organization for any assessed adverse direct or indirect environmental effects or impacts.

House Bill No. 1467 - Changes the regulation authority of warehouse companies engaged in the marketing, storage, or handling of agricultural products from the Public Service Commission to the Agriculture Commissioner.

Senate Bill No. 2100 - Amends Section 49-02-27 to authorize the Public Service Commission to adopt rules governing the decommissioning of commercial solar energy conversion facilities.

Senate Bill No. 2122 - Creates a new section to Chapter 49-02 to require applicants who file under a title for which there is no application fee, to pay the cost of publishing any notice issued by the Public Service Commission for the application.

Senate Bill No. 2346 - Makes changes to warehouse and grain buyer licensing, scale ticket conversions, claims distributions, assessments and refunds, subrogation, and unlicensed grain buyers.

Public Service Commission - Budget No. 408
Senate Bill No. 2008
Base Level Funding Changes

	Executive Budget Recommendation				Senate Version			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total
2019-21 Biennium Base Level	45.00	\$6,630,762	\$11,985,016	\$18,615,778	45.00	\$6,630,762	\$11,985,016	\$18,615,778
2019-21 Ongoing Funding Changes								
Base payroll changes		\$121,765	(\$130,222)	(\$8,457)				\$0
Salary increase		255,235	169,186	424,421		\$169,759	\$118,779	288,538
Health insurance increase		98,067	64,436	162,503		116,992	74,879	191,871
Retirement contribution increase		32,292	21,492	53,784				0
Adds natural gas pipeline inspector		165,301	165,303	330,604				0
Removes 1 FTE grain warehouse inspector	(1.00)	(133,259)		(133,259)				0
Underfunds salaries and wages		(291,674)		(291,674)				0
Adds 1 FTE grain warehouse inspector and funding for existing inspector				0	1.00	294,281		294,281
Adds funding for an accounting budget specialist				0		170,493		170,493
Adjusts operating expenses		(143,653)	13,000	(130,653)				0
Reduces funding for rail rate complaint case			(109,046)	(109,046)				0
Adds funding for capital assets				0		15,000		15,000
Total ongoing funding changes	(1.00)	\$104,074	\$194,149	\$298,223	1.00	\$766,525	\$193,658	\$960,183
One-time funding items								
Adds specialized legal services - federal funds			\$336,000	\$336,000			\$336,000	\$336,000
Total one-time funding changes	0.00	\$0	\$336,000	\$336,000	0.00	\$0	\$336,000	\$336,000
Total Changes to Base Level Funding	(1.00)	\$104,074	\$530,149	\$634,223	1.00	\$766,525	\$529,658	\$1,296,183
2019-21 Total Funding	44.00	\$6,734,836	\$12,515,165	\$19,250,001	46.00	\$7,397,287	\$12,514,674	\$19,911,961

Other Sections for Public Service Commission - Budget No. 408

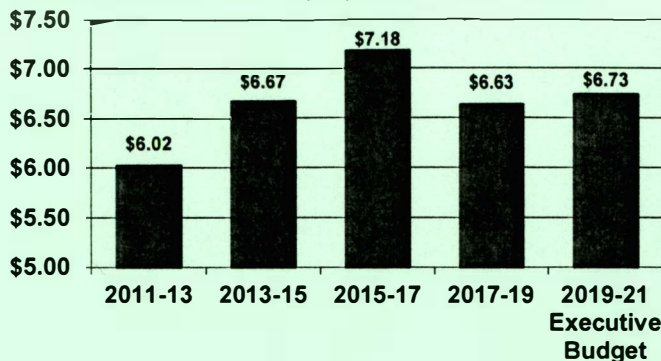
	Executive Budget Recommendation	Senate Version
Beginning farmer revolving loan fund	Section 3 would authorize a \$790,954 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.	Section 3 authorizes a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.
Salary of commissioners	Section 4 would provide the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$113,002, effective July 1, 2019, and to \$115,262, effective July 1, 2020, to reflect the 4 percent and 2 percent recommended salary increase.	Section 4 provides the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$114,154, effective July 1, 2020, to reflect the 2 percent and 3 percent salary increase.
Railroad safety pilot program	Section 5 would amend North Dakota Century Code Section 57-43.2-19 to continue to deposit \$285,000 per year from special fuels taxes into the rail safety fund through June 30, 2021.	Section 5 amends Section 57-43.2-19 to continue the deposit of special fuels taxes into the rail safety fund and changes the amount from \$285,000 per year to \$294,655 per year.

Department 408 - Public Service Commission

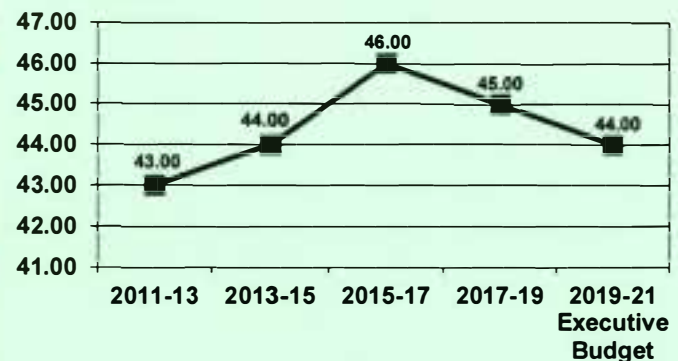
Historical Appropriations Information

Ongoing General Fund Appropriations Since 2011-13

Ongoing General Fund Appropriations (in Millions)



FTE Positions



Ongoing General Fund Appropriations					
	2011-13	2013-15	2015-17	2017-19	2019-21 Executive Budget
Ongoing general fund appropriations	\$6,020,215	\$6,667,660	\$7,175,827	\$6,630,762	\$6,734,836
Increase (decrease) from previous biennium	N/A	\$647,445	\$508,167	(\$545,065)	\$104,074
Percentage increase (decrease) from previous biennium	N/A	10.75%	7.62%	(7.60%)	1.6%
Cumulative percentage increase (decrease) from 2011-13 biennium	N/A	10.75%	19.20%	10.14%	11.9%

Major Increases (Decreases) in Ongoing General Fund Appropriations

2013-15 Biennium

- | | |
|--|-----------|
| 1. Added 1 FTE weights and measures position and related operating expenses | \$203,828 |
| 2. Added 1 FTE gas pipeline inspector position | \$113,201 |
| 3. Added 1 FTE public utility analyst III position | \$199,345 |
| 4. Increased funding for travel costs | \$54,956 |
| 5. Added funding for legal fees relating to grain elevator insolvency cases and reclamation/abandoned mined lands lawsuits | \$500,000 |

2015-17 Biennium

- | | |
|---|-----------|
| 1. Added 1 FTE public utility analyst position (\$257,747) and relating operating expenses (\$40,000) | \$297,747 |
| 2. Added funding for a temporary weights and measures inspector (this item was affected by the August 2016 budget reductions) | \$200,000 |

2017-19 Biennium

- | | |
|--|-------------|
| 1. Removed 2 FTE undesignated positions | (\$286,240) |
| 2. Reduced salaries and wages in anticipation of savings from vacant positions and employee turnover | (\$250,000) |
| 3. Reduced funding for operating expenses | (\$47,736) |
| 4. Reduced funding for capital assets to provide a total of \$10,000 | (\$16,400) |
| 5. Removed funding from the general fund for specialized legal services | (\$56,000) |

2019-21 Biennium (Executive Budget Recommendation)

- | | |
|--|-------------|
| 1. Adds funding for a natural gas pipeline inspector (\$130,301) and related operating expenses (\$35,000). The Senate did not add a natural gas pipeline inspector and related funding. | \$165,301 |
| 2. Removes 1 FTE grain warehouse inspector position. The Senate added 1 grain warehouse inspector position and increased funding for an existing grain warehouse inspector position. | (\$133,259) |

3. Underfunds salaries and wages. **The Senate increased funding for salaries and wages for the reclassification of an existing underfunded FTE position as an accounting budget specialist position.** (\$291,674)
4. Reduces funding from the general fund for operating expenses. **The Senate did not adjust operating expenses.** (\$143,653)

GOVERNOR'S RECOMMENDATION FOR THE PUBLIC SERVICE COMMISSION AS SUBMITTED BY THE OFFICE OF MANAGEMENT AND BUDGET

SECTION 1. APPROPRIATION. The funds provided in this section, or so much of the funds as may be necessary, are appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, and from special funds derived from federal funds and other income, to the public service commission for the purpose of defraying the expenses of that agency, for the biennium beginning July 1, 2019, and ending June 30, 2021, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and wages	\$9,197,284	\$405,104	\$9,602,388
Operating expenses	1,829,826	(60,653)	1,769,173
Capital assets	10,000	0	10,000
Grants	20,000	0	20,000
Abandoned mined lands contractual	6,000,000	0	6,000,000
Rail rate complaint case	900,000	(109,046)	790,954
Railroad safety program	564,668	62,818	627,486
Specialized legal services	<u>94,000</u>	<u>336,000</u>	<u>430,000</u>
Total all funds	\$18,615,778	\$634,223	\$19,250,001
Less estimated income	<u>11,985,016</u>	<u>530,149</u>	<u>12,515,165</u>
Total general fund	\$6,630,762	\$104,074	\$6,734,836
Full-time equivalent positions	45.00	(1.00)	44.00

SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-SIXTH LEGISLATIVE ASSEMBLY. The following amounts reflect the one-time funding items approved by the sixty-fifth legislative assembly for the 2017-19 biennium and the 2019-21 one-time funding items included in the appropriation in section 1 of this Act:

<u>One Time Funding Description</u>	<u>2017-19</u>	<u>2019-21</u>
Specialized legal services	<u>\$436,000</u>	<u>\$336,000</u>
Total all funds	\$436,000	\$336,000
Total special funds	<u>436,000</u>	<u>336,000</u>
Total general fund	\$0	\$ 0

The 2019-21 one-time funding amounts are not a part of the entity's base budget for the 2021-23 biennium. The public service commission shall report to the appropriations committees of the sixty-seventh legislative assembly on the use of this one-time funding for the biennium beginning July 1, 2019, and ending June 30, 2021.

SECTION 3. TRANSFER AND REPAYMENT - BEGINNING FARMER REVOLVING LOAN FUND. The Bank of North Dakota shall transfer from the beginning farmer revolving loan fund to the public service commission the sum of \$790,954, or so much of the sum as may be necessary, included in the estimated income line item in section 1 of this Act to pay for costs associated with a rail rate complaint case. Transfers must be made during the biennium beginning July 1, 2019, and ending June 30, 2021, upon order of the commission. If any amounts are spent pursuant to this section, the public service commission shall reimburse the beginning farmer revolving loan fund

using amounts available from damages or proceeds received, net of legal fees, from a successful outcome of a rail complaint case.

SECTION 4. AMENDMENT. Section 49-01-05 of the North Dakota Century Code is amended and reenacted as follows:

49-01-05. Salary of commissioners.

The annual salary of a commissioner is ~~one hundred eight thousand six hundred fifty six dollars through June 30, 2018, one hundred thirteen thousand two dollars through June 30, 2020 and one hundred fifteen thousand two hundred sixty two 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 5. AMENDMENT. Section 57-43.2-19 of the North Dakota Century Code is amended and reenacted as follows:

57-43.2-19 (Effective July 1, 2019 through June 30, 2021) Transfer, deposit, and distribution of funds. All taxes, license fees, penalties, and interest collected under this chapter must be transferred to the state treasurer who shall deposit moneys in the highway tax distribution fund, except fuels excise taxes, collected on sales of diesel fuels to a railroad under section 57-43.2-03 of up to two hundred eighty-five thousand dollars per year must be transferred to the state treasurer who shall deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed in the manner as prescribed by section 54-27-19.

Senate Bill 2008

Presented by: Julie Fedorchak, Commissioner
Public Service Commission

Before: House Appropriations Committee
Government Operations Division
Honorable Don Vigesaa, Chairman

Date: March 7, 2019

TESTIMONY

Mr. Chairman and members of the committee, I'm Commissioner Julie Fedorchak here to present our 2019-2021 biennial budget request. Commissioner Randy Christmann is also in attendance today and available for any questions you may have. Thank you for the opportunity to present our budget bill and explain why we feel it benefits the State of North Dakota. I look forward to answering any questions you may have at the end of my testimony.

Introductions and Responsibilities

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

- Coal mining and reclamation;
- Grain warehouses and licensing;
- Commercial scales and measuring devices;
- Railroads & Rail Safety;

- Auctioneers;
- Abandoned mine lands;
- Energy transmission and generation facility siting;
- Pipeline safety;
- Electric, gas and telephone public utility regulation;
- Damage prevention (enforcement of the One-Call Law).

(Department Overviews are attached)

The following information provides details regarding the PSC's budget priorities for the upcoming biennium. As a result of energy development in North Dakota, the workload of the Commission continues to increase.

