

Introduced by

Legislative Council

(Judicial Process Committee)

1 A BILL for an Act to amend and reenact section 2-02-02, subdivision c of subsection 4 of  
2 section 2-06-16, section 2-06-20, subsection 7 of section 6-09-15, subsection 7 of section  
3 10-13-03, subsection 1 of section 11-09.1-05, sections 11-36-17 and 15-09-05, subsection 8 of  
4 section 15.1-09-33, subsection 7 of section 20.1-02-05, subsection 13 of section 23-11-11,  
5 sections 24-01-18, 24-05-09, 24-17-09, and 32-15-01, subsections 22, 36, 59, 66, 67, and 68 of  
6 section 40-05-01, subsection 19 of section 40-05-02, section 40-05-11, subsection 1 of section  
7 40-05.1-06, sections 40-22-38, 40-34-01, and 40-34-15, subsection 1 of section 40-35-03,  
8 section 40-39-02, subsection 1 of section 40-49-12, section 40-58-02, subsection 3 of section  
9 40-58-07, subsection 1 of section 40-58-08, subsection 3 of section 40-61-03, subsection 4 of  
10 section 40-61-05, sections 48-02.1-05 and 49-17.2-18, subsection 3 of section 49-19-01,  
11 sections 49-19-12 and 54-17-10, subsection 8 of section 54-17.2-03, sections 54-18-04 and  
12 61-02-22, subsection 6 of section 61-07-01, subsections 7 and 8 of section 61-07-03,  
13 subsection 3 of section 61-07-16, and sections 61-21-19, 61-21-64, 61-21.1-06, and 61-35-49  
14 of the North Dakota Century Code, relating to the exercise of the power of eminent domain.

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

16 **SECTION 1. AMENDMENT.** Section 2-02-02 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **2-02-02. Property - How acquired.** Private property needed by a county, city, park  
19 district, or township for an airport or landing field, or for the expansion of an airport or landing  
20 field, may be acquired by grant, purchase, lease, or other means, if ~~such~~ the political  
21 subdivision is able to agree with the owners of ~~said~~ the property on the terms of ~~such~~ the  
22 acquisition, and otherwise, subject to chapter 32-15, by right of eminent domain.

23 **SECTION 2. AMENDMENT.** Subdivision c of subsection 4 of section 2-06-16 of the  
24 North Dakota Century Code is amended and reenacted as follows:

1           c. ~~Eminent~~ Subject to chapter 32-15, eminent domain proceedings under this  
2           section may be instituted by the joint board only by authority of the governing  
3           bodies of the constituent public agencies of the joint board. If so authorized,  
4           such proceedings must be instituted in the names of the constituent public  
5           agencies jointly, and the property so acquired shall be held by said public  
6           agencies as tenants in common.

7           **SECTION 3. AMENDMENT.** Section 2-06-20 of the North Dakota Century Code is  
8           amended and reenacted as follows:

9           **2-06-20. Out-of-state airport jurisdiction authorized - Reciprocity with adjoining**  
10          **states and governmental agencies.**

11          1. For the purpose of this section, "governmental agency" means any municipality,  
12          city, town, county, public corporation, or other public agency.

13          2. This state or any governmental agency of this state having any powers with  
14          respect to planning, establishing, acquiring, developing, constructing, enlarging,  
15          improving, maintaining, equipping, operating, regulating, or protecting airports or  
16          air navigation facilities within this state, may exercise those powers within any state  
17          or jurisdiction adjoining this state, subject to the laws of that state or jurisdiction.

18          3. Any state adjoining this state or any governmental agency thereof may plan,  
19          establish, acquire, develop, construct, enlarge, improve, maintain, equip, operate,  
20          regulate, and protect airports and air navigation facilities within this state, subject to  
21          the laws of this state applicable to airports and air navigation facilities. ~~The~~ Subject  
22          to chapter 32-15, the adjoining state or governmental agency has the power of  
23          eminent domain in this state, which must be exercised in the manner provided by  
24          the laws of this state governing condemnation proceedings, provided that the  
25          power of eminent domain may not be exercised unless the adjoining state  
26          authorizes the exercise of that power therein by this state or any governmental  
27          agency thereof having any of the powers mentioned in this section.

28          4. The powers granted in this section may be exercised jointly by two or more states  
29          or governmental agencies, including this state and its governmental agencies, in  
30          such combination as may be agreed upon by them.

31          ~~This section may be cited as the "Extraterritorial Airports Section".~~

1           **SECTION 4. AMENDMENT.** Subsection 7 of section 6-09-15 of the North Dakota  
2 Century Code, as effective through July 31, 2009, is amended and reenacted as follows:

3           7. Acquire real or personal property or property rights by purchase, lease, or, subject  
4           to chapter 32-15, the exercise of the right of eminent domain and may construct,  
5           remodel, and repair buildings.

6           **SECTION 5. AMENDMENT.** Subsection 7 of section 6-09-15 of the North Dakota  
7 Century Code, as effective after July 31, 2009, is amended and reenacted as follows:

8           7. Acquire real or personal property or property rights by purchase, lease, or, subject  
9           to chapter 32-15, the exercise of the right of eminent domain and may construct,  
10           remodel, and repair buildings.

11           **SECTION 6. AMENDMENT.** Subsection 7 of section 10-13-03 of the North Dakota  
12 Century Code is amended and reenacted as follows:

13           7. ~~To~~ Subject to chapter 32-15, to have and exercise the power of eminent domain to  
14           acquire private property for its use, such right to be paramount except as to  
15           property of the state or any political subdivision thereof.

16           **SECTION 7. AMENDMENT.** Subsection 1 of section 11-09.1-05 of the North Dakota  
17 Century Code is amended and reenacted as follows:

18           1. Acquire, hold, operate, and dispose of property within or without the county limits,  
19           and, subject to chapter 32-15, exercise the right of eminent domain for those  
20           purposes.

