

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 ensuring 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 **Wind easements - Creation - Term - Development required.** A property owner may
13 grant a wind easement in the same manner and with the same effect as the conveyance of an
14 interest in real property. The easement runs with the land benefited and burdened and
15 terminates upon the conditions stated in the easement. However, the easement is void if no
16 development of the potential to produce energy from wind power associated with the easement
17 has occurred within five years after the easement is created.

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

20 **Severance of wind energy rights limited.** Except for a wind easement created under
21 section 2 of this Act, an interest in a resource located on a tract of land and associated with the
22 production or potential production of energy for wind power on the tract of land may not be
23 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 leasehold within five years after the lease commences.