2011 HOUSE FINANCE AND TAXATION

HB 1437

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1437
January 26, 2011
Job # 13449

☐ Conference Committee

Committee Clerk Signature Marilyn Belter

Explanation or reason for introduction of bill/resolution:

Relating to reduction of the rate of sales, use, motor vehicle excise, and aircraft excise taxes: and to provide an effective date.

Minutes: *See attached testimony #1, #2, #3, #4*

Chairman Belter: Open the hearing on HB 1437.

Representative Wrangham: Here to testify on HB 1437. I would like to say this bill is to give a ½ % relief to all the citizens of North Dakota. The first two sections of the bill starts out talking about another issue and that is about local entities and their ability to raise, change or lower local sales taxes. My intent is not to pick a fight with the cities or townships in anyway. We are all citizens of the state of North Dakota. The state is who gave the home rule authority to the cities and the county's. I don't think that the legislature is over stepping their boundaries by saying we have giving you this ability and now we want to look at it from time to time. Please refer to attached testimony #1.

Representative Scot Kelsh: I'm torn because I support reductions in sales tax. Yet we have had a couple of elections in our home rule county where voters have overwhelming approved raising the taxes to help the flood diversion we are all talking about. I am wondering if section one of this bill would include the voters if they want to have a say if they want to increase their sales tax or not.

Representative Dwight Wrangham: I certainly hope not. The way I understand it and asked for the bill to be drafted to say, everything would stay the way it is now for home rule cities and counties. They could go ahead and pass a tax and then there would have to be a mechanism in place by where it would come to Legislature for approval. There may be a better way to do that and if anyone comes up with an amendment that is a better way, I would welcome that amendment.

Vice Chairman Craig Headland: You stated that the citizens from North Dakota wanted us to give them some tax relief. In my latest campaign none of my constituents asked for this. I am just wondering what the reason for that?

Representative Dwight Wrangham: Sales tax is a sneaky tax. People don't notice it or they miss it. It is easy to collect and we should not use it that much for a revenue source. I also got an e-mail from a constituent stating they wanted more done on income tax because they paid more in state than they paid in Federal Income Tax. I don't know how that could be except that he did not withhold any State Tax during the year. Sometimes they don't understand. They trust us to do what is right.

Representative Shirley Meyer: Going back to section 1 again. I am a little confused in the timing mechanism. When we only meet every other year, what are you intentions on the Legislative approval for timing.

Representative Dwight Wrangham: This is a good point. I have not worked through that. For emergency like that something would have to be put in place.

Representative Glen Froseth: I like the reductions in sales tax but do not like the fraction of ½%. Any time you are working with fractions like that they are going to round it up. I would rather see a reduction of 1% and make up the difference in another bill. How do you feel about that?

Representative Dwight Wrangham: I feel you have your opinion.

Dustin Gawrylyw ND Taxpayers Association: I just have a few comments. It is our contention that everyone has a cut of this windfall that this state has been sharing the past 5 years. So a broad spectrum of tax cuts coupled together with income, corporate, property tax reform and sales tax cuts is what we want. The idea of Legislature approval to prevent back filling of these tax cuts insures that the Legislature intent tax cuts not just shift them over, will stay in place and help the taxpayers. As far as the local governments I suggest an allowance of a temporally 2 year emergencies, giving the Legislature time to approve these taxes. In emergencies it would need to approve them. But as we have seen in Cass County, prior to their approving the flood tax, they had several attempts to increase the sale tax for economical development and corporate welfare etc. I would hope that Legislature would not approve those type this kind of things. I would also approve ideas of helping the Legislature help local governments reduce their own property burdens. If there was an allowance for dollar for dollar swap outs sales tax for property tax that would be ideal. There is also the large debate over fairest tax. I do agree it is the fairest tax but 5% is not the fairest level. Cutting the fairest level would be the most helpful.

Representative Scot Kelsh: In reference to the economical development tax in Fargo that did fail. So there would no need to bring it before the Legislature because there was no tax. I am wondering because the sales tax proposals have all been put on the ballot and all have had a sunset and specifically state what they are used for, that is all called out in the bill. What is the need to have legislature give their approval?

Dustin Gawrylyw ND Taxpayers Association: I think that Rep Wrangham address that fairly well. The citizens of the state and they should have some sort of double check.

Representative Shirley Meyer: When an area votes to increase a sales tax for their area. How can I as a Legislature micro manage an area I do not live in, know their needs, wants or what they deserve? Is this not a local issue?

Dustin Gawrylyw ND Taxpayers Association: It comes down to the fact that the State has always funded local government for various things. It would be our contention that as long as the state is increasing the dollars that are being spent in local governments, the state should have a corresponding increase in oversight of how other dollars are being spend. If the state continues to buy down property taxes and the local governments buy up sales taxes for other thing besides property taxes decreases there is a lack of good faith in reducing the local tax burden.

Vice Chairman Craig Headland: Would you agree that sales taxes are popular amongst political subdivisions because they are viewed by the voters that live in the political subdivision that a tax that others will pay?

Dustin Gawrylyw ND Taxpayers Association: Yes. Also the higher taxes are in the larger cities makes the smaller cities more competitive.

