

CHAPTER 360

AERONAUTICS

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STATE AERONAUTICS DEPARTMENT

360.011 DECLARATION. It is hereby declared that the purpose of Laws 1945, Chapter 303, is to further the public interest and aeronautical progress by providing for the protection and promotion of safety in aeronautics; by cooperating in effecting a uniformity of the laws relating to the development and regulation of aeronautics in the several states; by revising existing statutes relative to the development and regulation of aeronautics so as to grant to a state agency such powers and impose upon it such duties that the state may properly perform its functions relative to aeronautics and effectively exercise its jurisdiction over persons and property within such jurisdiction, may assist in the promotion of a statewide system of airports, may cooperate with and assist the political subdivisions of this state and others engaged in aeronautics, and may encourage and develop aeronautics; by establishing uniform regulations, consistent with federal regulations and those of other states, in order that those engaged in aeronautics of every character may so engage with the least possible restriction, consistent with the safety and the rights of others; and by providing for cooperation with the federal authorities in the development of a national system of civil aviation and for coordination of the aeronautical activities of those authorities and the authorities of this state by assisting in accomplishing the purposes of federal legislation and eliminating costly and unnecessary duplication of functions properly in the province of federal agencies.

[1945 c. 303 s. 2]

360.012 SOVEREIGNTY. Subdivision 1. Sovereignty in the space above the lands and waters of this state is declared to rest in the state, except where granted to and assumed by the United States pursuant to a constitutional grant from the people of this state.

Subd. 2. The ownership of the space above the lands and waters of this state is declared to be vested in the several owners of the surface beneath, subject to the right of flight described in subdivision 3.

Subd. 3. Flight in aircraft over the lands and water of this state is lawful, unless at such low altitude as to interfere with the then existing use to which the land or water, or the space above the land or water, is put by the owner, or unless so conducted as to be imminently dangerous or damaging to persons or property lawfully in the land or water beneath. The landing of an aircraft on the lands or waters of another, without his consent is unlawful, except in the case of a forced landing. For damages caused by the forced landing, however, the owner or lessee of the aircraft or the pilot shall be liable as provided in subdivision 4.

Subd. 4. The owner of every aircraft which is operated over the lands or waters of this state is absolutely liable for injury or damage to persons or property on the land or water beneath, caused by the ascent, descent, or flight of the aircraft, or the dropping or falling of any object therefrom, whether such owner was negligent or not, unless the injury or damage is caused in whole or in part by the negligence of the person injured, or of the owner or bailee of the property damaged. If the aircraft is leased at the time of the injury or damage to person or property, both the owner and lessee shall be liable, and they may be sued jointly, or either or both of them may be sued separately. A pilot who is not the owner or lessee shall be liable only for the consequences of his own negligence. The injured person, or owner or bailee of the damaged property, shall have a lien on the aircraft causing the injury or damage to the extent of such injury or damage caused by the aircraft or objects falling from it.

Subd. 5. The liability of the owner of one aircraft to the owner of another aircraft, or to pilots or passengers or other persons on either aircraft, for damages caused by collision on land or in the air shall be determined by the rules of law applicable to torts occurring on land.

Subd. 6. All crimes, torts, and other wrongs committed by or against a pilot, passenger, or other person while in flight over this state shall be governed by the laws of this state; and the question whether damage occasioned by or to an aircraft

while in flight over this state constitutes a tort, crime, or other wrong by or against the owner of such aircraft shall be determined by the laws of this state.

Subd. 7. All contractual and other legal relations entered into by pilots, passengers, or other persons while in flight over this state shall have the same effect as if entered into on the land or water beneath.

[1943 c. 653 s. 20]

360.013 DEFINITIONS. Subdivision 1. For the purposes of laws of this state relating to aeronautics, the following words, terms, and phrases shall have the meanings herein given unless otherwise specifically defined, or unless another intention clearly appears, or the context otherwise requires.

Subd. 2. "Aeronautics" means transportation by aircraft; the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing, and maintenance of parachutes; the design, establishment, construction, extension, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities, and air instruction.

Subd. 3. "Aircraft" means any contrivance now known or hereafter invented, used or designed for navigation of or flight in the air.

Subd. 4. "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision thereof, including the government of any state, territory or possession of the United States, or the District of Columbia, but not including any government-owned aircraft engaged in carrying persons or property for commercial purposes. "Civil aircraft" means any aircraft other than a public aircraft.

