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Lo Costa Rickford  
Operator's Signature

10/16/83  
Date

2003 HOUSE INDUSTRY, BUSINESS AND LABOR

HB 1426

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Operator's Signature

*Richard Costa*

Date

*10/6/03*

# 2003 HOUSE STANDING COMMITTEE MINUTES

## BILL/RESOLUTION NO. 1426

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date February 3, 2003

Tape Number	Side A	Side B	Meter #
2		X	4000-end
3	X		0-2024
Committee Clerk Signature <i>Elizabeth R. Leir</i>			

Minutes: **Chair Kelser** opened hearing on HB 1426

**Rep. Skarphol** introduced HB 1426. There are ambiguities in economic development. Clarified what this authority could do. Anticipates a limited need for amendments. Would like authority to be clarified in section 7.

**Rep. Ekstrom** wanted clarification on the geographical boundaries on page 5. Is there a potential for tax authority to exceed the bounds of the zone? Rep. Skarphol said that the tax authority only applies within the area of the political subdivisions.

**Rep. Ekstrom** asked about page 9, sections 17-20 concerning the mills. Is that 4 mills each (to total 12) or a limited cumulative number? Rep. Skarphol said that could conceivably be negotiated.

**Rep. Ruby** asked what this could do that an economic development group could not do. Rep. Skarphol said that this is not a political subdivision.

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number 1426

Hearing Date February 3, 2003

**Bob Harms (Legal Counsel to the Governor):** This bill came out of the Governor's office two years ago when there were problems with ProGold. The infrastructure needs made the project difficult to finish. This would help with those needs. Structured so political subdivisions are broadly defined. Responding to an earlier question, Harms said there are many authorities with state statutes. This would consolidate a cumbersome process and make the authority simple to access.

**Rep. Keiser** wanted clarification to see if they are creating a subdivision like a Park District.

Harms said this authorizes subdivisions to create an authority, but this would not create another subdivision. Rep. Keiser then wanted to know the Governor's opinion on the ability to levy a tax by people who are not elected officials. Harms said the Governor supports this because the elected officials would have give that authority.

**Rep. Glassheim:** This bill looks towards a vision and economic growth in ND. This is purely voluntary and a local choice. Grand Forks took advantage of the city sales tax and has created growth.

**Mike Bloyed (Pres. of Heartland Feed):** Value-added and identity preserved products are huge for development. They chose to come to ND because of the location and this bill would help even more.

**Dave Sprynczynatyk (Dir. of ND Dept. of Trans.):** Supports with written testimony

**Tressy Heinle (Tioga Econ. Development):** Supports with written testimony

**Dr. Mark Berwick (Upper Great Plains Transportation Institute, NDSU):** Supports with written testimony. Also noted that attaching funds to local areas would make this better.



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House Industry, Business and Labor Committee

Bill/Resolution Number 1426

Hearing Date February 3, 2003

**Rick Clayburgh (Tax Commissioner):** Neutral, but concerned with some sections. Concerned with unelected officials in charge of sales and property taxes. All are now issued by the state commissioner. He is afraid this could create equal protection problems. Clayburgh offered to draft amendments to this end.

**Dale Anderson (GNDA):** Supports the bill and offered to help draft amendments if necessary.

**Rep. Skarphol** gave more benefits to ND by passing this bill.

**Chair Keiser** closed hearing on HB 1426

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La Costa Rickford  
Operator's Signature

10/6/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1426

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date February 11, 2003

Tape Number	Side A	Side B	Meter #
2		X	3145-4642
Committee Clerk Signature <i>Elizabeth R. Fier</i>			

Minutes: **Chair Keiser** Opened discussion on 1426. Rep. Keiser handed out amendments and went over bill.

**Rep. Kasper** Wanted to know if commerce authority can still levy a tax with the amendment.

Rep. Keiser said that the political subdivisions can and already do.

**Rep. Ekstrom:** Noted that this is a shadow government and does not believe that is what the committee intended to have happen. Rep. Kasper agreed that this is still a bad bill.

**Chair Keiser:** Closed discussion and will return to Rep. Skarphol for amendments.

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1426

House Industry, Business and Labor Committee

☐ Conference Committee

Hearing Date 2/12/03

Tape Number	Side A	Side B	Meter #
1	x		33.0-end
1		x	0.0-5.0
Committee Clerk Signature <i>Judith Hammer</i>			

Minutes: **Chairman Kelser** called for committee work on HB 1426.

**Rep. Skarpol** appeared to explain why this bill came forward from his perspective. There is no mechanism within state government for small communities to control such an undertaking as the opportunity Tioga has with the malt plant which requires an expenditure of \$6,000,000 to put in the waterline and infrastructure. This community is not a single political subdivision per se. This situation is similar to an ambulance district which serves small communities and rural areas. He is not opposed to changing the composition of the board to a majority that are elected officials in the various political subdivision are working on this project should the committee have a higher comfort level with that. This is enabling legislation and it envisions a publicly owned entity that will lease its facilities to a private concern that is taxable. A mechanism to charge for services and receive money must be in place. This is similar to an airport authority.

**Chairman Kelser** noted that amendments have struck language regarding geographical areas and levying taxes language as well as eminent domain language. Remaining in this proposed

Page 2

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1426

Hearing Date 2/12/03

legislation are the powers of commerce authority to execute contracts and other instruments, to sue or be sued, to plan and recommend to acquire objects of value, etc.

**Rep. Klein:** Is this lifted from a design in other states?

**Rep. Skarpol:** Not exactly, it's modeled after compilation of things like airport authority etc.

**Rep. Nottestad:** Can this organization raise funds on its own or does it have to go back to its parent political sub? Or would it come back to the legislature?

**Rep. Skarpol:** I'm not sure I'm qualified to answer that.

**Dan Kuntz**, representing BNSF, appeared to give testimony explaining his involvement. BNSF participated in a study by the Upper Great Plains Transportation Institute and the GNDA. We studied the feasibility of inter modal facilities in North Dakota. It was determined that there needs to be a Port or Commerce Authority to operate these type of facilities helped draft the legislation and looked at what other states have done. A separate entity can contract with vendors and charge for use of its facilities. It is controlled by political subdivisions who determine sales tax etc. Eminent domain authority is not included in HB 1426.

**Rep. Boe:** If they can borrow money, how do they pay it back if they can't levy taxes?

**Dan Kuntz:** They can issue revenue bonds that would not be a general obligation of the political subdivision.

**Rep. Klein:** We're looking for economic development. Melroe hauls its goods to Minneapolis to ship it out, I think we have to exhibit a leap of faith here. I move to adopt amendment .0103.

**Rep. Froseth** seconded the motion.

**Rep. Zaiser** commented that he has experience with a steam heat authority that issued revenue bonds and it can work.

Page 3

House Industry, Business and Labor Committee

Bill/Resolution Number HB 1426

Hearing Date 2/12/03

A voice vote carried the motion to adopt the amendments.

**Rep. Klein:** If renaissance zones can work, so can this. We're headed in the right direction.

**Rep. Thorpe** moved a Do Pass As Amended. **Rep. Kasper** seconded the motion.

Results of the roll call vote were: 11-3-0.

**Rep. Dosch** will carry this bill on the floor.

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*Salvatore Riccardi*  
Operator's Signature

*10/6/03*  
Date

LR

**FISCAL NOTE**  
Requested by Legislative Council  
03/19/2003

Amendment to: HB 1426

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Engrossed HB 1426 with Senate amendments authorizes the creation of commerce authorities. The fiscal impact of the bill is dependent upon whether the commerce authorities are actually formed. Sections of the bill allow commerce authorities to grant sales, income, and property tax exemptions which are currently governed by the Legislature. This may result in a revenue loss to the state general fund.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L. Strombeck	Agency:	Tax Department
Phone Number:	328-3402	Date Prepared:	03/20/2003

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*K. Costa* *Richard*

*10/16/03*  
Date

12

**FISCAL NOTE**  
Requested by Legislative Council  
02/14/2003

Amendment to: HB 1426

**1A. State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

**1B. County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Engrossed HB 1426 authorizes the creation of commerce authorities. The fiscal impact of the bill is dependent upon whether the commerce authorities are actually formed. Sections of the bill allow commerce authorities to grant sales, income, and property tax exemptions which are currently governed by the Legislature. This may result in a revenue loss to the state general fund.

**3. State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

**A. Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

**B. Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

**C. Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Kathryn L Strombeck	Agency:	Tax
Phone Number:	328-3402	Date Prepared:	02/17/2003

*K. Costa*  
Operator's Signature

*10/16/03*  
Date

LP

**FISCAL NOTE**  
Requested by Legislative Council  
01/21/2003

Bill/Resolution No.: HB 1426

**1A. State fiscal effect:** Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.

	2001-2003 Biennium		2003-2005 Biennium		2005-2007 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

**1B. County, city, and school district fiscal effect:** Identify the fiscal effect on the appropriate political subdivision.

2001-2003 Biennium			2003-2005 Biennium			2005-2007 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

**2. Narrative:** Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.

HB 1426 authorizes the creation of commerce authorities. The fiscal impact of the bill is dependent upon whether the commerce authorities are actually formed. Sections 11 and 12 of HB 1426 allow commerce authorities to grant sales, income, and property tax exemptions which are currently governed by the Legislature. This may result in a revenue loss to the state general fund.

**3. State fiscal effect detail:** For information shown under state fiscal effect in 1A, please:

**A. Revenues:** Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

**B. Expenditures:** Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

**C. Appropriations:** Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

Name:	Kathryn L. Strombeck	Agency:	Tax Dept.
Phone Number:	328-3402	Date Prepared:	02/01/2003

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Yolanda Richardson  
Operator's Signature

10/16/03  
Date



30699.0103  
Title.0200

Prepared by the Legislative Council staff for  
Representative Skarphol  
February 11, 2003

✓R  
2/12/03  
1082

HOUSE AMENDMENTS TO HOUSE BILL NO. 1426 IBL 2-13-03

Page 1, line 3, replace "two" with "a" and replace "sections the" with "section to"

Page 1, line 6, replace "17" with "15"

Page 1, line 12, replace "and" with "or 40-57.4."

Page 1, remove lines 13 and 14

HOUSE AMENDMENTS TO HB 1426 IBL 2-13-03

Page 3, line 22, replace "17" with "15"

HOUSE AMENDMENTS TO HB 1426 IBL 2-13-03

Page 4, after line 19, insert:

- "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."

Page 4, line 21, replace "17" with "15"

HOUSE AMENDMENTS TO HB 1426 IBL 2-13-03

Page 5, line 10, replace "17" with "15"

Page 5, remove lines 13 through 17

Page 5, line 18, replace "14." with "12."

Page 5, line 21, replace "15." with "13."

