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ROLL NUMBER

DESCRIPTION

1340

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Dennis Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE NATURAL RESOURCES

HB 1340

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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1340

House Natural Resources Committee

☐ Conference Committee

Hearing Date February 7, 2003

Tape Number	Side A	Side B	Meter #
1	xx		0-1860
Committee Clerk Signature			

Minutes:

Chair Nelson called the meeting on HB 1340 relating to termination of leases to order.

Rep. Kempenich: Introduced HB 1340 and added an amendment. This is to open up land that was held up from speculation. This can kill a project. This bill would change the law so that after 5 years the leases would be terminated.

Rep. Porter: Why wouldn't the parties set that up themselves.

Rep. Kempenich: That is the standard in the oil industry. This industry is too new.

Rep. Nottestad: Is the five year plan based on any other states like Iowa or Minnesota.

Rep. Kempenich: I did not look into other states plans.

Rep. Keiser: Does this program create a hurdle for development in the long term?

Rep. Kempenich: I do not think so. They can always lease the land again.

Rep. Keiser: I understand that, however as an investor I do not know how long it will take me to develop the project. I need to have a long term lease to fit in a business plan.

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Page 2
House Natural Resources Committee
Bill/Resolution Number 1340
Hearing Date February 7, 2003

Rep. Drovdal: What kind of dollars go to a landowner?

Rep. Kempenich: It varies from tower to tower. 2,500 to 3,000 per tower.

Rep. Drovdal: What is it on a speculative lease.

Rep. Kempenich: I did not get to it.

Mike Brandenburg: No one expected this situation. There are some who are tied down for 20 years. This would only last for 5 years if you develop it.

Chair Nelson: What are the termination leases in South Dakota?

Mike Brandenburg: I am not aware of anything like this.

Ron Ness: Testified Neutral on HB 1340. Explained the unintended impact this bill would have on the oil and gas industry and recommended the bill be enacted with a new section in the century code instead of the oil and gas statute.

Rep. Drovdal: We will check with legislative council on this issue.

Chair Nelson closes the hearing.

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Deanna Hall
Operator's Signature

10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1340

House Natural Resources Committee

☐ Conference Committee

Hearing Date February 13, 2003

Tape Number	Side A	Side B	Meter #
1		xx	2640-3330
Committee Clerk Signature <i>En Mya</i>			

Minutes:

Chair Nelson called the meeting to order.

Rep. Drovdal: The amendment does two things. Fixes the problem of kv to kw. Creates it's own section of the code. Moves the Adoption of the amendment. Seconded by **Rep. Porter**.

Chair Nelson: Pointed out that South Dakota does have a similar law.

Passed by voice vote.

Rep. Norland moves a **Do Pass with Amendment** seconded by **Rep. Klein**.

Motion Carries by a vote of 9-1-4. **Rep. Drovdal** will carry.

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10/3/03
Date

30481.0102
Title.0200

Prepared by the Legislative Council staff for
Representative Kempenich
February 7, 2003

VK
2/13/03
1082

HOUSE AMENDMENTS TO HOUSE BILL NO. 1340 NAT 2-13-03

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for the termination of wind energy development leases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Duty of lessee to have terminated or forfeited wind energy development leases released - Publication notice - Satisfaction of lease to be recorded - Notice to real property owner - Remedies. When a wind energy development lease given on real property situated and recorded in a county in this state terminates or is forfeited, the lessee or the lessee's successors or assigns, within fifteen days after the date of the termination or forfeiture, shall have the lease surrendered in writing. The surrender must be signed by the party surrendering the lease, acknowledged, and placed on record in the county where the leased real property is situated without cost to the property owner. If the lessee or the lessee's successors or assigns fails or neglects to execute and record the surrender within the time required, the property owner may serve upon the lessee or the lessee's successors or assigns of record, in person or by registered mail, at the lessee's last-known address, or if the post-office address is not shown of record then by publication once a week for three consecutive weeks in a newspaper of general circulation in the county where the real property is situated, a written notice in substantially the following form:

To _____: I, the undersigned, owner of the following described land situated in _____ County, North Dakota: (description of land) upon which a lease dated _____, _____, was given to _____ notify you that the lease has terminated or become forfeited by breach of its terms, that I declare the lease forfeited and void and that, unless you, within twenty days from this date, notify the recorder of the county as provided by law that the lease has not been forfeited, I will file with the recorder a satisfaction of lease as provided by law, and I demand that you execute or have executed a proper surrender of the lease and that you put the same of record in the office of the recorder of the county within twenty days from this date.
Dated _____, _____.

