

Introduced by

Representatives Timm, Price, Thorpe

Senators Krebsbach, O'Connell, Tollefson

1 A BILL for an Act to create and enact chapter 11-36, a new subsection to section 57-15-06.7, a
2 new subsection to section 57-15-10, a new subsection to section 57-15-20.2, and two new
3 sections to chapter 57-15 of the North Dakota Century Code, relating to local port authorities.

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

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

7 **11-36-01. Definitions.** As used in this chapter unless the context requires otherwise:

- 8 1. "Bonds" means any bonds, notes, interim certificates, debentures, or similar
9 obligations issued by a port authority pursuant to this chapter.
- 10 2. "Governing body" means the official or officials authorized by law to exercise
11 ordinance or other lawmaking powers of a municipality.
- 12 3. "Municipal port authority" means a port authority created pursuant to section
13 11-36-03.
- 14 4. "Municipality" means any political subdivision of this state.
- 15 5. "Port authority" means any regional port authority or municipal port authority
16 created pursuant to this chapter, and the governing body of a municipality which
17 has determined to exercise the powers of a municipal port authority, pursuant to
18 section 11-36-03.
- 19 6. "Project" means any port operated by the authority, including all real and personal
20 property, structures, machinery, equipment, and appurtenances or facilities which
21 are part of the port or used or useful in connection with the port either as facilities
22 for the convenience of handling equipment, passengers, and freight or as part of
23 port or port facilities operation.

1 7. "Real property" means lands, structures, and interests in land, including lands
2 under water and riparian rights, and any and all things and rights usually included
3 within the term real property, including not only fee simple absolute but also any
4 and all lesser interests, such as easements, rights of way, uses, leases, licenses,
5 and all other incorporeal hereditaments and every estate, interest, or right, legal or
6 equitable, pertaining to real property.

7 8. "Recorder" means the custodian of the official records of a municipality.

8 9. "Regional port authority" means a port authority created pursuant to section
9 11-36-04.

10 **11-36-02. General powers.** A port authority may:

11 1. Promote, stimulate, develop, and advance the general welfare, commerce,
12 economic development, and prosperity of its jurisdiction and of the state and its
13 citizens;

14 2. Endeavor to increase the volume of commerce within the jurisdiction of the port
15 authority and the state through planning, advertising, acquisition, establishment,
16 development, construction, improvement, maintenance, equipment, operation,
17 regulation, and protection of transportation, storage, or other facilities that promote
18 the safe, efficient, and economical handling of commerce;

19 3. Cooperate and act in conjunction with other organizations, public or private, in the
20 development of commerce, industry, manufacturing, services, natural resources,
21 agriculture, livestock, recreation, tourism, health care, and other economic activity
22 in the state; and

23 4. Support the creation, expansion, modernization, retention, and relocation of new
24 and existing businesses and industries in the state and otherwise stimulate, assist
25 in, and support the growth of all kinds of economic activity that will tend to promote
26 commerce and business development, maintain the economic stability and
27 prosperity of its jurisdiction and of the state, and thus provide maximum
28 opportunities for employment and improvement in the standard of living of citizens
29 of the state.

30 **11-36-03. Creation of municipal port authority.**

- 1 1. Any municipality located near the junction of two paved and divided multilane
2 highways, where two competing railroad intermodal lines intersect, and where two
3 class I railroads interchange freight cars, may create by resolution of its governing
4 body a public body corporate and politic to be known as a municipal port authority,
5 which is authorized to exercise its functions upon the appointment and qualification
6 of the first commissioners of the authority. The governing body by resolution may
7 determine to exercise any or all powers granted to the authorities in this chapter
8 until the powers have been conferred upon a municipal or regional port authority.
9 Upon the adoption of a resolution creating a municipal port authority, the governing
10 body of the municipality shall appoint, pursuant to the resolution, five persons as
11 commissioners of the port authority. The commissioners who are first appointed
12 are designated to serve for terms of one, two, three, four, and five years,
13 respectively, but thereafter, each commissioner must be appointed for a term of
14 five years, except that vacancies occurring otherwise than by expiration of term
15 must be filled for the unexpired term by the governing body.
- 16 2. Any elector in the municipality in which the municipal port authority is located may
17 file a petition of candidacy. The petition must contain the signatures of not less
18 than twenty-five electors of the municipality. The petition must be filed at least
19 seventy-five days before the election day. If no nomination petitions are filed for
20 one or more commissioner offices, the appropriate local governing body shall
21 appoint one or more commissioners as necessary to fill those offices.