The Commission runs a very lean operation, which makes further budget reductions challenging. The Commission went through a reorganization during the last biennium that resulted in greater efficiencies. The Compliance Division was created by consolidating three different programs under one director using a repurposed position: (1) the Licensing Program, (2) the Weights and Measures Program, and (3) the Railroad Safety Program. The restructuring allows for a more efficient and effective approach to regulatory enforcement and compliance with these programs. An online licensing program is now being utilized, eliminating the need for staff to process paper applications. In addition, the director of economic regulation position was eliminated and our Public Utilities Division was streamlined under one director.

The Commission has developed a plan to deal with current budget shortfalls by increasing duties on existing staff. While this has been necessary due to budget constraints, there is a concern that services to the citizens will be compromised by continued reduction of resources.

The Commission is currently authorized 45 FTEs, however we only have funding for 43.75 FTEs. Through our extensive efforts to reorganize and prioritize, the Commission has been able to increase caseload and regulatory responsibilities during a period of dynamic energy sector growth while adding only one FTE since 2009-11.

We also face the challenge of far more expensive litigation related to grain licensing and environmental issues. We're proud of the fact that the Commission has more jurisdiction than most public utility commissions nationwide, yet operates effectively with one of the smallest staffs.

The Commission fully supports SB 2008 as passed by the Senate, but believes one enhancement in Specialized Legal Services will make a positive impact on how the Commission completes its duties and serves North Dakota citizens.

SB 2008 includes additional resources to execute the changes to the grain licensing program outlined in SB 2346. The grain licensing and inspection program has been an integral part of the Commission's jurisdiction for over 127 years. The program was established and regulatory authority was granted to the Commission by the legislature in 1891, two and a half years after North Dakota obtained statehood.

The Commission asserts that the 1891 Legislative Assembly had it correct by placing jurisdiction with the Public Service Commission. The Commission, by its very nature, is a regulatory agency tasked with statewide regulation of certain businesses and has done so very successfully. The Commission balances the interests of the industries it regulates with the interests of those who must do business with those industries, working to ensure fairness and nondiscrimination.

The grain warehouse and grain marketing businesses are complex. This regulatory program is a great fit for the independent, multi-member Public Service Commission. With the right tools and statutory authority in place, the program can be effectively managed and implemented without conflicts of interest by the PSC.

Financial Audit Findings:

The PSC had no formal audit recommendations.

Major Components Making up 17-19 Budget:

The following line items make up the major components of our base level funding:

Salaries and wages	\$9.2 million	Approx. 40% Fed. Funds
Operating	\$1.83 million	Approx. 40% Fed./Special Funds
AML Contractual	\$6 million	100% Fed. Funds
Rail Rate Complaint Case	\$900,000	100% Special Funds
Railroad Safety Program	\$564,668	100% Special Funds
Specialized Legal Services*	\$94,000 (\$30,000 gen. funds)	Approx. 68% Fed Funds

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

One-Time Spending:

Specialized legal services: Currently we receive \$436,000 in one-time funding (\$100,000 from the Strategic Investment and Improvements Fund and \$336,000 federal funds). The funds benefit the Commission by allowing the hiring of specialized professionals with qualifications specifically to address federal lawsuits, grain insolvencies, and other litigation. Having this one-time spending allows the Commission to have funding available for litigation as needed. In instances where reimbursement is available, it may take years to receive. Even if the Commission receives reimbursement, our budget can only be reimbursed for

costs expended in the current biennium (the remaining is returned to the general fund).

As of Feb. 28, 2019, the Commission spent approximately \$23,200 of the appropriation for specialized legal services on one federal lawsuit, two grain elevator insolvencies (expenses for this biennium were reimbursed for one of them) and two siting cases.

Historical view of Specialized Legal Services:

Specialized Legal Services Expenses				
	2013-2015	2015-2017	2017-2019	Total
Federal Lawsuits	\$128,648	\$ 74,694	\$ 10,126	\$213,468
Grain Insolvencies	\$ 14,088	\$ 67,237	\$ 12,028	\$ 93,354
Mining Permit		\$ 12,279		\$ 12,279
Siting Case legal costs			\$ 1,048	\$ 1,048
Total	\$142,736	\$154,210	\$ 23,202	\$320,148

Breakdown of Specialized Legal Services by Funding Source:

	2013-2015 2015-2017			2017-2019		
	Base	One Time	Biennium Total	Base	One Time	Biennium Total
General	\$ 86,000	\$414,000	\$500,000	\$30,000		\$ 30,000
Federal	\$ 64,000	\$336,000	\$400,000	\$64,000	\$336,000	\$ 400,000
Special (SIFF)					\$100,000	\$ 100,000
Total	\$ 150,000	\$ 750,000	\$ 900,000	\$94,000	\$ 436,000	\$ 530,000

We were fortunate to have limited insolvency costs and more energy-friendly federal policy that resulted in the lowest amount spent since the inception of the fund to date in this biennium. We consider this amount to be an anomaly.

In the 2013-15 biennium, the Commission spent approximately \$143,000 and \$154,000 in the 2015-17 biennium. The Commission is in the beginning stages of a new grain insolvency case. This case covers two facilities and multiple licensees and is expected to be very legally complex. Our last insolvency case spanned three biennia and cost approximately \$80,000. In addition to this grain insolvency case, we also face a legal challenge to our siting laws from outside environmental groups.

Having litigation funds available is critical in order to provide certainty, expedite the legal process, and ensure the Commission can effectively defend the state's interests in these potential lawsuits. These funds allow the Commission, when necessary, to fight attacks against the fossil fuel industry, whether a result of EPA regulations or lawsuits by environmental groups attacking coal mining or reclamation. These attacks are difficult to predict, extremely challenging to budget for and often demand specialized outside legal counsel to effectively counter.

We are requesting the same level of state one-time funding for the 2019-21 biennium. Currently we receive \$436,000 in one-time funding (\$100,000 from the Strategic Investment and Improvements Fund and \$336,000 federal funds). Any federal funding could only be used for an Office of Surface Mining or Pipeline Hazardous Materials Safety Administration (PHMSA) approved case with matching state funds.

Listing of proposed budget reductions to meet the Governor's budget:

Please see chart on page 15 outlining a listing of the proposed budget reductions identified by the Commission to meet the Governor's 90 and 95 percent budget request guideline.

Analysis of Governor's Recommended Budget:

Please see chart on page 16 outlining the Governor's recommended budget.

Senate Changes to Base Budget for 2019-21 Biennium:

As previously mentioned, the Public Service Commission is supportive of the following changes made by the Senate in SB 2008, which includes additional resources to execute the changes to the grain licensing program outlined in SB 2346.

SB 2346 recognizes there needs to be changes in the grain licensing program, and the Commission appreciates that acknowledgement and agrees. Improving the situation must involve a two-prong approach. First, a more thorough review of licensees, including financial information, to reduce insolvencies. Second, expanding the indemnity fund to provide additional protections and reduce the impact on grain producers and other grain sellers who are victimized. SB 2346 allows us to collect enough financial information to do a more thorough review of licensees, while assuring we can keep their financial information confidential unless mandated by law enforcement or the courts.

Currently the grain licensing program is overseen by our Compliance Division Director, supported by an administrative officer. The Commission has one full-time and one 75%-time grain warehouse field inspectors. The Commission and Senate recognize these resources are not sufficient to effectively implement SB 2346. Therefore, the Senate added the following resources to the Commission's base budget to implement SB 2346:

- Add funding to make 75%-time grain warehouse field inspector full-time. Additionally, add one FTE and funding for an additional field financial grain inspector.
- Add funding for an Accounting Budget Specialist to support financial reviews for Grain Licensing. This position is described in greater detail below.

This enhanced statutory authority, additional inspections and the expansion of the indemnity fund in SB 2346 provide the safeguards necessary to more effectively protect producers.

Accounting Budget Specialist: Due to reductions in the 2017-19 biennium, the Commission could not replace an Accounting/Budget Specialist position. The Commission is requesting funding for the position, plus operating expenses. This position is an important part of strengthening overall agency internal controls, aiding in succession planning, and ensuring best practices are followed to prevent waste, fraud, and abuse. It will also provide staff with financial

expertise to support the enhanced Grain Licensing Program. This position will utilize an existing FTE position.

Rail Safety: The North Dakota 64th Legislative Assembly approved funding for a state run pilot program intended to supplement federal oversight of rail safety. The Senate in SB 2008 continues and makes permanent this program. The Rail Safety Program is funded not with general funds, but with an existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements. The PSC receives approximately 11% of the total revenue generated by this tax. The remaining revenue stays with the Department of Transportation.

A full report on this program is available, but here are a few key takeaways:

The state rail program includes a track and mechanical inspector who supplement the work of federal inspectors, who are limited and spread thin over multiple states.

Our goal is to work in coordination with the federal inspectors and railroad personnel to improve the overall safety culture and record on our system. Here are the results to date:

- The track inspector inspected 9,641 units
 - 2,878 defects identified
 - 29 violations issued
- The mechanical inspector inspected 92,931 units
 - 3,536 defects identified
 - 63 violations issued

Since 2015:

- Main line accidents in North Dakota have declined 68 percent.
- Accidents greater than \$100,000 have declined 72 percent.

The state rail safety program does not get all the credit for those improvements. Certainly, the railroads invest substantially on safety and infrastructure improvements. But our program, as you will see by the pictures and descriptions of the findings in the full report, has certainly contributed to improved safety.

This program is a success story for legislators and the PSC and has delivered value to citizens and the industry in terms of improved public safety.

Capital Assets: The Commission has several multi-function office machines supporting engineering, scientific, and GIS roles. These machines are due for replacement. The Senate provided \$15,000 in order to establish a standard replacement schedule.

2019-21 One-Time Funding Needs:

As discussed earlier, having access to funding for specialized legal services is crucial. The Commission has just started a new grain elevator insolvency case which will be very complex and expensive. We also face a legal challenge from environmental groups regarding our siting jurisdiction. There is always the possibility we will need to intervene on state or federal cases. These are attacks that are difficult to predict, nearly impossible to budget for and often demand specialized outside legal counsel to effectively counter.

These funds allow the Commission, when necessary, to fight attacks against the fossil fuel industry, whether it's through EPA regulations or lawsuits by environmental groups attacking coal mining or reclamation. The Commission's main concern is access to a statewide litigation fund and the level of funding that would be available. As a constitutional agency, this spending authority should reside directly in the Commission's budget.

In the 2017-19 biennium, the Commission received one-time funding of \$436,000. The majority of this one-time funding is federal appropriation and only \$100,000 came from state special funds. As previously mentioned, there are limits on what the federal appropriation can be used for, so the state funding is imperative. The Senate provided one-time federal funding of \$336,000. No state one-time funding was provided. We are requesting the same level of one-time funding for the 2019-21 biennium. The Commission would also be supportive of moving this funding to our base budget as it has become a repeated one-time funding request and we anticipate a continued need for funding.

Changes to Federal Funding Levels:

The Commission receives funds from the federal Office of Surface Mining for the Abandoned Mine Lands (AML) program from the collection of a federal reclamation fee that is collected on all coal that has been mined since the late 1970s. The current AML fee on North Dakota lignite is eight cents per ton. These funds are distributed as federal grants to AML programs in 28 states and tribes, including North Dakota. The AML fee that funds the AML Program will expire

September 30, 2021. Unless re-authorization of the fee is enacted by Congress, it is expected that over \$20 million of reclamation work will not be completed at sites on the current inventory of abandoned coal mines in North Dakota. This could ultimately cost the state in general funds when sinkholes cause damage to roads.

Summary:

As previously discussed, the Commission fully supports SB 2008 as passed by the Senate. SB 2008 includes additional resources to execute the changes to the grain licensing program outlined in SB 2346. The Commission, by its very nature, is a regulatory agency tasked with statewide regulation of certain businesses and has done so very successfully. With the right tools and statutory authority as provided in SB 2346, the program can be efficiently managed, effective, and implemented without conflicts of interest by the PSC.

Additionally, the Commission has been able to operate within its appropriation for the current biennium during a period of dynamic energy development. We also share concern over current oil prices and their impact on the energy industry and future state revenues. Often as a boom subsides, industry uses the lull in drilling activity to reinforce and build out supporting infrastructure in anticipation of future development. This causes the Commission's workload to remain consistent or increase after drilling activities subside, not necessarily when drilling is at its peak.

The Commission has been dedicated to doing its part to reduce general fund expenditures, while ensuring statutory programs remain effective. Efficiency

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improvements, restructuring, elimination of positions, and increased workloads on current employees with no salary increase the past two years has been difficult. We support a salary increase and maintaining current benefits for employees who serve the citizens of North Dakota on a daily basis.