Connie Sprynczynatyk, League of Cities: I hesitate to rise in opposition to Rep Wrangham's bill. So let me suggest an amendment that would make it palatable to cities and counties. First I would like to give you a piece of information. There are 65 cities that levy local tax, there are 13 that do not. Examples of tax rates in cities, Turtle Lake has 2%, Valley City has 2.5%, Velva has 2%, Wallhalla has 2% as does may others. When home rule was passed in 1969 it wasn't immediately a popular idea. But cities began passing home rule charters in the 1970s and the number increased as the Federal Funding sharing decreased. Some of the early charters were related to collection of sales tax and virtually all say in the charter what the uses are for that sales tax. Because the charter has to have a popular vote, there is no reason why local voters don't know what they are doing. Here is my solution. Now that we have 125 cities that levy sales tax, that is just slightly over 1/3, we also have 4 counties. If you would look at 57-39.2-04 we could accomplish exactly what Rep Wrangham wants here. That would be the section that is related to exemptions. There are 54 exemptions on the list and some of those exemptions have multiple sub parts. I don't recall the years, but I think it was in 1990s when the interim taxation committee studied as to what would happen if we dropped the exemptions. At the time I think was response was if the exemptions where gone the state sales tax rate could be 3% and raise the same amount of money. So this could be used rather than tackle the home rule issue (rate issue) which would impact state aid.

Traynor, Association of Counties: Opposition. Please refer to attached testimony #2.

Cindy Hemphill: Minot City Auditor: Opposition. Please refer to attached testimony #3.

Representative Dwight Wrangham: Please allow me to make a statement instead of a question. I said in past sessions and will continue say Minot has done a wonderful job of sharing their sales tax with communities out and around Minot and we respect that.

Bill Wolken City Administrator City of Bismarck: The city of Bismarck is in opposition of the first two sections of HB 1437 for some of the same reasons you have just recently heard. It sets up an awkward situation for Legislators who must decide if local voter, who have approved the sales tax measure, should have approved that measure. The residents have a option to approve that measure, which is a part of our home rule charter, it has to go to the vote of the residents. That is the most expedient way to address changes in our local sales tax situation. I don't presume to be able to advise you on any other parts of the bill. There is one technical question that I have. On line 11 on page 1 and on line 2 page 2 the word extend is used and I am unsure as to what the definition of the word extend would be. At times the word, extend is put on for a prescribed length of time. In other cases there are ongoing expenses that are continued to be handled by the sales tax year after year. So if this bill does go on I would like the word to be explained.

Representative Dwight Wrangham: The purpose of the government, I believe and many of the founders the country stated clearly, that the job of government is not to protect the majority but to protect the rights of the minority. Earlier we have heard from the city of Mandan stating that they were unable to attract any large business or restaurants because they couldn't complete with a city that collects a lot of sales tax and is able to get a lot of economic benefits to people who want to locate in that city. Do you see that there is some inequity there and that there are some cities that are unable to compete because of tax dollars are there?

Bill Wolken City of Bismarck: The city of Bismarck does not use sales tax revenue to attract businesses. Sales tax is used for economic development for jobs creations, for property tax relief and local road repair.

Representative Froseth: In answering the concern of the work extend, in this instance when the city or county votes for a sales tax in 10 years it than has to go back to the voters, so in this case it would mean in 10 years it would go back to the voters for another 10 year period.

Larry Taborksy, Director of the North Dakota Aeronautics Commission: neutral testimony
Please refer to testimony #4.

Chairman Belter: Closed the hearing on HB 1437.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1437
January 26, 2011
Job # 13474

☐ Conference Committee

Committee Clerk Signature Marilyn Kuzel

No Attachments

Chairman Wesley R. Belter: Any discussion on HB 1437

Representative Shirley Meyer: I am great with the sales tax but I just have some issues with the timing and the Legislative Assembly approving it. I feel it takes away from the local control. I am find with dropping the sales tax.

Chairman Wesley R. Belter: Any more discussion. None we will move to the next bill.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1437
February 7, 2011
Job # 14101

☐ Conference Committee

Committee Clerk Signature

No "attached testimony."

Chairman Wesley Belter: Open up discussion for HB 1437, Rep Wrangham's sales tax bill.

Representative Dwight Wrangham: I would like to offer an amendment if I may. He provided verbal amendments to remove sections 1 and 2. This removed the restrictions on home rule cities and counties. He then made a motion for Do Pass on the Amendment.

Representative Scot Kelsh: seconded it

Representative Froseth: What happens to the fiscal note does it change?

Chairman Wesley Belter: I don't believe it would change anything. The motion carried and he asked what the committee's wishes were.

Representative Dwight Wrangham: Made a motion for a do pass as amended.

Representative Lonny B. Winrich: Seconded.

Vice Chairman Craig Headland: I will not support this bill.

Chairman Wesley R. Belter: I will also not support this bill. I have no problem with reducing the sales tax but I do not know how we are going to do this without cities and counties coming in and back filling the tax reduction. The problem I see with that is, we as a state need to preserve those taxes which were originally specifically set out for the state. We got ourselves into a terrible predicament with the cities and counties taken sales tax and if it ever came to a time where the State would need to increase the sales tax to meet the needs of the State we would get to taxes that are 7 or 8%. If we had some mechanisms to stop the back filling I would certainly vote for it.

Representative Lonny B. Winrich: I made reference to this earlier when I said counties would raise taxes and Rep Weiler countered that they would be voted out of office if they did. There are the same constraints that are placed on them that are placed on us when it comes to taxes. Whenever we examine data of what the cities and counties would do, it simply doesn't hold up that they would back fill. We had a 5 page data from testimony this

morning on property taxes. What it shows is the cities have acted responsibly in most cases they have reduced instead of increasing them and those that did increased their taxes did in very small amounts. I strongly suspect in those cases there were reasons for doing this. I think we should accept the facts on this that our political subs do act responsibly with respect to taxes.

