

**2025 SENATE ENERGY AND NATURAL RESOURCES**

**SB 2117**

# 2025 SENATE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee Peace Garden Room, State Capitol

SB 2117  
1/17/2025

Relating to abandoned surface mine reclamation.
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9:30 a.m. Chairman Patten opened the hearing.

Members present:

Chairman Patten, Vice Chairman Kessel, Senators: Beard, Boehm, Enget, Gerhardt, and Van Oosting.

### Discussion Topics:

- Eligible Bipartisan Infrastructure Law projects
- Projects current funding
- Federal language compliance
- Updates from Bipartisan Infrastructure Law
- Types of coal mines

9:30 a.m. Jonathan Emmer, Director of the Reclamation and Abandoned Mine Lands Division at the Public Service Commission, testified in favor and submitted testimony #29593.

9:38 a.m. Chairman Patten closed the hearing.

9:39 a.m. Senator Gerhardt moved to adopt amendment LC# 25.8067.01001.

9:40 a.m. Senator Van Oosting seconded.

Senators	Vote
Senator Dale Patten	Y
Senator Greg Kessel	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Justin Gerhardt	Y
Senator Desiree Van Oosting	Y

Motion Carried 7-0-0.

9:46 a.m. Senator Enget moved a Do Pass as Amended.

9:46 a.m. Senator Boehm seconded the motion.

Senators	Vote
Senator Dale Patten	Y
Senator Greg Kessel	Y
Senator Todd Beard	Y
Senator Keith Boehm	Y
Senator Mark Enget	Y
Senator Justin Gerhardt	Y
Senator Desiree Van Oosting	Y

Motion Carried 7-0-0.

9:46 a.m. Senator Boehm will carry the bill.

**Additional written testimony:**

Zachary Cassidy, Carbon Pipeline Organizer and lobbyist, submitted testimony #29542 in favor.

9:47 a.m. Chairman Patten closed the hearing.

*Kendra McCann, Committee Clerk*

Sixty-ninth  
Legislative Assembly  
of North Dakota

**PROPOSED AMENDMENTS TO**

**SENATE BILL NO. 2117**

Introduced by

Energy and Natural Resources Committee

(At the request of the Public Service Commission)

*1-17-25*  
*Jim*  
*1 of 6*

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:

*Jim Zed*

- 1 a. Moneys applied for and received by the commission pursuant to title IV of Public  
2 Law 95-87 [91 Stat. 456; 30 U.S.C. 1231 et seq.], for the purposes of this  
3 chapter.
- 4 b. Moneys donated to the commission by persons, corporations, limited liability  
5 companies, associations, and foundations for the purposes of this chapter.
- 6 c. Moneys collected by the commission from charges for uses of lands acquired or  
7 reclaimed with moneys from the fund, after expenditures for maintenance have  
8 been deducted.
- 9 d. Moneys recovered by the commission through satisfaction of liens filed against  
10 privately owned lands reclaimed with moneys from the fund.
- 11 e. Moneys recovered by the commission from the sale of lands acquired with  
12 moneys from the fund.
- 13 f. Such other moneys as may be deposited in the fund for use in carrying out the  
14 purposes of the abandoned mine reclamation program.
- 15 2. Moneys in the fund may be used for the following purposes:
  - 16 a. Reclamation and restoration of land and water resources as defined by section  
17 38-14.2-06 and adversely affected by past mining, including but not limited to:
    - 18 (1) Reclamation and restoration of abandoned surface mined areas,  
19 abandoned coal processing areas, and abandoned coal refuse disposal  
20 areas.
    - 21 (2) Reclamation of lands affected by underground mine subsidence.
    - 22 (3) Planting of land adversely affected by past coal mining or noncoal mining to  
23 prevent erosion and sedimentation.
    - 24 (4) Prevention, abatement, treatment, and control of water pollution created by  
25 coal mine or noncoal mine drainage including restoration of streambeds,  
26 and construction and operation of water treatment plants.
    - 27 (5) Prevention, abatement, and control of burning coal refuse disposal areas  
28 and burning coal in situ.
    - 29 (6) Prevention, abatement, and control of coal mine subsidence.
  - 30 b. Acquisition or lease of land as provided for in this chapter.