After twenty days from the date of service, registration, or first publication of the notice, the owner of the real property may file with the recorder of the county where the property is situated a satisfaction of lease setting forth that the affiant is the owner of the property, that the lease has terminated or that the lessee or the lessee's successors or assigns has failed or neglected to comply with the terms of the lease, reciting the facts constituting the failure and that the lease has been forfeited and is void, and setting out in satisfaction of lease a copy of the notice served and time of the service. If the lessee or the lessee's successors or assigns gives written notice within twenty days after service to the recorder of the county where the property is located that the lease has not been forfeited and that the lessee or the lessee's successors or assigns still claim that the lease is in full force and effect, the satisfaction of lease may not be recorded but the recorder shall notify the owner of the property of the action of the lessee or the lessee's successors or assigns and the owner of the property is entitled to the remedies provided by law for the cancellation of the disputed lease. If the lessee or the lessee's successors or assigns fails to notify the recorder, the recorder shall record the satisfaction of lease and thereafter the record of the lease is not notice to the public of the existence of the lease or of any interest therein, or rights thereunder, and the record may not be received in evidence in a court of the state on behalf of the lessee or the

Page No. 1

30481.0102

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Deanna Hall Smith
Operator's Signature

10/3/03
Date

lessee's successors or assigns, against the lessor or the lessor's successors or assigns.

SECTION 2. Surrender of wind energy development lease by lessee. A wind energy development lease that has been or may hereafter be recorded in the office of the recorder of a county may be discharged and canceled of record by the recording of a certificate of cancellation signed by the lessee or the lessee's assigns of record, or the lessee's duly authorized attorney in fact or personal representative, including a foreign executor or administrator, or a corporation or limited liability company by its duly authorized officers or managers surrendering all of the lessee's right, title, and interest in and to the lease, which certificate must be acknowledged as prescribed by law.

SECTION 3. Wind energy development leases - Termination.

Notwithstanding any other law, a lease for a wind energy development project or wind turbine terminates five years after the date of the lease unless at least one hundred kilowatts of electricity is produced from a wind turbine located on the leasehold."

Renumber accordingly

Date: 2/6/03
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1390

House House Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass w/ Amend.

Motion Made By Norland Seconded By Klein

Representatives	Yes	No	Representatives	Yes	No
Chairman Jon O. Nelson	✓				
Vice-Chairman Todd Porter		✓			
Rep. Byron Clark	✓				
Rep. Duane DeKrey					
Rep. David Drovdal	✓				
Rep. Lyle Hanson	✓				
Rep. Bob Hunsakor					
Rep. Dennis Johnson	✓				
Rep. George Keiser					
Rep. Scott Kelsh					
Rep. Frank Klein	✓				
Rep. Mike Norland	✓				
Rep. Darrell Nottestad	✓				
Rep. Dorvan Solberg	✓				

Total (Yes) 9 No 1

Absent 4

Floor Assignment Drovdal

If the vote is on an amendment, briefly indicate intent:

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Dennis Johnson
Operator's Signature

10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
February 13, 2003 1:59 p.m.

Module No: HR-28-2604
Carrier: Drovda
Insert LC: 30481.0102 Title: .0200

REPORT OF STANDING COMMITTEE

HB 1340: Natural Resources Committee (Rep. Nelson, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 1 NAY, 4 ABSENT AND NOT VOTING). HB 1340 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide for the termination of wind energy development leases.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Duty of lessee to have terminated or forfeited wind energy development leases released - Publication notice - Satisfaction of lease to be recorded - Notice to real property owner - Remedies. When a wind energy development lease given on real property situated and recorded in a county in this state terminates or is forfeited, the lessee or the lessee's successors or assigns, within fifteen days after the date of the termination or forfeiture, shall have the lease surrendered in writing. The surrender must be signed by the party surrendering the lease, acknowledged, and placed on record in the county where the leased real property is situated without cost to the property owner. If the lessee or the lessee's successors or assigns fails or neglects to execute and record the surrender within the time required, the property owner may serve upon the lessee or the lessee's successors or assigns of record, in person or by registered mail, at the lessee's last-known address, or if the post-office address is not shown of record then by publication once a week for three consecutive weeks in a newspaper of general circulation in the county where the real property is situated, a written notice in substantially the following form:

To _____: I, the undersigned, owner of the following described land situated in _____ County, North Dakota: (description of land) upon which a lease dated _____, _____, was given to _____ notify you that the lease has terminated or become forfeited by breach of its terms, that I declare the lease forfeited and void and that, unless you, within twenty days from this date, notify the recorder of the county as provided by law that the lease has not been forfeited, I will file with the recorder a satisfaction of lease as provided by law, and I demand that you execute or have executed a proper surrender of the lease and that you put the same of record in the office of the recorder of the county within twenty days from this date.

