

AERONAUTICS

CHAPTER 89

SENATE BILL NO. 2085
(Legislative Council)
(Interim Committee on Transportation)

STATE ASSISTANCE FOR AIRPORTS

AN ACT to provide state assistance for airports served by commercial air carriers and to provide procedures for the distribution of funds to such airports; to amend and reenact sections 57-56-01.1 and 57-56-03 of the North Dakota Century Code, relating to a tax on sales of jet aviation motor fuel and the distribution of proceeds; and to provide an appropriation.

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

SECTION 1. DECLARATION OF PURPOSE.) The legislative assembly declares that the people of North Dakota are placing an ever increasing reliance upon airline service for their transportation needs. The legislative assembly further declares that the existing methods of financing airports are inadequate to meet the growing needs, and that the property tax on real estate located within the boundaries of municipalities operating airports is frequently an inequitable method of financing airports, inasmuch as many persons served by airports do not live within these boundaries. It is the intent of the legislative assembly to provide a means of better serving all of the people of North Dakota, and to provide an equitable method of sharing the financial burdens of modern airline service without neglecting the needs of the general aviation airports.

SECTION 2. STATE ASSISTANCE FOR AIRPORTS.) Each public airport owned or operated by a public entity and each airport operated by an airport authority in this state which is served by at least one airline which is certificated by the civil aeronautics board or was at one time served by an airline certificated by the civil aeronautics board, but is served by a scheduled commuter airline certificated by the North Dakota aeronautics commission shall be entitled to assistance as provided in this section, within the limits of legislative appropriations. The amount of assistance to each airport enplaning twenty thousand or more passengers shall be in the same proportion that the number of enplaned passengers on United States certificated air carriers from that airport during the last calendar year for which information is available bears to the

total number of enplaned passengers on all United States certificated air carriers at all of the airports in North Dakota enplaning twenty thousand or more passengers in that year. An airport eligible for assistance under this section which enplanes less than twenty thousand passengers in any one calendar year shall be paid not less than the sum of twenty-five thousand dollars at each distribution of assistance grants. The North Dakota aeronautics commission shall certify the number of enplaned passengers for each airport based upon information published in the airport activity statistics of United States certificated air carriers prepared jointly by the civil aeronautics board and the United States department of transportation for the most recent calendar year a publication is available. The North Dakota aeronautics commission shall determine the allocation to be made to each eligible airport on or before September first of each year and shall certify the amounts to the state treasurer. The state treasurer shall make payment on or before October first of each year. The governing body or airport authority which operates an airport entitled to assistance under this section shall deposit the moneys received in the same account or accounts as other airport funds are deposited and may expend the moneys as provided by law for other airport funds, including matching any funds made available by the United States. These moneys shall be used for airport construction or improvement projects including airport administration and terminal buildings, hangars, landing strips for aircraft, and purchase of sites for airports or landing fields and easements; and for maintenance, clearing of sites, marking, lighting, and engineering and navigational aids, all related to aeronautics.

SECTION 3. AMENDMENT.) Section 57-56-01.1 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-56-01.1. SEPARATE AND ADDITIONAL TAX ON SALES OF JET AVIATION MOTOR FUEL.) In addition to any other tax provided for by law, there is hereby levied and imposed a special excise tax on all sales of jet aviation motor fuel used by aircraft at the rate of two percent of the sale price of ~~such~~ jet aviation motor fuel used by aircraft on which a tax is levied by chapters 57-54 or 57-52 and which is refunded under the provisions of chapter 57-50. The proceeds of the additional tax provided for in this section shall be distributed by the aeronautics commission to the airports ~~where the jet-aviation-motor-fuel-is-sold~~, as determined under the provisions of section 57-56-03.