Chairman Wesley R. Belter: I do take issue with that argument. Since we have passed the property tax relief bill, I know of two situations of purposed bond issues and the whole selling point is that when we pass these bond issues we are to be paying less tax than what we paid before the state tax relief. I do believe if we do reduce sales tax we would see sub division's saying here is an opportunity to raise tax because we will still be paying less tax before or same as we did before.

Representative Shirley Meyer: In that event does that have to go to a local vote? If they decide to backfill does that have to go to a local vote of the people?

Chairman Wesley R. Belter: More than likely it would.

Representative Lonny B. Winrich: I don't doubt that could happen but doubt that very much that it will happen in every jurisdiction across the state. It is a local issue and they have to vote on it. These local people meet almost weekly, for us to come in and make a judgment about what they should be doing to handle a local situation I think is extremely arrogant. I don't think we should put these kinds of limits on them.

Representative Steven Zaiser: In Fargo it takes a 60% vote to add to the sales tax. I do concur with Rep Winrich that they are very responsible. What we talk about in this committee is local control and they know best and let us let it be there.

Chairman Wesley R. Belter: Let's have a roll call vote on Do Pass as amended.

Vote was Do Pass as Amended Yeas 10 Nays 4 Absent 0

DO NOT PASS AS AMENDED Carrier is Rep Owens.

2011 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1437
February 9, 2011
Job # 14259

☐ Conference Committee

Committee Clerk Signature Marilyn Kinzler

Minutes: "attached testimony." #1

Chairman Belter: We need to have a motion if we are to reconsider HB 1437, Reprehensive Wrangham's bill.

Representative Bette Grande: Made a motion to reconsider

Representative Glen Froseth: Seconded.

Chairman Wesley R. Belter: Distributed amendments and reviewed amendments. See attached amendments #1. Chairman Belter explained what his amendments would do. It would put a cap of 1 ½ % on city sales tax but would grandfather those who are above at the rates that they are at now. At the expiration of any tax rate, the cities would be at the 1 ½% and counties would be the capped at ½%. It takes out the language dealing with the requirement of the Legislative Assembly to approve the sales tax passed by sub divisions that have it.

Representative Scot Kelsh: Does the Amendment preclude that once it goes back to 1 ½% the electors have the ability to vote to increase that sales tax again?

Chairman Wesley R. Belter: Not if the amendments are written as I proposed them.

Representative Scot Kelsh: The way I am reading this is until the expiration of the period for which the tax rate in excess of one and one-half percent was approved but may not thereafter be re-imposed at a rate exceeding one and one-half percent. So it can only go up in increments of ½ a percent?

Donnita Wald, General Counsel of the Tax Commissioner's Office: The way I read this that any tax that expires after June 30, 2011 which was in effect prior to that date, once that expires they are capped at one and on-half percent.

Chairman Wesley R. Belter: On this amendment on page 1 line 12 that is the county portion and the second one is the city, is that correct?

Donnita Wald, General Counsel of the Tax Commissioner's Office: Right

Chairman Wesley R. Belter: So these are written correctly.

Representative Lonny B. Winrich: The counties increases would be kept at one-half percent and city increases to one and one-half percent.

Donnita Wald, General Counsel of the Tax Commissioner's Office: That is what it does say.

Chairman Wesley R. Belter: I asked for the amendments to read the counties could not exceed ½ percent and cities are one and one-half percent.

Donnita Wald, General Counsel of the Tax Commissioner's Office:
That's what this does.

Chairman Wesley R. Belter: So there is no opportunity to increase these if they are already at one and one-half percent or for the counties one-half percent.

Donnita Wald, General Counsel of the Tax Commissioner's Office: That is right.

Vice Chairman Craig Headland: I would move that amendment 02003

Representative Betty Grande: Seconded to move the amendment.

Voice vote motion carried.

Representative Betty Grande: Made a motion for Do Not Pass as Amendment.

Vice Chairman Craig Headland: Seconded.

Do Not Pass As amended Vote was Yeas 10 Nays 4 Absent 0
Representative Owens carried the bill.

FISCAL NOTE

Requested by Legislative Council
02/11/2011

Amendment to: HB 1437

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			($157,000,000)			
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Engrossed HB 1437 reduces the general sales and motor vehicle excise tax rate from 5% to 4.5%. The bill also imposes some restrictions on local option tax changes.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, Engrossed HB 1437 is expected to reduce state general fund revenues by an estimated $157 million in the 2011-13 biennium. Any restrictions on local option taxes would be dependent upon the rate of taxes that would have been imposed, and cannot currently be estimated.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

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

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	**Agency:**	Office of Tax Commissioner
Phone Number:	328-3402	**Date Prepared:**	02/12/2011

FISCAL NOTE

Requested by Legislative Council
01/19/2011

Bill/Resolution No.: HB 1437

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

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			($157,000,000)			
Expenditures						
Appropriations						

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

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1437 reduces the general sales and motor vehicle excise tax rate from 5% to 4.5%. The bill also requires legislative approval of local option tax changes.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

If enacted, HB 1437 is expected to reduce state general fund revenues by an estimated $157 million in the 2011-13 biennium.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*
   A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

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

   C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Name:	Kathryn L. Strombeck	Agency:	Office of Tax Commissioner
Phone Number:	328-3402	Date Prepared:	01/25/2011

VR
2/7/11

11.0085.02001
Title.03000

Adopted by the Finance and Taxation Committee

February 7, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1437

Page 1, line 1, remove "to create and enact a new section to chapter 11-09.1 and a new section to"

Page 1, remove line 2

Page 1, line 3, remove "sales, use, or excise taxes;"

Page 1, remove lines 8 through 23

Page 2, remove lines 1 through 12

Renumber accordingly

VK
2/9/11

11.0085.02003
Title.04000

Prepared by the Legislative Council staff for
Representative Belter
February 8, 2011

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1437

Page 1, line 2, replace "legislative approval" with "limitation of the rate"

Page 1, line 10, replace "**Legislative approval**" with "**Rate restriction**"

Page 1, line 11, remove "1."

