

2011 HOUSE FINANCE AND TAXATION

HB 1157

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Finance and Taxation Committee Fort Totten Room, State Capitol

HB 1157  
January 17, 2011  
#12945

☐ Conference Committee

Committee Clerk Signature

*Mary Brucher*

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

A Bill relating to an exemption from aircraft excise tax for aircraft acquired by an aviation museum; and to provide an effective date.

### Minutes:

*See attached testimony #1, #2, and #3*

**Representative Maragos:** Sponsor. Support. I put this bill in at the request of the two aircraft museums in the state, one located in Minot and the one located in Fargo. I think I will just leave it up to the parties to give pertinent information as to why we think this bill is necessary and why we think this would be of help to 501(c)(3) organizations to promote aircraft history.

**Larry Taborsky, Director of ND Aeronautics Commission:** Please refer to attached testimony #1.

**Chairman Wesley R. Belter:** Several sessions ago we had a bill dealing with the air museums and I don't recall whether that was over tax issues. Do you have any record of that?

**Larry Taborsky:** I will have to defer to one of the air museum representatives, Don Larson. I'm sorry sir we don't have that information with us.

**Representative Glen Froseth:** How much tax money is generated by this excise tax?

**Larry Taborsky:** 5% excise tax of the appraised value of the plane. Basically what it is sold for.

**Representative Glen Froseth:** Is that a onetime charge?

**Larry Taborsky:** Yes it is, every time it changes ownership.

**Representative Glen Froseth:** That tax then goes to the museum?

**Larry Taborsky:** The excise tax as it stands now goes to the aeronautics special fund through the tax department. That's where a bulk of our finances comes from.

**Chairman Wesley R. Belter:** When an airplane qualifies for a tax exemption, that plane is still probably owned by an individual, correct? Or does it become property of the museum?

**Larry Taborsky:** In this proposal the airplane would be donated to the museum. It might be easier to show the case in point; we've had a P51 Mustang, beautiful machine, that's been flying across the state for years. It was recently purchased by a gentleman in Texas, I believe. He plans to fly it for a few years then donate it back to North Dakota. The air museums are on a small budget that they couldn't possibly pay for the excise tax to keep such a beautiful machine in the state. So the deal would basically be off at that point. That's when it came to the Aeronautics Commission for help on this. So it's either donation to the cause or else it's not going to happen.

**Representative Glen Froseth:** The tax goes to a special fund you say and then what do you use that fund for? Does it go back into supporting the museum or updating museums or does it go back to their general fund?

**Larry Taborsky:** It's a wide variety of options for the Aeronautics Commission. The part of our fund is education. That would be the part we support the air museums with. They have youth programs, one time uses for particular events, or other special things. Overall, our fund is used for airport improvements, education, and administrative costs.

**Representative Dave Weiler:** Over the last five or ten years how many planes have been donated to the two museums in North Dakota?

**Larry Taborsky:** To our knowledge this is the first time this has happened this way. Things are donated but they're not air worthy. If they're not air worthy they don't get registered. If they don't get registered they don't pay any excise tax. This is kind of a new situation with potential for the future.

**Don Larson, Minot, ND:** Support. Please refer to testimony #2 and #3.

**Chairman Wesley R. Belter:** No further testimony. Closed the hearing on HB 1157. I'll entertain a motion to act on HB 1157.

**Representative Bette Grande:** I'd like to move a Do Pass on 1157.

**Representative Mark S. Owens:** Seconded.

Roll call vote taken: 13 YES 0 NO 1 ABSENT  
MOTION CARRIED- DO PASS  
Representative Dave Weiler will carry HB 1157.

## FISCAL NOTE

Requested by Legislative Council  
01/07/2011

Bill/Resolution No.: HB 1157

**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						
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 1157 creates an exemption from aircraft excise tax for donations of aircraft to aviation museums.

**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.*

Section 1 of HB 1157 creates an exemption from aircraft excise tax for aircraft that is donated to a nonprofit aviation museum.