Subd. 5. "Airport" means any area, of land or water, except a restricted landing area, which is designed for the landing and take-off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo, and all appurtenant areas used or suitable for airport buildings or other airport facilities, and all appurtenant rights of way, whether heretofore or hereafter established.

Subd. 6. "Restricted landing area" means any area of land, water or both, which is used or is made available for the landing and take-off of aircraft, the use of which shall, except in case of emergency, be only as provided from time to time by the commissioner.

Subd. 7. "Commissioner" means the commissioner of aeronautics of the State of Minnesota; "department" means the Minnesota Department of Aeronautics; and "state" or "this state" means the State of Minnesota.

Subd. 8. "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

Subd. 9. "Air navigation" means the operation or navigation of aircraft in the air space over this state, or upon any airport or restricted landing area within this state.

Subd. 10. "Operation of aircraft" or "operate aircraft" means the use of aircraft for the purpose of air navigation and includes the navigation or piloting of aircraft. Any person who causes or authorizes the operation of aircraft, whether with or without the right of legal control (in the capacity of owner, lessee, or otherwise) of the aircraft, shall be deemed to be engaged in the operation of aircraft within the meaning of the statutes of this state.

Subd. 11. "Commercial operations" means any operations of an aircraft for compensation or hire; or any services performed incidental to the operation of any aircraft for which a fee is charged or compensation received; including, but not limited to, the servicing, maintaining and repairing of aircraft, the rental or charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, aerial photography and surveys, air shows or expositions, parachute jumping, and the operation of aircraft for fishing. "Commercial operations" also means brokering or selling of any of the aforesaid services but do not include any operations of aircraft as common carriers certificated (certified) by the federal government or the services incidental thereto.

Subd. 12. "Airman" means any individual who engages, as the person in command, or as pilot, mechanic, or member of the crew, in the navigation of aircraft while under way and (excepting individuals employed outside the United States, any individual employed by a manufacturer of aircraft, aircraft engines, propellers,

or appliances to perform duties as inspector or mechanic in connection therewith, and any individual performing inspection or mechanical duties in connection with aircraft owned or operated by him) any individual who is directly in charge of the inspection, maintenance, overhauling, or repair of aircraft engines, propellers, or appliances; and any individual who serves in the capacity of aircraft dispatcher or air-traffic control-tower operator.

Subd. 13. "Air navigation facility" means any facility other than one owned or controlled by the Federal Government, used in, available for use in, or designed for use in, aid of air navigation, including airports, restricted landing areas, and any structures, mechanisms, lights, beacons, marks, communicating systems, electronic device, or other instrumentalities or devices used or useful as an aid, or constituting an advantage or convenience, to the safe taking-off, navigation, and landing of aircraft, or the safe and efficient operation or maintenance of an airport or restricted landing area, and any combination of any or all of such facilities.

Subd. 14. "State airway" means a route in the navigable air space over and above the lands or water of this state, designated by the commissioner as a route suitable for air navigation.

Subd. 15. "Navigable air space" means air space above the minimum altitudes of flight prescribed by the laws of this state or by regulations of the commissioner consistent therewith.

Subd. 16. "Air instruction" means the imparting of aeronautical information by any aeronautics instructor or in or by any air school or flying club.

Subd. 17. "Air school" means any person engaged in giving, or offering to give, instruction in aeronautics, either in flying or ground subjects, or both, for or without hire or reward, and advertising, representing, or holding himself out as giving or offering to give such instructions. It does not include any public school, the University of Minnesota, or any institution of higher learning accredited by the North Central Association of Colleges and Secondary Schools and approved by it for carrying on collegiate work.

Subd. 18. "Flying club" means any person other than an individual, which, neither for profit nor reward, owns, leases, or uses one or more aircraft for the purpose of instruction or pleasure, or both.

Subd. 19. "Aeronautics instructor" means any individual engaged in giving instruction, or offering to give instruction, in aeronautics, either in flying or ground subjects, or both, for hire or reward, without advertising such occupation, without calling facilities an "air school," or anything equivalent thereto, and without employing or using other instructors. It does not include any instructor in any public school of this state, the University of Minnesota, or in any institution of higher learning accredited by the North Central Association of Colleges and Secondary Schools and approved for carrying on collegiate work, while engaged in his duties as such instructor.

Subd. 20. "Municipality" means a city of any class, including a city organized under a charter framed pursuant to the Constitution of the State of Minnesota, Article 4, Section 36, a county, a town, or a statutory city in this state, the regents of the University of Minnesota, and any other political subdivision, public corporation, authority, or district in this state which is or may be authorized by law to acquire, establish, construct, maintain, improve, and operate airports and other air navigation facilities.

