

# COUNTIES

## CHAPTER 87

### HOUSE BILL NO. 1246

(Representatives Wieland, Eckre, Herbel, Maragos, Pollert)  
(Senator Lindaas)

## HOME RULE COUNTY CRIMINAL ENFORCEMENT

AN ACT to create and enact a new section to chapter 11-09.1 of the North Dakota Century Code, relating to enforcement of criminal violations by a home rule county; and to amend and reenact subsection 5 of section 11-09.1-05 and section 27-05-06 of the North Dakota Century Code, relating to powers of a home rule county and the jurisdiction of the district court.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

<sup>44</sup> **SECTION 1. AMENDMENT.** Subsection 5 of section 11-09.1-05 of the North Dakota Century Code is amended and reenacted as follows:

5. Provide for the adoption, amendment, repeal, initiative, referral, enforcement, and civil and criminal penalties for violation of ordinances, resolutions, and regulations to carry out its governmental and proprietary powers and to provide for public health, safety, morals, and welfare. However, this subsection does not confer any authority to regulate any industry or activity which is regulated by state law or by rules adopted by a state agency.

**SECTION 2.** A new section to chapter 11-09.1 of the North Dakota Century Code is created and enacted as follows:

**Enforcement of criminal penalties.** A county that has adopted a home rule charter may impose a penalty for a violation of an ordinance through a citation, a criminal complaint, or an information through the district court in the county where the offense occurred. The penalty for a violation of an ordinance may be an infraction or a class B misdemeanor.

**SECTION 3. AMENDMENT.** Section 27-05-06 of the North Dakota Century Code is amended and reenacted as follows:

**27-05-06. Jurisdiction of district courts.** The district courts of this state have the general jurisdiction conferred upon ~~them~~ the courts by the constitution, and in the exercise of ~~such that~~ that jurisdiction ~~they~~ the courts have power to issue all writs, process, and commissions provided therein or by law or which may be necessary for

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<sup>44</sup> Section 11-09.1-05 was also amended by section 1 of Senate Bill No. 2096, chapter 539.

the due execution of the powers with which ~~they~~ the courts are vested. ~~Such~~ The courts have:

1. Common-law jurisdiction and authority within their respective judicial districts for the redress of all wrongs committed against the laws of this state affecting persons or property.
2. Power to hear and determine all civil actions and proceedings.
3. All the powers, according to the usages of courts of law and equity, necessary to the full and complete jurisdiction of the causes and parties and the full and complete administration of justice, and to carrying into effect ~~their~~ the courts' judgments, orders, and other determinations, subject to a reexamination by the supreme court as provided by law.
4. Jurisdiction of appeals from all final judgments of municipal judges and from the determinations of inferior officers, boards, or tribunals, in ~~such~~ the cases and pursuant to ~~such~~ the regulations as may be prescribed by law.
5. Disputed property line proceedings pursuant to section 11-20-14.1.
6. Power to hear and determine all actions and proceedings arising from the enforcement of county home rule charter ordinances.

Approved April 4, 2003

Filed April 7, 2003

**CHAPTER 88****HOUSE BILL NO. 1262**

(Representatives Devlin, Severson, Wieland)  
(Senators Andrist, Every, J. Lee)

**COUNTY COMMISSIONER SERVICE ON OTHER  
BOARDS**

AN ACT to create and enact a new section to chapter 11-11 of the North Dakota Century Code, relating to members of a board of county commissioners serving on other boards.

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

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

**Commissioners' service on other boards - Term.** Except as otherwise provided in this section, a member of a board of county commissioners who is appointed to serve on another board by the board of county commissioners or who is a member of another board because of the individual's status as a member of the board of county commissioners may serve on the other board only so long as the individual is a member of the board of county commissioners. After the individual is no longer a member of the board of county commissioners, the board of county commissioners may reappoint the individual to serve on the other board unless membership on the board of county commissioners is a requirement of membership.

Approved March 12, 2003

Filed March 12, 2003

**CHAPTER 89****SENATE BILL NO. 2043**

(Legislative Council)  
(Judiciary A Committee)

**RESTITUTION COLLECTION AND ENFORCEMENT**

AN ACT to designate the offices responsible for restitution collection and enforcement activities.

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

**SECTION 1. Restitution collection and enforcement.** Except as provided in this section, the county and state offices performing restitution collection and enforcement activities as of April 1, 2001, shall continue to perform those activities. In counties in which a county office performs those activities, a county may transfer responsibility for the activities to another county office.

Approved March 12, 2003

Filed March 12, 2003

**CHAPTER 90****SENATE BILL NO. 2214**

(Senators Cook, Fischer, Nichols)  
(Representatives R. Kelsch, Porter, Schmidt)

**COUNTY CRIMINAL APPREHENSION REWARDS**

AN ACT to amend and reenact section 11-11-49 of the North Dakota Century Code, relating to rewards offered by a board of county commissioners; and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 11-11-49 of the North Dakota Century Code is amended and reenacted as follows:

**11-11-49. Board may offer reward.** The board of county commissioners may offer a reward ~~of a sum not exceeding one hundred dollars nor less than ten dollars~~ for the apprehension and conviction of each ~~person~~ individual violating any of the provisions of chapters 12.1-21 and 12.1-23.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 21, 2003  
Filed March 21, 2003

**CHAPTER 91****SENATE BILL NO. 2331**

(Senators Kringstad, Kilzer, J. Lee)  
(Representatives Carlisle, Meier)

**NONPROFIT ARTS ORGANIZATION ASSISTANCE**

AN ACT to create and enact a new section to chapter 11-11 of the North Dakota Century Code, relating to the expenditure of public funds to assist programs and activities of nonprofit organizations.

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

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

**Programs and activities of nonprofit organizations that assist the arts - Expenditure of funds.** The board of county commissioners may establish or maintain programs and activities for the benefit of nonprofit organizations that assist the arts, including the expansion of existing programs. A board of county commissioners may expend funds received from county, state, federal, or private sources for the public purposes provided for in this section. A board of county commissioners may not make an expenditure under this section to defray expenses or to assist an organization unless that organization is incorporated as a nonprofit corporation and has contracted with the board of county commissioners with respect to the manner in which the funds will be expended and services provided. The board of county commissioners shall review annually an organization that receives funds under this section to determine the organization's eligibility to receive public funds. As used in this section, "nonprofit organizations that assist the arts" means organizations recognized by the North Dakota council on the arts.