22 **11-36-04. Creation of regional port authority.**

- 23 1. Two or more municipalities, whether in this state or in an adjoining state, provided
24 that at least one municipality is in this state located near the junction of two paved
25 and divided multilane highways, where two competing railroad intermodal lines
26 intersect, and where two class I railroads interchange freight cars, may create by
27 joint resolution a public body, corporate and politic, to be known as a regional port
28 authority, which is authorized to exercise its functions upon the issuance by the
29 secretary of state of a certificate of incorporation. The governing bodies of the
30 municipalities participating in the creation of a regional port authority shall appoint,
31 pursuant to the joint resolution, no fewer than five persons as commissioners of the

- 1 regional port authority. The number to be appointed and representation must be
2 provided for in the joint resolution. The term of office of each regional port
3 authority commissioner must be in accordance with subsection 5. Each regional
4 port authority, once created, shall organize, elect officers for terms of office to be
5 fixed by agreement, and adopt and amend rules for its own procedure not
6 inconsistent with section 11-36-07.
- 7 2. A regional port authority may be increased to serve one or more additional
8 municipalities if each additional municipality and each of the municipalities then
9 included in the regional port authority and the commissioners of the regional port
10 authority, respectively, adopt a resolution consenting to the addition. If a municipal
11 port authority for any municipality seeking to be included in the regional port
12 authority is then in existence, the commissioners of the municipal port authority
13 must consent to the inclusion of the municipality in the regional port authority, and
14 if the municipal port authority has any bonds outstanding, all of the holders of the
15 bonds must consent, in writing, to the inclusion of the municipality in the regional
16 port authority. Upon the inclusion of any municipality in the regional port authority,
17 all rights, contracts, obligations, and property of the municipal port authority must
18 be in the name of and vest in the regional port authority.
- 19 3. A regional port authority may be decreased if each of the municipalities then
20 included in the regional port authority and the commissioners of the regional port
21 authority consent to the decrease and make provisions for the retention or
22 disposition of its assets and liabilities. If the regional port authority has any bonds
23 outstanding, no decrease may be effected unless all of the holders of the bonds
24 consent to the decrease.
- 25 4. A municipality may not adopt any resolution authorized by this section without a
26 public hearing. Notice must be given at least ten days before the hearing in a
27 newspaper published in the municipality, or if there is no newspaper published in
28 the municipality, then in a newspaper having general circulation in the municipality.
- 29 5. All commissioners of a regional port authority must be appointed for terms of five
30 years each, except that a vacancy occurring otherwise than by expiration of term

1 must be filled for the unexpired term in the same manner as the original
2 appointments.

3 **11-36-05. Certificate of incorporation of regional port authority.**

4 1. Upon the appointment and qualification of the commissioners first appointed to a
5 regional port authority, the commissioners shall submit to the secretary of state a
6 certified copy of each resolution adopted pursuant to subsection 1 of section
7 11-36-02 by the municipalities included in the regional port authority. Upon receipt
8 of the resolution, the secretary of state shall issue a certificate of incorporation to
9 the regional port authority.

10 2. When a regional port authority is increased or decreased pursuant to section
11 11-36-04, it shall forward to the secretary of state a certified copy of each
12 resolution adopted pursuant to that section, and upon receipt of the resolution, the
13 secretary of state shall issue an amended certificate of incorporation.

14 **11-36-06. Proof of existence of authority.**

15 1. In any proceeding involving the validity or enforcement of, or relating to, any
16 contract of a municipal port authority, created pursuant to section 11-36-03, the
17 municipal port authority is deemed to have become established and authorized to
18 transact its business and exercise its powers upon proof of the adoption by the
19 municipality of the resolution creating the municipal port authority and of the
20 appointment and qualification of the first commissioners. Duly certified copies of
21 the resolution creating the authority and of the certificates of appointment of the
22 commissioners are admissible in evidence in any proceeding.

