

2011 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1132

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Government and Veterans Affairs Committee  
Fort Union Room, State Capitol

HB 1132  
January 13, 2011  
12888

Conference Committee

Committee Clerk Signature <i>Carmen Hart</i>
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## Explanation or reason for introduction of bill/resolution:

Powers and duties of the Aeronautics Commission and the distribution of aviation fuel tax revenue

## Minutes:

**Chairman Bette Grande** opened the hearing on HB 1132.

**Larry Taborsky, Director, North Dakota Aeronautics Commission,** appeared.  
**Attachment 1.**

**Chairman Bette Grande:** When you mention not using space in the capitol due to the space limits, I am well aware. I was part of the interim study that discussed those types of space limits. Where are you located?

**Larry Taborsky:** We are down at the airport.

**Chairman Bette Grande:** What is the reason for an emergency clause?

**Larry Taborsky:** If we do nothing, then it is going to go back to the original version. The rule we are operating under now for the 57-43.3-06 is going to expire so Legislative Council directed to put the emergency portion in there.

**Rep. Lonny Winrich:** The change at the bottom of Page 1 and then on to Page 2, is there any regular reporting structure that is in current practice other than the annual report to the Governor that is mentioned in the next section?

**Larry Taborsky:** There are no reports at this time. We have a close working relationship with the Department of Transportation. Even the part written to the Governor is at our option. We wanted to leave that in there if there was a reason in the future to do so.

**Rep. Gary Paur:** This section at the bottom of Page 4 and top of Page 5, was that passed last biennium? If that was passed so recent, why is it being taken out now?

**Larry Taborsky:** The portion that is unbolded is what is happening now with the expiration due for June 30, 2011. If that expires, if it sunsets, then the part that is blue, bolded, and struck out will go back into effect.

**Chairman Bette Grande:** Sometimes when we pass legislation we will put in a date certain or a certainty that something needs to happen, and we set in that date such as he uses the word sunset—and we put in sunset clauses—so that they will come in front of us yet again to say yes, that policy worked. No, that policy didn't work, we need to do it a little different here or there. It might be something we want to do temporarily. If you remember one of the first bills that we heard, we talked about this is language that goes into law and this language here is temporary language. That is what he is dealing with. There were given a time frame to work on something and now they are going to address that this is how it worked or this didn't. It is a way for legislators to have a review back on policy sometimes.

**Rep. Gary Paur:** I understand that.

**Rep. Vicky Steiner:** I have a question on the sunset as well. I don't have the background on this. Would the legislative body who has experience be satisfied that the sunset was met? What was the purpose of the sunset and was it met? Why would they want this to come back?

**Larry Taborsky:** Once again, it was before my time. What I could see in the legislative minutes on it was that the first point of issue was the Page 5, Line 3, the word matching. In the past, matching was meant to mean 50% of the funds could be met by the state and the local would have to make up the difference. In pursuing the word matching that could have meant to some people, 99%, some kind of one for one or 50%. It wasn't really defined, the matching portion. Then a proposal was that let's make it similar to the federal airports where if we get some kind of local buy in, in their case is 5%, the federal would put in their 95%. I was reading the minutes from the past session. It looked like it was somehow tied to the ARRA funding, the short duration, temporary influx of funds to the state when in fact it is not related to that. This is all state funds we are talking about. The last part I saw on that was well let us give it two years and then sunset it and go revisit it again.

**Chairman Bette Grande:** I happen to like the way he gave us his testimony. Isn't that nice? Thank you.

**Rep. Roscoe Streyle:** How does the process go for a nonfederal airport? Is there a commission that says yes, that's a good project? No, it isn't. For example, like the airport in Leeds where I grew up, if they want a new runway, is there a cost benefit analysis to say well, you had one plane in there in the last year, we are not going to match that 90%. How does that work?

**Larry Taborsky:** Excellent question. For that reason I put the final page on the pile there on the priorities of the North Dakota Aeronautics Commission. This is not a hard and fast but it gives us good guidance on where we are going to spend our funds. We get about four times as much requested funds as we have available. We count on our airport planner to be around the state. We do quite a bit of flying to visit places like Leeds to make sure

that they are doing okay. They have consultants that come up with a list of all their requirements or requests. Then we put it down into this list. The Code talks about 90%, but it is not a hard and fast. It is up to 90% because realistically there are some places that desperately need just a tractor. I think the last session Turtle Lake came up and their airport manager said we are going to close if we don't have a way to mow the lawn. We can't keep our 1945 tractor going anymore. Other places have more money. They get some more local contribution. That will vary.

**Rep. Gary Paur:** When you are talking about the sunset clause on Page 4, I think you are speaking of Line 8, right?

**Larry Taborsky:** Yes.

**Rep. Gary Paur:** What I was asking about was Line 23. You are asking to remove a section which must have just recently been adopted, and it is suppose to be going into effect. After June 30, that's what I was heading for.