SECTION 4. AMENDMENT.) Section 57-56-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-56-03. DISTRIBUTION OF PROCEEDS.) The tax collected by the state tax commissioner under this chapter shall be deposited by the state tax commissioner in the state treasurer's office who shall deposit ~~said~~ the funds in the special fund known as state aeronautics commission construction fund, ~~and such~~. These funds are

hereby appropriated to the North Dakota aeronautics commission and shall be disbursed by warrant-check prepared by the department of accounts and purchases upon vouchers submitted by the North Dakota aeronautics commission and approved by the state-auditing-board office of the budget for the purpose of the matching of any funds made available by political subdivisions or airport authorities of this state, the state, or of the United States, only if the political subdivision or airport authority is not qualified for or does not receive any funds under section 2 of this Act. These funds shall be used for airport construction or improvement projects including airport administration and terminal buildings, hangars, ~~and-for-construction-of~~ landing strips for aircraft, and purchase of sites for airports or landing fields and easements; and for ~~improvements~~, maintenance, clearing of sites, marking, lighting, and engineering and navigational aids, all related to aeronautics in such amounts as the North Dakota aeronautics commission may determine and upon such projects as the North Dakota aeronautics commission may approve.

SECTION 5. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$1,000,000.00 to the North Dakota aeronautics commission for the purpose of making the distribution of grants to eligible airports as provided in section 2 of this Act, for the biennium beginning July 1, 1979, and ending June 30, 1981. During each year of the biennium, the grants shall be equal to fifty percent of the total appropriation provided in this Act.

Approved March 25, 1979

CHAPTER 90

SENATE BILL NO. 2043
(Legislative Council)
(Interim Committee on Agriculture)

WEATHER MODIFICATION RESEARCH AND DEVELOPMENT

AN ACT to create and enact two new sections to chapter 2-07 of the North Dakota Century Code, relating to the establishment of a program of weather modification research and development under the coordination and supervision of the weather modification board, and reports by the weather modification board to the governor; and to provide an appropriation.

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

SECTION 1.) A new section to chapter 2-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

WEATHER MODIFICATION BOARD TO ESTABLISH RESEARCH AND DEVELOPMENT PROGRAM.) The weather modification board shall establish a program of weather modification research and development in this state. The board shall supervise and coordinate all research and development activities in the state or research and development activities outside of the state participated in or conducted by any state institution or state or county agency.

SECTION 2.) A new section to chapter 2-07 of the North Dakota Century Code is hereby created and enacted to read as follows:

REPORT TO GOVERNOR.) The weather modification board shall prepare and transmit a biennial report to the governor describing the research and development activities conducted during the biennium, and the outcome thereof, and other related work and activities. The report shall be submitted in accordance with sections 54-06-03 and 54-06-04.

SECTION 3. APPROPRIATION.) There is hereby appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$50,000.00, or so much thereof as may be necessary, and from special funds derived from federal funds or other income the sum of \$2,000,000.00 or so much thereof as may be necessary, to the weather modification board for the purposes of carrying out the research and development program under this Act for the biennium beginning July 1, 1979, and ending June 30, 1981. Such moneys shall not be expended until the budget section of the legislative council shall determine that adequate federal funds are available pursuant to this appropriation.

Approved April 7, 1979

CHAPTER 91

SENATE BILL NO. 2436
(Hanson, Olin)

BIDDER'S BOND SUBMITTAL

AN ACT to amend and reenact sections 2-07-09.1, 11-11-28, 15-34.2-07, 39-03-08.3, 40-22-20, 40-28-07, 40-29-07, 40-31-03, 40-54-01, 48-02-04, and 61-19-08 of the North Dakota Century Code, relating to submission of bidders' bonds in envelopes separate from bids.

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

SECTION 1. AMENDMENT.) Section 2-07-09.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

2-07-09.1. BID BOND REQUIRED.) All bids submitted to the board of weather modification for operations conducted under this chapter shall be accompanied by a separate envelope containing a bidder's bond in a sum equal to five percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state as a guaranty that the bidder will enter into the contract if it is awarded to him.