21           **SECTION 8. AMENDMENT.** Section 11-36-17 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **11-36-17. Public purpose.** ~~The~~ Subject to chapter 32-15, the acquisition of any land,  
24 or interest therein, pursuant to this chapter, the planning, acquisition, establishment,  
25 development, construction, improvement, maintenance, equipment, operation, regulation, and  
26 protection of ports and port facilities and the exercise of any other powers granted to port  
27 authorities and other public agencies, to be severally or jointly exercised, are to be public and  
28 governmental functions, exercised for a public purpose, and matters of public necessity. All  
29 land and other property and privileges acquired and used by or on behalf of any authority or  
30 other public agency in the manner and for the purposes enumerated in this chapter must be  
31 acquired and used for public and governmental purposes and as a matter of public necessity.

1           **SECTION 9. AMENDMENT.** Section 15-09-05 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **15-09-05. Disagreement as to purchase price - Condemnation - Procedure - Fixing**  
4 **values.** If the applicant is unwilling to pay the price for a conveyance fixed by the board of  
5 university and school lands, the applicant may maintain an action in the district court against the  
6 state to condemn the land under ~~the rules which govern other condemnation proceedings~~  
7 chapter 32-15. The amount awarded by the court or jury as damages for the taking of an entire  
8 tract, however, may not be less than the appraised value thereof, and the board, court, or jury,  
9 in fixing the amount to be paid for an entire tract or a part thereof, shall take into consideration  
10 the appraised value of the land, its actual value for all ordinary purposes, and any increased  
11 value it may have for any special and unusual purpose by reason of the existence of the facts  
12 authorizing the exercise of the power of eminent domain. If the land is desired for a gravel pit,  
13 its value may be estimated with reference to the existence of a demand for gravel, taking into  
14 consideration the necessities of the person seeking to acquire the land. If the land is desired  
15 for townsite purposes, consideration must be given to the value of the land to the state if it were  
16 used by the state for that purpose, and consideration also must be given to the necessity for a  
17 townsite at the place in question warranting the exercise of the power of eminent domain for  
18 that purpose. If the land is desired for other purposes, similar elements of value must be  
19 considered.

20           **SECTION 10. AMENDMENT.** Subsection 8 of section 15.1-09-33 of the North Dakota  
21 Century Code is amended and reenacted as follows:

22           8. ~~Exercise~~ Subject to chapter 32-15, exercise the power of eminent domain to  
23 acquire real property for school purposes.

24           **SECTION 11. AMENDMENT.** Subsection 7 of section 20.1-02-05 of the North Dakota  
25 Century Code is amended and reenacted as follows:

26           7. With the governor's approval, purchase, lease, or, subject to chapter 32-15,  
27 condemn real estate, when it is required to carry out this title, and sell it when it is  
28 no longer required, in the name of the state.

29           **SECTION 12. AMENDMENT.** Subsection 13 of section 23-11-11 of the North Dakota  
30 Century Code is amended and reenacted as follows:

1           13.   ~~To~~ Subject to chapter 32-15, acquire real property by the exercise of the power of  
2                    eminent domain.

3           **SECTION 13. AMENDMENT.** Section 24-01-18 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **24-01-18. Right of way and materials may be acquired by purchase or eminent**  
6 **domain.** The director, by order, on behalf of the state, and as part of the cost of constructing,  
7 reconstructing, widening, altering, changing, locating, relocating, aligning, realigning, or  
8 maintaining a state highway, or of providing a temporary road for public use, may purchase,  
9 acquire, take over, or, subject to chapter 32-15, condemn under the right and power of eminent  
10 domain, for the state, any and all lands in fee simple or such easements thereof which the  
11 director deems necessary for present public use, either temporary or permanent, or which the  
12 director deems necessary for reasonable future public use, and to provide adequate drainage in  
13 the improvement, construction, reconstruction, widening, altering, changing, locating, relocating,  
14 aligning, realigning, or maintaining of a state highway, provided, however, as to any and all  
15 lands acquired or taken for highway, road, or street purposes, the director may not obtain any  
16 rights or interest in or to the oil, gas, or fluid minerals on or underlying said lands. No county  
17 may be required to participate in the cost or expense of right of way for the state highway  
18 system. By the same means, the director may secure any and all materials, including clay,  
19 gravel, sand, or rock, or the lands necessary to secure such material, and the necessary land or  
20 easements thereover, to provide ways and access thereto. The director may acquire such land  
21 or materials notwithstanding that the title thereto may be vested in the state or any division  
22 thereof; provided, however, that no interests in gas, oil, or fluid minerals may be acquired by  
23 this procedure.

24           **SECTION 14. AMENDMENT.** Section 24-05-09 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26           **24-05-09. Purchase or condemnation of right of way.** The board of county  
27 commissioners of any county of the state, by resolution or order, as part of the cost of  
28 constructing, reconstructing, widening, altering, changing, locating, relocating, aligning,  
29 realigning, or maintaining, any highway in said county, may purchase, acquire, take over, or,  
30 subject to chapter 32-15, condemn, under the right and power of eminent domain, for such  
31 county, any and all lands which it deems necessary for the present use, either temporary or

1 permanent, and to provide adequate drainage in the improvement, constructing, reconstructing,  
2 widening, altering, changing, locating, relocating, aligning, realigning, or maintaining of any  
3 highways in said county, and by the same means it may acquire said lands notwithstanding the  
4 fact that the title thereto is vested in the state or any of its subdivisions. Whenever the board of  
5 county commissioners determines, by resolution or order, that the public necessity requires the  
6 taking of land as aforesaid, it shall cause said lands to be surveyed and described and a plat  
7 thereof prepared and recorded in the office of the recorder of the county wherein the same is  
8 located. The board of county commissioners, or its duly authorized agents and employees,  
9 may enter upon any land for the purpose of making such survey, examination, or test, but in  
10 case of damages to the premises the board of county commissioners forthwith shall pay to the  
11 owner of said premises the amount of such damages.

