

Testimony
Senate Bill 2023
Senate Appropriations Committee
January 22, 2015; 10:30 a.m.
North Dakota Department of Health

Good morning Chairman Holmberg and members of the Senate Appropriations Committee. My name is David Glatt, Environmental Health Section Chief for the North Dakota Department of Health. We are responsible for the implementation of the vast majority of environmental protection programs in the state, including programs delegated to the state through agreements with the U.S. Environmental Protection Agency. I am here today to provide testimony in support of Senate Bill 2023.

The Department of Health is requesting a deficiency appropriation of \$250,000 to cover the cost of several current or pending legal actions with the U.S. Environmental Protection Agency. The FY 2013-2015 appropriation for special legal activities is \$500,000. At present the Department has spent approximately \$518,000. Although it is difficult to predict the timing of anticipated court decisions or roll out of final federal agency rules, the Department expects to continue to either take a lead role or partner with other states in at least three major actions in the coming months. They include challenges to federal actions in the following areas:

- **Federal 1-Hour SO₂ Rule:** The state is asking the court to compel the U.S. EPA to make a final determination on the compliance status of the state of North Dakota as defined in the rule. EPA had up to two years to make the determination but is now asking to delay the action for several years while they evaluate the new rules or procedures to determine the state's status. The delay in the determination can harm the state as we move to permit new sources.
- **Regional Haze Program:** The state of North Dakota has prevailed in a federal court decision that sided with the state regarding how best to control NO_x emissions at specific coal fired power plants. The state is currently awaiting a decision by the Region 8 U.S. EPA as to how they will proceed with the program after the court decision. We anticipate the need to participate in a court action to either defend or challenge the final decision by the EPA, which we anticipate will be released in February 2015.

- Clean Power Plan: The U.S. EPA has proposed rules that would regulate how CO₂ emissions are regulated or how energy is produced in each state. There is concern that the final rules will exceed the authority of the federal government by directing energy policy in each state, thereby usurping state authority. We anticipate that because each state will be assigned a specific compliance goal, each state who opposes the final determination will need to initiate a lawsuit against the EPA. The intent of the lawsuit will be to protect state authority to make decisions on how to implement federal laws and rules.

This concludes my testimony. I am happy to answer any questions you may have.