JPM 3066

- ~~c. Studies by the commission by contract with public and private organizations to provide information, advice, and technical assistance, including research and demonstration projects, conducted for the purposes of this chapter.~~
    - ~~d. All other necessary expenses to accomplish the purposes of this chapter, including administrative expenses and costs incurred in the development of the abandoned mine reclamation plan and the abandoned mine reclamation program.~~
  3. There is created a special fund in the state treasury called the state abandoned mine reclamation fund set-aside trust account. Revenue to the set-aside trust account must be ten percent of the amount granted by the secretary of the interior under title IV of Public Law 95-87 as provided by Public Law 100-34 for amounts awarded before December 20, 2006. This account must be interest bearing and all interest must be credited to the set-aside trust account. No funds from this account may be expended prior to September 30, 2004. After September 30, 2004, the funds may be expended as provided in this subsection but no funds may be used to reclaim noncoal projects. The legislative assembly shall authorize expenditure by appropriation from the account as necessary to defray the administrative expenses of the program. The remaining funds in the account may only be used in accordance with section 38-14.2-07 but no funds may be used on noncoal projects. The liability of the state to fulfill the requirements of this subsection is limited to the amount of funds available in the account established in this subsection. The state has no obligations under this subsection except to the extent of federal funds deposited in the coal mine mitigation account and the interest thereon to operate the program.
  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



John Hoff

1        account. The funds from this account may be expended as provided in section  
2        ~~38-14.2-07 but no funds may be used to reclaim noncoal projects for:~~  
3        a.    The abatement of the causes and treatment of the effects of acid mine drainage  
4        resulting from coal mining practices, including costs of building, operating,  
5        maintaining, and rehabilitating acid mine drainage treatment systems;  
6        b.    The prevention, abatement, and control of subsidence; and  
7        c.    The prevention abatement, and control of coal mine fires.  
8        5.    The legislative assembly shall authorize expenditure by appropriation from the account  
9        under subsection 4 as necessary to defray the administrative expenses of the  
10       program.

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

13       **38-14.2-06. Eligible lands and water.**

14       Lands and water eligible for reclamation or drainage abatement expenditures under this  
15       chapter are those which were mined for coal or which were affected by such mining,  
16       wastebanks, coal processing or other coal mining processes and abandoned or 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 laws. Lands and water which were mined or  
19       affected by mining for minerals and materials other than coal are also eligible for reclamation  
20       under this chapter if ~~such~~the reclamation is necessary to protect the public health, safety,  
21       general welfare, and property ~~and such, the~~ noncoal abandoned mine lands were left in an  
22       inadequate reclamation status prior to August 3, 1977, ~~and for which~~ there is no continuing  
23       reclamation responsibility under other state or federal laws, and the state has received  
24       certification from the United States secretary of the interior under 30 U.S.C. 1239 or 30 U.S.C.  
25       1240(a). Lands and water designated for remedial action under the Uranium Mill Tailings  
26       Radiation Control Act of 1978 [42 U.S.C. 7901 et seq.] or listed for remedial action under the  
27       Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C.  
28       9601 et seq.] are not eligible for reclamation or drainage abatement expenditures under this  
29       chapter.

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

*Agm 5 of 6*

1       **38-14.2-07. Commission authorized to administer abandoned mine reclamation**  
2 **program - Objectives - Priorities.**

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

6       ~~1.~~ a. Administrative expenses and costs incurred in the development of the  
7 abandoned mine reclamation plan and the abandoned mine reclamation  
8 program.

9       ~~2.~~ b. The protection of public health, safety, ~~general welfare~~, and property from  
10 extreme danger resulting from the adverse effects of past coal mining practices,  
11 including the restoration of eligible land and water resources and the  
12 environment:

13       (1) Previously degraded by the adverse effects of coal mining practices; and

14       (2) Located adjacent to a site that has been or will be remediated.

15       ~~3.~~ c. The protection of public health, and safety, and ~~general welfare~~ from adverse  
16 effects of past coal mining practices which do not constitute an extreme danger,  
17 including the restoration of eligible land and water resources and the  
18 environment:

19       (1) Previously degraded by the adverse effects of coal mining practices; and

20       (2) Located adjacent to a site that has been or will be remediated.

21       ~~4.~~ d. The restoration of eligible land and water resources and the environment  
22 geographically contiguous to an area provided in subdivisions b or c previously  
23 degraded by adverse effects of past coal mining practices, including measures  
24 for the conservation and development of soil, water (excluding channelization),  
25 woodland, fish and wildlife, recreation resources, and agricultural productivity.