Approved April 8, 2003  
Filed April 9, 2003

## CHAPTER 92

### SENATE BILL NO. 2173

(Senators Trenbeath, Grindberg, Krebsbach)  
(Representatives F. Klein, Monson, Tieman)

## TOURISM PROMOTION PROPERTY TAX LEVY

AN ACT to amend and reenact sections 11-11.1-03 and 11-11.1-04 and subsection 29 of section 57-15-06.7 of the North Dakota Century Code, relating to property tax levy authority for tourism promotion by a job development authority or industrial development organization; and to provide an effective date.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 11-11.1-03 of the North Dakota Century Code is amended and reenacted as follows:

**11-11.1-03. Powers and duties of job development authorities.** The job development authority or joint job development authority shall use its financial and other resources to encourage and assist in the development of employment and promotion of tourism within the county or counties. In fulfilling this objective, the authority may exercise the following powers:

1. To sue and be sued.
2. To make and execute contracts and other instruments necessary or convenient to the exercise of the powers of the authority.
3. To hire professional personnel skilled in seeking and promoting new or expanded opportunities within the county or counties.
4. To make, amend, and repeal resolutions consistent with the provisions of this chapter as necessary to carry into effect the powers and purposes of the authority.
5. To acquire by gift, trade, or purchase, and to hold, improve, and dispose of property.
6. To certify a tax levy as provided in section 11-11.1-04 and to expend moneys raised by the tax for the purposes provided in this chapter. A job development authority may accept and expend moneys from any other source.
7. To insure or provide for insurance of any property in which the authority has an insurable interest.
8. To invest any funds held by the authority.
9. To cooperate with political subdivisions in exercising any of the powers granted by this section, including enabling agreements permitted under chapter 54-40.

10. To loan, grant, or convey any funds or other property held by the authority for any purpose necessary or convenient to carry into effect the objective of the authority established by this chapter.
11. To use existing uncommitted funds held by the authority to guarantee loans or make other financial commitments to enhance economic development.
12. To exercise any other powers necessary to carry out the purposes and provisions of this chapter.

**SECTION 2. AMENDMENT.** Section 11-11.1-04 of the North Dakota Century Code is amended and reenacted as follows:

**11-11.1-04. Tax levy for job development authorities.** The board of county commissioners of a county which has a job development authority or joint job development authority shall establish a job development authority fund and levy a tax not exceeding the ~~limitation~~ limitations in subsection 29 of section 57-15-06.7. The county treasurer shall keep the job development authority fund separate from other money of the county ~~and~~. If directed by the board of county commissioners, the county treasurer shall keep a separate fund for the job development authority for the proceeds of any designated portion of the levy for promotion of tourism by the job development authority. The county treasurer shall transmit all funds received pursuant to this section within thirty days to the board of directors of the authority. The funds when paid to the authority must be deposited in a special account, or special accounts if the authority chooses to maintain a separate account for promotion of tourism, in which other revenues of the authority are deposited. Moneys received by the job development authority from any other source must also be deposited in the special ~~account~~ accounts. The moneys in the special ~~account~~ accounts may be expended by the authority as provided in sections 11-11.1-02 and 11-11.1-03.

<sup>45</sup> **SECTION 3. AMENDMENT.** Subsection 29 of section 57-15-06.7 of the North Dakota Century Code is amended and reenacted as follows:

29. A county levying a tax for a job development authority as provided in section 11-11.1-04 or for the support of an industrial development organization as provided in section 11-11.1-06 may levy a tax not exceeding four mills on the taxable valuation of property within the county. Upon approval by a majority of electors voting on the question at a regular or special county election, a county levying a tax for a job development authority as provided in section 11-11.1-04 or for the support of an industrial development organization as provided in section 11-11.1-06 may levy a separate and additional tax for promotion of tourism in an amount not exceeding one mill on the taxable valuation of property within the county. However, if any city within the county is levying a tax for support of a job development authority or for support of an industrial development organization and the total of the county and city levies exceeds ~~four~~ five mills, the county tax levy within the city

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<sup>45</sup> Section 57-15-06.7 was also amended by section 2 of House Bill No. 1207, chapter 95, section 16 of House Bill No. 1426, chapter 96, and section 98 of House Bill No. 1183, chapter 138.

levying under subsection 28 of section 57-15-10 must be reduced so the total levy in the city does not exceed ~~four~~ five mills.

**SECTION 4. EFFECTIVE DATE.** This Act is effective for taxable events beginning after December 31, 2002.

Approved April 8, 2003

Filed April 9, 2003

**CHAPTER 93**

**SENATE BILL NO. 2056**

(Senators Mathern, Robinson)

(Representatives Thoreson, Kempenich, Devlin, Ekstrom)

**PARK COMMISSIONER TERMS**

AN ACT to amend and reenact section 11-28-02 of the North Dakota Century Code, relating to the term of office of members appointed to serve on a board of county park commissioners.

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

**SECTION 1. AMENDMENT.** Section 11-28-02 of the North Dakota Century Code is amended and reenacted as follows:

**11-28-02. Eligibility for appointment - Term - Vacancy - Compensation.**

Any resident citizen of the county, including county, city, and township officers, ~~shall~~ be is eligible for appointment to the board of county park commissioners. Each appointed county park commissioner shall hold office for a term of ~~one year~~ three years, or until a successor is appointed and qualified. Any vacancy in ~~such the~~ board shall must be filled for the unexpired term by appointment by the board of county commissioners as soon as practicable. Each member of the county park board ~~shall~~ is entitled to receive the same compensation for services for each day actually engaged in the performance of the duties of the office as that paid a county commissioner but not to exceed a total of twenty-four days in any one year, and ~~in addition shall be~~ is entitled to reimbursement for actual necessary expenses incurred in the performance of ~~such the~~ member's duties. The board of county park commissioners shall meet at the time of the regular meetings of the board of county commissioners upon the order of the chairman, and appointed members only ~~shall~~ be are entitled to compensation for attendance at ~~such the~~ concurrent meetings.

Approved March 12, 2003

Filed March 12, 2003

**CHAPTER 94****SENATE BILL NO. 2104**

(Transportation Committee)

(At the request of the Department of Transportation)

**TRANSPORTATION STRUCTURE IMPACT  
DETERMINATIONS**

AN ACT to amend and reenact subsection 2 of section 11-33-18 of the North Dakota Century Code, relating to determinations of significant impact on transportation structures.

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

**SECTION 1. AMENDMENT.** Subsection 2 of section 11-33-18 of the North Dakota Century Code is amended and reenacted as follows:

2. If a board of county commissioners provides for the issuance of permits, the board shall require the applicant to state whether the structure is reasonably anticipated to have a significant impact on the transportation system. A structure is deemed to have significant impact on the transportation system if, over a period of one year, it will have an average daily usage of at least ~~ten~~ twenty-five motor vehicles whose gross weight exceeds sixty thousand pounds [27215.54 kilograms]. The board shall require that, if the structure will have a significant impact on the transportation system, the director of the department of transportation be notified and be given an opportunity to comment on the application. However, approval of the director of the department of transportation of the proposed structure is not required.

