

**HOUSE BILL NO. 1512**

Introduced by

Representatives Novak, Fisher, Heinert, Koppelman, Strinden

Senators Beard, Boehm, Kessel, Magrum, Patten

1 A BILL for an Act to create and enact a new subsection to section 49-22-08, a new subsection  
2 to section 49-22-09, and two new subsections to section 49-22-16 of the North Dakota Century  
3 Code, relating to exclusion areas and factors to consider when evaluating applications and  
4 designation of electric energy conversion facility sites, and public hearings; and to amend and  
5 reenact subsection 4 of section 49-22-05.1 of the North Dakota Century Code, relating to  
6 electric energy conversion facility exclusion areas.

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

8 **SECTION 1. AMENDMENT.** Subsection 4 of section 49-22-05.1 of the North Dakota  
9 Century Code is amended and reenacted as follows:

10 4. Areas less than one and one-tenth times the height of the turbine from the property  
11 line of a nonparticipating landowner and less than three times the height of the turbine  
12 or more from an inhabited rural residence of a nonparticipating landowner, must be  
13 excluded in the consideration of a site for a wind energy conversion area, unless a  
14 variance is granted. The commission shall designate as an exclusion area any  
15 geographical areas established as an exclusion zone by a county commission under  
16 section 49-22-16. The commission may grant a variance if an authorized  
17 representative or agent of the permittee, the nonparticipating landowner, and affected  
18 parties with associated wind rights file a written agreement expressing the support of  
19 all parties for a variance to reduce the setback requirement in this subsection. A  
20 nonparticipating landowner is a landowner that has not signed a wind option or an  
21 easement agreement with the permittee of the wind energy conversion facility as  
22 defined in chapter 17-04. A local zoning authority may require setback distances  
23 greater than those required under this subsection. For purposes of this subsection,

1 "height of the turbine" means the distance from the base of the wind turbine to the  
2 turbine blade tip when it is in its highest position.

3 **SECTION 2.** A new subsection to section 49-22-08 of the North Dakota Century Code is  
4 created and enacted as follows:

5 Before a person submits an application for a certificate of site compatibility for an  
6 electric energy conversion facility or secures any property leases for a proposed  
7 electric energy conversion facility, the person shall notify each county in which any  
8 part of the proposed electric energy conversion facility would be located. Within sixty  
9 days of receiving notice and after providing thirty days notice of a public hearing to  
10 county residents, the county commission of each impacted county:

11 a. Shall hold a public hearing to review the site location, needs of the operation and  
12 company employees regarding roads, housing, and community facilities, and  
13 county and community services;

14 b. Shall consider input from organized townships within the area of the proposed  
15 electric energy conversion facility, the road plan, impact on the local economy,  
16 impact on other electrical generation sources, impact on mineable lignite  
17 deposits, and residential property use and rights; and

18 c. May designate exclusion zones for a proposed electric energy conversion facility  
19 for areas in which placement of the electric energy conversion facility may  
20 adversely impact the interests of the county, or require the commission condition  
21 a certificate in a manner that alleviates mineral rights owners from the burden of  
22 removing wind facilities before mineral rights are exercised.

23 **SECTION 3.** A new subsection to section 49-22-09 of the North Dakota Century Code is  
24 created and enacted as follows:

25 Upon receipt of notification from the person applying for a certificate indicating sixty  
26 percent of the leases of the property within the footprint of the proposed electric  
27 energy conversion facility subject to an easement under this chapter for the site are  
28 owned by county residents, the commission may issue a certificate under this chapter.  
29 For purposes of this subsection, "footprint" means the entire surface area within the  
30 parameters of the wind farm.

1       **SECTION 4.** Two new subsections to section 49-22-16 of the North Dakota Century Code  
2 are created and enacted as follows:

3           The commission may not issue a certificate of site compatibility under this section until  
4           the board of county commissions of each impacted county has held a public hearing  
5           under section 49-22-08.

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7           If the proposed electric energy conversion facility site is physically located on top of  
8           lignite reserves, the commission may not issue a certificate of site compatibility under  
9           this section.