

**HOUSE BILL NO. 1305**

Introduced by

Representatives Schreiber-Beck, Kading, Olson, Porter

Senators Bekkedahl, Cook, Dotzenrod

1 A BILL for an Act to amend and reenact sections 2-06-01, 2-06-01.1, 2-06-01.2, 2-06-02,  
2 2-06-03, 2-06-04, 2-06-06, 2-06-07, 2-06-08, 2-06-09, 2-06-10, 2-06-11, 2-06-12, 2-06-13,  
3 2-06-14, 2-06-15, 2-06-16, 2-06-17, 2-06-18, 2-06-19, 2-06-20, 2-06-21, and 2-06-22 of the  
4 North Dakota Century Code, relating to the form and style of statutes governing airport  
5 authorities; and to repeal sections 2-06-05 and 2-06-23 of the North Dakota Century Code,  
6 relating to airport authorities.

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

8 **SECTION 1. AMENDMENT.** Section 2-06-01 of the North Dakota Century Code is amended  
9 and reenacted as follows:

10 **2-06-01. Definitions.**

11 ~~The following words or terms whenever used or referred to in~~In this chapter have the  
12 following respective meanings unless different meanings clearly appear from the context:

- 13 1. ~~"Air navigation facility" means any facility, other than one owned and operated by the~~  
14 ~~United States, used in, available for use in, or designed for use in aid of air navigation,~~  
15 ~~including any structures, mechanisms, lights, beacons, markers, communicating~~  
16 ~~systems, or other instrumentalities, or devices, used or useful as an aid, or constituting~~  
17 ~~an advantage or convenience, to the safe taking off, navigation, and landing of aircraft,~~  
18 ~~or the safe and efficient operation or maintenance of an airport, and any combination~~  
19 ~~of any or all of such facilities.~~
- 20 2. ~~"Airport" means any area of land or water which is~~real or personal property used; or  
21 ~~intended for use,~~to be used for the navigation, landing, and taking off of aircraft, and  
22 ~~any appurtenant areas which are~~real or personal property used; or intended for use,to  
23 be used for airport operations or maintenance, buildings ~~or other airport,~~ facilities

1 ~~er, rights of way, including~~ or approaches and clear zones, ~~together with all airport~~  
2 ~~buildings and facilities located thereon.~~

3 ~~3.2.~~ "Airport authority" or "authority" means any regional airport authority or municipal  
4 airport authority created ~~pursuant to the provisions of~~ under this chapter, and the  
5 governing body of a municipality ~~which has determined to exercise~~ exercising the  
6 powers of a municipal airport authority, ~~pursuant to section 2-06-02.~~

7 ~~4.3.~~ "Airport hazard" means any structure, object ~~of natural growth,~~ or use of ~~land~~ property  
8 which obstructs the airspace required for, ~~or is otherwise hazardous to,~~ the flight of  
9 aircraft in landing or taking off at an airport ~~or is otherwise hazardous to such landing~~  
10 ~~or taking off of aircraft.~~

11 ~~5.4.~~ "Bonds" means any bonds, notes, interim certificates, debentures, or similar  
12 obligations issued by an authority ~~pursuant to~~ under this chapter.

13 ~~6.5.~~ "Clerk" means the custodian of the official records of a municipality.

14 ~~7.6.~~ "Governing body" means the official or officials authorized by law to exercise  
15 ordinance or other lawmaking powers of a municipality.

16 ~~8.7.~~ "Municipal airport authority" or "municipal authority" means a municipal airport  
17 authority created ~~pursuant to the provisions of~~ under section 2-06-02.

18 ~~9.8.~~ "Municipality" means any county, city, or township of this state.

19 ~~10.~~ "Person" means ~~any individual, firm, partnership, corporation, limited liability company,~~  
20 ~~company, association, joint stock association, or body politic; and includes any trustee,~~  
21 ~~receiver, assignee, or other similar representative thereof.~~

22 ~~11.~~ "Project" means ~~any airport operated by the authority, including all real and personal~~  
23 ~~property, structures, machinery, equipment, and appurtenances or facilities which are~~  
24 ~~part of such airport or used or useful in connection therewith either as ground facilities~~  
25 ~~for the convenience of handling aviation equipment, passengers, and freight or as part~~  
26 ~~of aviation operation, air navigation, and air safety operation.~~

27 ~~12.9.~~ "Real property" means lands, structures, and interests in land, including lands under  
28 water and riparian rights, and ~~any and~~ all things and rights usually included within the  
29 term real property, including ~~not only~~ fee simple absolute ~~but also~~ any and all lesser  
30 interests, such as easements, rights of way, uses, leases, licenses, and all other

1 incorporeal hereditaments and every estate, interest, or right, legal or equitable,  
2 pertaining to real property.

3 ~~13-10.~~ "Regional airport authority" or "regional authority" means a regional airport authority  
4 created pursuant to the provisions of under section 2-06-03.

5 **SECTION 2. AMENDMENT.** Section 2-06-01.1 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **2-06-01.1. Aeronautics commission may exercise powers of airport authority -**  
8 **Exceptions.**

9 The North Dakota aeronautics commission ~~shall have all~~has the powers of an airport  
10 authority as ~~defined~~provided in this chapter, except powers to certify or levy taxes or issue  
11 bonds, for the purpose of constructing and operating a public airport near the International  
12 Peace Garden and ~~for constructing and operating such other public airports or landing fields~~  
13 near international border ports of entry, ~~and near~~ state or national parks, or near recreational  
14 areas as the aeronautics commission may determine to be in the public interest.