Approved March 19, 2003

Filed March 19, 2003

## CHAPTER 95

### HOUSE BILL NO. 1207

(Representatives Timm, Price, Thorpe)  
(Senators Krebsbach, O'Connell, Tollefson)

### PORT AUTHORITIES

AN ACT to create and enact chapter 11-36, a new subsection to section 57-15-06.7, a new subsection to section 57-15-10, a new subsection to section 57-15-20.2, and two new sections to chapter 57-15 of the North Dakota Century Code, relating to local port authorities.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** Chapter 11-36 of the North Dakota Century Code is created and enacted as follows:

**11-36-01. Definitions.** As used in this chapter unless the context requires otherwise:

1. "Bonds" means any bonds, notes, interim certificates, debentures, or similar obligations issued by a port authority pursuant to this chapter.
2. "Governing body" means the official or officials authorized by law to exercise ordinance or other lawmaking powers of a municipality.
3. "Municipal port authority" means a port authority created pursuant to section 11-36-03.
4. "Municipality" means any political subdivision of this state.
5. "Port authority" means any regional port authority or municipal port authority created pursuant to this chapter, and the governing body of a municipality which has determined to exercise the powers of a municipal port authority, pursuant to section 11-36-03.
6. "Real property" means lands, structures, and interests in land, including lands under water and riparian rights, and any and all things and rights usually included within the term real property, including not only fee simple absolute but also any and all lesser interests, such as easements, rights of way, uses, leases, licenses, and all other incorporeal hereditaments and every estate, interest, or right, legal or equitable, pertaining to real property.
7. "Regional port authority" means a port authority created pursuant to section 11-36-04.

**11-36-02. General powers.** A port authority may operate a port that includes all real and personal property, structures, machinery, equipment, and appurtenances or facilities that are part of the port or used or useful in connection with the port either as facilities for the convenience of handling equipment, passengers, and freight or as part of port or port facilities operation. In the process of operating a port, a port authority may:

1. Promote, stimulate, develop, and advance the general welfare, commerce, economic development, and prosperity of its jurisdiction and of the state and its citizens;
2. Endeavor to increase the volume of commerce within the jurisdiction of the port authority and the state through planning, advertising, acquisition, establishment, development, construction, improvement, maintenance, equipment, operation, regulation, and protection of transportation, storage, or other facilities that promote the safe, efficient, and economical handling of commerce, and through having foreign trade zone authority;
3. Cooperate and act in conjunction with other organizations, public or private, in the development of commerce, industry, manufacturing, services, natural resources, agriculture, livestock, recreation, tourism, health care, and other economic activity in the state; and
4. Support the creation, expansion, modernization, retention, and relocation of new and existing businesses and industries in the state and otherwise stimulate, assist in, and support the growth of all kinds of economic activity that will tend to promote commerce and business development, maintain the economic stability and prosperity of its jurisdiction and of the state, and thus provide maximum opportunities for employment and improvement in the standard of living of citizens of the state.

**11-36-03. Creation of municipal port authority.** Any municipality located near the junction of two paved and divided multilane highways, where two competing railroad intermodal lines intersect, and where two class I railroads interchange freight cars, may create by resolution of its governing body a public body corporate and politic to be known as a municipal port authority, which is authorized to exercise its functions upon the appointment and qualification of the first commissioners of the authority. The governing body by resolution may determine to exercise any or all powers granted to the authorities in this chapter until the powers have been conferred upon a municipal or regional port authority. Upon the adoption of a resolution creating a municipal port authority, the governing body of the municipality shall appoint, pursuant to the resolution, five persons as commissioners of the port authority. The commissioners who are first appointed are designated to serve for terms of one, two, three, four, and five years, respectively, but thereafter, each commissioner must be appointed for a term of five years, except that vacancies occurring otherwise than by expiration of term must be filled for the unexpired term by the governing body.

**11-36-04. Creation of regional port authority.**

1. Two or more municipalities, one of which is in this state located near the junction of two paved and divided multilane highways, where two competing railroad intermodal lines intersect, and where two class I railroads interchange freight cars, may create by joint resolution a public body, corporate and politic, to be known as a regional port authority, which is authorized to exercise its functions upon the issuance by the secretary of state of a certificate of incorporation. The governing bodies of the municipalities participating in the creation of a regional port authority shall appoint, pursuant to the joint resolution, no fewer than five persons as commissioners of the regional port authority. The number to be appointed and representation must be provided for in the

joint resolution. The term of office of each regional port authority commissioner must be in accordance with subsection 5. Each regional port authority, once created, shall organize, elect officers for terms of office to be fixed by agreement, and adopt and amend rules for its own procedure not inconsistent with section 11-36-07.

2. A regional port authority may be increased to serve one or more additional municipalities if each additional municipality and each of the municipalities then included in the regional port authority and the commissioners of the regional port authority, respectively, adopt a resolution consenting to the addition. If a municipal port authority for any municipality seeking to be included in the regional port authority is then in existence, the commissioners of the municipal port authority must consent to the inclusion of the municipality in the regional port authority, and if the municipal port authority has any bonds outstanding, all of the holders of the bonds must consent, in writing, to the inclusion of the municipality in the regional port authority. Upon the inclusion of any municipality in the regional port authority, all rights, contracts, obligations, and property of the municipal port authority must be in the name of and vest in the regional port authority.
3. A regional port authority may be decreased if each of the municipalities then included in the regional port authority and the commissioners of the regional port authority consent to the decrease and make provisions for the retention or disposition of its assets and liabilities. If the regional port authority has any bonds outstanding, no decrease may be effected unless all of the holders of the bonds consent to the decrease.
4. A municipality may not adopt any resolution authorized by this section without a public hearing. Notice must be given at least ten days before the hearing in a newspaper published in the municipality, or if there is no newspaper published in the municipality, then in a newspaper having general circulation in the municipality.
5. All commissioners of a regional port authority must be appointed for terms of five years each, except that a vacancy occurring otherwise than by expiration of term must be filled for the unexpired term in the same manner as the original appointments.

**11-36-05. Certificate of incorporation of regional port authority.**

1. Upon the appointment and qualification of the commissioners first appointed to a regional port authority, the commissioners shall submit to the secretary of state a certified copy of each resolution adopted pursuant to section 11-36-03 by the municipalities included in the regional port authority. Upon receipt of the resolution, the secretary of state shall issue a certificate of incorporation to the regional port authority.
2. When a regional port authority is increased or decreased pursuant to section 11-36-04, it shall forward to the secretary of state a certified copy of each resolution adopted pursuant to that section, and upon receipt of the resolution, the secretary of state shall issue an amended certificate of incorporation.

**11-36-06. Proof of existence of authority.**

1. In any proceeding involving the validity or enforcement of, or relating to, any contract of a municipal port authority, created pursuant to section 11-36-03, the municipal port authority is deemed to have become established and authorized to transact its business and exercise its powers upon proof of the adoption by the municipality of the resolution creating the municipal port authority and of the appointment and qualification of the first commissioners. Duly certified copies of the resolution creating the authority and of the certificates of appointment of the commissioners are admissible in evidence in any proceeding.
2. In any proceeding involving the validity or enforcement of, or relating to, any contract of a regional port authority, the regional port authority is deemed to have become established and authorized to transact its business and exercise its powers upon proof of the issuance by the secretary of state of a certificate of incorporation of such regional port authority. A copy of such certificate of incorporation, duly certified by the secretary of state, is admissible in evidence in any suit, action, or proceeding.

