



March 6, 2025

House Government and Veterans Affairs Committee

**Re: SB 2398 – Amendment Requested**

Chairman Schauer and members of the committee,

Wind Industry of ND (WIND) is a coalition that advocates for the continued support of wind energy as one of North Dakota's many valuable natural resources. WIND appreciates and supports the intent of Senator Barta's legislation—to ensure compatibility of economic development with the critical missions of the Grand Forks AFB and the Minot AFB. We have been talking with Senator Barta on the concept of military compatibility since last fall, and we greatly appreciate his willingness to work with us. WIND supports military compatibility.

SB 2398 establishes a military compatibility commission to encourage communication regarding the potential impacts of various forms of development around military installments. These impacts can come from energy development, value-added agriculture, aviation activities, commercial development, industrial development, transportation development, and housing development. For the wind industry, there is already a well-established and robust process authorized by Congress and implemented by the Department of Defense. Enacted in 2011, it's called the US DOD Military Aviation and Installation Assurance Siting Clearinghouse. *See* 10 USC 183(a). The clearinghouse includes two tracks of review for wind energy projects: an informal review and a formal review. A wind project is legally required to engage with the Clearinghouse because federal law requires structures over 200 feet tall to be reviewed by the Federal Aviation Administration (FAA) and other agencies and departments, to protect air navigation and safety.

A developer may engage in the informal review process even before filing through the FAA, which kicks off the formal DOD review process, if they believe it might have an impact on military compatibility. A project is neither developable nor financeable if the developer does not address DOD's concerns. While the Clearinghouse manages the process, it is the individual military services and military bases who assess whether a proposed project poses a potential hazard and, if necessary, engages in mitigation discussions with the project developer.

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An informal review can result in a mitigation agreement or a preliminary letter—the DOD does not take an official position at this stage, but it starts the communication. It's important to note that states and political subdivisions already have legal standing to go directly to the clearinghouse for input on mission compatibility, even without the developer initiating a review. *See* 32 CFR 211.2(c).

The formal review allows for the DOD to offer an official position on a project, but only after it goes through the FAA's obstruction process. Significantly, to our knowledge, no wind project has ever been built in North Dakota over the objection of the DOD or the FAA.

In addition to the robust federal DOD clearinghouse process, the ND Public Service Commission recently updated the rules of the siting act, which provides the required state review process for wind projects. Those rules legally require 35 entities and stakeholders to get notice of the siting proceeding. The PSC rules were recently updated to specifically require notice to the clearinghouse, the 20<sup>th</sup> Air Force 91<sup>st</sup> Missile Wing, the Minot Air Force Base, and the Grand Forks Air Force Base. *See* NDAC 69-06-01-05(32)-(36). The PSC rules already included—and still include—a requirement that notice be given to the county commission(s) in which the project is located. *See* NDAC 69-06-01-05(25). The siting act also requires PSC hearings to occur in an affected county. *See* NDCC 49-22-13(1). Additionally, of course, a wind project must also receive county approval. *See* NDCC 49-22-16. Therefore, aside from just good development practices of transparent and proactive communication with stakeholders, local and state law already ensure that active, continuing communication is happening between wind projects and military interests in North Dakota.

In short, there is already a robust DOD process for reviewing wind projects to ensure military compatibility as well as multiple legal requirements for communication within the ND PSC's siting act. Accordingly, we respectfully request the adoption of an amendment to exempt activities that are captured by DOD clearinghouse to avoid duplicate review processes:

Except for activities subject to United States department of defense military aviation and installation assurance siting clearinghouse established by 10 USC section 183a, tThe military compatibility commission shall:

- a. Provide guidance to local governments on military-compatibility practices in military impact zones.
- b. Establish a uniform process in accordance with chapters 11-33, 40-47, and 40-48, and section 58-03-12 for all political subdivisions located in a military impact zone to coordinate any information relevant to mission compatibility with the United States department of defense military aviation and installation assurance siting clearinghouse for zoning, land use, construction, energy development, telecommunications, and other infrastructure projects that could impact military radar, airspace, communications, or operational readiness.

This amendment would still allow various types of development to be subject to the military compatibility commission created by the bill. Specifically, the amendment would still allow for the military compatibility commission to consider other projects that could have an impact on the bases like value-added agriculture projects, aviation activities, commercial development, industrial development, transportation development, and housing development.

We respectfully urge the **ADOPTION OF THE AMENDMENT**. Thank you for your consideration.