Page 5, remove lines 24 through 28

HOUSE AMENDMENTS TO HB 1426 IBL 2-13-03

Page 6, line 22, replace "17" with "15"

HOUSE AMENDMENTS TO HB 1426 IBL 2-13-03

Page 7, line 2, replace "17" with "15"

HOUSE AMENDMENTS TO HB 1426

IBL

2-13-03

2082

Page 8, line 9, replace "A commerce authority" with "The elected governing body of a participating political subdivision"

Page 8, line 12, replace "subdivisions" with "subdivision"

Page 8, line 23, remove "may be certified" and remove "commerce authority or"

Page 8, line 25, after "tax" insert "requested" and replace "Each" with "The governing body of each"

Page 8, line 26, after "shall" insert "consider the" and replace "the amount certified" with "request of the commerce authority and determine the amount to be levied"

Page 8, line 28, replace "certified by" with "levied on behalf of"

Page 8, line 31, replace "17" with "15"

HOUSE AMENDMENTS TO HB 1426

IBL

2-13-03

Page 9, line 3, remove ", levied,"

Page 9, remove lines 5 through 10

Page 9, line 13, replace "the limitation in section 18 of this Act" with "four mills,"

Page 9, line 22, replace "16" with "14"

HOUSE AMENDMENTS TO HB 1426

IBL

2-13-03

Page 10, line 1, replace "Two" with "A" and replace "sections" with "section"

Page 10, line 2, replace "are" with "is"

Page 10, remove lines 3 through 6

Page 10, line 9, replace "20" with "18"

Renumber accordingly

12  
Date: 2/ /03  
Roll Call Vote #: 1

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1426

House INDUSTRY BUSINESS & LABOR Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

30699.0103  
.0200

Action Taken

Do Pass as Amended

Motion Made By

Thorpe

Seconded By

Kasper

Representatives	Yes	No	Representatives	Yes	No
Chairman Keiser		<input checked="" type="checkbox"/>	Boe		<input checked="" type="checkbox"/>
Vice-Chair Severson	<input checked="" type="checkbox"/>		Ekstrom		<input checked="" type="checkbox"/>
Dosch	<input checked="" type="checkbox"/>		Thorpe	<input checked="" type="checkbox"/>	
Froseth	<input checked="" type="checkbox"/>		Zaiser	<input checked="" type="checkbox"/>	
Johnson	<input checked="" type="checkbox"/>				
Kasper	<input checked="" type="checkbox"/>				
Klein	<input checked="" type="checkbox"/>				
Nottestad	<input checked="" type="checkbox"/>				
Ruby	<input checked="" type="checkbox"/>				
Tieman	<input checked="" type="checkbox"/>				

Total (Yes) 11 No 3

Absent 0

Floor Assignment Dosch

If the vote is on an amendment, briefly indicate intent:

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Richard  
Operator's Signature

10/6/03  
Date

REPORT OF STANDING COMMITTEE (410)  
February 13, 2003 8:39 a.m.

Module No: HR-28-2524  
Carrier: Dosch  
Insert LC: 30699.0103 Title: .0200

**REPORT OF STANDING COMMITTEE**

HB 1426: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HB 1426 was placed on the Sixth order on the calendar.

Page 1, line 3, replace "two" with "a" and replace "sections the" with "section to"

Page 1, line 6, replace "17" with "15"

Page 1, line 12, replace "and" with "or 40-57.4."

Page 1, remove lines 13 and 14

Page 3, line 22, replace "17" with "15"

Page 4, after line 19, insert:

- "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."

Page 4, line 21, replace "17" with "15"

Page 5, line 10, replace "17" with "15"

Page 5, remove lines 13 through 17

Page 5, line 18, replace "14." with "12."

Page 5, line 21, replace "15." with "13."

Page 5, remove lines 24 through 28

Page 6, line 22, replace "17" with "15"

Page 7, line 2, replace "17" with "15"

Page 8, line 9, replace "A commerce authority" with "The elected governing body of a participating political subdivision"

Page 8, line 12, replace "subdivisions" with "subdivision"

Page 8, line 23, remove "may be certified" and remove "commerce authority or"

Page 8, line 25, after "tax" insert "requested" and replace "Each" with "The governing body of each"

**REPORT OF STANDING COMMITTEE (410)**  
February 13, 2003 8:39 a.m.

**Module No: HR-28-2524**  
**Carrier: Dosch**  
**Insert LC: 30699.0103 Title: .0200**

Page 8, line 26, after "shall" insert "consider the" and replace "the amount certified" with "request of the commerce authority and determine the amount to be levied"

Page 8, line 28, replace "certified by" with "levied on behalf of"

Page 8, line 31, replace "17" with "15"

Page 9, line 3, remove ", levied,"

Page 9, remove lines 5 through 10

Page 9, line 13, replace "the limitation in section 18 of this Act" with "four mills,"

Page 9, line 22, replace "16" with "14"

Page 10, line 1, replace "Two" with "A" and replace "sections" with "section"

Page 10, line 2, replace "are" with "is"

Page 10, remove lines 3 through 6

Page 10, line 9, replace "20" with "18"

Renumber accordingly

2003 SENATE FINANCE AND TAXATION

HB 1426

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Yolanda Richardson  
Operator's Signature

10/16/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1426

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 11, 2003

Tape Number	Side A	Side B	Meter #
1	X		823-end
1		X	1-420
Committee Clerk Signature <i>Mary Kay Luecke</i>			

Minutes:

Senator Urlacher opened the hearing on HB1426. All committee members are present. This bill provides for the creation of commerce authorities and relates to tax levies for commerce authorities.

Representative Bob Skarphol (mtr #831) - Introduced the bill and explained its intent. Talked about how this bill would affect his economic development in his community. This bill creates a tool for communities to use for economic development. Hope to address the needs of many different communities with this bill. Envisions a joint agreement with the city, county, and township. Proposed an amendment that would add an emergency clause. Reviewed the amendment and explained why an emergency clause is needed.

Senator Seymour (mtr #1246) - Question regarding the effect of this bill on ND for the next ten years.

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*Volosta Richard*  
Operator's Signature

*10/16/03*  
Date

Page 2

Senate Finance and Taxation Committee

Bill/Resolution Number HB1426

Hearing Date March 11, 2003

Representative Skarphol (mtr #1275) - Feels it has a great deal of potential for ND. Gave an example of how this bill could work in the future.

Senator Wardner (mtr #1400) - Question regarding the four mills, that is not included in the jobs development four mills, is a brand new four mills?

Representative Skarphol (mtr #1422) - That is correct, would be specific.

Senator Nichols (mtr #1460) - Regarding the county and township working together, is it going to take this bill to do that correctly or could they do that now.

Representative Skarphol (mtr #1486) - It is possible to do it now, but is a less clear task. With this bill we can go in and clean up the Century Code.

Senator Tollefson (mtr #1557) - Feels that many communities do this now.

Representative Skarphol (mtr #1580) - You are right, but to do it, takes a lot more expertise than most communities have available. The intent of this bill is to simplify.

San Kuntz, BN Santa Fe Railroad (mtr #1643) - Referenced a past study done by the Upper Great Plains Transportation Institute did a study regarding the feasibility of locating inter modal facilities in ND. The study determined a need for enabling legislation. Explained that this authority would work much like an airport authority. Reviewed the sections of the bill and how each section would work. Talked about how the bill had amended in the House.

Senator Wardner (mtr #2415) - Comment on the pancaking taxes, we are not going to tax people twice.

Mr. Kuntz (mtr #2434) - Agreed with Senator Wardner, the maximum amount that could be taxed is four mills to support the commerce authority.



Page 3

Senate Finance and Taxation Committee

Bill/Resolution Number HB1426

Hearing Date March 11, 2003

Bob Harms, Counsel to Governor Hoeven (mtr #2476) - Testified in support of HB1426.

Purpose we pursued in the Governor's Office is to make it easier for economic development activities. Gave some background on the design of the bill. Looked at how to pre build, or build infrastructure for large economic development projects that we are trying to locate in ND. This bill will make the marketing and mechanics of economic development easier.

Senator Urlacher (mtr #2758) - What happens if one political subdivision levies four mills and the next county doesn't. Are all counties obligated participating?

Mr. Harms (mtr #2786) - Not sure, feels that political subdivisions would want to arrange for that in their underlying agreement.

Senator John Andrist (mtr #2847) - Testified in support of HB1426. Economic development is important for his area. Feels this is a tool that can be used to promote economic development.

Paul Thomas, Administrator of ND Ag Coalition (mtr #3058) - Testified in support of HB1426.

Written testimony is attached. Urges a do pass.

Tressy Heinle, Economic Development Association of ND, Tioga Area Economic Development Executive Director (mtr #3218) - Testified in support of HB1426. Written testimony is attached.

Michael J. Bloyed, President, Heartland Feed Inc. (mtr #3460) - Testified in support of HB1426.

The value of this bill is enormous. Gave reasons why Heartland Feed located in ND and how that decision would have been enhanced with inter modal loading. Written testimony is attached.

Frank Moore, President, Asset Management and Associates (mtr #3854) - Testified in support of HB1426. The advantage of this bill is that it makes it easier and faster for small communities to develop the infrastructure needed. Sees this bill as a final step in a series of steps put in place for economic development. Also complemented past and present legislators of ND who put in place

Page 4

Senate Finance and Taxation Committee

Bill/Resolution Number HB1426

Hearing Date March 11, 2003

the mechanism that allows this state to attract industry better than any other state that he has worked in.

Mark Berwick, Upper Great Plains Transportation Institute (mtr #4146) - Testified in support of HB1426. Testimony included information on international trade, ND trade and the ability to move products in ND. Written testimony is attached which includes three pages of ND Strategic Freight Analysis.

Dave Sprynczynatyk, Director of the North Dakota Department of Transportation (mtr #4464) - Testified in support of HB1426. Talked about inter modal facilities and port authorities. Written testimony is attached.

Dale Anderson, President, GNDA (mtr #4875) - Testified in support of HB1426. Is very enthusiastic about the provision in this bill.

Rick Clayburgh, State Tax Commissioner (mtr #4995) - Testified in support of HB1426. Agrees with the concept of this legislation. In the original testimony, in the House, did point out the issue of having non-elected individuals have authority over taxation. As the bill is written now, but does believe it is important to point out one aspect. Referenced section 10 of the bill, to clarify, as currently stated, the local elected governing body will have authority to grant sales tax and use tax waivers. As bill is currently written, you will be allowing a local political subdivision to have authority to waive state sales tax and use tax, not just local political subdivision. That was the intent from the House, currently the only entity that is allowed to grant sales tax and use tax exemptions is the State Tax Commissioner based on statutory authority.

Senator Tollefson (mtr #5281) - Regarding section 10, "offer may be made" by the local authority, means it is permissive.

Page 5

Senate Finance and Taxation Committee

Bill/Resolution Number HB1426

Hearing Date March 11, 2003

Mr. Clayburgh (mtr #5328) - That is correct. May grant or may not grant, but the issue is that they have that opportunity.

Senator Tollefson (mtr #5377) - On local sales tax exemptions?

Mr. Clayburgh (mtr #5385) - Others from the Tax Dept as well. The issue of port authority is an important issue. Is a legitimate issue. If interested, will verify, depending on activity, there may not be an opportunity for sales tax exemptions. What you would be allowing in this situation is a local political subdivision to offer a waiver of sales and use tax that currently isn't offered at the state level. Can leave as is, or can grant authority to Tax Commissioner through an application process.

Senator Urlacher (mtr #5639) - Was that concern recognized in the House?

Mr. Clayburgh (mtr #5645) - Concerned about a non elected having authority over taxation.

Doesn't think the House got into that issue, talked more of governing bodies.

Senator Tollefson (mtr #5904) - Still not clear, granting an exemption from state tax belongs to the populace, would like clarification on that.

Mr. Clayburgh (mtr #5984) - When business comes to state tax dept for exemption, we have a number of exemptions, if meet guidelines we grant that exemption. But do deny if they don't meet the guidelines. Continued clarification on how this bill would allow tax exemptions.

Senator Wardner (mtr #6118) - Has to be an exemption that we have set up in statute.

Mr. Clayburgh (mtr #6157) - As I understand, a company could be offered a waiver that the Tax Department can not. Gave specific guidelines as to what the state tax department can offer as exemptions. Restated that is in total support of this bill if this is what the Legislators want to do.

Senator Tollefson (mtr #136) - Feels section 11 of the bill may need to be clarified.

Page 6

Senate Finance and Taxation Committee

Bill/Resolution Number HB1426

Hearing Date March 11, 2003

Mr. Clayburgh (mtr #162) - So focused on section 10, haven't really looked at section 11.

Attorney's say there is no problem with section 11.

Senator Tollefson (mtr #230) - Would like more time to study the bill.

Senator Urlacher (mtr #239) - Need to get all parties involved in the process, will take additional testimony at this time.