**11-36-07. Commissioners - Compensation - Meetings - Officers.**

1. A commissioner of an authority may not receive compensation for services but is entitled to the reimbursement of necessary expenses incurred in the discharge of duties. Each commissioner shall hold office until a successor has been appointed and has qualified. The certificates of the appointment and reappointment of commissioners must be filed with the port authority.
2. The powers of each port authority are vested in the commissioners.
3. There must be elected a chairman and vice chairman from among the commissioners. A port authority may employ an executive director, secretary, technical experts, and such other officers, agents, and employees, permanent and temporary, as it may require, and shall determine their qualifications, duties, and compensation. For legal services it may require, a port authority may call upon the chief law officer of the municipality or municipalities included in the port authority or may employ its own counsel and legal staff. A port authority may delegate to one or more of its agents or employees the powers or duties as it may deem proper.

**11-36-08. Specific powers of a port authority.** A port authority has all the powers necessary or convenient to carry out the purposes of this chapter, including the power to certify annually to the governing bodies creating it, the amount of tax to be levied by the governing bodies for port purposes, including the power:

1. To sue and be sued.
2. To execute such contracts and other instruments and take such other action as may be necessary or convenient to carry out the purposes of this chapter.

3. To plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect transportation, storage, or other facilities. For such purposes a port authority may by purchase, gift, devise, lease, or otherwise acquire property, including easements.
4. To establish comprehensive port zoning regulations in accordance with the laws of this state. For the purposes of this chapter, a regional port authority has the same powers as all other political subdivisions in the adoption and enforcement of comprehensive port zoning regulations as provided for by the laws of this state.
5. To acquire, by purchase, gift, devise, lease, or otherwise, existing transportation, storage, or other facilities that may be necessary or convenient to carry out this chapter. A port authority may not acquire or take over any transportation, storage, or other facilities owned or controlled by another port authority, municipality, or public agency of this or any other state without the consent of that port authority, municipality, or public agency.
6. To provide financial and other support to organizations in its jurisdiction, including corporations whose purpose is to promote, stimulate, develop, and advance the general welfare, economic development, and prosperity of its jurisdiction and of the state and its citizens by stimulating, assisting in, and supporting the growth of all kinds of economic activity, including the creation, expansion, modernization, retention, and relocation of new and existing businesses and industries in the state, all of which will tend to promote business development, maintain the economic stability and prosperity of the state, and thus provide maximum opportunities for employment and improvement in the standard of living of citizens of the state.

**11-36-09. Disposal of port property.** Except as may be limited by the terms and conditions of any grant, loan, or agreement authorized by section 11-36-13, an authority, by sale, lease, or otherwise, may dispose of any transportation, storage, or other facility or other property, or portion thereof or interest therein, acquired pursuant to this chapter. A disposal must be in accordance with the laws of this state governing the disposition of other public property, except that in the case of disposal to another port authority, a municipality, or an agency of the state or federal government for use and operation as a public port, the sale, lease, or other disposal may be effected in such manner and upon such terms as the commissioners of the port authority may deem in the best interest of transportation. Upon the termination of a port and controlling authority, remaining funds shall revert to the general fund of the political subdivision that levied a tax in support of the port.

**11-36-10. Bonds and other obligations.**

1. A port authority may borrow money for any of its corporate purposes and issue its bonds for that purpose, including refunding bonds, in the form and upon the terms as it may determine, payable out of any revenues of the port authority, including grants or contributions from the federal government or other sources, which bonds may be sold at not less than ninety-eight percent of par plus the interest accrued on the bonds to the date of the delivery of the bonds.

2. Bond issues sold at private sale must bear interest at a rate or rates and be sold at a price resulting in an average net interest cost not exceeding twelve percent per annum. There is no interest rate ceiling on those issues sold at public sale or to this state or any of its agencies or instrumentalities.
3. Any bonds issued pursuant to this chapter by a port authority, or by a governing body exercising the powers of a port authority, are payable, as to principal and interest, solely from revenues of a port or facilities, and must so state on the face of the bond, but if any issue of bonds constitutes an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, each bond of the issue is, subject to the requirements of subsection 9, an equally valid and binding special obligation of the authority or municipality, as the case may be, in accordance with its terms, in an amount proportionate to the total amount of the issue which is within the limitation or restriction. Neither the commissioners of a port authority nor the governing body of a municipality nor any person executing such bonds is liable personally thereon by reason of the issuance thereof, except to the extent that the bonds, if constituting an indebtedness, exceed any applicable limitation or restriction.
4. In case any of the commissioners or officers of a port authority or municipality whose signatures appear on any bonds or coupons cease to be such commissioners or officers after authorization but before the delivery of the bonds, the signature, nevertheless, is valid and sufficient for all purposes, the same as if the commissioners or officers had remained in office until delivery. Notwithstanding any other provision of any law, any bonds issued pursuant to this chapter are fully negotiable.
5. Any bond reciting in substance that it has been issued by the port authority or municipality pursuant to this chapter and for a purpose or purposes authorized by this chapter is conclusively deemed, in any proceeding involving the validity or enforceability of the bond or the security therefor, to have been issued pursuant to this chapter and for such purpose or purposes.
6. Bonds issued by a port authority or municipality pursuant to this chapter are declared to be issued for an essential public and governmental purpose and, together with interest on the bonds, and income from the bonds are exempt from all taxes.
7. For the security of any such bonds, the port authority or municipality by resolution may make any covenant, agreement, or indenture authorized to be made as security for revenue bonds issued under chapter 40-35. The sums required from time to time to pay principal and interest and to create and maintain a reserve for the bonds may be made payable from any and all revenues referred to in this chapter, before the payment of current costs of operation and maintenance of the facilities.
8. Whenever bonds are issued under this chapter and made payable from revenues of a port involving municipalities with over ten thousand population, subject to requirements of subsection 9, the governing body of the municipality, if at any time all revenues, including taxes, appropriated and to that time collected for the bonds are insufficient to pay principal or interest then due, shall levy a general tax upon all of the

taxable property in the municipality for the payment of the deficiency. If at any time a deficiency is likely to occur within one year for the payment of principal and interest due on the bonds, the governing body, in its discretion, may levy a general tax upon all the taxable property in the municipality for the payment of the deficiency. The taxes are not subject to any limitation of rate or amount applicable to other municipal taxes.

9. For bonds issued under this section to be an obligation of a municipality or port authority, the issuance of the bonds must be approved by a majority vote of the governing body of each municipality involved or, within thirty days after the port authority decides it wishes to issue the bonds, the municipality or port authority must put the question, specifying the amount of the bond at issue, to the people at an election. The question may be put at a general election, a primary election, a municipal election, or at an election called for the purpose. If a majority of the qualified electors voting on the issue vote in favor of issuing the bonds, the port authority or municipality, to the amount authorized in the election, may pledge the general obligation of the port authority or municipality to guarantee the repayment of the principal and interest on the bonds.