**Larry Taborsky:** I understand the question. That was put in there to revert back to the original way it was written so the Lines 8-22 was put in for now and then they put the effective date after. If nothing was done, we would still have a way of operating. Then it would go back to the original version which starts on 23.

**Chairman Bette Grande:** What happens is the paragraph up on the first piece is what they operated under. If he didn't come in front of us before then, that would go away and this would have happened. He is saying I don't want to go back to that, I want to keep this.

There was no one neutral or in opposition of this bill.

The hearing was closed.

**Rep. Lonny Winrich** made a motion for a **Do Pass**.

**Rep. Karen Karls** seconded the motion.

**Rep. Bill Amerman:** I have no problem with the bill. I just wanted to make an observation I have seen in other bills. At the bottom of Page 1 where it is in Code, where it is law, but because an agency or whatever said we haven't been doing anything, let's get rid of it. I kind of seen that in kind of a trend from some other agencies they haven't been following the law so to speak so they come to us so let's get rid of it. That way we won't get in trouble. I think it is a good bill.

**Chairman Bette Grande:** Duly noted.

**DO PASS, 13 YEAS, 0 NAYS. Rep. Lonny Winrich is the carrier of this bill.**

Date: 1-13-11  
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1132

House GOVERNMENT AND VETERAN AFFAIRS Committee

Check here for Conference Committee

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

Action Taken  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Rep Winrich Seconded By Rep Karls

Representatives	Yes	No	Representatives	Yes	No
Chairman Bette Grande	X		Bill Amerman	✓	
Vice Chairman Randy Boehning	X		Ron Guggisberg	✓	
Glen Froseth	✓		Lonny Winrich	✓	
Karen Karls	✓				
Lisa Meier	✓				
Gary Paur	✓				
Karen Rohr	✓				
Mark Sanford	✓				
Vicky Steiner	✓				
Roscoe Streyle	✓				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Rep Winrich

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

**REPORT OF STANDING COMMITTEE**

**HB 1132: Government and Veterans Affairs Committee (Rep. Grande, Chairman)**  
recommends **DO PASS** (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1132 was placed on the Eleventh order on the calendar.

2011 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1132

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

HB 1132  
March 10, 2011  
15241

Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

Relating to the powers and duties of the aeronautics commission and the distribution of aviation fuel tax revenue; relating to powers and duties of aeronautics commission; and to declare an emergency.

Minutes:

Testimony Attached

**Larry Taborsky:** Director of NDAC. See attached testimony #1.

**Chairman Dever:** Is the Aeronautics Commission a different agency?

**Larry Taborsky:** Yes. Most of our funding is done by fuel taxes, registration fees, ect.

**Chairman Dever:** The DOT has an interest in the AC but not authority over.

**Senator Nelson:** What are all the repealers?

**Larry Taborsky:** Anywhere where there is a strike through. 205-06-04, I have to get back to you.

**Senator Cook:** You are eliminating the distribution of language. How will the revenues be distributed?

**Larry Taborsky:** The previous way was 50% match. If an airport wanted something done they would need to come up with 50% of the funds. As it is changing we can come up with 90% of the funds.

**Senator Cook:** What we are deleting would require you to deposit it with the state treasurer and then vouchers would be submitted and vouchers appear to be approved by OMB. We are striking that language and there is no oversight as far as how you disperse those funds to the airports.

**Larry Taborsky:** Page 4 line 9, similar language and the difference being up to 90% of a project cost.

**Senator Nelson:** If we hadn't extended the sunset we would go back to how it was done. By taking the sunset off you are replacing the old plan with the new plan.

Mr. Taborsky then explained the repealing sections.

**Senator Cook:** Bottom of page 2 I see we are bringing in the aero museums in the state. Are we assuming any financial responsibility for the success of these museums?

**Larry Taborsky:** No

**Senator Cook:** We are exempting the excise tax. Are we, through these 2 bills, assuming the financial responsibility of these museums?

**Larry Taborsky:** We take them as part of our assets and put it in the general category of enabling others of aviation in the state.

There was no further discussion and Chairman Dever closed the public hearing on HB 1132.

# 2011 SENATE STANDING COMMITTEE MINUTES

Senate Government and Veteran's Affairs Committee  
Missouri River Room, State Capitol

HB 1132  
March 17, 2011  
15599

Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**

Relating to the powers and duties of the aeronautics commission and the distribution of aviation fuel tax revenue; relating to the powers and duties and powers of aeronautics commission; and to declare an emergency.

**Minutes:**

*No testimony attached.*

A motion for a do pass was made by Senator Cook with a second by Vice Chairman Sorvaag. There was no further discussion, roll was taken, the motion passed and Senator Schaible carried the bill to the floor.