Mr. Clayburgh (mtr #274) - Clarified that he reread section 11 which deals with political subdivisions and they are exempt from income tax. This pertains to property owned by political subdivisions. No concern with section 11.

Senator Urlacher (mtr #300) - Any opposition to HB1426?

Representative Skarphol (mtr #314) - Commented on the granting of tax waivers. Do often tax waivers to support economic development in the local communities.

Senator Urlacher (mtr #399) - Given no further testimony, closed the hearing on HB1426.

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1426

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 12, 2003

Tape Number	Side A	Side B	Meter #
2	X		1680-4324
Committee Clerk Signature <i>William King Lusk</i>			

Minutes:

Senator Urlacher opened the discussion on HB1426. A quorum is present, Senator Syverson is absent. This bill relates to the creation of commerce authorities and tax levies for commerce authorities.

Senator Tollefson (mtr #1749) - Did we get answers on section 10 from the Tax Department?

Senator Urlacher (mtr #1803) - Requested the Tax Commissioner or Gary Anderson to come to the meeting room to clarify section 10.

Senator Wardner (mtr #1902) - Is in favor of amending the bill and would support.

Senator Nichols (mtr #1965) - Not sure if section is needed in the bill.

Senator Tollefson (mtr #2041) - NADC in Minot does not have authority to exempt anybody from state sales tax.

Page 2

Senate Finance and Taxation Committee

Bill/Resolution Number HB1426

Hearing Date March 12, 2003

Senator Seymour (mtr #2131) - Regarding, economic development, attended a meeting in Iowa, showed a chart with many economic development groups listed. Very surprising to see the large number of groups, are we getting to that in ND?

Senator Urlacher (mtr #2174) - So many economic development groups, doesn't always work to the benefit of the people.

Senator Tollefson (mtr #2208) - Also questioned section 11, regarding income tax exemptions.

If is in law now, won't need the bill. If its not in law should it be?

Some general discussion on the topic by all Senators while waiting for Rick Clayburgh to come to the room to clarify the sections of the bill.

Senator Tollefson (mtr #2500) - Restated his question for Mr. Clayburgh.

Rick Clayburgh, State Tax Commissioner (mtr #2521) - Yes, if you grant them the authority as the legislature, they will have it. This could be a good and very helpful, but is the same concept as city sales tax and home rule, we are at a point where we have problems with that and wonder if we should have gone down that road. Want to make sure you are aware of what is happening, you are giving local political subdivisions control over a state tax source. If that is what the body wants to do that is fine, but wanted to make sure you knew that.

Senator Nichols (mtr #2600) - If section 10 and 11 taken out, wouldn't they under the current law be eligible for those exemptions?

Mr. Clayburgh (mtr #2644) - I think they would still qualify as long as they met statutory requirements. Specific to section 10, they are looking at a commerce authority and establishing an infrastructure and providing a sales tax on infrastructure issues. Currently, Tax Department administers the sales tax exemption for new and expanding primary sector businesses. Would

Page 3

Senate Finance and Taxation Committee

Bill/Resolution Number HB1426

Hearing Date March 12, 2003

need to meet the definition. An option could be, add a section to the sales tax code, that if they meet these requirements the State Tax Commissioner shall grant an exemption.

Senator Urlacher (mtr #2801) - Clarified that we would be expanding the exemption to include infrastructure.

Mr. Clayburgh (mtr #2809) - Is working with the Governor's Office on putting together amendments that would give different options.

Senator Urlacher (mtr #2984) - If expanded into the definition, the state would maintain control of sales tax exemptions. Would we be opening the door to a lot of other areas?

Mr. Clayburgh (mtr #3058) - At each session different issues come forth. Address exemptions for different types of businesses. Issues have always been addressed and expanded. In the case of Port Authorities, doesn't feel they will be popping up all over the state.

Senator Urlacher (mtr #3165) - Not real excited about opening this up.

Mr. Clayburgh (mtr #3190) - After leaving the earlier hearing, all sponsors were open to discussion and understood the issue.

Senator Tollefson (mtr #3273) - Feels sections 10 and 11, as suggested by Senator Nichols, could be removed. Would preserve the continuity in the sales tax structure.

Senator Nichols (mtr #3338) - May need to section 10 to make part of tax code rather than a part of this bill. And talked about requirements for exemptions.

Senator Tollefson (mtr #3408) - Agrees, would add a definition. To broad as it is.

Senator Urlacher (mtr #3427) - Would that work for administration of taxes?

Mr. Clayburgh (mtr #3437) - If you want to change section 10, need to expand the definition within the current sales tax exemption.

Page 4

Senate Finance and Taxation Committee

Bill/Resolution Number HB1426

Hearing Date March 12, 2003

Senator Tollefson (mtr #3583) - Think the effort is great, but feels are opening a can of worms.

Need to specify the exemptions or remove the two sections.

Recessed for a short time while Mr. Clayburgh checked on the status of the amendments.

Mr. Clayburgh (mtr #3983) - Are currently working on the amendments, are not ready for the committee yet. Reviewed the options that would be available with the amendments.

Senator Urlacher (mtr #4289) - Will hold on HB1426 and adjourned the discussion.

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Operator's Signature

*Yolanda Rickford*

10/16/03

Date



2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1426

Senate Finance and Taxation Committee

☐ Conference Committee

Hearing Date March 17, 2003

Tape Number	Side A	Side B	Meter #
1	X		5500-end
1		X	1-900
Committee Clerk Signature <i>Mary Kay Wilkey</i>			

Minutes:

Senator Urlacher opened the discussion on HB1426. All committee members are present. This bill relates to the creation of commerce authorities.

Daniel Rouse, Legal Counsel to the State Tax Department (mtr #5613) - Stated for the record that as an agency are in support of HB1426. Distributed a proposed amendment, reviewed each section of the amendment for clarification.

Tape 1, Side B.

Mr. Rouse (mtr #1) - Continued with explanation of the proposed amendment and how it would apply to the tax code.

Senator Tollefson (mtr #465) - Clarified that this is not a rubber stamp, an application is made and an examination.

Mr. Rouse (mtr #488) - That is correct. Same examination takes place with any other political subdivision.

Page 2

Senate Finance and Taxation Committee

Bill/Resolution Number HB1426

Hearing Date March 17, 2003

Senator Tollefson (mtr #512) - Question regarding bond income exemption. That is complying with the request of the sponsor of the bill.

Mr. Rouse (mtr #536) - That is correct. This is an opportunity to clarify. Pointed out that his amendment does not include the emergency clause proposed by Representative Skarphol.

Senator Urlacher (mtr #630) - Any action by the committee?

Senator Wardner moved to amend as proposed by Representative Skarphol. Second by Senator Nichols. Voice vote 6 yea, 0 nay, 0 absent.

Senator Wardner moved to amend as proposed by the Tax Department. Second by Senator Tollefson. Voice vote 6 yea, 0 nay, 0 absent.

Senator Wardner moved Do Pass as Amended. Second by Senator Nichols.

Roll call vote 6 yea, 0 nay, 0 absent. Carrier is Senator Nichols.

PROPOSED AMENDMENTS TO ENGROSSED  
HOUSE BILL NO. 1426

Page 1, line 4, remove "and", and after "date" insert "; and to declare an emergency"

Page 9, after line 28, insert:

"Section 21. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

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La Costa Rickford  
Operator's Signature

10/16/03  
Date

March 17, 2003

**PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1426**

Page 1, line 3, remove "and", and after "57-15" insert ", a new subdivision to subsection 2 of 57-38-30.3, and a new subsection to section 57-39.2-04"

Page 1, line 4, after "authorities" insert "and exemption from income, sales, and use taxes"

Page 6, line 22, after "all" insert "individual and corporate income", and after taxes insert "imposed under section 57-35.3-03, section 57-38-29, section 57-38-30, and section 57-38-30.3"

Page 8, line 5, after "exemptions" insert "from sales and use taxes that the participating political subdivision has imposed", and after "for" insert "tangible"

Page 8, line 6, after the second "the" insert "tangible"

Page 9, after line 26, insert:

**"SECTION 20.** Subdivision g to subsection 2 of section 57-38-30.3 of the North Dakota Century Code is created and enacted as follows:

- g. Reduced by interest and income from bonds issued under Section 8 of Engrossed House Bill 1426, as approved by the fifty-eighth legislative assembly.

**SECTION 21.** Subsection 46 to section 57-39.2-04 of the North Dakota Century Code is created and enacted as follows:

- 46. 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 created under Engrossed House Bill 1426, as approved by the fifty-eighth legislative assembly, otherwise taxable under this chapter, provided the personal property is placed within the geographic boundaries of the political subdivision or subdivisions that created the commerce authority and is necessary and directly services infrastructure needs of the commerce authority. The political subdivision or subdivisions exempted by this subsection must be issued a certificate of exemption by the commissioner and the certificate must be presented to each retailer whenever this exemption is claimed."

Page 9, line 27, replace "20" with "22"

Renumber accordingly

30699.0201  
Title.0300

Adopted by the Finance and Taxation  
Committee

March 17, 2003

*JB*  
3-17-03

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1426

Page 1, line 1, remove the first "and"

Page 1, line 3, remove "and" and after "57-15" insert ", a new subdivision to subsection 2 of section 57-38-30.3, and a new subsection to section 57-39.2-04"

Page 1, line 4, after "authorities" insert "and exemption from income, sales, and use taxes", remove "and", and after "date" insert "; and to declare an emergency"

Page 6, line 22, after "all" insert "individual and corporate income" and after "taxes" insert "imposed under sections 57-35.3-03, 57-38-29, 57-38-30, and 57-38-30.3"

Page 8, line 5, after "exemptions" insert "from sales and use taxes the participating political subdivision has imposed" and after "for" insert "tangible"

Page 8, line 6, after the second "the" insert "tangible"

Page 9, line 14, replace "my" with "may"

Page 9, after line 26, insert:

**"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.

**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."

Page 9, after line 28, insert:

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

Renumber accordingly

Page No. 1

30699.0201

*Salvatore Riccio*  
Operator's Signature

*10/16/03*  
Date

Date: 3.17.03  
Roll Call Vote #: 3

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1131426

Senate Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do pass as amended

Motion Made By Sen. L. Wardner Seconded By Sen. Nichols

Senators	Yes	No	Senators	Yes	No
Senator Urlacher - Chairman	/		Senator Nichols	/	
Senator Wardner - Vice Chairman	/		Senator Seymour	/	
Senator Syverson	/				
Senator Tollefson	/				

Total (Yes) 6 No 0

Absent \_\_\_\_\_

Floor Assignment Senator Nichols

If the vote is on an amendment, briefly indicate intent:

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Operator's Signature

John Costa Rickford

10/16/03  
Date

REPORT OF STANDING COMMITTEE (410)  
March 18, 2003 8:10 a.m.

Module No: SR-48-4984  
Carrier: Nichols  
Insert LC: 30699.0201 Title: .0300

**REPORT OF STANDING COMMITTEE**

**HB 1426, as engrossed: Finance and Taxation Committee (Sen. Urlacher, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1426 was placed on the Sixth order on the calendar.

