FIRST ENGROSSMENT

Sixtieth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2214

Introduced by

Senators Lyson, Heitkamp, Krauter

Representatives Carlisle, Delmore, S. Meyer

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11-36-17. Public purpose. ~~The~~ Subject to chapter 36-15, the acquisition of any land, or interest therein, pursuant to this chapter, the planning, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and protection of ports and port facilities and the exercise of any other powers granted to port authorities and other public agencies, to be severally or jointly exercised, are to be public and

governmental functions, exercised for a public purpose, and matters of public necessity. All land and other property and privileges acquired and used by or on behalf of any authority or other public agency in the manner and for the purposes enumerated in this chapter must be acquired and used for public and governmental purposes and as a matter of public necessity.

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

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

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

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

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

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

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

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

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

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

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

24-05-09. Purchase or condemnation of right of way. The board of county commissioners of any county of the state, by resolution or order, as part of the cost of constructing, reconstructing, widening, altering, changing, locating, relocating, aligning, realigning, or maintaining, any highway in said county, may purchase, acquire, take over, or, subject to section 32-15-01, condemn, under the right and power of eminent domain, for such county, any and all lands which it deems necessary for the present use, either temporary or permanent, and to provide adequate drainage in the improvement, constructing, reconstructing, widening, altering, changing, locating, relocating, aligning, realigning, or maintaining of any highways in said county, and by the same means it may acquire said lands notwithstanding the fact that the title thereto is vested in the state or any of its subdivisions. Whenever the board of county commissioners determines, by resolution or order, that the public necessity requires the taking of land as aforesaid, it shall cause said lands to be surveyed and described and a plat thereof prepared and recorded in the office of the recorder of the county wherein the same is located. The board of county commissioners, or its duly authorized agents and employees, may enter upon any land for the purpose of making such survey, examination, or test, but in case of damages to the premises the board of county commissioners forthwith shall pay to the owner of said premises the amount of such damages.

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

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

1. The director is authorized:

~~1.~~ a. To designate tracts of land adjacent to the state highway system which are necessary for the restoration, preservation, and enhancement of scenic beauty.

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

~~3.~~ c. To establish permits authorizing the erection, construction, placement, replacement, repair, and maintenance of any outdoor sign, display, or device,

which is within six hundred sixty feet [201.17 meters] of the nearest edge of the right of way and visible from any place on the main traveled way of the state highway system; to establish a fee schedule for such permits and to prescribe rules for the issuance thereof.

~~4.~~ d. To determine unzoned commercial or unzoned industrial areas along the state highway system by agreement with the secretary of transportation of the United States pursuant to 23 U.S.C. 131.

~~5.~~ e. The director may designate which tracts of land are necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to the state highway system. The director shall acquire, improve, and maintain said tracts of land the director deems necessary for the restoration, preservation, and enhancement of scenic beauty adjacent to the state highway system, and said tracts of land may be beyond six hundred sixty feet [201.17 meters] of the nearest edge of the right of way.

2. The interest in any land directed to be acquired and maintained under this section may be a fee simple or any lesser interest, as determined by the director to be reasonably necessary to accomplish the purposes of this section. ~~Such~~ The acquisition may be by gift, purchase, exchange, or, subject to section 32-15-01, condemnation under the right and power of eminent domain in the same manner that the director may acquire right of way for construction, reconstruction, widening, alteration, changing, locating, relocating, aligning, realigning, or maintaining a state highway.

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

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

1. Eminent domain is the right to take private property for public use.

2. Private property ~~shall~~ may not be taken or damaged for public use without just compensation first having been made to or paid into court for the owner. ~~In case such~~ When private property is ~~so~~ taken by a person, ~~firm, private corporation, or limited liability company,~~ no benefit to accrue from the proposed improvement ~~shall~~

may be allowed in ascertaining the compensation to be made therefor. ~~Such~~ Private property may not be taken for the use of, or ownership by, any private individual or entity, unless that property is necessary for conducting a common carrier or utility business. A determination of the compensation ~~in all cases shall be ascertained~~ must be made by a jury, unless a jury is waived. The right of eminent domain may be exercised in the manner provided in this chapter.

3. Notwithstanding any other provision of law, a public use or a public purpose does not include public benefits of economic development, including an increase in tax base, tax revenues, employment, or general economic health.

