

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2008**

Introduced by

Appropriations Committee

1 A BILL for an Act to provide an appropriation for defraying the expenses of the public service
2 commission; to amend and reenact section 49-01-05, subsection 4 of section 49-22-22, and
3 sections 49-22.1-21 and 57-43.2-19 of the North Dakota Century Code, relating to the salaries
4 of the public service commissioners, the transfer and distribution of funds in the highway tax
5 distribution fund, and siting process administrative fees; to provide a transfer; and to declare an
6 emergency.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1. APPROPRIATION.** The funds provided in this section, or so much of the funds
9 as may be necessary, are appropriated out of any moneys in the general fund in the state
10 treasury, not otherwise appropriated, and from special funds derived from federal funds and
11 other income, to the public service commission for the purpose of defraying the expenses of the
12 public service commission, for the biennium beginning July 1, 2023, and ending June 30, 2025,
13 as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
14			
15			
16	Salaries and wages	\$930,538	\$10,922,026
17	Operating expenses	403,917	2,205,487
18	Capital assets	100,000	125,000
19	Grants	0	20,000
20	Abandoned mined lands contractual	0	6,000,000
21	services		
22	Rail rate complaint case	0	900,000
23	Railroad safety program	54,594	669,318
24	Specialized legal services	<u>0</u>	<u>420,000</u>

Sixty-eighth
Legislative Assembly

1	Total all funds	\$19,772,782	\$1,489,049	\$21,261,831
2	Less estimated income	<u>13,347,095</u>	<u>377,026</u>	<u>13,724,121</u>
3	Total general fund	\$6,425,687	\$1,112,023	\$7,537,710
4	Full-time equivalent positions	43.00	2.00	45.00

5 **SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO THE**

6 **SIXTY-NINTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding
7 items approved by the sixty-seventh legislative assembly for the 2021-23 biennium and the
8 2023-25 one-time funding items included in the appropriation in section 1 of this Act:

9	<u>One-Time Funding Description</u>	<u>2021-23</u>	<u>2023-25</u>
10	Real-time kinematic equipment	\$120,000	\$0
11	Indirect cost recovery shortfall	0	101,700
12	Drone	0	20,000
13	Weights and measures equipment	0	70,000
14	Copier replacement	<u>0</u>	<u>10,000</u>
15	Total all funds	\$120,000	\$201,700
16	Total other funds	<u>114,600</u>	<u>18,200</u>
17	Total general fund	\$5,400	\$183,500

18 The 2023-25 biennium one-time funding amounts are not a part of the entity's base budget
19 for the 2025-27 biennium. The public service commission shall report to the appropriations
20 committees of the sixty-ninth legislative assembly on the use of this one-time funding for the
21 biennium beginning July 1, 2023, and ending June 30, 2025.

22 **SECTION 3. 2021-23 BIENNIUM APPROPRIATION - TRANSFER - PUBLIC SERVICE**

23 **COMMISSION PROGRAM FUND.** There is appropriated out of any moneys in the general fund
24 in the state treasury, not otherwise appropriated, the sum of \$60,000, which the office of
25 management and budget shall transfer to the public service commission program fund for the
26 purpose of establishing a balance in the public service commission program fund, during the
27 period beginning with the effective date of this Act, and ending June 30, 2023.

28 **SECTION 4. BANK OF NORTH DAKOTA - LINE OF CREDIT.** The Bank of North Dakota
29 shall extend a line of credit to the public service commission to provide funding to pay costs
30 associated with a rail rate complaint case. The line of credit may not exceed \$900,000, and the
31 interest rate associated with the line of credit must be the prevailing interest rate charged to

1 North Dakota governmental entities. The public service commission shall repay the line of credit
2 from amounts available from damages or proceeds received, net of legal fees, from a
3 successful outcome of a rail complaint case. If moneys available on June 30, 2025, are not
4 sufficient to repay the line of credit, the public service commission shall request from the
5 legislative assembly a deficiency appropriation to repay the line of credit.

6 **SECTION 5. AMENDMENT.** Section 49-01-05 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **49-01-05. Salary of commissioners.**

9 The annual salary of a commissioner is one hundred ~~fifteen~~thirty thousand ~~three hundred~~
10 ~~four~~ dollars through June 30, ~~2022~~2024, and one hundred ~~seventeen~~thirty-five thousand ~~six~~two
11 hundred ~~ten~~ dollars thereafter. All fees received or charged by any commissioner for any act or
12 service rendered in any official capacity must be accounted for and paid over by the
13 commissioner monthly to the state treasurer and must be credited to the general fund of the
14 state.