Page 1, line 1, remove the first "and"

Page 1, line 3, remove "and" and after "57-15" insert ", a new subdivision to subsection 2 of section 57-38-30.3, and a new subsection to section 57-39.2-04"

Page 1, line 4, after "authorities" insert "and exemption from income, sales, and use taxes", remove "and", and after "date" insert "; and to declare an emergency"

Page 6, line 22, after "all" insert "individual and corporate income" and after "taxes" insert "imposed under sections 57-35.3-03, 57-38-29, 57-38-30, and 57-38-30.3"

Page 8, line 5, after "exemptions" insert "from sales and use taxes the participating political subdivision has imposed" and after "for" insert "tangible"

Page 8, line 6, after the second "the" insert "tangible"

Page 9, line 14, replace "my" with "may"

Page 9, after line 26, insert:

**"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.

**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."

Page 9, after line 28, insert:

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

Renumber accordingly

2003 TESTIMONY

HB 1426

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Operator's Signature

10/16/03  
Date



ECONOMIC DEVELOPMENT ASSOCIATION OF NORTH DAKOTA



PO BOX 2639 • 2000 SCHAFER STREET • BISMARCK, NORTH DAKOTA 58502

Monday, February 3, 2003

To: Members of the House Industry, Business and Labor Committee

Re: HB 1426

Members of the Committee:

The Economic Development Association of North Dakota is in support of HB 1426. As you may know our association is made up of over 100 members representing nearly 50 organizations all actively engaged in economic development for communities, counties and regions of the State of North Dakota. Our organization's goal is to support growth in all industries in all North Dakota communities.

The Economic Development Association of North Dakota supports HB 1426 for the following reasons:

- HB 1426 is designed to benefit all communities and political subdivisions intending to grow their local or regional economies through economic development.
- HB 1426 is not complex and provides an avenue for political subdivisions to work jointly, on not only the local and regional levels, but also statewide for the betterment of the economy of the State of North Dakota.
- HB 1426 provides the potential to open markets to North Dakota companies that are now limited due to lack of adequate transportation and warehousing.
- HB 1426 provides that political subdivisions oversee the proposed facilities ensuring fair opportunities for all North Dakota businesses working to develop or expand markets that other states are currently thriving on, such as manufacturing and value added agriculture.
- HB 1426 provides an avenue to the State of North Dakota to become competitive with other states.

Thank you for the opportunity to testify on behalf of the Economic Development Association of North Dakota in support of HB 1426

Sincerely,

Tressy Heinle  
Economic Development Association of North Dakota  
Tioga Area Economic Development Corporation, Executive Director

*Tressy Heinle*  
Operator's Signature

10/6/03  
Date

HOUSE INDUSTRY, BUSINESS, AND LABOR COMMITTEE

February 3, 2003

North Dakota Department of Transportation

David A. Sprynczynatyk, P.E., Director

HB 1426

Good afternoon, Mr. Chairman and members of the committee. I'm David Sprynczynatyk, Director of the North Dakota Department of Transportation. I am here to support HB 1426.

This bill provides a statutory foundation for the creation of commerce authorities in North Dakota. Our primary interest in this legislation lies in the opportunities it provides for the creation of intermodal facilities and port authorities.

- **Intermodal facilities** enable shippers to move freight to its final destination using the most efficient modes of transportation. In North Dakota, an intermodal facility would have the capability of transloading containers between truck and rail. This would, in turn, give shippers better, more economical access to overseas markets.
- **Port authorities** are groups that help private-public partnerships finance, acquire, coordinate, and regulate the processes needed to ensure a successful intermodal facility.

In January 2001, Governor John Hoeven directed the department to lead the development of a statewide strategic transportation plan. We partnered with an 18-member advisory committee to develop a mission, vision, goals, initiatives, and strategies. To identify the needs of an integrated transportation system in our state, we also held forums with more than 100 industry and user representatives; conducted personal interviews with business managers and owners; held focus groups with representatives from cities, counties, townships, and tribal governments; and surveyed the public.

From these activities emerged the final document, called *TransAction*, which stated five primary goals for the state's integrated transportation system. Goal 4 is, "A transportation system that enhances economic diversity, growth, and competitiveness." From this goal came *TransAction* Initiative 7: "North Dakota will determine the feasibility of, and identify the conditions necessary for, developing an intermodal freight facility or facilities."

Over the past year, our department worked with the Upper Great Plains Transportation Institute of NDSU to develop a feasibility study for an intermodal facility. The study found that intermodal facilities are the key to accessing the global market, and that successful intermodal facilities are often enabled and coordinated by a port authority.

Nationally, freight tons increased 14.5 percent from 1993 to 1997. Over the same period, freight originating in North Dakota increased more than 44 percent. This has caused increased highway maintenance costs, particularly in areas with new shuttle facilities and areas where light rail is abandoned as a result of an industry shift to larger rail cars. An intermodal facility would help reduce the wear and tear on our highways in some areas.

Based upon this bill's provisions for allowing commerce authorities to conduct the necessary governmental and business functions for creation of a port authority -- and, we hope, an intermodal facility -- in North Dakota, I encourage the passage of HB 1426. It will serve as one more tool to use as we continue to grow North Dakota, and will help us achieve the mission, vision, goals, and initiatives in *TransAction*.

## HOUSE BILL 1426

### Heartland Feed, Inc. dba Northwest Alfalfa Products Testimony of Michael J. Bloyed/President

House Bill 1426 is all inclusive. It leaves the door open for any location or community with appropriate incentive to benefit. The value of a facility such as envisioned by this bill is enormous. Let me give you an example.

We chose North Dakota over many other states for many reasons. Specifically, we chose Tioga for 4 reasons:

1. It was located on a main railroad. Burlington Northern/Santa Fe with direct service to the West Coast, Gulf Ports and Florida, with an existing depot and switching crew (to serve Amerada/Hess) which could serve our switching needs at no additional cost or crew to BN/SF, and with very significant unused siding track and switches.
2. It is centrally located near a very large potential and existing acreage of irrigated alfalfa production, plus huge areas of dry land potential.
3. There was a very large existing facility we could purchase at a very favorable cost.
4. The financing package and incentives from North Dakota were extremely attractive.

Of course, there were many other minor benefits as well.

**NEVERTHELESS**, if another area had the type of transloading and intermodal hub with port authority we need, and hope to secure for Tioga, that one condition in conjunction with availability of raw material would have prevailed as the deciding factor over all of the others mentioned above.

Production with high bulk to value ratio's such as forage products – even cubes or double compressed bales, are very sensitive to freight costs – as they comprise such a large percentage of total selling price.

Value added and identity preserved agriculture products represent a vast, untapped opportunity for North Dakota farmers. Without adequate access to cost effective shipping, these opportunities will never be realized.

Of course, I am hopeful that we can implement such a facility in Tioga, and believe it can be done, as a cooperative venture between shippers and local or regional government entities, at such a low cost that not just one, but others around the state will prove to be economically feasible.

In cooperation with the engineering firm of Kadrmas, Lee & Jackson, we have a thorough engineering study and cost analysis that has been integrated into a business plan that conclusively demonstrates that a relatively small facility can be economically successful if it is planned in small, thought out stages, with the ability to grow with demand.

Our company has already invested over \$1,000,000 of our own money with an additional \$100,000 towards building a facility to load boxcars in Tioga - with the enthusiastic support of BN/SF.

We have just acquired an additional 55 acres surrounding the 17 acres we originally purchased with the 65,000 square foot facility to make available expansion and much more hay storage, as we have increased the capacity of purchased equipment, even before its delivery, to 200,000 tons per year.

These actions demonstrate our belief in the future of northwestern North Dakota. I am sure there are many similar stores from other areas. House Bill 1426 will give any area of North Dakota that needs and can justify a facility - the opportunity to enjoy the very significant benefits such facility brings to any area.

Sincerely,

Michael J. Bloyed



North Dakota

**Ag Coalition**

Testimony of Paul Thomas  
North Dakota Ag Coalition  
House Bill 1426  
Finance and Tax Committee  
Lewis and Clark Room  
March 11<sup>th</sup>, 2003

Chairman Urlacher, members of the Senate Finance and Tax Committee, for the record my name is Paul Thomas and I am representing the North Dakota Ag Coalition. The North Dakota Ag Coalition represents thirty-nine agriculture based commodity associations throughout North Dakota. I am here to testify in favor of HB 1426, which would allow for the creation of commerce authorities within North Dakota.

North Dakota leads the nation in the production of a large number of agriculture commodities. Many of these commodities are grown on a relatively small acreage base but do have a large economic impact on the farms and communities they are produced and processed in. For example dry peas, lentils, dry beans, chickpeas, crambe, the list goes on. HB 1426 once enacted will allow for producers and members of their communities to add value to these products by improving the infrastructure needed to transport them to the end consumer, namely create a port authority.

This local authority will be available to develop a much-needed container loading facility. By not having container loading capabilities in North Dakota it has cost North Dakota producers as much as 1 to 1.5 cents per pound of product. This represents a \$15-\$25 per acre loss to North Dakota pulse producers.

These smaller acreage crops are often processed in North Dakota and loaded into containers to be shipped to the end customer. Currently, these containers are hauled out of our state to the nearest container loading facility in Canada, Minnesota or Montana.

Allowance for the creation of a commerce authority in North Dakota to develop an inter-modal facility will have a positive economic impact in North Dakota. North Dakota agriculture has made tremendous strides in identity preserving and value added agriculture products. As the value added industry continues to grow so does the need for containerized loading capabilities.

Chairman Urlacher and committee members, I urge a do pass on HB 1426. I would be happy to answer any questions you may have.

---

4007 State Street • Bismarck, North Dakota 58503 • Phone (701) 355-4330 • Fax (701) 223-4130

*A nonpartisan group of organizations involved in all aspects of agriculture. Organized in April 1982, the Coalition has been successful in providing a unified "voice" on behalf of North Dakota agricultural interests.*

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Operator's Signature

*Salvatore Riccardi*

Date

*10/16/03*

ECONOMIC DEVELOPMENT ASSOCIATION OF NORTH DAKOTA



PO BOX 2639 • 2000 SCHAFER STREET • BISMARCK, NORTH DAKOTA 58502

Tuesday, March 11, 2003

To: Members of the Senate Finance and Taxation

Re: HB 1426

Members of the Committee:

The Economic Development Association of North Dakota is in support of HB 1426. As you may know our association is made up of over 100 members representing nearly 50 organizations all actively engaged in economic development for communities, counties and regions of the State of North Dakota. Our organization's goal is to support growth in all industries in all North Dakota communities.

The Economic Development Association of North Dakota supports HB 1426 for the following reasons:

- HB 1426 is designed to benefit all communities and political subdivisions intending to grow their local or regional economies through economic development.
- HB 1426 is not complex and provides an avenue for political subdivisions to work jointly, on not only the local and regional levels, but also statewide for the betterment of the economy of the State of North Dakota.
- HB 1426 provides the potential to open markets to North Dakota companies that are now limited due to lack of adequate transportation and warehousing.
- HB 1426 provides that political subdivisions oversee the proposed facilities ensuring fair opportunities for all North Dakota businesses working to develop or expand markets that other states are currently thriving on, such as manufacturing and value added agriculture.
- HB 1426 provides an avenue to the State of North Dakota to become competitive with other states.

Thank you for the opportunity to testify on behalf of the Economic Development Association of North Dakota in support of HB 1426

Sincerely,

Tressy Heinle  
Economic Development Association of North Dakota  
Tioga Area Economic Development Corporation, Executive Director

*Yolanda Richardson*  
Operator's Signature

*10/6/03*  
Date

SENATE FINANCE AND TAXATION COMMITTEE

March 11, 2003

North Dakota Department of Transportation  
David A. Sprynczynatyk, P.E., Director

HB 1426

Mr. Chairman and members of the committee: I'm David Sprynczynatyk, Director of the North Dakota Department of Transportation. I am here to support HB 1426.

This bill provides a statutory foundation for the creation of commerce authorities in North Dakota. Our primary interest in this legislation lies in the opportunities it provides for the creation of intermodal facilities and port authorities.

- **Intermodal facilities** enable shippers to move freight to its final destination using the most efficient modes of transportation. In North Dakota, an intermodal facility would have the capability of transloading containers between truck and rail. This would, in turn, give shippers better, more economical access to overseas markets.
- **Port authorities** are groups that help private-public partnerships finance, acquire, coordinate, and regulate the processes needed to ensure a successful intermodal facility.