#### **11-36-11. Operation and use privileges.**

1. In connection with the operation of a port or port facility owned or controlled by a port authority, the port authority may enter a contract, lease, and other arrangement for terms not to exceed thirty years with any person:
  - a. Granting the privilege of using or improving the port or port facility or any portion or space in the port or port facility for commercial purposes;
  - b. Conferring the privilege of supplying goods, commodities, things, services, or facilities at the port or port facility; and
  - c. Making available services to be furnished by the authority or its agents at the port or port facility.
2. In each case the port authority may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which must be reasonable and uniform for the same class or privilege or service and must be established with due regard to the property and improvements used and the expenses of operation to the authority; provided that in no case may the public be deprived of its rightful, equal, and uniform use of the port, port facility, or portion of a port or port facility.
3. Except as may be limited by the terms and conditions of any grant, loan, or agreement authorized by section 11-36-13, a port authority by contract, lease, or other arrangements, upon a consideration fixed by it, may grant to any qualified person for a term not to exceed thirty years the privilege of operating, as agent of the port authority or otherwise, any port owned or controlled by the port authority; provided that no person may be granted any authority to operate a port other than as a public port or to enter any contract, lease, or other arrangement in

connection with the operation of the port which the port authority might not have undertaken under subsection 1.

**11-36-12. Regulations.** A port authority may adopt, amend, and repeal such reasonable resolutions, regulations, and orders as it determines necessary for the management, government, and use of any port or port facility owned by it or under its control. No rule, regulation, order, or standard prescribed by the port authority may be inconsistent with, or contrary to, any Act of the Congress of the United States or any regulation promulgated or standard established pursuant to an Act of Congress. The port authority shall keep on file at the principal office of the port authority for public inspection a copy of all its regulations.

**11-36-13. Federal and state aid.** A port authority may accept, receive, receipt for, disburse, and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both, to accomplish, in whole or in part, any of the purposes of this chapter. All federal moneys accepted under this section must be accepted and expended by the port authority upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state moneys accepted under this section must be accepted and expended by the port authority upon such terms and conditions as are prescribed by the state.

**11-36-14. Tax levy may be certified by port authority or municipality.** The port authority may certify annually to the governing bodies the amount of tax to be levied by each municipality participating in the creation of the port authority, and the municipality shall levy the amount certified, pursuant to provisions of law authorizing political subdivisions of this state to levy taxes for port purposes. The levy made may not exceed the maximum levy permitted by the laws of this state for port purposes. The municipality shall collect the taxes certified by a port authority in the same manner as other taxes are levied and collected. The proceeds of such taxes must be deposited in a special account or accounts in which other revenues of the port authority are deposited and may be expended by the port authority as provided in this chapter. Before issuance of bonds under section 11-36-10, the port authority or the municipality by resolution may covenant and agree that the total amount of the taxes then authorized by law, or such portion of the taxes as may be specified by the resolution, will be certified, levied, and deposited annually until the bonds and interest are fully paid.

**11-36-15. County tax levy for port purposes.** In counties supporting ports or port authorities, a levy not exceeding the limitation in section 2 of this Act may be made but this levy may not apply to any municipality that has a port levy.

**11-36-16. Joint operations.**

1. For the purposes of this section, unless otherwise qualified, the term "public agency" includes municipality and port authority, any agency of the state government and of the United States, and any political subdivision and agency of an adjoining state; and the term "governing body" includes commissioners of a port authority, the governing body of a municipality, and the head of an agency of a state or the United States if the public agency is other than a port authority or municipality. All powers, privileges, and authority granted by this chapter may be exercised and enjoyed by an authority jointly with any public agency of this state, and jointly with any public agency of any adjoining state or of the United States to the extent that the laws of such other state or of the United States permit such joint exercise of enjoyment. Any agency of

the state government, when acting jointly with any authority, may exercise and enjoy all the powers, privileges, and authority conferred by this chapter upon an authority.

2. Any two or more public agencies may enter agreements with each other for joint action pursuant to the provisions of this section. Each agreement must specify its duration, the proportionate interest which each public agency must have in the property, facilities, and privileges involved in the joint undertaking, the proportion of costs of operation, and other items to be borne by each public agency, and such other terms as are deemed necessary or required by law. The agreement may also provide for amendments and termination; disposal of all or any of the property, facilities, and privileges jointly owned, prior to, or at such times as said property, facilities, and privileges, or any part thereof, cease to be used for the purposes provided in this chapter, or upon termination of the agreement; the distribution of the proceeds received upon any disposal, and of any funds or other property jointly owned and undisposed of; the assumption of payment of any indebtedness arising from the joint undertaking which remains unpaid upon the disposal of all assets or upon a termination of the agreement; and such other provisions as may be necessary or convenient.
3. Public agencies acting jointly under this section shall create a joint board to consist of members appointed by the governing body of each participating public agency. The number to be appointed, the term, and any compensation must be provided in the joint agreement. Each joint board shall organize, select officers for such terms as are fixed by the agreement, and adopt and amend rules for its own procedure. The joint board has power, as agent of the participating public agencies, to plan, acquire, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate, protect, and police any port or port facility to be jointly acquired, controlled, and operated, and the board may be authorized by the participating public agencies to exercise on behalf of its constituent public agencies all the powers of each with respect to the port or port facility, subject to the limitations of subsection 4.
4.
  - a. The total expenditures to be made by the joint board for any purpose in any calendar year must be as determined by a budget approved by the constituent public agencies on or before the preceding December first, or as otherwise specifically authorized by the constituent public agencies.
  - b. A port, port facility, or real property, the cost of which is in excess of sums fixed by the joint agreement or allotted in the annual budget, may not be acquired, established, or developed by the joint board without the approval of the governing bodies of its constituent public agencies.
  - c. The joint board may not dispose of any port, port facility, or real property under its jurisdiction except with the consent of the governing bodies of its constituent public agencies, provided that the joint board, without such consent, may enter contracts, leases, or other arrangements contemplated by section 11-36-11.
  - d. Any resolutions, regulations, or orders of the joint board dealing with subjects authorized by section 11-36-11 become effective only

upon approval of the governing bodies of the constituent public agencies, provided that upon such approval, the resolutions, regulations, or orders of the joint board have the same force and effect in the territories or jurisdictions involved as the ordinances, resolutions, regulations, or orders of each public agency would have in its own territory or jurisdiction.

5. For the purpose of providing the joint board with moneys for the necessary expenditures in carrying out this section, a joint fund must be created and maintained, into which must be deposited the share of each of the constituent public agencies as provided by the joint agreement. Any federal, state, or other grants, contributions, or loans, and the revenues obtained from the joint ownership, control, and operation of any port or port facility under the jurisdiction of the joint board must be paid into the joint fund. Disbursements from such fund must be made by order of the board, subject to the limitations prescribed in subsection 4.

**11-36-17. Public purpose.** 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.

**11-36-18. Port property and income exempt from taxation.** Any property in this state acquired by a port authority for port purposes pursuant to this chapter, and any income derived by the port authority from the ownership, operation, or control of this property, is exempt from taxation to the same extent as other property used for public purposes.

**11-36-19. Municipal cooperation.** For the purpose of aiding and cooperating in the planning, undertaking, construction, or operation of ports and port facilities pursuant to this chapter, any municipality for which an authority has been created, upon such terms, with or without consideration, may:

1. Lend or donate money to the authority.
2. Provide that all revenues received by the municipality for port purposes be transferred, paid, or credited to a port authority fund. The city auditor or county treasurer may establish and maintain the fund to account for port authority revenues and shall make payments from the fund for invoices that have been submitted and approved by the governing body of the port authority. On request of the city auditor or county treasurer and during an audit, the governing board of the port authority shall supply its records. The records must be provided on a timely basis. The fund may not revert to the governing body of the municipality at the end of any fiscal year. The fund must be used exclusively for the establishment and maintenance of port facilities.