The potential reduction in aircraft excise tax revenue associated with this exemption is difficult to estimate. There will likely be very few qualifying aircraft donations in the state in any given biennium. The donations that do occur may be of aircraft that have significant value however. If the museums were required to pay the excise tax, they may be unwilling or unable to accept the donation.

Therefore, it is not possible to estimate the fiscal impact of HB 1157.

**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:	01/12/2011

Date: 1-17-11  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1157

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. Owens

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	AB				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Rep. Weiler

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

**REPORT OF STANDING COMMITTEE**

**HB 1157: Finance and Taxation Committee (Rep. Belter, Chairman)** recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1157 was placed on the Eleventh order on the calendar.

2011 SENATE FINANCE AND TAXATION

HB 1157



# 2011 SENATE STANDING COMMITTEE MINUTES

## Senate Finance and Taxation Committee Lewis and Clark Room, State Capitol

HB 1157  
3/7/2011  
Job Number 14985

☐ Conference Committee

A. Rittmiller

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

Relating to an exemption from aircraft excise tax for aircraft acquired by an aviation museum

### Minutes:

Written Testimony Attached

**Chairman Cook** opened the hearing on HB 1157.

**Representative Maragos** – I introduced HB 1157 to assist 2 entities in North Dakota who are 501C3 nonprofits, and they are the air museums, one located in Minot and one located in Fargo. As you all know these museums gather artifacts through donations. One thing that cropped up is a pending donation to the air museum in Minot. The value of that aircraft was quite considerable. Since it had an air worthy certificate the law stated that the tax had to be collected. Of course the 501C3's don't have that kind of money and are asking to change this part of the code to exempt them when they get a gift, a very expensive gift such as this aircraft. The people who intended to be here to testify unfortunately, there is a state aviation conference going on in Minot as we speak.

**Representative Maragos** handed out testimony on behalf of Don Larson, Dakota Territory Air Museum and Larry Taborsky, North Dakota Aeronautics Commission. (Attached testimony A and B)

**Chairman Cook** – For the record Representative Maragos informed me that all of these folks that would like to testify and who did testify in the House are at that convention or whatever it is in Minot. There is also positive support here from Cynthia Schreiber-Beck, Tristate Aviation Incorporated and Rex Hammerbock, Fargo Air Museum.

**Chairman Cook** – We only have 2 museums that will benefit from this is that correct?

**Representative Maragos** – That is correct. I believe the way it is written, I'm not sure it would spill over in to any other nonprofits but it was written to allow the 2 air museums to accept these gifts without having the tax liability that would accompany them. If an airplane is not air worthy, if it cannot fly, then there is no problem.

**Senator Dotzenrod** – Do you know what happens to the revenues that are collected on the sales tax on airplanes? Does that go to the general fund?

**Representative Maragos** – I don't know the answer to that. I think it goes into an aviation state fund that supports state aviation.

**Senator Dotzenrod** – I'm getting the impression by inference that the Aeronautics Commission gets that revenue.

**Representative Maragos** – Yes, that is correct.

**Senator Triplett** – Mr. Taborsky says "this bill in its present form has enough controls in place to ensure that the exemption would not be abused". I'm looking for those controls. Can you help me with that?

**Representative Maragos** – I honestly do not know what Director Taborsky was referring to. I believe that what he's saying is as long as it only covers the 2 air museums that most likely nobody else could benefit by this bill.

**Chairman Cook** – That is what I read in to it. The only control I see in here is the fact that it is limited to those 2 museums.

**Senator Triplett** – It also says it may not be used for commercial activities that you indicate the museum would be using it to give rides and display and such so that if they are giving rides there may be a fee for that and so the museum may be making a little bit of money off of it.

**Representative Maragos** – All revenues that might become available as a result of the air museum would go directly to that 501C3 to defray expenses and to expand the museum. They are the only ones that would be able to profit by it.

