

Introduced by

Representative M. Nelson

1 A concurrent resolution to create and enact section 26 of article I of the Constitution of North
2 Dakota, relating to exercising eminent domain over certain mineral rights and pore space for the
3 benefit of private industry; and to amend and reenact section 16 of article I of the Constitution of
4 North Dakota, relating to an exception to the limitations on exercising eminent domain.

5 **STATEMENT OF INTENT**

6 This measure allows public entities to exercise eminent domain over pooled or unitized minerals
7 and pooled or unitized pore space for the benefit of private industry.

8 **BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF NORTH DAKOTA, THE**
9 **SENATE CONCURRING THEREIN:**

10 That the following proposed amendment to section 16 of article I and creation of section 26
11 of article I of the Constitution of North Dakota are agreed to and must be submitted to the
12 qualified electors of North Dakota at the general election to be held in 2020, in accordance with
13 section 16 of article IV of the Constitution of North Dakota.

14 **SECTION 1. AMENDMENT.** Section 16 of article I of the Constitution of North Dakota is
15 amended and reenacted as follows:

16 **Section 16.** ~~Private~~Except as provided in section 26, private property ~~shall~~may not be taken
17 or damaged for public use without just compensation having been first made to, or paid into
18 court for the owner, unless the owner chooses to accept annual payments as ~~may be~~ provided
19 ~~for~~ by law. No right of way ~~shall~~may be appropriated to the use of any corporation until full
20 compensation ~~therefor~~before the right of way is first made in money or ascertained and paid into
21 court for the owner, unless the owner chooses annual payments as may be provided by law,
22 irrespective of any benefit from any improvement proposed by such corporation. ~~Compensation~~
23 ~~shall be ascertained by a~~A jury shall determine the amount of compensation, unless a jury ~~be~~is
24 waived. When the state or any of its departments, agencies, or political subdivisions seeks to
25 acquire right of way, it may take possession upon making an offer to purchase and ~~by~~

1 depositing the amount of ~~such~~the offer with the clerk of the district court of the county ~~wherein~~
2 which the right of way is located. The clerk ~~shall~~ immediately shall notify the owner of ~~such~~the
3 deposit. The owner may ~~thereupon~~ appeal to the court ~~in the manner~~as provided by law, and
4 may have a jury trial, unless a jury ~~beis~~ is waived, to determine the damages, which ~~damages~~ the
5 owner may choose to accept in annual payments ~~as may be provided for by law~~. Annual
6 payments ~~shall~~are not be subject to escalator clauses but may be supplemented by interest
7 earned.

8 For purposes of this section, a public use or a public purpose does not include public
9 benefits of economic development, including an increase in tax base, tax revenues,
10 employment, or general economic health. ~~Private~~Except as provided in section 26, property
11 ~~shall~~may not be taken for the use of, or ownership by, any private individual or entity, unless that
12 property is necessary for conducting a common carrier or utility business.

13 **SECTION 2.** Section 26 of article I of the Constitution of North Dakota is created and
14 enacted as follows:

15 **Section 26.**

16 A public entity may take private property consisting of pooled or unitized minerals or pooled
17 or unitized pore space for the benefit of a private entity under this section. The public entity shall
18 set a compensation rate for royalties or periodic payments at not less than any minimum
19 amount set by a statute enacted by the legislative assembly. The property owner may initiate a
20 civil action in the district court of the county in which the property is located. A jury shall
21 determine the level of compensation unless the property owner waives the jury.