Subd. 21. "Governing body" means the council, board of trustees, board of commissioners, board of supervisors, or other body, board, commission, or other authority charged with governing any municipality, and in municipalities in which the board of park commissioners or other body in charge of the park system of the municipality controls airports owned by the municipality includes such board or other body.

Subd. 22. "Airport Hazard" means any structure, object of natural growth, or use of land, which obstructs the air space required for the flight of aircraft in landing or taking off at any airport or restricted landing area or is otherwise hazardous to such landing or taking off.

Subd. 23. An airport, restricted landing area, or other air navigation facility is "publicly-owned" if owned by the state or a municipality.

Subd. 24. "Airport protection privileges" means easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of airports or restricted landing areas, and other protection privileges, the acquisition or control of which is necessary to insure safe approaches to the

landing areas of airports and restricted landing areas and the safe and efficient operation thereof.

Subd. 25. "Structure" means any object constructed or installed by man, including, but without limitation, buildings, towers, smoke-stacks, and overhead transmission lines.

Subd. 26. "Tree" means any object of natural growth.

Subd. 27. "Administrative agency" means either a governing body of a municipality or an administrative agency under its jurisdiction to which any powers have been delegated by such governing body.

Subd. 28. "Airport hazard area" means any area of land or water upon which an airport hazard might be established if not prevented as provided in this act.

Subd. 29. When used in this act with reference to an airport, the term "public utility class" means available to the general public for private flying or otherwise as a point of arrival or departure by air.

Subd. 30. "Airport purposes" means and includes airport, restricted landing area, and other air navigation facility purposes.

[1943 c 653 s 1; 1945 c 303 s 1; 1947 c 363 s 1; 1953 c 738 s 1, 2; 1973 c 123 art 5 s 7; 1974 c 193 s 1-3]

360.014 DEPARTMENT OF AERONAUTICS; OFFICERS, SALARIES. Subdivision 1. There is hereby created the department of aeronautics, consisting of the commissioner of aeronautics, his assistants, and such help and employees as may be from time to time appointed or employed.

Subd. 2. There is hereby created the office of commissioner of aeronautics, the incumbent of which shall have the powers and duties and privileges herein set forth. The governor, by and with the advice and consent of the senate, shall appoint a suitable person, to serve in unclassified service, having a knowledge of aeronautics to said office, to serve for a four year term which shall coincide with the term of the governor until his successor is duly appointed and has qualified. The governor may remove the commissioner at any time for cause after notice and hearing. In case of a vacancy, the governor may appoint a commissioner, who shall immediately take office and shall carry on the duties of the office until the next session of the legislature, when his appointment shall be submitted to the senate for approval. On January 4, 1971, the term of the incumbent commissioner of aeronautics shall expire.

Subd. 3. The commissioner shall devote full time to the performance of his official duties.

Subd. 4. The commissioner shall, before entering upon the performance of his official duties, give bond to the state, to be approved by the governor, in the penal sum of \$25,000, conditioned for the faithful performance of his duties. If a surety company bond is given, the premium thereon may be paid from the funds available for the payment of the expenses of the department. The amount of such premium so paid shall be approved as to amount by the state treasurer. The state, the several governmental subdivisions thereof, or any person damaged by any wrongful act or omission of the commissioner in the performance of his official duties, may maintain an action on such bond for the recovery of damages so sustained.

Subd. 5. The commissioner shall have an official seal with which he shall authenticate his official acts. There shall be on the margin thereof the words "Commissioner of Aeronautics—State of Minnesota" and in the center thereof the seal of the state.

Subd. 6. [Repealed, 1957 c 146 s 4]

Subd. 7. The commissioner is authorized to employ such additional skilled and unskilled help and employees as may be needed. Any employee may be required to furnish a bond at the discretion of the commissioner and such bond shall be under the same provisions and conditions as the commissioner's bond.

Subd. 8. The commissioner shall maintain his offices in the metropolitan Twin City area and maintain offices in any other city in the state that he may designate.

Subd. 9. The salaries and expenses of the department shall be paid from the Airports Fund.

[1943 c 653 s 2; 1949 c 739 s 10 sbd 1, 2; 1951 c 619 s 1; 1951 c 713 s 32 sbd 1, 2; 1953 c 713 s 1; 1969 c 1129 art 8 s 12]

360.015 COMMISSIONER; POWERS AND DUTIES. Subdivision 1. **General supervision.** The commissioner shall have general supervision over aeronautics within this state. He is empowered and directed to encourage, foster, and assist in the development of aeronautics in this state and to encourage the establishment of airports and other air navigation facilities.