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

Proposed 90% / 95% Budget Reductions

Through extensive efforts to reorganize and prioritize, the Commission has been able to increase our caseload and regulatory responsibility during the energy boom while adding only one FTE since 2009-11. We continue to seek new efficiencies and ways to address increased workload without growing staff. However, we have real concerns that additional reductions in staff or operational dollars will negatively impact our ability to meet the Commission's statutory responsibilities.

If funding for the Grain Licensing Program and Weights and Measures Large-Scale Program is eliminated, legislative changes will be needed to the Commission's statutory responsibilities. The Commission believes these are both important programs that protect North Dakota citizens and should not be eliminated.

The plan developed to meet the 90% general fund budget limit would require the Commission to:

- Eliminate the Grain Licensing Program, cutting two inspector positions and applicable operating expenses.
- Eliminate funding for the large-scale weights and measures inspector and applicable operating expenses.
- Eliminate funding for an administrative assistant position.
- Reduce operating expenses even further.

The Commission also requested approximately \$30,000 in special funding from the Rail Safety Fund to pay for a portion of the director's salary, which is currently entirely general fund.

In order to meet the 95% special fund budget limit, the Commission reduced funding for the Rail Rate Complaint Case.

Analysis of Governor's Recommended Budget

Optional Adjustment Requests made by Commission to Gov's 90% Base Budget	Governor's Recommendation	Comments	Green Sheet Executive Budget Highlights
Restore two grain licensing inspectors and one Weights & Measures inspector and operating expenses	Retained one grain inspector & operating expenses	At a minimum, total restoration is necessary to effectively run the Grain Licensing Program. Large-scale weights & measures quality assurance program is eliminated.	#3, #4, #5
Accounting Budget Specialist	Not included	Strengthen internal controls, aid in succession planning and ensure best practices are followed to prevent waste, fraud, and abuse. Support enhanced Grain Licensing Program.	Not listed
Restore general, federal, and special fund operating expenses related to projected DOT fleet cost increases	Restored federal and special funding.	Most federal programs have a state matching requirement, therefore the majority of this funding is unusable.	#5
Specialized Legal Services	Provides one-time federal funds and access to statewide litigation pool.	Federal regulations limit how federal funds are utilized, consequently most of this funding is unusable. As a constitutional agency there are serious concerns about access to the statewide litigation pool.	#7
Capital Assets	Not included	Budget change to establish a standard replacement schedule. At a minimum, one-time funding is needed.	Not listed
Natural Gas Pipeline Inspector	Included	PHMSA likely will require additional gathering line inspections due to infrastructure growth in the last decade.	#2
Temporary Salaries	Not included	Interim help for: 1) absences in critical positions that have no backup; 2) speed and enhance the deployment of archival information; 3) assist with grain insolvency.	Not listed

Department Overview

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

The Reclamation Division of the Public Service Commission is responsible for administering and enforcing the state's reclamation law for minimizing the environmental effects of surface coal mining and ensuring mined lands are properly reclaimed. There are 7 active surface coal mining operations (5 lignite and 2 leonardite mines) operating in the state.

- Approximately 134,600 acres are currently permitted for mining activities under 27 mine permits.
- During the 2017-2019 biennium, approximately 2,000 acres have been added to existing permit areas and approximately an additional 650 acres are proposed to be added to existing permit areas and are pending Commission approval.
- To date, approximately 16,000 acres have received final bond release (met all the requirements of the reclamation law) and Commission jurisdiction has ended.
- Despite several legal challenges, the Commission's decision to issue the permit for the Coyote Creek Mine has been upheld and mining and reclamation activities have begun.
- The PSC's coal regulatory and Abandoned Mine Lands programs continue to receive excellent annual evaluation reports from the federal Office of Surface Mining.

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

The goal of the AML Program is to eliminate hazards related to coal mining that was conducted prior to the enactment of the 1977 Federal Reclamation Act. PSC staff in the AML Program design and manage the reclamation projects; and private contractors, selected by competitive bidding, conduct the field construction work. A federal fee assessed on coal production funds the AML Program. The current AML fee on North Dakota lignite is eight cents per ton. These funds are distributed as federal grants to AML programs in 28 states and tribes, including North Dakota. The AML fee that funds the AML Program will expire September 30, 2021, unless Congress reauthorizes legislation to extend it.

- In the current biennium, 8 abandoned mine land reclamation projects were completed, totaling about \$3.8 million in construction costs.
- About 340 dangerous sinkholes caused by the collapse of underground mine workings were filled in the past two years.
- Since 1982, 172 primary reclamation projects and 32 emergency projects have been conducted to eliminate hazardous conditions, totaling \$54 million.
- More than 37 miles of dangerous surface mine highwalls have been eliminated since the AML reclamation program began.
- We have records of more than 1700 abandoned coal mine sites in North Dakota. At the current rate of federal funding, we estimate it will take at least 20 years and \$40 million to address the highest priority AML problems in our state.

Regulation of electric, natural gas, and telephone utilities

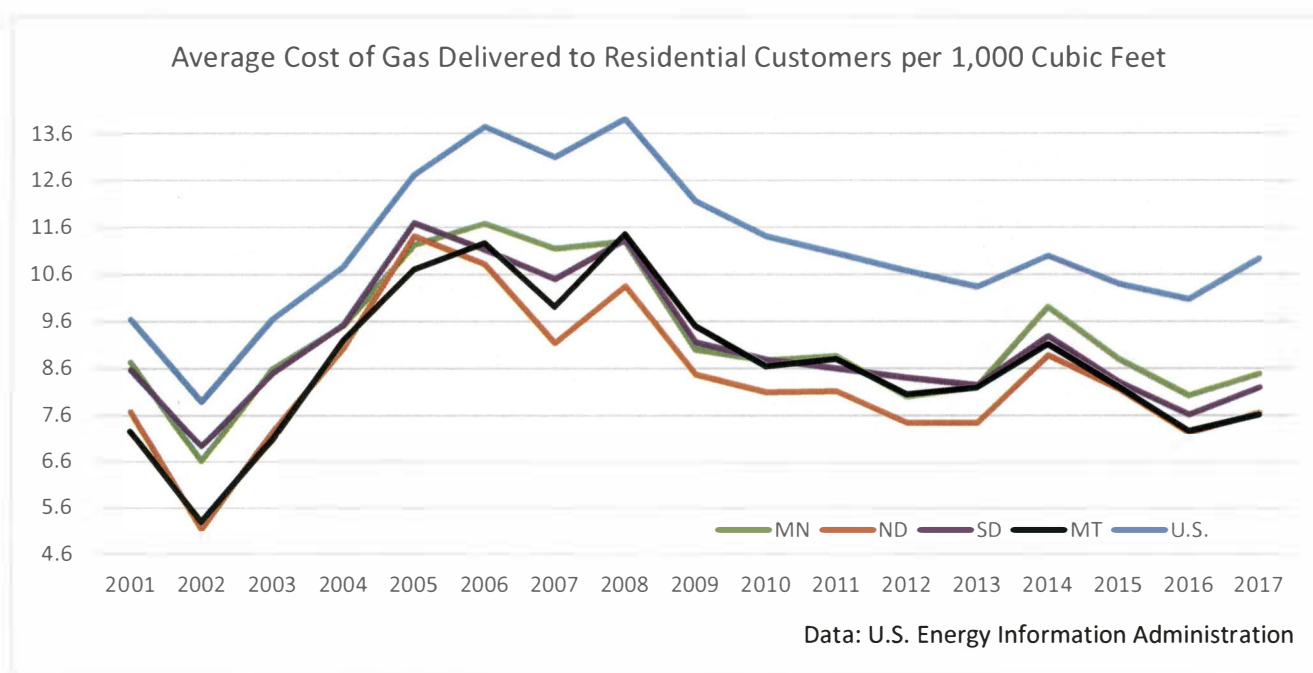
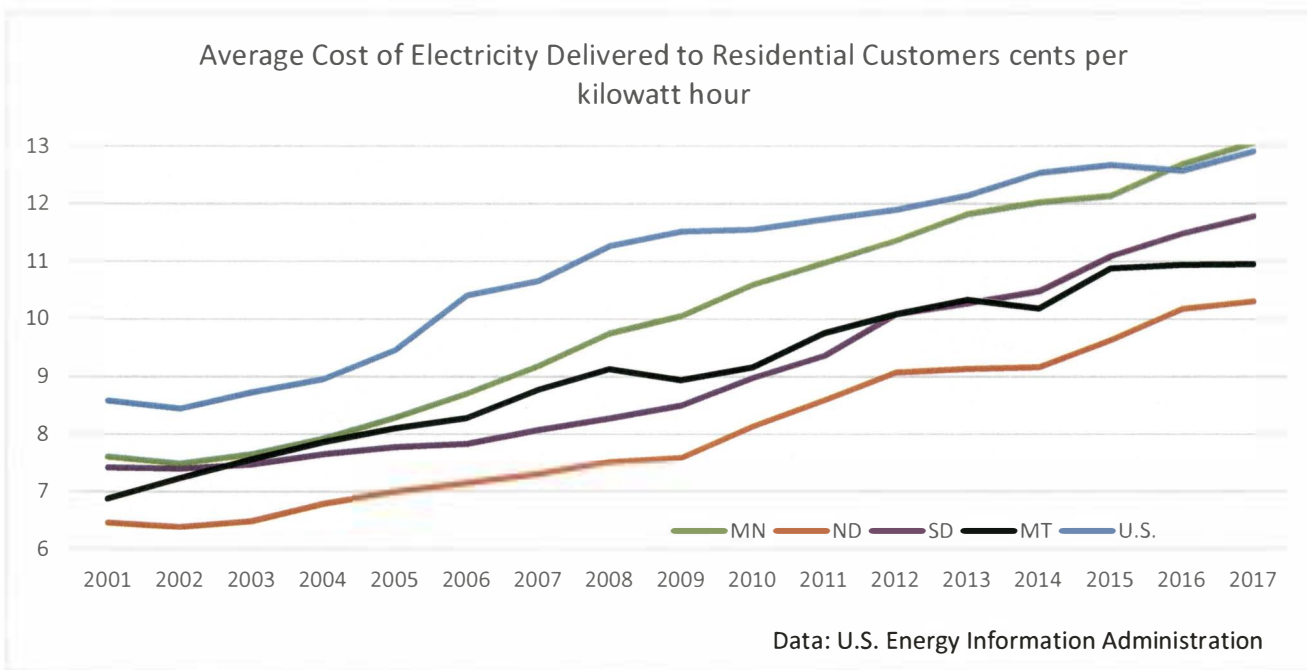
North Dakota continues to have among the lowest electric and natural gas utility rates in the nation. Biennium to date, the PSC has decided three general rate cases for Montana-Dakota Utilities Co's natural gas operations, Great Plains Natural Gas's natural gas operations, and Otter Tail Power Company's electric operations.

In addition to the rate cases, the PSC has either required rate reductions or special accounting treatment due to the reduced expenses to investor-owned public utilities caused by the Tax Cuts and Jobs act for Montana-Dakota Utilities electric service and Northern States Power Company (both electric and natural gas service).

Consistent with the Commission's least-cost standard, the PSC has also made six advanced determination of prudence decisions on new or modified electric generation including over 1,850 megawatts of new wind generation to be added to Northern States Power Company's system, a 48-megawatt expansion of Montana-Dakota Utilities Co's Thunder Spirit wind generation facility, a 250-megawatt simple cycle natural gas facility, a 150-megawatt wind facility to be added to Otter Tail Power Company's system, and finally an agreement to terminate three high-cost power purchase agreements with biomass fuel facilities in Minnesota.

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Pipelines

Description	Miles	County	Est. Project Cost
Andeavor Field Services LLC	59	McKenzie, Billings, Stark	46,000,000
Hess North Dakota Pipelines LLC	19	McKenzie	114,000,000
ONEOK Rockies Midstream, L.L.C.	45	McKenzie, Williams	31,000,000
Cenex Pipeline, LLC	150	Williams, Mountrail, Ward	115,000,000
Total	273		306,000,000

Electric Transmission

Description	Miles	County	Est. Project Cost
Northern States Power Company	20.5	Ward, McHenry	50,500,000
Totals	20.5		50,500,000

Wind Generation

Description	MW	County	Est. Project Cost
Langdon Wind, LLC (addition of 12.7 MW)	12.7	Cavalier	113,000,000
Foxtail Wind, LLC	150.0	Dickey	400,000,000
Montana-Dakota Utilities Co. (Thunder Spirit addition of 5.5 MW)	5.5	Adams	86,500,000
Glacier Ridge Wind Farm, LLC: Phase I	300.1	Barnes	202,000,000
Totals	318.3		801,500,000

Note: 3053 MW of total wind generation in service as of December 20, 2018. Anticipate another 99 MW in service by approximately year end 2018, and another 750 MW scheduled in service

Gas Processing

Description	MMSCFD	County	Est. Project Cost
Hiland Partners Holdings LLC	150	McKenzie	234,000,000
ONEOK Rockies Midstream, L.L.C. (increase processing by 95 MMscfd)	95	Dunn	250,000,000
Arrow Field Services, LLC	120	McKenzie	136,000,000
Oasis Midstream Services, LLC	345	McKenzie	125,000,000
Totals	710		745,000,000

Note: Million standard cubic feet per day (MMSCFD)

These tables represent completion of the complex siting process of 273 miles of pipelines, 20.5 miles of electric transmission lines, over 318 MW of wind generation, and gas processing capacity of another 710 MMSCFD. It represents almost \$1.9 billion of economic investment in North Dakota.

