

FIRST ENGROSSMENT

ENGROSSED SENATE BILL NO. 2117

Introduced by

Energy and Natural Resources Committee

(At the request of the Public Service Commission)

1 A BILL for an Act to amend and reenact subsection 1 of section 38-14.2-02, and sections
2 38-14.2-04, 38-14.2-06, and 38-14.2-07 of the North Dakota Century Code, relating to
3 abandoned surface mine reclamation.

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

5 **SECTION 1. AMENDMENT.** Subsection 1 of section 38-14.2-02 of the North Dakota
6 Century Code is amended and reenacted as follows:

7 1. "Abandoned mine reclamation plan" means a plan for the reclamation of lands and
8 water adversely affected by past coal mining and noncoal mining practices. The plan
9 must generally identify all areas to be reclaimed in the state of North Dakota, the
10 purposes for which the reclamation is proposed, the relationship of the lands to be
11 reclaimed and the proposed reclamation to surrounding areas, ~~and~~ the specific criteria
12 for ranking and identifying projects to be funded, and the legal authority and
13 programmatic capability to perform such work as required by the Surface Mining
14 Control and Reclamation Act of 1977 [Pub. L. 95-87; 30 U.S.C. 1235].

15 **SECTION 2. AMENDMENT.** Section 38-14.2-04 of the North Dakota Century Code is
16 amended and reenacted as follows:

17 **38-14.2-04. State abandoned mine reclamation fund.**

18 There is hereby created the state abandoned mine reclamation fund.

19 1. Revenue to the fund must include:
20 a. Moneys applied for and received by the commission pursuant to title IV of Public
21 Law 95-87 [91 Stat. 456; 30 U.S.C. 1231 et seq.], for the purposes of this
22 chapter.

- 1 b. Moneys donated to the commission by persons, corporations, limited liability
2 companies, associations, and foundations for the purposes of this chapter.
- 3 c. Moneys collected by the commission from charges for uses of lands acquired or
4 reclaimed with moneys from the fund, after expenditures for maintenance have
5 been deducted.
- 6 d. Moneys recovered by the commission through satisfaction of liens filed against
7 privately owned lands reclaimed with moneys from the fund.
- 8 e. Moneys recovered by the commission from the sale of lands acquired with
9 moneys from the fund.
- 10 f. Such other moneys as may be deposited in the fund for use in carrying out the
11 purposes of the abandoned mine reclamation program.
- 12 2. Moneys in the fund may be used for the following purposes:
- 13 a. Reclamation and restoration of land and water resources as defined by section
14 38-14.2-06 and adversely affected by past mining, including but not limited to:
- 15 (1) Reclamation and restoration of abandoned surface mined areas,
16 abandoned coal processing areas, and abandoned coal refuse disposal
17 areas.
- 18 (2) Reclamation of lands affected by underground mine subsidence.
- 19 (3) Planting of land adversely affected by past coal mining or noncoal mining to
20 prevent erosion and sedimentation.
- 21 (4) Prevention, abatement, treatment, and control of water pollution created by
22 coal mine or noncoal mine drainage including restoration of streambeds,
23 and construction and operation of water treatment plants.
- 24 (5) Prevention, abatement, and control of burning coal refuse disposal areas
25 and burning coal in situ.
- 26 (6) Prevention, abatement, and control of coal mine subsidence.
- 27 b. Acquisition or lease of land as provided for in this chapter.
- 28 c. ~~Studies by the commission by contract with public and private organizations to~~
29 ~~provide information, advice, and technical assistance, including research and~~
30 ~~demonstration projects, conducted for the purposes of this chapter.~~

