

**FIRST ENGROSSMENT
with Senate Amendments**

Fifty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1340

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 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.