Dated _____, _____.

After twenty days from the date of service, registration, or first publication of the notice, the owner of the real property may file with the recorder of the county where the property is situated a satisfaction of lease setting forth that the affiant is the owner of the property, that the lease has terminated or that the lessee or the lessee's successors or assigns has failed or neglected to comply with the terms of the lease, reciting the facts constituting the failure and that the lease has been forfeited and is void, and setting out in satisfaction of lease a copy of the notice served and time of the service. If the lessee or the lessee's successors or assigns gives written notice within twenty days after service to the recorder of the county where the property is located that the lease has not been forfeited and that the lessee or the lessee's successors or assigns still claim that the lease is in full force and effect, the satisfaction of lease may not be recorded but the recorder shall notify the owner of the property of the action of the lessee or the lessee's successors or assigns and the owner of the property is entitled to the remedies provided by law for the cancellation of the disputed lease. If the lessee or the lessee's successors or assigns fails to notify the recorder, the recorder shall record the satisfaction of lease and thereafter the record of the lease is

not notice to the public of the existence of the lease or of any interest therein, or rights thereunder, and the record may not be received in evidence in a court of the state on behalf of the lessee or the lessee's successors or assigns, against the lessor or the lessor's successors or assigns.

SECTION 2. Surrender of wind energy development lease by lessee. A wind energy development lease that has been or may hereafter be recorded in the office of the recorder of a county may be discharged and canceled of record by the recording of a certificate of cancellation signed by the lessee or the lessee's assigns of record, or the lessee's duly authorized attorney in fact or personal representative, including a foreign executor or administrator, or a corporation or limited liability company by its duly authorized officers or managers surrendering all of the lessee's right, title, and interest in and to the lease, which certificate must be acknowledged as prescribed by law.

SECTION 3. Wind energy development leases - Termination. Notwithstanding any other law, a lease for a wind energy development project or wind turbine terminates five years after the date of the lease unless at least one hundred kilowatts of electricity is produced from a wind turbine located on the leasehold."

Renumber accordingly

2003 SENATE NATURAL RESOURCES

HB 1340

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10/3/03
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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1340

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 3-6-03

Tape Number	Side A	Side B	Meter #
1		X	16.8 - end
2	X		0.0 - 1.4
Committee Clerk Signature <i>Janet James</i>			

Minutes:

Senator Thomas Fischer, Chairman of the Senate Natural Resources Committee opened the hearing on HB 1340 providing for the termination of wind energy development leases.

All members of the committee were present.

Senator Robert Erbele of District 28 cosponsor of HB 1340 stated the bill deals with wind energy development leases and the protection of property rights for the land owners.

Brian Kramer representing the North Dakota Farm Bureau testified in support of HB 1340 and the amendments. (See attached testimony and amendment).

Representative Keith Kempenich of District 39 prime sponsor of HB 1340 stated it was introduced because of the issue that if a lease is not acted upon after 5 years it should be terminated as it is similarly done in the oil patch. It came about because speculators come and lease up the land with no intention of developing anything. This bill would put a 5 year cap on

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Page 2
Senate Natural Resources Committee
Bill/Resolution Number HB 1340
Hearing Date 3-6-03

the development so that if nothing happens the lease would be terminated allowing a different lease to be available. This bill will help put a limit on speculation.

Discussion was held about reclamation responsibilities and that it was included in a bill this session that was amended to now be a study.

Senator Joel Heitkamp asked what business does the state have to dictating the terms of a lease and why should the state determine the rights in securing a lease.

Keith Kempenich thought this is different than an easement as something is being used and with a wind lease there is speculation with possibly no intent of using it. The intent of the bill is so that speculation could not hold hostage a wind power project.

John L. Emter testified in a neutral position on HB 1340 stating his history of oil leases on his farm property. He feels the state of North Dakota is making laws so strict no one will come in and speculate because North Dakota does not want them to make a profit.

There was no testimony in opposition to HB 1340.

Senator Fischer closed the hearing on HB 1340.

Brian Kramer added that the language in the amendment is already included in South Dakota's law and that the wind rights should not be severed from the land.

Discussion was held about different kinds of leases and about bonuses and royalties. The committee felt oil and coal leases should be looked into as this is getting into a very dangerous area and should be investigated before any decisions are made about the bill.