Date: 3-17-11  
Roll Call Vote # \_\_\_\_\_

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 132

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

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

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Cook Seconded By Sorvaag

Senators	Yes	No	Senators	Yes	No
Chairman Dever	X		Senator Marcellais	X	
Vice Chairman Sorvaag	X		Senator Nelson	X	
Senator Barry	X				
Senator Cook	X				
Senator Schaible	X				

Total (Yes) 7 No 0

Absent \_\_\_\_\_

Floor Assignment Schaible

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

**REPORT OF STANDING COMMITTEE**

**HB 1132: Government and Veterans Affairs Committee (Sen. Dever, Chairman)**  
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).  
HB 1132 was placed on the Fourteenth order on the calendar.

2011 TESTIMONY

HB 1132

Attachment 1  
HB 1132

Thursday, January 13<sup>th</sup>, 2011  
North Dakota Aeronautics Commission  
Larry Taborsky, Director

Executive Summary of House Bill no. 1132

Good morning!

I am Larry Taborsky, and I have been the director of the Aeronautics Commission for a year and a half. As a new director, I met with the commissioners, reviewed the statutes which guide us, and developed an administrative clean-up bill. The following bill handles the following two categories:

- 1) items which are no longer valid,
- 2) areas where we could use clarification

With that in mind, this bill updates the director's and commission's duties, the assistance to airports, the definition of a warbird, and the details of aircraft registration.

The last portion of this bill addresses the distribution of revenue. This section was amended last session and will expire on June 30, 2011. The change was made to allow non-federal airports projects to be funded up to 90% by the state. This is in line with the money available to the communities with federal airports, which receive 95% federal funding for airport projects. Although we receive grant requests for four times as much as we can provide, this bill gives the option of funding a project which has a high priority and could not be completed without the state help.

Included in your handout is the Aeronautics Commission policy on grant priorities. This gives guidance on allocation of our limited resources. For your reference, there is also a state map showing the federal and non-federal airports.

The Aeronautics Commission is directed to represent the state on aviation matters, and to assist others in all aviation activities. Approval of this bill will ensure that we are most effective at that duty.

Sixty-second  
Legislative Assembly  
of North Dakota

Introduced by

\_\_\_\_\_ Committee

(At the request of the Aeronautics Commission)

1 A BILL for an Act to amend and reenact sections 2-05-03, 2-05-04, 2-05-05,  
2 2-05-06.5, 2-05-11.3, and 57-43.3-06 of the North Dakota Century Code, relating to  
3 the powers and duties of the aeronautics commission and the distribution of aviation  
4 fuel tax revenue, and to repeal sections 2-05-06.4, 2-05-08, 2-05-12, 2-05-15,  
5 2-05-15.1, 2-05-16, and 2-05-17 of the North Dakota Century Code, relating to the  
6 powers and duties of the aeronautics commission, and to declare an emergency.

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

8 **SECTION 1. AMENDMENT.** Section 2-05-03 of the North Dakota Century  
9 Code is amended and reenacted as follows:

10 **2-05-03. Powers and duties of director.** The director shall be the executive  
11 officer of the commission. The director shall attend all meetings of the commission, but  
12 has no voting power. At the direction of the commission, the director shall, together  
13 with the chairman of the commission, execute all contracts entered into by the  
14 commission which are legally authorized. The director shall appoint, subject to the  
15 approval of the commission, such employees as may be necessary for the proper  
16 discharge of the functions of the commission. The director shall act as the agent of the  
17 tax commissioner for purposes of enforcement of chapter 57-40.5. ~~Whenever~~  
18 ~~requested by the director of the department of transportation as provided in section~~  
19 ~~24-02-01.3, the director shall report administratively concerning all activities of the~~  
20 ~~aeronautics commission.~~

**Comment [11]:** This does not reflect current practice. The director of the Department of Transportation agrees with the removal of this section.

1           **SECTION 2. AMENDMENT.** Section 2-05-04 of the North Dakota Century  
2 Code is amended and reenacted as follows:

3           ~~2-05-04. Commission organization--Reports reports - Offices. Within thirty~~  
4 ~~days after its appointment, the commission shall organize and adopt rules for its~~  
5 ~~administration as it may determine to be expedient.~~ The commission may submit a  
6 biennial report to the governor and the secretary of state in accordance with section  
7 54-06-04. The commission shall maintain its office in the state capitol or as authorized  
8 under section 54-21-24.