15 **SECTION 6. AMENDMENT.** Subsection 4 of section 49-22-22 of the North Dakota Century
16 Code is amended and reenacted as follows:

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

21 **SECTION 7. AMENDMENT.** Section 49-22.1-21 of the North Dakota Century Code is
22 amended and reenacted as follows:

23 **49-22.1-21. Siting process expense recovery - Deposit in special fund - Continuing**
24 **appropriation.**

25 1. Every applicant under this chapter shall pay to the commission an application fee:
26 a. An applicant for a certificate of site compatibility shall pay an amount equal to five
27 hundred dollars for each one million dollars of investment in the facility.
28 b. An applicant for a certificate of corridor compatibility shall pay an amount equal to
29 five thousand dollars for each one million dollars of investment in the facility.
30 c. An applicant for a waiver shall pay the amount that would be required for an
31 application for a certificate of site or corridor compatibility for the proposed facility.

- 1 If a waiver is not granted for a proposed facility, the application fee paid must be
2 allowed as a credit against fees payable under this section in connection with an
3 application under this chapter for a certificate or permit for the proposed facility.
- 4 d. An applicant for a transfer of a certificate or permit shall pay an amount to be
5 determined by the commission to cover anticipated expenses of processing the
6 application.
- 7 e. An applicant requesting an amendment to a certificate or permit, or certifying to
8 the commission under subsection 3 of section 49-22.1-01 or obtaining siting
9 authority under subdivision b of subsection 2 or subdivision c of subsection 4 of
10 section 49-22.1-15, shall pay an amount to be determined by the commission to
11 cover anticipated expenses of processing the application.
- 12 f. The application fee under subdivision a, b, or c may not be less than ten
13 thousand dollars nor more than one hundred thousand dollars.
- 14 g. ~~If an application fee is less than twenty-five thousand dollars, an~~An applicant may
15 agree to pay additional fees that are reasonably necessary for completion of the
16 site, corridor, or route evaluation and designation process.
- 17 2. ~~At~~If an applicant does not agree to pay additional fees reasonably necessary for
18 completion of the site, corridor, or route evaluation and designation process, at the
19 request of the commission and with the approval of the emergency commission, the
20 applicant shall pay any additional fees as are reasonably necessary for completion of
21 the gas or liquid energy conversion facility site, gas or liquid transmission facility
22 corridor, or gas or liquid transmission facility route evaluation and designation process
23 by the commission. The application fee under subsection 1 and any additional fees
24 required of the applicant under this subsection may not exceed an amount equal to
25 one thousand dollars for each one million dollars of investment in a proposed energy
26 conversion facility or ten thousand dollars for each one million dollars of investment in
27 a proposed gas or liquid transmission facility.
- 28 3. A siting process expense recovery fund is established in the state treasury. The
29 commission shall deposit payments received under subsections 1 and 2 in the siting
30 process expense recovery fund. All moneys deposited in the fund are appropriated on
31 a continuing basis to the commission to pay expenses incurred in the siting process.

1 The commission shall specify the time and method of payment of any fees and shall
2 refund the portion of fees collected under subsections 1 and 2 which exceeds the
3 expenses incurred for the evaluation and designation process.

4 4. Every applicant for a certificate of site compatibility, certificate of corridor compatibility
5 and route permit, and transfer of a certificate or permit under this chapter shall pay to
6 the commission an administrative fee equal to ~~one~~two hundred dollars for each
7 one million dollars of original investment, not to exceed ~~twenty-five~~fifty thousand
8 dollars. The administrative fee must be deposited into the public service commission
9 program fund.

10 **SECTION 8. AMENDMENT.** Section 57-43.2-19 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **57-43.2-19. Transfer, deposit, and distribution of funds. (~~Effective through June 30,~~**
13 **~~2025~~)**

14 All taxes, license fees, penalties, and interest collected under this chapter must be
15 transferred to the state treasurer who shall deposit moneys in a highway tax distribution fund,
16 except all special fuels excise taxes collected on sales of diesel fuel to a railroad under section
17 57-43.2-03 of up to ~~two~~three hundred ~~ninety-seven~~thirty-two thousand three hundred
18 ~~sixty-two~~twenty-seven dollars per year must be transferred to the state treasurer who shall
19 deposit the moneys in the rail safety fund. The highway tax distribution fund must be distributed
20 in the manner as prescribed by section 54-27-19.

21 ~~**Transfer, deposit, and distribution of funds. (Effective after June 30, 2025)** All taxes,~~
22 ~~license fees, penalties, and interest collected under this chapter must be transferred to the state~~
23 ~~treasurer who shall deposit moneys in the highway tax distribution fund. The highway tax~~
24 ~~distribution fund must be distributed in the manner as prescribed by section 54-27-19.~~

25 **SECTION 9. EMERGENCY.** Sections 3, 6, and 7 of this Act are declared to be an
26 emergency measure.