

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

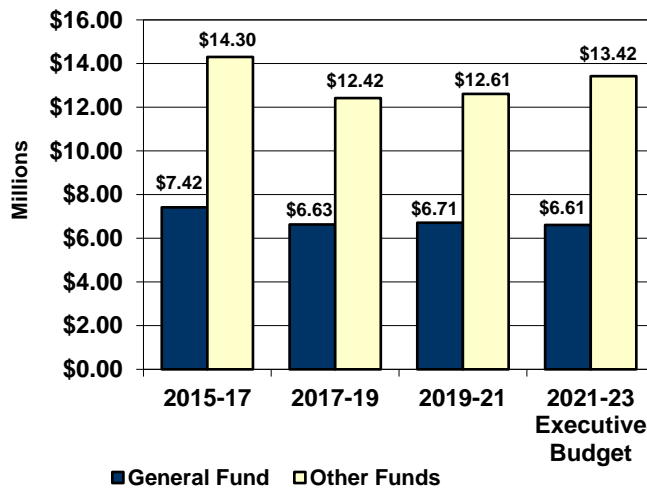
**Executive Budget Comparison to Prior Biennium Appropriations**

	FTE Positions	General Fund	Other Funds	Total
2021-23 Executive Budget	43.00	\$6,613,408	\$13,423,361	\$20,036,769
2019-21 Legislative Appropriations	43.00	6,714,928	12,608,476	19,323,404
Increase (Decrease)	0.00	(\$101,520)	\$814,885	\$713,365

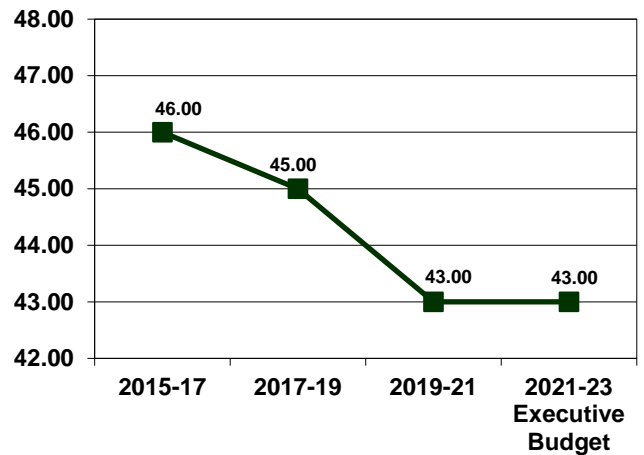
**Ongoing and One-Time General Fund Appropriations**

	Ongoing General Fund Appropriation	One-Time General Fund Appropriation	Total General Fund Appropriation
2021-23 Executive Budget	\$6,608,008	\$5,400	\$6,613,408
2019-21 Legislative Appropriations	6,714,928	0	6,714,928
Increase (Decrease)	(\$106,920)	\$5,400	(\$101,520)

**Agency Funding**



**FTE Positions**



**Executive Budget Comparison to Base Level**

	General Fund	Other Funds	Total
2021-23 Executive Budget	\$6,613,408	\$13,423,361	\$20,036,769
2021-23 Base Level	6,714,928	12,172,476	18,887,404
Increase (Decrease)	(\$101,520)	\$1,250,885	\$1,149,365

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 \$255,417 is for salary increases, \$2,143 is for health insurance increases, and \$52,564 is for retirement contribution increases	\$182,003	\$128,121	\$310,124
2. Reduces funding for salaries and wages (\$700,000), operating expenses (\$36,993), and specialized legal services (\$10,000) as part of the agency's 10 percent general fund budget reduction	(\$746,993)	\$0	(\$746,993)
3. Increases funding from the Public Service Commission program fund for salaries and wages to transition to self-funding programs	\$0	\$550,000	\$550,000
4. Reclassifies and provides funding for a natural gas pipeline inspector position	\$167,547	\$167,548	\$335,095
5. Adds funding from federal funds for specialized legal services to provide a total of \$420,000, of which \$20,000 is from the general fund	\$0	\$336,000	\$336,000

6. Adds funding for the proposed Capitol grounds state agency rent model change	\$210,287	\$0	\$210,287
7. Adds funding from federal funds for annual railroad inspector training	\$0	\$20,000	\$20,000
8. Adds funding for Microsoft Office 365 license expenses	\$4,737	\$0	\$4,737
9. Adds <b>one-time</b> funding from the general fund and from federal funds to replace real-time kinematic equipment	\$5,400	\$114,600	\$120,000

**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 \$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 \$113,600 to \$115,872, effective July 1, 2021, and to \$118,189, effective July 1, 2022, to reflect the 2 percent and 2 percent recommended salary increase.