SECTION 2. AMENDMENT.) Section 11-11-28 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

11-11-28. BID MUST BE ACCOMPANIED BY A BOND - WHEN CERTIFIED CHECK ALLOWED.) A bid shall be accompanied by a separate envelope containing a bidder's bond in a sum equal to five percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state as a guaranty that the bidder will enter into the contract if it is awarded to him and that he will furnish the necessary bond. When the bid is ten thousand dollars or less, the bidder may in lieu of such bond accompany the bid with a separate envelope containing a certified check equal to five percent of the full amount of the bid made payable to the board with authority and direction to the board that if the bidder is successful in obtaining the award and fails to enter into the contract, the board may endorse, deposit, and receive the face amount of the certified check as liquidated damages.

SECTION 3. AMENDMENT.) Section 15-34.2-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-34.2-07. VEHICULAR TRANSPORTATION - BIDS, CONTRACTS, BONDS.) The school board of any school district which furnishes vehicular transportation to any of its schools, prior to the opening of school each year, shall enter into written contracts for the furnishing of such transportation for the ensuing school year. If the vehicle furnished is privately owned, the owner or lessee of the vehicle and the school board may enter into a contract, which shall not exceed seven years' time. The board shall give at least ten days' notice of the time and place of the letting of such contracts and shall call for sealed bids therefor by publication in a newspaper of general circulation within such district. The notices shall describe the route to be covered by each contract and shall state that the board reserves the right to reject any and all bids, that a bond submitted in a separate envelope will be required of each successful bidder in the sum of five hundred dollars or such greater sum as may be set by the board, conditioned for the faithful performance of the duties prescribed by the contract, and that the bids submitted must name the person or persons who will operate the vehicle and describe the nature of the vehicle.

SECTION 4. AMENDMENT.) Section 39-03-08.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-03-08.3. BIDS - REQUIREMENT.) All bids shall be opened at the time and place specified. Each bid shall be accompanied by a separate envelope containing a certified or cashier's check of the bidder in an amount equal to ten percent of his bid or by a separate envelope containing a bidder's bond in a sum equal to ten percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state. Such check or bond shall be forfeited to the state highway patrol fund should the bidder fail to deliver according to the bid within thirty days after a notice of an award.

SECTION 5. AMENDMENT.) Section 40-22-20 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-22-20. BID TO BE ACCOMPANIED BY A BOND - BOND RETAINED UPON FAILURE OF BIDDER TO CONTRACT - AMOUNT OF BOND.) Each bid for any work to be done under the provisions of this chapter shall be accompanied by a separate envelope containing a bidder's bond in the amount of five percent of the amount of the bid, executed as provided in this chapter and running to the municipality that the bidder will enter into a contract for performance of such work in case a contract is awarded to him. If any bidder to whom a contract is awarded fails or refuses to enter into such contract when requested to do so, the bond accompanying his bid shall be retained by the municipality as liquidated damages for such failure. The

bond shall be delivered to the city auditor and shall be credited by him to the fund from which the consideration for such work is payable. The sufficiency of any bond filed by a bidder shall be determined by the governing body at the time of considering bids.

SECTION 6. AMENDMENT.) Section 40-28-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-28-07. BIDS FOR SERVICE CONNECTIONS - ADVERTISING - ACCOMPANIED BY CHECK - AWARDING - RETURNING CHECKS.) The governing body shall direct the city auditor to advertise for bids for the laying and construction of service connections in accordance with the plans and specifications therefor. Each bid shall be accompanied by a separate envelope containing a certified check in the amount of five hundred dollars to guarantee the entering into the contract if the contract is awarded to him. Bids shall be received by the governing body. The governing body may reject any or all bids for work on service connections and may readvertise for other bids. If all the bids are not rejected, the contract shall be awarded to the responsible bidder whose bid is the lowest upon the basis of cash payment for the work if such bidder has complied with all the requirements of this chapter and furnished the required bond. Upon the awarding of the contract, the checks of all unsuccessful bidders shall be returned to them.

