

Testimony of Troy Coons on behalf of
Northwest Landowners Association
in favor of
HOUSE BILL NO. 1384
House Energy and Natural Resources Committee
2/9/2023

Chairman Porter and members of the committee, thank you for taking my testimony into consideration today.

My name is Troy Coons and I am the Chairman of the Northwest Landowners Association. Northwest Landowners Association represents over 525 farmers, ranchers, and property owners in North Dakota. Northwest Landowners Association is a nonprofit organization, and I am not a paid lobbyist.

We support HB 1384 because market value is often not “just” compensation for a landowner whose land was not for sale. As landowners, we are able to sell our land on the market for market value at most any time we want. Although it is not always the case, just compensation in eminent domain proceedings is most often measured by looking at market values, whether for a residential property or a pipeline easement. When a landowner is being forced to sell his land against his will, it is unfair that the remedy is merely what he would have received if he had chosen to sell his land. The point is that he did not and the land was not for sale, and this should be recognized when we compensate the landowner in an eminent domain proceeding.

I would also like to address the percentage in this bill because our organization helped suggest that percentage. I will admit that there is no magic to this number. Some people believed it should be 25 percent, some people believed it should be 100 percent. We chose something we felt was more middle of the road, but that recognizes the difference between a forced sale and willing seller. Based on feedback we have received, at this point we would offer to amend it as it appears on the attachment to this testimony.

We also believe that the most important effect of this legislation would be to reduce the use of eminent domain proceedings as a threat and encourage more settlements and resolutions instead of litigation.

Thank you,

Troy Coons
Northwest Landowners Association

HOUSE BILL NO. 1384

Introduced by

Representative Louser

Senator Hogue

1 A BILL for an Act to amend and reenact section 32-15-22 of the North Dakota Century Code,
2 relating to eminent domain and the assessment of damages.

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

4 **SECTION 1. AMENDMENT.** Section 32-15-22 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **32-15-22. Assessment of damages.**

7 The jury, or court, or referee, if a jury is waived, must hear such legal testimony as may be
8 offered by any of the parties to the proceedings and thereupon must ascertain and assess:

- 9 1. The value of the property sought to be condemned and all improvements thereon
10 pertaining to the realty and of each and every separate estate or interest therein. If it
11 consists of different parcels, the value of each parcel and each estate and interest
12 therein shall be separately assessed.
- 13 2. If the property sought to be condemned constitutes only a part of a larger parcel, the
14 damages which will accrue to the portion not sought to be condemned by reason of its
15 severance from the portion sought to be condemned and the construction of the
16 improvement in the manner proposed by the plaintiff.
- 17 3. If the property, though no part thereof is taken, will be damaged by the construction of
18 the proposed improvement, the amount of such damages.
- 19 4. If the property is taken or damaged by the state or a public corporation, separately,
20 how much the portion not sought to be condemned and each estate or interest therein
21 will be benefited, if at all, by the construction of the improvement proposed by the
22 plaintiff, and if the benefit shall be equal to the damages assessed under subsections
23 2 and 3, the owner of the parcel shall be allowed no compensation except the value of
24 the portion taken, but if the benefit shall be less than the damages so assessed the

- 1 former shall be deducted from the latter and the remainder shall be the only damages
2 allowed in addition to the value of the portion taken.
- 3 5. As far as practicable, compensation must be assessed separately for property actually
4 taken and for damages to that which is not taken.
- 5 6. Following the assessment of damages by the trier of fact, the court shall increase the
6 award by ^{twenty}~~thirty-three~~ percent and enter the judgment accordingly. The increase may
7 not be considered by the trier of fact in the original assessment of damages.