

**OPINION  
75-186**

January 6, 1975           (OPINION)

Mr. Harold G. Vavra  
Director  
Aeronautics Commission  
Box "U"  
Bismarck, ND 58501

Dear Mr. Vavra:

This is in response to your letter of II December 1974 requesting an opinion in regard to distribution of funds derived from the separate and additional tax on sales of jet aviation motor fuel.

You call our attention to the provisions of section 57-56-01.1 of the 1973 Supplement to the North Dakota Century Code imposing such tax and providing for the distribution of same.

You inform us that the State Tax Commissioner has, by letter, advised you as to the amount of taxes collected from the sale of jet aviation motor fuel at publicly owned or operated airports and as to the names of the publicly owned airports where such taxes were collected.

You further call our attention to the provisions of section 57-56-03 of the North Dakota Century Code providing procedure for the distribution of the proceeds of such tax for the purpose of the matching of any funds made available by specified governmental entities for specified types of aeronautical facilities and related projects "in such amounts as the North Dakota aeronautics commission may determine and upon such projects as the North Dakota aeronautics commission may approve."

Your question appears to be whether the distribution of such funds may be for only one, two or three projects at one or more of the six airports that may be approved for matching funds at any one time.

Section 57-56-01.1 of the 1973 Supplement to the North Dakota Century Code limits "distribution" of the fund to those airports where the jet aviation motor fuel is sold. Section 57-56-03 provides that such distribution is on a matching fund basis, with regard to the project involved (rather than being related to the amount of money raised at the project site.) On such basis we must conclude that the provisions of chapter 57-56 of the North Dakota Century Code as amended to date authorize the Aeronautics Commission to distribute (in the manner and within the limits prescribed by said chapter 57-56) moneys from such funds on a project matching basis to any one or more of the eligible airports at any one time.

We hope the within and foregoing will be sufficient for your purposes.

Sincerely,

ALLEN I. OLSON

Attorney General