

2013 HOUSE JUDICIARY

HB 1373

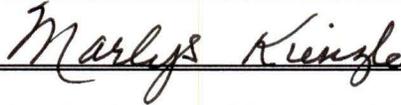
2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1373
1/28/2013
JOB # 17818

Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL to ACT to provide or limitations on the use of unmanned aircraft for surveillance.

Minutes:

Attachment #1, 2, 3

Chairman Koppelman: Opened the hearing for HB 1373.

Rep Becker: Distributed Handouts and Testimony. Discussed the bill and gave testimony.

Rep Delmore: Asked for the awareness of any of this activity in North Dakota.

Rep Klemin: Felt that this was not a simple problem or not a problem. He felt with the technology that is available and is rapidly advancing. We need to model this with US Legislation. There was an incident in Nelson County where drones were used. This would not be a deterrent for Law Enforcements.

Rep Delmore: North Dakota has been looked at for training of the Drone etc. So would we want to say these people are not welcome to North Dakota?

Rep Becker: This bill is saying we are responsibly taking action to insure that we are taking the privacy rights of our citizens in a way that does not hinder development deployment testing and research of UAS. Than Rep Becker continued through the bill and amendment.

Rep Klemin: Would this effect a situation where a private detective was investigating someone and would use a helicopter or such a devise? The warrant can only be in connection with the investigation of a felony, what limits it to felonies and not class A misdemeanors for instance?

Rep Becker: No it does not. The second part of your quest ion an arbitrary line must be drawn. The difference between a felony and a misdemeanor is a pretty cut line. One can argue that one could that the use of UAS for misdemeanors is a waste of resources. Secondly a person could argue that extensive use of drones and UAS to the point that we are looking at traffic infractions and misdemeanors which puts a disconnect between law enforcement and our citizens.

Rep Klemin: Are there FFA or some kind of city airport requirements that say before I start flying my helicopter with a camera on it, over someone's home, do I have to get permission by some type of authority?

Rep Becker: I do not know the answer to that, but I can tell you that RC (Radio Control) aircraft are not considered to UAS.

Rep Larson: I know you have been approached to make this a study resolution rather than a bill since there are so many questions, why have you considered going ahead with the bill? On page 13 It does say that this only Law Enforcement, why would you want to limit only the people that are sworn to protect us?

Rep Becker: From my stand point I did not see where there was a question as to why we needed a study to determine the answer. People who are sworn to protect us are government employees and servant of the people. Law Enforcement is to get a warrant to come into your house, so we could ask the same question as to why the Law Enforcement would need a warrant to come into our house.

Rep Larson: This does not prohibit news cameras from flying over your house or private investigator, your neighbor putting a camera that you can buy from Wal-Mart. This doesn't prevent anyone from flying over your house except Law Enforcement.

Rep Becker: The goal for the Law Enforcement to do surveillance by this form of surveillance can be drawn by many sizes, types and with many types of technology; it is not simply flying overhead. It could fly in and through your back yard. Law Enforcement would use this simply against a private citizen for the purpose of Court of Law that is why they are doing the surveillance.

Rep Paur: I believe you said this was patterned after Federal Legislation, Is that correct? Could you give us an overview and its status?

Rep Becker: It is modeled after potential Legislation. There are several bills that we have taken information from.

Rep Hogan: If during the use of the drone during the Nelson County episode, did they observe or find evidence of a crime under section 7, none of that evidence could be used. Is that correct?

Rep Becker: If the UAS is used in an exigent circumstance and is not in violation of the act. He continued discussing the amendment.

Chairman Koppelman: Asked if this kind of activity been challenged under the 4th amendment claim or law suit that you are aware of in North Dakota or Nationally?

Rep Becker: Not in North Dakota and I am not aware of anywhere else.

Rep Delmore: You use intrusions using Arial surveillance or fly overs all those things will become true when Home Land Security. We don't always know that the drone may discover some major incident that will be part of Home Land Security.

Rep Becker: If we allow free and total unrestricted rein of UAS they may uncover something that might not be covered otherwise.

Testimony in Opposition of this bill

Jerry Kemmet North Dakota Peace Officer Association Lobbyist --Attachment #2--(38:07)

Rep Hogan: Do you support a resolution for a study to make law changes?

Jerry Kemmet: Yes I would.

Dr. Phyllis Johnson: Vice President for Research and Economic Development at UND.-- Attachment #3 (49:30)

Al Palmer: Chairman of the Air Space Integration Team. I am here to testify in opposition to this house bill. This team was formed by the Governor and a Congressional Delegation for the purpose of gaining designation on one of the six National FAA Test Sights. I am here to support the testimony of Dr. Johnson. My concern is the uncertainty that there will be no effect on designation of a FAA Test Sight. However when there are no set guidelines we have to fall back on good reasoning common sense and our best judgment.

Rep Brabrandt: How were the criteria used in determining whether or not North Dakota was one of the 6 Test Sights?

Al Palmer: The six criteria have not been identified yet. Back in May the FA Center requested for commit outs and North Dakota along with 25 other states submitted their commits. The request proposals are the screening information request is to be released in early February, which would outline the requirements for a National Test Sight. The AIT was formed back in September of 2011 and we have been working since that time writing a proposal that includes our best guess as to what that National Test Sight would look like. Things that they look at are climate diversity, location, past performance and safety management plan. There are a lot of reasons to choose North Dakota as one of the Test Sights.

Kelly Jenkins: Sheriff of Nelson County---I am here in opposition of the bill. Some of the concerns is that we are taking away some of the tools from Law Enforcement to do our job.

Handouts from Carel Two Eagle and e-mail from Alan S Frazier received later for the committee.

Hearing closed

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 1373
DATE February 18, 2013
JOB 19084

Conference Committee

Carmen Heck

Explanation or reason for introduction of bill/resolution:

A bill for an act to provide for limitations on the use of unmanned aircraft for surveillance

Minutes:

Attachment 1

Chairman Kim Koppelman: Opens HB 1373 for committee work. He passed out a proposed amendment and explained what he is proposing.

Rep. Diane Larson: Made a motion to approve the amendments.

Rep. Roger Brabandt: Second the motion for amendments.

Voice vote carried.

Rep. Vicky Steiner: made a motion for do pass with amendments.

Rep. Nathan Toman: Second the motion.

8-5-1

Rep. Nathan Toman: Will carry the bill

VRC
2/18/13
1082

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1373

Page 1, line 1, after "surveillance" insert "; and to provide for a legislative management study"

Page 1, line 16, replace "4" with "3"

Page 1, line 20, replace "that" with "issued by a court which"

Page 2, line 1, remove "the"

Page 2, remove line 2

Page 2, line 3, replace "of misdemeanors, traffic infractions, or other violations of law" with "a criminal investigation"

Page 2, remove lines 4 through 21

Page 3, line 4, after the second underscored comma insert "survey environmental damage to determine if a state of emergency should be declared,"

Page 3, line 4, after "or" insert "to"

Page 3, line 6, remove "during a lawfully declared state of emergency"

Page 3, after line 6, insert:

"4. Testing, training, education, and research of unmanned aircraft systems."

Page 3, line 31, after the underscored period insert "The prohibition on the use or admissibility of evidence in this subsection does not apply to evidence of other unrelated criminal activity that is observed during a duly warranted flight."

Page 4, line 31, remove "before a court of law who has been a target of"

Page 5, remove line 1

Page 5, line 2, replace "court" with "accused of a crime that includes evidence gathered through the use of unmanned aircraft system surveillance may obtain"

Page 5, after line 2, insert "through subpoena and discovery proceedings available in criminal proceedings"

Page 5, after line 4, insert:

"6. The documentation required by this section applies to all uses of unmanned aircraft systems, including testing, training, education, and research.

SECTION 8.

Application to federal law.

This Act may not be construed to limit, constrain, or adversely impact testing and operations of a state test range under the FAA Modernization and Reform Act of 2012 [Pub. L. 112-95; 126 Stat. 11].

2012

SECTION 9. LEGISLATIVE MANAGEMENT STUDY - UNMANNED AIRCRAFT SYSTEM SURVEILLANCE. During the 2013-14 interim, the legislative management shall consider studying the implications of using unmanned aircraft systems for surveillance purposes. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement those recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

Date: 2-18-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1373

House Judiciary 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. Larson Seconded By Rep Brabandt

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Voice vote - carried

Date: 2-18-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB1373

House Judiciary 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 Steiner Seconded By Rep Toman

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore		/
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson		
Rep. Randy Boehning		/	Rep. Kathy Hogan		/
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos		/			
Rep. Gary Paur		/			
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 8 No 5

Absent 1

Floor Assignment Rep. Toman

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

REPORT OF STANDING COMMITTEE

HB 1373: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HB 1373 was placed on the Sixth order on the calendar.

Page 1, line 1, after "surveillance" insert "; and to provide for a legislative management study"

Page 1, line 16, replace "4" with "3"

Page 1, line 20, replace "that" with "issued by a court which"

Page 2, line 1, remove "the"

Page 2, remove line 2

Page 2, line 3, replace "of misdemeanors, traffic infractions, or other violations of law" with "a criminal investigation"

Page 2, remove lines 4 through 21

Page 3, line 4, after the second underscored comma insert "survey environmental damage to determine if a state of emergency should be declared,"

Page 3, line 4, after "or" insert "to"

Page 3, line 6, remove "during a lawfully declared state of emergency"

Page 3, after line 6, insert:

"4. Testing, training, education, and research of unmanned aircraft systems."