**Comment [12]:** This was accomplished when the commission was established and no longer needs to be included.

**Comment [13]:** Spells out office location alternative.

9           **SECTION 3. AMENDMENT.** Section 2-05-05 of the North Dakota Century  
10 Code is amended and reenacted as follows:

11           **2-05-05. Duty of commission in development of aeronautics.** The  
12 commission shall have general supervision over aeronautics within this state and  
13 shall:

1. Encourage the establishment of airports and air navigation facilities;
2. Cooperate with and assist the federal government, the municipalities of this state, and other persons in the development and coordination of all aeronautical activities;
3. Represent the state in aeronautical matters before state and federal agencies; ~~and~~
4. Participate as party plaintiff or defendant or as intervener on behalf of the state or any municipality or citizen thereof in any controversy which involves the interest of the state in aeronautics;
5. Establish or promote with the public or private sector, or both and provide financing, in whole or in part, of aeronautical educational programs and support of the educational programs of aeronautical museums in the state; and

**Comment [14]:** Wording clean-up.

**Comment [15]:** The Aeronautics Commission would represent a group rather than an individual in a controversy.

1        6. Establish or promote with the public or private sector, or both and  
2                    provide financing in whole or in part, of programs informing the public of  
3                    North Dakota of commercial and general aviation services available in  
4                    the state.

**Comment [16]:** Numbers 5 and 6 spell out our participation in development of aeronautical activities. Education is an important aspect of the commission's goals.

5                    **SECTION 4. AMENDMENT.** Section 2-05-06.5 of the North Dakota Century  
6 Code is amended and reenacted as follows:

7                    **2-05-06.5. State assistance for airports.** Each public airport owned or  
8 operated by a public entity and each airport operated by an airport authority in this  
9 state which is served by at least one airline which is certified by the federal aviation  
10 administration or was at one time served by an airline certified by the federal aviation  
11 administration, ~~but is served by a scheduled commuter airline certified by the North~~  
12 ~~Dakota aeronautics commission~~ may be provided assistance according to guidelines  
established by the commission by rule, within the limits of legislative appropriations.

**Comment [17]:** Aeronautics does not certify airlines. That is an FAA activity.

13 The governing body or airport authority which operates an airport that receives  
14 assistance under this section shall deposit the moneys received in the same account  
15 or accounts as other airport funds are deposited and may expend the moneys as  
16 provided by law for other airport funds, including matching any funds made available  
17 by the United States.

18  
19                    **SECTION 5. AMENDMENT.** Subsection 3 of section 2-05-11.1 of the North  
20 Dakota Century Code is amended and reenacted as follows:

21                    3. "Warbird aircraft" means an military aircraft ~~built before January 1, 1948,~~  
22 ~~expressly for the purpose of no longer in military service.~~

**Comment [18]:** Updates warbird definition to include more recent wars, such as Korea and Viet Nam.

23                    **SECTION 5. AMENDMENT.** Section 2-05-11.3 of the North Dakota Century  
24 code is amended and reenacted as follows:

25                    **2-05-11.3. Fee for a permanent registration - Issuance of registration**  
26 **decal -Disposition of fee.** The fee for a permanent registration under section 2-05  
27 11.2 is eighty-five dollars. The commission shall prepare a distinctive decal denoting

Sixty-second  
Legislative Assembly

1 permanent registration under section 2-05-11.2. ~~That decal must be displayed in the~~  
2 ~~aircraft in the same manner required for the registration decal otherwise issued~~  
3 ~~under this chapter.~~ The fee must be deposited in the aeronautics commission special  
4 fund.

**Comment [19]:** Decals are no longer issued for all aircraft-only sprayers and permanent registrations.

5  
6 **SECTION 5. AMENDMENT.** Section 57-43.3-06 of the North Dakota Century  
7 Code is amended and reenacted as follows:

8 **57-43.3-06 Distribution of revenue.** ~~(Effective through June 30, 2011)~~ The  
9 tax collected by the commissioner pursuant to section 57-43.3-04 must be deposited  
10 by the commissioner in the office of the state treasurer, who shall deposit such monies  
11 in a special fund known as the state aeronautics commission special fund. These  
12 funds are appropriated to the commission and must be disbursed by the commission  
13 by warrant-check prepared by the office of management and budget, for commission  
14 administration and the purpose of providing up to ninety percent of the project costs if  
15 the political subdivision or airport authority is not qualified for or does not receive any  
16 funds under section 2-05-06.5. These funds must be used for airport construction or  
17 improvement projects, including airport administration and terminal buildings, hangers,  
18 landing strips for aircraft, and purchase of sites for airports or landing fields and  
19 easements and for maintenance ~~and maintenance equipment~~, clearing of sites,  
20 marking, lighting, and engineering and navigational aids, all related to aeronautics in  
21 amounts as the commission may determine and upon projects as the commission may  
22 approve.

**Comment [110]:** Removes sunset clause.

**Comment [111]:** Clarifies that grants can be made for the equipment which is necessary in order to conduct maintenance.

