

WRITTEN TESTIMONY OF
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BEFORE THE
HOUSE POLITICAL SUBDIVISION COMMITTEE
FEBRUARY 12th, 2021
HOUSE BILL 1324

Chairman Dockter and members of the committee,

I am providing this written testimony to inform you of the Aeronautics Commission's concerns relating to current language that exists within House Bill 1324.

Our airports in North Dakota play an important role in supporting our communities and their businesses by providing efficient transportation options for people and products all throughout the state. The statewide economic impact study that the ND Aeronautics Commission conducted in 2015 revealed that the public use airports in the state greatly improve our standard of living and provide an annual economic impact of 1.6 billion dollars to the state's economy while supporting over 12,200 jobs. As our communities grow, our airports need to be provided the ability to expand in order to accommodate growing demands and to provide additional opportunities to the traveling public. In some cases, this requires an airport to be able to acquire land to allow for its ability to expand and further develop.

When an airport utilizes eminent domain, it is taken very seriously and is only considered when all other alternatives are studied and good faith efforts to negotiate with the landowners has occurred. Our airports must also justify the land being acquired through environmental and master planning studies. Throughout this planning process, the public and the affected landowners are provided multiple opportunities to provide feedback and concerns on all of the airport project alternatives. Once the alternatives are studied and feedback is received, an airport is able to determine the most appropriate path forward that achieves the justified project goals and has the least amount of impact on the landowners and the environment.

If land acquisition is deemed necessary and justified, the airport must also follow all federal procurement guidelines that are laid out within 49 CFR Part 24: The Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. This is a very in-depth process that requires that an airport receive a land appraisal by an approved federal appraiser and also procure a review appraisal. These documents are then utilized to establish fair market value and allows the airport to further negotiate in good faith with the landowners. Due to the fact that our airports follow the federal procurement process outlined in 49 CFR Part 24 and they work to attempt to address all known issues in the environmental and planning process, it is concerning that HB 1324 in its current

form, penalizes airports that are working to the best of their ability to improve their facility for the betterment of the general public.

Of additional concern, is the section of HB 1324 on page 2 lines 9-11 which states:

Notwithstanding any other provision of law, all property taken under this section must maintain the same zoning restrictions and property classification in place before the property was taken.

The reason that this section is of great concern is that this language may prohibit future development of our airports. If they are unable to rezone the land that they work to acquire, then it could also prevent the ability of the airport to develop that land for the specific purpose that they are acquiring it for in the first place. This new language could also jeopardize federal grant funding for land acquisition and development projects that require land acquisition as the sponsor would not be able to guarantee airport development land that cannot be rezoned and/or developed.

Overall, HB 1324 penalizes a public use airport for their attempts to enhance and grow their facility to accommodate the demands of the public and prevents their ability to rezone any newly acquired land. These two actions will negatively impact an airport authority to do the job to the best of their ability for which the state legislature empowers them through NDCC 2-06-07. This section provides a listing of the general powers of an airport authority and provides that they have the ability:

To plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect airports, within this state and within any adjoining state, including the acquisition, construction, installation, equipment, maintenance, and operation at such airports or buildings and other facilities for the servicing of aircraft or for comfort and accommodation of air travelers, and the purchase and sale of supplies, goods, and commodities as are incident to the operation of its airport properties.

The language in HB 1324 will make it exceedingly more difficult for our airports to “plan, establish, acquire, develop, construct, purchase, enlarge, improve, maintain, equip, operate, regulate, and protect airports, within this state.”

The role of the Aeronautics Commission is to work with our 89 public use airports and the Federal Aviation Administration to maintain and to enhance our aviation facilities as needed to meet the needs our communities. The current language that exists within Section 2-06-08 of the North Dakota Century Code is critical, as it allows our airports to grow and expand to benefit the public good. This section currently also allows the airport to meet the requirements of 49 CFR Part 24 as required to receive grants from the Federal Aviation Administration for airport development projects.

I appreciate the opportunity to provide this written testimony and request that consideration be made to amend or remove the sections that negatively affect North Dakota’s public-use airports.