23 2. In any proceeding involving the validity or enforcement of, or relating to, any
24 contract of a regional port authority, the regional port authority is deemed to have
25 become established and authorized to transact its business and exercise its
26 powers upon proof of the issuance by the secretary of state of a certificate of
27 incorporation of such regional port authority. A copy of such certificate of
28 incorporation, duly certified by the secretary of state, is admissible in evidence in
29 any suit, action, or proceeding.

30 **11-36-07. Commissioners - Compensation - Meetings - Officers.**

- 1 1. A commissioner of an authority may not receive compensation for services but is
2 entitled to the reimbursement of necessary expenses incurred in the discharge of
3 duties. Each commissioner shall hold office until a successor has been appointed
4 and has qualified. The certificates of the appointment and reappointment of
5 commissioners must be filed with the port authority.
- 6 2. The powers of each port authority are vested in the commissioners.
- 7 3. There must be elected a chairman and vice chairman from among the
8 commissioners. A port authority may employ an executive director, secretary,
9 technical experts, and such other officers, agents, and employees, permanent and
10 temporary, as it may require, and shall determine their qualifications, duties, and
11 compensation. For legal services it may require, a port authority may call upon the
12 chief law officer of the municipality or municipalities included in the port authority or
13 may employ its own counsel and legal staff. A port authority may delegate to one
14 or more of its agents or employees the powers or duties as it may deem proper.
- 15 **11-36-08. General powers of a port authority.** A port authority has all the powers
16 necessary or convenient to carry out the purposes of this chapter, including the power to certify
17 annually to the governing bodies creating it, the amount of tax to be levied by the governing
18 bodies for port purposes, including the power:
 - 19 1. To sue and be sued.
 - 20 2. To execute such contracts and other instruments and take such other action as
21 may be necessary or convenient to carry out the purposes of this chapter.
 - 22 3. To plan, establish, acquire, develop, construct, purchase, enlarge, improve,
23 maintain, equip, operate, regulate, and protect transportation, storage, or other
24 facilities. For such purposes a port authority may by purchase, gift, devise, lease,
25 use eminent domain proceedings or otherwise acquire property, including
26 easements.
 - 27 4. To establish comprehensive port zoning regulations in accordance with the laws of
28 this state. For the purposes of this chapter, a regional port authority has the same
29 powers as all other political subdivisions in the adoption and enforcement of
30 comprehensive port zoning regulations as provided for by the laws of this state.

- 1 5. To acquire, by purchase, gift, devise, lease, eminent domain proceedings or
2 otherwise, existing transportation, storage, or other facilities that may be necessary
3 or convenient to carry out this chapter. A port authority may not acquire or take
4 over any transportation, storage, or other facilities owned or controlled by another
5 port authority, municipality, or public agency of this or any other state without the
6 consent of that port authority, municipality, or public agency.
- 7 6. To provide financial and other support to organizations in its jurisdiction, including
8 corporations whose purpose is to promote, stimulate, develop, and advance the
9 general welfare, economic development, and prosperity of its jurisdiction and of the
10 state and its citizens by stimulating, assisting in, and supporting the growth of all
11 kinds of economic activity, including the creation, expansion, modernization,
12 retention, and relocation of new and existing businesses and industries in the state,
13 all of which will tend to promote business development, maintain the economic
14 stability and prosperity of the state, and thus provide maximum opportunities for
15 employment and improvement in the standard of living of citizens of the state.

16 **11-36-09. Eminent domain.** In the acquisition of property by eminent domain
17 proceedings authorized by this chapter, a port authority shall proceed in the manner provided
18 by chapter 32-15 of the laws of this state and other laws that may apply to the state or to
19 political subdivisions of this state in exercising the right of eminent domain. The fact that the
20 property to be acquired by eminent domain proceedings was acquired by its owner by eminent
21 domain proceedings does not prevent its acquisition by the port authority. For the purpose of
22 making surveys and examinations relative to eminent domain proceedings, it is lawful for the
23 port authority to enter upon the land, doing no unnecessary damage. Notwithstanding any
24 other statute or other law of this state, a port authority may take possession of any property to
25 be acquired by eminent domain proceedings at any time after the commencement of the
26 proceedings. The port authority is not precluded from abandoning the proceedings at any time
27 before final order and decree of the court having jurisdiction of the proceedings, provided that
28 the port authority is liable to the owner of the property for any damage done to the property
29 during possession by the port authority.