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

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

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

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

59. Public works project. To accept aid from, cooperate and contract with, and to comply with and meet the requirements of any federal or state agency for the establishment, construction, and maintenance of public works, including dams and reservoirs for municipal water supply, for water conservation, flood control, prevention of stream pollution, or sewage disposal. In furtherance thereof to acquire by purchase, lease, gift, or condemnation the necessary lands, rights of way, and easements for such projects, and to transfer and convey to the state or

federal government, or any agency thereof, such lands, rights of way, and easements in consideration of the establishment and construction of, and the public benefits which will be derived from any such project. To enter into an agreement with any such government, agency, or municipality within or without this state, to hold such government, agency, or municipality harmless from any and all liability or claim of liability arising from the establishment, construction, and maintenance of such works, and to indemnify such government, agency, or municipality for any such liability sustained by it and to pay all costs of defending against any such claim. In furtherance thereof to acquire by purchase, lease, gift, or, subject to chapter 32-15, condemnation the necessary lands, rights of way, and easements for such projects, and to transfer and convey to such government, agency, or municipality, such lands, rights of way, and easements in consideration of the establishment and construction of, and the public benefits which will be derived from any such project, or to pay the cost of the acquisition of such lands, rights of way, and easements by such government, agency, or municipality. All actions herein authorized may be taken by resolution duly adopted by the governing body of the municipality. Any and all actions and proceedings heretofore taken by any municipality which are within the authority granted by this subsection are hereby legalized and validated.

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

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

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

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

19. Water supply - Acquire necessary property. To acquire by gift, grant, lease, easement, purchase, or, subject to chapter 32-15, by eminent domain, and to own, operate, maintain, and improve, all lands, structures, power plants, public works, and personal property, whether within or without this state, necessary for the maintenance and conservation of its water supply.

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

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

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

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

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

40-22-38. Application of chapter to waterworks and water mains - Acquisition of waterworks, sewage treatment and disposal plants, and sewer systems. The provisions of this chapter relating to water mains and waterworks ~~shall~~ apply only to municipalities ~~which~~ that own or contemplate owning a system of waterworks and water mains. In case of the purchase of a waterworks system or of a sewage treatment or disposal plant or of a system of sewers, either by eminent domain proceedings subject to chapter 32-15, or otherwise, a municipality may create improvement districts, direct the preparation of plans and specifications, adopt a resolution declaring the purchase of such facilities necessary, and take all other proceedings prescribed by this chapter which would be taken in case of the construction of such facilities by the municipality itself for the purpose of defraying the cost thereof by special assessment of the property benefited thereby. The property benefited may be specially assessed for the purchase of such facilities, either separately or as a part of a new system, the same as if said facilities were constructed entirely anew.

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

40-34-01. Disposal of garbage or sewage in municipalities - Acquiring land. Any municipality in this state, either individually or jointly by agreement, may own, acquire, construct, equip, extend, and improve, operate, and maintain, either within or without the corporate limits of the municipality, intercepting sewers, including pumping stations, a plant or plants for the treatment, purification, and disposal in a sanitary manner of the liquid and solid wastes, sewage, and night soil of the municipality, or a plant or system for the disposal of the garbage thereof, and may issue bonds therefor as herein prescribed. Any municipality may acquire by gift, grant, purchase, or condemnation necessary lands therefor, either within or without the corporate limits of the municipality and within or without the state of North Dakota. ~~Municipalities~~ Subject to chapter 32-15, municipalities may invoke and shall have all the rights and privileges granted to public corporations under existing laws with reference to eminent

domain for the purpose of acquiring land for the uses mentioned in this section. Any municipality which has outstanding bonds issued pursuant to this chapter may issue additional bonds by the procedure herein prescribed for the purpose of refunding all or any part of such outstanding bonds, whether at or prior to maturity, or for the purpose of providing moneys to be deposited in escrow for the purchase or redemption of such bonds at or prior to maturity. Bonds issued for any of the purposes referred to herein may be combined in a single issue.