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

On behalf of the Pipeline and Hazardous Materials Safety Administration (PHMSA), the PSC conducts a Pipeline Safety Program in North Dakota involving intrastate gas transmission systems and gas distribution systems. The goal of the program is to enhance public safety by enforcing state laws governing gas pipeline safety through inspections and enforcement regarding qualification of pipeline personnel, pipeline components, design, construction, cathodic protection, operations, maintenance, public awareness programs, and emergency response.

Commission inspectors perform audits of three natural gas distribution system operators, one liquefied petroleum gas distribution system operator, eight transmission system operators, seven gathering system operators, and one liquefied natural gas facility operator.

Gas pipeline safety inspectors conduct inspections dealing with records audits, compliance follow-up, design/testing and construction, gas incidents, on-site operator training, operator qualifications, and integrity management.

Staff for the program includes a program manager/inspector and one full-time inspector. For 2018, PHMSA calculates that the North Dakota gas pipeline safety program must perform inspections/audits totaling 166 inspection days, or 332 inspection days for a biennium.

Damage Prevention

The PSC has authority for enforcement of the state's One-Call Excavation Notice System law. The goal of the law is to prevent damage to underground infrastructure. Biennium to date, the PSC has processed 34 complaints regarding alleged violations of the One-Call law. As a result of these proceedings, the PSC has levied fines totaling \$58,250. These fines are deposited directly into the general fund.

Damage Prevention Cases Processed:

2009-2011	1
2011-2013	18
2013-2015	58
2015-2017	52
2017-2019	34 to date (55 projected)

In total the PSC has levied 107 fines totaling \$244,650 since beginning enforcement of the program in 2009. Since inception, the PSC has not been given any additional resources to process these cases. The workload has fallen to existing staff.

Grain Licensing and Inspection

As of August 1, 2018, North Dakota had 161 firms operating 267 public grain warehouses, 20 firms operating 110 federal facilities, and 99 roving grain buyers, totaling 476 licensees (public warehouses, facility-based grain buyers, and roving grain buyers). All of these firms/elevators are licensed, bonded, and open to PSC inspectors.

Grain storage capacity increased 2.3% from 485.3 million bushels as of August 1, 2017, to 496.9 million bushels as of August 1, 2018. These figures do not include private, on-farm storage which is not licensed by the PSC.

As reported by the USDA, the total production value of grain produced in North Dakota for 2017, exceeded \$5.9 billion. The grain inspection program, comprised of one full-time inspector and a 3/4 part-time inspector, completed 384 inspections, this biennium to date.

Currently, the PSC is in the very early stages of processing two insolvencies, one licensed roving grain buyer and the other, a grain warehouse operating two licensed locations. Insolvencies are becoming more litigious and complex, expanding through several bienniums, emphasizing the need for Specialized Legal Services funding.

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Licensed auctioneers and auction clerks

The PSC currently licenses 356 auctioneers and 165 clerks.

Weights and Measures

The Weights and Measures Program, comprised of three full-time employees, is designed to meet the needs of both the buyer and seller in the commercial marketplace. This is accomplished through the enforcement of the state's weights and measures laws by the inspection and testing of commercial weighing and measuring devices such as supermarket scales, grain elevator truck scales, livestock scales, and gas station pumps, to name a few. Some of the accomplishments and work of the program include:

- Testing and inspecting 5,183 commercial devices from July 1, 2017, to June 30, 2018.
- Conducting quality control testing and monitoring the documentation of 17,095 weighing or measuring devices installed or serviced by registered service companies.

Additionally, the Commission is continuing work on the heavy-scale quality assurance program. This program has allowed the PSC to review the work of registered service companies and addresses concerns with their operations along with responding to heavy-scale complaints. This biennium to date, the PSC has conducted quality assurance inspections on 160 heavy scales, of which 29 failed the inspection.

The Weights and Measures Program is minimally staffed with much of the work being done with private contractors and oversight being done by the Public Service Commission. Due to the nominal testing fees outlined in statute for the state weights and measures program which have not changed in many years, the revenue collected for this service does not cover the cost of operating the program. The state inspectors are utilized primarily by small town businesses who find our fees significantly more attractive compared to private contractors. With the implementation of the medical marijuana program, the Commission is faced with additional time intensive inspection requirements for these facilities. Without the proper oversight by the large-scale quality assurance inspector, assurance of fairness for the public is lacking.

Railroad Safety

The PSC is the clearinghouse for rail service and safety issues statewide. We host annual meetings on service and safety for all the statewide stakeholders including ag producers, grain marketers, emergency responders, county and city leaders to address issues with railroad representatives. This biennium to date, the PSC fielded complaints and intervened on behalf of 17 communities and citizens on rail-related issues.

Since 2015, the PSC has been operating a Rail Safety Program, which supplements federal rail safety oversight. The Federal Rail Administration (FRA) only has the resources to inspect 0.2 percent of railroad operations nationally each year. Federally certified state inspectors constitute 30 percent of the FRA's total

Attachment 1 – Department Overview

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inspection force and are critical to ensuring safe rail operations. Having state inspectors that are dedicated to North Dakota is a big benefit and helps to ensure adequate inspections in our state; whereas, federal inspectors have responsibility over multiple states. Funding for the state Rail Safety Program comes not from the general fund, but from existing diesel fuel tax the railroads pay, a portion of which is dedicated for safety improvements.

The goal of the program is to reduce the number of accidents, derailments and other equipment failures in order to reduce fatalities, injuries, economic losses and environmental impacts. As one measure of the program's effectiveness, the number of defects found are decreasing after increasing for several years. Since 2015 (the year the program was launched), main line accidents in North Dakota have decreased by 68 percent (2015-18), and all significant accidents greater than \$100,000 are down by 72 percent. Overall, rail tonnage through the state has decreased, however crude by rail shipments have been increasing and are at their highest since February 2017.

The program employs two full-time inspectors in the areas of track and motive power and equipment (mechanical), who conduct announced and unannounced inspections of track infrastructure and mechanical inspections of railcars and locomotives. Inspectors place extra emphasis on routes carrying hazardous materials. The state inspectors coordinate with and complement the federal inspectors to maximize coverage but are autonomous and entirely accountable to the Public Service Commission.

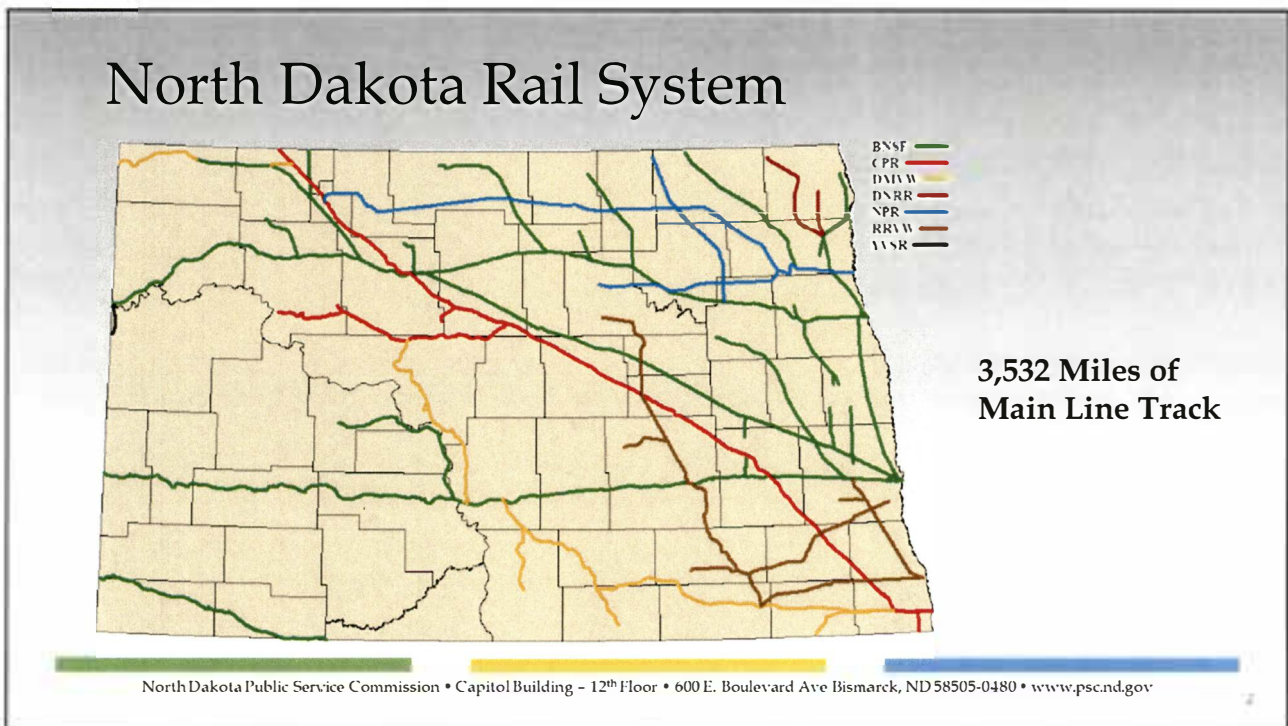
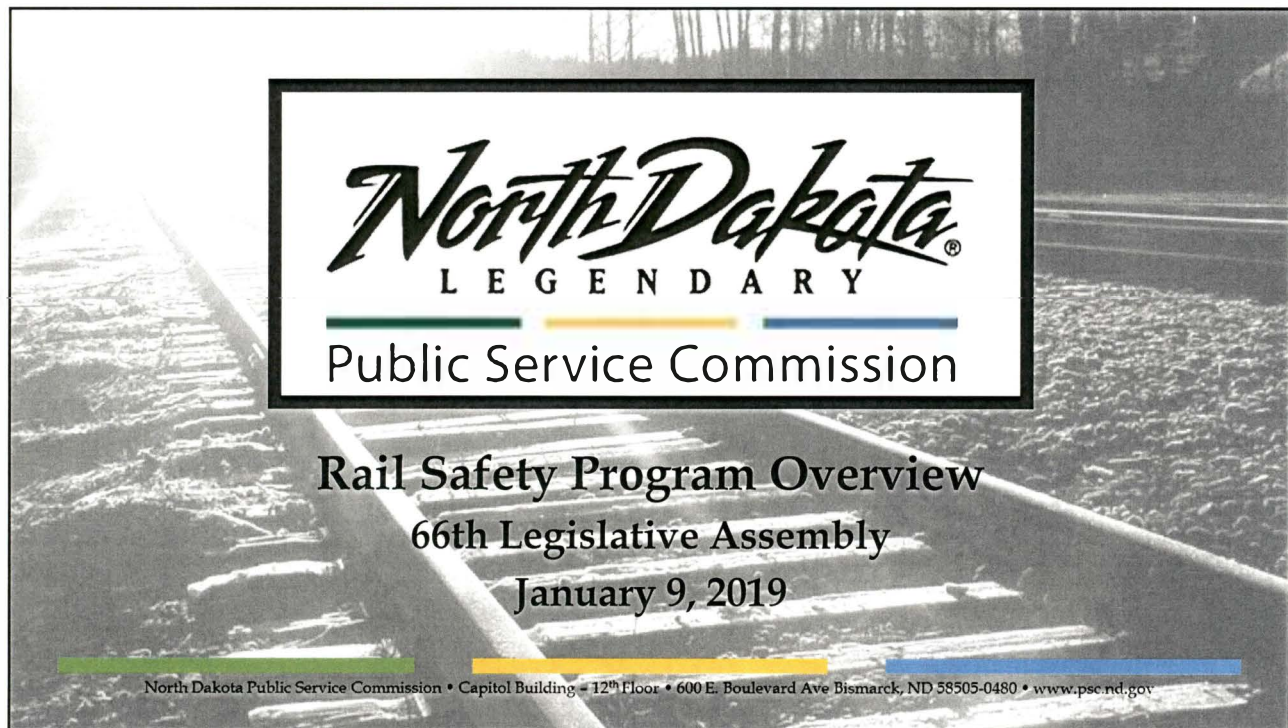
Attachment 1 – Department Overview

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The track inspector has conducted 470 inspections, noting 2,917 defects, and has issued 29 violations with civil penalties. The mechanical inspector has conducted 429 inspections, noting 3,440 defects, and has issued 63 violations with civil penalties.