12 **SECTION 15. AMENDMENT.** Section 24-17-09 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **24-17-09. Duties and powers of the director.**

15 1. The director is authorized:

16 ~~4.~~ a. To designate tracts of land adjacent to the state highway system which are  
17 necessary for the restoration, preservation, and enhancement of scenic  
18 beauty.

19 ~~2.~~ b. To regulate the erection, construction, or placing of any sign, display, or  
20 device within six hundred sixty feet [201.17 meters] of the nearest edge of the  
21 right of way and to adopt standards relating to size, lighting, and spacing  
22 thereof in conformity with 23 U.S.C. 131, provided ~~said~~ the rules are not more  
23 restrictive than those provided thereunder.

24 ~~3.~~ c. To establish permits authorizing the erection, construction, placement,  
25 replacement, repair, and maintenance of any outdoor sign, display, or device,  
26 which is within six hundred sixty feet [201.17 meters] of the nearest edge of  
27 the right of way and visible from any place on the main traveled way of the  
28 state highway system; to establish a fee schedule for such permits and to  
29 prescribe rules for the issuance thereof.

- 1           4- d. To determine unzoned commercial or unzoned industrial areas along the state  
2 highway system by agreement with the secretary of transportation of the  
3 United States pursuant to 23 U.S.C. 131.
- 4           5- e. The director may designate which tracts of land are necessary for the  
5 restoration, preservation, and enhancement of scenic beauty adjacent to the  
6 state highway system. The director shall acquire, improve, and maintain said  
7 tracts of land the director deems necessary for the restoration, preservation,  
8 and enhancement of scenic beauty adjacent to the state highway system, and  
9 said tracts of land may be beyond six hundred sixty feet [201.17 meters] of  
10 the nearest edge of the right of way.
- 11           2. The interest in any land directed to be acquired and maintained under this section  
12 may be a fee simple or any lesser interest, as determined by the director to be  
13 reasonably necessary to accomplish the purposes of this section. ~~Such~~ The  
14 acquisition may be by gift, purchase, exchange, or, subject to chapter 32-15,  
15 condemnation under the right and power of eminent domain in the same manner  
16 that the director may acquire right of way for construction, reconstruction, widening,  
17 alteration, changing, locating, relocating, aligning, realigning, or maintaining a state  
18 highway.

19           **SECTION 16. AMENDMENT.** Section 32-15-01 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21           **32-15-01. Eminent domain defined - How exercised - Condemnor defined -**  
22 **Exceptions.**

- 23           1. Eminent domain is the right to take private property for public use.
- 24           2. a. Private property ~~shall~~ may not be taken or damaged for public use without just  
25 compensation first having been made to or paid into court for the owner. ~~In~~  
26 ~~ease such~~ When private property is ~~so~~ taken by a person, ~~firm, private~~  
27 ~~corporation, or limited liability company,~~ no benefit to accrue from the  
28 proposed improvement ~~shall~~ may be allowed in ascertaining the  
29 compensation to be made therefor. ~~Such~~ A determination of the  
30 compensation ~~in all cases shall be ascertained~~ must be made by a jury,

1                    unless a jury is waived. The right of eminent domain may be exercised in the  
2                    manner provided in this chapter.

3                    b. Private property may not be taken for use by a private commercial enterprise  
4                    for economic development or for any other private use, except with the  
5                    consent of the owner. Private property may not be taken from the owner and  
6                    transferred to another person on the grounds that the public will benefit from a  
7                    more profitable private use of the property. If the owner of the private  
8                    property objects to the taking on the grounds that the use alleged is not a  
9                    public use, the question whether the use is a public use must be determined  
10                   by a court. The court shall try the matter de novo.

11                   c. As used in this section, "economic development" means any activity to  
12                   increase tax revenue, tax base, employment, or general economic health if  
13                   the activity does not result in:

14                   (1) The transfer of property to public ownership;

15                   (2) The transfer of property to a person that is a common carrier or utility;

16                   (3) The transfer of property to a person when the transfer will remove a  
17                   threat to the public health or safety, such as the removal of a public  
18                   nuisance or a structure that is beyond repair or unfit for human  
19                   habitation or use or the acquisition of abandoned property; or

20                   (4) The lease of property to a person that occupies an incidental area  
21                   within a public project.

22                   3. As used in this section, "public use" means the possession, occupation, and  
23                   enjoyment of property by the general public or by the state or a political  
24                   subdivision; the use of property for creating or maintaining public utilities; or the  
25                   acquisition of property to cure a concrete harmful effect of the current use of the  
26                   property, including the removal of a public nuisance or a structure that is beyond  
27                   repair or unfit for human habitation or use or the acquisition of abandoned property.  
28                   "Public use" does not include the public benefits of economic development,  
29                   including an increase in the tax base or in tax revenues or an improvement of  
30                   general economic health.

1           4. For the purpose of this chapter "condemnor" means a person empowered to take  
2           property under the power of eminent domain.

3           **SECTION 17. AMENDMENT.** Subsections 22, 36, 59, 66, 67, and 68 of section  
4 40-05-01 of the North Dakota Century Code are amended and reenacted as follows:

5           22. Extending ways and pipes over railroad property. To extend by condemnation,  
6           subject to chapter 32-15, or otherwise any street, alley, or highway over, under, or  
7           across, or to construct or lay any sewer, water pipe, or main under or through, any  
8           railroad track, right of way, or land of any railroad company within the corporate  
9           limits.