Page 3, line 31, after the underscored period insert "The prohibition on the use or admissibility of evidence in this subsection does not apply to evidence of other unrelated criminal activity that is observed during a duly warranted flight."

Page 4, line 31, remove "before a court of law who has been a target of"

Page 5, remove line 1

Page 5, line 2, replace "court" with "accused of a crime that includes evidence gathered through the use of unmanned aircraft system surveillance may obtain"

Page 5, after line 2, insert "through subpoena and discovery proceedings available in criminal proceedings"

Page 5, after line 4, insert:

"6. The documentation required by this section applies to all uses of unmanned aircraft systems, including testing, training, education, and research.

SECTION 8.

Application to federal law.

This Act may not be construed to limit, constrain, or adversely impact testing and operations of a state test range under the FAA Modernization and Reform Act of 2012 [Pub. L. 112-95; 126 Stat. 11].

SECTION 9. LEGISLATIVE MANAGEMENT STUDY - UNMANNED AIRCRAFT SYSTEM SURVEILLANCE. During the 2013-14 interim, the legislative management shall consider studying the implications of using unmanned aircraft systems for surveillance purposes. The legislative management shall report its findings and recommendations, together with any legislation necessary to implement those recommendations, to the sixty-fourth legislative assembly."

Renumber accordingly

2013 SENATE JUDICIARY

HB 1373

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1373
3/12/2013
Job #19796

Conference Committee

Committee Clerk Signature



Minutes:

Attached testimony

To provide for limitations on the use of unmanned aircraft for surveillance

Senator David Hogue - Chairman

Representative R. Becker - District 7 - He explains the bill by section and says its intent is to require a search warrant if a drone (UAS - Unmanned Aircraft System) is used on a private citizen for surveillance. He states this is not anti-drone. Rep. Becker gives a hand-out and explains each page (1)

Opposition

Representative Curt Kreun - District 43 - Rep. Kreun believes this bill sends the wrong message when ND wants to be one of six UAS test sites which includes testing, training and maintenance of UAS systems and their sensors. He says negative publicity could hurt this application. He goes on to say this could cost ND jobs and opportunity, ND is a national leader in UAS development as it is the only state where the two large UAS platforms fly. He says our state is well positioned to benefit economically from the advancement of UAS for agriculture, energy, fire, police, and first responders. He said this is well intentioned but poorly timed. He asks why UAS should be held to different standards.

Senator Nelson - Asks if it was amended to just include Section 9. Rep Kreun agreed.

Senator Berry - Asks if it would be okay to have it compatible with aircraft. Rep. Kreun said that would make more sense but would like to see it a study.

Senator Sitte - States all we're talking about here is civil liberties.

Rep. Kreun - This is a huge deal. Timing is very important.

Rep. Owens - District 17 - Describes how this bill would affect agriculture and aerial photography and the unintended consequences this may have on the state.

Michael F. Moore - Assoc. Vice President, IP Commercialization & Economic Development at UND - See written testimony. (2). Senator Sitte questions the statement privacy issues

and says this bill is more about the 4th amendment rights. Mr. Moore explains the economic impact this will have.

Al Palmer - Chairman of the ND Airspace Integration Team - See written testimony (3) He remarks this will bring high paying jobs. Mr. Palmer says this is more than a grant; it will bring hundreds of millions of dollars to the state. He compares what this will do for NE ND is like what the oil patch did for NW ND.

Mike Reitan - Assistant Chief, West Fargo - See written testimony (4)

Col. Robert Beckland - Hands in testimony for Major General David Sprynczynatyk (5). Senator Grabinger asks if the General would mind if this were put into study to which Col. Beckland said no.

Doug McDonald - President of the Association of Unmanned Vehicle Systems International, Great Plains Chapter - He requests to retire this bill and move it to a House Study Resolution. He says there are two key elements here, precision agriculture and energy and oil and gas. He stresses the economic impact is huge. They would like this technology advanced safely and responsibly. They have drafted and released a code of conduct for the non-intrusive use of the UAS. The committee asks him to describe his organization.

Tom Trenbeath - Chief Deputy Attorney General - See written testimony. (6)

2013 SENATE STANDING COMMITTEE MINUTES

Senate Judiciary Committee
Fort Lincoln Room, State Capitol

HB1373
3/13/2013
Job #19832

Conference Committee

Committee Clerk Signature 

Minutes:

Vote

Senator David Hogue - Chairman

Committee work

Senator Lyson moves a do not pass
Senator Grabinger seconded

Discussion

Senator Lyson doesn't believe we need a study for this and would rather not pass the bill. Senator Grabinger asks if his concern is in muddying the waters for the effort in Grand Forks. Senator Lyson believes the study would be a waste of time. Senator Hogue said the disadvantage would be that if we amend the bill and change it to a study we would have to go to conference committee. He goes on to say we don't know if this would adversely affect the Grand Forks application process but do not want to take the chance. He says the bill has merit but at another time. The committee continues to discuss that this bill's time will come. Committee agrees that the gentlemen in here testifying are honorable and know what they are talking about. Senator Armstrong says our 4th Amendment rights are still covered and doesn't believe you should restrict one technology. Senator Lyson states we still do not want to hamper what is going on in Grand Forks. Senator Sitte believes the timing is perfect for this bill and the timing is also perfect for a study. She believes we are turning a blind eye to a very important issue. Senator Berry doesn't think the 4th Amendment is an issue right now. Senator Hogue mentions technology in many places and when that becomes wide spread within the law enforcement community the legislature comes in and says this is the appropriate use for that technology, with these drones we are not there yet.

Vote - 6 yes, 1 no
Motion carries

Senator Hogue will carry

Date: 3-13-13
 Roll Call Vote #: 1

**2013 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1373**

Senate JUDICIARY 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 S Lyson Seconded By S Grabinger

Senators	Yes	No	Senator	Yes	No
Chariman David Hogue	X		Senator Carolyn Nelson	X	
Vice Chairman Margaret Sitte		X	Senator John Grabinger	X	
Senator Stanley Lyson	X				
Senator Spencer Berry	X				
Senator Kelly Armstrong	X				

Total (Yes) 6 No 1

Absent motion carries

Floor Assignment S Hogue

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

REPORT OF STANDING COMMITTEE

HB 1373, as engrossed: Judiciary Committee (Sen. Hogue, Chairman) recommends DO NOT PASS (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1373 was placed on the Fourteenth order on the calendar.

2013 TESTIMONY

HB 1373

1 1-28-13

13.0664.01003
Title.

Prepared by the Legislative Council staff for
Representative Becker
January 28, 2013

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1373

Page 3, line 4, after the second underscored comma insert "survey environmental damage to determine if a state of emergency should be declared."

Page 3, line 4, after "or" insert "to"

Page 3, after line 6, insert:

"4. Testing, training, education, and research of unarmed aircraft systems."

Page 3, line 13, after "surveillance" insert "authorized or enlisted by any law enforcement agency"

Page 5, after line 4, insert:

"6. The documentation required by this section applies to all uses of unmanned aircraft systems, including testing, training, education, and research.

SECTION 9.

Application of Act to federal law.

This Act may not be construed to limit, constrain, or adversely impact testing and operations of a state test range under the FAA Modernization and Reform Act of 2012 [Pub. L. 112-95; 126 Stat. 11]."

Renumber accordingly

PRIVACY PROTECTION ACT V2: BAN ON THE USE OF DRONES BY FEDERAL AND STATE AGENCIES

SECTION 1. [STATE] General Laws, Chapter ____ of Title ____ is hereby amended by adding thereto this section:

– Use of Unmanned Aerial Vehicles (UAVs) by Law Enforcement Banned –

(a) The general assembly finds and declares the following:

(1) The right to privacy is fundamental in a free and civilized society.

(2) Persons within the State of [STATE] have a reasonable and justifiable expectation of privacy that they will not be monitored with UAVs by law enforcement agents of the United States or law enforcement agents of the State of [STATE].

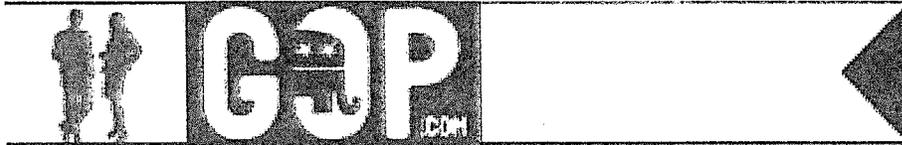
(3) The potential benefit to law enforcement and criminal justice from the use of UAVs is far outweighed by the degradation to the fundamental right to privacy secured by the Constitution of the United States and the Constitution of the State of [STATE] that will result from law enforcement's use of UAVs.

(4) The use of UAVs by law enforcement is repugnant to a free society.

(b) Any law enforcement agent of the Federal Government that shall utilize a UAV for any purpose whatsoever within the airspace of the State of shall be guilty of a Class A Misdemeanor.

(c) Any law enforcement agent of the State of [STATE] that shall utilize a UAV for any purpose whatsoever within the airspace of the State of [STATE] shall be guilty of a Class A Misdemeanor.

(d) Any person that shall knowingly, or under facts where the person should know, assist any person or entity to violate section (b) or (c) of this chapter shall be guilty of a Class A Misdemeanor.