Page 1, line 12, replace "without receiving approval from the" with "at a rate exceeding one-half of one percent. Sales and use taxes or gross receipts taxes levied under this chapter before July 1, 2011, at a rate exceeding one-half of one percent may continue to be imposed at the rate in effect on June 30, 2011, until the expiration of the period for which the tax rate in excess of one-half of one percent was approved but may not thereafter be reimposed at a rate exceeding one-half of one percent."

Page 1, remove lines 13 through 21

Page 2, line 1, replace "**Legislative approval**" with "**Rate restriction**"

Page 2, line 2, remove "1."

Page 2, line 3, replace "without receiving approval from the" with "at a rate exceeding one and one-half percent. Sales and use taxes or gross receipts taxes levied under this chapter before July 1, 2011, at a rate exceeding one and one-half percent may continue to be imposed at the rate in effect on June 30, 2011, until the expiration of the period for which the tax rate in excess of one and one-half percent was approved but may not thereafter be reimposed at a rate exceeding one and one-half percent."

Page 2, remove lines 4 through 12

Renumber accordingly

Date: 2-7-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1437

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment R. Wrangham's

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Rep. Wrangham Seconded By Rep. Kelsh

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE

AYE

MOTION CARRIED

Date: 2-7-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1437

House Finance and Taxation 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. Wrangham Seconded By Rep. Winrich

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter		✓	Scot Kelsh	✓	
Vice Chair. Craig Headland		✓	Shirley Meyer	✓	
Glen Froseth		✓	Lonny B. Winrich	✓	
Bette Grande		✓	Steven L. Zaiser	✓	
Patrick Hatlestad		✓			
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trottier		✓			
Dave Weiler	✓				
Dwight Wrangham	✓				

Total (Yes) 8 No 6

Absent Ø

Floor Assignment Rep.

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

Date: 2-9-11
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1437

House Finance and Taxation 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. Grande Seconded By Rep. Froseth

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Chairman Belter said carries VOICE VOTE

MOTION CARRIED

Date: 2-9-11
Roll Call Vote # 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1437

House Finance and Taxation 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 Headland Seconded By Grande

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter			Scot Kelsh		
Vice Chair. Craig Headland			Shirley Meyer		
Glen Froseth			Lonny B. Winrich		
Bette Grande			Steven L. Zaiser		
Patrick Hatlestad					
Mark S. Owens					
Roscoe Streyle					
Wayne Trottier					
Dave Weiler					
Dwight Wrangham					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

VOICE VOTE

MOTION CARRIED

Date: 2-9-11
Roll Call Vote # 3

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1437

House Finance and Taxation Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 11.0085.02003 Title# 04000

Action Taken: ☐ Do Pass ☒ Do Not Pass ☒ Amended ☐ Adopt Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley R. Belter	✓		Scot Kelsh		✓
Vice Chair. Craig Headland	✓		Shirley Meyer	✓	
Glen Froseth	✓		Lonny B. Winrich		✓
Bette Grande	✓		Steven L. Zaiser		✓
Patrick Hatlestad	✓				
Mark S. Owens	✓				
Roscoe Streyle	✓				
Wayne Trottier	✓				
Dave Weiler	✓				
Dwight Wrangham		✓			

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep. Owens

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

REPORT OF STANDING COMMITTEE

HB 1437: Finance and Taxation Committee (Rep. Belter, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1437 was placed on the Sixth order on the calendar.

Page 1, line 2, replace "legislative approval" with "limitation of the rate"

Page 1, line 10, replace "**Legislative approval**" with "**Rate restriction**"

Page 1, line 11, remove "1."

Page 1, line 12, replace "without receiving approval from the" with "at a rate exceeding one-half of one percent. Sales and use taxes or gross receipts taxes levied under this chapter before July 1, 2011, at a rate exceeding one-half of one percent may continue to be imposed at the rate in effect on June 30, 2011, until the expiration of the period for which the tax rate in excess of one-half of one percent was approved but may not thereafter be reimposed at a rate exceeding one-half of one percent."

Page 1, remove lines 13 through 21

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Page 2, line 2, remove "1."

Page 2, line 3, replace "without receiving approval from the" with "at a rate exceeding one and one-half percent. Sales and use taxes or gross receipts taxes levied under this chapter before July 1, 2011, at a rate exceeding one and one-half percent may continue to be imposed at the rate in effect on June 30, 2011, until the expiration of the period for which the tax rate in excess of one and one-half percent was approved but may not thereafter be reimposed at a rate exceeding one and one-half percent."

Page 2, remove lines 4 through 12

Renumber accordingly

2011 TESTIMONY

HB 1437

Testimony #1 p. 1 1-26-11

House Finance and Tax Committee
Testimony on HB 1437
Representative Dwight Wrangham
January 26,2011

HB1437 provides a state sales and use tax reduction of 1/2 of one percent. Sections 1 & 2 of the bill state that any future increases in local entity sales tax rates will need to be approved by the state legislature. This mirrors the way local entity tax rates are approved in Minnesota. There are many good reasons the North Dakota Legislature should be involved in this issue. Local entity sales tax increases directly affect many North Dakota citizens who do not live in or vote in those local entities. Smaller and even medium size cities have few high volume retail stores. People travel further and further to do their retail shopping in the major shopping centers. Those citizens deserve to have the state legislature take a look at tax increases that affect them. Also, in past attempts to lower the state sales tax rate there has been resistance because of the fear that if the state lowers the rate, local entities will increase their rates and the citizens will not see a tax break. Founded or not, this fear, has been a deterrent to a state sales tax reduction. Sections 3,4,5 and 6 reduce the state sales and use tax rates from 5 to 4 1/2 percent.