23 ~~(Effective after June 30, 2011) Distribution of revenue.~~ The tax collected by  
24 ~~the commissioner pursuant to section 57-43.3-04 must be deposited by the~~  
25 ~~commissioner in the office of the state treasurer, who shall deposit such moneys in a~~  
26 ~~special fund known as the state aeronautics commission special fund. These funds~~  
27 ~~are appropriated to the commission, and must be disbursed by warrant check~~

Sixty-second  
Legislative Assembly

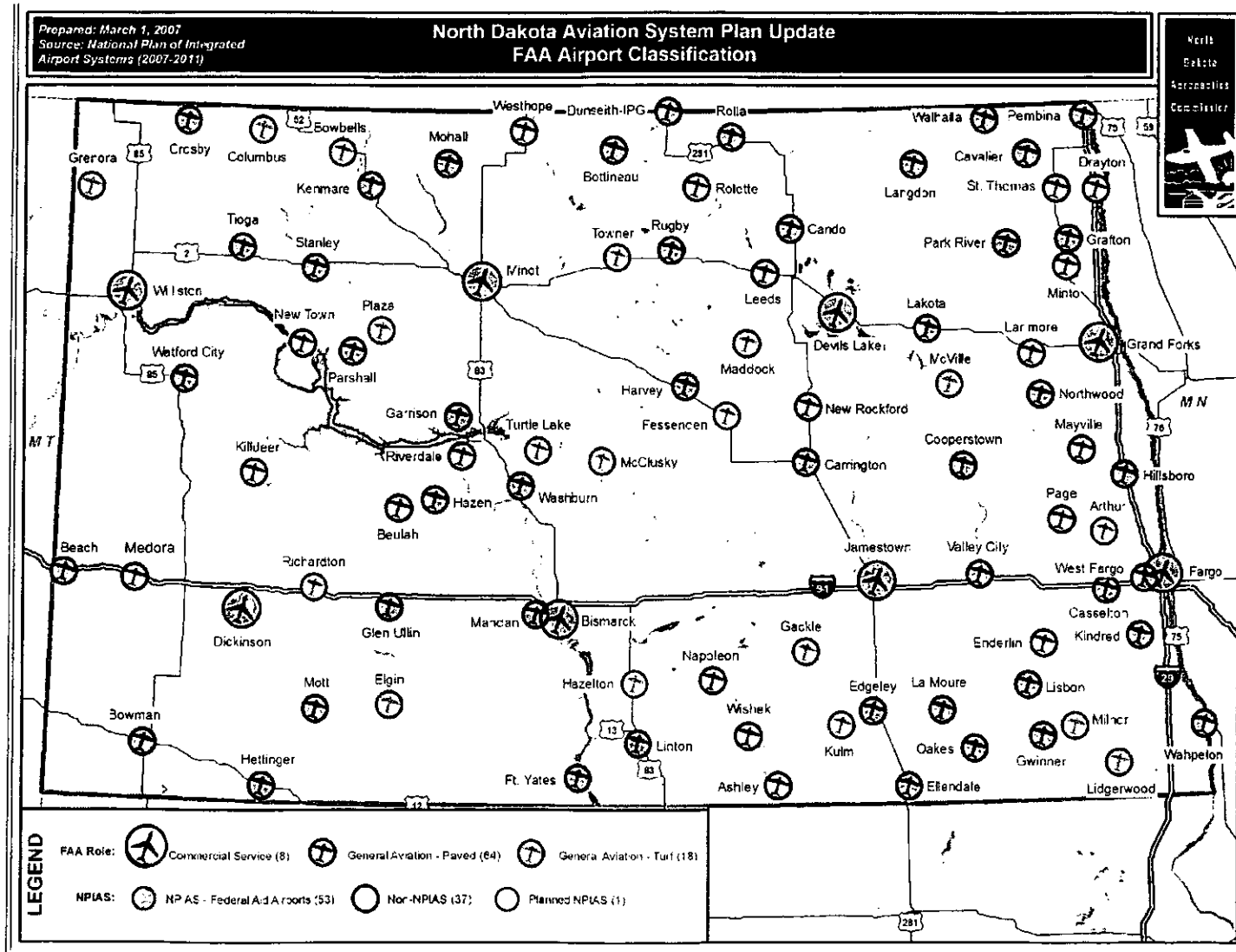
1 ~~prepared by the office of management and budget upon vouchers submitted by the~~  
2 ~~commission and approved by the office of management and budget, for commission~~  
3 ~~administration and the purpose of matching of any funds made available by political~~  
4 ~~subdivisions or airport authorities of this state, the state, or the United States, only if~~  
5 ~~the political subdivision or airport authority is not qualified for or does not receive any~~  
6 ~~funds under section 2-05-06.5. These funds must be used for airport construction or~~  
7 ~~improvement projects, including airport administration and terminal buildings, hangars,~~  
8 ~~landing strips for aircraft, and purchase of sites for airports or landing fields and~~  
9 ~~easements and for maintenance, clearing of sites, marking, lighting, and engineering~~  
10 ~~and navigational aids, all related to aeronautics in amounts as the commission may~~  
11 ~~determine and upon projects as the commission may approve.~~

**Comment [112]:** Removes  
previous grant wording.

12 **SECTION 6. Repeal.** Sections 2-05-06.4, 2-05-08, 2-05-12, 2-05-15, 2-05-15.1,  
2-05-16, and 2-05-17 of the North Dakota Century Code are repealed.