Subd. 2. Cooperation with federal and other agencies. He shall cooperate with and assist the federal government, the municipalities of this state, and others engaged in aeronautics or the promotion of aeronautics, and shall seek to coordinate the aeronautical activities of these bodies. To this end, the commissioner is empowered to confer with or to hold joint hearings with any federal aeronautical agency in connection with any matter arising under Laws 1945, Chapter 303, or relating to the sound development of aeronautics, and to avail himself of the cooperation, services, records, and facilities of such federal agencies, as fully as may be practicable, in the administration and enforcement of Laws 1945, Chapter 303. He shall reciprocate by furnishing to the federal agencies his cooperation, services, records, and facilities, in so far as may be practicable.

He shall report to the appropriate federal agency all accidents in aeronautics in this state of which he is informed and preserve, protect, and prevent the removal of the component parts of any aircraft involved in an accident being investigated by him until a federal agency institutes an investigation, and shall report to the appropriate federal agency all refusals by him to register federal licenses, certificates, or permits and all revocations of certificates of registration, and the reasons therefor, and all penalties of which he has knowledge imposed upon airmen for violations of the laws of this state relating to aeronautics or for violations of the rules, regulations, or orders of the commissioner.

Subd. 3. Promulgate rules and regulations. He may perform such acts, issue and amend such orders, and make, promulgate, and amend such reasonable general or special rules, regulations, and procedure and establish such minimum standards, consistent with the provisions of Laws 1945, Chapter 303, as he shall deem necessary to carry out the provisions of Laws 1945, Chapter 303, and to perform his duties thereunder: all commensurate with and for the purpose of protecting and insuring the general public interest and safety, the safety of persons receiving instruction concerning, or operating, using, or traveling in, aircraft, and of persons and property on land or water, and to develop and promote aeronautics in this state. No rule or regulation of the commissioner shall apply to airports or other air navigation facilities owned or controlled by the federal government within this state.

Whenever valid rules and regulations of the commissioner and rules and regulations of a municipality are inconsistent, the rules and regulations of the commissioner shall control and the rules and regulations of the municipality are void in so far as they are inconsistent with the rules and regulations of the commissioner. Nothing herein contained shall be construed to limit the right of a metropolitan airports commission created under Laws 1943, Chapter 500, as amended, to make its own rules and regulations governing the internal administrative operations of an airport owned or operated by it as distinguished from rules and regulations governing flight and flight operations promulgated by the commissioner in the interests of safety.

Subd. 4. Conformity with federal rules. All rules and regulations prescribed by the commissioner under the authority of Laws 1945, Chapter 303, shall be kept in conformity, as nearly as may be, with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder and the rules and standards issued from time to time pursuant thereto.

Subd. 5. Filing of rules. He shall keep on file with the secretary of the state, and at the principal office of the department, a copy of all his rules and regulations, for public inspection.

Subd. 6. Design state airway system. He may designate, design, and establish, expand, or modify a state airways system which will best serve the interests of the state. He may chart such airways system and arrange for publication and distribution of such maps and charts and notices and bulletins relating to such airways as may be required in the public interest. He may make a charge for these sufficient to cover the cost of printing or reproduction. The system shall be supplementary to and coordinated in design and operation with the federal airways system. It may include all types of air navigation facilities which conform to federal safety standards.

Subd. 7. Technical services to municipalities. He may, in so far as is reasonably possible, offer the engineering or other technical services of the department, without charge, to any municipality desiring them in connection with the construction, maintenance, or operation or proposed construction, maintenance, or operation of an airport or restricted landing area.

Subd. 8. Suggest legislation. He may draft and recommend necessary legisla-

tion to advance the interests of the state in aeronautics and represent the state in aeronautical matters before federal agencies and other state agencies.

Subd. 9. Intervention. He may participate as party plaintiff or defendant, or as intervenor, on behalf of the state or any municipality or citizen thereof, in any controversy having to do with any claimed encroachment by the federal government or any foreign state upon any state or individual rights pertaining to aeronautics.