A more comprehensive summary of the rail program's accomplishments since its inception is available upon request.

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Communities Impacted by Railroads

289 communities intersect or in close proximity to railroad

Absaraka, Adams, Alsen, **Amenia**, Ambrose, **Aneta**, Anamoose, Ardoch, **Argusville**, Arvilla, **Ayr**, Balfour, Baldwin, Barney, **Barton**, Beach, Belfield, **Benedict**, **Bergen**, Berlin, **Berthold**, Beulah, Bisbee, Bismarck, Blaisdell, Bordulac, Bottineau, Bowbells, Bowman, Braddock, Bremen, Buchanan, Bucyrus, Buffalo, Burlington, **Butte**, Buxton, Calvin, Cando, **Canton City**, **Carpio**, **Carrington**, Casselton, Cathay, Cavalier, Cayuga, **Chaffee**, **Churchs Ferry**, **Cleveland**, **Clifford**, Cogswell, **Coleharbor**, Colfax, Conway, **Coulee**, **Courtenay**, **Crary**, Crosby, Crystal, **Cuba**, **Cummings**, Dahlen, **Davenport**, Dawson, Des Lacs, Devils Lake, Dickinson, Donnybrook, Douglas, Drake, Drayton, Driscoll, Dwight, Doyon, Eckelson, Edgley, Edinburg, Egeland, **Eldridge**, **Elliot**, **Emerado**, **Emrick**, **Enderlin**, **Englevale**, **Epping**, **Erie**, **Fairdale**, **Fairmont**, **Fairview**, **Fargo**, **Fessenden**, **Fingal**, **Finley**, **Flaxton**, **Fordville**, Forest River, Forman, Fortuna, **Foxholm**, **Fredonia**, **Fryburg**, **Fullerton**, **Galesburg**, **Gardner**, **Garrison**, **Gascoyne**, **Gladstone**, **Glen Ullin**, **Glenfield**, Gilby, **Grace City**, **Grafton**, **Grand Forks**, **Grandin**, Grano, Granville, Gwinner, **Hamberg**, **Hankinson**, **Hannaford**, **Harmon**, **Harvey**, **Harwood**, **Hatton**, Havana, **Haynes**, **Hazen**, **Hebron**, **Hensler**, **Heimdal**, **Hettinger**, **Hillsboro**, Hoople, **Hope**, Horace, **Jamestown**, **Juanita**, **Judson**, **Karlsruhe**, Kelso, **Kenaston**, **Kenmare**, **Kensal**, **Kindred**, **Kintyre**, **Kief**, **Knox**, **Kramer**, **Kulm**, **Lakota**, **Lamoure**, Langdon, Lankin, **Lansford**, **Larimore**, **Larson**, **Leal**, **Leeds**, **Lehr**, **Lemmon**, **Leonard**, Lidgerwood, **Lignite**, Lisbon, Logan, Lucca, LuVerne, **Maddock**, **Makoti**, **Mandan**, **Manfred**, **Mantador**, **Manvel**, **Mapleton**, **Marmarth**, **Martin**, **Mavville**, **Max**, **Mckenzie**, **McLeod**, **McVile**, **Medina**, **Medora**, **Menoken**, **Michigan**, Milnor, Milton, Minto, **Minot**, **Moffit**, Mohall, Mooreton, Munich, Nash, **Napoleon**, **Nekoma**, **New Rockford**, **New Salem**, **New Town**, **Niagara**, **Niobe**, **Nolan**, **Noonan**, **Norma**, **Northgate**, **Northwood**, **Norwich**, **Oakes**, **Oberon**, **Oriska**, **Osnabrock**, **Palermo**, **Page**, **Park River**, **Parshall**, **Pekin**, **Perth**, **Petersburg**, **Pillsbury**, **Pingree**, Pisek, **Plaza**, **Portal**, **Portland**, Powers Lake, **Prosper**, **Ray**, **Reeder**, **Reile's Acres**, **Reynolds**, **Rhame**, **Richardton**, **Rogers**, **Rolla**, **Ross**, **Rugby**, **Russo**, Rutland, **Ryder**, **Sanborn**, **Sawyer**, **Scranton**, **Selz**, **Sentinel Butte**, **Sharon**, **Sheldon**, **Sheyenne**, **Simcoe**, **South Heart**, **Spiritwood**, **Springbrook**, **Stanley**, **Stanton**, **Steele**, **Sterling**, **Stirum**, **Surrey**, **Sutton**, **Tappen**, **Taylor**, **Thompson**, **Tioga**, **Tolna**, **Tolley**, **Tower City**, **Towner**, **Trenton**, **Underwood**, **Valley City**, **Velva**, **Verona**, **Voltaire**, **Walcott**, **Wallhalla**, **Washburn**, **Wellsburg**, **West Fargo**, **Whapeton**, **Wheatland**, **White Earth**, **Williston**, **Willow City**, **Wilton**, **Wimbledon**, **Windsor**, **Wishek**, **Wyndmere**, **York**

Bolded Cities - Communities where PSC has conducted inspections

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Program Background

- The North Dakota Public Service Commission (PSC) is prioritizing its rail safety efforts through track and mechanical inspections to prevent train derailments and improve overall community safety by keeping trains on the track.
- The 2015 Legislative Assembly approved funding for a state-run rail safety pilot program to supplement federal oversight of rail safety.
- The program focuses on track and mechanical disciplines which contribute to the largest number and most severe accidents in North Dakota.
- The state inspectors are hired by and entirely accountable to the PSC. They are trained and certified by the Federal Railroad Administration (FRA) and work in partnership with the federal inspectors.
- State inspectors inspect to federal safety standards and have the same enforcement authority and tools as federal inspectors.
- The Rail Safety Program is funded not with general funds, but with an existing diesel fuel tax the railroads pay, a portion of which is dedicated for railroad safety improvements.

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Need for Program

- **Not Enough Federal Inspectors:**

- FRA has five inspectors spread across six different disciplines. These inspectors simultaneously cover North Dakota and South Dakota, with the exception of the track inspectors, who also cover Montana.
- FRA is resource constrained and estimates that it is only able to inspect about 0.2 percent of railroad operations annually.
- 32 states participate in the State Rail Safety Participation Program employing over 180 inspectors. Federally-certified state inspectors constitute 30 percent of the FRA's total inspection force.

- **Costly Accidents:**

- From 2010 to 2014, North Dakota had the fifth largest number of main line accidents in the nation and led the nation in the cost of damages per train accident.

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Program Results

- **Costly Accidents:**

- Since 2015:
 - Main line accidents in North Dakota have declined 68 percent
 - Accidents greater than \$100,000 have declined 72 percent

- **Track inspector:**

- 456 inspection days/9,754 Units Inspected
- 2,953 Defects Identified
- 29 Violations Issued

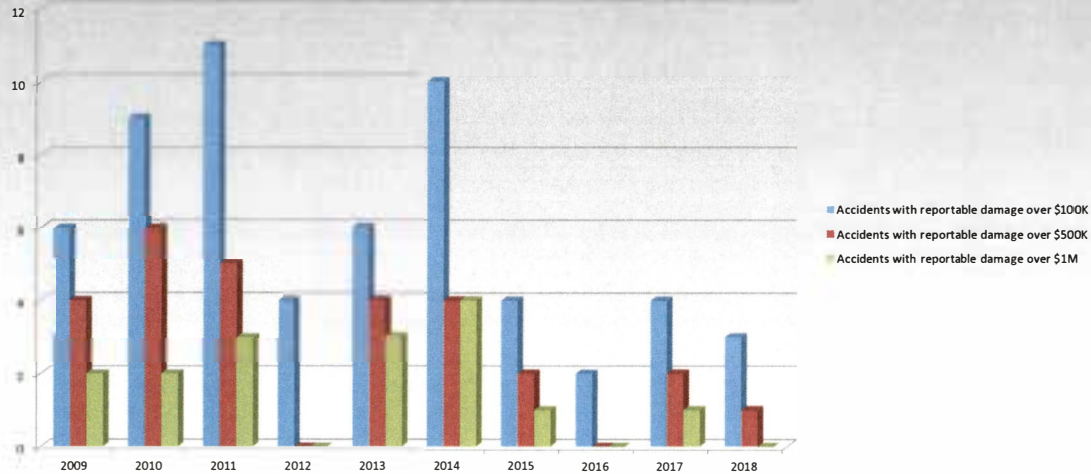
- **Mechanical Inspector:**

- 429 Inspection Days/92,926 Units Inspected
- 3,541 Defects Identified
- 63 Violations Issued

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Accidents in North Dakota by Cost



Information current as of October 31, 2018. Data for November/December 2018 not yet available.

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North Dakota Mainline Accidents by Cause

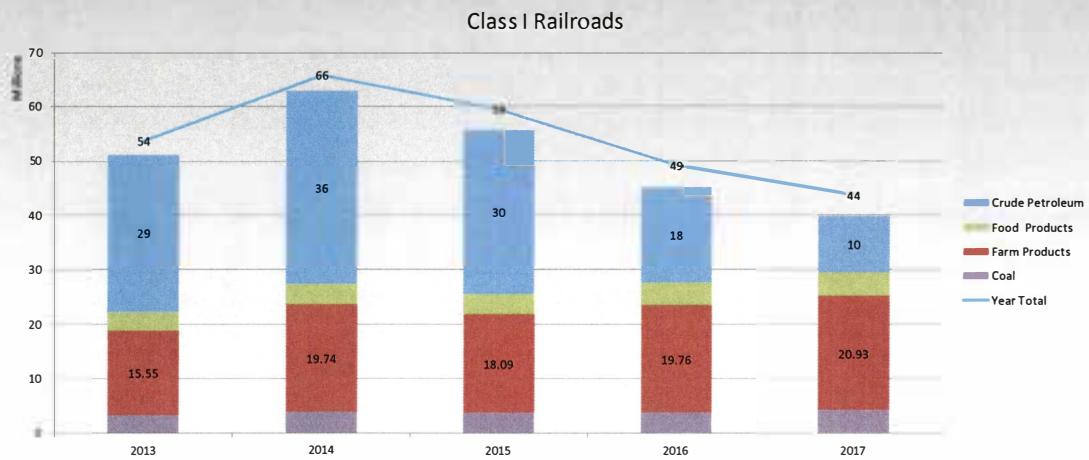


<https://safetydata.fra.dot.gov/OfficeofSafety/publicsite/Query/TenYearAccidentIncidentOverview.aspx>

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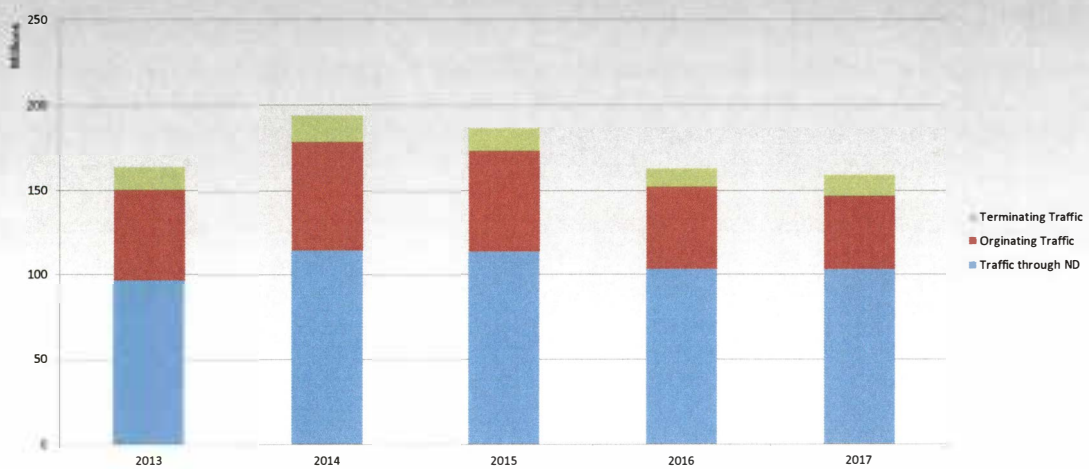
Rail Traffic Originated in ND by Ton



Information current as of December 31, 2017. Data for 2018 not yet available.

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ND Total Rail Traffic Volumes in Tons



Information current as of December 31, 2017. Data for 2018 not yet available.