26       ~~5.~~ e. ~~Research and demonstration projects relating to the development of surface coal~~  
27 ~~mining reclamation and water quality control program methods and~~  
28 ~~techniques~~ The restoration of eligible land and water resources and the  
29 environment, which is not geographically contiguous to the area provided in  
30 subdivisions b and c, previously degraded by adverse effects of past coal mining  
31 practices, including measures for the conservation and development of soil,



Jim Goffe

- 1                    water, excluding channelization, woodland, fish and wildlife, recreation resources,  
2                    and agricultural productivity.
- 3        6.    f.    The protection, repair, replacement, construction, or enhancement of public  
4                    ~~facilities such as utilities, roads, recreation, and conservation facilities adversely~~  
5                    ~~affected by past~~ water supply facilities, including water distribution facilities and  
6                    treatment plants adversely affected by coal mining practices.
- 7        7.    ~~The development of publicly owned land adversely affected by past coal mining~~  
8                    ~~practices, including land acquired as provided in this chapter, for recreation, historic,~~  
9                    ~~conservation, and reclamation purposes and open space benefits.~~
- 10       8.    g.    The protection of the public from hazards endangering life and property resulting  
11                    from the adverse effects of past noncoal mining practices upon certification from  
12                    the United States secretary of interior as provided in 30 U.S.C. 1240(a).
- 13                    However, upon request by the governor of the state of North Dakota and  
14                    approval by the secretary of the interior, such work may be undertaken before the  
15                    priorities related to past coal mining have been fulfilled.
- 16       9.    h.    The protection of the public from hazards to health and safety from the adverse  
17                    effects of past noncoal mining practices.
- 18       10.   i.    The restoration of the environment degraded by the adverse effects of past  
19                    noncoal mining.
- 20       11.   j.    The construction of public facilities in accordance with section 38-14.2-05.
- 21       2.    The abandoned mine reclamation priority under subdivision e of subsection 1 must be  
22                    funded exclusively by moneys provided by the Infrastructure Investment and Jobs Act  
23                    [Pub. L. 117-58] unless subdivisions b through d of subsection 1 have been completed  
24                    and the abandoned mine reclamation program has certified the conditions to the  
25                    United States secretary of interior.

**REPORT OF STANDING COMMITTEE  
SB 2117**

**Energy and Natural Resources Committee (Sen. Patten, Chairman)** recommends **AMENDMENTS** ([25.8067.01001](#)) and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2117 was placed on the Sixth order on the calendar. This bill does not affect workforce development.

Dear Mr. Chair and members of the Senate Energy and Natural Resources Committee.

I am Zachary Cassidy, Carbon Pipeline Organizer and lobbyist for Dakota Resource Council. I am writing to express our support for SB 2117, which would create an abandoned mine reclamation fund. The fund will be used to reclaim and restore land impacted by coal mining. Abandoned mines can create environmental and public health risks long after the mine is active. This includes contamination of water sources, collapsed structures that can cause injury or death, soil erosion, and toxic metals used in the mining process can impact public health. This fund will be an important step in making sure that our ecosystems and the people who depend on them are protected from dangers related to abandoned mines. As such DRC is supportive of any measure that will help to limit or eliminate these risks and recommends pass on this bill. Thank you to the committee for its time.

## **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.

**2025 HOUSE ENERGY AND NATURAL RESOURCES**

**SB 2117**

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2117

3/14/2025

Relating to abandoned surface mine reclamation.
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10:03 a.m. Vice Chairman Novak called the hearing to order.

Members Present: Chairman Porter, Vice Chairman Anderson, Vice Chair Novak,  
Representatives: Dockter, Hagert, Headland, Johnson, Marschall, Olson, Conmy, Foss

Members Absent: Representative Heinert, Representative Ruby

### Discussion Topics:

- Land Reclamation
- Coal Development

10:04 a.m. Jonathan Emmer, Division Director, Reclamation and the Abandon Mine lands, Public Service Commission, PSC, testified in favor and submitted testimony. #41294

10:07 a.m. Sam Wagner, ND Resource Council, testified in favor and submitted testimony. #41452

10:09 a.m. Vice Chairman Novak closed the closed the hearing.

*Leah Kuball, Committee Clerk*



## **Senate Bill 2117**

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

**Before:** House Energy and Natural Resources Committee  
The Honorable Todd Porter, Chair

**Date:** March 14, 2025

### **TESTIMONY**

Good morning, Chair Porter and members of the House 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). Abandoned mine lands are coal mines that were mined before August 3, 1977 and left abandoned or unreclaimed. 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.

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

**Testimony SB2117**

Sam Wagner  
Ag and Food Field Organizer  
Dakota Resource Council  
1902 E Divide Ave  
Bismarck ND 58501  
Testimony in Support for SB2117

To the Honorable Chairman and the members of the Committee. We submit these remarks on behalf of DRC.