**Railroad safety program** - Section 5 would amend North Dakota Century Code Section 57-43.2-19 to increase the deposit from \$294,509 to \$309,843 per year from special fuels taxes into the rail safety fund through June 30, 2023.

**Public Service Commission program fund** - Section 6 creates a new section in Chapter 49-01 to establish the Public Service Commission program fund for the purpose of defraying the expenses of the commission. The section also requires fees collected from weights and measures, public utility assessment, siting administrative fees, and from the investment of the fund be deposited in the Public Service Commission program fund. The section also requires the Office of Management and Budget to transfer any balance in excess of twice the current biennium self-funding appropriation to the general fund at the end of each biennium.

**Public utility assessment** - Section 7 creates a new section in Chapter 49-01 to create a fee to be assessed to each electric and gas utility. The assessment may not exceed \$225,000 per biennium. The section requires electric and gas public utilities to file gross receipts each year with the commission, from which the assessment is applied.

**Weights and measures fees** - Section 8 amends Section 64-02-10 to increase all fees to test or calibrate weighing and measuring devices.

**Fees - Registered service companies** - Section 9 creates a new section to Chapter 64-02 to require registered service companies to pay an annual registration fee of \$100, plus \$50 for each registered service person and establishes a testing fee not to exceed \$25 per test.

**Fees collected - Paid into state treasury** - Section 10 amends Section 64-02-12 relating to fees collected and paid into the state treasury. This section changes the deposit of all fees and charges collected by the commission from being deposited in the general fund to being deposited in the Public Service Commission program fund.

**Fees - Siting process expense recovery - Continuing appropriation** - Section 11 amends Section 49-22-22 relating to siting process expense recovery. This section establishes an administrative fee, on every applicant, of \$100 for every \$1 million of original investment, not to exceed \$25,000. The fee must be deposited in the Public Service Commission program fund.

**Fees - Siting process expense recovery - Continuing appropriation** - Section 12 amends Section 49-22.1-22 relating to siting process expense recovery. This section establishes an administrative fee, on every applicant, of \$100 for every \$1 million of original investment, not to exceed \$25,000. The fee must be deposited in the Public Service Commission program fund.

**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.

**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**

The State Auditor's office operational audit of the Public Service Commission for the period ending January 1, 2018, identified one deficiency relating to a lack of blanket bond coverage.

### **Major Related Legislation**

**House Bill No. 1060** - Amends Section 49-02-08, relating to the manner in which public utility meters may be tested, allowing the Public Service Commission to specify who conducts the test of the public utility meters.

**House Bill No. 1067** - Creates a new section to Chapter 49-05, relating to the authority of the Public Service Commission to adopt rules and request a fee for the cost of investigating a public utilities integrated resource plan.

**Public Service Commission - Budget No. 408**  
**House Bill No. 1008**  
**Base Level Funding Changes**

	<b>Executive Budget Recommendation</b>			
	<b>FTE Positions</b>	<b>General Fund</b>	<b>Other Funds</b>	<b>Total</b>
<b>2021-23 Biennium Base Level</b>	43.00	\$6,714,928	\$12,172,476	\$18,887,404
<b>2021-23 Ongoing Funding Changes</b>				
Base payroll changes		\$75,499	(\$65,384)	\$10,115
Salary increase		149,897	105,520	255,417
Health insurance increase		1,258	885	2,143
Retirement contribution increase		30,848	21,716	52,564
Reclassifies and provides funding for a natural gas pipeline inspector position		167,547	167,548	335,095
Reduces general fund by 10 percent		(746,993)		(746,993)
Transitions to self-funding programs			550,000	550,000
Adds funding from federal funds for specialized legal services			336,000	336,000
Adds funding for rent model change		210,287		210,287
Adds funding from federal funds for annual inspector training			20,000	20,000
Adds funding for Microsoft Office 365 license expenses		4,737		4,737
Total ongoing funding changes	0.00	(\$106,920)	\$1,136,285	\$1,029,365
<b>One-time funding items</b>				
Adds funding to replace real-time kinematic equipment		\$5,400	\$114,600	\$120,000
Total one-time funding changes	0.00	\$5,400	\$114,600	\$120,000
<b>Total Changes to Base Level Funding</b>	0.00	(\$101,520)	\$1,250,885	\$1,149,365
<b>2021-23 Total Funding</b>	43.00	\$6,613,408	\$13,423,361	\$20,036,769
<i>Total ongoing changes as a percentage of base level</i>	0.0%	(1.6%)	9.3%	5.5%
<i>Total changes as a percentage of base level</i>	0.0%	(1.5%)	10.3%	6.1%