10          36. Waterworks system. To purchase, acquire by eminent domain in accordance with  
11          chapter 32-15, erect, lease, rent, manage, and maintain any system of waterworks,  
12          well reservoirs, pipes, machinery, buildings, and all other property comprising a  
13          waterworks system, such as hydrants, supply of water, fire stations, fire signals,  
14          fire engines, or fire apparatus that may be of use in the prevention and  
15          extinguishment of fires, and to fix and regulate the rates, use, and sale of water.

16          59. Public works project. To accept aid from, cooperate and contract with, and to  
17          comply with and meet the requirements of any federal or state agency for the  
18          establishment, construction, and maintenance of public works, including dams and  
19          reservoirs for municipal water supply, for water conservation, flood control,  
20          prevention of stream pollution, or sewage disposal. In furtherance thereof to  
21          acquire by purchase, lease, gift, or condemnation the necessary lands, rights of  
22          way, and easements for such projects, and to transfer and convey to the state or  
23          federal government, or any agency thereof, such lands, rights of way, and  
24          easements in consideration of the establishment and construction of, and the  
25          public benefits which will be derived from any such project. To enter into an  
26          agreement with any such government, agency, or municipality within or without this  
27          state, to hold such government, agency, or municipality harmless from any and all  
28          liability or claim of liability arising from the establishment, construction, and  
29          maintenance of such works, and to indemnify such government, agency, or  
30          municipality for any such liability sustained by it and to pay all costs of defending  
31          against any such claim. In furtherance thereof to acquire by purchase, lease, gift,

1 or, subject to chapter 32-15, condemnation the necessary lands, rights of way, and  
2 easements for such projects, and to transfer and convey to such government,  
3 agency, or municipality, such lands, rights of way, and easements in consideration  
4 of the establishment and construction of, and the public benefits which will be  
5 derived from any such project, or to pay the cost of the acquisition of such lands,  
6 rights of way, and easements by such government, agency, or municipality. All  
7 actions herein authorized may be taken by resolution duly adopted by the  
8 governing body of the municipality. Any and all actions and proceedings  
9 heretofore taken by any municipality which are within the authority granted by this  
10 subsection are hereby legalized and validated.

11 66. Light and power plants and gas transmission or distribution systems. To purchase,  
12 acquire by eminent domain in accordance with chapter 32-15, erect, lease, rent,  
13 manage, and maintain electric light and power plants, gasworks, steam heating  
14 plants and appurtenances for distribution, and to regulate and fix the rates to its  
15 patrons and to jointly, with other municipalities, acquire by eminent domain, erect,  
16 construct, lease, rent, manage, and maintain any artificial or natural gas  
17 transmission or distribution lines or plants.

18 67. Flood control projects. To acquire, construct, maintain, operate, finance, and  
19 control flood control projects, both within and adjacent to such municipality, and for  
20 such purpose to acquire the necessary real property and easements therefor by  
21 purchase and eminent domain, in accordance with chapter 32-15, and to adopt  
22 such ordinances as may reasonably be required to regulate the same.

23 68. Public restrooms. To acquire, construct, maintain, operate, finance, and control  
24 public restrooms and facilities within such municipality, and for such purpose to  
25 acquire the necessary real property therefor by purchase and eminent domain, in  
26 accordance with chapter 32-15, and to adopt such ordinances as may reasonably  
27 be required to regulate the same.

28 **SECTION 18. AMENDMENT.** Subsection 19 of section 40-05-02 of the North Dakota  
29 Century Code is amended and reenacted as follows:

30 19. Water supply - Acquire necessary property. To acquire by gift, grant, lease,  
31 easement, purchase, or, subject to chapter 32-15, by eminent domain, and to own,

1           operate, maintain, and improve, all lands, structures, power plants, public works,  
2           and personal property, whether within or without this state, necessary for the  
3           maintenance and conservation of its water supply.

4           **SECTION 19. AMENDMENT.** Section 40-05-11 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **40-05-11. Foreign city - Power to acquire by right of eminent domain, purchase,**  
7 **lease, own, and hold real estate in this state - Liability.** Any city of another state situated  
8 within five miles [8.05 kilometers] of the boundary line of this state may purchase, lease, own,  
9 and hold real estate in this state for waterworks or sewerage purposes and may improve the  
10 land for municipal purposes in the same manner as a city situated in this state, and may lease,  
11 let, or convey the land. Any city so situated ~~is hereby empowered to~~ may acquire, by purchase,  
12 gift, devise, or, subject to chapter 32-15, condemnation, any property, corporeal or incorporeal  
13 within this state, as may be necessary or convenient for the construction and maintenance of an  
14 electric power transmission line, which electric power transmission line has the function of  
15 connecting a municipal power plant, owned and operated by ~~said~~ that city, with distribution  
16 facilities owned by the government of the United States for distributing electric power generated  
17 at Garrison Dam. Such foreign city ~~shall be~~ is liable for all damages growing out of or incident  
18 to the ownership, use, or occupation of any such real estate in this state as if it were a  
19 municipality of this state.

20           **SECTION 20. AMENDMENT.** Subsection 1 of section 40-05.1-06 of the North Dakota  
21 Century Code is amended and reenacted as follows:

22           1. To acquire, hold, operate, and dispose of property within or without the corporate  
23           limits, and, subject to chapter 32-15, exercise the right of eminent domain for such  
24           purposes.