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Page 3
Senate Natural Resources Committee
Bill/Resolution Number HB 1340
Hearing Date 3-6-03

Tape 2, Side A, 0.0 - 1.4

Discussion continued and the committee decided the bar associations should be contacted and ask what they are doing to help those who are approached for leases. Oil and other leases will also be looked into.

Senator Fischer closed the discussion on HB 1340.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1340

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 3-7-03 Discussion

Tape Number	Side A	Side B	Meter #
1	X		39.0 - 41.8
Committee Clerk Signature <i>Jamie James</i>			

Minutes:

Senator Thomas Fischer, Chairman of the Senate Natural Resources opened discussion on HB 1340.

Senator John Traynor presented **Malchom Brown** lobbyist for the Real Property Section of the North Dakota Bar Association. He stated the association has taken no position on the bill, however Senator Traynor contacted them to provide some technical assistance or answer questions. Originally it was a bill to amend century code and was amended in the house to be a stand alone section. The concept is the same as existing law for oil and gas leases, that if the land owner feels the lease should be terminated, a notice is filed for ledigation. He stated a concern in Section 3 stating that a lease can be terminated unless 100 kilowatts of electricity is produced and how do you know that is the case. This might produce a lot of ledigation.

Senator Traynor stated that some on the committee members had concerns that this might be state intrudgine on private negotiated matter between parties.

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10/3/03
Date

Page 2
Senate Natural Resources Committee
Bill/Resolution Number HB 1340
Hearing Date 3-7-03

Malcolm Brown agreed this would be the case. It would be a condition in the lease that neither might want.

Senator Fischer closed the discussion on HB 1340.

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1340

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 3-13-03 Discussion

Tape Number	Side A	Side B	Meter #
2	X		13.7 - 17.6
Committee Clerk Signature <i>Janet James</i>			

Minutes:

Senator Thomas Fischer opened the discussion on HB 1340.

All members of the committee were present.

Senator Michael Every presented an amendment about wind turbine reclamation standards (See attached amendment). He stated that although this would only be effected by a handful, some protection is needed and will give the Public Service Commission the authority to reclaim the land if it is abandoned.

Senator Every made a motion to accept amendment #30481.0202.

Senator Joel Heitkamp second the motion.

Senator John Traynor asked if there was a fiscal note for this bill.

Senator Fischer asked Senator Every to check into the fiscal note.

The motions were withdrawn.

Senator Fischer closed the discussion on HB 1340.

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10/3/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1340

Senate Natural Resources Committee

☐ Conference Committee

Hearing Date 3-27-03 Discussion and Action

Tape Number	Side A	Side B	Meter #
1	X		0.6 - 8.0
Committee Clerk Signature <i>Jant James</i>			

Minutes:

Senator Thomas Fischer opened the discussion on HB 1340.

All member of the committee were present.

Senator Michael Every stated the amendment he had presented (30481.0202) addresses the concern of site reclamation of wind energy turbine development. This issue was in SB 2310 that was defeated in the house. This will give the Public Service Commission the authority to make the rules with regards to reclamation and how it is handled.

Senator Every made a motion to accept the amendment (30481.0202).

Senator Joel Heitkamp second the motion.

Senator John Traynor asked if there is now a fiscal note on the bill.

Senator Every respond that he has checked with the PSC and Jeff Nelson and they both said there would be no fiscal impact.

Roll call vote #1 was taken indicating 7 YEAS, 0 NAYS AND 0 ABSENT OR NOT VOTING.

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Page 2
Senate Natural Resources Committee
Bill/Resolution Number HB 1340
Hearing Date 3-27-03

Discussion was held as to the amendment concerning severability that had been offered by the Farm Bureau. This issue was also included in SB 2310. It was decided this was a whole new area of law and is a separate issue.

Senator Every made a motion for Do Pass as Amended of HB 1340.

Senator Heitkamp second the motion.

Roll call vote # 2 was taken indicating 7 YEAS, 0 NAYS AND 0 ABSENT OR NOT VOTING.

Senator Every will carry HB 1340.