In January 2001, Governor John Hoeven directed the department to lead the development of a statewide strategic transportation plan. We partnered with an 18-member advisory committee to develop a mission, vision, goals, initiatives, and strategies. To identify the needs of an integrated transportation system in our state, we also held forums with more than 100 industry and user representatives; conducted personal interviews with business managers and owners; held focus groups with representatives from cities, counties, townships, and tribal governments; and surveyed the public.

From these activities emerged the final document, called *TransAction*, which stated five primary goals for the state's integrated transportation system. Goal 4 is, "A transportation system that enhances economic diversity, growth, and competitiveness." From this goal came *TransAction* Initiative 7: "North Dakota will determine the feasibility of, and identify the conditions necessary for, developing an intermodal freight facility or facilities."

Over the past year, our department worked with the Upper Great Plains Transportation Institute of NDSU to develop a feasibility study for an intermodal facility. The study found that intermodal facilities are the key to accessing the global market, and that successful intermodal facilities are often enabled and coordinated by a port authority.

Nationally, freight tons increased 14.5 percent from 1993 to 1997. Over the same period, freight originating in North Dakota increased more than 44 percent. This has caused increased highway maintenance costs, particularly in areas with new shuttle facilities and areas where light rail is abandoned as a result of an industry shift to larger rail cars. An intermodal facility would help reduce the wear and tear on our highways in some areas.

Based upon this bill's provisions for allowing commerce authorities to conduct the necessary governmental and business functions for creation of a port authority -- and, we hope, an intermodal facility -- in North Dakota, I encourage the passage of HB 1426. It will serve as one more tool to use as we continue to grow North Dakota, and will help us achieve the mission, vision, goals, and initiatives in *TransAction*.

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*John A. Costa*  
Operator's Signature

*10/16/03*  
Date

**Commerce Authority  
HB-1426  
Testimony  
Mark Berwick  
Upper Great Plains Transportation Institute**

- Because of trade agreements, technological advances in transportation, and global increased standards of living, world trade is increasing at an increasing rate.
- International trade to and from the United States has increased from 8 percent of GDP in 1960 to almost 25 percent of GDP in 2001 (FWHA, 2001).
- FWHA estimates trade will grow to over 35 percent of GDP by 2020.
- Many of the products that will participate in increased trade will move in containers. It is imperative that North Dakota manufacturers, agriculture processors, and identity preserved producers have access to highway/rail intermodal transportation.
- It is imperative that an intermodal terminal supplying good service and reasonable rates is located in close proximity to North Dakota businesses, providing access to international markets.
- A study performed by the Upper Great Plains Transportation Institute examined highway/rail container intermodal transportation and North Dakota.
- An Executive Summary provides the most important information from the report. The first three pages of the summary provides significant findings and keys to developing a terminal.
- An important key to developing an intermodal terminal is for the state to provide enabling legislation allowing for the development of port or commerce authority. This authority should provide communities, counties or some combination of counties and/or cities an avenue to raise funds for the construction and operation of such a facility.
- Most states have enacted some of legislation that establishes criteria for the development of a locally governed port authority.
- Success or failure of a facility may depend on the dedication and commitment of local entities including; cities, counties, and businesses.
- It may be necessary and or possible to have more than one facility within the state because of the distance from west to east. Terminals may take on very different functions as it may be necessary to diversify to be successful.

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*Volcosta Richardson*

10/6/03  
Date





**NORTH DAKOTA STRATEGIC FREIGHT ANALYSIS:  
THE ROLE OF INTERMODAL CONTAINER TRANSPORTATION  
IN NORTH DAKOTA — EXECUTIVE SUMMARY**

**Mark Berwick  
John Bltzan  
Junwook Chi  
Mark Lofgren**

**UGPTI Departmental Publication No. 149**

**November 2002**

**UPPER GREAT PLAINS TRANSPORTATION INSTITUTE  
.....  
NORTH DAKOTA STATE UNIVERSITY**

**NDSU**

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Richard  
Operator's Signature

10/16/03  
Date

*North Dakota Strategic Freight Analysis  
The Role of Intermodal Container Transportation in North Dakota*

*Executive Summary*

Mark Berwick  
John Bitzan  
Junwook Chi  
Mark Lofgren

Upper Great Plains Transportation Institute  
North Dakota State University  
Fargo, North Dakota

November 2002

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*Yolanda Richardson*  
Operator's Signature

*10/6/03*  
Date

### Message to the Reader

This report is organized into three different sections: the executive summary, the main report, and appendices. The first three pages of the executive summary provide the reader with valuable information on the study and findings. These pages provide an intermodal definition, significant findings, and keys to developing an intermodal facility in North Dakota.

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Salvatore Riccardi  
Operator's Signature

10/16/03  
Date

## SUMMARY

### Intermodal Definition

Intermodal freight transportation is defined as the seamless and continuous door-to-door transportation of freight on two or more transportation modes. (Muller, 1995).

### Significant Findings

- Nationwide, from 1990 to 1999, trailer and intermodal container loadings in the U.S. increased from 6.2 million to 9.18 million respectively (AAR, 2001). Loadings were down somewhat in 2001 to 8.94 million, but again have rebounded in 2002. Loadings are up 9 percent over 2001 loadings for the first 35 weeks of 2002 (AAR, 2002)
- In addition to the freight rate, important factors in the choice of transportation modes include transit time, reliability, capability, accessibility, customer shipping preference, and security.
- Intermodal truck-rail transportation offers two distinct advantages: (1) it allows combining the better service characteristics of truck with the lower rates of rail, and (2) it increases the ease of shipping products internationally.
- North Dakota commodities ideal for container movements may include skid steer loaders, mini excavators, value-added wood products and furniture, industrial and agricultural machinery, and agricultural products such as soybeans, confection sunflowers, and organic and identity preserved grains.
- Viable intermodal container transportation may provide an avenue for North Dakota manufacturers and value-added agricultural producers to compete in international and domestic markets.
- Benefits of intermodal transportation include:
  - lower overall logistics costs
  - increased economic productivity and efficiency
  - reduced congestion and burden on over-stressed highway infrastructure
  - higher returns from public and private infrastructure investments
  - reduced energy consumption
  - increased safety
  - opportunities for new business growth and diversification
- An intermodal loading facility in North Dakota may result in an overall reduction in truck traffic and highway system maintenance.

- The largest barrier to many companies using intermodal shipping is the location of an intermodal loading facility within a reasonable distance.
- Although the intermodal facility at Dilworth, MN is close to North Dakota, alleged problems with customer service, capacity, truck access, and limited space for warehousing cloud its future viability.
- An intermodal facility serving North Dakota may be viewed as an economic development tool that will help promote the success of existing businesses and draw new businesses to the state.
- For an intermodal facility to be located in North Dakota it must meet one of two criteria: (1) it must have a traffic volume that is large enough to generate efficient shipment sizes to final destinations without being consolidated with other traffic, or (2) it must have ancillary services available to the railroad that would give it a reason to stop and receive extra cars.
- Location factors contributing to the success of an intermodal facility include potential container volume, multiple railroad alternatives, location on an intermodal line, location on the National Highway System, and the availability of accessorial rail services.
- The largest amount of potential intermodal container traffic is in the southeast portion of North Dakota, near Fargo. This is due in part to potential container traffic in northwestern Minnesota.
- In order to be successful, an intermodal facility may have to be located on a Class 1 railroad intermodal line.
- Minot is the only location in North Dakota where two Class I railroads interchange freight cars and where two competing railroad intermodal lines intersect.
- The success of the Port of Montana has important implications for North Dakota. A successful intermodal facility may need to diversify in order to achieve success.
- To be successful, an intermodal facility will need to handle between 13,000 and 21,000 containers per year.
- A base intermodal facility capable of handling 50,000 lifts per year is estimated to cost in excess of \$2 million and have an annual estimated operational cost of approximately \$500,000.
- Adequate capital funding and operating revenues are the two main obstacles to constructing and operating a successful intermodal facility.

- One of the largest barriers to funding an intermodal container facility is that federal and state highway funding rules limit the ability to accomplish multimodal projects.
- A possible funding scenario may be to follow the Montana example of a combination of general fund and utilization of Port Authority.
- North Dakota may need to establish enabling legislation allowing the formation of a Port Authority.

### **Keys to Developing an Intermodal Facility in North Dakota**

Many parties have expressed a strong interest in developing a highway/rail intermodal container transportation facility. The development of a successful facility will require someone or an entity to take a strong leadership role. It will also require a cooperative effort among federal, state, and local government, economic development groups, railroads and other transportation companies, manufacturers and specialty agricultural producers. This effort may include such actions as:

1. Pursuing state enabling legislation allowing for creation of a port authority for communities and regions
  - Bonding authority
  - Power to tax
2. State legislation allowing joint state/local funding cooperation for non-highway components
  - Start-up grant from state or federal sources
  - Low-interest loans
3. Local community support of creation of diversified shipping/business model
4. Commitments and Cooperative Effort
  - Commitment of rail carriers for rates and service
  - Commitment of a jurisdiction (city, state, county and rail)
  - Cooperation among states and provinces
  - Commitments from shippers and third party transportation providers
5. Specific site analysis
  - Business plan
  - Engineering plan
6. Creation of an outreach program educating shippers about intermodal transportation using an internship program and other educational methods

### Final Commentary

Final determination as to whether or not a facility is built in North Dakota is up to the leadership of both public and private sectors. The information in this report provides a basis for discussing the pros and cons of constructing an intermodal terminal. Cooperation among state and local government leaders along with business leaders can bring about a plan for increasing the transportation options for the shippers of the state.

A multi-faceted terminal serving many different interests and filling niche transportation demands may provide opportunities for existing businesses to diversify and grow, and for potential new businesses in the state and surrounding region. The trend of increased production of identity preserved agricultural products and a growing viable manufacturing sector requires additional logistical and transportation options be considered.

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## I. PURPOSE AND PROCESS OF THE STUDY

This report examines the potential role of a newer form of transportation-intermodal truck-rail container transportation, in the state's expanding manufacturing and value-added agricultural base. The objectives of the study are to: (1) examine the current transportation system for value-added processors, manufacturers and specialty agriculture producers, (2) provide information and analysis necessary for decision makers to evaluate the viability of an intermodal container facility serving North Dakota, and (3) provide information related to the transportation needs of manufacturers and value-added agricultural producers to allow informed decision making by public policy makers.

Specifically, the report explores general advantages of intermodal container transportation, examines factors that make intermodal container transportation successful, examines functions performed by successful intermodal facilities, evaluates characteristics of various locations that are desirable for an intermodal facility, estimates potential traffic volumes and other characteristics of various North Dakota locations where such a facility might be located, and explores various funding options for an intermodal facility.

### Characteristics of Container/Trailer Intermodal Transportation (Highway/Rail)

The definition of intermodal freight transportation is the seamless and continuous door-to-door transportation of freight on two or more transportation modes, for example, truck-rail or truck-ocean (Muller, 1995). Although many types of intermodal transportation exist, this study examines intermodal container transportation-where containers or trailers are loaded on to rail cars for transportation to domestic markets or to ocean vessels for international markets.

Intermodal transportation is an important part of value-added manufacturing. Lower total logistics costs are realized by using each mode for the portion of the trip for which it is best suited. For example, rail is used on the long-distance haul and truck on the short-distance haul to and from the intermodal facility, providing advantages of truck's door-to-door service and increased security, and the economies provided by rail. Moreover, intermodal truck-rail service also mimics improved reliability of truck over rail, as rail carriers have placed an emphasis on reliability for intermodal services. Using rail for the long-haul portion of the trip also may result in improved environmental conditions including improved air quality because of reduced energy consumption. Finally, using fewer trucks for the long-haul portion of the trip also lessens congestion in major metropolitan areas and reduces damage to the roadway.