25           **SECTION 21. AMENDMENT.** Section 40-22-38 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27           **40-22-38. Application of chapter to waterworks and water mains - Acquisition of**  
28 **waterworks, sewage treatment and disposal plants, and sewer systems.** The provisions of  
29 this chapter relating to water mains and waterworks ~~shall~~ apply only to municipalities ~~which~~ that  
30 own or contemplate owning a system of waterworks and water mains. In case of the purchase  
31 of a waterworks system or of a sewage treatment or disposal plant or of a system of sewers,

1 either by eminent domain proceedings subject to chapter 32-15, or otherwise, a municipality  
2 may create improvement districts, direct the preparation of plans and specifications, adopt a  
3 resolution declaring the purchase of such facilities necessary, and take all other proceedings  
4 prescribed by this chapter which would be taken in case of the construction of such facilities by  
5 the municipality itself for the purpose of defraying the cost thereof by special assessment of the  
6 property benefited thereby. The property benefited may be specially assessed for the purchase  
7 of such facilities, either separately or as a part of a new system, the same as if said facilities  
8 were constructed entirely anew.

9 **SECTION 22. AMENDMENT.** Section 40-34-01 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **40-34-01. Disposal of garbage or sewage in municipalities - Acquiring land.** Any  
12 municipality in this state, either individually or jointly by agreement, may own, acquire,  
13 construct, equip, extend, and improve, operate, and maintain, either within or without the  
14 corporate limits of the municipality, intercepting sewers, including pumping stations, a plant or  
15 plants for the treatment, purification, and disposal in a sanitary manner of the liquid and solid  
16 wastes, sewage, and night soil of the municipality, or a plant or system for the disposal of the  
17 garbage thereof, and may issue bonds therefor as herein prescribed. Any municipality may  
18 acquire by gift, grant, purchase, or condemnation necessary lands therefor, either within or  
19 without the corporate limits of the municipality and within or without the state of North Dakota.  
20 ~~Municipalities~~ Subject to chapter 32-15, municipalities may invoke and shall have all the rights  
21 and privileges granted to public corporations under existing laws with reference to eminent  
22 domain for the purpose of acquiring land for the uses mentioned in this section. Any  
23 municipality which has outstanding bonds issued pursuant to this chapter may issue additional  
24 bonds by the procedure herein prescribed for the purpose of refunding all or any part of such  
25 outstanding bonds, whether at or prior to maturity, or for the purpose of providing moneys to be  
26 deposited in escrow for the purchase or redemption of such bonds at or prior to maturity.  
27 Bonds issued for any of the purposes referred to herein may be combined in a single issue.

28 **SECTION 23. AMENDMENT.** Section 40-34-15 of the North Dakota Century Code is  
29 amended and reenacted as follows:

30 **40-34-15. Agreements between municipalities within and without state -**  
31 **Acquiring property - Erecting dams - Use of waters - Eminent domain.** If it is deemed

1 expedient for the safety and health of the people, municipalities of this state may enter into  
2 agreements with each other, or jointly or severally with governmental agencies or municipalities  
3 outside the state, to erect and maintain intercepting sewers and sewage treatment plants, or  
4 may enter into contracts with governmental agencies or municipalities outside the state to  
5 furnish to such extraterritorial agencies or municipalities sewage disposal for such  
6 compensation and upon such terms and conditions as the parties under such agreement may  
7 stipulate. Whenever it shall be convenient or necessary as determined by a majority vote of the  
8 governing body or the respective governing bodies of such governmental agencies or  
9 municipalities, they may acquire, purchase, own, or maintain lands and personal property within  
10 or without this state and may improve the same and erect structures thereon, including dams  
11 and damsites. If the governing body of a municipality or the respective governing bodies of  
12 municipalities shall determine to do so by a resolution adopted by a majority vote thereof, such  
13 municipalities may erect dams upon streams, watercourses, or other bodies of water located  
14 within or without this state, or constituting in whole or in part the boundary waters of this state,  
15 and may alter or improve the bed, banks, or courses of such streams, watercourses, or bodies  
16 of water. In the enjoyment of such power, municipalities may purchase and hold property within  
17 and without this state and, subject to chapter 32-15, may exercise the right of eminent domain  
18 as provided by the laws of this state, and may enter into contracts and engagements with  
19 persons, firms, corporations, limited liability companies, or with municipalities or governmental  
20 agencies located without this state for like purposes.

21 **SECTION 24. AMENDMENT.** Subsection 1 of section 40-35-03 of the North Dakota  
22 Century Code is amended and reenacted as follows:

23 1. Acquire by gift, purchase, or, subject to chapter 32-15, the exercise of the right of  
24 eminent domain, property required to construct, reconstruct, improve, better, or  
25 extend any undertaking, whether wholly within or wholly without the municipality, or  
26 partially within and partially without the municipality, and easements, rights in  
27 lands, and water rights in connection therewith.

28 **SECTION 25. AMENDMENT.** Section 40-39-02 of the North Dakota Century Code is  
29 amended and reenacted as follows:

30 **40-39-02. Taking private property by purchase or eminent domain - Special**  
31 **assessments levied - Limitation on general tax.** If it is necessary to take private property in

1 order to open, lay out, widen, or enlarge any street or alley in any incorporated municipality, it  
2 shall be done by purchase or, subject to chapter 32-15, by the exercise of the right of eminent  
3 domain. When property is purchased or a judgment for damages is entered for property taken  
4 for any such improvement, the governing body shall certify the purchase or judgment to the  
5 special assessment commission, which shall levy special assessments upon the property  
6 benefited to pay such judgment or the purchase price. Not more than three-fourths of the  
7 purchase price or judgment may be paid by the levy of a general tax upon all the taxable  
8 property in a city.