DRC was founded in 1978 by farmers, ranchers, and landowners that wanted to ensure the land was protected and reclaimed during coal development. We worked to get reclamation laws in place at the state and federal levels and are proud of that legacy. Governor Art Link stated in his Landscape is Quiet Again speech 1973: "And when we are through with that and the landscape is quiet again, when the draglines, the blasting rigs, the power shovels and the huge gondolas cease to rip and roar and when the last bulldozer has pushed the spoil pile into place and the last patch of barren earth has been seeded to grass or grain, let those who follow and repopulate the land be able to say, our grandparents did their job well. The land is as good and in some cases, better than before. Only if they can say this, will we be worthy of the rich heritage of our land and its resources."

We need this bill helps make sure that more lands in coal country are reclaimed and allows North Dakota to live up to Governor Link's famous speech. Reclaimed lands can be returned to family farms, or used for recreation, which in turn benefits all North Dakotas.

We urge a do pass recommendation

# 2025 HOUSE STANDING COMMITTEE MINUTES

## Energy and Natural Resources Committee

Coteau AB Room, State Capitol

SB 2117

3/27/2025

Relating to abandoned surface mine reclamation.
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9:19 a.m. Chairman Porter called the hearing to order.

Members Present: Chairman Porter, Vice Chairman Anderson, Vice Chair Novak,  
Representatives: Dockter, Hagert, Headland, Heinert, Johnson, Marschall, Olson, Conmy,  
Foss

Members absent: Representative M. Ruby

### Discussion Topics:

- Committee action.

9:20 a.m. Randy Christman, Chair, Public Service Commission, introduced amendment 25.0867.02001. #44294

9:23 a.m. Vice Chairwoman Novak moved to adopt amendment 25.0867.02001.

9:24 a.m. Vice Chairman D. Anderson seconded the motion.

Voice Vote: Motion carried

9:24 a.m. Vice Chairwoman Novak moved a Do Pass as Amended.

9:24 a.m. Representative J. Olson seconded the motion.

Representatives	Vote
Representative Todd Porter	Y
Representative Dick Anderson	Y
Representative Anna Novak	Y
Representative Liz Conmy	Y
Representative Jason Dockter	Y
Representative Austin Foss	Y
Representative Jared c. Hagert	Y
Representative Craig Headland	AB
Representative Pat D. Heinert	Y
Representative Jorin Johnson	Y
Representative Andrew Marschall	Y
Representative Jeremy L. Olson	Y
Representative Matthew Ruby	AB

Motion carried: 11-0-2



House Energy and Natural Resources Committee  
SB 2117  
03-27-25  
Page 2

Bill carrier: Vice Chairwoman Novak

9:25 a.m. Chairman Porter closed the meeting

*Leah Kuball, Committee Clerk*

CO  
3/27/25  
10f7

Sixty-ninth  
Legislative Assembly  
of North Dakota

## PROPOSED AMENDMENTS TO 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:

- 1           a. Moneys applied for and received by the commission pursuant to title IV of Public
- 2           Law 95-87 [91 Stat. 456; 30 U.S.C. 1231 et seq.], for the purposes of this
- 3           chapter.
- 4           b. Moneys donated to the commission by persons, corporations, limited liability
- 5           companies, associations, and foundations for the purposes of this chapter.
- 6           c. Moneys collected by the commission from charges for uses of lands acquired or
- 7           reclaimed with moneys from the fund, after expenditures for maintenance have
- 8           been deducted.
- 9           d. Moneys recovered by the commission through satisfaction of liens filed against
- 10          privately owned lands reclaimed with moneys from the fund.
- 11          e. Moneys recovered by the commission from the sale of lands acquired with
- 12          moneys from the fund.
- 13          f. Such other moneys as may be deposited in the fund for use in carrying out the
- 14          purposes of the abandoned mine reclamation program.
- 15      2. Moneys in the fund may be used for the following purposes:
- 16          a. Reclamation and restoration of land and water resources as defined by section
- 17          38-14.2-06 and adversely affected by past mining, including but not limited to:
- 18              (1) Reclamation and restoration of abandoned surface mined areas,
- 19              abandoned coal processing areas, and abandoned coal refuse disposal
- 20              areas.
- 21              (2) Reclamation of lands affected by underground mine subsidence.
- 22              (3) Planting of land adversely affected by past coal mining or noncoal mining to
- 23              prevent erosion and sedimentation.
- 24              (4) Prevention, abatement, treatment, and control of water pollution created by
- 25              coal mine or noncoal mine drainage including restoration of streambeds,
- 26              and construction and operation of water treatment plants.
- 27              (5) Prevention, abatement, and control of burning coal refuse disposal areas
- 28              and burning coal in situ.
- 29              (6) Prevention, abatement, and control of coal mine subsidence.
- 30          b. Acquisition or lease of land as provided for in this chapter.