30 **11-36-10. Disposal of port property.** Except as may be limited by the terms and
31 conditions of any grant, loan, or agreement authorized by section 11-36-14, an authority, by

1 sale, lease, or otherwise, may dispose of any transportation, storage, or other facility or other
2 property, or portion thereof or interest therein, acquired pursuant to this chapter. A disposal
3 must be in accordance with the laws of this state governing the disposition of other public
4 property, except that in the case of disposal to another port authority, a municipality, or an
5 agency of the state or federal government for use and operation as a public port, the sale,
6 lease, or other disposal may be effected in such manner and upon such terms as the
7 commissioners of the port authority may deem in the best interest of transportation. Upon the
8 termination of a port and controlling authority, remaining funds shall revert to the general fund of
9 the political subdivision that levied a tax in support of the port.

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

- 11 1. A port authority may borrow money for any of its corporate purposes and issue its
12 bonds for that purpose, including refunding bonds, in the form and upon the terms
13 as it may determine, payable out of any revenues of the port authority, including
14 grants or contributions from the federal government or other sources, which bonds
15 may be sold at not less than ninety-eight percent of par plus the interest accrued
16 on the bonds to the date of the delivery of the bonds.
- 17 2. Bond issues sold at private sale must bear interest at a rate or rates and be sold at
18 a price resulting in an average net interest cost not exceeding twelve percent per
19 annum. There is no interest rate ceiling on those issues sold at public sale or to
20 this state or any of its agencies or instrumentalities.
- 21 3. Any bonds issued pursuant to this chapter by a port authority, or by a governing
22 body exercising the powers of a port authority, are payable, as to principal and
23 interest, solely from revenues of a port or facilities, and must so state on the face of
24 the bond, but if any issue of bonds constitutes an indebtedness within the meaning
25 of any constitutional or statutory debt limitation or restriction, each bond of the
26 issue is, subject to the requirements of subsection 9, an equally valid and binding
27 special obligation of the authority or municipality, as the case may be, in
28 accordance with its terms, in an amount proportionate to the total amount of the
29 issue which is within the limitation or restriction. Neither the commissioners of a
30 port authority nor the governing body of a municipality nor any person executing
31 such bonds is liable personally thereon by reason of the issuance thereof, except

1 to the extent that the bonds, if constituting an indebtedness, exceed any applicable
2 limitation or restriction.

3 4. In case any of the commissioners or officers of a port authority or municipality
4 whose signatures appear on any bonds or coupons cease to be such
5 commissioners or officers after authorization but before the delivery of the bonds,
6 the signature, nevertheless, is valid and sufficient for all purposes, the same as if
7 the commissioners or officers had remained in office until delivery.

8 Notwithstanding any other provision of any law, any bonds issued pursuant to this
9 chapter are fully negotiable.

10 5. Any bond reciting in substance that it has been issued by the port authority or
11 municipality pursuant to this chapter and for a purpose or purposes authorized by
12 this chapter is conclusively deemed, in any proceeding involving the validity or
13 enforceability of the bond or the security therefor, to have been issued pursuant to
14 this chapter and for such purpose or purposes.

15 6. Bonds issued by a port authority or municipality pursuant to this chapter are
16 declared to be issued for an essential public and governmental purpose and,
17 together with interest on the bonds, and income from the bonds are exempt from
18 all taxes.

19 7. For the security of any such bonds, the port authority or municipality by resolution
20 may make any covenant, agreement, or indenture authorized to be made as
21 security for revenue bonds issued under chapter 40-35. The sums required from
22 time to time to pay principal and interest and to create and maintain a reserve for
23 the bonds may be made payable from any and all revenues referred to in this
24 chapter, before the payment of current costs of operation and maintenance of the
25 facilities.