SECTION 7. AMENDMENT.) Section 40-29-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-29-07. ADVERTISING FOR BIDS FOR SIDEWALKS - MAKING OF BIDS.) The city auditor shall advertise in the official municipal newspaper once each week for two consecutive weeks for bids for the construction of the various kinds of sidewalks in the municipality. The bids shall be made in accordance with the specifications of the ordinance required by section 40-29-01 and shall be accompanied by a separate envelope containing a certified check in the amount of fifty dollars in accordance with section 40-22-20, and by a separate envelope containing a bond in the amount of five hundred dollars conditioned as provided in section 40-22-23.

SECTION 8. AMENDMENT.) Section 40-31-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-31-03. REQUIREMENTS AS TO CERTIFIED CHECK AND BIDDER'S BOND ACCOMPANYING BIDS.) The provisions of chapter 40-29, insofar as the same apply to the letting of contracts for the construction or repair of sidewalks, may be made applicable to the letting of contracts for the construction or repair of curbing and gutters, by resolution of the governing body of a city. The governing body, by resolution adopted prior to the advertising for bids for contracts for any such work, may provide that, in lieu of a certified check in the amount of fifty dollars and a bidder's bond in the amount of five hundred dollars, a certified check only shall be required to accompany such bid in a separate envelope.

SECTION 9. AMENDMENT.) Section 40-54-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-54-01. BIDS - ADVERTISING - REQUIREMENTS.) On or before the fifteenth day of March in each year, the city auditor of each city within the state may at the discretion of the governing board advertise in the official newspaper once each week for two consecutive weeks for bids for the furnishing of gravel in place for gravel surfacing of highways within the city, upon a cubic yard basis. The bids shall be made in accordance with such specifications as to type, grade, and quality of material as shall be specified by the city engineer and approved by the governing board, and shall provide for the delivery of such gravel along such streets of the city as may thereafter be designated, in such manner as may be designated in the specifications. The notice shall specify that payment for such gravel in cash or by special assessment warrants issued against the graveling special assessment fund created by this chapter, and each bidder shall specify in his bid the lowest rate of interest which he will accept upon such warrants, and that payment for such gravel will be accepted by him in the manner herein provided. Each bid shall be accompanied by a separate envelope containing a certified check in such amount as may be fixed by the governing board, and the award of the contract shall be made only to such person who shall furnish good and sufficient bond for the performance thereof, in such amount as shall be fixed by the governing board at the time of calling for bids.

SECTION 10. AMENDMENT.) Section 48-02-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

48-02-04. CONTENTS OF ADVERTISEMENT.) The advertisement for bids required by section 48-02-03 shall state:

1. When and where the plans, drawings, and specifications therefor may be seen and examined;
2. The place where, and the day and hour when, the bids will be opened;
3. That the right of the board to reject any and all bids is reserved;
4. Each bid shall be accompanied by a separate envelope containing a bidder's bond in a sum equal to five percent of the full amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state, conditioned that if the principal's bid be accepted and the contract awarded to him, he, within ten days after notice of award, will execute and effect a contract in accordance with the terms of his bid and a contractor's bond as required by law and the regulations and determinations of the governing board;

5. All bidders must be licensed for the highest amount of their bids, as provided by section 43-07-05; and
6. No bid will be read or considered which does not fully comply with the above provisions as to bond and licenses, and any deficient bid submitted will be resealed and returned to the bidder immediately.

SECTION 11. AMENDMENT.) Section 61-19-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

61-19-08. BIDS TO BE ACCOMPANIED BY CHECK - FORFEITURE.) Each bid must be accompanied by a separate envelope containing a certified or cashier's check in the sum of five percent of the total amount bid, endorsed or made payable to the chairman of the board of county commissioners or by a separate envelope containing a bidder's bond in a sum equal to five percent of the total amount of the bid, executed by the bidder as principal and by a surety company authorized to do business in this state as a guaranty that the bidder, if successful, will enter into a contract and will furnish a surety bond for the faithful performance of the work, if such contract is awarded to him. If the bidder to whom the work is awarded fails to execute such contract and bond as provided, the check or bond accompanying his bid shall be and remain the property of the county and shall be turned over to the county treasurer, who shall credit the proceeds of such check or bond to the fund out of which the cost of the work is to be paid.

Approved March 8, 1979