Benefits of intermodal transportation include:

- lower overall logistics costs
- increased economic productivity and efficiency
- reduced congestion and burden on over-stressed highway infrastructure
- higher returns from public and private infrastructure investments
- reduced energy consumption
- increased safety

Intermodal transportation is used in domestic and international shipments. The domestic movement usually is truck-rail, while internationally it can be a truck-rail-ocean or rail-ocean, or truck-ocean. Containers have increased in popularity in international trade. However trailers will remain important in the short-haul and low-volume loads.

## II. EXISTING TRANSPORTATION CONDITIONS IN NORTH DAKOTA

The state's transportation system largely has been built to accommodate North Dakota's bulk agricultural production. While bulk agriculture is still and will continue to be a large part of the state's economy, recent rapid growth in the manufacturing industry suggests that manufacturing will play an increasingly important role in the state's economy.<sup>1</sup>

For the state's growing manufacturing and value-added agricultural industries, where fast delivery times and low inventory costs are important elements in doing business, new forms of transportation outside the traditional bulk-handling system are needed. One form of transportation that has not been fully utilized by North Dakota shippers is intermodal container carriage on rail cars. Viable intermodal container transportation may provide the avenue for North Dakota manufacturers and value-added agricultural producers to compete in international and domestic markets.

Within the state, many parties have expressed interest in having close proximity to intermodal container transportation. Producers of specialty crops, along with manufacturers from different parts of the state have expressed an interest in locating an intermodal facility within close proximity to their plants or production. The closest facilities are in Dilworth, Minn.; Winnepeg, Mant.; Minneapolis, Minn.; Regina, Sask.; Chicago, Ill.; Billings, Mont., Butte, Mont., and Shelby, Mont..

Although Dilworth, Minn. is in close proximity to many North Dakota shippers, several problems exist with the current facility. In conducting a survey of North Dakota firms, we found

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<sup>1</sup>Appendix 1 of this report provides a description of the North Dakota Economy, with a specific focus on the manufacturing sector.

that 9 percent of respondents who reported using an intermodal container facility reported they were denied intermodal container service at least once during the last year. In fact, the BNSF Railroad projects the facility to reach capacity limitations by 2008. The Dilworth facility offers limited space for other complementary activities such as warehousing.

### Case Studies of Intermodal Container Transportation

To gain insight into the types of benefits that intermodal container transportation provides to North Dakota shippers, we performed several short case studies. We performed case studies to: (1) show rate and transit time implications associated with shipping specific North Dakota products to specific markets using an intermodal container option, and (2) show changes in transportation competitiveness of North Dakota shippers resulting from an intermodal container option.

In estimating transportation charges and transit times for shipping North Dakota products by truck and/or intermodal container to foreign markets we found: (1) sugar and dry pasta are transported to Kobe, Japan, at substantially lower costs using an intermodal container rather than using truck and transloading into containers at coastal ports (18 to 25 percent savings), and (2) these same products experience transit times that approximately one-third higher using the intermodal option. For mini excavators shipped by intermodal container to Antwerp, Belgium, we found an estimated 34 percent savings in transportation charges in comparison to truck transloading into containers at a coastal port, and transit times that are approximately equal to the truck-transloading option.

In comparing estimated transportation charges and transit times for select North Dakota products to those of major domestic competitors, we found: (1) Transportation charges for shipping dry pasta to Kobe, Japan, are much higher for North Dakota shippers than for shippers in Salinas, California, or Excelsior Springs, Missouri, (2) Transportation charges for shipping excavators to Antwerp, Belgium, are much higher for North Dakota shippers than for shippers in Dubuque, Iowa or Peoria, Illinois, and (3) the intermodal container option greatly reduces transportation disadvantage for North Dakota shippers of these products. The findings of all the case studies suggest that intermodal container shipping provides an important option for many North Dakota shippers.

#### **Shippers' Views of Intermodal Service**

The largest barrier to many companies using intermodal shipping is the location of intermodal loading facilities. An intermodal loading facility located within a reasonable distance is essential to justify using intermodal as a viable transport mode. As distance to an intermodal facility increases, rate savings decrease, due to increased drayage costs. Moreover, this increased distance also causes transit times and the resulting logistical costs to increase. This explains why many small, rural companies simply continue to use trucks to transport their products.

#### **Railroad's View of Intermodal Service**

Much of the success of intermodal operations can be attributed to the development of intermodal hubs, or terminal locations, where trains are gathered and cars are exchanged or switched to form new trains. "These "hub-and-spoke" operations take advantage of reducing the

number of point-to-point operations when the volume is not large enough to make them cost efficient" (Muller, 1999).

However, while a generalized version of the 'hub-and-spoke' system has been used to make railroads successful in intermodal operations, some rural areas have been excluded from this system. Many rural areas in the western part of the U.S. have such low intermodal traffic volumes and are at such long distances from large volume intermodal facilities that they have not been fully included in the intermodal "hub and spoke" system. In many cases, their intermodal service has been eliminated. This service has been reduced from approximately 1,500 operations in 1970 to less than 370 in 1998 (Muller, 1999). This reduction in facilities has limited transportation options for many shippers in smaller cities or rural areas.

This trend has important implications for future intermodal service to North Dakota. Because an intermodal facility serving North Dakota would not be fully included in the railroad's "hub-and-spoke" network, it must meet one of two special criteria: (1) it must have a traffic volume that is large enough to generate sufficient shipment sizes to final destinations without being consolidated with other traffic, or (2) it must have ancillary services available to the railroad that would give it a reason to stop providing an opportunity to switch rail cars.

#### Montana: Two Different Terminal Options

Two intermodal terminals in Montana provide insight into factors that might make an intermodal container terminal successful or unsuccessful in North Dakota. One facility, the Port of Montana, has greatly diversified in order to become a successful intermodal facility.

The Port of Montana, located in Butte, originally was built to provide container/trailer transloading services. After operations began, it was clear that expansion into other shipping services was necessary to have a successful facility. The facility has diversified by providing intermodal container/trailer service, fertilizer bulk handling, liquid materials, auto storage for distribution, lumber storage for distribution, silica sand storage for distribution, and other functions on an individual basis. One of the facility's main businesses is regional distribution for GM automobiles. The cars are brought to the facility, off loaded, and stored in the secure storage area until they are ordered for distribution.

The success of the Port of Montana has important implications for a potential intermodal facility in North Dakota. Just as the base container traffic for an intermodal facility in Butte is limited, this also is likely to be the case for North Dakota. The case suggests that a potential facility in North Dakota may need to diversify to achieve success in a similar way to the Port of Montana.

Another intermodal facility in Montana is the intermodal facility at Billings, which is operated by BNSF. The facility's focus is on less-than-truckload (LTL) traffic. The LTL carriers of Roadway, Yellow, UPS, FEDEX, and the USPS dominate the transloading for the Billings facility. Outside of this traffic, the facility has had limited success in obtaining intermodal container traffic.

A potential reason why the facility has not obtained a large amount of container traffic is that it is not on a railroad intermodal route. Billings is located on a coal route, and therefore container traffic must yield to coal trains, greatly slowing transit times. Another problem faced

by the Billings facility is that traffic must be switched between Montana Rail Link and the BNSF near the facility. This switch delays shipments in and out of the facility.

These problems also have important implications for a potential North Dakota facility, suggesting that any new facility should be on an intermodal line and not rely on multiple railroad coordination near the facility for short and reliable transit times.

### III. SUMMARY OF FINDINGS

A survey was administered to gain insight into the modes of transportation used by manufacturers and specialty agricultural producers in the North Dakota region, reasons they use such modes, experiences of shippers with intermodal service, and transportation volumes. The survey was sent to all manufacturing companies in North Dakota and in the counties of surrounding states, as well as to a number of specialty agricultural companies in the region. Specifically, shippers were surveyed in North Dakota, Minnesota, Montana, and South Dakota. Although the survey was preceded by a letter explaining its importance, and followed by postcard reminders and telephone calls, the response rate was limited. Moreover, many responses were partial or incomplete.

Of the 2,039 manufacturing locations in surveyed areas, 261 responded, representing a 12.8 percent response rate. While the response rate was low, the locations responding employed 27,402 of the 58,318 manufacturing workers employed in the region (47 percent). This suggests that the responses we received should be representative of a large portion of the region's manufacturing.



The survey revealed several important findings; (1) modal shares for outbound products were 53 percent by truck, 45 percent by rail, and 2 percent by container, (2) modal shares for inbound raw materials were 98 percent by truck and the rest by rail, (3) in responding to a question asking why firms use the transportation modes they use, more than half reported timely and reliable service as one reason, 46 percent reported direct access as a reason, and 40 percent reported low rates - this may suggest that an intermodal option that combines timely service with lower rates in comparison to truck transport may be desirable for shippers in the region, (4) a large amount of the freight volume from the surveyed regions is located in the southeast portion of North Dakota and northwest Minnesota, and (5) of the firms that use intermodal container transportation as an option, 9 percent reported having been denied service within the last year.

#### Potential Traffic of an Intermodal Container Facility

Perhaps the most important factor in determining viability of an intermodal container facility is the potential traffic that would use such a facility. The amount of potential traffic for a facility provides three important pieces of information: (1) it provides a measure of the benefit of such a facility - a larger amount of potential traffic means larger total savings in logistics costs for regional manufacturers and specialty agricultural producers, and (2) it provides an indicator of whether a new facility would generate enough business to become a profitable and viable venture, and (3) it may provide an indicator of the quality of service and level of rates that might be charged for such a facility, as railroads are able to produce higher quality intermodal services at lower costs with larger shipment volumes. One difficulty in estimating potential traffic is that the amount of traffic depends on rates and service levels, and these are unknown for a new

facility. Essentially, our methodology estimates tons of various products transported from the region, multiplied by the Illinois percentages of these same products that move in intermodal truck-rail configurations providing an estimate of potential intermodal freight.

Table 1 shows the estimated potential outbound and inbound containers from each of the previously defined regions.<sup>2</sup> As the table shows, the largest amount of potential intermodal container traffic is in the southeast portion of North Dakota. Moreover, other regions in close proximity to southeast North Dakota, including western Minnesota and northeastern North Dakota, also include large amounts of potential intermodal container traffic.

