

Sixty-first
Legislative Assembly
of North Dakota

HOUSE BILL NO.

Introduced by

Representative Mueller

1 A BILL for an Act to create and enact a new section to chapter 49-22 of the North Dakota
2 Century Code, relating to the wind tower set backs.

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

4 **SECTION 1.** Chapter 49-22 of the North Dakota Century Code is created and enacted
5 as follows:

6 **Wind tower set backs.** As used in this section and in lieu of the definitions in section
7 49-22-03, "commercial wind energy conversion conversion facility" means any device that
8 converts wind energy to electrical energy, including wind chargers, windmills, or wind turbines
9 and associated facilities, in any combination that exceeds 500 kilowatts. The owner or operator
10 of a commercial wind energy conversion facility shall locate each device at least five rotor
11 diameters from the perimeter of the site as to prevailing winds and two rotor diameters as to the
12 nonprevailing winds unless the owner or operator of the site has the wind rights for the area of
13 setback surrounding the site or an exemption has been approved by the commission. The
14 commission may allow an exemption to the owner or operator of a site if the commission finds
15 that the setback should be a shorter distance due to topography making an area within the
16 standard setback not commercially viable or the commission receives consent of the owner of
17 wind rights within the original setback. The commission may not set a setback shorter than the
18 distance from the base of device to the point at which physical damage would occur if the
19 device were to fall. Notwithstanding any other provision of law or any ordinance or resolution of
20 a political subdivision including a political subdivision operating under home rule charter, a
21 political subdivision may not enact or enforce any regulation as to setbacks other than as
22 approved by the commission under this section.