26 8. Whenever bonds are issued under this chapter and made payable from revenues
27 of a port involving municipalities with over ten thousand population, subject to
28 requirements of subsection 9, the governing body of the municipality, if at any time
29 all revenues, including taxes, appropriated and to that time collected for the bonds
30 are insufficient to pay principal or interest then due, shall levy a general tax upon
31 all of the taxable property in the municipality for the payment of the deficiency. If at

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

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

17 **11-36-12. Operation and use privileges.**

18 1. In connection with the operation of a port or port facility owned or controlled by a
19 port authority, the port authority may enter a contract, lease, and other
20 arrangement for terms not to exceed thirty years with any person:
21 a. Granting the privilege of using or improving the port or port facility or any
22 portion or space in the port or port facility for commercial purposes;
23 b. Conferring the privilege of supplying goods, commodities, things, services, or
24 facilities at the port or port facility; and
25 c. Making available services to be furnished by the authority or its agents at the
26 port or port facility.
27 2. In each case the port authority may establish the terms and conditions and fix the
28 charges, rentals, or fees for the privileges or services, which must be reasonable
29 and uniform for the same class or privilege or service and must be established with
30 due regard to the property and improvements used and the expenses of operation

1 to the authority; provided that in no case may the public be deprived of its rightful,
2 equal, and uniform use of the port, port facility, or portion of a port or port facility.

3 3. Except as may be limited by the terms and conditions of any grant, loan, or
4 agreement authorized by section 11-36-14, a port authority by contract, lease, or
5 other arrangements, upon a consideration fixed by it, may grant to any qualified
6 person for a term not to exceed thirty years the privilege of operating, as agent of
7 the port authority or otherwise, any port owned or controlled by the port authority;
8 provided that no person may be granted any authority to operate a port other than
9 as a public port or to enter any contract, lease, or other arrangement in connection
10 with the operation of the port which the port authority might not have undertaken
11 under subsection 1.

12 **11-36-13. Regulations.** A port authority may adopt, amend, and repeal such
13 reasonable resolutions, regulations, and orders as it determines necessary for the
14 management, government, and use of any port or port facility owned by it or under its control.
15 No rule, regulation, order, or standard prescribed by the port authority may be inconsistent with,
16 or contrary to, any Act of the Congress of the United States or any regulation promulgated or
17 standard established pursuant to an Act of Congress. The port authority shall keep on file at
18 the principal office of the port authority for public inspection a copy of all its regulations.

19 **11-36-14. Federal and state aid.** A port authority may accept, receive, receipt for,
20 disburse, and expend federal and state moneys and other moneys, public or private, made
21 available by grant or loan or both, to accomplish, in whole or in part, any of the purposes of this
22 chapter. All federal moneys accepted under this section must be accepted and expended by
23 the port authority upon such terms and conditions as are prescribed by the United States and
24 as are consistent with state law; and all state moneys accepted under this section must be
25 accepted and expended by the port authority upon such terms and conditions as are prescribed
26 by the state.

27 **11-36-15. Tax levy may be certified by port authority or municipality.** The port
28 authority may certify annually to the governing bodies the amount of tax to be levied by each
29 municipality participating in the creation of the port authority, and the municipality shall levy the
30 amount certified, pursuant to provisions of law authorizing political subdivisions of this state to
31 levy taxes for port purposes except the levy is limited to agricultural and industrial land. The

1 levy made may not exceed the maximum levy permitted by the laws of this state for port
2 purposes. The municipality shall collect the taxes certified by a port authority in the same
3 manner as other taxes are levied and collected. The proceeds of such taxes must be deposited
4 in a special account or accounts in which other revenues of the port authority are deposited and
5 may be expended by the port authority as provided in this chapter. Before issuance of bonds
6 under section 11-36-11, the port authority or the municipality by resolution may covenant and
7 agree that the total amount of the taxes then authorized by law, or such portion of the taxes as
8 may be specified by the resolution, will be certified, levied, and deposited annually until the
9 bonds and interest are fully paid.

10 **11-36-16. County tax levy for port purposes.** In counties supporting ports or port
11 authorities, a levy not exceeding the limitation in section 2 of this Act may be made but this levy
12 may not apply to any municipality that already has a port levy.

13 **11-36-17. Joint operations.**

14 1. For the purposes of this section, unless otherwise qualified, the term "public
15 agency" includes municipality and port authority, any agency of the state
16 government and of the United States, and any political subdivision and agency of
17 an adjoining state; and the term "governing body" includes commissioners of a port
18 authority, the governing body of a municipality, and the head of an agency of a
19 state or the United States if the public agency is other than a port authority or
20 municipality. All powers, privileges, and authority granted by this chapter may be
21 exercised and enjoyed by an authority jointly with any public agency of this state,
22 and jointly with any public agency of any adjoining state or of the United States to
23 the extent that the laws of such other state or of the United States permit such joint
24 exercise of enjoyment. Any agency of the state government, when acting jointly
25 with any authority, may exercise and enjoy all the powers, privileges, and authority
26 conferred by this chapter upon an authority.