**Chairman Cook** asked for testimony in opposition to HB 1157. No one came forward.

**Chairman Cook** asked for neutral testimony for HB 1157. No one came forward.

**Vice Chairman Miller** – I have some information for the committee if they wish. Taxes on planes, the 5% excise tax is paid to the Director of Aeronautics in which he hold the record of that and the address of the buyers and sellers, full purchase price of the aircraft and the revenues are deposited in the Aeronautics Commission Special Fund.

**Chairman Cook** closed the hearing on HB 1157.

**Senator Triplett** – I just have a comment. It seems to me that there is some slight possibility for abuse in a situation like this from a personal stand point. I don't know anyone involved here and just thinking in the abstract. If someone has a plane that they really get a kick out of flying decides it's too expensive for them to maintain so they donate it to the local museum with this understanding that they will be available to fly it whenever the museum wants them to for rides or whatever so they get the ongoing pleasure of owning

and caring for the plane without any of the financial burden of it, and someone else is taking care of maintaining the plane, housing it, insuring it, and all the rest of it.

**Chairman Cook** – I don't think there is big need to worry about that. I think if someone was going to give them a plane, the museum takes ownership of it.

**Senator Oehlke** – I will make a motion for a Do Pass.

Seconded by **Senator Burckhard**.

**Senator Dotzenrod** – How does it work with the North Dakota Heritage Center? Don't they get things that are donated to them too? Is it true that when a museum accepts a gift I assume those gifts, if they are given something, it would not be taxed. Is it just a situation because of the air worthiness?

**Myles Vosberg, Tax Department** – Motor vehicles and aircraft are a little bit different because there is tax on the title change every time where a lot of products or items that are donated to museums are probably previously owned, have been taxed, and no sale takes place. Because the titling and tax laws for motor vehicles and aircrafts says every time you change title, it's licensed here for use on the roads, or if it's air worthy, it's subject to tax. If you have a motor vehicle that you can't drive down the road, it wouldn't be subject to tax. If you have an aircraft that can't fly, it wouldn't be subject to tax.

**Senator Dotzenrod** – If I donated an old 1920 car that was registered and probably have collector plates, if it was worthy for the road and I donated it to the Heritage Center there would be some tax?

**Myles Vosberg, Tax Department** – I think that's correct. I would have to verify that for sure that there's not also a special exemption for motor vehicles. I don't think there is.

**Senator Dotzenrod** – It's a little off subject, I was just curious.

**Senator Triplett** – What I'm hearing if you are correct then, a donation of an antique vehicle that still runs would be subject to tax if it were donated to a private museum.

**Myles Vosberg, Tax Department** – I think that's true. Under the motor vehicle excise tax law it says if you register, or a vehicle is required to be registered for use on the streets and highways it's subject to tax.

**Senator Triplett** – So if someone let the registration laps, even if it was still road worthy it might not be subject to tax on donation.

**Myles Vosberg, Tax Department** – I'd have to check of that for sure. If they are sitting in a museum and they don't take them out on the road, I would say there may not be any tax there. I would have to check on that to verify for sure.

**Senator Triplett** – It seems to me if there is an issue relative to automobiles it just seems to be that we ought to treat titled property the same and not single out aircrafts for separate treatment.

**Senator Dotzenrod** – The times I've been to museums where they have old vehicles, they are not normally licensed. They are put in the museum and they are not annually renewing registration. I think they go in a museum and I don't think there is sales tax involved.

**Chairman Cook** – I don't think there is either.

**Myles Vosberg, Tax Department** – We treat the aircraft and the motor vehicles the same. If the museum owns them, they want to title them, then they need to pay the tax. Even though they may only want to drive it on the road occasionally or they want to title it for other purposes just to make sure of the ownership, they are going to insure it and so on, they are going to pay the tax. This bill would treat the aircraft differently than motor vehicles.

**Senator Triplett** – Would it be so difficult to change it to say aircraft or automobiles acquired by a private museum instead of an aviation museum?