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Deanna Hallmark
Operator's Signature

10/3/03
Date

30481.0202
Title.0300

Prepared by the Legislative Council staff for
Senator Every
March 12, 2003

[Signature]
3-27-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1340

Page 1, line 1, after "provide" insert "for the development and enforcement of wind turbine reclamation standards by the public service commission and"

Page 1, after line 2, insert:

"SECTION 1. Wind turbine reclamation standards - Public service commission duties. The public service commission shall define wind turbine land restoration standards and require that all lessees of land for the erection and operation of wind turbines provide security that the wind turbine site will be reclaimed. The public service commission may require insurance, bonds, escrow accounts, or any other mechanism the commission determines adequate, payable to the state, to compensate the state for reclaiming wind turbine sites should the lessee fail to do so within twelve months of cessation of operation of a wind turbine on the site. The public service commission shall define land reclamation standards for reclaiming all abandoned wind turbine sites in the state. The public service commission shall require that all contracts entered after the effective date of this Act for the lease of land for purposes of wind turbine siting require at a minimum that the lessee restore, at the lessee's expense, the wind turbine site according to standards developed by the commission for the restoration, within twelve months after the wind turbine ceases operation or the expiration of the lease for the site, whichever occurs first."

Renumber accordingly

[Signature]
Operator's Signature

10/3/03
Date

Date: 3-27-03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1340

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken to accept Amendment 30481.0202

Motion Made By Evoy Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Senator Thomas Fischer	✓		Senator Michael A. Every	✓	
Senator Ben Tollefson	✓		Senator Joel C. Heitkamp	✓	
Senator Layton Freborg	✓				
Senator Stanley W. Lyson	✓				
Senator John T. Traynor	✓				

Total (Yes) 7 No 2

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

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Donna Hall
Operator's Signature

10/3/03
Date

Date: 3-27-03
Roll Call Vote #: 2

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1340

Senate Senate Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Every Seconded By Heitkamp

Senators	Yes	No	Senators	Yes	No
Senator Thomas Fischer	✓		Senator Michael A. Every	✓	
Senator Ben Tollefson	✓		Senator Joel C. Heitkamp	✓	
Senator Layton Freborg	✓				
Senator Stanley W. Lyson	✓				
Senator John T. Traynor	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Every

If the vote is on an amendment, briefly indicate intent:

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10/3/03
Date

REPORT OF STANDING COMMITTEE (410)
March 27, 2003 2:38 p.m.

Module No: SR-55-5949
Carrier: Every
Insert LC: 30481.0202 Title: .0300

REPORT OF STANDING COMMITTEE

HB 1340, as engrossed: Natural Resources Committee (Sen. Fischer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1340 was placed on the Sixth order on the calendar.

Page 1, line 1, after "provide" Insert "for the development and enforcement of wind turbine reclamation standards by the public service commission and"

Page 1, after line 2, Insert:

"SECTION 1. Wind turbine reclamation standards - Public service commission duties. The public service commission shall define wind turbine land restoration standards and require that all lessees of land for the erection and operation of wind turbines provide security that the wind turbine site will be reclaimed. The public service commission may require insurance, bonds, escrow accounts, or any other mechanism the commission determines adequate, payable to the state, to compensate the state for reclaiming wind turbine sites should the lessee fail to do so within twelve months of cessation of operation of a wind turbine on the site. The public service commission shall define land reclamation standards for reclaiming all abandoned wind turbine sites in the state. The public service commission shall require that all contracts entered after the effective date of this Act for the lease of land for purposes of wind turbine siting require at a minimum that the lessee restore, at the lessee's expense, the wind turbine site according to standards developed by the commission for the restoration, within twelve months after the wind turbine ceases operation or the expiration of the lease for the site, whichever occurs first."

Renumber accordingly

2003 HOUSE NATURAL RESOURCES

CONFERENCE COMMITTEE

HB 1340

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Deanna Halliwell
Operator's Signature

10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1340

House Natural Resources Committee

☐ Conference Committee

Hearing Date April, 9, 2003

Tape Number	Side A	Side B	Meter #
1	XX		0-1938
Committee Clerk Signature <i>Eui Mye</i>			

Minutes:

Chair Drovdal opens the conference committee.

Sen. Every: I thought after last session we had created a good compromise between what we had offered and what the Public Service Commission had asked for. Now I am unsure. This would have defined reclamation. If we do this without the amendments it puts the fox in charge of the hen house.

Sen. Lyson: With the amendments the Public Service Commission is satisfied.

Rep. Drovdal: They are satisfied with the amendments. The developers are nervous about doing this without a hearing. I am not so sure we should jump into this.

Sen. Lyson: They feel that this will not hinder any startups. It does set some guidelines for some that do not have the startup capital.

Rep. Drovdal: I am getting the opposite read from some of the same people.

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10/3/03
Date

Page 2
House Natural Resources Committee
Bill/Resolution Number 1340
Hearing Date April 9, 2003

Sen. Traynor: The key is the last sentence. They can't start construction without a permit from the public service commission. This is similar to what an oil company would use.

Rep. Drovdal: I feel uncomfortable putting these amendments on there without a public hearing.