15 **SECTION 3. AMENDMENT.** Section 2-06-01.2 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **2-06-01.2. Airport operation and income.**

18 The aeronautics commission ~~shall have~~has operational control of airports constructed under  
19 ~~the provisions of~~ section 2-06-01.1 and may provide for the imposition of landing fees, granting  
20 of fuel and service concessions, or the lease of portions of the premises for other related airport  
21 services or for purposes ~~not inconsistent~~consistent with the use of the premises for airport  
22 purposes. All income from the operation of such airports must be deposited in the state treasury  
23 in a special operating fund to be known as the airport operating fund. All expenditures from such  
24 fund must be within the limits of legislative appropriations and must be made upon vouchers,  
25 signed and approved by the director of the aeronautics commission. ~~Upon approval of such~~  
26 ~~vouchers by the office of the budget, warrant checks for such expenditures must be prepared by~~  
27 ~~the office of management and budget.~~

28 **SECTION 4. AMENDMENT.** Section 2-06-02 of the North Dakota Century Code is amended  
29 and reenacted as follows:

1       **2-06-02. Creation of municipal airport authority - Dissolution.**

2       1. ~~Any~~A governing body of a municipality, by resolution of its governing body, may create  
3       a ~~public body corporate and politic to be known as a~~ municipal airport authority, which  
4       is ~~authorized to exercise its functions upon the appointment and qualification of the~~  
5       ~~first commissioners thereof; or the governing body by resolution may determine or~~  
6       choose to exercise ~~any or all~~the powers granted to ~~such authorities in~~provided to a  
7       municipal airport authority under this chapter ~~until or unless such powers are or have~~  
8       ~~been conferred upon a municipal or regional airport authority.~~

9       2. Upon the adoption of a resolution creating a municipal airport authority, the governing  
10      body of the municipality, ~~pursuant to the resolution,~~ shall appoint five persons as  
11      commissioners of the authority. The commissioners who are first appointed ~~are~~must  
12      be designated to serve for terms of one, two, three, four, and five years, respectively,  
13      but thereafter, each commissioner must be appointed for a term of five years, except  
14      that vacancies occurring ~~otherwise~~other than by expiration of term must be filled for  
15      the unexpired term by the governing body.

16      3. Upon the adoption of a resolution to exercise the powers provided to a municipal  
17      airport authority under this chapter, the members of the governing body of the  
18      municipality constitute the commissioners of the authority.

19      ~~2.4.~~ After payment of all debts, a municipal airport authority may be dissolved by resolution  
20      of the governing body of the municipality. Before dissolution, the property of the airport  
21      authority ~~either~~ must be transferred to the municipality or sold, and the net proceeds of  
22      sale deposited in the general fund of the municipality.

23      **SECTION 5. AMENDMENT.** Section 2-06-03 of the North Dakota Century Code is amended  
24      and reenacted as follows:

25      **2-06-03. ~~Creation of regional~~Regional airport authority creation or expansion -**  
26      **Dissolution.**

27      1. ~~Two or more municipalities, whether in this state or in an adjoining state, provided that~~  
28      ~~at least one~~A municipality is in North Dakota, by joint resolution with one or more  
29      municipalities in North Dakota or an adjoining state, may create a ~~public body,~~  
30      ~~corporate and politic, to be known as a~~ regional airport authority which is ~~authorized~~  
31      ~~to~~which may exercise its functions upon the issuance by the secretary of state of a

1 certificate of incorporation. ~~The~~Under the joint resolution, the governing bodies of the  
2 municipalities participating in the creation of a regional airport authority, ~~pursuant to~~  
3 ~~such joint resolution,~~ shall appoint at least five persons as commissioners of the  
4 regional airport authority. The number to be appointed and their representation must  
5 be provided for in the joint resolution. ~~The term of office of each regional airport~~  
6 ~~authority commissioner must be in accordance with subsection 5.~~The commissioners  
7 who are first appointed must be designated to serve terms of one, two, three, four, or  
8 five years with at least one commissioner's term expiring each year. Each such  
9 regional airport authority, ~~once created,~~ shall organize, elect officers ~~for terms of office~~  
10 ~~to be fixed by agreement,~~ and adopt and ~~amend from time to time~~procedural rules for  
11 ~~its own procedure not inconsistent~~consistent with section 2-06-06.

12 2. A regional airport authority may be ~~increased from time to time~~expanded to serve one  
13 or more additional municipalities if the governing body of each additional municipality  
14 and, the governing body of each of the municipalities then included in the regional  
15 authority, and the commissioners of the regional authority, ~~respectively,~~ each adopt a  
16 resolution consenting thereto; ~~provided, that if~~to the expansion.  
17 If a municipal airport authority exists for any municipality seeking to be included in the a  
18 regional authority is then in existence, the commissioners of ~~the that~~ municipal  
19 authority must consent to the inclusion of the municipality in the regional authority, ~~and~~  
20 if. If the municipal authority has any bonds outstanding, one hundred per-  
21 centumpercent of the holders of the bondsbondholders must provide written consent,  
22 ~~in writing,~~ to the inclusion of the municipality in the regional authority. Upon the  
23 inclusion of any municipality in the regional authority, all rights, contracts, obligations,  
24 and property, real and personal, of the municipal authority must be in the name of and  
25 vest in the regional authority.

26 3. ~~A~~The area encompassed in a regional airport authority may be decreased if each of  
27 the municipalities ~~then~~ included in the regional authority and the commissioners of the  
28 regional authority consent to the decrease and make provisions for the retention or  
29 disposition of its assets and liabilities; ~~provided, that if.~~ If the regional authority has any  
30 bonds outstanding, no decrease may be effected unless one hundred per-

1           ~~centumpercent~~ of the ~~holders of the bonds~~bondholders provide written consent thereto-  
2           ~~in writing~~to the decrease.