9 **SECTION 26. AMENDMENT.** Subsection 1 of section 40-49-12 of the North Dakota  
10 Century Code is amended and reenacted as follows:

11 1. Acquire by purchase, gift, devise, or, subject to chapter 32-15, condemnation, or  
12 otherwise, land anywhere within this state, or outside this state if located adjacent  
13 to a boundary of this state and of the park district, for parks, boulevards, and ways.  
14 The board ~~shall have~~ has the sole and exclusive authority to maintain, govern, and  
15 improve the land, and to provide for the erection of structures thereon. Such parks,  
16 boulevards, and ways ~~shall be~~ are considered for purposes of taxation and for all  
17 other purposes as being within the territorial limits of the municipality. If the board  
18 has acquired the legal title in fee to such lands, ~~it~~ the board may sell and convey  
19 the same. A conveyance ~~shall~~ must be executed by the president and clerk of the  
20 board upon a resolution approved by not less than two-thirds of the members  
21 thereof.

22 **SECTION 27. AMENDMENT.** Section 40-58-02 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **40-58-02. Findings and declarations of necessity.**

25 1. It is hereby found and declared that there exist in municipalities of the state slum  
26 and blighted areas which constitute a serious and growing menace, injurious to the  
27 public health, safety, morals, and welfare of the residents of the state; that the  
28 existence of these areas contributes substantially and increasingly to the spread of  
29 disease and crime, constitutes an economic and social liability, substantially  
30 impairs or arrests the sound growth of municipalities, retards the provision of  
31 housing accommodations, aggravates traffic problems, and substantially impairs or

1           arrests the elimination of traffic hazards and the improvement of traffic facilities;  
2           and that the prevention and elimination of slums and blight is a matter of state  
3           policy and state concern in order that the state and its municipalities do not  
4           continue to be endangered by areas which are focal centers of disease, promote  
5           juvenile delinquency, and, while contributing little to the tax income of the state and  
6           its municipalities, consume an excessive proportion of its revenues because of the  
7           extra services required for police, fire, accident, hospitalization, and other forms of  
8           public protection, services, and facilities. It is further found and declared that  
9           certain slum or blighted areas, or portions thereof, may require acquisition,  
10          clearance, and disposition subject to use restrictions, as provided in this chapter,  
11          since the prevailing condition of decay may make impracticable the reclamation of  
12          the area by conservation or rehabilitation; that other areas or portions thereof may,  
13          through the means provided in this chapter, be susceptible of conservation or  
14          rehabilitation in such a manner that the conditions and evils described in this  
15          section may be eliminated, remedied, or prevented; and that to the extent feasible  
16          salvable slum and blighted areas should be conserved and rehabilitated through  
17          voluntary action and the regulatory process.

18          2. It is further found and declared that there exist in municipalities of the state  
19          conditions of unemployment, underemployment, and joblessness detrimental to the  
20          economic growth of the state economy; that it is appropriate to implement  
21          economic development programs both desirable and necessary to eliminate the  
22          causes of unemployment, underemployment, and joblessness for the benefit of the  
23          state economy; and that tax increment financing is an economic development  
24          program designed to facilitate projects that create economic growth and  
25          development.

26          3. It is further found and declared that, subject to chapter 32-15, the powers conferred  
27          by this chapter are for public uses and purposes for which public money may be  
28          expended and the power of eminent domain exercised and that the necessity in the  
29          public interest for the provisions herein enacted is hereby declared as a matter of  
30          legislative determination.

1           **SECTION 28. AMENDMENT.** Subsection 3 of section 40-58-07 of the North Dakota  
2 Century Code is amended and reenacted as follows:

3           3. Within its area of operation, to enter upon any building or property in any  
4 development or renewal area in order to make surveys, appraisals, soundings, or  
5 test borings, and to obtain an order for this purpose from a court of competent  
6 jurisdiction in the event entry is denied or resisted; to acquire by purchase, lease,  
7 option, gift, grant, bequest, devise, or, subject to chapter 32-15, eminent domain,  
8 or otherwise, any real property or personal property for its administrative purposes  
9 together with any property improvements; to hold, improve, clear, or prepare for  
10 development or redevelopment any such property; to mortgage, pledge,  
11 hypothecate, or otherwise encumber or dispose of any real property; to insure or  
12 provide for the insurance of any real or personal property or operations of the  
13 municipality against any risks or hazards, including the power to pay premiums for  
14 the insurance; and to enter into any contracts necessary to effectuate the purposes  
15 of this chapter; provided, however, that no statutory provision with respect to the  
16 acquisition, clearance, or disposition of property by public bodies restricts a  
17 municipality or other public body exercising powers under this subsection, in the  
18 exercise of those functions with respect to a development or renewal project,  
19 unless the legislative assembly shall specifically so state.

20           **SECTION 29. AMENDMENT.** Subsection 1 of section 40-58-08 of the North Dakota  
21 Century Code is amended and reenacted as follows:

22           1. A Subject to chapter 32-15, a municipality may acquire by condemnation any  
23 interest in real property, including a fee simple title, which it may deem necessary  
24 for or in connection with a development or renewal project under this chapter. A  
25 municipality may exercise the power of eminent domain in the manner provided by  
26 law. Any property already devoted to a public use may be acquired in a like  
27 manner; provided, that no real property belonging to the state, or any political  
28 subdivision of this state, may be acquired without its consent.

29           **SECTION 30. AMENDMENT.** Subsection 3 of section 40-61-03 of the North Dakota  
30 Century Code is amended and reenacted as follows:

1           3. To acquire in the name of the city by purchase or condemnation, and use  
2           necessary real property. All real property acquired by the authority by  
3           condemnation ~~shall~~ must be acquired in the manner provided in the condemnation  
4           law or in the manner provided by ~~law~~ chapter 32-15 for the condemnation of land  
5           by a city.