3. Cause water, sewer, or drainage facilities, or any other facilities which it is empowered to provide, to be furnished adjacent to or in connection with the port or port facilities.
4. Dedicate, sell, convey, or lease any of its interest in any property, or grant easements, licenses, or any other rights or privileges therein to the port authority.
5. Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, and walks from established streets or roads to ports or port facilities.
6. Take any action, whether or not specifically authorized in this section and not otherwise prohibited by law, that is necessary or convenient to aid and cooperate with the authority in the planning, undertaking, construction, or operation of ports and port facilities.
7. Enter agreements with the port authority respecting action to be taken by the municipality pursuant to this section.

**11-36-20. Out-of-state port jurisdiction authorized - Reciprocity with adjoining states and governmental agencies.**

1. This state or any public entity within this state having any powers with respect to planning, establishing, acquiring, developing, constructing, enlarging, improving, maintaining, equipping, operating, regulating, or protecting ports or port 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.
2. Any state adjoining this state or any public entity of that state may plan, establish, acquire, develop, construct, enlarge, improve, maintain, equip, operate, regulate, and protect ports and port facilities with this state, subject to the laws of this state applicable to ports and port facilities.
3. The powers granted in this section may be exercised jointly by two or more states or public entities, including this state and its governmental agencies, in any agreed-upon combination.

**11-36-21. Supplemental authority.** In addition to the general and special powers conferred by this chapter, every port authority may exercise any power necessary incidental to the exercise of general and special powers.

**11-36-22. Debt service fund.** A port authority may create a debt service fund and accumulate in the fund a sum determined by the governing body, together with interest on that sum, for the use, repairs, maintenance, and capital outlays of a port.

<sup>46</sup> **SECTION 2.** A new subsection to section 57-15-06.7 of the North Dakota Century Code is created and enacted as follows:

Counties supporting ports or port authorities may levy a tax not exceeding four mills in accordance with section 11-36-15.

<sup>47</sup> **SECTION 3.** A new subsection to section 57-15-10 of the North Dakota Century Code is created and enacted as follows:

Taxes levied for port purposes in accordance with section 5 of this Act may be levied in an amount not exceeding four mills.

<sup>48</sup> **SECTION 4.** A new subsection to section 57-15-20.2 of the North Dakota Century Code is created and enacted as follows:

A township levying a tax for port purposes in accordance with section 6 of this Act may levy a tax not exceeding four mills.

**SECTION 5.** A new section to chapter 57-15 of the North Dakota Century Code is created and enacted as follows:

**Tax levy for port purposes.** In cities supporting ports for which no levy has been made by a taxing district within the corporate limits of such city, a levy not exceeding the limitation in section 3 of this Act may be made for such purposes.

**SECTION 6.** A new section to chapter 57-15 of the North Dakota Century Code is created and enacted as follows:

**Township levy for port purposes.** The electors of each township may vote at the annual meeting to levy a tax for the purpose of supporting a port or port authority in an amount not exceeding the limitation in section 4 of this Act. The tax levy provided in this section does not apply to any city, park district, or other taxing district that already has a port levy.

Approved April 9, 2003  
Filed April 9, 2003

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<sup>46</sup> Section 57-15-06.7 was also amended by section 16 of House Bill No. 1426, chapter 96, section 98 of House Bill No. 1183, chapter 138, and section 3 of Senate Bill No. 2173, chapter 92.

<sup>47</sup> Section 57-15-10 was also amended by section 17 of House Bill No. 1426, chapter 96, and section 99 of House Bill No. 1183, chapter 138.

<sup>48</sup> Section 57-15-20.2 was also amended by section 18 of House Bill No. 1426, chapter 96.

## CHAPTER 96

### HOUSE BILL NO. 1426

(Representatives Skarphol, Belter, Glassheim)  
(Senators Andrist, Nelson, Wardner)

## COMMERCE AUTHORITIES

AN ACT to provide for the creation of commerce authorities; to create and enact a new subsection to section 57-15-06.7, a new subsection to section 57-15-10, a new subsection to section 57-15-20.2, a new section to chapter 57-15, a new subdivision to subsection 2 of section 57-38-30.3, and a new subsection to section 57-39.2-04 of the North Dakota Century Code, relating to tax levies for commerce authorities and exemption from income, sales, and use taxes; to provide an effective date; and to declare an emergency.

### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. Definitions.** As used in sections 1 through 15 of this Act, unless the context requires otherwise:

1. "Bonds" means any bonds, notes, interim certificates, debentures, or similar obligations issued by a commerce authority.
2. "Commerce authority" means an authority created under section 3 of this Act.
3. "Political subdivision" means any county, city, or other unit of local government. The term includes a job development authority created under chapter 11-11.1 or 40-57.4.
4. "Project" means facilities including all real and personal property, structures, equipment, and appurtenances owned or operated by a commerce authority.

**SECTION 2. Purposes of commerce authority.** A commerce authority may be created to:

1. Promote, stimulate, develop, and advance commerce, economic development, and general prosperity within its jurisdiction and this state;
2. Endeavor to increase the volume of commerce within its jurisdiction and this state through planning, advertising, acquisition, development, construction, improvement, maintenance, operation, and regulation, of transportation, storage, or other facilities that promote the safe, efficient, and economical handling of commerce;
3. Cooperate and act in conjunction with other organizations in the development and promotion of commerce, industry, manufacturing, services, natural resources, agriculture, livestock, recreation, tourism, health care, and other economic activity; and
4. Support the creation, expansion, modernization, retention, and relocation of new and existing businesses and industries and otherwise

stimulate, assist in, and support growth of all kinds of economic activity that promote commerce and business development, maintain economic stability and prosperity of its jurisdiction and this state, and thus provide maximum opportunities for employment and improvement in the standard of living of citizens of its jurisdiction and this state.

**SECTION 3. Creation of commerce authority.** One or more political subdivisions may form a commerce authority as follows:

1. Any political subdivision may create, by resolution of its governing body, a public body corporate and politic to be known as a commerce authority that may exercise its functions upon the appointment and qualification of the first commissioners of the commerce authority. The governing body by resolution may determine to exercise any powers granted to a commerce authority until the powers have been conferred upon a commerce authority. Upon the adoption of a resolution creating a commerce authority, the governing body of the political subdivision shall appoint, pursuant to the resolution, no fewer than five individuals as commissioners of the commerce authority.
2. Two or more political subdivisions, whether in this state or in an adjoining state provided that at least one political subdivision is in this state, may create by execution of a joint agreement authorized by resolution of the governing body of each participating subdivision, a commerce authority that may exercise its functions upon the issuance by the secretary of state of a certificate of incorporation. The governing bodies of the participating political subdivisions shall appoint, pursuant to the joint agreement, no fewer than five persons as commissioners of the commerce authority.
3. A commerce authority may be increased to serve one or more additional political subdivisions if each additional political subdivision and each of the political subdivisions then participating in the authority, adopt a resolution consenting to the addition.
4. A commerce authority may be decreased if each of the political subdivisions in the commerce authority consent to the decrease and make provisions for the retention or disposition of its assets and liabilities. If the commerce authority has any bonds outstanding, no decrease may be effected unless all of the holders of the bonds consent to the decrease.