**Other Sections in Public Service Commission - Budget No. 408**

	<b>Executive Budget Recommendation</b>
Beginning farmer revolving loan fund	Section 3 would authorize 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 \$113,600 to \$115,872, effective July 1, 2021, and to \$118,189, effective July 1, 2022, to reflect the 2 percent and 2 percent recommended salary increase.
Railroad safety program	Section 5 would amend Section 57-43.2-19 to increase the deposit from \$294,509 to \$309,843 per year from special fuels taxes into the rail safety fund through June 30, 2023.
Public Service Commission program fund	Section 6 creates a new section in Chapter 49-01 to establish the Public Service Commission program fund for the purpose of defraying the expenses of the commission. The section also requires fees collected from weights and measures, public utility assessment, siting administrative fees, and from the investment of the fund be deposited in the Public Service Commission program fund. The section also requires the Office of Management and Budget to transfer any balance in excess of twice the current biennium self-funding appropriation to the general fund at the end of each biennium.

**Other Sections in Public Service Commission - Budget No. 408**

**Executive Budget Recommendation**

Public utility assessment

Section 7 creates a new section in Chapter 49-01 to create a fee that shall be assessed to each electric and gas utility. The assessment may not exceed \$225,000 per biennium. The section requires electric and gas public utilities to file gross receipts each year with the commission, from which the assessment is applied.

Weights and measures fees

Section 8 amends Section 64-02-10 to increase all fees to test or calibrate weighing and measuring devices.

Fees - Registered service companies

Section 9 creates a new section to Chapter 64-02 to require registered service companies to pay an annual registration fee of \$100, plus \$50 for each registered service person and establishes a testing fee not to exceed \$25 per test.

Fees collected - Paid into state treasury

Section 10 amends Section 64-02-12 relating to fees collected and paid into the state treasury. This section changes the deposit of all fees and charges collected by the commission from being deposited in the general fund to being deposited in the Public Service Commission program fund.

Fees - Siting process expense recovery -  
Continuing appropriation

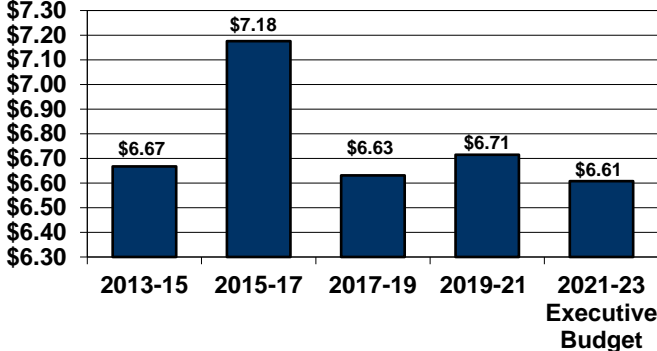
Sections 11 and 12 amend Sections 49-22-22 and 49-22.1-22 relating to siting process expense recovery. This establishes an administrative fee, on every applicant, of \$100 for every \$1 million of original investment, not to exceed \$25,000. The fee must be deposited in the Public Service Commission program fund.

Department 408 - Public Service Commission

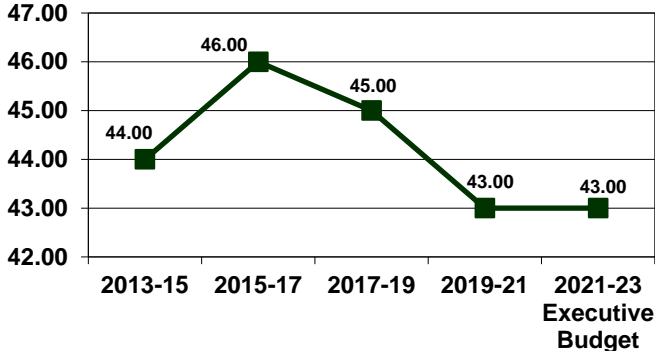
# Historical Appropriations Information

## Ongoing General Fund Appropriations Since 2013-15

Ongoing General Fund Appropriations (in Millions)