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

40-34-15. Agreements between municipalities within and without state - Acquiring property - Erecting dams - Use of waters - Eminent domain. If it is deemed expedient for the safety and health of the people, municipalities of this state may enter into agreements with each other, or jointly or severally with governmental agencies or municipalities outside the state, to erect and maintain intercepting sewers and sewage treatment plants, or may enter into contracts with governmental agencies or municipalities outside the state to furnish to such extraterritorial agencies or municipalities sewage disposal for such compensation and upon such terms and conditions as the parties under such agreement may stipulate. Whenever it shall be convenient or necessary as determined by a majority vote of the governing body or the respective governing bodies of such governmental agencies or municipalities, they may acquire, purchase, own, or maintain lands and personal property within or without this state and may improve the same and erect structures thereon, including dams and damsites. If the governing body of a municipality or the respective governing bodies of municipalities shall determine to do so by a resolution adopted by a majority vote thereof, such municipalities may erect dams upon streams, watercourses, or other bodies of water located within or without this state, or constituting in whole or in part the boundary waters of this state, and may alter or improve the bed, banks, or courses of such streams, watercourses, or bodies of water. In the enjoyment of such power, municipalities may purchase and hold property within and without this state and, subject to chapter 32-15, may exercise the right of eminent domain as provided by the laws of this state, and may enter into contracts and engagements with persons, firms, corporations, limited liability companies, or with municipalities or governmental agencies located without this state for like purposes.

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

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

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

40-39-02. Taking private property by purchase or eminent domain - Special assessments levied - Limitation on general tax. If it is necessary to take private property in order to open, lay out, widen, or enlarge any street or alley in any incorporated municipality, it shall be done by purchase or, subject to chapter 32-15, by the exercise of the right of eminent domain. When property is purchased or a judgment for damages is entered for property taken for any such improvement, the governing body shall certify the purchase or judgment to the special assessment commission, which shall levy special assessments upon the property benefited to pay such judgment or the purchase price. Not more than three-fourths of the purchase price or judgment may be paid by the levy of a general tax upon all the taxable property in a city.

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

1. Acquire by purchase, gift, devise, or, subject to chapter 32-15, condemnation, or otherwise, land anywhere within this state, or outside this state if located adjacent to a boundary of this state and of the park district, for parks, boulevards, and ways. The board ~~shall have~~ has the sole and exclusive authority to maintain, govern, and improve the land, and to provide for the erection of structures thereon. Such parks, boulevards, and ways ~~shall be~~ are considered for purposes of taxation and for all other purposes as being within the territorial limits of the municipality. If the board has acquired the legal title in fee to such lands, ~~it~~ the board may sell and convey the same. A conveyance ~~shall~~ must be executed by the president and

clerk of the board upon a resolution approved by not less than two-thirds of the members thereof.

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

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

1. It is hereby found and declared that there exist in municipalities of the state slum and blighted areas which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state; that the existence of these areas contributes substantially and increasingly to the spread of disease and crime, constitutes an economic and social liability, substantially impairs or arrests the sound growth of municipalities, retards the provision of housing accommodations, aggravates traffic problems, and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of slums and blight is a matter of state policy and state concern in order that the state and its municipalities do not continue to be endangered by areas which are focal centers of disease, promote juvenile delinquency, and, while contributing little to the tax income of the state and its municipalities, consume an excessive proportion of its revenues because of the extra services required for police, fire, accident, hospitalization, and other forms of public protection, services, and facilities. It is further found and declared that certain slum or blighted areas, or portions thereof, may require acquisition, clearance, and disposition subject to use restrictions, as provided in this chapter, since the prevailing condition of decay may make impracticable the reclamation of the area by conservation or rehabilitation; that other areas or portions thereof may, through the means provided in this chapter, be susceptible of conservation or rehabilitation in such a manner that the conditions and evils described in this section may be eliminated, remedied, or prevented; and that to the extent feasible salvable slum and blighted areas should be conserved and rehabilitated through voluntary action and the regulatory process.
2. It is further found and declared that there exist in municipalities of the state conditions of unemployment, underemployment, and joblessness detrimental to

the economic growth of the state economy; that it is appropriate to implement economic development programs both desirable and necessary to eliminate the causes of unemployment, underemployment, and joblessness for the benefit of the state economy; and that tax increment financing is an economic development program designed to facilitate projects that create economic growth and development.