- 1 c. ~~Studies by the commission by contract with public and private organizations to~~  
2 ~~provide information, advice, and technical assistance, including research and~~  
3 ~~demonstration projects, conducted for the purposes of this chapter.~~
- 4 d. All other necessary expenses to accomplish the purposes of this chapter,  
5 including administrative expenses and costs incurred in the development of the  
6 abandoned mine reclamation plan and the abandoned mine reclamation  
7 program.
- 8 3. There is created a special fund in the state treasury called the state abandoned mine  
9 reclamation fund set-aside trust account. Revenue to the set-aside trust account must  
10 be ten percent of the amount granted by the secretary of the interior under title IV of  
11 Public Law 95-87 ~~as provided by Public Law 100-34~~ for amounts awarded before  
12 December 20, 2006. This account must be interest bearing and all interest must be  
13 credited to the set-aside trust account. No funds from this account may be expended  
14 prior to September 30, 2004. After September 30, 2004, the funds may be expended  
15 as provided in this subsection but no funds may be used to reclaim noncoal projects.  
16 The legislative assembly shall authorize expenditure by appropriation from the account  
17 as necessary to defray the administrative expenses of the program. The remaining  
18 funds in the account may only be used in accordance with subdivisions a, b, and c, of  
19 subsection 1 of section 38-14.2-07 but no funds may be used on noncoal projects. The  
20 liability of the state to fulfill the requirements of this subsection is limited to the amount  
21 of funds available in the account established in this subsection. The state has no  
22 obligations under this subsection except to the extent of federal funds deposited in the  
23 ~~coal mine mitigation~~ state abandoned mine reclamation fund set-aside trust account  
24 and the interest thereon to operate the program.
- 25 4. There is created a special fund in the state treasury called the state abandoned mine  
26 reclamation safeguarding treatment for the restoration of ecosystems from abandoned  
27 mines fund set-aside trust account. Revenue to the set-aside trust account must be no  
28 more than thirty percent of the annual amount granted by the secretary of interior  
29 under title IV of Public Law No. 95-87 as provided by Public Law No. 117-58 and  
30 Public Law No. 117-328. This account must be interest bearing and all interest must  
31 be credited to the safeguarding treatment for the restoration of ecosystems from



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1 abandoned mines fund set-aside trust account. The funds from this account may be  
2 expended for:

3 a. The abatement of the causes and treatment of the effects of acid mine drainage  
4 resulting from coal mining practices, including costs of building, operating,  
5 maintaining, and rehabilitating acid mine drainage treatment systems;

6 b. The prevention, abatement, and control of subsidence; and/or

7 c. The prevention abatement, and control of coal mine fires.

8 5. The legislative assembly shall authorize expenditure by appropriation from the account  
9 under subsection 4 as necessary to defray the administrative expenses of the  
10 program.

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

13 **38-14.2-06. Eligible lands and water.**

14 Lands and water eligible for reclamation or drainage abatement expenditures under this  
15 chapter are those which were mined for coal or which were affected by such mining,  
16 wastebanks, coal processing or other coal mining processes and abandoned or 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 laws. Lands and water which were mined or  
19 affected by mining for minerals and materials other than coal are also eligible for reclamation  
20 under this chapter if ~~such~~the reclamation is necessary to protect the public health, safety,  
21 general welfare, and property ~~and such, the~~ noncoal abandoned mine lands were left in an  
22 inadequate reclamation status prior to August 3, 1977, ~~and for which~~ there is no continuing  
23 reclamation responsibility under other or federal laws, and the state has received  
24 certification from the United States secretary of the interior under 30 U.S.C. 1239 or 30 U.S.C.  
25 1240(a). Lands and water designated for remedial action under the Uranium Mill Tailings  
26 Radiation Control Act of 1978 [42 U.S.C. 7901 et seq.] or listed for remedial action under the  
27 Comprehensive Environmental Response, Compensation, and Liability Act of 1980 [42 U.S.C.  
28 9601 et seq.] are not eligible for reclamation or drainage abatement expenditures under this  
29 chapter.

