

Fifty-ninth
Legislative Assembly
of North Dakota

SENATE BILL NO.

Introduced by

Senator Erbele

1 A BILL for an Act to create and enact three new sections to Chapter 47-05 and a new section to
2 chapter 47-16 of the North Dakota Century Code, relating to wind easements and leases.

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

4 **SECTION 1.** A new section to chapter 47-05 of the North Dakota Century Code is
5 created and enacted as follows:

6 **Wind easement - Definition.** For purposes of sections 2 and 3 of this Act, the term
7 wind easement means a right, whether stated in the form of a restriction, easement, covenant,
8 or condition, in a deed, will, or other instrument executed by or on behalf of an owner of land or
9 airspace for the purpose of insuring adequate exposure of a wind power system to the winds.

10 **SECTION 2.** A new section to chapter 47-05 of the North Dakota Century Code is
11 created and enacted as follows:

12 **Creating and granting wind easements - Filing written agreement - Maximum term**
13 **- Development of energy potential required.** A property owner may grant a wind easement
14 in the same matter and with the same effect as the conveyance of an interest in real property.
15 The easement runs with the land or ?? benefited and burdened and terminates upon the
16 conditions stated in the easement. However, the easement is void if no development of the
17 potential to produce energy from wind power associated with the easement as occurred within
18 five years after the easement is created.

19 **SECTION 3.** A new section to chapter 47-05 of the North Dakota Century Code is
20 created and enacted as follows:

21 **Severance of wind energy rights limited.** Except for a wind easement created under
22 section 2 of this Act, an interest in a resource located on a tract of land and associated with the
23 production or potential production of energy for wind power on the tract of land may not be
24 severed from the surface estate.

1 **SECTION 4.** A new section to chapter 47-16 of the North Dakota Century Code is
2 created and enacted as follows:

3 **Wind energy leases - Termination.** A lease for wind energy purposes is void and
4 terminates if development of the potential to produce energy from wind power has not occurred
5 on the lease hold within five years after the lease commences.