3           4. A municipality may not adopt any resolution authorized by this section without a public  
4           hearing ~~thereon~~ on the resolution. ~~Notice thereof~~Ten days prior notice of the hearing  
5           must be ~~given at least ten days prior thereto~~published in a newspaper published in the  
6           municipality; or, if there is no newspaper published ~~therein~~in the municipality, then in a  
7           newspaper having general circulation in the municipality.

8           5. ~~All commissioners~~The term of a commissioner of a regional airport authority ~~must be~~  
9           ~~appointed for terms of~~is five years each, except that a vacancy ~~occurring otherwise~~  
10          ~~than by expiration of~~in an unexpired term must be filled for the ~~unexpired~~remainder of  
11          the term in the same manner as the original appointments.

12          6. After payment of all debts, a regional airport authority may be dissolved by a joint  
13          resolution of the governing bodies of the participating municipalities. Before  
14          dissolution, the property of the regional airport authority must be sold, transferred, or  
15          distributed as agreed by the participating municipalities. Any remaining funds of the  
16          regional airport authority must be distributed to the general funds of the participating  
17          municipalities in proportion to their support of the regional airport authority.

18          **SECTION 6. AMENDMENT.** Section 2-06-04 of the North Dakota Century Code is amended  
19          and reenacted as follows:

20          **2-06-04. Certificate of incorporation of regional airport authority.**

21          1. Upon the appointment and qualification of the commissioners first appointed to a  
22          regional airport authority, ~~they~~the commissioners shall submit to the secretary of state  
23          a certified copy of each resolution adopted ~~pursuant to subsection 1 of~~under section  
24          2-06-03 hereof by the municipalities included in the regional authority, and ~~upon~~  
25          ~~receipt thereof~~ the secretary of state shall issue a certificate of incorporation to the  
26          regional airport authority upon receipt of the resolutions.

27          2. When a regional airport authority is increased or decreased ~~pursuant to~~under section  
28          2-06-03, it shall forward to the secretary of state a certified copy of each resolution  
29          adopted ~~pursuant thereto~~under that section, and ~~upon receipt thereof~~, the secretary of  
30          state shall issue an amended certificate of incorporation ~~in accordance therewith~~upon  
31          receipt of the resolutions.

1       **SECTION 7. AMENDMENT.** Section 2-06-06 of the North Dakota Century Code is amended  
2 and reenacted as follows:

3       **2-06-06. Commissioners - Compensation - Meetings - Officers.**

4       Each commissioner of an airport authority shall hold office until the commissioner's  
5 successor has been appointed and has qualified. The certificates of the appointment and  
6 reappointment of commissioners must be filed with the authority. The appointing authority shall  
7 establish the rate of compensation for commissioners, and actual expenses incurred by  
8 commissioners may be reimbursed at the official reimbursement rates of the appointing  
9 authority.

10       The powers of each authority are vested in ~~the~~its commissioners thereof. A majority of the  
11 commissioners of an authority constitutes a quorum for the purpose of conducting business ~~of~~  
12 ~~the authority and exercising its powers and for all other purposes.~~ Action may be taken by the  
13 authority upon a vote of not less than a majority of the commissioners present.

14       ~~There must be elected~~Each authority shall elect a chairman and vice chairman from among  
15 the commissioners. An authority may employ an executive director, secretary, technical experts,  
16 and ~~such~~ other officers, agents, and employees, permanent and temporary, as it may require,  
17 and shall determine their qualifications, duties, and compensation. ~~For such legal services as it~~  
18 ~~may require, an~~An authority may call upon obtain legal services from the chief law officer of the  
19 municipality or municipalities included in the authority or may employ its own legal counsel and  
20 ~~legal staff.~~ An authority may delegate powers or duties to ~~one or more of~~ its agents or  
21 employees ~~such powers or duties~~ as it may ~~deem~~deems proper.

22       **SECTION 8. AMENDMENT.** Section 2-06-07 of the North Dakota Century Code is amended  
23 and reenacted as follows:

24       **2-06-07. General powers of an authority.**

25       An authority has all the powers necessary or convenient to carry out the purposes of this  
26 chapter including the power to certify, annually to the governing bodies creating it, the amount of  
27 the proposed tax to be levied by ~~said~~the governing bodies for airport purposes within the  
28 limitations in section 2-06-15, ~~including~~and the power:

- 29       1. To sue and be sued, to have a seal, and to have perpetual succession.
- 30       2. To execute ~~such~~ contracts and other instruments and ~~take such other action as may~~  
31       be necessary or convenient to carry out the purposes of this chapter.

