

**FIRST ENGROSSMENT
with House Amendments
ENGROSSED SENATE BILL NO. 2313**

Introduced by

Senator Unruh

Representative Porter

1 A BILL for an Act to create and enact a new section to chapter 4-01 of the North Dakota Century
2 Code, relating to a wind energy restoration and reclamation oversight program; to amend and
3 reenact sections 49-02-34 and 49-22-05.1 of the North Dakota Century Code, relating to annual
4 reports on meeting renewable and recycled energy objectives and exclusion areas for wind
5 energy conversion facilities; to provide a statement of legislative intent; and to provide for
6 application.

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

8 **SECTION 1.** A new section to chapter 4-01 of the North Dakota Century Code is created
9 and enacted as follows:

10 **Wind energy restoration and reclamation oversight program.**

- 11 1. The agricultural commissioner shall establish a program that provides technical
12 assistance and support to property owners on wind property restoration and followup
13 support to property owners on wind property reclamation.
- 14 2. The agricultural commissioner may contract for ombudsmen for purposes of being a
15 resource for technical assistance and followup on wind property issues. The
16 ombudsmen may not investigate or assist in any easement negotiations.
- 17 3. The program may provide technical education, support, and outreach on wind-related
18 matters in coordination with other entities.
- 19 4. The agricultural commissioner may contract with local individuals, deemed trustworthy
20 by property owners, to be ombudsmen. The agricultural commissioner is not subject to
21 chapter 54-44.4 when contracting for the services of ombudsmen.

22 **SECTION 2. AMENDMENT.** Section 49-02-34 of the North Dakota Century Code is
23 amended and reenacted as follows:

1 **49-02-34. Public reporting on progress toward meeting the renewable energy and**
2 **recycled energy objective.**

3 Commencing on June 30, 2009, retail providers shall report annually on the provider's
4 previous calendar year's energy sales. This report must include information regarding qualifying
5 electricity delivered and renewable energy and recycled energy certificates purchased and
6 retired as a percentage of annual retail sales and a brief narrative report that describes steps
7 taken to meet the objective over time and identifies any challenges or barriers encountered in
8 meeting the objective. ~~The last annual report must be made on June 30, 2016.~~ Retail providers
9 shall report to the public service commission, which shall make data and narrative reports
10 publicly available and accessible electronically on the internet. Distribution cooperatives may
11 aggregate their reporting through generation and transmission cooperatives and municipal
12 utilities may aggregate their reporting through a municipal power agency.

13 **SECTION 3. AMENDMENT.** Section 49-22-05.1 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **49-22-05.1. Exclusion and avoidance areas - Criteria.**

- 16 1. The commission shall develop criteria to be used in identifying exclusion and
17 avoidance areas and to guide the site, corridor, and route suitability evaluation and
18 designation process. The criteria also may include an identification of impacts and
19 policies or practices which may be considered in the evaluation and designation
20 process.
- 21 2. Except for transmission lines in existence before July 1, 1983, areas within five
22 hundred feet [152.4 meters] of an inhabited rural residence must be designated
23 avoidance areas. This criterion does not apply to a water pipeline. The five hundred
24 foot [152.4 meter] avoidance area criteria for an inhabited rural residence may be
25 waived by the owner of the inhabited rural residence in writing. ~~The criteria may also~~
26 ~~include an identification of impacts and policies or practices which may be considered~~
27 ~~in the evaluation and designation process.~~
- 28 3. Areas less than one and one-tenth times the height of the turbine from the property
29 line of a nonparticipating landowner and three times the height of the turbine from an
30 inhabited rural residence of a nonparticipating landowner, must be excluded in the
31 consideration of a site for a wind energy conversion area, unless a variance is

1 granted. A variance may be granted if an authorized representative or agent of the
2 permittee and affected parties with associated wind rights file a written agreement
3 expressing the support of all parties for a variance to reduce the setback requirement
4 in this paragraph. A nonparticipating landowner is a landowner that has not signed a
5 wind option or an easement agreement with the permittee of the wind energy
6 conversion facility as defined in chapter 17-04. A local zoning authority may require
7 setback distances greater than those required under this subsection. For purposes of
8 this subsection, "height of the turbine" means the distance from the base of the wind
9 turbine to the turbine blade tip when it is in its highest position.

10 **SECTION 4. LEGISLATIVE INTENT - WIND ENERGY RESTORATION AND**

11 **RECLAMATION OVERSIGHT PROGRAM.** It is the intent of the sixty-fifth legislative assembly
12 that the agriculture commissioner establish the wind property restoration and reclamation
13 oversight program, created in section 1 of this Act, using existing operating funds.

14 **SECTION 5. APPLICATION.** Section 3 of this Act applies only to projects that have applied
15 for a certificate of site compatibility after December 31, 2017.