North Dakota is in solid financial condition. Unlike most all other states we have a huge ending fund balance. We have collected tax dollars in excess of our budget. This balance leaves us with a couple of questions? Should we spend the ending fund balance, increase government spending and continue collecting tax dollars at the current rate? Or. Should we hold the line on spending, save some of the ending fund balance and reduce the tax load in the upcoming biennium. North Dakota ranks 4th in the nation in total tax burden per citizen as compared to income. (red book page 6)

It will not be hard to spend the ending fund balance and continue to grow government. We have no shortage of suggested ways to spend and grow government. But that is not what we are being told to do by the citizens of North Dakota. The public outcry has been and is "Don't spend all of the money."

North Dakota ranks 36th out of 43 states in per capita dollars collected by individual income tax (red book page 53). Near the bottom. In my opinion, North Dakota's individual income tax is not a source of heartburn.

North Dakota ranks 6th in the nation in per capita dollars collected by state sales tax (red book page113) . Near the top. In addition to our sales tax burden being higher in the national rankings than our other taxes, sales tax is the most regressive of all taxes. Sales tax is more onerous on the least able to pay. Lower income people pay a much higher percentage of their income on sales tax than higher income citizens do. In my view sales tax is the state tax we should reduce.

Because sales tax is the most logical tax to cut, I have introduced, HB 1437, which will reduce the North Dakota sales tax rate from 5 % to 4 ½ %. This cut will save North Dakota taxpayers approximately 157 million dollars. Dollars they can spend in the marketplace and grow the North Dakota economy. I think we can all agree, government should only tax the citizens to collect the dollars necessary to carry out essential government services. Over taxing is detrimental to the states economy. The more dollars we can leave in the citizens pockets the better our economy will be.

While I support other tax reductions, I believe sales tax reduction is the best. It gives tax relief to all citizens and especially to those who can least afford taxes. Sales tax relief makes our marketplaces more attractive to out of state customers. Sales tax relief is a win – win.

Testimony # 2

Testimony To The
THE HOUSE FINANCE & TAXATION COMMITTEE
Prepared January 26, 2011 by
Terry Traynor, Assistant Director
North Dakota Association of Counties

REGARDING HOUSE BILL No. 1437

Thank you Chairman Belter and committee members for the opportunity to testify regarding HB 1437. County officials are adamantly opposed to sections 1-2 of this bill, as an effort to usurp the local will of the citizens through centralized government control.

The citizens of seven counties have adopted home rule, and in four cases their citizens also voted separately to levy a sales tax on themselves. They have done this for very specific reasons that the citizens of those counties felt were local priorities, but may or may not have been deemed so by Legislators from other parts of the State.

This proposal seems to place the citizens last, rather than first, in deciding tax policy. County officials don't believe this is the correct direction for North Dakota, and urge removing sections 1-2 or returning a "do not pass" recommendation for HB1437.

COUNTY HOME RULE CHARTERS

County	Sales Tax	Separate Vote	Purpose
Cass	½%	Yes	Flood Control
Richland	None		
Steele	1%	Yes	County Roads
Stutsman	None		
Walsh	¼%	Yes	Emerg. Medical Services
Ward	None		
Williams	1%	Yes	LEC/Jail Construction

Testimony #3

Testimony to the House Finance and Taxation Committee
Chairman Wes Belter
Prepared by Cindy K. Hemphill, Finance Director
City of Minot
Cindy.hemphill@minotnd.org

HOUSE BILL NO. 1437

Mr. Chairman, my name is Cindy Hemphill and I serve as the City Auditor and Finance Director for the City of Minot. I am representing the City of Minot to encourage a DO NOT PASS on House Bill 1437.

Each time the City of Minot has imposed a sales tax it has been voted on and approved by the electors of the City. The City has clearly defined the purpose of the tax on the ballot and we keep a list of the projects that have benefited from the sales tax.

In fact, we have a one-percent sales tax that is funding the local share of the Northwest Area Water Supply Project. This project is benefiting communities in the northwest and central part of North Dakota to include, Rugby, Burlington, Berthold, Kenmare, Sherwood, Mohall, Minot Air Force Base, Glenburn, Upper Souris Water Users Association, North Prairie Rural Water District, and All Seasons Water District. The citizens of Minot voted on this tax.

Local governments and their citizens are closest to the needs of the cities and surrounding areas. Allowing the sales tax decisions to be made at the local level allows the cities and citizens to make these choices.

Again, we encourage a DO NOT PASS on House Bill No. 1437.