**SECTION 4. Filing of agreement and resolutions - Certificate of incorporation - Beginning of corporate existence.** The joint agreement, if applicable, and a certified copy of the resolution of each political subdivision creating or agreeing to participate in a commerce authority must, be filed with the secretary of state. If the agreement and resolutions conform to the requirements of section 3 of this Act, the secretary of state shall issue a certificate of incorporation that states the name of the commerce authority and the date of incorporation. The existence of the commerce authority as a political subdivision of this state begins upon the issuance of the certificate of incorporation. The certificate of incorporation is conclusive evidence of the existence of the commerce authority.

**SECTION 5. Commissioners - Compensation - Officers.**

1. The power of each commerce authority is vested in its commissioners. A commerce authority may adopt and amend rules for its own operation subject to the agreement of the participating political subdivisions and sections 1 through 15 of this Act.
2. A commissioner of a commerce authority may not receive compensation for services but is entitled to reimbursement of necessary expenses incurred in the discharge of duties at the rates provided in sections 44-08-04 and 54-06-09.
3. The commissioners of a commerce authority shall elect a chairman, a vice chairman, and a secretary-treasurer from among the commissioners.
4. The commissioners of a commerce authority may appoint or elect an executive director, and any other officers, agents, and employees determined to be necessary and shall determine their qualifications, duties, and compensation. The commissioners of a commerce authority may delegate powers and duties of the commerce authority to one or more of its officers, agents, or employees.

**SECTION 6. Powers of political subdivisions in aid of a commerce authority.** A political subdivision creating or participating in a commerce authority may:

1. Lend or donate money to the commerce authority.
2. Provide that all or a portion of the taxes or funds available to the political subdivision for economic development purposes be transferred or paid directly to the commerce authority.
3. Cause water, sewer, drainage, or any other facilities that the political subdivision is authorized to provide to be furnished adjacent to or in connection with a project.
4. Dedicate, sell, convey, or lease any of the political subdivision's interest in any property or grant easements, licenses, or any other rights or privileges therein to the commerce authority.
5. Plan, dedicate, close, pave, install, grade, or regrade, to the extent allowed by title 24, streets, roadways, and walks from established streets or roads to a project.
6. Aid and cooperate with the commerce authority in the planning, construction, or operation of a project.
7. Enter agreements with the commerce authority regarding action to be taken by the political subdivision under this section.
8. Establish the geographical boundaries of the commerce authority within or coextensive with the geographical boundaries of one or more of the participating political subdivisions.

9. Establish the extent to which the financial incentives provided under sections 1 through 15 of this Act will apply to the commerce authority.
10. Acquire property to carry out the purposes of sections 1 through 15 of this Act by condemnation and the exercise of eminent domain in the manner provided in chapter 32-15 and other laws applicable to political subdivisions in exercising the right of eminent domain.

**SECTION 7. Powers of commerce authority.** A commerce authority has all the powers necessary or convenient to carry out the purposes of sections 1 through 15 of this Act, including the power to:

1. Execute contracts and other instruments.
2. Sue and be sued.
3. Plan, acquire, develop, construct, improve, maintain, equip, operate, and regulate transportation, storage, or other facilities.
4. Acquire by lease, purchase, gift, or other lawful means and to hold in its name for its use and control both real and personal property and easements and rights of way within or without the limits of the commerce authority.
5. Convey, sell, dispose of, or lease personal and real property.
6. Employ or procure services of engineers, attorneys, technical experts, and other persons to assist, advise, and act for the commerce authority.
7. Accept, receive, disburse, and expend federal, state, local, and other moneys, public or private, made available by grant or loan.
8. Cooperate and contract with this state or any other governmental entity to obtain infrastructure and services.
9. Develop, obtain, and furnish water supply, treatment, storage, and transportation facilities and electric, natural gas, and telecommunications facilities and services.
10. Obtain local, state, and federal permits necessary to develop resources and infrastructure authorized by sections 1 through 15 of this Act.
11. Issue warrants in anticipation of taxes levied to pay current and anticipated expenses relative to the development and operation of its assets.
12. Create a debt service fund and accumulate in the fund a sum determined by the commerce authority, together with interest on that sum, for the use, repair, maintenance, and capital outlays of the commerce authority.
13. Adopt, amend, and repeal such reasonable resolutions, regulations, and orders as necessary for the management and use of a project owned or operated by the commerce authority.

**SECTION 8. Bonds and other obligations.**

1. A commerce authority may borrow money and issue bonds, including refunding bonds, in the form and upon the terms as it may determine, payable out of any revenues of the commerce authority.
2. Any bonds issued under this section are payable, as to principal and interest, solely from revenues of the commerce authority, and must so state on the face of the bond. If any issue of bonds constitutes an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, each bond of the issue is, subject to the requirements of subsection 8, an equally valid and binding special obligation of the commerce authority or participating political subdivision, as the case may be, in accordance with its terms, in an amount proportionate to the total amount of the issue which is within the limitation or restriction. A commissioner of a commerce authority or an individual executing the bonds is not liable personally on the bonds by reason of the issuance of the bonds, except to the extent that the bonds, if constituting an indebtedness, exceed any applicable limitation or restriction.
3. If any commissioner or officer of a commerce authority whose signature appears on any bonds or coupons ceases to be a commissioner or officer after authorization but before the delivery of the bonds, the signature, is valid and sufficient for all purposes, the same as if the commissioner or officer had remained in office until delivery.
4. Any bond reciting in substance that the bond has been issued by the commerce authority under this section and for a purpose authorized by sections 1 through 15 of this Act is conclusively deemed, in any proceeding involving the validity or enforceability of the bond or the security of the bond to have been issued under this section and for that purpose.
5. Bonds issued by a commerce authority under this section are declared to be issued for an essential public government purpose, and together with interest and income on the bonds, are exempt from all individual and corporate taxes imposed under sections 57-35.3-03, 57-38-29, 57-38-30, and 57-38-30.3.
6. For the security of the bonds, the commerce authority by resolution may make any covenant, agreement, or indenture authorized to be made as security for revenue bonds issued under chapter 40-35. The sums required to pay principal and interest and to create and maintain a reserve for the bonds may be payable from any revenues referred to in sections 1 through 15 of this Act, before the payment of current costs of operation and maintenance of the facilities.
7. When bonds are issued under this section and made payable from revenues of a commerce authority involving political subdivisions with a population over ten thousand, subject to the requirements of subsection 8, the governing bodies of the political subdivisions, if at any time all revenues, including taxes, appropriated and to that time collected for the bonds are insufficient to pay the principal or interest then due, shall levy a general tax upon all of the taxable property in the

political subdivisions for the payment of the deficiency. If a deficiency is likely to occur within one year for the payment of principal and interest due on the bonds, the governing bodies, in their declaration, may levy a general tax upon all the taxable property in the political subdivisions for the payment of the deficiency. The taxes are not subject to any limitation of rate or amount applicable to other political subdivisions taxes.