- 1       3. To plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain,  
2       equip, operate, regulate, and protect airports ~~and air navigation facilities~~, within this  
3       state and within any adjoining state, including the acquisition, construction, installation,  
4       equipment, maintenance, and operation at such airports or buildings and other  
5       facilities for the servicing of aircraft or for comfort and accommodation of air travelers,  
6       and the purchase and sale of supplies, goods, and commodities as are incident to the  
7       operation of its airport properties. For such purposes, an authority may by purchase,  
8       gift, devise, lease, eminent domain proceedings, or otherwise acquire property, real or  
9       personal, ~~or any interest therein~~, including easements in airport hazards or land  
10      outside the boundaries of an airport or airport site, as are necessary to permit the  
11      removal, elimination, obstruction-marking or obstruction-lighting of airport hazards, or  
12      to prevent the establishment of airport hazards.
- 13      4. To establish comprehensive airport zoning regulations in accordance with the laws of  
14      this state. For the purpose of this chapter, a regional airport authority has the same  
15      powers as all other political subdivisions ~~in the adoption to adopt and enforcement~~  
16      of ~~enforce~~ comprehensive airport zoning regulations ~~as provided for by~~ under the laws  
17      of this state.
- 18      5. To acquire, by purchase, gift, devise, lease, eminent domain proceedings or otherwise,  
19      existing airports ~~and air navigation facilities~~; ~~provided, however,~~ an authority may not  
20      acquire or take over any airport ~~or air navigation facility~~ owned or controlled by another  
21      authority, a municipality, or public agency of this or any other state without the consent  
22      of ~~such~~ the authority, municipality, or public agency.
- 23      6. To establish or acquire and maintain airports in, over, and upon any public waters of  
24      this state, and any submerged lands under such public waters; and to construct and  
25      maintain terminal buildings, landing floats, causeways, roadways, and bridges for  
26      approaches to or connecting with any ~~such~~ airport, and landing floats and breakwaters  
27      for the protection ~~thereof~~ of an airport.
- 28      7. To establish toll access roadways leading to air carrier terminal buildings. The toll  
29      access charge may not exceed one dollar per vehicle.

30      **SECTION 9. AMENDMENT.** Section 2-06-08 of the North Dakota Century Code is amended  
31      and reenacted as follows:



1           **2-06-08. Eminent domain.**

2           In the acquisition of property by eminent domain proceedings authorized by this chapter, an  
3 airport authority shall proceed in the manner provided by chapter 32-15 of the laws of this state,  
4 and such other laws that may now or hereafter apply to the state or to political subdivisions of  
5 this state in exercising the right of eminent domain. The fact that the property to be acquired by  
6 eminent domain proceedings was and other applicable laws. An airport authority may use  
7 eminent domain to acquire property acquired by its current owner by eminent domain  
8 proceedings does not prevent its acquisition by such proceedings by the authority. For the  
9 purpose of making surveys and examinations relative to eminent domain proceedings, it is  
10 lawful for the. The authority to may enter upon the land, doing to make surveys and  
11 examinations related to eminent domain proceedings as long as doing so results in no  
12 unnecessary damage. Notwithstanding the provisions of any other statute or other law of this  
13 state, an authority may take possession of any property to be acquired by eminent domain  
14 proceedings at any time after the commencement of such the proceedings. The authority is not  
15 precluded from abandoning such may abandon the proceedings at any time prior to before final  
16 order and decree of the court having jurisdiction of such the proceedings, provided that the  
17 authority shall be is liable to the owner of the property for any damage done to the property  
18 during possession thereof by the authority.

19           **SECTION 10. AMENDMENT.** Section 2-06-09 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21           **2-06-09. Disposal of airport property.**

22           Except as ~~may be limited by the terms and conditions of any grant, loan, or agreement~~  
23 authorized by section 2-06-13, an authority may, by sale, lease, or otherwise, dispose of any  
24 airport, ~~air navigation facility,~~ or other property, ~~or portion thereof or interest therein,~~ acquired  
25 pursuant to under this chapter. ~~Such~~ The disposal by sale, lease, or otherwise must be in  
26 accordance with the laws of this state governing the disposition of other public property, except  
27 that in the case of disposal to another authority, a municipality or an agency of the state or  
28 federal government for use and operation as a public airport, the sale, lease, or other disposal  
29 may be effected in such the manner ~~and upon such terms as~~ the commissioners of the authority  
30 ~~may~~ deem in the best interest of civil aviation.

1       **SECTION 11. AMENDMENT.** Section 2-06-10 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3       **2-06-10. Bonds and other obligations.**

- 4       1. An authority may borrow money and issue bonds for any of its corporate purposes ~~and~~  
5 ~~issue its bonds therefor~~, including refunding bonds, in ~~such~~the form and upon ~~such~~the  
6 terms as it ~~may determine~~chooses, payable out of any revenues of the authority,  
7 including grants or contributions from the federal government or other sources, ~~which.~~  
8 The bonds may be sold at not less than ninety-eight percent of par plus the interest  
9 accrued on the bonds to the date of the delivery ~~thereof~~.
- 10       2. Bond issues sold at private sale must bear interest at a rate or rates and be sold at a  
11 price resulting in an average net interest cost not exceeding twelve percent per  
12 annum. There is no interest rate ceiling on those issues sold at public sale or to the  
13 state of ~~North Dakota~~ or any of its agencies or instrumentalities.
- 14       3. Any bonds issued ~~pursuant to~~under this chapter by an authority, or by a governing  
15 body exercising the powers ~~thereof~~of an authority, are payable, as to principal and  
16 interest, solely from revenues of an airport ~~or air navigation facility or facilities~~, and  
17 must so state on their face, but if any ~~such~~ issue of bonds constitutes an indebtedness  
18 within the meaning of any constitutional or statutory debt limitation or restriction, each  
19 bond of the issue is, subject to the requirements of subsection 9, an equally valid and  
20 binding special obligation of the authority or municipality, ~~as the case may be~~, in  
21 accordance with its terms, in an amount proportionate to the total amount of the issue  
22 which is within the limitation or restriction. Neither the commissioners of an authority  
23 nor the governing body of a municipality nor any person executing ~~such~~the bonds is  
24 liable personally ~~thereon~~ by reason of the issuance ~~thereof~~, except to the extent ~~that~~  
25 the bonds, if constituting an indebtedness, exceed any applicable limitation or  
26 restriction.
- 27       4. ~~In case~~if any of the commissioners or officers of an authority or municipality whose  
28 signatures appear on any bonds or coupons ~~cease~~ceases to be ~~such commissioners~~a  
29 commissioner or ~~officers~~officer after authorization but before the delivery of the bonds,  
30 ~~the signature shall, nevertheless, be~~ the signature of the commissioner or official  
31 remains valid and sufficient for all purposes, the same as if the

1 ~~commissioners~~commissioner or ~~officers~~officer had remained in office until delivery. Any  
2 ~~provision of any law to the contrary notwithstanding, any bonds issued pursuant-~~  
3 ~~to~~under this chapter are fully negotiable.