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Top Track Defects and Violations

Category	Description	Defects	Violations
Continuous Welded Rail	Continuous welded rail is track joined together by welding sections together rather than being bolted together using joint bars.	171	4
Rail Joints	Rail joints are the places where two sections of track are joined together using bolts and the appropriate joint bars.	729	6
Turnouts and Crossings	Turnouts are the portion of a switch that connects to another track and crossings refers to roadway grade crossings.	1143	0
Switches	Track switches are equipment that enables trains to transfer from one track to another.	154	1
Ballast	Ballast is the rock that securely holds rail ties in place and supports the massive amount of weight transferred from passing trains.	112	3

Information current as of December 31, 2018

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Top Mechanical Defects and Violations

Category	Description	Defects	Violations
Railroad Freight Car Standards	This section includes the mechanical components of a freight car (wheels, axles, suspension, etc.). These defects typically cause the largest severity and frequency of mechanically related derailments.	911	28
Reflectorization of Rail Freight Rolling Stock	Reflectorization of rail cars increases visibility and reduces highway-rail grade crossing accidents, deaths, injuries, and property damage.	113	0
Railroad Locomotive Safety Standards	Minimum Federal safety standards for all locomotives except those propelled by steam power.	43	0
Railroad Safety Appliance Standards	This section includes handbrakes, handholds, ladders, sill steps and platforms. These defects typical lead to personnel safety hazards/injuries.	1,698	30
Brake System Standards	This section includes brake test requirements, brake system effectiveness, head end and end of train devices.	730	5

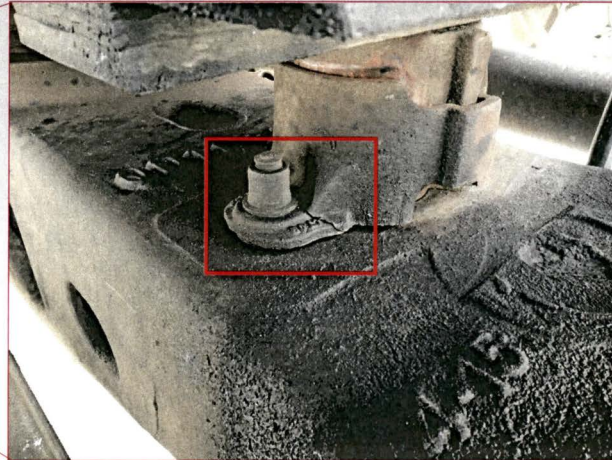
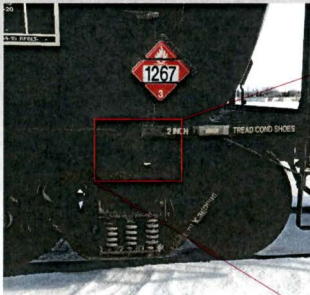
Information current as of December 31, 2018

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Major Mechanical Violation: Broken Side Bearings

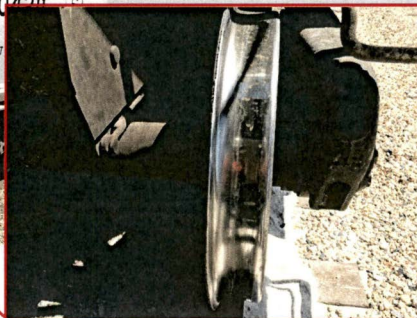


- In 2017, our inspector found 11 broken side bearings on a loaded, previously inspected, ready to ship crude oil train.
- The side bearing prevent a car from leaning to far on curves or uneven track to avoid tipping.

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Major Mechanical Violation: Thin Flange



Defective Wheel Flange - Thin



Good Wheel Flange

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Major Mechanical Violation: Shelled Wheels



Defective Wheel Tread - Shelled



Good Wheel Tread

Information is current as of Dec 31, 2018

Other Safety Outreach and Education

- Worked the FRA to heighten national visibility of broken side bearings on crude oil trains. This was driven by the inspections conducted by the PSC's inspector.
- Worked with railroad mechanical department to ensure all mechanical inspections of crude oil trains were being conducted at the correct locations and proper intervals.
- Clear blocked crossing on multiple occasions by working with railroads, local government and citizens.
- Served as liaison to railroad for land owners acquiring new or repairing existing livestock fences along railroad right-of-way.
- Presented at schools and expos on the importance of safety near trains and railroad tracks.
- Provided track inspection report to help local investors determine the merits of replacing the burned rail bridge that threatened line abandonment in Northeast North Dakota.

March 7, 2019

SB2008

Attachment B

Public Service Commission - Budget No. 408
Senate Bill No. 2008
Base Level Funding Changes

	Executive Budget Recommendation				Senate Version				Senate Changes to Executive Budget Increase (Decrease) - Executive Budget			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2019-21 Biennium Base Level	45.00	\$6,630,762	\$11,985,016	\$18,615,778	45.00	\$6,630,762	\$11,985,016	\$18,615,778	0.00	\$0	\$0	\$0
2019-21 Ongoing Funding Changes												
Base payroll changes		\$121,765	(\$130,222)	(\$8,457)				\$0		(\$121,765)	\$130,222	\$8,457
Salary increase		255,235	169,186	424,421		\$169,759	\$118,779	288,538		(85,476)	(50,407)	(135,883)
Health insurance increase		98,067	64,436	162,503		116,992	74,879	191,871		18,925	10,443	29,368
Retirement contribution increase		32,292	21,492	53,784				0		(32,292)	(21,492)	(53,784)
Adds natural gas pipeline inspector		165,301	165,303	330,604				0		(165,301)	(165,303)	(330,604)
Removes 1 FTE grain warehouse inspector	(1.00)	(133,259)		(133,259)				0	1.00	133,259		133,259
Underfunds salaries and wages		(291,674)		(291,674)				0		291,674		291,674
Adds 1 FTE grain warehouse inspector and funding for existing inspector				0	1.00	294,281		294,281	1.00	294,281		294,281
Adds funding for an accounting budget specialist				0		170,493		170,493		170,493		170,493
Adjusts operating expenses		(143,653)	13,000	(130,653)				0		143,653	(13,000)	130,653
Reduces funding for rail rate complaint case			(109,046)	(109,046)				0			109,046	109,046
Adds funding for capital assets				0		15,000		15,000		15,000		15,000
Total ongoing funding changes	(1.00)	\$104,074	\$194,149	\$298,223	1.00	\$766,525	\$193,658	\$960,183	2.00	\$662,451	(\$491)	\$661,960
One-time funding items												
Adds specialized legal services - federal funds			\$336,000	\$336,000			\$336,000	\$336,000			\$0	\$0
Total one-time funding changes	0.00	\$0	\$336,000	\$336,000	0.00	\$0	\$336,000	\$336,000	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	(1.00)	\$104,074	\$530,149	\$634,223	1.00	\$766,525	\$529,658	\$1,296,183	2.00	\$662,451	(\$491)	\$661,960
2019-21 Total Funding	44.00	\$6,734,836	\$12,515,165	\$19,250,001	46.00	\$7,397,287	\$12,514,674	\$19,911,961	2.00	\$662,451	(\$491)	\$661,960

Other Sections for Public Service Commission - Budget No. 408

	Executive Budget Recommendation	Senate Version
Beginning farmer revolving loan fund	Section 3 would authorize a \$790,954 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.	Section 3 authorizes a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.
Salary of commissioners	Section 4 would provide the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$113,002, effective July 1, 2019, and to \$115,262, effective July 1, 2020, to reflect the 4 percent and 2 percent recommended salary increase.	Section 4 provides the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$114,154, effective July 1, 2020, to reflect the 2 percent and 3 percent salary increase.
Railroad safety pilot program	Section 5 would amend North Dakota Century Code Section 57-43.2-19 to continue to deposit \$285,000 per year from special fuels taxes into the rail safety fund through June 30, 2021.	Section 5 amends Section 57-43.2-19 to continue the deposit of special fuels taxes into the rail safety fund and changes the amount from \$285,000 per year to \$294,655 per year.

March 22, 2019

SB2008

Attaches JA

Public Service Commission - Budget No. 408
Senate Bill No. 2008
Base Level Funding Changes

	Executive Budget Recommendation				Senate Version				Senate Changes to Executive Budget Increase (Decrease) - Executive Budget			
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2019-21 Ongoing Funding Changes												
Base payroll changes		\$121,765	(\$130,222)	(\$8,457)				\$0		(\$121,765)	\$130,222	\$8,457
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Underfunds salaries and wages		(291,674)		(291,674)				0		291,674		291,674
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Total one-time funding changes	0.00	\$0	\$336,000	\$336,000	0.00	\$0	\$336,000	\$336,000	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	(1.00)	\$104,074	\$530,149	\$634,223	1.00	\$766,525	\$529,658	\$1,296,183	2.00	\$662,451	(\$491)	\$661,960
2019-21 Total Funding	44.00	\$6,734,836	\$12,515,165	\$19,250,001	46.00	\$7,397,287	\$12,514,674	\$19,911,961	2.00	\$662,451	(\$491)	\$661,960

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NDPSC Rail Safety Program and Federal Railroad Administration Coordination

Communication

The PSC and FRA enjoy a good working relationship between inspectors from both agencies, and successfully communicate on a regular basis.

FRA shares information with PSC inspectors that is necessary to effectively perform their duties by including them in regional and discipline-specific email groups, discipline conference calls, and regional discipline workshops. PSC inspectors freely share information with their FRA discipline specialist to keep them informed of any issues in the state that they should be aware of.

FRA requests PSC assistance with focused inspections or special projects by contacting the PSC inspector directly or by contacting the State Manager. The PSC requests FRA assistance for similar activities by contacting the FRA Liaison Officer or Specialist.

Coordination of Inspections

It is important for FRA and the PSC to coordinate inspections as much as possible to ensure adequate inspection coverage and prevent duplication. This coordination is especially important for certain disciplines that inspect fixed structures and prefer a railroad representative to be present.

PSC and FRA inspectors from the same discipline coordinate their inspection schedules on a monthly basis in order to avoid unnecessary overlap.

The PSC and FRA notify each other of planned focused inspections or audits within the state and encourage inter-agency participation.

March 22, 2019

SB2008

att B

Track Inspector

Week	FRA Track Insp # 1	FRA Track Insp # 2	FRA Track Insp # 3	PSC Track Insp.
3-Dec	Mandan/Steel Gang Track Crew	Vacant	Vacant	Portal East End/Carrington Subdivision West End
10-Dec	Annual Leave	Vacant	Vacant	Hillsboro Subdivision Inspections
17-Dec	Office	Vacant	Vacant	Dickinson Sub/Newtown Sub
24-Dec	Office	Vacant	Vacant	Holiday/Annual Leave
31-Dec	Records Inspection/Office	Vacant	Vacant	Bereavement Leave
7-Jan	Office	Vacant	Vacant	Roadway Worker Protection Audits Zap Subdivision/DMVW
14-Jan	Office	Vacant	Vacant	Sidney/Glasgow Subdivision West End
21-Jan	Joint Inspection w/ State Inspector Roadway Worker Protection Audit Bismarck, Mandan Area/Records Insp	Vacant	Vacant	Joint Inspection w/ FRA Inspector Roadway Worker Protection Audit Bismarck, Mandan Area/Records Insp
28-Jan	Roadway Worker Protection Audits Bis., Man./Office	Vacant	Vacant	Records Insp/Violation/Admin
4-Feb	RWP Audits Bis., Man. /Office	Vacant	Vacant	Review of RR Inspection Records
11-Feb	Denver, CO & Geometry Car Inspection Program	Vacant	Vacant	Roadway Worker Protection Audits
18-Feb	Dickinson Subdivision	Vacant	Vacant	Admin/Violation Work
25-Feb	Carrington Subdivision West End	Vacant	Vacant	Carrington Subdivision East End/Elbow Lake Sub
4-Mar	Office	Vacant	Vacant	Glasgow Subdivision East End
11-Mar	Rail Safety Training	Vacant	Vacant	Rail Safety Training
18-Mar	KO Subdivision East End	Vacant	Vacant	Devils Lake Subdivision West End

*March 22, 2019**SB2008**att B***Mechanical Inspector**

Week	FRA Mechanical Insp.	PSC Mechanical Insp.
31-Dec	Bismarck/Mandan/Jamestown/Fargo Insp.	Office/Data Collection/Year End
7-Jan	Fargo/Mandan/DMVW/Max & Wilton	Records Insp/Violation/Admin/Wilton
14-Jan	Baldwin/Mandan/Andevor Refinery/Grand Forks	Gladstone/Parshall/Plaza/Max
21-Jan	Hensler/Jamestown/Napoleon	Fargo/Casselton/Hankinson
28-Jan	Sioux Falls, SD	Simco/Edgeley/Blocked Crossing Complaint
4-Feb	Office/Fargo	Dickinson/Regulation Review/Admin/Violation
11-Feb	Missoula, MT	Carrington/Washburn/Buelah/Max
18-Feb	New Town/Parshall/Drake/Minot	Tioga/Epping/Moffit/Admin
25-Feb	Holiday/Office	Violation Work/Eldridge/Drake
4-Mar	Pueblo, CO Training	Devils Lake/Admin/Tioga Follow-up
11-Mar	Andevor Refinery/Jamestown/Office	Cleveland/Mandan//Violation Work
18-Mar	Mechanical Safety Training	Mechanical Safety Training