8. For bonds issued under this section to be an obligation of a political subdivision or commerce authority, the issuance of the bonds must be approved by a majority vote of the governing body of each political subdivision involved or, within thirty days after the commerce authority decides to issue the bonds, the political subdivision or commerce authority must put the question, specifying the amount of the bond at issue, to the electors at any primary, general, or special election. If a majority of the qualified electors voting on the issue vote in favor of issuing the bonds, the commerce authority or political subdivision, to the amount authorized in the election, may pledge the general obligation of the commerce authority or political subdivision to guarantee the repayment of the principal and interest on the bonds.

#### **SECTION 9. Operation and use privileges.**

1. In connection with the operation of a project owned or controlled by a commerce authority, the commerce authority may enter a contract, lease, and other arrangement with any person:
  - a. Granting the privilege of using or improving the project or any portion or space in the project for commercial purposes.
  - b. Conferring the privilege of supplying goods or services at the project.
  - c. Making available services to be furnished by the commerce authority or its agents at the project.
2. The commerce authority may establish the terms and conditions and fix the charges, rentals, or fees for the privileges or services, which must be reasonable and uniform for the same class or privilege or service.

**SECTION 10. Sales and use tax incentives.** The elected governing body of a participating political subdivision may offer sales and use tax exemptions from sales and use taxes the participating political subdivision has imposed for tangible personal property purchased and made a part of the commerce authority's infrastructure if the tangible personal property is placed within the geographic boundaries of the political subdivision and is necessary and directly services infrastructure needs of the commerce authority.

**SECTION 11. Commerce authority property and income exempt from taxation.** Any property in this state acquired by a commerce authority for the purposes of the commerce authority, and any income derived by the commerce authority from the ownership, operation, or control of the property, is exempt from taxation to the same extent as other property used for public purposes.

**SECTION 12. Out-of-state jurisdiction authorized - Reciprocity with adjoining governmental agencies.** A political subdivision creating a commerce

authority may exercise those powers within any political subdivision or jurisdiction adjoining this state, subject to the laws of that political subdivision.

**SECTION 13. Tax levy by political subdivision.** The commerce authority may certify annually to the governing bodies the amount of tax requested to be levied by each political subdivision participating in the commerce authority. The governing body of each political subdivision shall consider the levy request of the commerce authority and determine the amount to be levied. The levy may not exceed the maximum levy permitted for commerce authority purposes. Each political subdivision shall collect the taxes levied on behalf of a commerce authority in the same manner as other taxes are levied and collected. The proceeds of the taxes must be deposited in a special account or accounts in which other revenues of the commerce authority are deposited and may be expended by the commerce authority as provided in sections 1 through 15 of this Act. Before issuance of bonds under section 9 of this Act, the commerce authority by resolution may covenant and agree that the total amount of the taxes authorized by law, or the portion of the taxes specified by the resolution, will be certified and deposited annually until the bonds and interest are fully paid.

**SECTION 14. Maximum tax levy - county levy not applied in political subdivision making levy.** In a political subdivision that is a party to an agreement creating a commerce authority, a levy, not exceeding four mills, may be made for the purposes of the commerce authority. A county levy under section 57-15-06.7 does not apply to any other political subdivision within that county making a levy for the purposes of the commerce authority.

**SECTION 15. Favorable rates.** A commerce authority may charge favorable rates for services provided by the commerce authority to persons taxed for the commerce authority.

<sup>49</sup> **SECTION 16.** A new subsection to section 57-15-06.7 of the North Dakota Century Code is created and enacted as follows:

Counties supporting commerce authorities may levy a tax not exceeding four mills in accordance with section 14 of this Act.

<sup>50</sup> **SECTION 17.** A new subsection to section 57-15-10 of the North Dakota Century Code is created and enacted as follows:

Taxes levied for commerce authority purposes may be levied in an amount not exceeding four mills.

<sup>51</sup> **SECTION 18.** A new subsection to section 57-15-20.2 of the North Dakota Century Code is created and enacted as follows:

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<sup>49</sup> Section 57-15-06.7 was also amended by section 2 of House Bill No. 1207, chapter 95, section 98 of House Bill No. 1183, chapter 138, and section 3 of Senate Bill No. 2173, chapter 92.

<sup>50</sup> Section 57-15-10 was also amended by section 3 of House Bill No. 1207, chapter 95, and section 99 of House Bill No. 1183, chapter 138.

<sup>51</sup> Section 57-15-20.2 was also amended by section 4 of House Bill No. 1207, chapter 95.

A township levying a tax for commerce authority purposes may levy a tax not exceeding four mills.

**SECTION 19.** A new section to chapter 57-15 of the North Dakota Century Code is created and enacted as follows:

**Township levy for commerce authority purposes.** The electors of each township may vote at the annual meeting to levy a tax for the purpose of supporting a commerce authority in an amount not exceeding the limitation in section 18 of this Act. The tax levy provided in this section does not apply to any city, park district, or other taxing district that already has a commerce authority levy.

<sup>52</sup> **SECTION 20.** A new subdivision to subsection 2 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

Reduced by interest and income from bonds issued under this Act.

<sup>53</sup> **SECTION 21.** A new subsection to section 57-39.2-04 of the North Dakota Century Code is created and enacted as follows:

Gross receipts from all sales of tangible personal property purchased by a commerce authority and made a part of the infrastructure of a commerce authority, otherwise taxable under this chapter, if the personal property is placed within the geographic boundaries of the political subdivisions that created the commerce authority and is necessary and directly services infrastructure needs of the commerce authority. The commissioner shall issue a certificate of exemption to a political subdivision exempted by this subsection, and the political subdivision shall present the certificate of exemption to each retailer whenever the exemption is claimed.

**SECTION 22. EFFECTIVE DATE.** This Act is effective for taxable years beginning after December 31, 2002.

**SECTION 23. EMERGENCY.** This Act is declared to be an emergency measure.

Approved April 11, 2003  
Filed April 11, 2003

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<sup>52</sup> Section 57-38-30.3 was also amended by section 2 of Senate Bill No. 2098, chapter 527, section 2 of Senate Bill No. 2099, chapter 529, section 2 of Senate Bill No. 2367, chapter 526, section 1 of Senate Bill No. 2101, chapter 530, and section 4 of Senate Bill No. 2159, chapter 524.

<sup>53</sup> Section 57-39.2-04 was also amended by section 6 of House Bill No. 1243, chapter 454, section 1 of House Bill No. 1328, chapter 536, section 6 of Senate Bill No. 2096, chapter 539, section 7 of Senate Bill No. 2096, chapter 539, section 8 of Senate Bill No. 2096, chapter 539, section 9 of Senate Bill No. 2096, chapter 539, section 10 of Senate Bill No. 2096, chapter 539, and section 5 of Senate Bill No. 2159, chapter 524.