Testimony #4 p.1

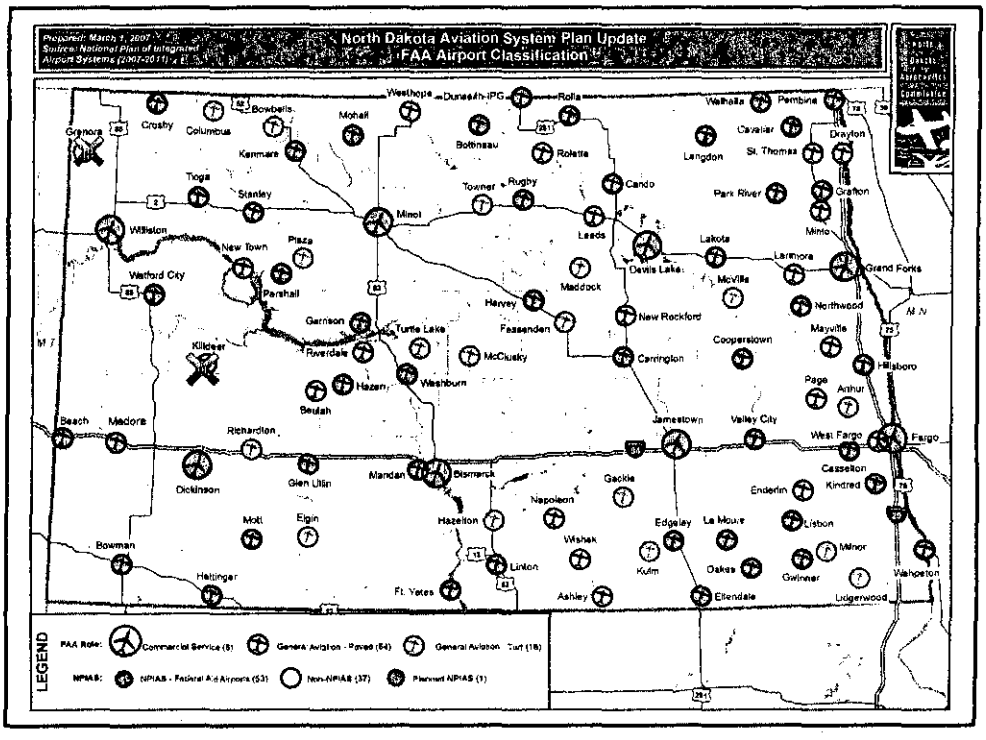
How North Dakota Airports Are Affected When Aircraft Excise Taxes Are Reduced

HB 1437

Larry Taborsky
Director
ND Aeronautics Commission

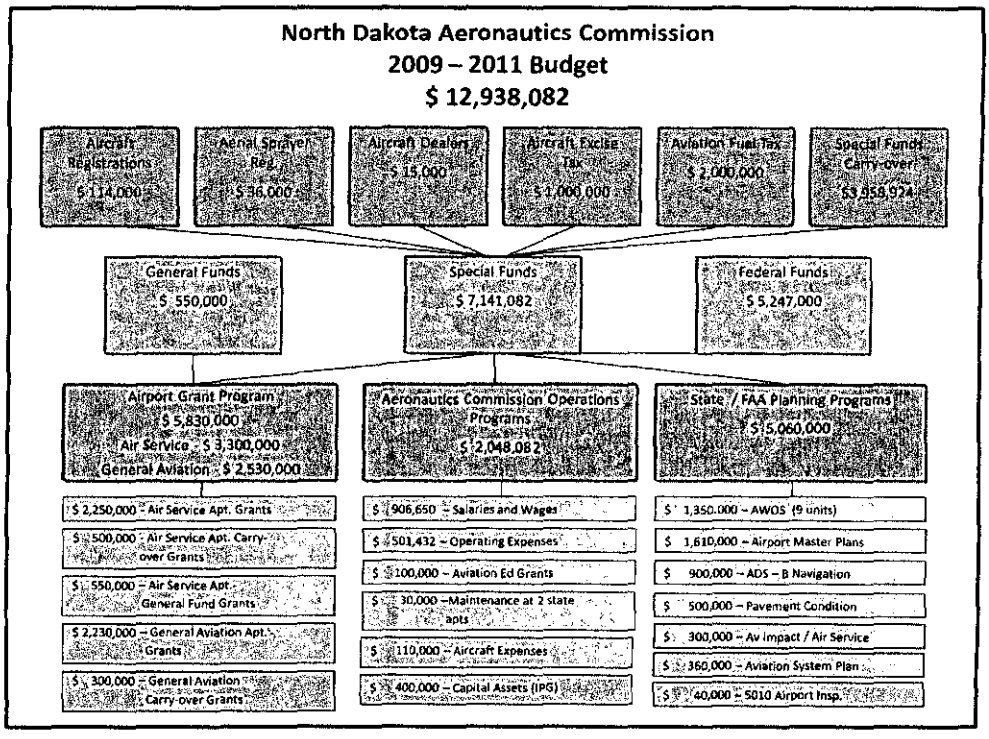
Hello- my name is Larry Taborsky. I'm the director of the North Dakota Aeronautics Commission. One of our missions is to construct and operate public airports in the state. That is why I'm here today.