~~3. It is further found and declared that the powers conferred by this chapter are for public uses and purposes for which public money may be expended and the power of eminent domain exercised and that the necessity in the public interest for the provisions herein enacted is hereby declared as a matter of legislative determination.~~

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

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

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

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

SECTION 30. AMENDMENT. Subsection 4 of section 40-61-05 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 31. AMENDMENT. Section 48-02.1-05 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 32. AMENDMENT. Section 49-17.2-18 of the North Dakota Century Code is amended and reenacted as follows:

49-17.2-18. Power of eminent domain - Restrictions on acquisition of public or railroad property. An authority may acquire all real or personal property that it deems necessary for carrying out the purposes of this chapter, whether in fee simple absolute or lesser interest, by condemnation and the exercise of the power of eminent domain subject to chapter 32-15 and in accordance with chapter 49-09. An authority shall have no power of eminent domain with respect to property owned by another authority or subdivision or public agency of this or any other state without the consent of such authority, subdivision, or public agency. The authority ~~shall~~ may not condemn property owned or used by a railroad

corporation unless the interstate commerce commission, or other authority with power to make the finding, has found that the public convenience and necessity permit discontinuance of the rail service on the property.

SECTION 33. AMENDMENT. Subsection 3 of section 49-19-01 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 34. AMENDMENT. Section 49-19-12 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 35. AMENDMENT. Section 54-17-10 of the North Dakota Century Code is amended and reenacted as follows:

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

1. Acquire by purchase, lease, or, subject to chapter 32-15, by exercise of the right of eminent domain, all necessary property or property rights, and hold and possess or sell the whole or any part thereof.

2. Construct and reconstruct necessary buildings on the properties acquired.
3. Equip, maintain, repair, and alter any and all properties acquired and the improvements thereon.
4. Generally use properties acquired and improvements made so as to promote such utilities, industries, enterprises, and business projects.

SECTION 36. AMENDMENT. Subsection 8 of section 54-17.2-03 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 37. AMENDMENT. Section 54-18-04 of the North Dakota Century Code is amended and reenacted as follows:

54-18-04. Powers and duties of industrial commission in operating association. To accomplish the purposes of this chapter, the industrial commission shall acquire by purchase, lease, or, subject to chapter 32-15, by exercise of the right of eminent domain all necessary property or property rights and may:

1. Construct, remodel, or repair all necessary buildings.
2. Purchase, lease, construct, or otherwise acquire warehouses, elevators, flour mills, factories, offices, plants, machinery, equipment, and all other things necessary, incidental, or convenient in the manufacturing and marketing of all kinds of raw and finished farm products within or without the state.
3. Dispose of all kinds of raw and finished farm products.
4. Buy, manufacture, store, mortgage, pledge, sell, exchange, or otherwise acquire or dispose of all kinds of manufactured and raw farm and food products and byproducts.
5. For the purpose of acquiring or disposing of all kinds of manufactured farm and food products and byproducts, establish and operate exchanges, bureaus, markets, and agencies, within or without the state, including foreign countries, on

such terms and conditions and under such rules and regulations as the commission may determine.

SECTION 38. AMENDMENT. Section 61-02-22 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 39. AMENDMENT. Subsection 6 of section 61-07-01 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 40. AMENDMENT. Subsections 7 and 8 of section 61-07-03 of the North Dakota Century Code are amended and reenacted as follows:

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

well fields, and other works for the appropriation of ground and surface water, and canals, pipelines, and other conveyance systems.

c. Electric powerlines for the conveyance of electric power to operate pumping plants and all necessary appurtenances thereto.

d. Water rights, but the board shall be required to offer an alternative water supply of equal quantity and comparable quality, either through the district works or otherwise, to the holder of any water rights which have been condemned.

8. Subject to the limitations contained in this chapter and chapter 32-15, acquire by purchase, condemnation, or otherwise, any existing irrigation works for the use of the district.

SECTION 41. AMENDMENT. Subsection 3 of section 61-07-16 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 42. AMENDMENT. Section 61-21-19 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 43. AMENDMENT. Section 61-21-64 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 44. AMENDMENT. Section 61-21.1-06 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 45. AMENDMENT. Section 61-35-49 of the North Dakota Century Code is amended and reenacted as follows:

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

SECTION 46. REPEAL. Section 40-58-08 of the North Dakota Century Code is repealed.