

Sixty-sixth
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2238

Introduced by

Senators Luick, Cook, Unruh

Representatives D. Johnson, Mitskog, Schreiber-Beck

1 A BILL for an Act to create and enact a new subsection to section 11-11-14 of the North Dakota
2 Century Code, relating to powers of the board of county commissioners; and to amend and
3 reenact section 32-15-01 of the North Dakota Century Code, relating to limitations on eminent
4 domain authority.

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

6 **SECTION 1.** A new subsection to section 11-11-14 of the North Dakota Century Code is
7 created and enacted as follows:

8 To approve or deny the exercise of eminent domain authority by a state entity or
9 political subdivision when the property to be condemned exceeds three hundred and
10 twenty acres [129.499 hectares] and is within the county governed by the board. For
11 purposes of this subsection, the term "political subdivision" does not include a
12 municipality that exercises the municipality's eminent domain or extraterritorial
13 authority within the county where the municipality is located.

14 **SECTION 2. AMENDMENT.** Section 32-15-01 of the North Dakota Century Code is
15 amended and reenacted as follows:

16 **32-15-01. Eminent domain defined - How exercised - Condemnor defined - Limitations**
17 **- Exceptions.**

- 18 1. Eminent domain is the right to take private property for public use.
- 19 2. Private property may not be taken or damaged for public use without just
20 compensation first having been made to or paid into court for the owner. When private
21 property is taken by a person, no benefit to accrue from the proposed improvement
22 may be allowed in ascertaining the compensation to be made therefor. Private
23 property may not be taken for the use of, or ownership by, any private individual or
24 entity, unless that property is necessary for conducting a common carrier or utility

1 business. A determination of the compensation must be made by a jury, unless a jury
2 is waived. The right of eminent domain may be exercised in the manner provided in
3 this chapter.

4 3. Notwithstanding any other provision of law, a state entity or political subdivision may
5 not acquire private property in excess of three hundred and twenty acres [129.499
6 hectares] through the use of eminent domain without prior approval from the county
7 commission of the county where the property is located. For purposes of this
8 subsection, the term "political subdivision" does not include a municipality that
9 exercises the municipality's eminent domain or extraterritorial authority within the
10 county where the municipality is located.

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

14 4.5. For the purpose of this chapter, "condemnor" means a person empowered to take
15 property under the power of eminent domain.