15 **SECTION 7. EMERGENCY.** Section 5 of this Act is declared to be an  
emergency measure.

Exhibit 2-2  
 FAA Airport Classifications



# ND Aeronautics Commission Priority Rating of Airport Projects

Adopted: May 1, 1984  
Review Date: July 1, 2010

(High)	10	20	30	40	50 (Low)
<b>A. CONSTRUCTION</b>	Reconstruction Drainage & Culverts Earthwork & Grading	Realign Aprons Overlays Seeding Taxiway Extensions New Construction	Heliport Area	X-wind runway/taxiway Runway grooving	
<b>B. OBSTRUCTIONS</b>	Tree Removal Marking/Lighting Obstr. Bury Powerlines	Displaced Threshold Relocate roads, P-lines, Bldgs.			
<b>C. MAINTENANCE</b>	Crack Filling Seal / Fog Coats	Reseed & Fertilize Turfs Regrade & Smoothen Turfs	Mower Snow Removal Equipment	Tractors Trucks Turf Rollers / Sweepers	Garden Tractors Soil sterilization around lights
<b>D. MARKINGS</b>	Windsock or wind tee		Paint Runway & numbers Repair of Markings	Segmented Circle Runway Signage	
<b>E. LAND</b>	Clear Zone Land Navigation Elements	Purchase land for new airport Purchase land for extension	Access Road	Auto Parking	
<b>F. LIGHTS / NAVAIDS</b>	Electrical Service Runway Lights	Beacon Replacement of Beacons, fixtures, and wiring	VASI ADS-B Reflector Markings	NDB REIL	Runway Surface Sensor
<b>G. RADIO</b>			AWOS / ASOS	Unicom Radio Control Runway Lights	Computerized Wind Indicator
<b>H. MISCELLANEOUS</b>	TSA / ARFF Special Programs Emergency Grants Federal Grants Zoning Implementation	Engineering Design EIS Legal Fees	Master Plan Studies Fencing Security System Air Service / Cargo Studies	Terminals Mini-terminals (trailers) Electrical Sewer, water	Hangars Airport Signs Fuel Facilities Storage Buildings

NOTE: The lower the number, the higher the Priority  
(Add second digit below to each ten digit above for project priority rating)

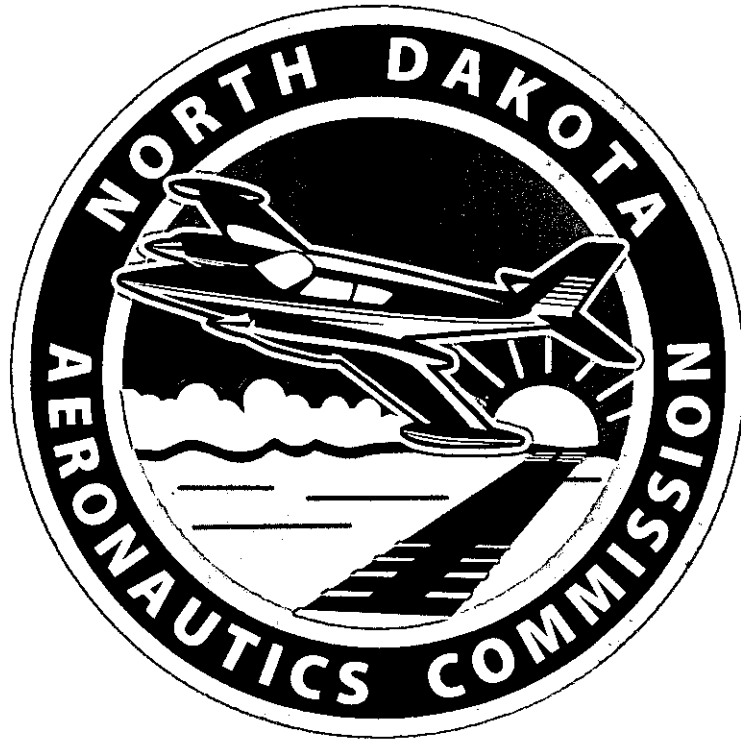
- |               |             |                      |   |
|---------------|-------------|----------------------|---|
| 1. Approaches | 3. Taxiways | 5. Access            | 7. Other (service roads, fencing, etc.) |
| 2. Runways    | 4. Aprons   | 6. Equipment/storage |   |

\*Any minor work associated with an improvement item receives the same ranking as the major item. Examples are:  
Land for a runway extension ranks a "22", lighting the apron ranks a "14", reconstruct taxiway ranks a "13", overlay ranks a "22, tree removal on approach ranks a "11", etc.