REPUBLICAN PARTY

We Believe in America



- A Restoration of Constitutional Order: Congress and the Executive
- Defending Marriage Against An Activist Judiciary
- A Sacred Contract: Defense of Marriage
- Living Within Our Means: A Constitutional Budget
- Federalism and The Tenth Amendment
- The Continuing Importance of Protecting the Electoral College
- Voter Integrity to Ensure Honest Elections
- The First Amendment: The Foresight of Our Founders to Protect Religious Freedom
- The First Amendment: Speech that is Protected
- The Second Amendment: Our Right to Keep and Bear Arms
- The Fourth Amendment: Liberty and Privacy
- The Fifth Amendment: Protecting Private Property
- The Ninth Amendment: Affirming the People's Rights
- The Sanctity and Dignity of Human Life
- Respect for Our Flag: Symbol of the Constitution
- American Sovereignty in U.S. Courts

The Fourth Amendment: Liberty and Privacy (Top)

Affirming “the right of the people to be secure in their houses, papers, and effects, against unreasonable searches and seizures,” we support pending legislation to prevent unwarranted or unreasonable governmental intrusion through the use of aerial surveillance or flyovers on U.S. soil, with the exception of patrolling our national borders. All security measures and police actions should be viewed through the lens of the Fourth Amendment; for if we trade liberty for security, we shall have neither.

FAA Modernization & Reform Act

- **PROGRAM REQUIREMENTS.—In establishing the program the Administrator shall—**
 - (A) safely designate airspace for integrated manned and unmanned flight operations in the national airspace system;
 - (B) develop certification standards and air traffic requirements for unmanned flight operations at test ranges;
 - (C) coordinate with and leverage the resources of the National Aeronautics and Space Administration and the Department of Defense;
 - (D) address both civil and public unmanned aircraft systems;
 - (E) ensure that the program is coordinated with the Next Generation Air Transportation System; and
 - (F) provide for verification of the safety of unmanned aircraft systems and related navigation procedures before integration into the national airspace system.



FAA Modernization & Reform Act

- **TEST RANGE LOCATIONS.**—In determining the location of the 6 test ranges of the program under paragraph (1), the Administrator shall—
 - (A) take into consideration geographic and climatic diversity;
 - (B) take into consideration the location of ground infrastructure and research needs; and
 - (C) consult with the National Aeronautics and Space Administration and the Department of Defense.
- **TEST RANGE OPERATION.**—A project at a test range shall be operational not later than 180 days after the date on which the project is established.
- *The FAA will not be funding the set-up, management or oversight of the test ranges .*



Request for Comments (RFC)

- **Federal Register [Docket No. FAA–2012–0252]
Unmanned Aircraft System Test Sites**
- **The FAA believes that the combined capabilities of the six test sites should provide an environment and opportunities to test:**
 - (1) Conventional takeoff and landing capability,
 - (2) High speed flight,
 - (3) Maritime (launch/maneuver/recovery) capability,
 - (4) Operations at extremely high altitudes, and
 - (5) Evaluation of dissimilar aircraft in multiple altitude structures.
 - (6) Each site would not necessarily need to be identical, nor would each site need to have all five capabilities
- **FAA believes that these capabilities should be present in the aggregate of the six test sites. Are there any other capabilities that test site selection should include?**

Request for Comments (RFC)

- **Geographical and climatic diversity are desirable traits for the test site location**
 - The FAA believes that in addition to these traits, there are other important factors affecting siting, including:
 - Proximity to potential users
 - Availability of a suitable ground or air transportation network
 - Are there other siting characteristics of this nature that should be considered?



Request for Comments (RFC)

- **All UAS test site operators should be able and willing to demonstrate their ability and experience in conducting UAS operations and research**
- **Methods that test site operators can use for that include:**
 - Providing a detailed plan of operations (safety case, business case, etc.);
 - Demonstrating experience in managing and oversight of research and development (R&D) activities; and
 - Demonstrating the ability to mitigate technical and operational risk





U.S. Department
of Transportation

**Federal Aviation
Administration**

Office of the Administrator

800 Independence Ave., S.W.
Washington, D.C. 20591

November 1, 2012

The Honorable Howard P. McKeon
House of Representatives
Washington, DC 20515

Dear Congressman McKeon:

Thank you for your August 1 letter, cosigned by your congressional colleagues, about the establishment of the six Unmanned Aircraft Systems (UAS) test sites as required by the FAA Modernization and Reform Act of 2012, as well as the Federal Aviation Administration's (FAA) coordination with other agencies as we work towards integrating UAS into the National Airspace System (NAS).

As you know, the FAA's primary mission is, and will continue to be, safety. This responsibility encompasses managing our current activities to keep the people, aircraft, and property in the world's most complex airspace system safe while ensuring that the introduction of UAS into this airspace system is thoughtfully planned and carefully managed.

The FAA is making progress in a number of areas related to UAS. For example, the Agency has streamlined the process for public agencies to safely fly UAS in the Nation's airspace, as required under the FAA Reauthorization. In addition, in March 2012, the Agency created a new UAS integration office, headed by a single executive that brings together specialists from the aviation safety and air traffic organizations. The office serves as the FAA's one-stop portal for all matters related to civil and public use of UAS in U.S. airspace.

The six UAS test sites are an important component of our research and development efforts. As such, we must ensure we understand the many operational challenges we may encounter before requesting proposals. Examples of such considerations include: training requirements, operational specifications, and technology concerns. These areas of research will support developing our regulatory approach for the integration of UAS operations into the NAS.

Once the FAA Reauthorization was enacted, we moved swiftly to establish the UAS Test Site Program. The program was established on March 9, well in advance of the August 12 deadline, when we published a Request for Comments (RFC) about the test sites. Since publishing the RFC, the FAA's UAS Integration Office has been working diligently to establish the framework for test site selection, including the development of the Screening Information Request (SIR).

The U.S. Department of Defense (DoD) has assisted the FAA in developing the SIR and will provide subject matter experts to assist throughout the process.

Our target was to have the six test sites named by the end of 2012. However, increasing the use of UAS in our airspace also raises privacy issues, and these issues will need to be addressed as unmanned aircraft are safely integrated. We are working to move forward with the proposals for the six test sites as we evaluate options with our interagency partners to appropriately address privacy concerns regarding the expanded use of UAS.

A key element of our integration efforts is working closely with DoD and the National Aeronautics and Space Administration (NASA) through the Joint Planning and Development Office (JPDO). One of the major activities in this area is development of the UAS Comprehensive Plan. This plan will integrate four key cross-agency components: the JPDO UAS National Goals, the FAA UAS Concept of Operations, the FAA UAS Integration Roadmap, and the JPDO UAS Research and Development Prioritization.

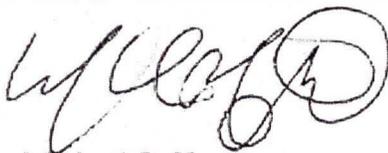
In addition to JPDO activities, we are also working with Agency partners through the UAS Executive Committee (ExCom). The mission of the multi-agency UAS ExCom is to enable increased and ultimately routine access of Federal UAS engaged in public aircraft operations in the NAS to support operational, training, developmental, and research requirements of the FAA, DoD, NASA, and the U.S. Department of Homeland Security.

The FAA will complete its statutory obligations to integrate UAS into the NAS as quickly and efficiently as possible. However, we must fulfill those obligations in a thoughtful, prudent manner that ensures safety, addresses privacy issues, and promotes economic growth.

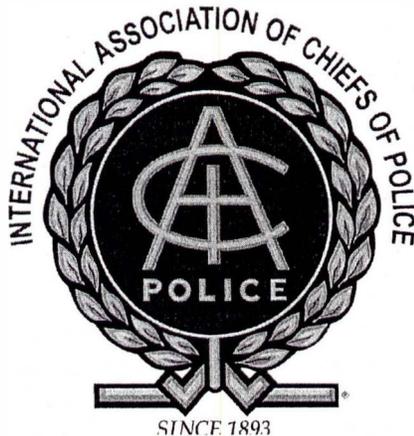
We have sent an identical letter to each of the cosigners of your letter.

If I can be of further assistance, please contact me or Roderick D. Hall, Assistant Administrator for Government and Industry Affairs, at (202) 267-3277.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael P. Huerta', written in a cursive style.

Michael P. Huerta
Acting Administrator



INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

AVIATION COMMITTEE

Recommended Guidelines for the use of Unmanned Aircraft

BACKGROUND:

Rapid advances in technology have led to the development and increased use of unmanned aircraft. That technology is now making its way into the hands of law enforcement officers nationwide.

We also live in a culture that is extremely sensitive to the idea of preventing unnecessary government intrusion into any facet of our lives. Personal rights are cherished and legally protected by the Constitution. Despite their proven effectiveness, concerns about privacy threaten to overshadow the benefits this technology promises to bring to public safety. From enhanced officer safety by exposing unseen dangers, to finding those most vulnerable who may have wandered away from their caregivers, the potential benefits are irrefutable. However, privacy concerns are an issue that must be dealt with effectively if a law enforcement agency expects the public to support the use of UA by their police.

The Aviation Committee has been involved in the development of unmanned aircraft policy and regulations for several years. The Committee recommends the following guidelines for use by any law enforcement agency contemplating the use of unmanned aircraft.

DEFINITIONS:

1. **Model Aircraft** - A remote controlled aircraft used by hobbyists, which is manufactured and operated for the purposes of sport, recreation and/or competition.
2. **Unmanned Aircraft (UA)** – An aircraft that is intended to navigate in the air without an on-board pilot. Also called Remote Piloted Aircraft and “drones.”
3. **UA Flight Crewmember** - A pilot, visual observer, payload operator or other person assigned duties for a UA for the purpose of flight.
4. **Unmanned Aircraft Pilot** - A person exercising control over an unmanned aircraft during flight.