27 2. Any two or more public agencies may enter agreements with each other for joint
28 action pursuant to the provisions of this section. Each agreement must specify its
29 duration, the proportionate interest which each public agency must have in the
30 property, facilities, and privileges involved in the joint undertaking, the proportion of
31 costs of operation, and other items to be borne by each public agency, and such

1 other terms as are deemed necessary or required by law. The agreement may
2 also provide for amendments and termination; disposal of all or any of the property,
3 facilities, and privileges jointly owned, prior to, or at such times as said property,
4 facilities, and privileges, or any part thereof, cease to be used for the purposes
5 provided in this chapter, or upon termination of the agreement; the distribution of
6 the proceeds received upon any disposal, and of any funds or other property jointly
7 owned and undisposed of; the assumption of payment of any indebtedness arising
8 from the joint undertaking which remains unpaid upon the disposal of all assets or
9 upon a termination of the agreement; and such other provisions as may be
10 necessary or convenient.

11 3. Public agencies acting jointly under this section shall create a joint board to consist
12 of members appointed by the governing body of each participating public agency.
13 The number to be appointed, the term, and any compensation must be provided in
14 the joint agreement. Each joint board shall organize, select officers for such terms
15 as are fixed by the agreement, and adopt and amend rules for its own procedure.
16 The joint board has power, as agent of the participating public agencies, to plan,
17 acquire, establish, develop, construct, enlarge, improve, maintain, equip, operate,
18 regulate, protect, and police any port or port facility or port hazard to be jointly
19 acquired, controlled, and operated, and the board may be authorized by the
20 participating public agencies to exercise on behalf of its constituent public agencies
21 all the powers of each with respect to the port, port facility, or port hazard, subject
22 to the limitations of subsection 4.

23 4. a. The total expenditures to be made by the joint board for any purpose in any
24 calendar year must be as determined by a budget approved by the constituent
25 public agencies on or before the preceding December first, or as otherwise
26 specifically authorized by the constituent public agencies.

27 b. A port, port facility, port hazard, or real property, the cost of which is in excess
28 of sums fixed by the joint agreement or allotted in the annual budget, may not
29 be acquired, established, or developed by the joint board without the approval
30 of the governing bodies of its constituent public agencies.

- 1 c. Eminent domain proceedings under this section may be instituted by the joint
2 board only by authority of the governing bodies of the constituent public
3 agencies of the joint board. If so authorized, the proceedings must be
4 instituted in the names of the constituent public agencies jointly, and the
5 property so acquired shall be held by said public agencies as tenants in
6 common.
- 7 d. The joint board may not dispose of any port, port facility, or real property
8 under its jurisdiction except with the consent of the governing bodies of its
9 constituent public agencies, provided that the joint board, without such
10 consent, may enter contracts, leases, or other arrangements contemplated by
11 section 11-36-12.
- 12 e. Any resolutions, regulations, or orders of the joint board dealing with subjects
13 authorized by section 11-36-12 become effective only upon approval of the
14 governing bodies of the constituent public agencies, provided that upon such
15 approval, the resolutions, regulations, or orders of the joint board have the
16 same force and effect in the territories or jurisdictions involved as the
17 ordinances, resolutions, regulations, or orders of each public agency would
18 have in its own territory or jurisdiction.
- 19 5. For the purpose of providing the joint board with moneys for the necessary
20 expenditures in carrying out this section, a joint fund must be created and
21 maintained, into which must be deposited the share of each of the constituent
22 public agencies as provided by the joint agreement. Any federal, state, or other
23 grants, contributions, or loans, and the revenues obtained from the joint ownership,
24 control, and operation of any port or port facility under the jurisdiction of the joint
25 board must be paid into the joint fund. Disbursements from such fund must be
26 made by order of the board, subject to the limitations prescribed in subsection 4.

27 **11-36-18. Public purpose.** The acquisition of any land, or interest therein, pursuant to
28 this chapter, the planning, acquisition, establishment, development, construction, improvement,
29 maintenance, equipment, operation, regulation, and protection of ports and port facilities,
30 including the acquisition or elimination of port hazards, and the exercise of any other powers
31 granted to port authorities and other public agencies, to be severally or jointly exercised, are to

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

6 **11-36-19. Port property and income exempt from taxation.** Any property in this
7 state acquired by a port authority for port purposes pursuant to this chapter, and any income
8 derived by the port authority from the ownership, operation, or control of this property, is exempt
9 from taxation to the same extent as other property used for public purposes.