**SPECIAL NOTES:**

1. Projects above are reference primarily to be main runway first, taxiway, apron, x-wind, etc.
2. Aeronautics Commission staff will help sponsor establish priority rating.
3. Interest payments are not eligible.
4. Airport Liability Insurance Premiums are not eligible.

NOTE: Add 100 points to the priority of any project needed one year in the future, 200 if two years, etc. For example, reconstruction of a runway next year would have a priority rating of 112, or land for runway extension would have a priority rating, if the extension was planned for two years, a 222, etc. The lower the number, the higher the priority. If construction will be in the current year, no hundreds digit is added, so earthwork on a runway this year would rank a "12".



HB 1132

Senate Government and Veterans Affairs Committee

Presented by Larry Taborsky, Director

March 10<sup>th</sup>, 2011

Sixty-second  
Legislative Assembly  
of North Dakota

Introduced by

\_\_\_\_\_ Committee

(At the request of the Aeronautics Commission)

1 A BILL for an Act to amend and reenact sections 2-05-03, 2-05-04, 2-05-05,  
2 2-05-06.5, 2-05-11.3, and 57-43.3-06 of the North Dakota Century Code, relating to  
3 the powers and duties of the aeronautics commission and the distribution of aviation  
4 fuel tax revenue, and to repeal sections 2-05-06.4, 2-05-08, 2-05-12, 2-05-15,  
5 2-05-15.1, 2-05-16, and 2-05-17 of the North Dakota Century Code, relating to the  
6 powers and duties of the aeronautics commission, and to declare an emergency.

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

**SECTION 1. AMENDMENT.** Section 2-05-03 of the North Dakota Century

9 Code is amended and reenacted as follows:

10 **2-05-03. Powers and duties of director.** The director shall be the executive  
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13 with the chairman of the commission, execute all contracts entered into by the  
14 commission which are legally authorized. The director shall appoint, subject to the  
15 approval of the commission, such employees as may be necessary for the proper  
16 discharge of the functions of the commission. The director shall act as the agent of the  
17 tax commissioner for purposes of enforcement of chapter 57-40.5. ~~Whenever~~  
18 ~~requested by the director of the department of transportation as provided in section~~  
19 ~~24-02-01.3, the director shall report administratively concerning all activities of the~~  
20 ~~aeronautics commission.~~

**Comment [11]:** This does not reflect current practice. The director of the Department of Transportation agrees with the removal of this section.

1           **SECTION 2. AMENDMENT.** Section 2-05-04 of the North Dakota Century  
2 Code is amended and reenacted as follows:

3           ~~2-05-04. Commission organization - Reports reports - Offices.~~ Within thirty  
4 ~~days after its appointment, the commission shall organize and adopt rules for its~~  
5 ~~administration as it may determine to be expedient.~~ The commission may submit a  
6 biennial report to the governor and the secretary of state in accordance with section  
7 54-06-04. The commission shall maintain its office in the state capitol or as authorized  
8 under section 54-21-24.

**Comment [12]:** This was accomplished when the commission was established, and no longer needs to be included.

**Comment [13]:** Spells out office location alternative.

9           **SECTION 3. AMENDMENT.** Section 2-05-05 of the North Dakota Century  
10 Code is amended and reenacted as follows:

11           **2-05-05. Duty of commission in development of aeronautics.** The  
12 commission shall have general supervision over aeronautics within this state and  
13 shall:

1. Encourage the establishment of airports and air navigation facilities;
- 15 2. Cooperate with and assist the federal government, the municipalities of  
16 this state, and other persons in the development and coordination of all  
17 aeronautical activities;
- 18 3. Represent the state in aeronautical matters before state and federal  
19 agencies; ~~and~~
- 20 4. Participate as party plaintiff or defendant or as intervener on behalf of  
21 the state or any municipality ~~or citizen thereof~~ in any controversy which  
22 involves the interest of the state in aeronautics;
- 23 5. Establish or promote with the public or private sector, or both and  
24 provide financing, in whole or in part, of aeronautical educational  
25 programs and support of the educational programs of aeronautical  
26 museums in the state; and

**Comment [14]:** Wording clean-up.

**Comment [15]:** The Aeronautics Commission would represent a group rather than an individual in a controversy.

1        6. Establish or promote with the public or private sector, or both and  
2                    provide financing in whole or in part, of programs informing the public of  
3                    North Dakota of commercial and general aviation services available in  
4                    the state.

**Comment [16]:** Numbers 5 and 6 spell out our participation in development of aeronautical activities. Education is an important aspect of the commission's goals.