COMMUNITY ENGAGEMENT:

1. Law enforcement agencies desiring to use UA should first determine how they will use this technology, including the costs and benefits to be gained.
2. The agency should then engage their community early in the planning process, including their governing body and civil liberties advocates.
3. The agency should assure the community that it values the protections provided citizens by the U.S. Constitution. Further, that the agency will operate the aircraft in full compliance with the mandates of the Constitution, federal, state and local law governing search and seizure.
4. The community should be provided an opportunity to review and comment on agency procedures as they are being drafted. Where appropriate, recommendations should be considered for adoption in the policy.
5. As with the community, the news media should be brought into the process early in its development.

SYSTEM REQUIREMENTS:

1. The UA should have the ability to capture flight time by individual flight and cumulative over a period of time. The ability to reset the flight time counter should be restricted to a supervisor or administrator.
2. The aircraft itself should be painted in a high visibility paint scheme. This will facilitate line of sight control by the aircraft pilot and allow persons on the ground to monitor the location of the aircraft. This recommendation recognizes that in some cases where officer safety is a concern, such as high risk warrant service, high visibility may not be optimal. However, most situations of this type are conducted covertly and at night. Further, given the ability to observe a large area from an aerial vantage point, it may not be necessary to fly the aircraft directly over the target location.
3. Equipping the aircraft with weapons of any type is strongly discouraged. Given the current state of the technology, the ability to effectively deploy weapons from a small UA is doubtful. Further, public acceptance of airborne use of force is likewise doubtful and could result in unnecessary community resistance to the program.
4. The use of model aircraft, modified with cameras, or other sensors, is discouraged due to concerns over reliability and safety.

OPERATIONAL PROCEDURES:

1. UA operations require a Certificate of Authorization (COA) from the Federal Aviation Administration (FAA). A law enforcement agency contemplating the use of UA should contact the FAA early in the planning process to determine the requirements for obtaining a COA.
2. UA will only be operated by personnel, both pilots and crew members, who have been trained and certified in the operation of the system. All agency personnel with UA responsibilities, including command officers, will be provided training in the policies and procedures governing their use.
3. All flights will be approved by a supervisor and must be for a legitimate public safety mission, training, or demonstration purposes.
4. All flights will be documented on a form designed for that purpose and all flight time shall be accounted for on the form. The reason for the flight and name of the supervisor approving will also be documented.
5. An authorized supervisor/administrator will audit flight documentation at regular intervals. The results of the audit will be documented. Any changes to the flight time counter will be documented.
6. Unauthorized use of a UA will result in strict accountability.
7. Except for those instances where officer safety could be jeopardized, the agency should consider using a "Reverse 911" telephone system to alert those living and working in the vicinity of aircraft operations (if such a system is available). If such a system is not available, the use of patrol car public address systems should be considered. This will not only provide a level of safety should the aircraft make an uncontrolled landing, but citizens may also be able to assist with the incident.
8. Where there are specific and articulable grounds to believe that the UA will collect evidence of criminal wrongdoing and if the UA will intrude upon reasonable expectations of privacy, the agency will secure a search warrant prior to conducting the flight.

IMAGE RETENTION:

1. Unless required as evidence of a crime, as part of an on-going investigation, for training, or required by law, images captured by a UA should not be retained by the agency.
2. Unless exempt by law, retained images should be open for public inspection.

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Testimony

HB1373

Jerry Kemmet, North Dakota Peace Officer Association Lobbyist
206

The North Dakota Peace Officers Association is in opposition to HB1373. This is legislation that is both ill-conceived and premature.

There is currently only 1 unmanned aircraft being operated in N.D. by State or local Law-Enforcement. The Grand Forks County Sheriff's department in partnership with the University of North Dakota Aerospace Unmanned Aircraft Systems department was selected to test unmanned aircraft systems for Law-Enforcement use.

This partnership is 1 of only 5 in the United States testing unmanned aircraft systems for use by Law-Enforcement. As recently as October of 2012 the Federal Aviation Administration met with the Grand Forks Sheriff's Department and the UND Aerospace Unmanned Aircraft Systems department, to review and evaluate the partnership. The FAA also reviewed the policies and procedures that were developed on the use of the unmanned aircraft.

The FAA issued a Certificate of Authorization to the research project and authorized the projects operation in 16 northeastern counties. This research project, I believe, is the cream of the crop and will produce very good research data along with the other 4 research projects in the United States, on the use of unmanned aircraft for Law-Enforcement missions.

When you think of unmanned aircraft the first thing that comes to mind is the 'Predator' used by the military. The unmanned aircraft being tested by Grand

Forks Sheriff's Department and UND Aerospace Unmanned Aircraft Systems, is not even close in size or capabilities. The partnership is testing 'Dragonfly' and will test the 'Raven' which is pending approval for usage by Law-Enforcement. The 'Dragon Fly' and the remote controls fit into a large pelican case.

There are limitations to the use of both the 'Dragon Fly' and the 'Raven'

Wind – maximum 15 – 17 knots

Cloud cover – 3 mile visibility

Weather conditions

Flight time – 15 minutes

Payload – 16 – 18 ounces

Line of sight – maximum range ½ mile

Camera – small digital camera (off the shelf)

The use of unmanned aircraft systems in the U.S. is in its infancy. There are 5 test sites in the U.S. North Dakota is fortunate to have 1 of those sites. Let's not pass legislation that would restrict the use of this new technology. We should wait and see, then pass legislation based on the research from these research projects and best practices, not on fear of what technology might do.

We believe that the data out of this research project along with education, strong policies and procedures for Law-Enforcement on the use of unmanned aircraft systems will not only ensure Officer safety, but will also keep the citizens of North Dakota safer. We have good Law-Enforcement in N.D. that make good sound decisions every day. Let's see what the research shows and what the recommendations are before we restrict the use of new technology. We urge a do not pass on HB1373. We do not want to deprive North Dakota Law-Enforcement the use of innovative technology which would help ensure the safety of our Citizens and Law-Enforcement personnel.

1-28-13 #3

HOUSE BILL 1373

UND TESTIMONY

Mister Chairman and members of the Committee, my name is Phyllis Johnson. I am the Vice President for Research and Economic Development at the University of North Dakota, and I am here to speak about House Bill 1373. It is UND's belief that, while many of the concerns expressed in the bill are valid, the bill should be referred to an interim committee for further study, with recommendations made for the next biennium.

UND agrees with the sponsors of this bill that privacy concerns related to use of Unmanned Aircraft Systems (UAS's) are valid concerns and should be addressed. In fact, UND has recognized these privacy and ethical issues in the use of UASs for some time, and last fall we formed the nation's first UAS Research Compliance Committee. This committee will review these issues and the protocols for UAS use by the Grand Forks County Sheriff's Department, with whom we are collaborating on developing procedures for law enforcement use of UASs. This committee has garnered national and international interest as a way to approach UAS use, and its recommendations are based on community standards. The

committee includes representatives from local law enforcement, local government, the community, faculty, aviation experts, and UND's general counsel and office of research development and compliance.

This committee reviews how law enforcement plans to use UASs in different situations, such as looking for a lost child, and also how data and images will be secured and stored. The University of North Dakota believes that this type of cooperation between law enforcement, community, and research entities can help significantly in addressing privacy and ethical issues regarding UASs.

UND is concerned about this proposed bill's potential impact on UND's program of education, training, research and testing of Unmanned Aircraft Systems. UND is a national leader in these areas and was the first university to offer a four-year degree in UAS operation. We have also developed training that is of interest to companies in the UAS industry and to the US Air Force.

Our concerns about the negative impact of this bill on UND are twofold:

1) First, national perception of UND's and North Dakota's role in the UAS

arena could suffer. We are concerned that passage of a privacy bill could have a chilling effect on how the Federal Aviation Administration views UND and the State of North Dakota with respect to research and testing of UASs. UND is currently one of the lead universities in a consortium that is vying for designation by the FAA as a National Center of Excellence in UAS Research. In addition, we are deeply involved in the Governor's Airspace Integration Team (AIT) that is preparing a proposal for the FAA to designate North Dakota as one of six National Test Sites for Unmanned Aircraft Systems.

The FAA has indicated that the issuance of its requests for proposals for the National Test Sites has been delayed because of privacy concerns, and Senator Hoeven believes that release of the Request For Proposals for the FAA National Center of Excellence for UAS Research has also been delayed by privacy concerns. In fact, he has urged the FAA Administrator to make research on privacy issues part of the research program for the National Center of Excellence on UAS Research. The National Center of Excellence will in part be a vehicle for the FAA to provide funding for testing and

research at the National Test Site. We believe that the potential for designation as a National Test Site or National Center of Excellence for UAS Research will be greater for entities that are demonstrating that they have thoughtfully considered, and are working cooperatively to address, these privacy issues—which we are.

2) Second, the State of North Dakota could suffer significant negative

economic impact. North Dakota has invested considerable time, effort, and financial resources in preparing a proposal that will be submitted for us to be designated as a FAA UAS National Test Site. Also, in the current biennium, UND, NDSU, and private sector partners have worked together on the LD-CAP program, a project that involves development of sense-and-avoid technology that will enable UASs to be integrated into the National Airspace System (NAS). The LD-CAP program was also funded through the Department of Commerce, and has positioned us well to compete for one of the six FAA UAS National Test Site Designations. The investment the State has made in these projects indicates that there are many who recognize the importance, and the potentially huge economic impact, of the UAS industry in ND if we win a FAA UAS National Test Site Designation.