Subd. 10. Enforcement; police power; deputize airport managers. It shall be the duty of the commissioner, his assistant, and all employees of the department of aeronautics and every state, county, and municipal officer charged with the enforcement of state and municipal laws to enforce and assist in the enforcement of Laws 1945, Chapter 303, and of all rules and regulations issued pursuant thereto, and of all other laws of this state relating to aeronautics, and, in the aid of such enforcement, general police powers are hereby conferred upon the commissioner, his assistant, and such of the employees of the department as may be designated by him to exercise such powers. He may also deputize airports managers to enforce on the airports managed by them all rules and regulations issued pursuant to the provisions of this section, and general police powers are hereby conferred upon such airport managers for the purposes of such enforcement. The commissioner is further authorized, in the name of this state, to enforce the provisions of Laws 1945, Chapter 303, and the rules and regulations issued pursuant thereto by injunction in the courts of this state. Municipalities are authorized to cooperate with the commissioner in the development of aeronautics and aeronautics facilities in this state. The commissioner may use the facilities and services of other agencies of the state to the utmost extent possible, and such agencies are authorized and directed to make available such facilities and services.

Subd. 11. Investigations. The commissioner, his assistant, or any employee of the department designated by him shall have the power to hold investigations, inquiries, and hearings concerning matters covered by the provisions of Laws 1945, Chapter 303, and orders, rules, and regulations of the commissioner and concerning accidents in aeronautics within this state. All hearings so conducted shall be open to the public. The commissioner, his assistant, and every employee of the department designated by him to hold any inquiry, investigations, or hearing shall have power to administer oaths and affirmations, certify to all official acts, issue subpoenas, and compel the attendance and testimony of witnesses and the production of papers, books, and documents. In case of failure to comply with any subpoena or order issued under authority of Laws 1945, Chapter 303, the commissioner, or his authorized representative, may invoke the aid of any court of this state of general jurisdiction. The court may thereupon order the witness to comply with the requirements of the subpoena or order or to give evidence touching the matter in question. Any failure to obey the order of the court may be punished by the court as a contempt thereof.

Subd. 11a. Aeronautical accidents; blood tests of accident victims; coroner to report death. Every coroner or other official performing like functions shall report in writing to the department of aeronautics the death of any person within his jurisdiction as a result of an accident involving an aircraft. Such report shall be made within five days after such death. In case an aircraft's pilot in command or his co-pilot are killed in an aeronautical accident, and if such death occurs within four hours after said accident, then and in such cases the coroner or other official performing like function shall examine the body and shall make such tests as are necessary to determine the presence and percentage concentration of alcohol, drugs and carbon monoxide, if feasible, in the blood of the victim. This information shall be included in a report submitted to the department of aeronautics and shall be tabulated on an annual basis by the department. This information transmitted to the department may be used only for statistical purposes by the department which do not reveal the identity of the deceased.

The provisions hereof shall not be construed to limit the authority otherwise conferred by law on the coroner.

Subd. 12. Report of investigations; limitations on use. In order to facilitate the making of investigations by the commissioner, in the interest of public safety and promotion of aeronautics, the public interest requires, and it is therefor provided, that the reports of investigations or hearings, or any part thereof, shall not be admitted in evidence or used for any purpose in any suit, action, or proceeding growing out of any matter referred to in said investigation, hearing, or report

thereof, except in case of criminal or other proceedings instituted in behalf of the commissioner of this state under the provisions of Laws 1945, Chapter 303, and other laws of this state relating to aeronautics, nor shall the commissioner, his assistant, or any employee of the department be required to testify to any facts ascertained in, or information gained by reason of, his official capacity, or be required to testify as an expert witness in any suit, action, or proceeding involving any aircraft. Subject to the foregoing provisions, the commissioner may in his discretion make available to appropriate federal and state agencies information and material developed in the course of such hearings and investigations.

Subd. 13. Financial assistance to municipalities. The commissioner may render assistance in the acquisition, construction, improvement, or maintenance of airports and other air navigation facilities owned, controlled, or operated, or to be owned, controlled, or operated, by municipalities in this state, the cost of such assistance to be paid out of the state airports fund provided for by Laws 1945, Chapter 303, and from appropriations made by the legislature for that purpose. State funds appropriated or made available for the acquisition, construction, improvement, or maintenance of such airports and other air navigation facilities may be expended only upon projects which are included in the state airways system established by the commissioner. No such state funds shall be available for work upon any project that is not done upon the supervision of the commissioner.

Subd. 14. Contracts. He may enter into any contracts necessary to the execution of the powers granted him by Laws 1945, Chapter 303.

Subd. 15. Exclusive rights forbidden; leases permitted. He shall grant no exclusive right for the use of any airway, airport, restricted landing area, or other air navigation facility under his jurisdiction. This subdivision shall not prevent the making of leases in accordance with other provisions of Laws 1945, Chapter 303.