6           **SECTION 31. AMENDMENT.** Subsection 4 of section 40-61-05 of the North Dakota  
7 Century Code is amended and reenacted as follows:

8           4. An authority may itself acquire real property for a project in the name of the city at  
9           the cost and expense of the authority by purchase or condemnation pursuant to  
10          ~~the condemnation law or pursuant~~ chapter 32-15 and to the laws relating to the  
11          condemnation of land by cities. An authority shall have the use and occupancy of  
12          such real property so long as its corporate existence shall continue.

13          **SECTION 32. AMENDMENT.** Section 48-02.1-05 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15          **48-02.1-05. Right-of-way acquisition.** Private operators may acquire right of way and  
16 property by donation, lease, or purchase. When necessary for the construction, alteration,  
17 addition, extension, or improvement of any project under this chapter, a public authority may  
18 acquire, subject to chapter 32-15, any real or personal property by the law of eminent domain of  
19 this state and may lease the property or right of way to a private operator.

20          **SECTION 33. AMENDMENT.** Section 49-17.2-18 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22          **49-17.2-18. Power of eminent domain - Restrictions on acquisition of public or**  
23 **railroad property.** An authority may acquire all real or personal property that it deems  
24 necessary for carrying out the purposes of this chapter, whether in fee simple absolute or lesser  
25 interest, by condemnation and the exercise of the power of eminent domain subject to chapter  
26 32-15 and in accordance with chapter 49-09. An authority shall have no power of eminent  
27 domain with respect to property owned by another authority or subdivision or public agency of  
28 this or any other state without the consent of such authority, subdivision, or public agency. The  
29 authority ~~shall~~ may not condemn property owned or used by a railroad corporation unless the  
30 interstate commerce commission, or other authority with power to make the finding, has found

1 that the public convenience and necessity permit discontinuance of the rail service on the  
2 property.

3 **SECTION 34. AMENDMENT.** Subsection 3 of section 49-19-01 of the North Dakota  
4 Century Code is amended and reenacted as follows:

5 3. Engaged in the business of producing, purchasing, transporting for hire or  
6 transporting for sale within this state of natural gas, which is transported through  
7 pipelines, or any part of a pipeline, the right of way for which is granted or secured  
8 under the provisions of this chapter or, subject to chapter 32-15, through the  
9 exercise of the right of eminent domain; or

10 **SECTION 35. AMENDMENT.** Section 49-19-12 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **49-19-12. When pipeline carrier may exercise right of eminent domain.** Every  
13 common pipeline carrier which shall have filed with the commission its acceptance of the  
14 provisions of this chapter ~~shall have~~ has, subject to chapter 32-15, the right and power of  
15 eminent domain in the exercise of which it may enter upon and condemn the land, right of way,  
16 easements, and property of any person necessary for the construction, maintenance, or  
17 authorization of its pipeline. The manner and method of such condemnation, and the  
18 assessment and payment of the damages therefor ~~shall be~~ are the same as is provided by law  
19 in the case of railroads. The right of eminent domain and the right to use public lands,  
20 highways, or roads for right of way for pipelines shall be acquired only by compliance with the  
21 provisions of this chapter.

22 **SECTION 36. AMENDMENT.** Section 54-17-10 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24 **54-17-10. Powers and duties of commission in operating industries.** In the  
25 management, operation, and control of all utilities, industries, enterprises, and business projects  
26 established, owned, undertaken, administered, or operated by the state, and to accomplish the  
27 purposes of this chapter, the industrial commission shall:

- 28 1. Acquire by purchase, lease, or, subject to chapter 32-15, by exercise of the right of  
29 eminent domain, all necessary property or property rights, and hold and possess or  
30 sell the whole or any part thereof.
- 31 2. Construct and reconstruct necessary buildings on the properties acquired.

1           3. Equip, maintain, repair, and alter any and all properties acquired and the  
2           improvements thereon.

3           4. Generally use properties acquired and improvements made so as to promote such  
4           utilities, industries, enterprises, and business projects.

5           **SECTION 37. AMENDMENT.** Subsection 8 of section 54-17.2-03 of the North Dakota  
6 Century Code is amended and reenacted as follows:

7           8. Acquire by purchase, lease, or otherwise, on terms and conditions and in a manner  
8           as it determines to be proper, or, subject to chapter 32-15, by the exercise of the  
9           power of eminent domain, except with respect to lands owned by the state or any  
10          public lands, any land and other property or equipment, which it may determine is  
11          reasonably necessary for any project.

12          **SECTION 38. AMENDMENT.** Section 54-18-04 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14          **54-18-04. Powers and duties of industrial commission in operating association.**

15 To accomplish the purposes of this chapter, the industrial commission shall acquire by  
16 purchase, lease, or, subject to chapter 32-15, by exercise of the right of eminent domain all  
17 necessary property or property rights and may:

18          1. Construct, remodel, or repair all necessary buildings.

19          2. Purchase, lease, construct, or otherwise acquire warehouses, elevators, flour mills,  
20          factories, offices, plants, machinery, equipment, and all other things necessary,  
21          incidental, or convenient in the manufacturing and marketing of all kinds of raw and  
22          finished farm products within or without the state.

23          3. Dispose of all kinds of raw and finished farm products.

24          4. Buy, manufacture, store, mortgage, pledge, sell, exchange, or otherwise acquire or  
25          dispose of all kinds of manufactured and raw farm and food products and  
26          byproducts.

27          5. For the purpose of acquiring or disposing of all kinds of manufactured farm and  
28          food products and byproducts, establish and operate exchanges, bureaus,  
29          markets, and agencies, within or without the state, including foreign countries, on  
30          such terms and conditions and under such rules and regulations as the  
31          commission may determine.