Given that, we are concerned about a bill such as this, which places restrictions on the use of UASs that have been authorized in the FAA Modernization and Reform Act that was passed in 2012.

We believe that the overall interests of the state, as well as of UND, will be best served if this bill is not passed now. Rather, the opportunity for further study of these issues during the interim will allow the FAA UAS National Test Site designation to proceed without potential concerns about UND's ability to participate in the program. A delay in the bill could also allow for more in-depth consideration of issues surrounding UAS use. During that time, we may also see federal legislation regarding UAS privacy.

As I mentioned earlier, UND is collaborating with the GF County Sheriff's Department to develop and test protocols for use of small UASs by first responders, and each protocol is reviewed for privacy and ethical concerns before it is put into in-air testing. The University of North Dakota shares the concern about privacy issues that is evidenced in this bill and appreciates the need for further study, consideration, and public discussion. As we move through this

process together, UND will work diligently to ensure that we build and maintain the public's confidence in UND and its UAS program.

Received

1/2/20

Handout only

IN RE: HB 1373

FROM: CAREL TWO-EAGLE

TO: HOUSE JUDICIARY COMMITTEE CHAIR KIM KOPPELMANN and the rest of the House Judiciary Committee; plus Representatives Becker, Anderson, Beadle, Heilman, Hofstad, Monson, Rohr, Toman, and Hanson; and Sen. M. Sitte

Hanh! I send warm greetings and strong prayers to you all.

Overall, I like HB 1373, but I have a strong objection to the part of line 16, page 3, which currently reads, "...or the owner of any real property on which that and goes on to line 17, page 3, other private person is present. Property owners – landlords – are not the overseers of their renters. They are not their guardians, either. I believe the current section violates an individual's Constitutional Rights, in re the sections I have quoted here. When I say Constitution, I refer to the U.S. Constitution, which is superior in law and legal effects to any state Constitution. Thus, I believe the part of line 16, page 3, referred to above, and all of line 17, page 3, of this bill should be removed.

I do not doubt that at least some in the law enforcement sector will oppose this bill, but it is a sad fact that all too often, law enforcement personnel are only too willing to run roughshod over the Constitution and Constitutional Rights (they are not privileges) in order to do their jobs. They are especially vigorous about such concepts as the concept of 'innocent until proven guilty' and the Right we have to Freedom of Speech and Expression and to Assemble. As a lifelong Native Rights activist (specializing in spiritual & treaty rights), I know about these things personally.

Representative Becker is right to sponsor this bill in prime, as are all who love the Constitution and its protections of the Rights of the citizens. And it is far wiser to lock the barn doors before the livestock gets loose, than to do it after. It is far easier, too.

I pray you will hear me in a good way now, and eliminate the objectionable lines referred to above, which I believe are unConstitutional, as well; and then go on to give this bill a unanimous Do Pass recommendation.

Steckler, Jason J.

From: Alan S. Frazier <afrazier@aero.und.edu>
Sent: Friday, January 25, 2013 2:50 PM
To: Koppelman, Kim A.
Cc: Steckler, Jason J.; Larson, Diane K.
Subject: 28 Jan 2013 HB 1373 Hearing

Dear Rep. Koppelman,

The University of North Dakota will be sending a representative to the Judiciary Committee Hearing on Mon. 28 Jan 2013 to offer testimony on HB 1373. Given the limited time available for discussion of the Bill, I will not trouble the Committee with the technical challenges of my calling in to testify. I believe that hearing from one individual representing UND will be sufficient.

Thank you very much for your courtesy in accommodating my request to testify via teleconference. Even though I will not be utilizing that method to testify, your willingness to work with me is greatly appreciated.

Sincerely,

Al

Alan Frazier, assistant professor
John D. Odegard School of Aerospace Sciences
University of North Dakota
3980 Campus Road, Stop 9007
Grand Forks, North Dakota 58202-9007

EMAIL: afrazier@aero.und.edu

Voice: (701) 777-2959

FAX: (701) 777-3016



Published March 07 2013, 08:12 PM

STEVEN MORRISON: N.D. bill strikes right balance on drones

The North Dakota House recently passed a bill requiring police departments to get a warrant before they use a drone. It should become law because it appropriately balances citizens' interest in privacy with the interest of all of us in public safety.

By: Steven Morrison, Grand Forks Herald

GRAND FORKS — The North Dakota House recently passed House Bill 1373, which requires police departments to get a warrant before they use an unmanned aerial vehicle, commonly known as a drone.

This bill is now pending in the Senate. It should become law because it appropriately balances citizens' interest in privacy with the interest of all of us in public safety.

Drones are, essentially, highly sophisticated remote control aircraft. They range in size from the largest military drones like the Predator down to drones that look like a mosquito.

Law enforcement agencies are interested in using mid-size drones like the Draganfiyer X6, which is about three feet long and wide and can carry payloads such as digital cameras, infrared detectors and even small weapons.

Police departments envision that these drones could be used for crowd control, to observe a traffic accident scene and to search for lost people or fleeing criminal suspects.

Drone technology is quickly developing so that soon, they will be able to do much more. Just as soon, government agencies will want to deploy a huge number of drones.

In 2012, Congress ordered the Federal Aviation Administration to provide for integration of drones in the national airspace by 2015. As of last month, there were 327 active FAA-issued licenses to fly drones domestically. The agency expects this number to rise to as many as 10,000 by 2017.

Anyone who is involved in the manufacture or sale of drones expects a huge boost in sales, and researchers are moving quickly to develop ever more advanced drones. The next generation of drones will have some amazing technological capabilities that will affect citizens' privacy against government surveillance.

That's why legislators of all political stripes — conservative, liberal, libertarian — in at least 18 states and Congress have introduced bills to limit the use of drones in law enforcement. North Dakota's bill may be the first to have passed a House vote. Just as we lead the country in drone research, education, and training, we are leading the country in responsible drone legislation.

An exception for emergencies

Some critics claim HB 1373 is anti-law enforcement and would harm public safety. Not so. HB 1373 would require law enforcement agents to get a warrant to use a drone, whenever possible. This means that when officers want to use a drone to perform surveillance on a person or a property, they must get approval from a judge — exactly what they have to do to search your home.

As a former criminal defense attorney, I know that judges readily issue such warrants.

What if officers don't have time to get a warrant? For example, what if they spot an armed suspect who enters a large corn field or building?

Because officers sometimes need to act on the spot, HB 1373 would allow the use of a drone without a warrant or a judge's approval where there's an immediate danger. This includes environmental or weather-related catastrophes. For example, massive river flooding, for example, is something with which North Dakotans are — at times tragically — very familiar. HB 1373 would permit the immediate use of drones to respond to such natural disasters.

Finally, HB 1373 would except from the warrant requirement testing, training, education and research of drones. This is an important nod to the concerns of UND, which has an excellent drone training program that attracts students from around the world.

No threat to test-site application

HB 1373 also addresses the fact that North Dakota is applying to be one of the FAA's six test sites for drones, as that agency seeks to comply with its integration mandate. Some supporters of this test site application are concerned that HB 1373 will hinder the state's chance of being selected.

But the bill explicitly permits without restriction any drone use that is performed in conjunction with the test site. In fact, HB 1373 may actually help North Dakota's application. In November, Acting FAA Administrator Michael Huerta sent a letter to members of the U.S. Congress' Unmanned Systems Caucus to report that his agency's integration efforts would include attention to privacy issues.

More recently, in the FAA's announcement last month regarding test site applications, the agency expressed its official concern with privacy and requires applicants for test site selection to address that concern.

HB 1373 is a limited bill that protects privacy, fosters public safety and respects North Dakota's position as an international leader in drone training and education. This bill shows that we are leading the country in drone use. It should become law.

Morrison is an assistant professor at the UND School of Law. He also is the chairman of the UND Unmanned Aerial Systems Research Compliance Committee.

Morrison has written and practiced in the area of Fourth Amendment and privacy law and is a member of the Fourth Amendment committee of the National Association of Criminal Defense Lawyers.

The views expressed in this essay are his own and do not necessarily reflect those of UND, the UND Unmanned Aerial Systems Research Compliance Committee or the National Association of Criminal Defense Lawyers.

Tags:gf and egf, grand forks, north dakota, columns, opinion, updates, crime, uas, und, politics

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- Sizzling photos of SI Swimsuit model, Chrissy Teigen in body paint (SI Swimsuit 2013)
- Is Jennifer Aniston's Bikini Too Small? (Celebrity Toob)
- 5 Worst Mistakes Women Make in Bed (MyDailyMoment)
- Why You Shouldn't Buy A Hybrid (Consumer Car Reviews)



A Restoration of Constitutional Order: Congress and the Executive
Defending Marriage Against An Activist Judiciary

A Sacred Contract: Defense of Marriage

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Federalism and The Tenth Amendment

The Continuing Importance of Protecting the Electoral College

Voter Integrity to Ensure Honest Elections

The First Amendment: The Foresight of Our Founders to Protect
Religious Freedom

The First Amendment: Speech that is Protected

The Second Amendment: Our Right to Keep and Bear Arms

The Fourth Amendment: Liberty and Privacy

The Fifth Amendment: Protecting Private Property

The Ninth Amendment: Affirming the People's Rights

The Sanctity and Dignity of Human Life

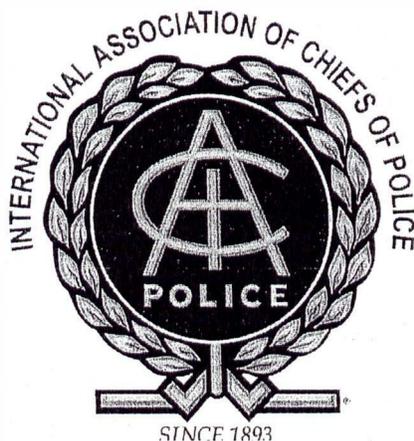
Respect for Our Flag: Symbol of the Constitution

American Sovereignty in U.S. Courts

The Fourth Amendment: Liberty and Privacy (Top)

Affirming "the right of the people to be secure in their houses, papers, and effects, against unreasonable searches and seizures," we support pending legislation to prevent unwarranted or unreasonable governmental intrusion through the use of aerial surveillance or flyovers on U.S. soil, with the exception of patrolling our national borders. All security measures and police actions should be viewed through the lens of the Fourth Amendment; for if we trade liberty for security, we shall have neither.





INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

AVIATION COMMITTEE

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U.S. Department
of Transportation

Federal Aviation
Administration

Office of the Administrator

800 Independence Ave., S.W.
Washington, D.C. 20591

November 1, 2012

The Honorable Howard P. McKeon
House of Representatives
Washington, DC 20515

Dear Congressman McKeon:

Thank you for your August 1 letter, cosigned by your congressional colleagues, about the establishment of the six Unmanned Aircraft Systems (UAS) test sites as required by the FAA Modernization and Reform Act of 2012, as well as the Federal Aviation Administration's (FAA) coordination with other agencies as we work towards integrating UAS into the National Airspace System (NAS).

As you know, the FAA's primary mission is, and will continue to be, safety. This responsibility encompasses managing our current activities to keep the people, aircraft, and property in the world's most complex airspace system safe while ensuring that the introduction of UAS into this airspace system is thoughtfully planned and carefully managed.

The FAA is making progress in a number of areas related to UAS. For example, the Agency has streamlined the process for public agencies to safely fly UAS in the Nation's airspace, as required under the FAA Reauthorization. In addition, in March 2012, the Agency created a new UAS integration office, headed by a single executive that brings together specialists from the aviation safety and air traffic organizations. The office serves as the FAA's one-stop portal for all matters related to civil and public use of UAS in U.S. airspace.

The six UAS test sites are an important component of our research and development efforts. As such, we must ensure we understand the many operational challenges we may encounter before requesting proposals. Examples of such considerations include: training requirements, operational specifications, and technology concerns. These areas of research will support developing our regulatory approach for the integration of UAS operations into the NAS.

Once the FAA Reauthorization was enacted, we moved swiftly to establish the UAS Test Site Program. The program was established on March 9, well in advance of the August 12 deadline, when we published a Request for Comments (RFC) about the test sites. Since publishing the RFC, the FAA's UAS Integration Office has been working diligently to establish the framework for test site selection, including the development of the Screening Information Request (SIR).

The U.S. Department of Defense (DoD) has assisted the FAA in developing the SIR and will provide subject matter experts to assist throughout the process.

Our target was to have the six test sites named by the end of 2012. However, increasing the use of UAS in our airspace also raises privacy issues, and these issues will need to be addressed as unmanned aircraft are safely integrated. We are working to move forward with the proposals for the six test sites as we evaluate options with our interagency partners to appropriately address privacy concerns regarding the expanded use of UAS.

A key element of our integration efforts is working closely with DoD and the National Aeronautics and Space Administration (NASA) through the Joint Planning and Development Office (JPDO). One of the major activities in this area is development of the UAS Comprehensive Plan. This plan will integrate four key cross-agency components: the JPDO UAS National Goals, the FAA UAS Concept of Operations, the FAA UAS Integration Roadmap, and the JPDO UAS Research and Development Prioritization.

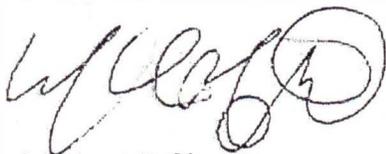
In addition to JPDO activities, we are also working with Agency partners through the UAS Executive Committee (ExCom). The mission of the multi-agency UAS ExCom is to enable increased and ultimately routine access of Federal UAS engaged in public aircraft operations in the NAS to support operational, training, developmental, and research requirements of the FAA, DoD, NASA, and the U.S. Department of Homeland Security.

The FAA will complete its statutory obligations to integrate UAS into the NAS as quickly and efficiently as possible. However, we must fulfill those obligations in a thoughtful, prudent manner that ensures safety, addresses privacy issues, and promotes economic growth.

We have sent an identical letter to each of the cosigners of your letter.

If I can be of further assistance, please contact me or Roderick D. Hall, Assistant Administrator for Government and Industry Affairs, at (202) 267-3277.

Sincerely,



Michael P. Huerta
Acting Administrator

FAA Modernization & Reform Act

- **PROGRAM REQUIREMENTS.—In establishing the program the Administrator shall—**
 - (A) safely designate airspace for integrated manned and unmanned flight operations in the national airspace system;
 - (B) develop certification standards and air traffic requirements for unmanned flight operations at test ranges;
 - (C) coordinate with and leverage the resources of the National Aeronautics and Space Administration and the Department of Defense;
 - (D) address both civil and public unmanned aircraft systems;
 - (E) ensure that the program is coordinated with the Next Generation Air Transportation System; and
 - (F) provide for verification of the safety of unmanned aircraft systems and related navigation procedures before integration into the national airspace system.



FAA Modernization & Reform Act

- **TEST RANGE LOCATIONS.**—In determining the location of the 6 test ranges of the program under paragraph (1), the Administrator shall—
 - (A) take into consideration geographic and climatic diversity;
 - (B) take into consideration the location of ground infrastructure and research needs; and
 - (C) consult with the National Aeronautics and Space Administration and the Department of Defense.
- **TEST RANGE OPERATION.**—A project at a test range shall be operational not later than 180 days after the date on which the project is established.
- *The FAA will not be funding the set-up, management or oversight of the test ranges .*



Request for Comments (RFC)

- **Federal Register [Docket No. FAA–2012–0252]
Unmanned Aircraft System Test Sites**
- **The FAA believes that the combined capabilities of the six test sites should provide an environment and opportunities to test:**
 - (1) Conventional takeoff and landing capability,
 - (2) High speed flight,
 - (3) Maritime (launch/maneuver/recovery) capability,
 - (4) Operations at extremely high altitudes, and
 - (5) Evaluation of dissimilar aircraft in multiple altitude structures.
 - (6) Each site would not necessarily need to be identical, nor would each site need to have all five capabilities
- **FAA believes that these capabilities should be present in the aggregate of the six test sites. Are there any other capabilities that test site selection should include?**



Request for Comments (RFC)

- **Geographical and climatic diversity are desirable traits for the test site location**
 - The FAA believes that in addition to these traits, there are other important factors affecting siting, including:
 - Proximity to potential users
 - Availability of a suitable ground or air transportation network
 - Are there other siting characteristics of this nature that should be considered?

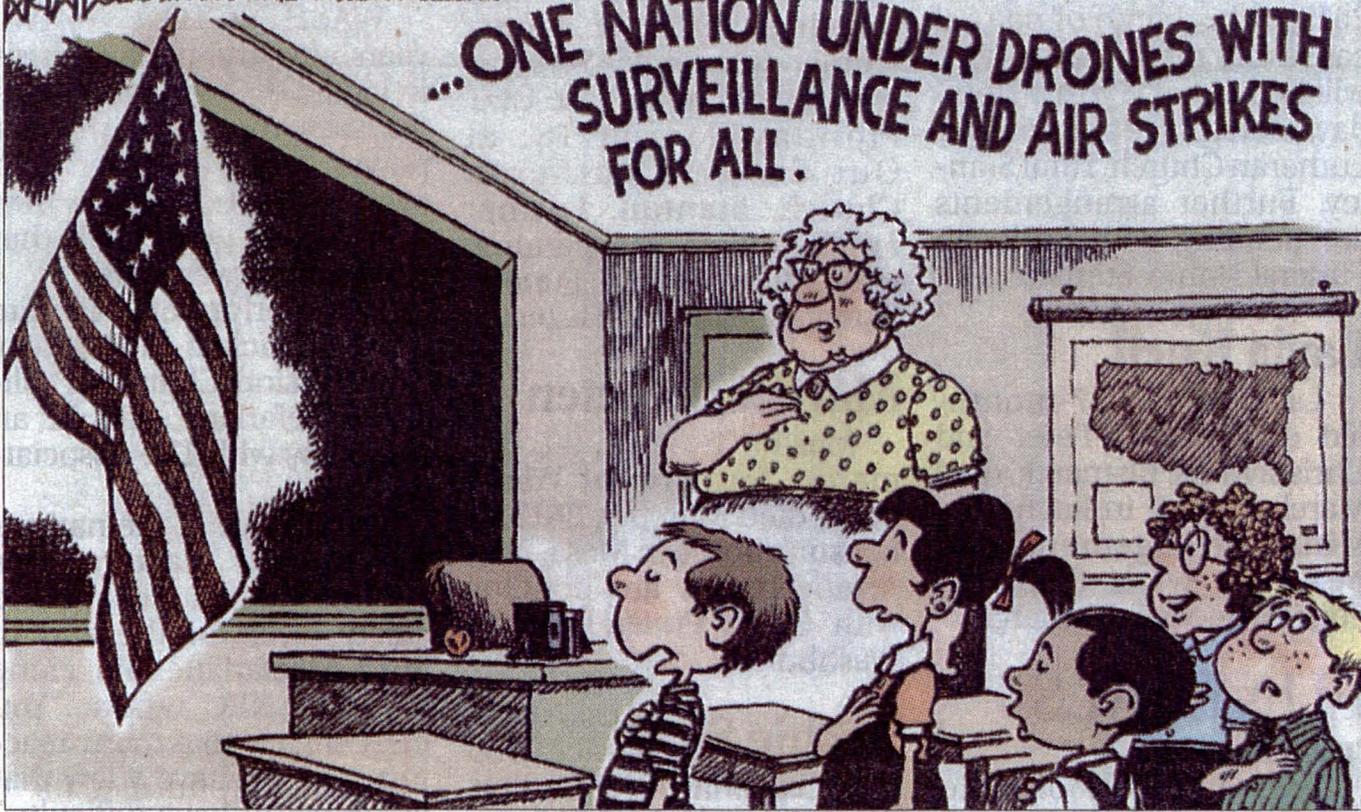


Request for Comments (RFC)

