Senate Bill 2117

Presented by: **Jonathan Emmer, Director, Reclamation and AML Division**
Public Service Commission

Before: **Senate Energy and Natural Resources Committee**
The Honorable Dale Patten, Chair

Date: **January 17, 2025**

TESTIMONY

Good morning, Chair Patten and members of the Senate Energy and Natural Resources Committee. For the record, my name is Jonathan Emmer, the Reclamation and Abandoned Mine Lands Division Director for the Public Service Commission, here to testify on SB 2117.

The Public Service Commission (PSC) administers the state's Abandoned Mine Land Reclamation (AML) program with federal oversight from the Office of Surface Mining Reclamation and Enforcement (OSMRE). SB 2117 is a housekeeping bill that proposes modifications to N.D.C.C. ch. 38-14.2 to mirror the federal regulations since rules and laws adopted by the PSC must be as effective as the counterpart federal rules issued by the OSMRE within the Department of the Interior.

On February 16, 2024, OSMRE submitted a review of the PSC's AML program to ensure our program is consistent with Title 30, Chapter VII, Subchapter R of the Code of Federal Regulations (CFR). The changes proposed in SB 2117 reflect OSMRE's review of N.D.C.C. ch. 38-14.2 and incorporate updates to the CFR and the United States Code (U.S.C.) made since the chapter's original approval.

On November 15, 2021, the Bipartisan Infrastructure Law (BIL), Pub. L. No. (117-58), also known as the Infrastructure Investment and Jobs Act, was enacted. The BIL authorized and appropriated $11.293 billion for deposit into the AML fund administered by OSMRE that expands project eligibility, allowing for the reclamation of lower-priority AML sites. The additional BIL funding is available to eligible states over a 15-year period and states are allowed to set aside 30% of the annual BIL grants in a long term set aside account for future AML projects. Currently, our program receives approximately $3.1 million per year in BIL funding.

Lastly, we request an amendment to paragraph (4) of N.D.C.C. § 38-14.2-04. This amendment is recommended by a federal reviewer to clearly state the types of projects on which the set-aside account can be expended from the BIL grant, including acid mine drainage, subsidence, and coal fires.

This concludes my testimony. I am available to stand for questions.

PROPOSED AMENDMENTS TO SENATE BILL NO. 2117
Page 3, lines 26-27, overstrike "as provided in section 38-14.2-07 but no funds may be used to reclaim noncoal project" and replace with "for the abatement of the causes and the treatment of the effects of acid mine drainage resulting from coal mining practices, including for the costs of building, operating, maintaining, and rehabilitating acid mine drainage treatment systems; the prevention, abatement, and control of subsidence; or the prevention abatement, and control of coal mine fires."

North Dakota Century Code Section 38-14.2-04(4):

. . .

4. There is created a special fund in the state treasury called the state abandoned mine reclamation safeguarding treatment for the restoration of ecosystems from abandoned mines fund set-aside trust account. Revenue to the set-aside trust account must be no more than thirty percent of the amount granted by the secretary of interior under title IV of Public Law No. 95-87 as provided by Public Law No. 117-58. This account must be interest bearing and all interest must be credited to the safeguarding treatment for the restoration of ecosystems from abandoned mines fund set-aside trust account. The funds from this account may be expended **for the abatement of the causes and the treatment of the effects of acid mine drainage resulting from coal mining practices, including for the costs of building, operating, maintaining, and rehabilitating acid mine drainage treatment systems; the prevention, abatement, and control of subsidence; or the prevention abatement, and control of coal mine fires.** The legislative assembly shall authorize expenditure by appropriation from the account as necessary to defray the administrative expenses of the program.