

Introduced by

Representatives Kempenich, Drovdal, Wikenheiser

Senator Erbele

1 A BILL for an Act to provide for the development and enforcement of wind turbine reclamation  
2 standards by the public service commission and for the termination of wind energy  
3 development leases.

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

5 **SECTION 1. Wind turbine reclamation standards - Public service commission**  
6 **duties.** The public service commission shall define wind turbine land restoration standards and  
7 require that all lessees of land for the erection and operation of wind turbines provide security  
8 that the wind turbine site will be reclaimed. The public service commission may require  
9 insurance, bonds, escrow accounts, or any other mechanism the commission determines  
10 adequate, payable to the state, to compensate the state for reclaiming wind turbine sites should  
11 the lessee fail to do so within twelve months of cessation of operation of a wind turbine on the  
12 site. The public service commission shall define land reclamation standards for reclaiming all  
13 abandoned wind turbine sites in the state. The public service commission shall require that all  
14 contracts entered after the effective date of this Act for the lease of land for purposes of wind  
15 turbine siting require at a minimum that the lessee restore, at the lessee's expense, the wind  
16 turbine site according to standards developed by the commission for the restoration, within  
17 twelve months after the wind turbine ceases operation or the expiration of the lease for the site,  
18 whichever occurs first.

19 **SECTION 2. Duty of lessee to have terminated or forfeited wind energy**  
20 **development leases released - Publication notice - Satisfaction of lease to be recorded -**  
21 **Notice to real property owner - Remedies.** When a wind energy development lease given on  
22 real property situated and recorded in a county in this state terminates or is forfeited, the lessee  
23 or the lessee's successors or assigns, within fifteen days after the date of the termination or  
24 forfeiture, shall have the lease surrendered in writing. The surrender must be signed by the

1 party surrendering the lease, acknowledged, and placed on record in the county where the  
2 leased real property is situated without cost to the property owner. If the lessee or the lessee's  
3 successors or assigns fails or neglects to execute and record the surrender within the time  
4 required, the property owner may serve upon the lessee or the lessee's successors or assigns  
5 of record, in person or by registered mail, at the lessee's last-known address, or if the  
6 post-office address is not shown of record then by publication once a week for three  
7 consecutive weeks in a newspaper of general circulation in the county where the real property  
8 is situated, a written notice in substantially the following form:

9           To \_\_\_\_\_: I, the undersigned, owner of the following described land  
10       situated in \_\_\_\_\_ County, North Dakota: (description of land) upon which a  
11       lease dated \_\_\_\_\_, \_\_\_\_\_, was given to \_\_\_\_\_ notify you that the  
12       lease has terminated or become forfeited by breach of its terms, that I declare the lease  
13       forfeited and void and that, unless you, within twenty days from this date, notify the  
14       recorder of the county as provided by law that the lease has not been forfeited, I will file  
15       with the recorder a satisfaction of lease as provided by law, and I demand that you  
16       execute or have executed a proper surrender of the lease and that you put the same of  
17       record in the office of the recorder of the county within twenty days from this date.

18           Dated \_\_\_\_\_, \_\_\_\_\_.  
19           \_\_\_\_\_

20       After twenty days from the date of service, registration, or first publication of the notice,  
21       the owner of the real property may file with the recorder of the county where the property is  
22       situated a satisfaction of lease setting forth that the affiant is the owner of the property, that the  
23       lease has terminated or that the lessee or the lessee's successors or assigns has failed or  
24       neglected to comply with the terms of the lease, reciting the facts constituting the failure and  
25       that the lease has been forfeited and is void, and setting out in satisfaction of lease a copy of  
26       the notice served and time of the service. If the lessee or the lessee's successors or assigns  
27       gives written notice within twenty days after service to the recorder of the county where the  
28       property is located that the lease has not been forfeited and that the lessee or the lessee's  
29       successors or assigns still claim that the lease is in full force and effect, the satisfaction of lease  
30       may not be recorded but the recorder shall notify the owner of the property of the action of the  
31       lessee or the lessee's successors or assigns and the owner of the property is entitled to the

1 remedies provided by law for the cancellation of the disputed lease. If the lessee or the  
2 lessee's successors or assigns fails to notify the recorder, the recorder shall record the  
3 satisfaction of lease and thereafter the record of the lease is not notice to the public of the  
4 existence of the lease or of any interest therein, or rights thereunder, and the record may not be  
5 received in evidence in a court of the state on behalf of the lessee or the lessee's successors or  
6 assigns, against the lessor or the lessor's successors or assigns.

7 **SECTION 3. Surrender of wind energy development lease by lessee.** A wind  
8 energy development lease that has been or may hereafter be recorded in the office of the  
9 recorder of a county may be discharged and canceled of record by the recording of a certificate  
10 of cancellation signed by the lessee or the lessee's assigns of record, or the lessee's duly  
11 authorized attorney in fact or personal representative, including a foreign executor or  
12 administrator, or a corporation or limited liability company by its duly authorized officers or  
13 managers surrendering all of the lessee's right, title, and interest in and to the lease, which  
14 certificate must be acknowledged as prescribed by law.

15 **SECTION 4. Wind energy development leases - Termination.** Notwithstanding any  
16 other law, a lease for a wind energy development project or wind turbine terminates five years  
17 after the date of the lease unless at least one hundred kilowatts of electricity is produced from a  
18 wind turbine located on the leasehold.