April 5, 2019

SB2008

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Public Service Commission - Budget No. 408
Senate Bill No. 2008
Base Level Funding Changes

	Senate Version				House Version				House Changes to Senate Version Increase (Decrease) - Senate Version			
	FTE Position	General Fund	Other Funds	Total	FTE Position	General Fund	Other Funds	Total	FTE Positions	General Fund	Other Funds	Total
2019-21 Biennium Base Level	45.00	\$6,630,762	\$11,985,016	\$18,615,778	45.00	\$6,630,762	\$11,985,016	\$18,615,778	0.00	\$0	\$0	\$0
2019-21 Ongoing Funding Changes												
Base payroll changes				\$0				\$0				\$0
Salary increase		\$169,759	\$118,779	288,538		170,406	112,581	282,987		647	(6,198)	(5,551)
Health insurance increase		116,992	74,879	191,871		116,992	74,879	191,871				0
Retirement contribution increase				0				0				0
Adds natural gas pipeline inspector				0				0				0
Removes 1 FTE grain warehouse inspector				0				0				0
Underfunds salaries and wages				0				0				0
Adds 1 FTE grain warehouse inspector and funding for existing inspector	1.00	294,281		294,281	1.00	294,281		294,281				0
Adds funding for an accounting budget specialist		170,493		170,493		170,493		170,493				0
Adjusts operating expenses				0				0				0
Reduces funding for rail rate complaint case				0				0				0
Adds funding for capital assets		15,000		15,000		15,000		15,000				0
Total ongoing funding changes	1.00	\$766,525	\$193,658	\$960,183	1.00	\$767,172	\$187,460	\$954,632	0.00	\$647	(\$6,198)	(\$5,551)
One-time funding items												
Adds specialized legal services - federal funds			\$336,000	\$336,000			\$336,000	\$336,000				\$0
Total one-time funding changes	0.00	\$0	\$336,000	\$336,000	0.00	\$0	\$336,000	\$336,000	0.00	\$0	\$0	\$0
Total Changes to Base Level Funding	1.00	\$766,525	\$529,658	\$1,296,183	1.00	\$767,172	\$523,460	\$1,290,632	0.00	\$647	(\$6,198)	(\$5,551)
2019-21 Total Funding	46.00	\$7,397,287	\$12,514,674	\$19,911,961	46.00	\$7,397,934	\$12,508,476	\$19,906,410	0.00	\$647	(\$6,198)	(\$5,551)

Other Sections for Public Service Commission - Budget No. 408

	Senate Version	House Version
Beginning farmer revolving loan fund	Section 3 authorizes a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.	Section 3 authorizes a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.
Salary of commissioners	Section 4 provides the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$114,154, effective July 1, 2020, to reflect the 2 percent and 3 percent salary increase.	Section 4 provides the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$113,600, effective July 1, 2020, to reflect the 2 percent and 2 percent salary increase.
Railroad safety pilot program	Section 5 amends Section 57-43.2-19 to continue the deposit of special fuels taxes into the rail safety fund and changes the amount from \$285,000 per year to \$294,655 per year.	Section 5 amends Section 57-43.2-19 to continue the deposit of special fuels taxes into the rail safety fund and changes the amount from \$285,000 per year to \$294,509 per year.

April 8, 2019

SB2008

att A

19.0221.02001
Title.

Prepared by the Legislative Council staff for
the House Appropriations - Government
Operations Division Committee
April 5, 2019

Fiscal No. 1

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 1, remove lines 15 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$9,197,284	\$132,783	\$9,330,067
Operating expenses	1,829,826	(71,000)	1,758,826
Capital assets	10,000	15,000	25,000
Grants	20,000	0	20,000
Abandoned mined lands contractual	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	564,668	24,350	589,018
Specialized legal services	94,000	336,000	430,000
Total all funds	\$18,615,778	\$437,133	\$19,052,911
Less estimated income	11,985,016	523,460	12,508,476
Total general fund	\$6,630,762	(\$86,327)	\$6,544,435
Full-time equivalent positions	45.00	(2.00)	43.00"

Page 2, line 29, replace "fourteen" with "thirteen"

Page 2, line 30, remove "one" and overstrike "hundred"

Page 2, line 30, replace "fifty-four" with "six hundred"

Page 3, line 5, remove the overstrike over "~~(Effective July 1, 2015,~~"

Page 3, line 6, remove the overstrike over "~~through June 30,~~"

Page 3, line 6, after "~~2019~~)" insert "2021)"

Page 3, line 10, replace "six hundred fifty-five" with "five hundred nine"

Page 3, line 14, remove the overstrike over "~~Transfer, deposit, and distribution of funds.~~
~~(Effective after June 30,~~"

Page 3, line 14, after "~~2019~~)" insert "2021)"

Page 3, line 14, remove the overstrike over "~~All taxes,~~"

Page 3, remove the overstrike over lines 15 through 17

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - House Action

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$9,197,284	\$10,063,825	(\$733,758)	\$9,330,067
Operating expenses	1,829,826	1,883,826	(125,000)	1,758,826
Capital assets	10,000	25,000		25,000
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	6,000,000	6,000,000		6,000,000

4-8-19

SB2008

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Rail rate complaint case	900,000	900,000		900,000
Railroad safety program	564,668	589,310	(292)	589,018
Specialized legal services	94,000	430,000		430,000
Total all funds	\$18,615,778	\$19,911,961	(\$859,050)	\$19,052,911
Less estimated income	11,985,016	12,514,674	(6,198)	12,508,476
General fund	\$6,630,762	\$7,397,287	(\$852,852)	\$6,544,435
FTE	45.00	46.00	(3.00)	43.00

Department 408 - Public Service Commission - Detail of House Changes

	Adjusts Funding for Salary Increases ¹	Transfers Grain Warehouse Inspection Program to the Agriculture Commissioner ²	Total House Changes
Salaries and wages	(\$5,259)	(\$728,499)	(\$733,758)
Operating expenses		(125,000)	(125,000)
Capital assets			
Grants			
Abandoned mined lands contractual			
Rail rate complaint case			
Railroad safety program	(292)		(292)
Specialized legal services			
Total all funds	(\$5,551)	(\$853,499)	(\$859,050)
Less estimated income	(6,198)	0	(6,198)
General fund	\$647	(\$853,499)	(\$852,852)
FTE	0.00	(3.00)	(3.00)

¹ Funding is adjusted to provide for employee salary increases of 2 percent on July 1, 2019, with a minimum monthly increase of \$120 and a maximum monthly increase of \$200, and an increase of 2.5 percent on July 1, 2020. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.

² Transfers the grain warehouse license and inspection program to the Agriculture Commissioner as follows:

	Salaries and Wages	Operating Expenses	Total General Fund
Removes 3 FTE grain warehouse inspectors	\$563,006	\$120,000	\$683,006
Removes funding for an accounting budget specialist	165,493	5,000	170,493
Total removed	\$728,499	\$125,000	\$853,499

This amendment also:

- Provides the statutory changes to increase the Public Service Commissioners' salaries. The Public Service Commissioners' annual salaries would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$113,600, effective July 1, 2020, to reflect the 2 percent and 2.5 percent salary increases. The Senate proposed salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.
- Amends Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to provide for the allocation to the rail safety fund to continue until June 30, 2021 and to increase the allocation amount from \$285,000 per year to \$294,509 per year. The Senate removed the expiration date and provided an increase to \$294,655 per year.

April 9, 2019

SB2008

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19.0221.02003
Title.

Fiscal No. 3

Prepared by the Legislative Council staff for
the House Appropriations - Government
Operations Division Committee
April 8, 2019

PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

Page 1, line 2, after the semicolon insert "to create and enact a new section to chapter 49-22 and a new section to chapter 49-22.1, relating to consideration of information or documents from the game and fish department;"

Page 1, line 4, after the first semicolon insert "to provide for a study;"

Page 1, line 4, replace "a report" with "reports"

Page 1, remove lines 15 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$9,197,284	\$132,783	\$9,330,067
Operating expenses	1,829,826	(71,000)	1,758,826
Capital assets	10,000	15,000	25,000
Grants	20,000	0	20,000
Abandoned mined lands contractual	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	564,668	24,350	589,018
Specialized legal services	<u>94,000</u>	<u>336,000</u>	<u>430,000</u>
Total all funds	\$18,615,778	\$437,133	\$19,052,911
Less estimated income	<u>11,985,016</u>	<u>523,460</u>	<u>12,508,476</u>
Total general fund	\$6,630,762	(\$86,327)	\$6,544,435
Full-time equivalent positions	45.00	(2.00)	43.00"

Page 2, line 29, replace "fourteen" with "thirteen"

Page 2, line 30, remove "one"

Page 2, line 30, overstrike "hundred"

Page 2, line 30, replace "fifty-four" with "six hundred"

Page 3, after line 2, insert:

"**SECTION 5.** A new section to chapter 49-22 of the North Dakota Century Code is created and enacted as follows:

Mitigating adverse environmental impacts.

The commission may not request, receive, or consider any information or documents from the game and fish department relating to any adverse direct or indirect environmental or wildlife impact of a proposed site, corridor, route, or facility for purposes of mitigation.

SECTION 6. A new section to chapter 49-22.1 of the North Dakota Century Code is created and enacted as follows:

April 9, 2019

SB 2008

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Mitigating adverse environmental impacts.

The commission may not request, receive, or consider any information or documents from the game and fish department relating to any adverse direct or indirect environmental or wildlife impact of a proposed site, corridor, route, or facility for purposes of mitigation."

Page 3, line 5, remove the overstrike over "~~(Effective July 1, 2015,~~"

Page 3, line 6, remove the overstrike over "~~through June 30,~~"

Page 3, line 6, after "~~2019)~~" insert "2021)"

Page 3, line 10, replace "six hundred fifty-five" with "five hundred nine"

Page 3, line 14, remove the overstrike over "~~Transfer, deposit, and distribution of funds. (Effective after June 30,~~"

Page 3, line 14, after "~~2019)~~" insert "2021)"

Page 3, line 14, remove the overstrike over "~~All taxes,~~"

Page 3, remove the overstrike over lines 15 through 17

Page 3, after line 17, insert:

"SECTION 8. RAILROAD INSPECTION STUDY. During the 2019-20 interim, the public service commission shall study technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission shall report its findings and any related budget recommendations to the appropriations committees of the sixty-seventh legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:**Senate Bill No. 2008 - Public Service Commission - House Action**

	Base Budget	Senate Version	House Changes	House Version
Salaries and wages	\$9,197,284	\$10,063,825	(\$733,758)	\$9,330,067
Operating expenses	1,829,826	1,883,826	(125,000)	1,758,826
Capital assets	10,000	25,000		25,000
Grants	20,000	20,000		20,000
Abandoned mined lands contractual	6,000,000	6,000,000		6,000,000
Rail rate complaint case	900,000	900,000		900,000
Railroad safety program	564,668	589,310	(292)	589,018
Specialized legal services	94,000	430,000		430,000
Total all funds	\$18,615,778	\$19,911,961	(\$859,050)	\$19,052,911
Less estimated income	11,985,016	12,514,674	(6,198)	12,508,476
General fund	\$6,630,762	\$7,397,287	(\$852,852)	\$6,544,435
FTE	45.00	46.00	(3.00)	43.00

April 9, 2019

SB 2008

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Department 408 - Public Service Commission - Detail of House Changes

	Adjusts Funding for Salary Increases¹	Transfers Grain Warehouse Inspection Program to the Agriculture Commissioner²	Total House Changes
Salaries and wages	(\$5,259)	(\$728,499)	(\$733,758)
Operating expenses		(125,000)	(125,000)
Capital assets			
Grants			
Abandoned mined lands contractual			
Rail rate complaint case			
Railroad safety program	(292)		(292)
Specialized legal services			
Total all funds	(\$5,551)	(\$853,499)	(\$859,050)
Less estimated income	(6,198)	0	(6,198)
General fund	\$647	(\$853,499)	(\$852,852)
FTE	0.00	(3.00)	(3.00)

¹ Funding is adjusted to provide for employee salary increases of 2 percent on July 1, 2019, with a minimum monthly increase of \$120 and a maximum monthly increase of \$200, and an increase of 2.5 percent on July 1, 2020. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.