4 5. Any bond reciting in substance that it has been issued by the authority or municipality  
5 ~~pursuant to~~under this chapter and for a purpose ~~or purposes~~ authorized by this  
6 chapter is ~~conclusively~~must be deemed, in any suit, action, or proceeding involving the  
7 validity or enforceability of the bond or the security ~~therefor~~for the bond, to have been  
8 issued ~~pursuant to~~under this chapter and for ~~such~~that purpose ~~or purposes~~.

9 6. Bonds issued by an authority or municipality ~~pursuant to~~under this chapter are  
10 declared to be issued for an essential public and governmental purpose and, together  
11 with interest ~~thereon~~on the bonds, and income ~~therefrom~~from the bonds, are exempt  
12 from all taxes.

13 7. For the security of any such bonds, the authority or municipality may by resolution  
14 ~~make and enter into~~ any covenant, agreement, or indenture authorized to be made as  
15 security for revenue bonds issued under chapter 40-35. The sums required ~~from time-~~  
16 ~~to time~~ to pay principal and interest and to create and maintain a reserve for the bonds  
17 may be made payable from any ~~and all~~ revenues referred to in this chapter, ~~prior-~~  
18 ~~to~~before the payment of current costs of operation and maintenance of the facilities.

19 8. The governing body of ~~the~~a municipality that issues revenue bonds under this chapter  
20 shall levy a general tax upon all ~~of the~~ taxable property in the municipality for the  
21 payment of any deficiency in airport authority funds to pay principal or interest due for  
22 ~~revenue bonds issued under this chapter~~the bonds before August 1, 2015, and made  
23 payable from revenues of an airport authority. The governing body of the municipality  
24 may levy a general tax upon all ~~of the~~ taxable property in the municipality for the  
25 payment of any deficiency that is likely to occur within one year in airport authority  
26 funds to pay principal or interest due for revenue bonds issued under this chapter  
27 before August 1, 2015, and made payable from revenues of an airport authority. The  
28 taxes levied by the municipality under this subsection are not subject to any limitation  
29 of rate or amount applicable to other municipal taxes.

30 9. Revenue bonds issued by an airport authority after July 31, 2015, must include the  
31 commitment of the municipality for the payment of any deficiency in airport authority

1 funds to pay principal or interest due for revenue bonds as provided in this subsection.  
2 The governing body of the municipality shall levy a general tax upon all of the taxable  
3 property in the municipality for the payment of any deficiency in airport authority funds  
4 to pay principal or interest due for revenue bonds issued under this chapter after  
5 July 31, 2015, and made payable from revenues of an airport authority. The governing  
6 body of the municipality may levy a general tax upon all of the taxable property in the  
7 municipality for the payment of any deficiency that is likely to occur within one year in  
8 airport authority funds to pay principal or interest due for revenue bonds issued under  
9 this chapter after July 31, 2015, and made payable from revenues of an airport  
10 authority. The taxes levied by the municipality under this subsection are not subject to  
11 any limitation of rate or amount applicable to other municipal taxes. The commitment  
12 of the municipality and the issuance of the bonds must be approved by a majority vote  
13 of the governing body of each municipality involved or, upon placement of the question  
14 on the ballot at a primary, general, or special election, by approval of a majority of the  
15 qualified electors of the municipalities voting on the question.

16 **SECTION 12. AMENDMENT.** Section 2-06-11 of the North Dakota Century Code is  
17 amended and reenacted as follows:

18 **2-06-11. Operation and use privileges.**

- 19 1. a In connection with the operation of an airport ~~or air navigation facility~~ owned or  
20 controlled by an authority, the authority may enter ~~into~~ contracts, leases, and  
21 other arrangements for terms not to exceed thirty years with any persons:
- 22 a. (1) Granting the privilege of using or improving the airport ~~or air navigation-~~  
23 ~~facility~~ or any portion or facility thereof ~~or space therein~~ of the airport for  
24 commercial purposes;
- 25 b. (2) Conferring the privilege of supplying goods, commodities, things, services,  
26 or facilities at the airport ~~or air navigation facility~~; and
- 27 e. (3) Making available services to be furnished by the authority or its agents at  
28 the airport ~~or air navigation facility~~.
- 29 b. In each case the authority may establish the terms and conditions and fix the  
30 charges, rentals, or fees for the privileges or services, which ~~shall~~ must be  
31 reasonable and uniform for the same class or privilege or service and must be

1 established with due regard to the property and improvements used and the  
2 expenses of operation to the authority; ~~provided, that in no case may.~~ However,  
3 the public may not be deprived of its rightful, equal, and uniform use of the  
4 airport, ~~air navigation facility, or portion of facility thereof~~ the airport.

- 5 2. Except as may be limited by ~~the terms and conditions of~~ any grant, loan, or agreement  
6 authorized by section 2-06-13, an authority may by contract, lease, or other  
7 arrangements, upon a consideration fixed by it, grant to any qualified person for a term  
8 not to exceed thirty years the privilege of operating, as agent of the authority or  
9 otherwise, any airport owned or controlled by the authority; ~~provided, that no.~~  
10 However, the person may not be granted any authority to operate an airport other than  
11 as a public airport ~~or to,~~ and may not enter into any contracts, leases, or other  
12 arrangements in connection with the operation of the airport which the authority might  
13 not have undertaken under subsection 1.