Testimony #4 p. 2



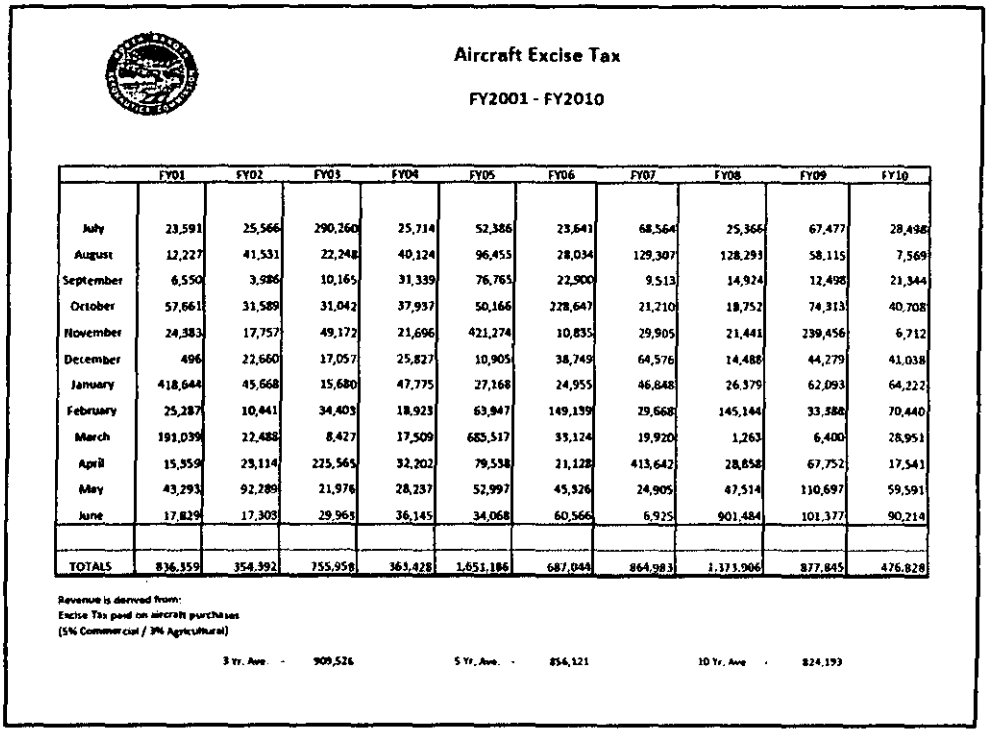
This map shows the 88 airports in the state, and the blue shaded circles receive federal support. The rest are run by state and local funding. From a state perspective, the federal aviation system plan is a great deal. For every 5 cents we contribute locally to an airport improvement project as a state, the FAA contributes 95 cents. Our budget goes a long way. One more important point: with the exception of the airline airports, most of the staffing at these airports is by volunteers. The system wouldn't run without them.

Testimony #4 p 3



This is our present budget. The yellow boxes are the sources of income. $550,000 goes to the 8 airline airports, and the rest of our income is from aviation users, and goes back into aviation. The special funds are mostly provided by people buying aircraft and people buying aircraft fuel. The excise tax in the green box is the one that would be reduced in this proposal.

Testimony #4 p.4



Aircraft Excise Tax

FY2001 - FY2010

	FY01	FY02	FY03	FY04	FY05	FY06	FY07	FY08	FY09	FY10
July	23,591	25,566	290,260	25,714	52,386	23,641	68,564	25,366	67,477	28,498
August	12,227	41,531	22,248	40,124	96,455	28,034	129,307	128,293	58,115	7,569
September	6,550	3,986	10,165	31,339	76,765	22,900	9,513	14,924	12,498	21,344
October	57,661	31,589	31,042	37,937	50,166	228,647	21,210	18,752	74,313	40,708
November	24,383	17,757	49,172	21,696	421,274	10,835	29,905	21,441	239,456	6,712
December	496	22,660	17,057	25,827	10,905	38,749	64,576	14,488	44,279	41,038
January	418,644	45,668	15,680	47,775	27,168	24,955	46,848	26,379	62,093	64,222
February	25,287	10,441	34,403	18,923	63,947	149,199	29,668	145,144	33,388	70,440
March	191,039	22,488	8,427	17,509	685,517	33,124	19,920	1,263	6,400	28,951
April	15,959	29,114	225,565	32,202	79,538	21,128	413,642	28,858	67,752	17,541
May	43,293	92,289	21,976	28,237	52,997	45,926	24,905	47,514	110,697	59,591
June	17,829	17,303	29,963	36,145	34,068	60,566	6,925	901,484	101,377	90,214
TOTALS	836,359	354,392	755,958	363,428	1,651,186	687,044	864,983	1,373,906	877,845	476,828

Revenue is derived from:
Excise Tax paid on aircraft purchases
(5% Commercial / 3% Agricultural)

3 Yr. Ave - 909,526 5 Yr. Ave. - 856,121 10 Yr. Ave - 824,193

This chart has the 10-year track of aircraft excise tax, or sales tax. I left so many numbers on it to show how the income varies widely, but over the long term the average has stayed consistent. In general, less planes are being bought, but the ones that are purchased are larger and more expensive. These planes generally need more expensive airport improvements. I'll be using the 5-year average shown at the bottom, $856,000 for the next slide...

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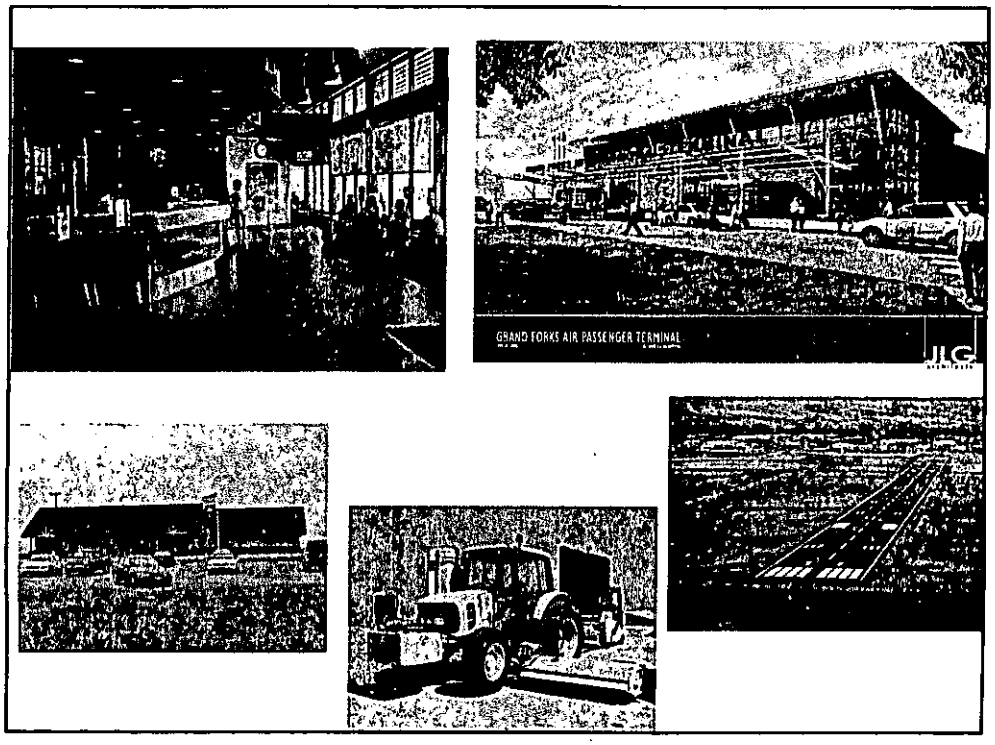
How those funds are used