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

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

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

~~1. a. Administrative expenses and costs incurred in the development of the abandoned mine reclamation plan and the abandoned mine reclamation program.~~

~~2. b.~~ The protection of public health, safety, ~~general welfare~~, and property from extreme danger resulting from the adverse effects of past coal mining practices, including the restoration of eligible land and water resources and the environment:

(1) Previously degraded by the adverse effects of coal mining practices; and

(2) Located adjacent to a site that has been or will be remediated to protect the public health, safety, and property from extreme danger of adverse effects of coal mining practices.

~~3. e.b.~~ The protection of public health, and safety, ~~and general welfare~~ from adverse effects of past coal mining practices which do not constitute an extreme danger, including the restoration of eligible land and water resources and the environment:

(1) Previously degraded by the adverse effects of coal mining practices; and

(2) Located adjacent to a site that has been or will be remediated to protect the public health and safety from adverse effects of coal mining practices.

4. ~~d.c.~~ The restoration of eligible land and water resources and the environment ~~geographically contiguous to an area provided in subdivisions b or c~~ previously degraded by adverse effects of past coal mining practices, including measures for the conservation and development of soil, water (excluding channelization), woodland, fish and wildlife, recreation resources, and agricultural productivity.

~~5. e.~~ Research and demonstration projects relating to the development of surface coal mining reclamation and water quality control program methods and techniques The restoration of eligible land and water resources and the



- 1 ~~environment, which is not geographically contiguous to the area provided in~~  
2 ~~subdivisions b and c, previously degraded by adverse effects of past coal mining~~  
3 ~~practices, including measures for the conservation and development of soil,~~  
4 ~~water, excluding channelization, woodland, fish and wildlife, recreation resources,~~  
5 ~~and agricultural productivity.~~
- 6 6. ~~f.d.~~ The protection, repair, replacement, construction, or enhancement of public  
7 facilities such as utilities, roads, recreation, and conservation facilities adversely  
8 affected by ~~past~~water supply facilities, including water distribution facilities and  
9 treatment plants adversely affected by coal mining practices.
- 10 7. The development of publicly owned land adversely affected by past coal mining  
11 practices, including land acquired as provided in this chapter, for recreation, historic,  
12 conservation, and reclamation purposes and open space benefits.
- 13 ~~8. g.~~
- 14 2. The protection of the public from hazards endangering life and property resulting from  
15 the adverse effects of past noncoal mining practices upon certification from the United  
16 States secretary of interior as provided in 30 U.S.C. 1240(a). However, upon request  
17 by the governor of the state of North Dakota and approval by the secretary of the  
18 interior, such work may be undertaken before the priorities related to past coal mining  
19 have been fulfilled. Expenditure of funds from the project under this subsection must  
20 reflect the priorities in the order stated:
- 21 9. h.a. The protection of ~~the public from hazards to~~ health ~~and~~, safety, general welfare,  
22 and property from the adverse effects of ~~past~~ noncoal mining practices.
- 23 10. i.b. The ~~restoration of the environment degraded by the~~protection of public health,  
24 safety, and general welfare from adverse effects of ~~past~~ noncoal mining  
25 practices.
- 26 11. j.c. The ~~construction of public facilities in accordance with section~~  
27 38-14.2-05restoration of land and water resources and the environment  
28 previously degraded by the adverse effects of noncoal mining practices.
- 29 ~~2. The abandoned mine reclamation priority under subdivision e of subsection 1 must be~~  
30 ~~funded exclusively by moneys provided by the Infrastructure Investment and Jobs Act~~  
31 ~~[Pub. L. 117-58] unless subdivisions b through d of subsection 1 have been completed~~

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- 1 ~~and the abandoned mine reclamation program has certified the conditions to the~~
- 2 ~~United States secretary of interior.~~
- 3 3. Funds granted by the secretary of interior under title IV of Public Law No. 95-87 as
- 4 provided by Public Law No. 117-58 may be used only for the activities described in
- 5 subsection 1.

**REPORT OF STANDING COMMITTEE  
ENGROSSED SB 2117**

**Energy and Natural Resources Committee (Rep. Porter, Chairman)** recommends **AMENDMENTS** ([25.8067.02001](#)) and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 2 ABSENT OR EXCUSED AND NOT VOTING). SB 2117 was placed on the Sixth order on the calendar.

