

Sixty-fifth  
Legislative Assembly  
of North Dakota

**HOUSE BILL NO. 1181**

Introduced by

Representatives Toman, Klemin, Longmuir, Pollert, Steiner, Streyle

Senators Cook, Klein, Schaible

1 A BILL for an Act to amend and reenact sections 17-04-01, 17-04-03, and 17-04-05 of the North  
2 Dakota Century Code, relating to termination of wind option agreements, wind easements, and  
3 wind energy leases.

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

5 **SECTION 1. AMENDMENT.** Section 17-04-01 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **17-04-01. Wind option agreement - Definition - Termination.**

8 1. A wind option agreement is a contract in which the owner of property gives another the  
9 right to produce energy from wind power on that property at a fixed price within a time  
10 period not to exceed five years on agreed terms.

11 2. A wind option agreement is void and terminates if the following have not occurred with  
12 respect to the property that is the subject of the wind option agreement within five  
13 years after the wind option agreement commences:

14 4- a. A certificate of site compatibility or conditional use permit has been issued, if  
15 required; and

16 2- b. A transmission interconnection request is in process and not under suspension.

17 3. If any of the requirements or terms of the wind option agreement, other than those  
18 provided in subsection 2, have not been met fully by the developer, owner, or operator  
19 of the existing or proposed wind farm facility, the owner of the energy rights may  
20 provide to the developer, owner, or operator of the existing or proposed wind farm  
21 facility a thirty-day written notice of the intent to terminate the wind option agreement.  
22 If, within thirty days of the mailing of the notice of the intent to terminate, the  
23 developer, owner, or operator fails to provide a written objection to the notice, the  
24 owner of the energy rights may file an affidavit of termination in the office of the county

1 recorder in the county in which the real property affected by the wind option  
2 agreement is located. Termination of the wind option agreement becomes effective  
3 when the affidavit of termination is filed and recorded with the county recorder.

4 **SECTION 2. AMENDMENT.** Section 17-04-03 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **17-04-03. Wind easements - Creation - Term - Development required.**

- 7 1. A property owner may grant a wind easement in the same manner and with the same  
8 effect as the conveyance of an interest in real property.
- 9 2. The easement runs with the land benefited and burdened and terminates upon the  
10 conditions stated in the easement. ~~However, the, however:~~
- 11 a. The easement is void if the following have not occurred with respect to the  
12 property that is the subject of the easement within five years after the easement  
13 commences:
- 14 ~~4-~~ (1) A certificate of site compatibility or conditional use permit has been issued, if  
15 required; and
- 16 ~~2-~~ (2) A transmission interconnection request is in process and not under  
17 suspension.
- 18 b. If any of the requirements or terms of the easement, other than those provided in  
19 subdivision a, have not been fully met by the developer, owner, or operator of the  
20 existing or proposed wind farm facility, the owner of the energy rights may  
21 provide to the developer, owner, or operator of the existing or proposed wind farm  
22 facility a thirty-day written notice of the intent to terminate the easement. If, within  
23 thirty days of the mailing of the notice of the intent to terminate, the developer,  
24 owner, or operator fails to provide a written objection to the notice, the owner of  
25 the energy rights may file an affidavit of termination in the office of the county  
26 recorder in the county in which the real property affected by the easement is  
27 located. Termination of the easement becomes effective when the affidavit of  
28 termination is filed and recorded with the county recorder.

29 **SECTION 3. AMENDMENT.** Section 17-04-05 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1       **17-04-05. Wind energy leases - Termination.**

2       1. A lease for wind energy purposes is void and terminates if the following have not  
3       occurred with respect to the property that is the subject of the lease within five years  
4       after the lease commences:

5       4. a. A certificate of site compatibility or conditional use permit has been issued, if  
6       required; and

7       2. b. A transmission interconnection request is in process and not under suspension.

8       2. If any of the requirements or terms of a lease for wind energy purposes, other than  
9       those provided in subsection 1, have not been fully met by the developer, owner, or  
10       operator of the existing or proposed wind farm facility, the owner of the energy rights  
11       may provide to the developer, owner, or operator of the existing or proposed wind farm  
12       facility a thirty-day written notice of the intent to terminate the lease. If, within thirty  
13       days of the mailing of the notice of the intent to terminate, the developer, owner, or  
14       operator fails to provide a written objection to the notice, the owner of the energy rights  
15       may file an affidavit of termination in the office of the county recorder in the county in  
16       which the real property affected by the lease is located. Termination of the lease  
17       becomes effective when the affidavit of termination is filed and recorded with the  
18       county recorder.