14 **SECTION 13. AMENDMENT.** Section 2-06-12 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **2-06-12. Regulations.**

17 An authority ~~is authorized to~~ may adopt, amend, and repeal ~~such~~ any reasonable resolutions,  
18 rules, ~~regulations,~~ and orders as it deems necessary for the management, government, and use  
19 of any airport ~~or air navigation facility owned by it or under its control~~ it owns or controls. ~~No~~ An  
20 airport authority may not issue any rule, regulation, order, or standard prescribed by the  
21 ~~commission may be~~ inconsistent with, or contrary to, any act of the Congress of the United  
22 States or any regulation ~~promulgated~~ or standard established ~~pursuant thereto~~ under federal  
23 law. ~~The~~ Each airport authority shall keep on file at the principal office of the authority for public  
24 inspection a copy of all its rules ~~and regulations.~~

25 **SECTION 14. AMENDMENT.** Section 2-06-13 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **2-06-13. Federal and state aid.**

- 28 1. An authority ~~is authorized to~~ may accept, receive, receipt for, disburse, and expend  
29 federal and state moneys and other moneys, public or private, made available by grant  
30 or loan or both, to accomplish, ~~in whole or in part,~~ any of the purposes of this chapter.  
31 All federal moneys accepted under this section must be accepted and expended by

1 the authority upon ~~such~~the terms and conditions as are prescribed by the United  
2 States and as are consistent with state law; and all state moneys accepted under this  
3 section must be accepted and expended by the authority upon ~~such~~the terms and  
4 conditions as are prescribed by the state.

5 2. An authority ~~is authorized to~~may designate the state aeronautics commission as its  
6 agent to ~~accept~~:

7 a. Accept, receive, receipt for, and disburse federal and state moneys, and other  
8 moneys, public or private, made available by grant or loan or both, to accomplish  
9 ~~in whole or in part~~, any of the purposes of this chapter; and ~~to designate the state~~  
10 ~~aeronautics commission as its agent in contracting~~

11 b. Contract for and ~~supervising~~supervise the planning, acquisition, development,  
12 construction, improvement, maintenance, equipment, or operation of any airport  
13 ~~or other air navigation facility~~.

14 3. An authority may enter ~~into~~ an agreement with the said aeronautics commission  
15 prescribing the terms and conditions of the agency in accordance with ~~such~~the terms  
16 and conditions as are prescribed by the United States, if federal money is involved,  
17 and in accordance with the applicable laws of this state. All federal moneys accepted  
18 under this section by the state aeronautics commission must be accepted and  
19 transferred or expended by ~~said~~the commission upon ~~such~~the terms and conditions as  
20 are prescribed by the United States. All moneys received by the state aeronautics  
21 commission ~~pursuant to this~~under subsection shall ~~2~~ must be deposited in the state  
22 treasury, and unless otherwise prescribed by the agency from which ~~such~~the moneys  
23 were received, must be kept in separate funds designated according to the purposes  
24 for which the moneys were made available, and held by the state in trust for ~~such~~those  
25 purposes.

26 **SECTION 15. AMENDMENT.** Section 2-06-14 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **2-06-14. Tax levy may be requested by airport authority or municipality - Financial**  
29 **report.**

30 An airport authority may request annually from the governing bodies of the municipalities  
31 within the authority, an amount of tax to be levied by each municipality ~~participating in the~~

1 ~~creation of the airport authority, and the municipality~~municipalities may levy the amount  
2 requested, ~~pursuant to provisions of~~under the law authorizing cities and other political  
3 subdivisions of this state to levy taxes for airport purposes. With its levy request under this  
4 section, an airport authority may certify its current and anticipated revenues and resources, any  
5 anticipated revenue shortfall for bonded debt payment, and the amount necessary from its  
6 property tax levy authority for its annual principal and interest payment for bonded debt incurred  
7 under this chapter ~~and, if it.~~ If the authority finds ~~that~~ the certified amount is necessary for the  
8 annual bonded debt payment, the municipality shall levy for the airport authority not less than  
9 the certified amount. In the year for which the levy is sought, an airport authority that is not a  
10 city or county governing body and which is seeking approval of a property tax levy of a city or  
11 county governing body under this chapter ~~must~~shall file with the auditor of each participating  
12 city or county, at a time and in a format prescribed by the auditors, a financial report for the  
13 preceding calendar year showing the ending balances of each fund held by the airport authority  
14 during that year. The levy made may not exceed the maximum levy permitted by the laws of this  
15 state for airport purposes.

16 The municipality shall collect the taxes levied for an airport authority in the same manner as  
17 other taxes are levied and collected. The proceeds of ~~such~~the taxes must be deposited in a  
18 special account ~~or accounts~~ in which other revenues of the authority are deposited, and may be  
19 expended by the authority as ~~provided for in~~allowed under this chapter.

20 ~~Prior to~~Before the issuance of bonds under section 2-06-10, the airport authority or the  
21 municipality may by resolution provide its commitment ~~as provided in~~under section 2-06-10 that  
22 the total amount of ~~such~~ taxes then authorized by law, or such portion ~~thereof~~ as may be  
23 specified by the resolution, will be certified, levied, and deposited annually until the bonds and  
24 interest are fully paid.