- ½% decrease will reduce the income to the Aeronautics Commission Special Fund by $85,600
- Federal airport projects are funded:
  - 2 ½% locally
  - 2 ½% Aeronautics Special Funds
  - 95% by the Federal Aviation Administration
- The loss of $85,600 means that $3.4 million is not available for airport construction.

The proposed bill takes away ½% of excise tax.
The aviation special fund covers the state 2 ½% portion of a federal project.
Our small contribution results in large airport improvements for North Dakota.
.05x=856,000
X=856,000/.05
X=17,120,000
.045 X 17,120,000= 770,400
856,000-770,400=85,600
Project total cost=85,600/.025
Project total cost=3,424,000

Testimony #4 p.6



Each terminal renovation has been done with Aeronautics grants of approximately $300,000. The eight airline airports are on their way to having updated terminals which make a great first impression for travelers who come to visit North Dakota.
The tractors are used for both lawn-mowing and snow removal. They cost $285,000.
Rehabilitating a runway costs half a million. Rebuilding a runway will cost several million.

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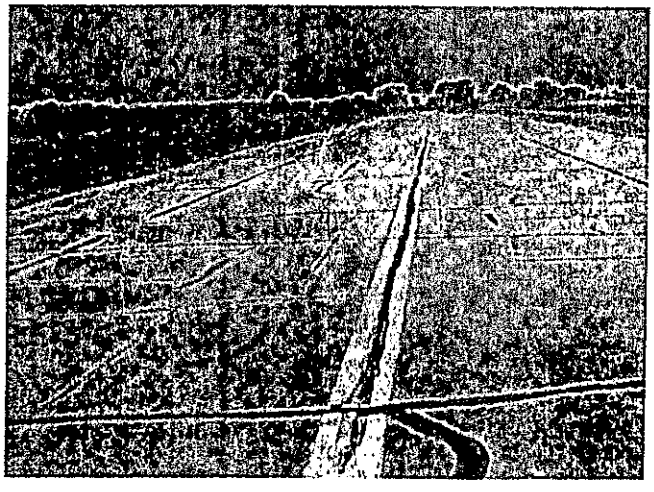
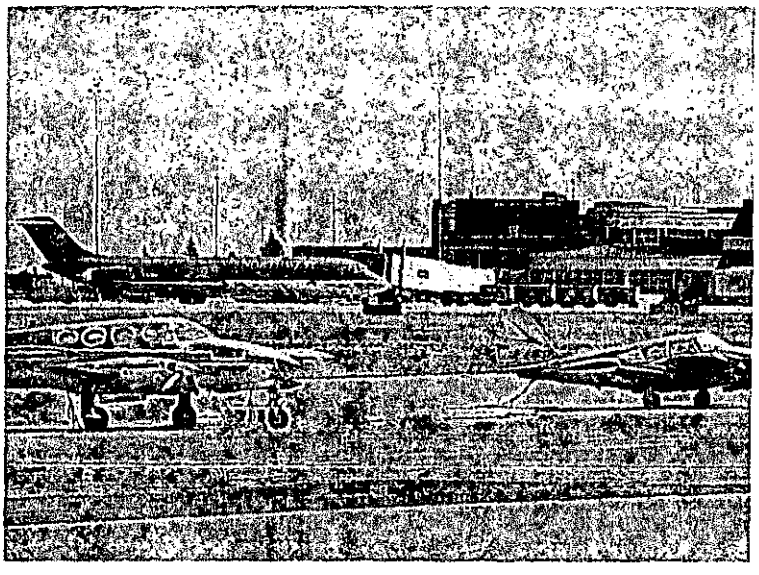
Airport demands far exceed aviation special fund budget



The annual grant meeting determines how much money gets allotted to each airport project. To complete all of the requested projects in a typical year, we'd have to have four times the budget we have at present. Crack sealer costs money, but I'm glad that our airports are ready to handle emergencies such as floods, tornados, or medical flights. Our airport maintenance dollars go to good use.



For those agencies who are involved who operate from the general fund, this may not be a big deal. But for the ND Aeronautics Commission, our 10-year statewide aviation system plan is dependent on these funds. Approximately half of our budget comes from these funds, and there is so much more we could do if we had the budget! The airline boardings are at all-time highs, the nation is transitioning to new technology navigation systems, and unmanned aircraft may soon be operating in our state. The commission is neutral on House Bill 1437, but wanted to point out how our mission would be affected. Thank you.