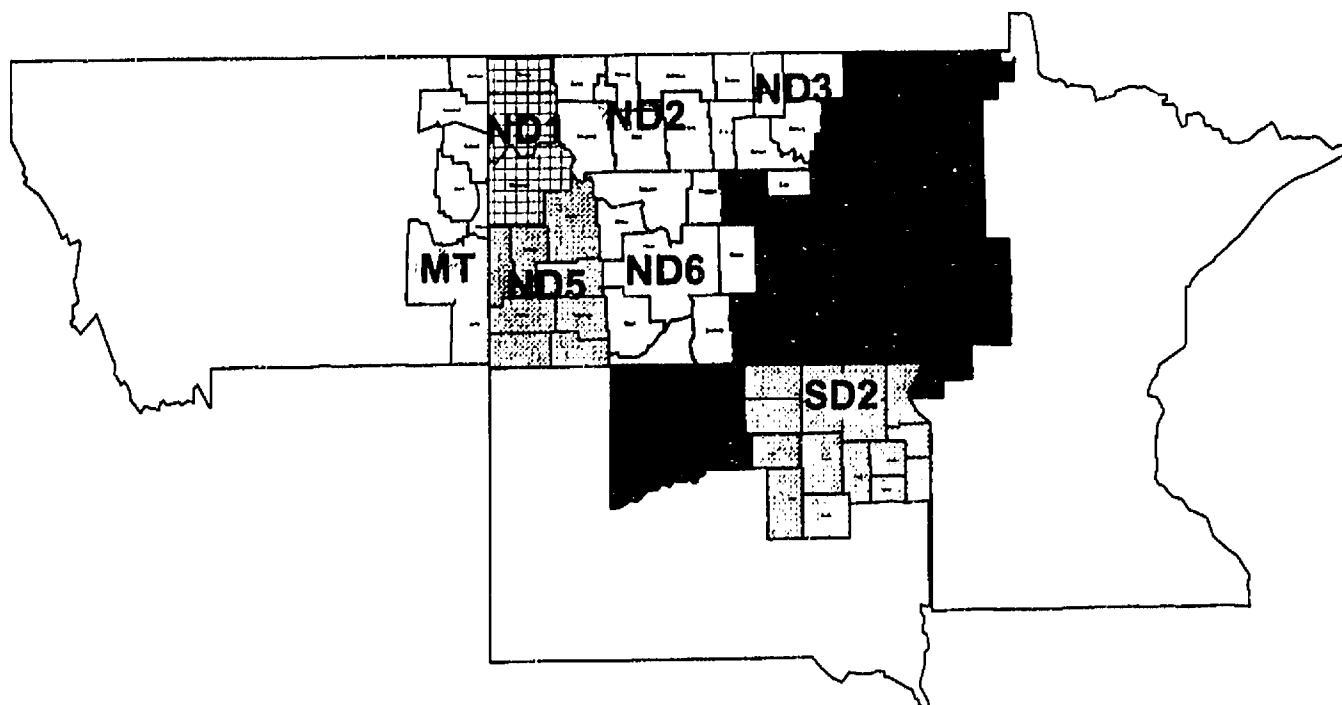
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<sup>2</sup>These estimated potential containers are expected to occur only in the region where the facility is located, and in other regions in close proximity. For example, if a facility were located in Fargo, container traffic from western North Dakota would be much smaller than indicated by the estimate of potential container traffic from western ND regions.

**Table 1. Estimated Potential Container Traffic with a New Intermodal Facility.**

Region	Estimated Potential Inbound Containers If Using 20' Container	Estimated Potential Outbound Containers If Using 20' Container	Estimated Potential Inbound Containers If Using 40' Container	Estimated Potential Outbound Containers If Using 40' Container
MN	1,683	7,184	1,530	6,530
MT	140	1,121	127	1,019
ND1	15	439	14	399
ND2	128	1,230	116	1,118
ND3	118	801	108	728
ND4	447	4,080	406	3,709
ND5	116	809	105	735
ND6	289	1,905	262	1,732
ND7	321	1,576	292	1,433
ND8	940	6,025	855	5,477
SD1	40	569	36	517
SD2	643	3,384	585	3,076

\* Caution must be used in interpreting these estimated potential container volumes, as they are not based on an expected rate and service level.



**Figure 1. Surveyed Regions in North Dakota, South Dakota, Montana (MT), and Minnesota (MN)**

### Truck/Rail Container Intermodal Terminal Costs

An economic engineering model is developed to simulate costs for an intermodal facility.

This model provides decision makers with an estimate of start-up and annual costs. Moreover, it provides insight into traffic volumes needed to make such a facility feasible.

The model shows the estimated investment expenditure for a base case facility capable of handling 50,000 lifts per year to be approximately \$2 million. The estimated annual fixed and variable costs for the base case intermodal facility capable of handling 50,000 lifts per year including facility and equipment depreciation, return on investment, taxes, insurance, maintenance, management, building expenses, and accounting expenses is \$500,000 per year. While these base case estimates are not exact, they represent a reasonable approximation of what such a facility would cost to maintain and operate. It is possible to reduce costs somewhat by employing used equipment or by using existing track.

Some insight into the types of volumes that would be necessary to support such a facility might be obtained by comparing an average revenue per lift to the costs per lift.<sup>3</sup> Leeper, et. al (1996) estimate that the lift revenues at Dilworth, Minn. are in the range of \$10 to \$15. If these numbers are put in current dollars using the GDP Implicit Price Deflator, the range is \$10.94 to \$16.41 in 2001 prices. At the high end of the revenue range, this would suggest that a facility may be feasible with as few as 13,000 containers annually. At the low end of the revenue range

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<sup>3</sup>It is important to note that these cost estimates and average revenue estimates are reasonable estimates given the information we have. However, the point where average revenue per lift is equal to cost per lift from this model should not be considered as a solid break-even point. Rather, the numbers are illustrative of a range of traffic where such a facility may be feasible.

would suggest that a facility would need 21,000 lifts per year to be feasible.<sup>4</sup> This is consistent with correspondence with the BNSF suggesting that most of the facilities they serve have at least 20,000 loaded containers per year.

### Location Analysis

A variety of locational factors enhance the viability of an intermodal container facility. Locational factors contributing to the likely success of an intermodal container facility include, but are not limited to: (1) potential container volume, (2) the availability of multiple railroad alternatives, (3) location on an intermodal rail line, (4) location on the National Highway System, and (5) the availability of accessorial services such as a fuel stop at the location.<sup>5</sup>

Although not quantifiable, the availability of complementary transportation services, such as international air service, and express package and LTL terminals, as well as business services can also increase the likely success of a new intermodal container facility. In particular, one of the benefits of an intermodal container facility may be to attract firms that may benefit from the lower logistics costs offered with such a facility. The addition of an intermodal facility is likely to have a greater impact on attracting new businesses in locations that may offer a variety of transportation and business services. Because the availability of such services is not quantifiable,

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<sup>4</sup>One container generally requires two lifts.

<sup>5</sup>These factors were developed from a review of literature related to the development of intermodal container facilities, from site visits at intermodal facilities in Billings and Butte, Mont., and Dilworth, Minn., and from discussions with the BNSF. Unfortunately, we were unable to obtain direct input from the Canadian Pacific Railroad in this study. CP Rail chose not to provide guidance or answer any questions regarding desirable locations or operational characteristics that would fit an intermodal terminal location.

they are not analyzed further. The following paragraphs will explore various potential locations for an intermodal facility in North Dakota in terms of these criteria.

Although the study examines a variety of locations, we highlight Fargo, Minot, and Valley City, as each presents a unique situation in terms of a potential intermodal container facility. Fargo is chosen due to its location in a region that has high potential COFC volumes and its close proximity to other regions with high potential COFC volumes, its location on two interstate highways, its location on an intermodal line, and the fact that it currently serves as a fuel stop for the BNSF railroad. Minot is chosen due to its unique characteristics of being the only location in North Dakota with two competing intermodal lines, its location on the national highway system, and its current fuel stop for the BNSF. Valley City is chosen due to its close proximity to high potential COFC volumes, its location at the intersection of two competing railroads, and its location on the National Highway System.

Figure 2 shows the three cities and the 100-mile radius around each and Tables 2 and 3 report the other characteristics of each and the estimated potential COFC traffic volumes.

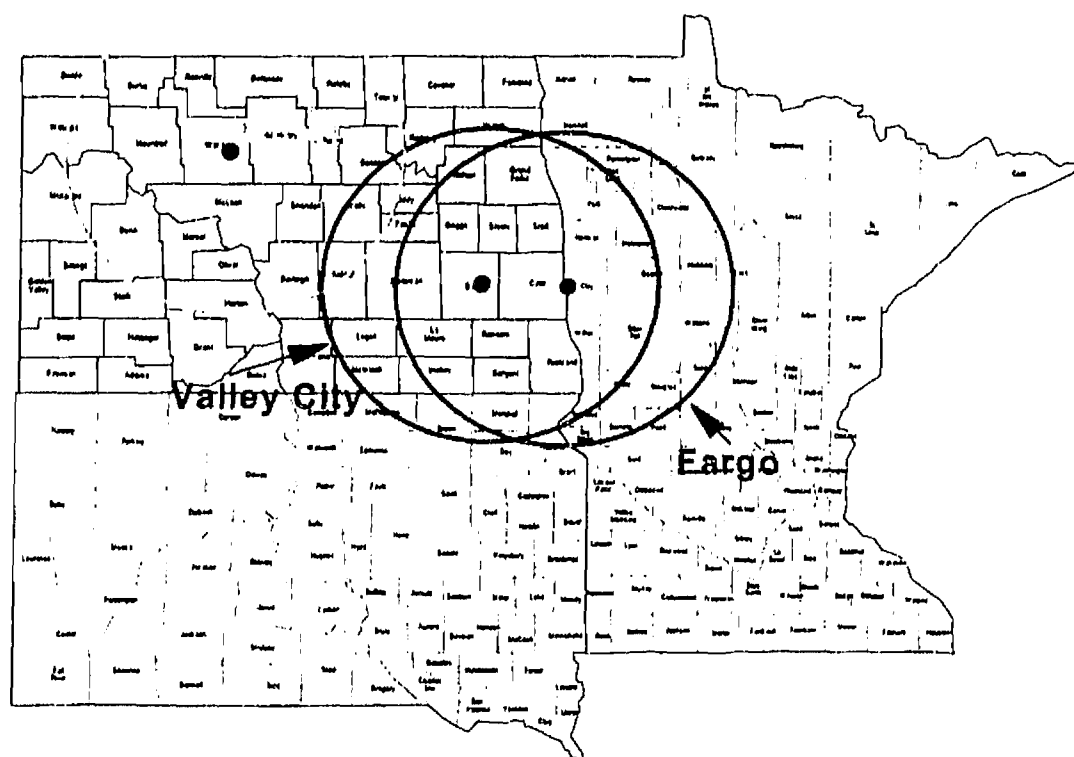


Figure 2. 100 Mile-Radius Around Three Cities (Fargo, Valley City, and Minot)

Table 2. Cities Chosen for Analysis and Locational Factors.

City	Accessorial Services	Competition CP and BNSF	Intermodal Line	Located on National Highway System
Fargo	Yes (Fuel Stop for BNSF)	No	Yes (BNSF)	Yes
Valley City	No	Yes (BNSF)(CP)	Yes (CP)	Yes
Minot	Yes (Fuel Stop for BNSF)	Yes (BNSF)(CP)	Yes (BNSF)(CP)	Yes

\* Assumes 10,000 containers loaded by the Tioga alfalfa pelleting facility.

**Table 3. Estimated Potential 20' Containers**

City	Estimated Potential Twenty foot Containers					
	100 mile-radius		150 mile-radius		200 mile-radius	
	Outbound	Inbound	Outbound	Inbound	Outbound	Inbound
<b>Fargo</b>	16,021	3,229	20,428	3,884	22,962	4,248
<b>Valley City</b>	15,225	2,757	21,153	4,172	23,282	4,329
<b>Minot</b>	3,391 (13,391)*	488	5,907 (15,907)*	1,022	13,573 (23,573)*	2,186

\* Assumes 10,000 containers loaded by the Tioga alfalfa pelleting facility.

\*\* Within the literature containers are measured in TEUs (20 foot equivalent unit).

\*\*\* 40' containers may be loaded instead of 20' containers. Estimated potential 40' containers can be obtained by multiplying the above estimates by .909.

As the Table 3 shows, each of these cities is estimated to have at least 13,000 potential outbound containers. A previous section of the report suggested that under specific conditions, 13,000 to 21,000 containers may be enough to make a new intermodal container facility viable.

In looking at each community separately, Fargo offers the highest estimated potential outbound and inbound container volumes for the 100 mile-radius, is on an intermodal line, offers refueling to the BNSF, and has direct access to two interstate highways. However, Fargo does not have multiple railroad options. Nonetheless, the community represents one potentially viable location for an intermodal container facility.

One important discussion point related to Fargo is that a facility already exists in Dilworth, Minn. a location within three miles of Fargo. However, several problems exist with the current facility, and these problems are unlikely to be resolved at the current location. Problems include a lack of space for expansion into other areas such as warehousing, unavailability of equipment, and congestion. Moreover, the facility is privately owned and



operated and is not in North Dakota. Therefore, the ability to use state and local economic development tools for this facility - tools that may enhance the facility's chances for success - is limited.