FTE Positions



Ongoing General Fund Appropriations					
	2013-15	2015-17	2017-19	2019-21	2021-23 Executive Budget
Ongoing general fund appropriations	\$6,667,660	\$7,175,827	\$6,630,762	\$6,714,928	\$6,608,008
Increase (decrease) from previous biennium	N/A	\$508,167	(\$545,065)	\$84,166	(\$106,920)
Percentage increase (decrease) from previous biennium	N/A	7.6%	(7.6%)	1.3%	(1.6%)
Cumulative percentage increase (decrease) from 2011-13 biennium	N/A	7.6%	(0.6%)	0.7%	(0.9%)

### Major Increases (Decreases) in Ongoing General Fund Appropriations

**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**

- 1. Transferred 2 FTE grain warehouse inspectors (\$317,725) and related operating expenses (\$71,000) to the Department of Agriculture (\$388,725)
- 2. Added funding for the reclassification of an existing underfunded FTE position as an accounting budget specialist position (\$165,493) and related operating expenses (\$5,000) \$170,493

**2021-23 Biennium (Executive Budget Recommendation)**

- 1. Reduces funding for salaries and wages (\$700,000), operating expenses (\$36,993), and specialized legal services (\$10,000) as part of the agency's 10 percent general fund budget reduction (\$746,993)
- 2. Reclassifies and provides funding for a natural gas pipeline inspector position (\$265,095) and related operating expenses (\$70,000), for a total of \$335,095 of which \$167,548 is from federal funds \$167,547
- 3. Adds funding for the proposed Capitol grounds state agency rent model change \$210,287

**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, 2021 and ending June 30, 2023, as follows:

	<u>Base Level</u>	<u>Adjustments or Enhancements</u>	<u>Appropriation</u>
Salaries and Wages	\$ 9,495,560	\$ 424,666	\$ 9,920,226
Operating Expenses	1,763,826	248,031	2,011,857
Capital Assets	25,000	120,000	145,000
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	589,018	30,668	619,686
Specialized Legal Services	<u>94,000</u>	<u>326,000</u>	<u>420,000</u>
Total All Funds	\$18,887,404	\$1,149,365	\$20,036,769
Less Estimated Income	<u>12,175,476</u>	<u>1,250,885</u>	<u>13,423,361</u>
Total General Fund	\$ 6,714,928	\$(101,520)	\$ 6,613,408
Full-Time Equivalent Positions	43.00	0.00	43.00

**SECTION 2. ONE-TIME FUNDING - EFFECT ON BASE BUDGET - REPORT TO SIXTY-EIGHTH LEGISLATIVE ASSEMBLY.** The following amounts reflect the one-time funding items approved by the sixty- sixth legislative assembly for the 2019-21 biennium and the 2021-23 one-time funding items included in the appropriation in section 1 of this Act:

<u>One Time Funding Description</u>	<u>2019-21</u>	<u>2021-23</u>
Specialized Legal Services	\$336,000	\$ 0
One-Time Equipment	<u>0</u>	<u>120,000</u>
Total All Funds	\$336,000	\$120,000
Total Special Funds	<u>336,000</u>	<u>114,600</u>
Total General Fund	\$ 0	\$ 5,400

**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 \$900,000, 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, 2021 and ending June 30, 2023, 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 thirteen thousand six hundred dollars through June 30, 2020, one hundred fifteen thousand eight hundred seventy-two dollars through June 30, 2022 and one hundred eighteen thousand one hundred eighty-nine 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, 2021 through June 30, 2023) 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 ninety-four thousand five hundred nine~~ three hundred nine thousand, eight hundred forty three 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.