Rep. Kelsh: Isn't the PSC already charged with doing this? I also do not see an effective date on this.

Sen. Lyson: An electric farm has no real rules. They are all individual unless they are under 50 mw.

Sen. Every: We talked about putting these rules into effect last session. We talked about putting rules into effect on 2310. It was turned into a study resolution. We did have a hearing on 2310. Every amendment we put on after the hearing goes on without a hearing.

Rep. Drovdal: But the senate rejected those after the hearing.

Sen. Every moves the amendment. Seconded by **Rep. Nottestad**.

Sen. Lyson votes Yes

Sen. Traynor votes Yes

Sen. Every votes Yes

Rep. Drovdal votes No

Rep. Nottestad votes No

Rep. Kelsh votes Yes

Motion fails to lack of majority from both houses.

Rep. Drovdal: I want to hear back from these groups before I accept the amendments.

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10/3/03
Date

Page 3
House Natural Resources Committee
Bill/Resolution Number 1340
Hearing Date April 9, 2003

Sen. Lyson: Expressed concern that what the companies want may not be the best thing for North Dakota.

Rep. Kelsh: Pointed out the reclamation costs for the project are low. Anything under 5 mw is exempt. Redevelopers in Minnesota pay for a fund for reclamation costs.

Rep. Drovdal adjourned the hearing.

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10/3/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1340

House Natural Resources Committee

☒ Conference Committee

Hearing Date April 11, 2003

Tape Number	Side A	Side B	Meter #
1	xx		0-2363
Committee Clerk Signature <i>Em. Meyer</i>			

Minutes:

Chair Drovdal reopened the conference committee on HB 1340.

Sen. Traynor: Read a letter from a constituent (See Attached Testimony).

Rep. Drovdal: Proposed an amendment.

Sen. Lyson: Questioned the effective date on HB 1340. If the bill goes into effect August 1.

How many projects are operating now. Are we going to let these groups go foreword without any regulations on it? We have an obligation to protect the public.

Illona Jeffcoat-Sacco: Public Service Commission. Testified to answer questions related to the effective date.

Rep. Drovdal: Does defining standards also imply writing administrative rules?

Illona Jeffcoat-Sacco: Yes, If it cannot be done in 6 months, it can be done earlier.

Recommended changes to the amendment. (see attached final amendment).

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10/3/03
Date

Page 2
House Natural Resources Committee
Bill/Resolution Number 1340
Hearing Date April 11, 2003

Sen. Every moved to accept the proposed amendment, seconded by **Rep. Nottestad**. Motion carried by voice vote.

Sen. Every moves that the Senate recede from it's amendments. Seconded by **Rep. Nottestad**.

The motion carries by unanimous vote.

Rep. Drovdal adjourns the meeting.

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Deanna Hallmark
Operator's Signature

10/3/03
Date

30481.0203
Title.

Prepared by the Legislative Council staff for
Senator Every
April 8, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1340

That the Senate recede from its amendments as printed on page 1107 of the House Journal and pages 963 and 964 of the Senate Journal and that Engrossed House Bill No. 1340 be amended as follows:

Page 1, line 1, after "provide" insert "for the development and enforcement of wind turbine reclamation standards by the public service commission and"

Page 1, after line 2, insert:

"SECTION 1. Wind turbine reclamation standards - Public service commission duties - Compliance requirements. The public service commission shall define wind turbine land restoration standards and require that all lessees of land for the erection and operation of wind turbines provide security that the wind turbine site will be reclaimed. The public service commission may require insurance, bonds, escrow accounts, or any other mechanism the commission determines adequate, payable to the state, to compensate the state for reclaiming wind turbine sites should the lessee fail to do so within twelve months of cessation of operation of a wind turbine on the site. The public service commission shall define land reclamation standards for reclaiming leased abandoned wind turbine sites in the state. Every leased wind turbine site in the state must be reclaimed according to standards developed and enforced by the public service commission. A wind turbine operator may not begin construction of a leased site for a wind turbine operation until the operator files with the public service commission information disclosing the size, location, and interconnection plans of the turbine and has complied with other requirements as imposed by the commission."