**Chairman Cook** – I understand where you are going; here's my thought on it. The bill that was introduced was introduced to solve a specific problem, and that's the problem of a very expensive aircraft. In particular one very expensive aircraft that somebody would like to contribute and the museum cannot afford to take it because of the tax. This solves that problem. I'm content with just doing that.

**Senator Triplett** – Why would we just because someone brings us a problem why we would not try to keep the code sort of consistent, just seems to me it's worth thinking about.

**Chairman Cook** – I also recall we have in the past received legislation that tries to deal with that problem of restored automobiles to make them exempt and it's always been defeated. I don't know if we want to open that can of worms.

**Senator Dotzenrod** – I sympathize with what Senator Triplett wants to do. It looks like this bill is so specifically tailored to airplanes, if you look at line 11, those references, and then the word aircraft is used over and over in this short bill. It seems like if you really wanted to accomplish what she's doing you would almost have to create a second paragraph or a separate paragraph.

**Chairman Cook** – We have a motion and a second. Your wishes? Any other discussion? Ask the clerk to take the roll. (7-0-0)

Carried by **Senator Burckhard**.

Date: 3-7-11  
Roll Call Vote # 1

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 1157

Senate 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 Senator Oehlke Seconded By Senator Burckhard

Senators	Yes	No	Senators	Yes	No
Dwight Cook – Chairman	X		Jim Dotzenrod	X	
Joe Miller – Vice Chairman	X		Connie Triplett	X	
Randy Burckhard	X				
David Hogue	X				
Dave Oehlke	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Burckhard

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

**REPORT OF STANDING COMMITTEE**

**HB 1157: Finance and Taxation Committee (Sen. Cook, Chairman)** recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1157 was placed on the Fourteenth order on the calendar.

**2011 TESTIMONY**

**HB 1157**

# |

From: Larry Taborsky, Director, North Dakota Aeronautics Commission

To: Finance and Taxation Committee

January 17, 2011

Subj: Endorsement of House Bill NO. 1157

Good morning, my name is Larry Taborsky. I am the director of the North Dakota Aeronautics Commission. The commission is the recipient of the tax revenue which is generated from an aircraft purchase. This money gets deposited into the aviation special fund, and is used for projects such as airport improvements and aviation education programs.

The air museums in Fargo and Minot are a great asset for aviation in North Dakota. They produce a positive public image for aviation and support the Aeronautics Commission's long-term goal of showing the youth the excitement of flying and the career potential in aviation. The loss of the revenue by this proposed exemption will easily be balanced by the positive publicity which results from the air museum.

The North Dakota Aeronautics Commission is in favor of this bill.



#B 1157

Testimony

#2

p. 1

January 15, 2011

2011 North Dakota Legislative Assembly  
Finance and Taxation Committee

Committee Members:

My name is Don Larson, from Minot, ND. I was one of the founders of the Dakota Territory Air Museum in 1986 and have served on its Board of Directors since its inception.

I appear before you today in support of HB1157.

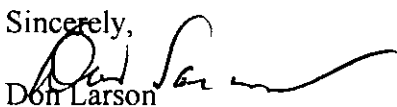
The current %5 excise tax to register an aircraft in North Dakota would create a real financial burden on an aviation museum in the event it is a recipient of a high value aircraft. Donations of this type to a museum require that the registration be transferred in order for the donor to get the tax benefit of the donation.

This bill would also allow the museum to utilize the acquisition to raise money for the museum. (ie by giving rides and displaying it at various aviation functions)

I respectfully request a do pass recommendation from this committee.

Sincerely,

Don Larson



HB 1157

#2

p. 2



January 15, 2011

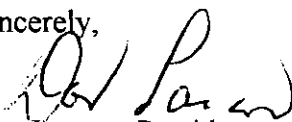
2011 North Dakota Legislative Assembly  
Finance and Taxation Committee

Committee Members:

On behalf of our Board of Directors, I want to express our support for HB1157. This legislation would enable aviation museums to accept donations of high value aircraft and keep them flying for the benefit of the museum and the education of the public.