- 1 d. All other necessary expenses to accomplish the purposes of this chapter,
2 including administrative expenses and costs incurred in the development of the
3 abandoned mine reclamation plan and the abandoned mine reclamation
4 program.
- 5 3. There is created a special fund in the state treasury called the state abandoned mine
6 reclamation fund set-aside trust account. Revenue to the set-aside trust account must
7 be ten percent of the amount granted by the secretary of the interior under title IV of
8 Public Law 95-87 as provided by Public Law 100-34 for amounts awarded before
9 December 20, 2006. This account must be interest bearing and all interest must be
10 credited to the set-aside trust account. No funds from this account may be expended
11 prior to September 30, 2004. After September 30, 2004, the funds may be expended
12 as provided in this subsection but no funds may be used to reclaim noncoal projects.
13 The legislative assembly shall authorize expenditure by appropriation from the account
14 as necessary to defray the administrative expenses of the program. The remaining
15 funds in the account may only be used in accordance with section 38-14.2-07 but no
16 funds may be used on noncoal projects. The liability of the state to fulfill the
17 requirements of this subsection is limited to the amount of funds available in the
18 account established in this subsection. The state has no obligations under this
19 subsection except to the extent of federal funds deposited in the coal mine mitigation
20 account and the interest thereon to operate the program.
- 21 4. There is created a special fund in the state treasury called the state abandoned mine
22 reclamation safeguarding treatment for the restoration of ecosystems from abandoned
23 mines fund set-aside trust account. Revenue to the set-aside trust account must be no
24 more than thirty percent of the amount granted by the secretary of interior under
25 title IV of Public Law No. 95-87 as provided by Public Law No. 117-58. This account
26 must be interest bearing and all interest must be credited to the safeguarding
27 treatment for the restoration of ecosystems from abandoned mines fund set-aside trust
28 account. The funds from this account may be expended for:
- 29 a. The abatement of the causes and treatment of the effects of acid mine drainage
30 resulting from coal mining practices, including costs of building, operating,
31 maintaining, and rehabilitating acid mine drainage treatment systems;

- 1 **b.** The prevention, abatement, and control of subsidence; and
2 **c.** The prevention abatement, and control of coal mine fires.
3 **5.** The legislative assembly shall authorize expenditure by appropriation from the account
4 under subsection 4 as necessary to defray the administrative expenses of the
5 program.

6 **SECTION 3. AMENDMENT.** Section 38-14.2-06 of the North Dakota Century Code is
7 amended and reenacted as follows:

8 **38-14.2-06. Eligible lands and water.**

9 Lands and water eligible for reclamation or drainage abatement expenditures under this
10 chapter are those which were mined for coal or which were affected by such mining,
11 wastebanks, coal processing or other coal mining processes and abandoned or left in an
12 inadequate reclamation status prior to August 3, 1977, and for which there is no continuing
13 reclamation responsibility under other state laws. Lands and water which were mined or
14 affected by mining for minerals and materials other than coal are also eligible for reclamation
15 under this chapter if ~~such~~the reclamation is necessary to protect the public health, safety,
16 general welfare, and property ~~and such, the~~ noncoal abandoned mine lands were left in an
17 inadequate reclamation status prior to August 3, 1977, ~~and for which~~ there is no continuing
18 reclamation responsibility under other state or federal laws, and the state has received
19 certification from the United States secretary of the interior under 30 U.S.C. 1239 or 30 U.S.C.
20 1240(a). Lands and water designated for remedial action under the Uranium Mill Tailings
21 Radiation Control Act of 1978 [42 U.S.C. 7901 et seq.] or listed for remedial action under the
22 Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C.
23 9601 et seq.] are not eligible for reclamation or drainage abatement expenditures under this
24 chapter.

25 **SECTION 4. AMENDMENT.** Section 38-14.2-07 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **38-14.2-07. Commission authorized to administer abandoned mine reclamation**
28 **program - Objectives - Priorities.**

- 29 **1.** The commission is hereby authorized to develop, administer, and enforce an
30 abandoned mine reclamation program. Expenditure of funds for the projects under this
31 program must reflect priorities in the order stated:

1 affected by past water supply facilities, including water distribution facilities and
2 treatment plants adversely affected by coal mining practices.

3 7. ~~The development of publicly owned land adversely affected by past coal mining~~
4 ~~practices, including land acquired as provided in this chapter, for recreation, historic,~~
5 ~~conservation, and reclamation purposes and open space benefits.~~

6 8. g. The protection of the public from hazards endangering life and property resulting
7 from the adverse effects of past noncoal mining practices upon certification from
8 the United States secretary of interior as provided in 30 U.S.C. 1240(a).

9 However, upon request by the governor of the state of North Dakota and
10 approval by the secretary of the interior, such work may be undertaken before the
11 priorities related to past coal mining have been fulfilled.

12 9. h. The protection of the public from hazards to health and safety from the adverse
13 effects of past noncoal mining practices.

14 10. i. The restoration of the environment degraded by the adverse effects of past
15 noncoal mining.

16 11. j. The construction of public facilities in accordance with section 38-14.2-05.

17 2. The abandoned mine reclamation priority under subdivision e of subsection 1 must be
18 funded exclusively by moneys provided by the Infrastructure Investment and Jobs Act
19 [Pub. L. 117-58] unless subdivisions b through d of subsection 1 have been completed
20 and the abandoned mine reclamation program has certified the conditions to the
21 United States secretary of interior.