Renumber accordingly

Deanna Halliwell
Operator's Signature

10/3/03
Date

30481.0204
Title.

Prepared by the Legislative Council staff for
Representative Drovdal
April 10, 2003

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1340

That the Senate recede from its amendments as printed on page 1107 of the House Journal and pages 963 and 964 of the Senate Journal and that Engrossed House Bill No. 1340 be amended as follows:

Page 1, line 1, after "provide" Insert "for the development and enforcement of wind turbine reclamation standards by the public service commission and"

Page 1, after line 2, Insert:


"SECTION 1. Wind turbine reclamation standards - Public service commission duties - Compliance requirements. The public service commission shall define land reclamation standards for reclaiming leased abandoned wind turbine sites in the state. The commission shall begin the process of defining the standards by January 1, 2004, and must complete the process before July 1, 2004. A wind turbine operator may not begin construction of a leased site for a wind turbine operation until the operator files with the public service commission information disclosing the size, location, and interconnection plans of the turbine and has complied with other requirements as imposed by the commission. This section applies to wind turbine projects on which construction begins after the effective date of this Act."

Renumber accordingly

Page No. 1

30481.0204

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Operator's Signature

10/3/03
Date

30481.0206
Title.0400

Adopted by the Conference Committee
April 11, 2003

Conference Committee Amendments to Engrossed HB 1340 - 04/11/2003

That the Senate recede from its amendments as printed on page 1107 of the House Journal and pages 963 and 964 of the Senate Journal and that Engrossed House Bill No. 1340 be amended as follows:

Page 1, line 1, after "provide" insert "for the development and enforcement of wind turbine reclamation standards by the public service commission and"

Page 1, after line 2, insert:

"SECTION 1. Wind turbine reclamation standards - Public service commission duties - Compliance requirements. The public service commission shall define land reclamation standards for reclaiming leased abandoned wind turbine sites in the state. The commission shall begin the process of defining the standards by January 1, 2004, and must complete the process before July 1, 2004. After July 1, 2004, a wind turbine operator may not begin construction of a leased site for a wind turbine operation until the operator files with the public service commission information disclosing the size, location, and interconnection plans of the turbine and has complied with other requirements as imposed by the commission."

Renumber accordingly

Donna Hallworth
Operator's Signature

10/3/03
Date

REPORT OF CONFERENCE COMMITTEE
(ACCEDE/RECEDE) - 420

07398

(Bill Number) 1340 (, as (re)engrossed):

Your Conference Committee

For the Senate:

Sen. Lyson Y
Sen. Trayner Y
Sen. Every Y

For the House:

Rep. Droudale Y
Rep. Nottestad Y
Rep. Kelsh Y

☒ recommends that the SENATE/HOUSE (ACCEDE to) (RECEDE from)
723/724 725/726 8724/8726 8723/8725
the (Senate/House) amendments on (SJ/HJ) page(s) _____

☐ and place _____ on the Seventh order.
727

☒ , adopt (further) amendments as follows, and place
1340 on the Seventh order:

☐ having been unable to agree, recommends that the committee be discharged
and a new committee be appointed. 690/515

((Re)Engrossed) _____ was placed on the Seventh order of business on the
calendar.

DATE: 04/11/03

CARRIER: Droudale

LC NO. _____ of amendment

LC NO. _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

(1) LC (2) LC (3) DESK (4) COMM.

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Operator's Signature

10/3/03
Date

REPORT OF CONFERENCE COMMITTEE (420)
April 11, 2003 2:09 p.m.

Module No: HR-65-7562

Insert LC: 30481.0206

REPORT OF CONFERENCE COMMITTEE

HB 1340, as engrossed: Your conference committee (Sens. Lyson, Traynor, Every and Reps. Drovdal, Nottestad, S. Kelsh) recommends that the **SENATE RECEDE** from the Senate amendments on HJ page 1107, adopt amendments as follows, and place HB 1340 on the Seventh order:

That the Senate recede from its amendments as printed on page 1107 of the House Journal and pages 963 and 964 of the Senate Journal and that Engrossed House Bill No. 1340 be amended as follows:

Page 1, line 1, after "provide" Insert "for the development and enforcement of wind turbine reclamation standards by the public service commission and"

Page 1, after line 2, insert:

"SECTION 1. Wind turbine reclamation standards - Public service commission duties - Compliance requirements. The public service commission shall define land reclamation standards for reclaiming leased abandoned wind turbine sites in the state. The commission shall begin the process of defining the standards by January 1, 2004, and must complete the process before July 1, 2004. After July 1, 2004, a wind turbine operator may not begin construction of a leased site for a wind turbine operation until the operator files with the public service commission information disclosing the size, location, and interconnection plans of the turbine and has complied with other requirements as imposed by the commission."

Renumber accordingly

Engrossed HB 1340 was placed on the Seventh order of business on the calendar.