We respectfully request a do pass vote from this committee for HB1157.

Sincerely,

  
Don Larson, President  
Board of Directors

1157 #2 p.3  
~~#2~~

*Tri-State Aviation Inc.*

1251 Pegasus Road  
Wahpeton ND 58075  
[tsa@702com.net](mailto:tsa@702com.net)

January 16, 2010

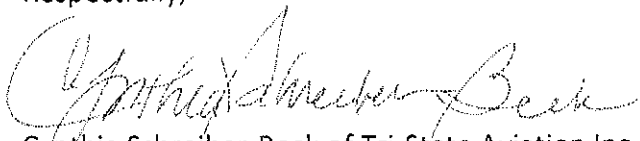
Honorable Chairman Belter and Members of the Finance and Taxation Committee:

I support House Bill 1157 that would exempt flying aircraft, acquired by North Dakota aviation museums, from the 5% excise tax charged when the aircraft is registered in North Dakota. Had the Dakota Territory Air Museum and the Fargo Air Museum existed at the time of the original legislation, these museums would have likely been included in the list of exempted organizations.

The Fargo Air Museum exists as a flying museum to educate the general public. Although the majority of the aircraft currently on display are privately owned and maintained, it is likely that the Fargo Air Museum will acquire flying aircraft in the future. These aircraft would be used for the educational purposes and enhance the current mission of the Museum.

The two existing aviation museums in North Dakota, with the assistance of the North Dakota Tax Department and with input from Larry Taborsky, Director of the North Dakota Aeronautics Commission, drafted the bill. The North Dakota Aeronautics Commission is on record as supporting this legislation as is the North Dakota Aviation Council. I would sincerely appreciate your favorable consideration of this legislation.

Respectfully,



Cynthia Schreiber-Beck of Tri-State Aviation Inc  
Fargo Air Museum Board Member  
North Dakota Aeronautics Commission Member

March 6, 2011

2011 North Dakota Legislative Assembly  
Senate Finance & Taxation Committee

Honorable Senator Cook and Senate Committee Members:

Re: House Bill 1157

My name is Don Larson, from Minot, ND. I was one of the founders of the Dakota Territory Air Museum in 1986 and have served on it's Board of Directors since its Inception. Our museum is dedicated to preserving aviation history in our region, and I am writing in support of HB 1157.

The current 5% excise tax to register an aircraft in North Dakota creates a real financial burden on an aviation museum in the case where the donated aircraft carries a value of hundreds of thousands of dollars and in some cases can be into seven figures. The IRS requires that donors to a 501c.3 organization give up complete control of the property (transfer ownership) in order for the donation to become tax deductible to the donor.

This bill would also allow the museum to utilize the donated property to raise money for the museum (ie by giving rides and displaying it at various aviation related functions).

I respectfully request a do pass recommendation from this committee.

Any questions I can be reached via email at [dlarson@srt.com](mailto:dlarson@srt.com) or via telephone at 701-833-6837.

Sincerely,

Don Larson

B

**Maragos, Andrew G.**

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**From:** Taborsky, Lawrence E.  
**Sent:** Sunday, March 06, 2011 12:04 PM  
**To:** agmeragos@nd.gov  
**Subject:** Aeronautics Testimony for HB 1157 3-7-11

3-6-11

Chairman and members of the committee,

I am writing on behalf of the North Dakota Aeronautics Commission in support of HB 1157. The Aeronautics Commission is charged with helping others in the development of aviation in the state. While the commission would be losing revenue by not collecting the excise tax on these aircraft, the publicity and good will would serve the objectives of the commission in promoting aviation and developing others in the field. This bill in its present form has enough controls in place to ensure that the exemption would not be abused, but that the museums and aviation in the state would continue to prosper.

Larry Taborsky, Director  
North Dakota Aeronautics Commission