25.8067.02001  
Title.

Prepared by the Legislative Council  
staff for Representative Porter  
March 26, 2025

Sixty-ninth  
Legislative Assembly  
of North Dakota

## **PROPOSED AMENDMENTS TO 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:



- 1           a. Moneys applied for and received by the commission pursuant to title IV of Public  
2           Law 95-87 [91 Stat. 456; 30 U.S.C. 1231 et seq.], for the purposes of this  
3           chapter.
- 4           b. Moneys donated to the commission by persons, corporations, limited liability  
5           companies, associations, and foundations for the purposes of this chapter.
- 6           c. Moneys collected by the commission from charges for uses of lands acquired or  
7           reclaimed with moneys from the fund, after expenditures for maintenance have  
8           been deducted.
- 9           d. Moneys recovered by the commission through satisfaction of liens filed against  
10          privately owned lands reclaimed with moneys from the fund.
- 11          e. Moneys recovered by the commission from the sale of lands acquired with  
12          moneys from the fund.
- 13          f. Such other moneys as may be deposited in the fund for use in carrying out the  
14          purposes of the abandoned mine reclamation program.
- 15      2. Moneys in the fund may be used for the following purposes:
  - 16          a. Reclamation and restoration of land and water resources as defined by section  
17          38-14.2-06 and adversely affected by past mining, including but not limited to:
    - 18              (1) Reclamation and restoration of abandoned surface mined areas,  
19              abandoned coal processing areas, and abandoned coal refuse disposal  
20              areas.
    - 21              (2) Reclamation of lands affected by underground mine subsidence.
    - 22              (3) Planting of land adversely affected by past coal mining or noncoal mining to  
23              prevent erosion and sedimentation.
    - 24              (4) Prevention, abatement, treatment, and control of water pollution created by  
25              coal mine or noncoal mine drainage including restoration of streambeds,  
26              and construction and operation of water treatment plants.
    - 27              (5) Prevention, abatement, and control of burning coal refuse disposal areas  
28              and burning coal in situ.
    - 29              (6) Prevention, abatement, and control of coal mine subsidence.
  - 30          b. Acquisition or lease of land as provided for in this chapter.

- 1           c. ~~Studies by the commission by contract with public and private organizations to~~  
2           ~~provide information, advice, and technical assistance, including research and~~  
3           ~~demonstration projects, conducted for the purposes of this chapter.~~
- 4           d. All other necessary expenses to accomplish the purposes of this chapter,  
5           including administrative expenses and costs incurred in the development of the  
6           abandoned mine reclamation plan and the abandoned mine reclamation  
7           program.
- 8           3. There is created a special fund in the state treasury called the state abandoned mine  
9           reclamation fund set-aside trust account. Revenue to the set-aside trust account must  
10          be ten percent of the amount granted by the secretary of the interior under title IV of  
11          Public Law 95-87 ~~as provided by Public Law 100-34~~ for amounts awarded before  
12          December 20, 2006. This account must be interest bearing and all interest must be  
13          credited to the set-aside trust account. No funds from this account may be expended  
14          prior to September 30, 2004. After September 30, 2004, the funds may be expended  
15          as provided in this subsection but no funds may be used to reclaim noncoal projects.  
16          The legislative assembly shall authorize expenditure by appropriation from the account  
17          as necessary to defray the administrative expenses of the program. The remaining  
18          funds in the account may only be used in accordance with subdivisions a, b, and c, of  
19          subsection 1 of section 38-14.2-07 but no funds may be used on noncoal projects. The  
20          liability of the state to fulfill the requirements of this subsection is limited to the amount  
21          of funds available in the account established in this subsection. The state has no  
22          obligations under this subsection except to the extent of federal funds deposited in the  
23          ~~coal mine mitigation~~ state abandoned mine reclamation fund set-aside trust account  
24          and the interest thereon to operate the program.
- 25          4. There is created a special fund in the state treasury called the state abandoned mine  
26          reclamation safeguarding treatment for the restoration of ecosystems from abandoned  
27          mines fund set-aside trust account. Revenue to the set-aside trust account must be no  
28          more than thirty percent of the annual amount granted by the secretary of interior  
29          under title IV of Public Law No. 95-87 as provided by Public Law No. 117-58 and  
30          Public Law No. 117-328. This account must be interest bearing and all interest must  
31          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:

a. The abatement of the causes and treatment of the effects of acid mine drainage resulting from coal mining practices, including costs of building, operating, maintaining, and rehabilitating acid mine drainage treatment systems;

b. The prevention, abatement, and control of subsidence; and/or

c. The prevention abatement, and control of coal mine fires.

5. The legislative assembly shall authorize expenditure by appropriation from the account under subsection 4 as necessary to defray the administrative expenses of the program.

