

# House Bill 1110

**Presented by:** Konrad Crockford, Director, Compliance Division  
Public Service Commission

**Before:** Senate State and Local Government Committee  
The Honorable Senator Kristin Roers, Chair

**Date:** March 20, 2025

## **TESTIMONY**

Chair Roers and committee members, I am Konrad Crockford, the Compliance Division Director for the Public Service Commission, here to testify in support of HB 1110.

The Public Service Commission's (PSC) Railroad Safety Program inspects critical infrastructure which is vital to the economy of North Dakota and the nation. This critical infrastructure includes railroad track and switches; railroad cars and locomotives; and hazardous materials shipments, shippers, and receivers. When areas of non-compliance are identified by state rail safety inspectors, the deficiency is documented on an inspection form and communicated to the railroad or affected party for correction.

Additionally, state rail safety inspectors are the eyes and ears on the ground representing North Dakota's rail safety interests during the investigative process of railroad incidents and accidents occurring within the borders of the state. The rail safety inspectors are not first responders; however, once an incident or derailment is deemed safe, the inspectors, along with their federal counterparts,

begin to investigate to determine the contributing factors and the root cause which led to the incident or derailment.

While state rail safety inspectors work and cooperate with their federal counterparts within the U.S. Department of Transportation, Federal Railroad Administration (FRA), there are times when a state rail safety inspector may be the first inspector to the incident or derailment site and is gathering and relaying firsthand investigative evidence. Furthermore, depending upon the scope of the incident or derailment, the National Transportation Safety Board (NTSB) may send an investigative team to lead the investigation. To ensure all interested entities are able to participate and keep updated as the investigation progresses, the NTSB has implemented a Party System. The Party System allows multiple entities to have access, share information, and participate in the investigation unfettered by outside legal or political influence. However, to be involved in the Party System, entities must protect the investigation details and records until released by the NTSB, which is a requirement outlined within the NTSB Party System guidance document.

The PSC rail safety inspectors did not fully participate in a past derailment investigation with the NTSB due to concerns of not being able to adequately protect the investigation records, either in part or whole.

HB 1110 before you provides this exemption for NTSB investigations; however, it does not fully protect our rail safety inspection documents completed by inspectors as part of their normal day-to-day operations. These inspection records not only provide specific details as to the defects or vulnerabilities

identified by inspectors but also provide specific location information such as mile marker or latitude and longitude coordinates of the defect location. Consistent with the FRA procedure, we also seek to protect information related to this critical infrastructure and vulnerabilities.

Previous testimony in opposition to HB 1110 cited concerns for lack of transparency and access to information and limiting access to information that was previously available. We are very supportive of providing information about our program, but want to ensure that we are providing it in a manner that (1) complies with the requirements of the investigative process and federal guidelines; (2) does not undermine the investigative process or provide potentially inaccurate or incomplete root cause analysis; and (3) ensures inspection records which detail the specific location and type of defects or vulnerabilities found in North Dakota's rail system are protected, which is consistent with the federal procedure. The PSC is open to providing final accident reports and also routinely shares this data during our annual railroad safety & stakeholder meeting regarding the rail safety program and the types of issues found by inspectors.

During actions on the House side, we believe the testimony was misunderstood, and it resulted in a committee amendment that passed before the agency had an opportunity to clarify. The Commission's proposed amendment takes the current version of HB 1110 and with one addition, ensures that defects and vulnerabilities identified by our inspectors working under an agreement with the Federal Railroad Administration state safety participation program are protected. This exemption would only protect records and information related to

our Rail Safety Program and does not exempt any records related to the PSC's additional regulatory oversight of railroads.

Chair Roers, this concludes my testimony. Thank you for your time and I will be happy to answer any questions.

**Proposed Amendment Language:**

2. A record and portion of a meeting related to the ongoing railroad investigation and surveillance activities of the national transportation safety board [and federal railroad administration state safety participation program](#) is an exempt record as defined under section 44-04-17.1.