Valley City also ranks high in potential container volume, but not as high as Fargo. While the city has railroad alternatives (BNSF and CP), it is located on only one intermodal line. As suggested previously, competition is not likely to have a big effect on rates and services in cases where the location is not on two intermodal lines. Thus, based on the stated criteria, Valley City does not appear to have advantages over Fargo. However, a more remote or rural site may be desirable for loading and unloading of containers where it would not interfere with other railroad operations, and where more space is available. The rurality of Valley City compared to Fargo may be an advantage.

Finally, Minot has a large amount of potential COFC volume if the estimate of 10,000 potential containers out of the new Tioga alfalfa pellet facility is correct. Moreover, Minot has one advantage that no other community has in the state of North Dakota - it is located on two competing intermodal rail lines. To the extent that such competition acts to discipline railroad rates and service, such a location may have a higher amount of potential container volume than estimated. Other advantages of Minot are the same as Fargo and Valley City, including a location on the National Highway System and the availability of a fuel stop for the BNSF. Finally, the BNSF stated that Minot would cause the least amount of disruptions to its operations, as intermodal trains currently stop there to change crews and some intermodal switching occurs there. The ability to attract the necessary amount of traffic still remains a concern in Minot, however.

The estimates of potential containers for the three cities can be expended to 150 and 200 mile-radius (Figures 3 and 4).

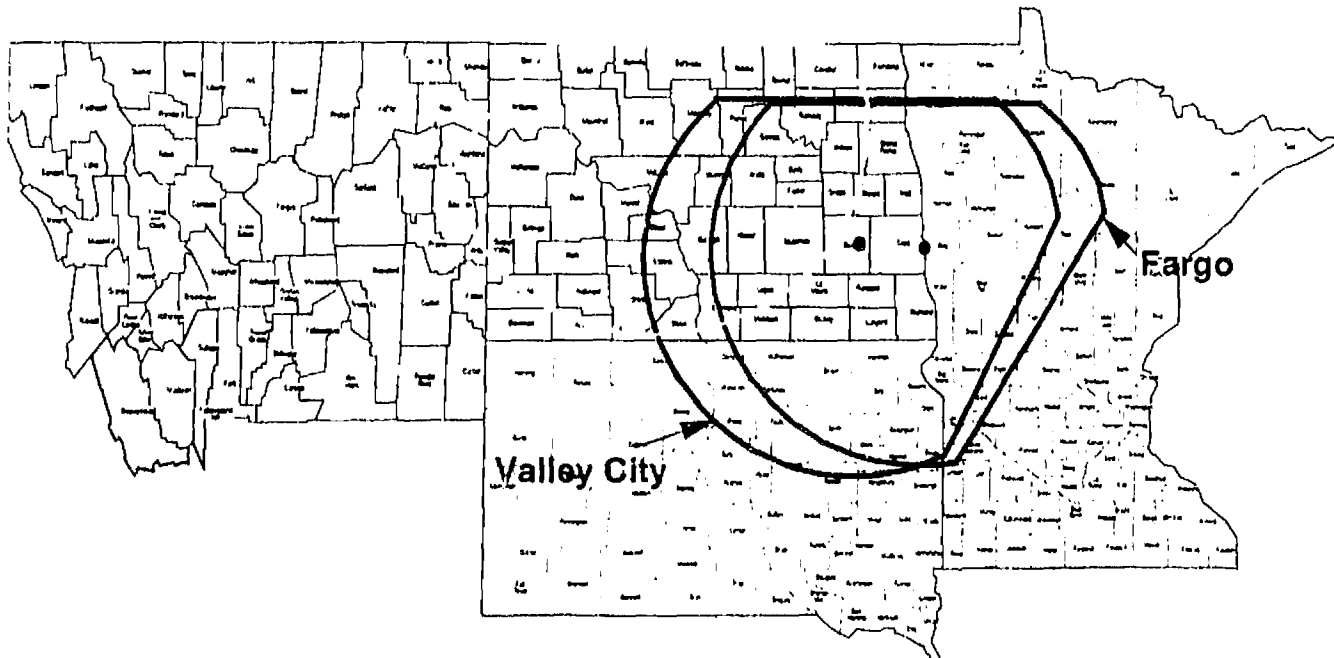


Figure 3. 150-Mile Radius of Three Cities (Fargo, Valley City, and Minot) to Estimate Potential Tons with New Intermodal Facility

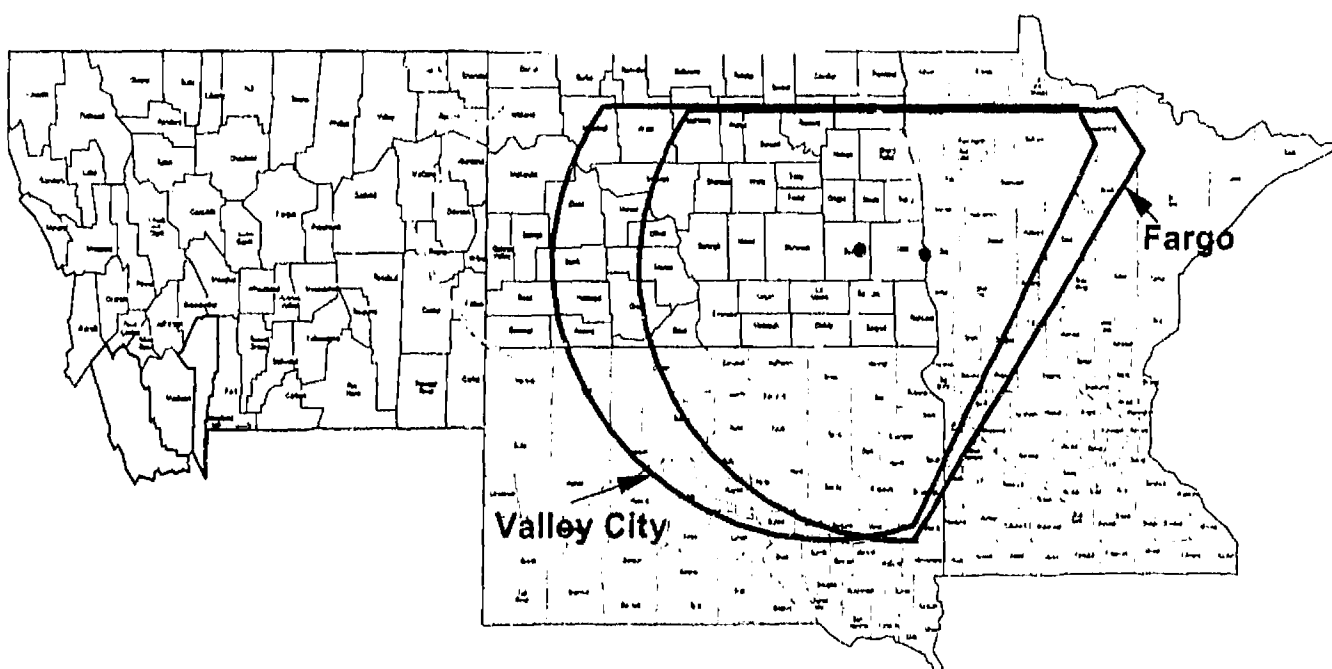


Figure 4. 200-Mile Radius of Three Cities (Fargo, Valley City, and Minot) to Estimate Potential Tons with New Intermodal Facility

Potential manufacturing and grain tons were measured to provide total potential 20' container volumes. However, this study has excluded areas located closer to other intermodal facilities, such as Minneapolis, Winnipeg, and Regina. Because shippers are likely to use closer intermodal facilities, it is rational to exclude these areas

According to the analysis, using the 150 mile radius, Valley City was found to have the largest container volume among the three cities at an estimated 21,153 containers (Table 3). Unlike the results of the 100 mile radius, Fargo had the second largest container volume at an estimated 20,428 containers. The reason for the lesser volume at Fargo was because the circle was closer to the intermodal facility located in Minneapolis thereby excluding some of the radius. For the 200-mile radius, Minot showed the largest container volume at an estimated 23,573 containers (Table 3). This estimate included 10,000 containers loaded by the Tioga alfalfa pelleting facility. Again, Valley City had the second largest volume estimate at 23,282 containers.

In summary all three communities offer some advantage not realized by the other two. A complete feasibility analysis would require better data on potential volumes and capital/operation cost estimates for a specific site and type of facility.

#### IV. OPTIONS/ACTIONS TO CONSIDER

In examining funding options for a new facility, we found several potential sources, but some problems with each. One of largest barriers to funding and intermodal container facility is that federal and state transportation funding rules limit the way highway funding can be appropriated within the state. Specifically, a North Dakota Statute prevents state highway funds

from being used for non-highway purposes. Moreover, allocated Federal highway funds cannot be used to construct an intermodal container facility. Relaxation of state and federal rules limiting funding flexibility may enhance opportunities for funding such a facility.

An important element of intermodal container facility success in Montana has been the enabling legislation allowing for Port Authority. Such authority may serve as a means for funding an intermodal facility. "The term Port Authority refers to a state or local government that owns, operates, or otherwise provides wharf, dock, and other terminal investments at ports" (Coyle et.al., 1994). Ports can be municipal airports or other public transportation systems moving people and goods.

Many cities, counties, regions, and or states have built terminal facilities to promote transit and efficient freight transportation using Port Authority. In the case of freight, the Port Authority may operate portions or all of the facility or lease facilities to private firms. Often, the Port Authority has taxing authority to provide funding for constructing and operating a facility. Many states, counties, and or municipalities have engaged using Port Authority as a tool for providing shipping options for existing and or new development.

Although North Dakota does not have laws allowing for Port Authority, such a law could provide a method for cities, counties and/or regions to access the tax base for funding and/or maintaining for an intermodal facility. However, it may take initial funding from the state's general fund or a low interest loan from the Bank of North Dakota to make the initial investment.

Other options for funding an intermodal facility include public/private partnerships. Our interview with BNSF revealed a willingness to work with public agencies in a public/private

partnership. This may be a desirable option for funding such a facility, since such a commitment from both the public and private sectors may enhance the potential for success.

Other considerations in examining the possibility of funding an intermodal container facility include a need to diversify beyond intermodal container transportation, the need for cooperation/commitment from the railroad(s), cooperation and commitment from shippers, and cooperation among communities, counties, regions, and states.

Another possibility for funding is presented by the recently passed farm bill. A section of the farm bill authorizes a Northern Great Plains Authority in the states of Iowa, Minnesota, Nebraska, North Dakota, and South Dakota. "The Authority is expected to develop a series of comprehensive coordinated plans for economic development of the region. The Authority may approve grants to states and public and nonprofit entities for projects including transportation and telecommunication infrastructure projects, business development and entrepreneurship, and job training. Extends the program but no funds are provided."(source: [www.rurdev.usda.gov/rd/farmbill/sections.html](http://www.rurdev.usda.gov/rd/farmbill/sections.html))

The main reason for the authority is to provide economic development for the Northern Great Plains regions. Even though no funding has been provided, the possibility exists for funding in the future. This Regional Authority may provide an avenue for funding an intermodal terminal facility.

## V. FINAL COMMENTARY

Final determination as to whether or not a facility is built in North Dakota is up to the leadership of both public and private sectors. The information in this report provides a basis for discussing the pros and cons of constructing an intermodal terminal. Cooperation among state and local government leaders along with business leaders can bring about a plan for increasing the transportation options for the shippers of the state.

A multi-faceted terminal serving many different interests and filling niche transportation demands may provide opportunities for existing businesses to diversify and grow, and for potential new businesses in the state and surrounding region. The trend of increased production of identity preserved agricultural products and a growing viable manufacturing sector requires additional logistical and transportation options be considered.