Subd. 16. Effective date of rules and regulations. Rules and regulations made by the commissioner shall become effective ten days after publications as hereinafter provided. Publication shall be made as follows:

(a) By filing copies thereof with the secretary of state and the commissioner of administration.

(b) By mailing copies thereof to all owners and operators or managers of airports and to all air schools licensed or registered in the state.

(c) By having a reasonable number of copies thereof available at the offices of the department, to be furnished to interested persons upon request.

Subd. 17. Report to governor. On or before October 1 in every even-numbered year the commissioner shall make to the governor a full report of the proceedings of the department for the preceding two fiscal years, together with his recommendations pertaining to the affairs of the department. The governor shall transmit this report to the legislature by November 15 of each even numbered year.

Subd. 18. Custodian of records; attorney general designated as attorney. The commissioner shall be the custodian of and preserve the records of the department and of the official acts and determinations made by himself or his predecessors in office. All of the files and records of the department shall, under reasonable regulations, be open to public inspection, and copies thereof certified by the commissioner as being true copies shall be received in evidence in any court in this state with the same force and effect as the originals. The attorney general shall be ex-officio attorney for the commissioner and shall give him such legal counsel, advice, and assistance as he may require from time to time.

Subd. 19. Keep books and records. The commissioner shall keep accurate and complete books of account of such character as may be prescribed by the legislative auditor, the same to show in detail itemized receipts and disbursements of the airports fund. The books shall show, and it shall be the duty of the legislative auditor to so prescribe, the following facts, among others:

(a) The expenses of maintaining the department, including the salaries and expenses of the individual members thereof;

(b) The amounts of money expended in each county of the state for the construction or maintenance of airports or restricted landing areas, when, where, and upon what airport or restricted landing area expended, so that the cost for each such airport or restricted landing area can be easily ascertained;

(c) The amount of equipment and materials purchased and when, where, and from whom purchased; these books shall show the price paid for each item; the original invoice shall form a part of the permanent files and records in the department and shall be open to public inspection.

[1945 c 303 s 3; 1947 c 175 s 1; 1947 c 363 s 2, 3; 1955 c 847 s 27; 1969 c 381 s 1; 1971 c 643 s 1; 1973 c 492 s 14; 1974 c 406 s 68]

360.016 FEDERAL AID. Subdivision 1. **Cooperation with federal government.** The commissioner is authorized to cooperate with the Government of the United States, and any agency or department thereof, in the planning, acquisition, construction, improvement, maintenance, and operation of airports and other air navigation facilities in this state and to comply with the provisions of the laws of the United States and any regulations made thereunder for the expenditure of federal moneys upon such airports and other air navigation facilities.

Subd. 2. **Acceptance of federal moneys.** He is authorized to accept, receive, and receipt for and disburse federal moneys and other moneys, either public or private, for and in behalf of this state, or any municipality thereof, for the planning, acquisition, construction, improvement, maintenance, and operation of airports and other air navigation facilities, whether such work is to be done by the state or by such municipalities, or jointly, aided by grants of aid from the United States, upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder. He is authorized to act as agent of any municipality or municipalities acting jointly, upon the request of such municipality or municipalities, in accepting, receiving, receipting for and disbursing federal moneys, and other moneys public or private, made available to finance, in whole or in part, the planning, acquisition, construction, improvement, maintenance or operation of a municipal airport or air navigation facility; and if requested by such municipality or municipalities may act as its or their agent in contracting for and supervising such planning, acquisition, construction, improvement, maintenance, or operation; and all municipalities are authorized to designate the commissioner as their agent for the foregoing purposes. The commissioner, as principal on behalf of the state, and any municipality on its own behalf, subject to the provisions of section 360.0161 may enter into any contracts, with each other or with the United States or with any person, which may be required in connection with a grant or loan of federal moneys for municipal airport or air navigation facility purposes. All federal moneys accepted under this section shall be accepted and transferred or expended by the commissioner upon such terms and conditions as are prescribed by the United States.

Subd. 3. **Contracts; law governing.** He may enter into any contracts necessary to the execution of powers granted by this act. All contracts for the planning, acquisition, construction, improvement, maintenance, and operation of airports, or other air navigation facilities, made by the commissioner, either as the agent of this state or as the agent of any municipality, shall be made pursuant to the laws of this state governing the making of like contracts; provided, that where the planning, acquisition, construction, improvement, maintenance, and operation of any airport or other air navigation facility is financed wholly or partially with federal moneys, the commissioner, as agent of the state or of any municipality thereof, may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States and any rules or regulations made thereunder, notwithstanding any other state law to the contrary.