Deanna Hall
Operator's Signature

10/3/03
Date

2003 TESTIMONY

HB 1340

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Dennis Hall
Operator's Signature

10/3/03
Date



Administration:
1101 1st Ave N
P.O. Box 2064
Fargo, ND 58107
701-298-2200 • 1-800-367-9668
Fax: 701-298-2210

State Headquarters:
4023 State St
P.O. Box 2793
Bismarck, ND 58502
701-224-0330 • 1-800-932-8869
Fax: 701-224-9485

North Dakota Farm Bureau

www.ndfb.org

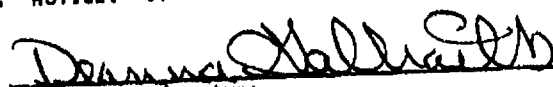
North Dakota Farm Bureau Testimony
on House Bill 1340
presented by
Brian Kramer

Good morning Chairman Fischer and members of the Senate Natural Resources Committee. My name is Brian Kramer and I am here representing the 26,000 member families in support of HB 1340. One of the major concerns for landowners with the development of wind energy in North Dakota is that of making certain that the landowner is not overly encumbered by the lease or the option to develop wind energy on the property.

This bill will provide a time-certain mechanism for the termination of a wind development lease. Once an option to site a wind turbine has been signed, the lessee has five years to develop the site and erect a wind turbine or the option terminates. The landowner should have a clear option to put the land back on the market for some other developer if the option is not exercised. If the landowner and the developer agree to continue the option, it can continue. However, if the option is not satisfactory to the landowner or there is a disagreement between the parties, the lease option can be cancelled.

One future. One voice.

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10/3/03
Date

We support the proposed amendment to keep the wind rights attached to the surface rights. We are all aware of the problems that surround maintaining deeds and other records regarding severed mineral rights. The problems associated with trying to identify, locate and negotiate with a number of "wind rights" owners can and will create an impediment to development and ultimately lower the value of those rights.

We believe this is fair and equitable for the landowner and provides the needed opportunities for the developers. We support HB 1340 and hope you will concur by giving a "Do Pass" recommendation. Thank you for your time. I would try to respond to any questions you may have.

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Operator's Signature

10/3/03
Date

Proposed amendments to Engrossed House Bill 1340

Section 4. Non-severability of wind rights from surface rights.

No person may grant an easement for the placement of a wind power turbine unless such person also owns the surface estate to which the easement pertains. If the lessor of any wind easement subsequently alienates the surface estate to which the easement pertains, the successor to the surface estate also succeeds to the rights of the wind easement as a matter of law.

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Deanna Halliwell
Operator's Signature

10/3/03
Date



"Wiswell, Chet"
<c_wiswell@admworld
.com>

To: "rthane@state.nd.us" <rthane@state.nd.us>
cc:
Subject: Wind Farm Info---Montezuma, Ks

04/10/2003 05:00 PM

Senator Russell T. Thane:

I appreciate getting your letter and hearing of your interest in the Gray County Wind Farm. This has been a large, highly visible project that started in November of 2000. The owner of the project is FPL (Florida Power & Light). They identified the site and proceeded to contact farmers and the county commissioners. After several community meetings they decided to go on with the project. They started construction in May 2001 and had the first turbines operating in December 2001.

During construction there were 150 jobs at the peak times. Most of these were filled from out of town. I think we ended up with about 8 new jobs in the community as far as operating the wind farm.

There are 170 turbines that are 660 kilowatts per machine. The total production would be 110 mw which is the largest wind farm in the state. These generators will produce enough energy to take care of 40,000 homes. The wind farm is located on 12,000 acres of farmland but the turbines only take up about 6.25 acres of this land. The towers are 212' tall to the pivot point. The blades are 77' long making the rotor diameter 154'. The expected life of each machine is 20 years.

Economically it has been good for our community and county. Each farmer is paid roughly \$2000 per year per tower on his property. In lue of taxes, FPL is paying the county \$169,000 per year, the Montezuma School District \$118,000 per year, and the Gray County EMS services about \$12,000 per year.

There have been very few negative aspects of the wind farm. The only ones have been from people who were not lucky enough to have a tower on their property. Had they had a tower on their land they would not have complained. I believe we had 2 individuals who were not in favor at all for the project but they are not in favor of anything anyway.

In general, the wind farm has been good for our community. It has given people a since of pride in seeing something new and different in our community and in seeing our community grow. In has literally put Montezuma, Ks on the map.

I apologize for it taking so long to get your letter responded to. I have been extremely busy at my full time job here managing my ADM facility. My Mayor job is a part-time, volunteer position and it is a lot of fun. If you have any question or need any addition information, don't hesitate to call.

Thanks,
620-846-2218
Chet Wiswell

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