25 **SECTION 16. AMENDMENT.** Section 2-06-15 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27 **2-06-15. Tax levy by county, city, or township for airport or airport authority purposes.**

28 A county, city, or township supporting an airport or airport authority may levy ~~not~~  
29 ~~exceeding~~up to four mills for airport or airport authority purposes. If any city or township within  
30 the county is levying a tax for support of an airport or airport authority and the total of the county  
31 and city or county and township levies exceeds four mills, the county tax levy within the city or

1 township levying under this section must be reduced so the total levy in the city or township  
2 does not exceed four mills.

3 **SECTION 17. AMENDMENT.** Section 2-06-16 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **2-06-16. Joint operations.**

- 6 1. For the purposes of this section, unless otherwise qualified, the term "public agency"  
7 includes municipality and authority, ~~each as defined in this chapter,~~ any agency of the  
8 state government and of the United States, and any municipality, political subdivision,  
9 and agency of an adjoining state; and the term "governing body" includes  
10 commissioners of an authority, the governing body of a municipality, and the head of  
11 an agency of a state or the United States if the public agency is ~~other than~~not an  
12 authority or municipality. All powers, privileges, and authority granted by this chapter  
13 may be exercised ~~and enjoyed~~ by an authority jointly with any public agency of this  
14 state, and jointly with any public agency of any adjoining state or of the United States  
15 to the extent that the laws of ~~such~~the other state or of the United States permit such  
16 joint exercise ~~of enjoyment~~. Any agency of the state government, when acting jointly  
17 with any authority, may exercise ~~and enjoy~~ all the powers, privileges, and authority  
18 conferred by this chapter upon an authority.
- 19 2. Any two or more public agencies may enter ~~into~~ agreements with each other for joint  
20 action ~~pursuant to the provisions of~~under this section. Each agreement must specify  
21 its duration, the proportionate interest ~~which~~that each public agency must have in the  
22 property, facilities, and privileges involved in the joint undertaking, the proportion of  
23 costs ~~of operation, etc.,~~ to be borne by each public agency, and ~~such~~ other terms as  
24 ~~are deemed~~ necessary or required by law. The agreement may ~~also~~ provide for  
25 amendments and termination; disposal of ~~all or any of~~ the property, facilities, and  
26 privileges jointly owned, ~~prior to~~before, or at such times as ~~said~~the property, facilities,  
27 and privileges, ~~or any part thereof,~~ cease to be used for the purposes provided in this  
28 chapter, or upon termination of the agreement; the distribution of the proceeds  
29 received upon any disposal, and of any funds or other property jointly owned ~~and~~  
30 ~~undisposed of~~; the assumption of payment of any indebtedness arising from the joint  
31 undertaking which remains unpaid upon the disposal of all assets or upon a



1 termination of the agreement; and such other provisions as may be necessary or  
2 convenient.

3 3. Public agencies acting jointly pursuant to ~~under~~ this section shall create a joint board  
4 ~~which shall consist~~ consisting of members appointed by the governing body of each  
5 participating public agency. The number to be appointed, ~~their~~ and the term and  
6 compensation, ~~if any,~~ of the members must be provided for in the joint agreement.  
7 Each joint board shall organize, select officers for such terms ~~as~~ that are fixed by the  
8 agreement, and adopt and amend ~~from time to time~~ rules for its own procedure. The  
9 joint board ~~has power,~~ as agent of the participating public agencies, ~~to~~ may plan,  
10 acquire, establish, develop, construct, enlarge, improve, maintain, equip, operate,  
11 regulate, protect, and police any airport ~~or air navigation facility~~ or airport hazard to be  
12 jointly acquired, controlled, and operated, and ~~the board may be authorized by the~~  
13 participating public agencies may authorize the joint board to exercise ~~on behalf of its~~  
14 ~~constituent public agencies~~ all the powers of each the constituent public agencies with  
15 respect to the airport, ~~air navigation facility,~~ or airport hazard, subject to the limitations  
16 of subsection 4.

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

21 b. No airport, ~~air navigation facility,~~ or airport hazard, or real or personal property,  
22 the cost of which is in excess of sums fixed ~~therefor~~ by the joint agreement or  
23 allotted in the annual budget, may be acquired, established, or developed by the  
24 joint board without the approval of the governing bodies of its constituent public  
25 agencies.

26 c. Subject to chapter 32-15, the joint board may institute eminent domain  
27 proceedings under this section ~~may be instituted by the joint board only by~~  
28 ~~authority of~~ if the governing bodies of the constituent public agencies of the joint  
29 board authorize the board to do so. If ~~so~~ authorized, ~~such~~ the proceedings must  
30 be instituted in the names of the constituent public agencies jointly, and the

- 1                   property so acquired shall ~~be~~ must be held by ~~said~~ the public agencies as tenants in  
2                   common.
- 3           d.   The joint board may not dispose of any airport, ~~air navigation facility~~, or real  
4           property under its jurisdiction except with the consent of the governing bodies of  
5           its constituent public agencies, ~~provided that~~ except the joint board may, without  
6           ~~such~~ that consent, enter ~~into~~ contracts, leases, or other arrangements  
7           contemplated by section 2-06-11 ~~of this chapter~~.
- 8           e.   Any resolutions, rules, ~~regulations~~, or orders of the joint board dealing with  
9           subjects authorized by section 2-06-11 become effective only upon approval of  
10          the governing bodies of the constituent public agencies, ~~provided that upon such~~.  
11          Upon the approval, the resolutions, rules, ~~regulations~~, or orders of the joint board  
12          have the same ~~force and~~ effect in the territories or jurisdictions involved as the  
13          ordinances, resolutions, rules, ~~regulations~~, or orders of each public agency would  
14          have in its ~~own~~ territory or jurisdiction.
- 15          5.   ~~For~~ The joint board shall create a joint fund for the purpose of providing the joint board  
16          with moneys for the necessary expenditures ~~in carrying to carry out the provisions of~~  
17          this section, ~~a joint fund shall be created and maintained, and~~ and into which must be  
18          deposited the share of each of the constituent public agencies as provided by the joint  
19          agreement. Any federal, state, or other grants, contributions, or loans, and the  
20          revenues obtained from the joint ownership, control, and operation of any airport ~~or air~~  
21          ~~navigation facility~~ under the jurisdiction of the joint board must be paid into the joint  
22          fund. Disbursements from ~~such~~ the fund must be made by order of the board, subject  
23          to the limitations prescribed in subsection 4.