Subd. 4. **Disposition of federal funds.** All moneys accepted for disbursement by the commissioner pursuant to subdivision 2 shall be deposited in the state treasury and, unless otherwise prescribed by the authority from which the money is received, kept in separate funds, designated according to the purposes for which the moneys were made available, and held by the state in trust for such purposes. All such moneys are hereby appropriated for the purposes for which the same were made available, to be expended in accordance with federal laws and regulations and with the laws of this state.

[1945 c 303 s 4; 1947 c 175 s 2]

360.0161 FEDERAL AID; APPLICATION FOR; DISBURSEMENT. Subdivision 1. **"Municipality" defined.** As used in this section the word "municipality" has the meaning ascribed to it by Minnesota Statutes 1945, Section 360.013, Subdivision 20.

Subd. 2. **Approval of application.** No municipality in this state, whether acting alone or jointly with another municipality or with the state, shall submit to the

administrator of civil aeronautics of the United States any project application under the provisions of Section 9(a) of the Act of Congress approved May 13, 1946, being a Public Law 377, 79th Congress, known and hereinafter designated as the "Federal Airport Act," or any amendment thereof, unless the project and the project application have been first approved by the commissioner of aeronautics.

Subd. 3. Designated agent. No such municipality shall directly accept, receive, receipt for or disburse any funds granted by the United States under the Federal Airport Act, but it shall designate the commissioner of aeronautics as its agent and in its behalf to accept, receive, receipt for, and disburse such funds. It shall enter into an agreement with the commissioner prescribing the terms and conditions of such agency in accordance with federal laws, rules, and regulations and applicable laws of this state.

[1947 c 22 s 1-3]

360.017 STATE AIRPORTS FUND. Subdivision 1. **Creation.** There is hereby created a fund to be known as the state airports fund. Such fund shall consist of all moneys appropriated to it, or directed to be paid into it, by the legislature. The state airports fund shall be paid out on authorization of the commissioner and shall be used to acquire, construct, improve, maintain, and operate airports and other air navigation facilities and to assist municipalities in the acquisition, construction, improvement, and maintenance of airports and other air navigation facilities.

Subd. 2. Investment. Upon request of the commissioner, moneys in the state airports fund shall be invested by the state board of investment in the class of securities specified in section 11.01 and acts amendatory thereto, except the bonds of any school district, county, city or town of this state. All interest and profits from such investments shall be credited to the state airports fund. The state treasurer shall be custodian of all securities purchased under the provisions of this section.

[1945 c 303 s 5; 1965 c 167 s 1; 1971 c 25 s 68; 1973 c 123 art 5 s 7]

360.018 AIRCRAFT, AIRMEN, AIRPORTS, AIR INSTRUCTION; REGULATION. Subdivision 1. **Generally.** The general public interest and safety, the safety of persons receiving instruction concerning or operating, using, or traveling in aircraft and of persons and property on the ground, and the interest of aeronautical progress requiring that aircraft operated within this state should be airworthy, that airmen and those engaged in air instruction should be properly qualified, and that airports, restricted landing areas, and air navigation facilities should be suitable for the purposes for which they are designed; the purposes of sections 360.013 to 360.075, requiring that the commissioner should be enabled to exercise the powers of supervision therein granted; and the advantages of uniform regulation making it desirable that aircraft operated within this state should conform with respect to design, construction and airworthiness to the standards prescribed by the United States government with respect to civil aircraft subject to its jurisdiction and that persons engaging in aeronautics within this state should have the qualifications necessary for obtaining and holding appropriate airman certificates of the United States, the commissioner is authorized:

(1) To require the registration annually of federal licenses, permits, or certificates of civil aircraft engaged in air navigation within this state, and to issue certificates of such registration, which certificates may be the same as the certificates issued pursuant to section 360.59, subdivision 3. The application for registration made pursuant to sections 360.54 to 360.67 shall be considered as the application for registration required by this section.

(2) The certificates of registration of aircraft issued pursuant to this section shall constitute licenses of such aircraft for operations within this state to the extent permitted by the federal licenses, certificates, or permits so registered. The application for registration shall contain such information as the commissioner may by rule, regulation, or order prescribe. The first application for registration made in this state shall be verified by the applicant. The second and succeeding applications for registration need not be verified. Each application for registration of aircraft shall be made as required by sections 360.54 to 360.67.