10 **11-36-20. Municipal cooperation.** For the purpose of aiding and cooperating in the
11 planning, undertaking, construction, or operation of ports and port facilities pursuant to this
12 chapter, any municipality for which an authority has been created, upon such terms, with or
13 without consideration, may:

- 14 1. Lend or donate money to the authority.
- 15 2. Provide that all revenues received by the municipality for port purposes be
16 transferred, paid, or credited to a port authority fund. The city auditor or county
17 treasurer may establish and maintain the fund to account for port authority
18 revenues and shall make payments from the fund for invoices that have been
19 submitted and approved by the governing body of the port authority. On request of
20 the city auditor or county treasurer and during an audit, the governing board of the
21 port authority shall supply its records. The records must be provided on a timely
22 basis. The fund may not revert to the governing body of the municipality at the end
23 of any fiscal year. The fund must be used exclusively for the establishment and
24 maintenance of port facilities.
- 25 3. Cause water, sewer, or drainage facilities, or any other facilities which it is
26 empowered to provide, to be furnished adjacent to or in connection with the port or
27 port facilities.
- 28 4. Dedicate, sell, convey, or lease any of its interest in any property, or grant
29 easements, licenses, or any other rights or privileges therein to the port authority.
- 30 5. Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads,
31 roadways, and walks from established streets or roads to ports or port facilities.

1 6. Take any action, whether or not specifically authorized in this section and not
2 otherwise prohibited by law, that is necessary or convenient to aid and cooperate
3 with the authority in the planning, undertaking, construction, or operation of ports
4 and port facilities.

5 7. Enter agreements with the port authority respecting action to be taken by the
6 municipality pursuant to this section.

7 **11-36-21. Out-of-state port jurisdiction authorized - Reciprocity with adjoining**
8 **states and governmental agencies.**

9 1. This state or any public entity within this state having any powers with respect to
10 planning, establishing, acquiring, developing, constructing, enlarging, improving,
11 maintaining, equipping, operating, regulating, or protecting ports or port facilities
12 within this state may exercise those powers within any state or jurisdiction
13 adjoining this state, subject to the laws of that state or jurisdiction.

14 2. Any state adjoining this state or any public entity of that state may plan, establish,
15 acquire, develop, construct, enlarge, improve, maintain, equip, operate, regulate,
16 and protect ports and port facilities with this state, subject to the laws of this state
17 applicable to ports and port facilities. The adjoining state or public entity has the
18 power of eminent domain in this state, which must be exercised in the manner
19 provided by the laws of this state governing condemnation proceedings, provided
20 that the power of eminent domain may not be exercised unless the adjoining state
21 authorizes the exercise of that power in that state by this state or any public entity
22 of this state having any of the powers mentioned in this section.

23 3. The powers granted in this section may be exercised jointly by two or more states
24 or public entities, including this state and its governmental agencies, in any
25 agreed-upon combination.

26 **11-36-22. Supplemental authority.** In addition to the general and special powers
27 conferred by this chapter, every port authority may exercise any power necessary incidental to
28 the exercise of general and special powers.

29 **11-36-23. Savings clause - Port zoning.** This chapter does not limit any right, power,
30 or authority of a municipality to regulate port hazards by zoning.

1 **11-36-24. Debt service fund.** A port authority may create a debt service fund and
2 accumulate in the fund a sum determined by the governing body, together with interest on that
3 sum, for the use, repairs, maintenance, and capital outlays of a port.

4 **SECTION 2.** A new subsection to section 57-15-06.7 of the North Dakota Century Code
5 is created and enacted as follows:

6 Counties supporting ports or port authorities may levy a tax not exceeding four
7 mills in accordance with section 11-36-16.

8 **SECTION 3.** A new subsection to section 57-15-10 of the North Dakota Century Code
9 is created and enacted as follows:

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

12 **SECTION 4.** A new subsection to section 57-15-20.2 of the North Dakota Century Code
13 is created and enacted as follows:

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

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

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

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

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