**SECTION 6.** Section 49-01-16 of the North Dakota Century Code is created and enacted as follows:

**49-01-16. Public Service Commission Program Fund**

1. A special fund is established in the state treasury and designated as the public service commission program fund. The moneys are deposited in the public service commission program fund for use by the public service commission to defray the expenses of the agency in the discharge of administrative and regulatory powers and duties of the agency as prescribed by law.
2. Revenue from the following sources must be credited to the public service commission program fund:
  - a. Any fees collected to test or calibrate weighing and measuring devices and licensing of registered service companies and persons;
  - b. All money received from the public utility assessment;
  - c. All money received from the siting administrative fee; and
  - d. Any interest attributable to investment of money in the fund.
3. The office of management and budget shall transfer any balance in the public service commission program fund in excess of double the current biennium self-funding appropriation to the general fund at the end of each biennium.

**SECTION 7.** Section 49-01-17 of the North Dakota Century Code is created and enacted as follows:

**49-01-17. Public Utility Assessment**

1. The commission shall assess each electric and gas utility a fee in proportion to their respective gross operating revenues from retail sale of gas and electric service within the state during the preceding calendar year. The total public utility assessment may not exceed two hundred twenty-five thousand dollars per biennium and must be deposited into the public service commission program fund.
2. In January of each year, each electric and gas public utility shall file with the public service commission the amount of gross receipts derived from the company's customers within the state during the preceding calendar year. The commission shall annually review the gross receipts and adjust the assessment in proportion to the gross operating revenues.
3. The commission shall quarterly bill each electric and gas public utility.

**SECTION 8. AMENDMENT – WEIGHTS AND MEASURES.** Section 64-02-10 of the North Dakota Century Code is amended and reenacted as follows:

**64-02-10. Fees to test or calibrate weighing and measuring devices.** The commission shall collect the following fees to:

1. Test overhead monorail, track, dormant, deck, and hanging scale of one thousand pounds [453 kilograms] or less capacity ~~53.00~~ 95.00
2. Test movable platform scale ~~44.00~~ 20.0
3. Test counter or computing scale ~~44.00~~ 20.00
4. Test hanging scale of fifty pound [22.68 kilogram] capacity or less ~~44.00~~ 20.00
5. Test a retail motor fuel device ~~44.00~~ 20.00



6. Test or calibrate weighing and measuring standards, per metrologist, per quarter hour or fraction thereof 17.00
7. Test mobile delivery gasoline and fuel oil meter ~~24.00~~ 45.00
8. Test gasoline, LPG, or fuel oil meter on common carrier pipelines, or any other meter used in loading railway cars, transports, or other conveyances ~~53.00~~ 95.00
9. Test propane, ag chemical, or liquid fertilizer meter ~~39.00~~ 70.00
10. Test or calibrate weighing and measuring devices other than the above and those set by rule, per inspector per quarter hour or fraction thereof ~~44.00~~ 20.00
11. Witnessing any of the above tests fifty percent of the applicable fee

When a rejected weighing or measuring device has been reconditioned or replaced by new equipment, it must be retested and certified before being put into use except as otherwise provided by rule. The fee for retest and certification is the same as for the first test and certification.

When a test of a weighing or measuring device is required in addition to the regularly scheduled test, the commission shall charge a fee equal to the cost of operating the motor vehicle used in conducting the test. The mileage charges, as determined by the commission, must be in addition to the regular test fee and calculated to cover the costs of the additional travel. If a test has been requested and the person requesting it fails to appear or to have the weighing or measuring device ready for testing at the arranged time, there is a charge of ten dollars a quarter hour for the time between the arranged time and the time at which the test can begin.

**SECTION 9.** Section 64-02-10.1 of the North Dakota Century Code is created and enacted as follows:

**64-02-10.1. Fees for Registered Service Companies and to license and test a registered service person.**

1. Each registered service company shall annually pay a registration fee of one hundred dollars and a fifty-dollar licensing fee for each registered service person.
2. The commission may assess a registered service person testing fee not to exceed twenty-five dollars per test.

**SECTION 10.** Section 64-02-12 of the North Dakota Century Code is amended and reenacted as follows:

**64-02-12. Fees collected – Paid into state treasury.** All fees and charges collected by the commission under ~~section 64-02-10~~ this chapter must be paid into the ~~general fund of the state treasury~~ public service commission program fund.

**SECTION 11.** Section 49-22-22 of the North Dakota Century Code is amended and reenacted as follows:

**49-22-22. Siting process expense recovery – Deposit in special fund – Continuing appropriation.**

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

**SECTION 12.** Section 49-22.1-22 of the North Dakota Century Code is amended and reenacted as follows:

**49-22.1-22. Siting process expense recovery – Deposit in special fund – Continuing appropriation.**

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