

**TAXATION COMMITTEE**  
**POLITICAL SUBDIVISION DEBT**  
 SEPTEMBER 11, 2012

I. Constitutional Debt

- A. General Obligation Bonds (*with and without a public vote*)  
 NDCC Chapter 21-03
- B. Limited Tax Bonds  
 NDCC § 57-15-17.1 (*various school purposes – 15 mills*)  
 NDCC Chapter 57-47 (*county primary governmental functions – 3 mills*)  
 NDCC § 21-03-07(5) (*public buildings and fire stations – 5 mills*)  
 NDCC § 21-03-07(6) (*county correction facilities – 10 mills and parks – 3 mills*)
- C. Certificates of Indebtedness (*to the extent payable from taxes*)  
 NDCC Chapter 21-02
- D. First Mortgage Bonds  
 NDCC Chapter 40-34 (*city sewage and garbage disposal systems*)
- E. Contract Obligations (*beyond budget year*)  
 NDCC § 40-05-09 (*city long term contract to purchase fire equipment*)  
 NDCC § 57-15-59 (*county lease for law enforcement facilities*)  
 NDCC § 15.1-09-43 (*school bus installment contract*)

II. Other Debt

- A. Revenue Bonds  
 NDCC Chapter 40-35
- B. Special Assessment Warrants and Bonds  
 NDCC Chapters 40-22 – 40-27  
 Deficiency levy backing is constitutional debt at time used; contingent obligation
- C. Lease Financing (*including a building authority*)
- D. Tax Increment Bonds  
 NDCC Chapter 40-58
- E. Municipal Industrial Development Act Bonds (MIDA)  
 NDCC Chapter 40-57

## Glossary of Financial Terms

***Constitutional Debt:*** in general, a borrowing is considered debt for constitutional purposes if it: (a) irrevocably binds future governing bodies of the borrower and (b) is payable from a general tax. Article X, Section 15 of the ND Constitution limits the debt of political subdivisions to 5% of assessed valuation. "Assessed valuation" is defined by statute as 50% of True and Full Value.

By 2/3 public vote, cities can increase the debt limit to 8%. By majority public vote, school districts can increase the debt limit to 10%. A home rule city may establish debt and mill levy limitations in excess of those set by the constitution or legislature for non-home rule cities. All bonds in excess of the amount of indebtedness permitted by the constitution are void. Article X, Section 16 provides that a political subdivision must impose a tax before it is allowed to incur debt. At or before the time of incurring debt, the political subdivision shall provide for the collection of an annual tax sufficient to pay the principal and interest on such debt, and all laws or ordinances providing for the payment of bonds are irrepealable until such debt is paid. Mill levy limitations do not apply to taxes levied to pay bonded indebtedness under Article X, Section 16. Revenue bonds, special assessment bonds, leases and MIDA bonds do not count toward the constitutional debt limit.

***Lease Debt:*** in the context of municipal finance, lease financing includes various types of agreements, such as installment purchase contracts, installment sales contracts and purchase orders, in addition to leases. A "financing lease" is distinguished from a "true lease", which involves no acquisition of title to property by a government. Lease purchase financings result in the acquisition of the building or equipment at the end of the lease term. The North Dakota Century Code does not contain a lease financing chapter for cities or any other political subdivision. The authority to enter into a lease acquisition is expressed or implied in the municipality's general powers. The reasoning behind the implied authority being that if the city can buy buildings and equipment and can lease buildings and equipment, it seems logical that they can be acquired through tax-exempt lease purchase financing. In the case of municipalities, the legislature has granted power "to acquire by lease ... both real and personal property..."

A nonappropriation clause states that, notwithstanding the fact that the municipality agrees to lease the building or equipment for a period of years, it nonetheless reserves the right to not appropriate for the lease payment and in effect forfeit the leased property. Put another way, the political subdivision has the option to terminate the lease at the end of the fiscal period during the term of the lease by not appropriating the funds needed to meet the next lease payment.

***Limited Tax Debt:*** municipal bonds backed by something less than the full taxing power of the issuing government. If valuations decline, it is possible the mills authorized may not generate sufficient funds to pay debt service on the bonds. The legislature has provided for many types of bonds payable from a limited number of mills.

***Overlapping General Obligation Debt:*** a municipality's share of the debt of other political subdivisions sharing its geographical area. This is a factor bond investors consider in determining the debt burden carried by taxable real estate within a particular jurisdiction. For example, property in a city is potentially subject to general obligation bonds issued by the city, county, school district and park district.

***Unlimited Tax Debt:*** municipal bonds backed by a pledge to levy taxes at an unlimited rate until the bonds are paid, i.e. General Obligation Bonds.