² Transfers the grain warehouse license and inspection program to the Agriculture Commissioner as follows:

	Salaries and Wages	Operating Expenses	Total General Fund
Removes 3 FTE grain warehouse inspectors	\$563,006	\$120,000	\$683,006
Removes funding for an accounting budget specialist	165,493	5,000	170,493
Total removed	\$728,499	\$125,000	\$853,499

This amendment also:

- Provides the statutory changes to increase the Public Service Commissioners' salaries. The Public Service Commissioners' annual salaries would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$113,600, effective July 1, 2020, to reflect the 2 percent and 2.5 percent salary increases. The Senate proposed salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.
- Creates new sections to North Dakota Century Code Chapters 49-22 and 49-22.1 to preclude the Public Service Commission from requesting, receiving, or considering any information or documents from the Game and Fish Department relating to any adverse direct or indirect environmental or wildlife impact of a proposed site, corridor, route, or facility for purposes of mitigation.
- Amends Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to provide for the allocation to the rail safety fund to continue until June 30, 2021, and to increase the allocation amount from \$285,000 per year to \$294,509 per year. The Senate removed the expiration date and provided an increase to \$294,655 per year.
- Requires the Public Service Commission to study, during the 2019-20 interim, technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission shall report its findings and related budget recommendations to the 67th Legislative Assembly.

Public Service Commission - Budget No. 408
Senate Bill No. 2008
Base Level Funding Changes

4-23-19 SB 2008
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2019-21 Biennium Base Level

2019-21 Ongoing Funding Changes

	Senate Version		
	FTE Position	General Fund	Other Funds Total
2019-21 Biennium Base Level	45.00	\$6,630,762	\$11,985,016 \$18,615,778
2019-21 Ongoing Funding Changes			
Base payroll changes			\$0
Salary increase		\$169,759	\$118,779 288,538
Health insurance increase		116,992	74,879 191,871
Retirement contribution increase			0
Adds natural gas pipeline inspector			0
Removes 1 FTE grain warehouse inspector			0
Underfunds salaries and wages			0
Removes 2 FTE grain warehouse inspectors			0
Adds 1 FTE grain warehouse inspector and funding for existing inspector	1.00	294,281	294,281
Adds funding for an accounting budget specialist		170,493	170,493
Adjusts operating expenses			0
Reduces funding for rail rate complaint case			0
Adds funding for capital assets		15 000	15 000
Total ongoing funding changes	1.00	\$766,525	\$193,658 \$960,183
One-time funding items			
Adds specialized legal services - federal funds			\$336,000 \$336,000
Total one-time funding changes	0.00	\$0	\$336,000
Total Changes to Base Level Funding	1.00	\$766,525	\$529,658 \$1,296,183
2019-21 Total Funding	46.00	\$7,397,287	\$12,514,674 \$19,911,961

House Version			
	FTE Position	General Fund	Other Funds Total
2019-21 Biennium Base Level	45.00	\$6,630,762	\$11,985,016 \$18,615,778
2019-21 Ongoing Funding Changes			
Base payroll changes			\$0
Salary increase		170,406	112,581 282,987
Health insurance increase		116,992	74,879 191,871
Retirement contribution increase			0
Adds natural gas pipeline inspector			0
Removes 1 FTE grain warehouse inspector			0
Underfunds salaries and wages			0
Removes 2 FTE grain warehouse inspectors	(2.00)	(388,725)	(388,725)
Adds 1 FTE grain warehouse inspector and funding for existing inspector	0.00	0	0
Adds funding for an accounting budget specialist		0	0
Adjusts operating expenses			0
Reduces funding for rail rate complaint case			0
Adds funding for capital assets		15 000	15 000
Total ongoing funding changes	(2.00)	(\$86,327)	\$187,460 \$101,133
One-time funding items			
Adds specialized legal services - federal funds	0.00	\$0	\$336,000 \$336,000
Total one-time funding changes	0.00	\$0	\$336,000
Total Changes to Base Level Funding	(2.00)	(\$86,327)	\$523,460 \$437,133
2019-21 Total Funding	43.00	\$6,544,435	\$12,508,476 \$19,052,911

House Changes to Senate Version Increase (Decrease) - Senate Version			
FTE Positions	General Fund	Other Funds	Total
0.00	\$0	\$0	\$0
	647	(6,198)	(5,551)
			0
			0
			0
			0
(2.00)	(388,725)		(388,725)
(1.00)	(294,281)		(294,281)
	(170,493)		(170,493)
			0
			0
			0
(3.00)	(\$852,852)	(\$6,198)	(\$859,050)
0.00	\$0	\$0	\$0
(3 00)	(\$852,852)	(\$6,198)	(\$859,050)
(3 00)	(\$852,852)	(\$6,198)	(\$859,050)

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Other Sections for Public Service Commission - Budget No. 408

	Senate Version
Beginning farmer revolving loan fund	Section 3 authorizes a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.
Salary of commissioners	Section 4 provides the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$114,154, effective July 1, 2020, to reflect the 2 percent and 3 percent salary increase.
Railroad safety pilot program	Section 5 amends Section 57-43.2-19 to continue the deposit of special fuels taxes into the rail safety fund and changes the amount from \$285,000 per year to \$294,655 per year.

House Version
Section 3 authorizes a \$900,000 transfer from the beginning farmer revolving loan fund to the Public Service Commission to pay for costs associated with a rail rate complaint case. The Public Service Commission would reimburse the beginning farmer revolving loan fund using amounts available from damages or proceeds, net of legal fees.
Section 4 provides the statutory changes increasing the Public Service Commissioners' salary. The Public Service Commissioners' annual salary would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$113,600, effective July 1, 2020, to reflect the 2 percent and 2.5 percent salary increase.
Section 5 amends Section 57-43.2-19 to provide for a sunset of the deposit of special fuels taxes into the rail safety fund untning June 30, 2021 and changes the amount from \$285,000 per year to \$294,509 per year.

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PROPOSED AMENDMENTS TO ENGROSSED SENATE BILL NO. 2008

That the House recede from its amendments as printed on pages 1627-1629 of the Senate Journal and pages 1836-1838 of the House Journal and that Engrossed Senate Bill No. 2008 be amended as follows:

Page 1, line 4, after the first semicolon insert "to provide for a study;"

Page 1, line 4, replace "a report" with "reports"

Page 1, remove lines 15 through 24

Page 2, replace lines 1 and 2 with:

"Salaries and wages	\$9,197,284	\$298,276	\$9,495,560
Operating expenses	1,829,826	(66,000)	1,763,826
Capital assets	10,000	15,000	25,000
Grants	20,000	0	20,000
Abandoned mined lands contractual	6,000,000	0	6,000,000
Rail rate complaint case	900,000	0	900,000
Railroad safety program	564,668	24,350	589,018
Specialized legal services	<u>94,000</u>	<u>336,000</u>	<u>430,000</u>
Total all funds	\$18,615,778	\$607,626	\$19,223,404
Less estimated income	<u>11,985,016</u>	<u>523,460</u>	<u>12,508,476</u>
Total general fund	\$6,630,762	\$84,166	\$6,714,928
Full-time equivalent positions	45.00	(2.00)	43.00"

Page 2, after line 24, insert :

"SECTION 4. APPROPRIATION - GRAIN INSOLVENCY LITIGATION. There is appropriated from special funds derived from other income to be received from the agriculture commissioner, the sum of \$100,000, or so much of the sum as may be necessary, to the public service commission, for the purpose of continuing to provide, in consultation with the agriculture commissioner, services related to grain insolvency litigation initiated prior to July 1, 2019. The funding provided in this section is considered a one-time funding item."

Page 2, line 29, replace "fourteen" with "thirteen"

Page 2, line 30, remove the overstrike over "~~six~~"

Page 2, line 30, remove "one"

Page 2, line 30, remove "fifty-four"

Page 3, line 5, remove the overstrike over "~~(Effective July 1, 2015,~~"

Page 3, line 6, remove the overstrike over "~~through June 30,~~"

Page 3, line 6, after "~~2019~~" insert "2021)"

Page 3, line 10, replace "six hundred fifty-five" with "five hundred nine"

Page 3, line 14, remove the overstrike over "~~Transfer, deposit, and distribution of funds.~~ *4-25-19*
(Effective after June 30,"

Page 3, line 14, after "~~2019~~" insert "2021"

Page 3, line 14, remove the overstrike over "~~All taxes,~~"

Page 3, remove the overstrike over lines 15 through 17

Page 3, after line 17, insert:

"SECTION 7. RAILROAD INSPECTION STUDY. During the 2019-20 interim, the public service commission shall study technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission shall report its findings and any related budget recommendations to the appropriations committees of the sixty-seventh legislative assembly."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

Senate Bill No. 2008 - Public Service Commission - Conference Committee Action

	Base Budget	Senate Version	Conference Committee Changes	Conference Committee Version	House Version	Comparison to House
Salaries and wages	\$9,197,284	\$10,063,825	(\$568,265)	\$9,495,560	\$9,330,067	\$165,493
Operating expenses	1,829,826	1,883,826	(120,000)	1,763,826	1,758,826	5,000
Capital assets	10,000	25,000		25,000	25,000	
Grants	20,000	20,000		20,000	20,000	
Abandoned mined lands contractual	6,000,000	6,000,000		6,000,000	6,000,000	
Rail rate complaint case	900,000	900,000		900,000	900,000	
Railroad safety program	564,668	589,310	(292)	589,018	589,018	
Specialized legal services	94,000	430,000		430,000	430,000	
Grain licensing			100,000	100,000		100,000
Total all funds	\$18,615,778	\$19,911,961	(\$588,557)	\$19,323,404	\$19,052,911	\$270,493
Less estimated income	11,985,016	12,514,674	93,802	12,608,476	12,508,476	100,000
General fund	\$6,630,762	\$7,397,287	(\$682,359)	\$6,714,928	\$6,544,435	\$170,493
FTE	45.00	46.00	(3.00)	43.00	43.00	0.00

Department 408 - Public Service Commission - Detail of Conference Committee Changes

	Adjusts Funding for Salary Increases ¹	Transfers Grain Warehouse Inspection Program to the Agriculture Commissioner ²	Adds Funding for an Accounting Budget Specialist Position ³	Adds Funding for Grain Licensing Services ⁴	Total Conference Committee Changes
Salaries and wages	(\$5,259)	(\$728,499)	\$165,493		(\$568,265)
Operating expenses		(125,000)	5,000		(120,000)
Capital assets					
Grants					
Abandoned mined lands contractual					
Rail rate complaint case					
Railroad safety program	(292)				(292)
Specialized legal services					
Grain licensing legal services				\$100,000	100,000
Total all funds	(\$5,551)	(\$853,499)	\$170,493	\$100,000	(\$588,557)
Less estimated income	(6,198)	0	0	100,000	93,802
General fund	\$647	(\$853,499)	\$170,493	\$0	(\$682,359)
FTE	0.00	(3.00)	0.00	0.00	(3.00)

¹ Funding is adjusted to provide for employee salary increases of 2 percent on July 1, 2019, with a minimum monthly increase of \$120 and a maximum monthly increase of \$200, and an increase of 2.5 percent on July 1, 2020, the same as the House version. The Senate provided funding for salary increases of 2 percent on July 1, 2019, and 3 percent on July 1, 2020.

² Transfers the grain warehouse license and inspection program to the Agriculture Commissioner, the same as the House version, as follows:

	<u>Salaries and Wages</u>	<u>Operating Expenses</u>	<u>Total General Fund</u>
Removes 3 FTE grain warehouse inspectors	\$563,006	\$120,000	\$683,006
Removes funding for an accounting budget specialist	<u>165,493</u>	<u>5,000</u>	<u>170,493</u>
Total removed	\$728,499	\$125,000	\$853,499

³ Adds funding for the repurposing of an existing unfunded FTE position to an accounting budget specialist position (\$165,493) and related operating expenses (\$5,000), to assist with accounting duties of the agency.

⁴ Adds a section to provide one-time funding from special funds to continue providing services related to grain insolvency litigation initiated prior to July 1, 2019. The funding will be provided by the Agriculture Commissioner. Neither the House nor the Senate version included this section.

This amendment also:

- Provides the statutory changes to increase the Public Service Commissioners' salaries. The Public Service Commissioners' annual salaries would increase from the current level of \$108,656 to \$110,829, effective July 1, 2019, and to \$113,600, effective July 1, 2020, to reflect the 2 percent and 2.5 percent salary increases, the same as the House version. The Senate adjusted salaries by 2 percent on July 1, 2019, and 3 percent on July 1, 2020.
- Amends North Dakota Century Code Section 57-43.2-19 relating to the distribution of funds in the highway tax distribution fund to provide for the allocation to the rail safety fund to continue until June 30, 2021, and to increase the allocation amount from \$285,000 per year to \$294,509 per year, the same as the House version. The Senate removed the expiration date and provided an increase to \$294,655 per year.
- Requires the Public Service Commission to study, during the 2019-20 interim, technology available to create efficiencies to reduce costs for railroad equipment and track inspections. The commission is to report its findings and related budget recommendations to the 67th Legislative Assembly. The House also included this section.

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