24           **SECTION 18. AMENDMENT.** Section 2-06-17 of the North Dakota Century Code is  
25   amended and reenacted as follows:

26           **2-06-17. Public purpose.**

27           The acquisition of any land, or interest therein, pursuant to this chapter, the planning,  
28   acquisition, establishment, development, construction, improvement, maintenance, equipment,  
29   operation, regulation, and protection of airports ~~and air navigation facilities~~, including the  
30   acquisition or elimination of airport hazards, and the exercise of any other powers ~~herein~~  
31   granted to authorities and other public agencies, to be severally or jointly exercised, are ~~hereby~~

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

6 **SECTION 19. AMENDMENT.** Section 2-06-18 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **2-06-18. Airport property and income exempt from taxation.**

9 Any property in this state acquired by an authority for airport purposes pursuant to the  
10 provisions of under this chapter, and any income derived by the authority from the ownership,  
11 operation, or control thereof of the property, is exempt from taxation to the same extent as other  
12 property used for public purpose.

13 **SECTION 20. AMENDMENT.** Section 2-06-19 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **2-06-19. Municipal cooperation.**

16 For the purpose of aiding and cooperating in the planning, undertaking, construction, or  
17 operation of airports and air navigation facilities pursuant to the provisions of under this chapter,  
18 any municipality for which an authority has been created may, upon such terms, with or without  
19 consideration, as it may determine:

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

- 1       3. Cause water, sewer, or drainage facilities, or any other facilities ~~which~~that it is  
2       empowered to provide, to be furnished adjacent to or in connection with ~~such~~ airports  
3       or ~~air navigation facilities~~.
- 4       4. Dedicate, sell, convey, or lease any of its interest in any property, or grant easements,  
5       licenses, or any other rights or privileges ~~therein~~in the property to the authority.
- 6       5. Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads,  
7       roadways, and walks from established streets or roads to ~~such~~ airports or ~~air~~  
8       navigation facilities.
- 9       6. Do ~~any and all things, whether or not specifically authorized in this section and not~~  
10      otherwise prohibited by law, ~~that~~ are necessary or convenient to aid and cooperate  
11      with the authority in the planning, undertaking, construction, or operation of airports  
12      and ~~air navigation facilities~~.
- 13      7. Enter into agreements with the authority respecting action to be taken by the  
14      municipality ~~pursuant to the provisions of~~under this section.

15       **SECTION 21. AMENDMENT.** Section 2-06-20 of the North Dakota Century Code is  
16      amended and reenacted as follows:

17       **2-06-20. Out-of-state airport jurisdiction authorized - Reciprocity with adjoining states**  
18      **and governmental agencies.**

- 19      1. For the purpose of this section, "governmental agency" means any municipality, city,  
20      ~~town,~~ county, public corporation, or other public agency.
- 21      2. This state or any governmental agency of this state having ~~any~~ powers with respect to  
22      planning, establishing, acquiring, developing, constructing, enlarging, improving,  
23      maintaining, equipping, operating, regulating, or protecting airports or ~~air navigation~~  
24      facilities within this state, may exercise those powers within any state or jurisdiction  
25      adjoining this state, subject to the laws of that state or jurisdiction.
- 26      3. Any state adjoining this state or any governmental agency thereof may plan, establish,  
27      acquire, develop, construct, enlarge, improve, maintain, equip, operate, regulate, and  
28      protect airports and ~~air navigation facilities~~ within this state, subject to the laws of this  
29      state applicable to airports and ~~air navigation facilities~~. Subject to chapter 32-15, the  
30      adjoining state or governmental agency has the power of eminent domain in this state,  
31      which must be exercised in the manner provided by the laws of this state governing

1           condemnation proceedings, ~~provided that~~except the power of eminent domain may not  
2           be exercised unless the adjoining state authorizes the exercise of that power ~~therein~~  
3           that state by this state or any governmental agency ~~thereof~~of this state having any of  
4           the powers mentioned in this section.

5           4. The powers granted in this section may be exercised jointly by two or more states or  
6           governmental agencies, including this state and its governmental agencies, in such  
7           combination ~~as may be~~ agreed upon by them.

8           **SECTION 22. AMENDMENT.** Section 2-06-21 of the North Dakota Century Code is  
9           amended and reenacted as follows:

10          **2-06-21. Supplemental authority.**

11          In addition to the general and special powers conferred by this chapter, every authority is-  
12          authorized to ~~may~~ exercise such powers ~~as are necessary incidental to the exercise of such~~the  
13          authority's general and special powers.

14          **SECTION 23. AMENDMENT.** Section 2-06-22 of the North Dakota Century Code is  
15          amended and reenacted as follows:

16          **2-06-22. ~~Savings clause – Airport zoning~~Zoning.**

17          ~~Nothing contained in this chapter shall be construed to limit any right, power, or authority-~~  
18          This chapter does not supersede the authority of a municipality to regulate airport hazards by  
19          zoning.

20          **SECTION 24. REPEAL.** Sections 2-06-05 and 2-06-23 of the North Dakota Century Code  
21          are repealed.