1           **SECTION 39. AMENDMENT.** Section 61-02-22 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **61-02-22. Acquisition of necessary property and power of condemnation.** The  
4 commission ~~shall have~~ has full power and authority to acquire by purchase or exchange, upon  
5 such terms and conditions as ~~it may deem~~ the commission determines necessary and proper,  
6 and by condemnation in accordance with and subject to chapter 32-15 and the provisions of all  
7 laws applicable to the condemnation of property for public use, any lands, rights, water rights of  
8 whatever character, easements, franchises, and other property ~~deemed~~ determined necessary  
9 or proper for the construction, operation, and maintenance of works. ~~The provisions of this~~ This  
10 chapter ~~shall~~ does not ~~be construed to~~ require the commission, in condemning any riparian  
11 water right, to condemn also the riparian land to which such right may be incident. The title to  
12 all property purchased, acquired, or condemned ~~shall~~ must be taken in the name of the  
13 commission and held in trust for, and for the use and benefit of, the people of this state.

14           **SECTION 40. AMENDMENT.** Subsection 6 of section 61-07-01 of the North Dakota  
15 Century Code is amended and reenacted as follows:

16           6. ~~May~~ Subject to chapter 32-15, may exercise the right of eminent domain for the  
17 purpose of acquiring right of way for ditches, flumes, canals, pipelines, and other  
18 conveyance systems, sites for dams and reservoirs, wells and well fields, related  
19 drainage systems, and for any other purpose or works necessary to establish and  
20 construct a complete system of irrigation works.

21           **SECTION 41. AMENDMENT.** Subsections 7 and 8 of section 61-07-03 of the North  
22 Dakota Century Code are amended and reenacted as follows:

23           7. Acquire by purchase, condemnation in accordance with chapter 32-15, or  
24 otherwise:  
25           a. Rights of way for ditches, canals, pipelines, and other conveyance systems  
26 and sites for dams and reservoirs, wells and well fields, and other works for  
27 the appropriation of ground and surface water, and for pumping plants.  
28           b. All lands, easements, and any and all property necessary for the construction,  
29 use, maintenance, repair, and improvement of dams, reservoirs, wells and  
30 well fields, and other works for the appropriation of ground and surface water,  
31 and canals, pipelines, and other conveyance systems.

- 1           c.    Electric powerlines for the conveyance of electric power to operate pumping  
2                   plants and all necessary appurtenances thereto.
- 3           d.    Water rights, but the board shall be required to offer an alternative water  
4                   supply of equal quantity and comparable quality, either through the district  
5                   works or otherwise, to the holder of any water rights which have been  
6                   condemned.
- 7           8.    Subject to the limitations contained in this chapter and chapter 32-15, acquire by  
8                   purchase, condemnation, or otherwise, any existing irrigation works for the use of  
9                   the district.

10           **SECTION 42. AMENDMENT.** Subsection 3 of section 61-07-16 of the North Dakota  
11 Century Code is amended and reenacted as follows:

- 12           3.    ~~Exercise~~ Subject to chapter 32-15, exercise the right of eminent domain;

13           **SECTION 43. AMENDMENT.** Section 61-21-19 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15           **61-21-19. Right of way - How acquired - Assessment of damages - Issuance of**  
16 **warrants.** ~~The~~ Subject to chapter 32-15, the right of way for the construction, operation, and  
17 maintenance of a proposed drain, if not conveyed to the county by the owner, may be acquired  
18 by eminent domain ~~in the manner prescribed by law~~. If lands assessed for drainage benefits  
19 are not contiguous to the drain, access right of way thereto over the land of others may be  
20 acquired in the same manner. The right of way, when acquired, is the property of the county.  
21 The board may issue warrants in a sum sufficient to pay the damages assessed for the right of  
22 way. The warrants must be drawn upon the proper county treasurer or, if the water resource  
23 district treasurer is custodian of the drain funds, water resource district treasurer, and are  
24 payable out of drain funds in the hands of the treasurer that have been collected for the  
25 construction of the drain for which the right of way is sought to be obtained. The board shall  
26 negotiate the warrants at not less than the par value thereof and shall pay into court for the  
27 benefit of the owners of the right of way the amount to which each is entitled according to the  
28 assessment of damages, paying the surplus, if any, to the county treasurer or water resource  
29 district treasurer, who shall place the same to the credit of the proper drain fund.

30           **SECTION 44. AMENDMENT.** Section 61-21-64 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **61-21-64. Outlets.** A Subject to chapter 32-15, a board may, if found necessary, by  
2 process of eminent domain acquire land needed for a sufficient outlet for any established drain.

3           **SECTION 45. AMENDMENT.** Section 61-21.1-06 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **61-21.1-06. Eminent domain unaffected.** The approval or provision of financial  
6 assistance for any water project under this chapter does not change the right of any entity to  
7 exercise the power of eminent domain. The exercise of the power of eminent domain under  
8 this chapter is subject to chapter 32-15.

9           **SECTION 46. AMENDMENT.** Section 61-35-49 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11           **61-35-49. Waterworks and water mains - Acquisition of waterworks, sewage**  
12 **treatment and disposal plants and sewer systems.** The provisions of this chapter relating to  
13 water mains and waterworks apply only to districts that own or contemplate owning a system of  
14 waterworks and water mains. In the purchase of a waterworks system or of a sewage  
15 treatment or disposal plant or of a system of sewers, either by eminent domain in accordance  
16 with chapter 32-15, or otherwise, a district may create improvement districts, direct the  
17 preparation of plans and specifications, adopt a resolution declaring the purchase of the  
18 facilities necessary, and take all other proceedings prescribed by this chapter which would be  
19 taken in case of the construction of such facilities by the district itself for the purpose of  
20 defraying the cost by special assessment of the benefited property. The benefited property  
21 may be specially assessed for the purchase of such facilities, either separately or as a part of a  
22 new system, the same as if the facilities were constructed entirely anew.