5        **SECTION 4. AMENDMENT.** Section 2-05-06.5 of the North Dakota Century  
6 Code is amended and reenacted as follows:

7        **2-05-06.5. State assistance for airports.** Each public airport owned or  
8 operated by a public entity and each airport operated by an airport authority in this  
9 state which is served by at least one airline which is certified by the federal aviation  
10 administration or was at one time served by an airline certified by the federal aviation  
11 administration, ~~but is served by a scheduled commuter airline certified by the North~~  
12 ~~Dakota aeronautics commission~~ may be provided assistance according to guidelines  
established by the commission by rule, within the limits of legislative appropriations.  
The governing body or airport authority which operates an airport that receives  
15 assistance under this section shall deposit the moneys received in the same account  
16 or accounts as other airport funds are deposited and may expend the moneys as  
17 provided by law for other airport funds, including matching any funds made available  
18 by the United States.

**Comment [17]:** Aeronautics does not certify airlines. That is an FAA activity.

19        **SECTION 5. AMENDMENT.** Subsection 3 of section 2-05-11.1 of the North  
20 Dakota Century Code is amended and reenacted as follows:

21        3. "Warbird aircraft" means an military aircraft ~~built before January 1, 1948,~~  
22 ~~expressly for the purpose of~~ no longer in military service.

**Comment [18]:** Updates warbird definition to include more recent wars, such as Korea and Viet Nam.

23        **SECTION 5. AMENDMENT.** Section 2-05-11.3 of the North Dakota Century  
24 code is amended and reenacted as follows:

25        **2-05-11.3. Fee for a permanent registration - Issuance of registration**  
26 **decal -Disposition of fee.** The fee for a permanent registration under section 2-05  
27 11.2 is eighty-five dollars. The commission shall prepare a distinctive decal denoting

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1 permanent registration under section 2-05-11.2. ~~That decal must be displayed in the~~  
2 ~~aircraft in the same manner required for the registration decal otherwise issued~~  
3 ~~under this chapter.~~ The fee must be deposited in the aeronautics commission special  
4 fund.

**Comment [19]:** Decals are no longer issued for all aircraft-only sprayers and permanent registrations.

6 **SECTION 5. AMENDMENT.** Section 57-43.3-06 of the North Dakota Century  
7 Code is amended and reenacted as follows:

8 **57-43.3-06 Distribution of revenue. (Effective through June 30, 2011)** The  
9 tax collected by the commissioner pursuant to section 57-43.3-04 must be deposited  
10 by the commissioner in the office of the state treasurer, who shall deposit such monies  
11 in a special fund known as the state aeronautics commission special fund. These  
12 funds are appropriated to the commission and must be disbursed by the commission  
13 by warrant-check prepared by the office of management and budget, for commission  
14 administration and the purpose of providing up to ninety percent of the project costs if  
15 the political subdivision or airport authority is not qualified for or does not receive any  
16 funds under section 2-05-06.5. These funds must be used for airport construction or  
17 improvement projects, including airport administration and terminal buildings, hangars,  
18 landing strips for aircraft, and purchase of sites for airports or landing fields and  
19 easements and for maintenance ~~and maintenance equipment~~, clearing of sites,  
20 marking, lighting, and engineering and navigational aids, all related to aeronautics in  
21 amounts as the commission may determine and upon projects as the commission may  
22 approve.

**Comment [110]:** Removes sunset clause.

23 ~~(Effective after June 30, 2011) Distribution of revenue. The tax collected by~~  
24 ~~the commissioner pursuant to section 57-43.3-04 must be deposited by the~~  
25 ~~commissioner in the office of the state treasurer, who shall deposit such monies in a~~  
26 ~~special fund known as the state aeronautics commission special fund. These funds~~  
27 ~~are appropriated to the commission, and must be disbursed by warrant check~~

**Comment [111]:** Clarifies that grants can be made for the equipment which is necessary in order to conduct maintenance.

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1 ~~prepared by the office of management and budget upon vouchers submitted by the~~  
2 ~~commission and approved by the office of management and budget, for commission~~  
3 ~~administration and the purpose of matching of any funds made available by political~~  
4 ~~subdivisions or airport authorities of this state, the state, or the United States, only if~~  
5 ~~the political subdivision or airport authority is not qualified for or does not receive any~~  
6 ~~funds under section 2-05-06.5. These funds must be used for airport construction or~~  
7 ~~improvement projects, including airport administration and terminal buildings, hangars,~~  
8 ~~landing strips for aircraft, and purchase of sites for airports or landing fields and~~  
9 ~~facilities and for maintenance, clearing of sites, marking, lighting, and engineering~~  
10 ~~and navigational aids, all related to aeronautics in amounts as the commission may~~  
11 ~~determine and upon projects as the commission may approve.~~

**Comment [112]:** Removes previous grant wording.

12 **SECTION 6. Repeal.** Sections 2-05-06.4, 2-05-08, 2-05-12, 2-05-15, 2-05-15.1,  
2-05-16, and 2-05-17 of the North Dakota Century Code are repealed.

**SECTION 7. EMERGENCY.** Section 5 of this Act is declared to be an  
15 emergency measure.