- **All UAS test site operators should be able and willing to demonstrate their ability and experience in conducting UAS operations and research**
- **Methods that test site operators can use for that include:**
 - Providing a detailed plan of operations (safety case, business case, etc.);
 - Demonstrating experience in managing and oversight of research and development (R&D) activities; and
 - Demonstrating the ability to mitigate technical and operational risk



...ONE NATION UNDER DRONES WITH
SURVEILLANCE AND AIR STRIKES
FOR ALL.



(2)

HOUSE BILL 1373 - UND TESTIMONY

Michael F. Moore, Assoc. Vice President, IP Commercialization &
Economic Development, michael.f.moore@und.edu or (701) 777-6709

3/12/13

Mister Chairman and members of the Committee, my name is Michael

Moore. I am the Associate Vice President for Intellectual Property

Commercialization and Economic Development at the University of

North Dakota. I am also the UND administration's liaison to the

Airspace Integration Team, which is guiding North Dakota's response to

the FAA UAS Test Site call for proposals. I am here to speak about

House Bill 1373. It is UND's belief that, while many of the concerns

expressed in the bill are valid, the bill should be referred to an interim

committee for further study, with recommendations made for the next

biennium.

UND agrees with the sponsors of this bill that privacy concerns related to use of Unmanned Aircraft Systems (UAS's) are valid concerns and should be addressed. In fact, UND has recognized these privacy and ethical issues in the use of UASs for some time, and, in fact, last fall we formed the nation's first UAS Research Compliance Committee. This committee will review these issues and the protocols for UAS use by the Grand Forks County Sheriff's Department, with whom we are collaborating on developing procedures for law enforcement use of

UASs. This committee has garnered national and international interest as a way to approach UAS use, and its recommendations are based on community standards. The committee includes representatives from local law enforcement, local government, the community, faculty, aviation experts, and UND's general counsel and Office of Research Development and Compliance.

This committee reviews how law enforcement plans to use UASs in different situations, such as looking for a lost child, and also how data

and images will be secured and stored. The University of North Dakota believes that this type of cooperation between law enforcement, community, and research entities can help significantly in addressing privacy and ethical issues regarding UASs.

UND is concerned about this proposed bill's potential impact on UND's program of education, training, research and testing of Unmanned Aircraft Systems. UND is a national leader in these areas and was the first university to offer a four-year degree in UAS operation. We have also developed training that is of interest to companies in the UAS industry and to the US Air Force.

Our concerns about the negative impact of this bill on UND are twofold:

- 1) First, national perception of UND's and North Dakota's role in the UAS arena could suffer.** We are concerned that passage of a privacy bill could have a chilling effect on how the Federal Aviation Administration views UND and the State of North Dakota with respect to research and testing of UASs. UND is

currently one of the lead universities in a consortium that is vying for designation by the FAA as a National Center of Excellence in UAS Research. In addition, we are deeply involved in the Governor's Airspace Integration Team (AIT) that is preparing a proposal for the FAA to designate North Dakota as one of six Test Sites for Unmanned Aircraft Systems.

The FAA has delayed the issuance of its requests for proposals for the Test Sites in part because of privacy concerns, and Senator Hoeven believes that release of the Request For Proposals for the FAA National Center of Excellence for UAS Research has also been delayed by privacy concerns. In fact, he has urged the FAA Administrator to make research on privacy issues part of the research program for the National Center of Excellence on UAS Research. The National Center of Excellence will in part be a vehicle for the FAA to provide funding for testing and research at the Test Site. We believe that the potential for designation as a

Test Site or National Center of Excellence for UAS Research will be greater for entities that are demonstrating that they have thoughtfully considered, and are working cooperatively to address, these privacy issues—which we are.

It is important to note that the FAA request for Test Site proposals requires applicants to specifically identify operation limitations and asks whether or not the applicant has specific restrictions, such as this legislation, that would affect the operation of the test site. The presence of, or lack of operation restrictions such as UAS privacy legislation will be actively considered and factored into the score of each proposal received. Those applicants without restriction will be scored higher than those with restrictions. In our opinion, passage of House Bill 1373 will negatively impact North Dakota’s application to become a FAA UAS test site. Test Site Proposals are due on May 6th and Test Site selection completed by Dec. 31, 2013 which

places this legislation in a difficult spot for North Dakota's proposal in terms of timing.

2) Second, the State of North Dakota could suffer significant

negative economic impact. North Dakota has invested considerable time, effort, and financial resources in preparing a proposal that will be submitted for us to be designated as a FAA UAS Test Site. Also, in the current biennium, UND, NDSU, and private sector partners have worked together on the LD-CAP program, a project that involves development of sense-and-avoid technology that will enable UASs to be integrated into the National Airspace System (NAS). The LD-CAP program was also funded through the Department of Commerce, and has positioned us well to compete for one of the six FAA UAS National Test Site Designations.

The investment the State has made in these projects indicates that there are many who recognize the importance, and the

potentially huge economic impact, of the UAS industry in ND if we win a FAA UAS National Test Site Designation. Given that, we are concerned about a bill such as this, which places restrictions on the use of UASs that have been authorized in the FAA Modernization and Reform Act that was passed in 2012.

We believe that the overall interests of the state, as well as of UND, will be best served if this bill is not passed now. Rather, the opportunity for further study of these issues during the interim will allow the FAA UAS National Test Site designation to proceed without potential concerns about UND's ability to participate in the program. A delay in the bill could also allow for more in-depth consideration of issues surrounding UAS use. During that time, we may also see federal legislation regarding UAS privacy.

As I mentioned earlier, UND is collaborating with the GF County Sheriff's Department to develop and test protocols for use of small UASs by first responders, and each protocol is reviewed for privacy and

ethical concerns before it is put into in-air testing. The University of North Dakota shares the concern about privacy issues that is evidenced in this bill and appreciates the need for further study, consideration, and public discussion. As we move through this process together, UND will work diligently to ensure that we build and maintain the public's confidence in UND and its UAS program.

UAS Operations "Code of Conduct"

Mr. Chairman and members of the Committee my name is Al Palmer. I'm here testifying today as the Chairman of the North Dakota Airspace Integration Team (ND AIT) in opposition to HB 1373. I serve on a volunteer basis in my role as AIT Chairman, appointed by the Governor and our Congressional Delegation to further our State's efforts to receive the NTS designation. My full time position is the Director of the UND Unmanned Aircraft Systems Center of Excellence in Grand Forks.

Discussion relative to privacy concerns is a good discussion to have; however, I feel that legislation limiting the operational use of UAS is pre-mature. The Association of Unmanned Vehicle Systems International (AUVSI) has published a UAS Operations Industry "Code of Conduct". The code of conduct includes "common sense" guidelines that require operators be properly trained, follow all federal, state, and local laws, and respect the privacy of individuals. Of course, it is voluntary but it is easily incorporated into Standard Operating Procedures (SOP).

The FAA is still in the early stages of determining the rules that will govern UAS in the National Airspace, a process that will unfold over the next several years. As the rules are written and as UAS are more fully integrated into the U.S. airspace, AUVSI will periodically review the code to determine if future adjustments are needed.

As this technology expands, it is our goal in North Dakota to ensure that the benefits of UAS are realized in a safe and responsible manner.

SIR Privacy – Milestone Schedule, Table 2 – Planned modification to the draft OTA to include the FAA developed privacy strategy incorporating public comments received through Federal Register Notice (Docket No: FAA-2013-0061) – Due Tuesday, June 11, 2013

OTA Issuance – Tuesday, December 31, 2013.

I propose that this Bill (HB 1373) be referred to a "Resolution Study" so that everyone can be educated, better informed regarding the operations, limitations and legality of UAS. Therefore, we'll be better able to make informed decisions regarding the moral, ethical and legal use of UAS.

Becoming one of these six (6) UAS test sites is an extremely competitive process amongst numerous states across the country. The six (6) test sites are sure to become economic engines that attract significant private sector activity. If North Dakota receives the TS designation the State will be positioned to be a world leader in this fledgling, but burgeoning UAS industry and ultimately benefit from all the associated economic activity. North Dakota's action in developing a UAS test site capability creates the opportunity to develop the State's commercial UAS industry along with the attraction and development of new primary sector business that will develop to serve this emerging industry.

