Sixty-sixth
Legislative Assembly
of North Dakota

HOUSE BILL NO. 1167

Introduced by

Representatives Magrum, Ertelt, Johnston, McWilliams, Satrom, Simons

Senators Luick, Mathern, Schaible

A BILL for an Act to amend and reenact subsection 3 of section 49-22-05.1 of the North Dakota Century Code, relating to exclusion and avoidance areas for a wind turbine; and to provide for application.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 3 of section 49-22-05.1 of the North Dakota Century Code is amended and reenacted as follows:

3. Areas less than ~~one and one-tenth~~three times the height of the turbine from the property line of a nonparticipating landowner and less than three times the height of the turbine or more from an inhabited rural residence of a nonparticipating landowner, must be excluded in the consideration of a site for a wind energy conversion area, unless a variance is granted. The commission may grant a variance if an authorized representative or agent of the permittee, the nonparticipating landowner, and affected parties with associated wind rights file a written agreement expressing the support of all parties for a variance to reduce the setback requirement in this subsection. A nonparticipating landowner is a landowner that has not signed a wind option or an easement agreement with the permittee of the wind energy conversion facility as defined in chapter 17-04. A local zoning authority may require setback distances greater than those required under this subsection. For purposes of this subsection, "height of the turbine" means the distance from the base of the wind turbine to the turbine blade tip when it is in its highest position.

SECTION 2. APPLICATION. This Act applies to projects that receive a certificate of site compatibility after August 1, 2019.