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

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

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

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

1       **38-14.2-07. Commission authorized to administer abandoned mine reclamation**  
2 **program - Objectives - Priorities.**

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

6       1- ~~a. Administrative expenses and costs incurred in the development of the~~  
7       ~~abandoned mine reclamation plan and the abandoned mine reclamation~~  
8       ~~program.~~

9       2- ~~b.~~ The protection of public health, safety, ~~general welfare,~~ and property from  
10       extreme danger resulting from the adverse effects of past coal mining practices,  
11       including the restoration of eligible land and water resources and the  
12       environment:

13       (1) Previously degraded by the adverse effects of coal mining practices; and

14       (2) Located adjacent to a site that has been or will be remediated to protect the  
15       public health, safety, and property from extreme danger of adverse effects  
16       of coal mining practices.

17       3- ~~e.b.~~ The protection of public health, and safety, ~~and general welfare~~ from adverse  
18       effects of past coal mining practices which do not constitute an extreme danger,  
19       including the restoration of eligible land and water resources and the  
20       environment:

21       (1) Previously degraded by the adverse effects of coal mining practices; and

22       (2) Located adjacent to a site that has been or will be remediated to protect the  
23       public health and safety from adverse effects of coal mining practices.

24       4- ~~d.c.~~ The restoration of eligible land and water resources and the environment  
25       ~~geographically contiguous to an area provided in subdivisions b or c~~ previously  
26       degraded by adverse effects of past coal mining practices, including measures  
27       for the conservation and development of soil, water (excluding channelization),  
28       woodland, fish and wildlife, recreation resources, and agricultural productivity.

29       5- ~~e.~~ ~~Research and demonstration projects relating to the development of surface coal~~  
30       ~~mining reclamation and water quality control program methods and~~  
31       ~~techniques~~ The restoration of eligible land and water resources and the



- 1 ~~environment, which is not geographically contiguous to the area provided in~~  
2 ~~subdivisions b and c, previously degraded by adverse effects of past coal mining~~  
3 ~~practices, including measures for the conservation and development of soil,~~  
4 ~~water, excluding channelization, woodland, fish and wildlife, recreation resources,~~  
5 ~~and agricultural productivity.~~
- 6 6- ~~f.d.~~ The protection, repair, replacement, construction, or enhancement of public  
7 facilities such as utilities, roads, recreation, and conservation facilities adversely  
8 affected by ~~pastwater~~ supply facilities, including water distribution facilities and  
9 treatment plants adversely affected by coal mining practices.
- 10 7- ~~The development of publicly owned land adversely affected by past coal mining~~  
11 ~~practices, including land acquired as provided in this chapter, for recreation, historic,~~  
12 ~~conservation, and reclamation purposes and open space benefits.~~
- 13 8- ~~g.~~
- 14 2. The protection of the public from hazards endangering life and property resulting from  
15 the adverse effects of past noncoal mining practices upon certification from the United  
16 States secretary of interior as provided in 30 U.S.C. 1240(a). However, upon request  
17 by the governor of the state of North Dakota and approval by the secretary of the  
18 interior, such work may be undertaken before the priorities related to past coal mining  
19 have been fulfilled. Expenditure of funds from the project under this subsection must  
20 reflect the priorities in the order stated:
- 21 9- ~~h.a.~~ The protection of ~~the public from hazards to~~ health ~~and~~, safety, general welfare,  
22 and property from the adverse effects of ~~past~~ noncoal mining practices.
- 23 10- ~~i.b.~~ The ~~restoration of the environment degraded by the~~ protection of public health,  
24 safety, and general welfare from adverse effects of ~~past~~ noncoal mining  
25 practices.
- 26 11- ~~j.c.~~ The ~~construction of public facilities in accordance with section~~  
27 ~~38-14.2-05~~ restoration of land and water resources and the environment  
28 previously degraded by the adverse effects of noncoal mining practices.
- 29 ~~2.~~ The abandoned mine reclamation priority under subdivision e of subsection 1 must be  
30 funded exclusively by moneys provided by the Infrastructure Investment and Jobs Act  
31 [Pub. L. 117-58] unless subdivisions b through d of subsection 1 have been completed

- 1 ~~and the abandoned mine reclamation program has certified the conditions to the~~
- 2 ~~United States secretary of interior.~~
- 3 3. Funds granted by the secretary of interior under title IV of Public Law No. 95-87 as
- 4 provided by Public Law No. 117-58 may be used only for the activities described in
- 5 subsection 1.