The UAS industry offers very high-paying research, technical and management jobs and should produce considerable scientific benefits. To date the reported non-military UAS economic impact for activities in North Dakota (2008-2011) is \$27M, providing 231 jobs and \$8.3M in direct payroll contributions. There are currently 15 companies and organizations operating in North Dakota. Extremely conservative future impact numbers developed by the AIT's research forecasted that with the TS designation North Dakota could see an additional 250 new jobs created with an impact of between \$160M and \$213M statewide over the next 10 years. Please understand that these numbers are very conservative projections.

There are currently dozens of non-military uses of unmanned systems that North Dakota and the world can benefit from, including the use for agriculture applications, law enforcement & disaster operations, search & rescue, environmental research, infrastructure monitoring (i.e. electrical lines, pipelines, highways, etc.), mapping and many more.

Any action our our part that may negatively influence North Dakota's selection as a UAS TS is irreversible!

Therefore I encourage you to support a resolution study for HB1373.

I would be happy to answer any questions.

AUVSI Code of Conduct

The emergence of unmanned aircraft systems (UAS) as a resource for a wide variety of public and private applications quite possibly represents one of the most significant advancements to aviation, the scientific community, and public service since the beginning of flight. Rapid advancements in the technology have presented unique challenges and opportunities to the growing UAS industry and to those who support it. The nature of UAS and the environments which they operate, when not managed properly, can and will create issues that need to be addressed. The future of UAS will be linked to the responsible and safe use of these systems. Our industry has an obligation to conduct our operations in a safe manner that minimizes risk and instills confidence in our systems.

Safety

- We will not operate UAS in a manner that presents undue risk to persons or property on the surface or in the air.
- We will ensure UAS will be piloted by individuals who are properly trained and competent to operate the vehicle or its systems.
- We will ensure UAS flights will be conducted only after a thorough assessment of risks associated with the activity. This risks assessment will include, but is not limited to:
 - Weather conditions relative to the performance capability of the system
 - Identification of normally anticipated failure modes (lost link, power plant failures, loss of control, etc) and consequences of the failures
 - Crew fitness for flight operations
 - Overlying airspace, compliance with aviation regulations as appropriate to the operation, and off-nominal procedures
 - Communication, command, control, and payload frequency spectrum requirements
 - Reliability, performance, and airworthiness to established standards

Professionalism

- We will comply with all federal, state, and local laws, ordinances, covenants, and restrictions as they relate to UAS operations.
- We will operate our systems as responsible members of the aviation community.
- We will be responsive to the needs of the public.
- We will cooperate fully with federal, state, and local authorities in response to emergency deployments, mishap investigations, and media relations.
- We will establish contingency plans for all anticipated off-nominal events and share them openly with all appropriate authorities.

Respect

- We will respect the rights of other users of the airspace.
- We will respect the privacy of individuals.
- We will respect the concerns of the public as they relate to unmanned aircraft operations.
- We will support improving public awareness and education on the operation of UAS.

HB 1373
4

Senate Judiciary Committee
House Bill 1373
Testimony of Mike Reitan, Assistant Chief, West Fargo Police

Good Morning Chairman Hogue and members of the committee. For the record my name is Mike Reitan, Assistant Chief of the West Fargo Police Department. I am testifying today to oppose House Bill 1373. The bill before you today will unduly restrict the use of unmanned aircraft for legitimate law enforcement and other government purposes. While the bill has been amended from its original form to mitigate some of the excessively restrictive language there remains enough issues with the bill to warrant a vote of do not pass.

As technology continues to advance the use of unmanned aircraft for surveillance and other purposes will continue to expand. The application in law enforcement and other government purposes is limited at this time with many unanswered questions as to how to best implement such a program. A well thought out set of rules and regulation as determined through an interim study would be in order.

I have issue with the requirements set in page 1, lines 16 to 23. Established manned flight restrictions defined by the court are in place relating to surveillance conducted by aircraft. There is not a requirement to obtain a warrant to conduct such surveillance.

Page 2, line 24 to page 3 line 7 allows the use of the unmanned aircraft for any purpose to include assessment of environmental damage which may result in criminal charges. Further, the use of unmanned aircraft to assess an environmental or weather related catastrophe is restricted to State authorities prohibiting local jurisdictions to act on their own behalf.

I believe page 4, lines 3 to 8 excludes evidence that would otherwise be admissible under current case law.

To pass this bill now is premature. An interim study would be warranted to fully assess the capabilities of an unmanned aircraft program and develop a strong set of standards that protect the privacy of an individual and the interest of the State.

I ask for your vote of do not pass on House Bill 1373. Thank you and I would be willing to take any questions you may have.

**TESTIMONY OF
MAJOR GENERAL DAVID SPRYNCZYNATYK
THE ADJUTANT GENERAL
BEFORE THE
JUDICIARY COMMITTEE
MARCH 12, 2013
HOUSE BILL 1373**

Mr. Chairman and Members of the Committee:

I am Major General David Sprynczynatyk, Adjutant General for the North Dakota National Guard and the Director of Emergency Services for the state. I am testifying in opposition to House Bill 1373.

In my testimony I will focus on two specific areas of concern: first, the Department of Emergency Service’s ability to retain imagery obtained by an unmanned aircraft for the purposes of documenting natural disasters and emergencies beyond the ninety day limitations. Second, I will discuss HB 1373’s applicability to the North Dakota National Guard mission.

In section 6, subsection 3 it states that any imaging or other data lawfully gathered, in which there was no reasonable and articulable suspicion that those images contained evidence of a crime, or are relevant to a trial or investigation, may not be retained for more than ninety days. The only exception is for criminal cases. It is our position that the imagery obtained when flown due to an environmental or weather-related catastrophe, should be exempted from this requirement. These images documenting a disaster, if used for federal reimbursement purposes, must be retained for years. Also, the imagery is always important when documenting these disasters for historical purposes. It is not uncommon to use images from decades ago as we prepare for future events. It is my position that subsection 3 creates an exemption for the flight; but, the images obtained should also be an exemption from any retention rule.

The second matter is the NDNG’s unmanned flying mission. In the very near future the North Dakota Air National Guard will be conducting training of its unmanned aircraft systems in our state. The North Dakota Army National Guard is also authorized UAS and will conduct training flights in the future. The members will be on a Title 32 training status when they are conducting these training missions. This means, they will be on a federal training status and paid with federal dollars; however, they are still under the State’s jurisdiction and fall under the authority of the Governor and the North Dakota Century Code. There may also be an opportunity for the NDANG to work with the State’s active duty Air Force bases to provide security through unmanned aircraft surveillance. This is a tremendous opportunity for us to show the level of cooperation and support that can be created between the reserve component and the active duty. This bill, in section 3, provides for an exemption for using unmanned aircraft for the testing, training, education and research of unmanned aircraft systems. However, section 7 has documentation requirements that may impact the NDNG.

When the NDANG conducts their training flights, there are currently safeguards in place that protect private citizens from 4th Amendment violations. The Proper Use Memorandums (PUMs) must be in place and all federal rules must be followed. Each flight must be certified:

“I certify that the intended collection and use of the requested information, materials, and imagery are in support of Congressionally approved programs and are not in violation of applicable laws. The request for imagery is not for the purpose of targeting any specific U.S. person, nor is it inconsistent with the Constitutional and other legal rights of U.S. persons. Applicable security regulations and guidelines, and other restrictions will be followed.”

If HB 1373 were applicable to the NDANG training flights, it would be a burden added to our mission; additionally, it would be a duplication of efforts as we are already subject to the federal restrictions accomplishing the same feat.

Unmanned Aerial Systems is new technology and its potential applications present some exciting possibilities for the State. We also understand that there is concern about degradation in privacy and new policies and laws may need to be enacted. I think it is important that we balance the various interests and solicit input from all the stakeholders to ensure this is an informed decision that considers the equities involved, from a right to privacy to economic development, academic and commercial opportunities and military training. While this is not a project that should be led by the Office of the Adjutant General, I believe we are a stakeholder that would and should help form the policy and law in the field of unmanned aerial systems. I would pledge my office's support to such an initiative.

I ask for a do not pass by the committee and I would be pleased to try to answer any questions that the committee may have.

HOUSE BILL 1373
SENATE JUDICIARY COMMITTEE

March 12, 2013

Testimony of Thomas L. Trenbeath, Chief Deputy Attorney General

Chairman Hogue, members of the Senate Judiciary Committee. My name is Tom Trenbeath and I presently have the honor of serving the state of North Dakota as its Chief Deputy Attorney General. I speak, today, on behalf of Attorney General Stenehjem in opposition to HB 1373. I will be brief.

The 4th Amendment to the Constitution of the United States shields its citizens from unreasonable searches and seizures. Once a judge finds a search to have been unreasonable under 4th Amendment protections, the remedy is to exclude the evidence collected in that fashion – what’s commonly known as the “Exclusionary Rule.”

This legislation, in its attempt to be thoroughly definitive of what activity is allowed to be conducted by UASs, in effect will not make a judge’s job easier. It will, in fact, exponentially increase his/her workload by layering a hearing to determine whether or not the terms of this bill were satisfied, on top of the subsequent and inevitable suppression hearing on the question of 4th Amendment reasonableness.

The Court will always have the last say, once you choose to define the limitations on the use of a law enforcement tool. They will either have it through making a 4th Amendment analysis as interpreted by the voluminous number of cases and legal treatises devoted to finely honing the definition of “unreasonable”; or they will have it by analyzing the facts of each case against the requirements of this bill and then engaging in the 4th Amendment unreasonableness analysis.

The only alternative is an outright ban. Then the only determination to be made prior to the usual 4th Amendment analysis is “whether or not this thing is a UAS under the statute.” I will presume that you will not consider that alternative to be viable

Thank you.