

**HOUSE BILL NO. 1167**

Introduced by

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

Senators Luick, Mathern, Schaible

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

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

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

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

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