(3) To license any person engaged in commercial operations in accordance with rules and regulations to be adopted by the commissioner and to annually renew such a license. The rules and regulations adopted hereunder shall provide for:

(a) the maximum fee to be charged any one person for an original license and the renewal thereof, such maximum fee not to exceed \$10;

(b) compliance with all requirements of the United States government relating to permits or certificates governing aircraft and airmen;

(c) compliance with all laws of the state of Minnesota and rules and regulations of any state department or agency promulgated thereunder;

(4) To approve airport and restricted landing area sites and to license airports, restricted landing areas, or other air navigation facilities, in accordance with rules and regulations to be adopted by the commissioner, and to renew such licenses. Licenses granted under this subdivision or under any prior law shall be renewed annually or every three years upon payment of the fee therefor, and licenses shall be granted for airports and restricted landing areas which were being operated under a license on the 1st day of July 1943, without requirements of a certificate of approval, unless the commissioner shall reasonably determine, after a public hearing to be called by him and held in the same manner and upon the same notice as is provided for hearings upon certificates of approval or original licenses, that the operation of such airport or restricted landing area is hazardous to persons operating, using, or traveling in aircraft or to persons and property on the ground. He shall make no charge for approval certificates of proposed property acquisition for airport or restricted landing area purposes. He may charge for the issuance of each original license for an airport or restricted landing area not to exceed \$10 per year and not to exceed \$25 for three years, based on classifications made by the commissioner.

(5) To suspend or revoke any license or certificate of registration of an aircraft or licensee of commercial operations issued by him, or to refuse to issue any such license or certificate of registration, when he shall reasonably determine that any aircraft is not airworthy or that any licensee of commercial operations is not qualified has engaged in advertising by means of false or deceptive statements, has been found guilty of gross incompetency or gross negligence, has been found guilty of fraud, dishonesty, forgery, or theft, has wilfully violated the provisions of sections 360.013 to 360.075, the rules and regulations prescribed pursuant thereto, or any other statute of this state relating to aeronautics, or any act of congress or any rule or regulation promulgated pursuant thereto, is addicted to the use of narcotics or other habit forming drug or to the excessive use of intoxicating liquor, has made any false statement in any application for registration of a federal license, certificate or permit, or has been guilty of other conduct, acts, or practices dangerous to the public safety and the safety of those engaged in aeronautics.

Subd. 2. Operations unlawful. Except as hereinafter provided, it shall be unlawful for any person to operate or cause or authorize to be operated any civil aircraft within this state unless such aircraft has an appropriate effective license, certificate, or permit issued by the United States Government which has been registered with the commissioner and such registration with the commissioner is in full force and effect, and it shall be unlawful for any person to engage in aeronautics as an airman in this state unless he has an appropriate effective airman's license, certificate or permit issued by the United States Government authorizing him to engage in the particular class of aeronautics in which he is engaged.

Subd. 3. Exceptions to registration requirements. The provisions of subdivision 1, paragraphs (1) and (2), and subdivision 2 shall not apply to:

(1) An aircraft which has been licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of such licensed aircraft;

(2) An aircraft which is owned by a nonresident of this state who is lawfully entitled to operate such aircraft in the state of his residence;

(3) An aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce;

(4) An aircraft owned by, and used exclusively in the service of, any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(5) An airman operating an aircraft owned by, and used exclusively in the service of, any government or any political subdivision thereof, including the government of the United States, any state, territory, or possession of the United States, or the District of Columbia, which is not engaged in carrying persons or property for commercial purposes;

(6) An airman operating any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft;

(7) Persons operating model aircraft, nor to any person piloting an aircraft which is equipped with fully functioning dual controls when a licensed instructor is in full charge of one set of said controls and such flight is solely for instruction or for the demonstration of said aircraft to a bona fide prospective purchaser;

(8) A nonresident operating aircraft in this state who is lawfully entitled to operate aircraft in the state of his residence;

(9) An airman while operating or taking part in the operation of an aircraft engaged principally in commercial flying constituting an act of interstate or foreign commerce.

Subd. 4. Exhibition of licenses and certificates. The federal license, certificate, or permit, and the evidence of registration in this or another state, if any, required for an airman shall be kept in the personal possession of the airman when he is operating within this state and must be presented for inspection upon the demand of any passenger, any peace officer of this state, or the commissioner, his assistant, or any employee of the department, or any official, manager, or person in charge of any airport in this state upon which he shall land, or upon the reasonable request of any other person. The federal aircraft license, certificate, or permit, and the evidence of registration in this or another state, if any, required for aircraft must be carried in every aircraft operating in this state at all times and must be conspicuously posted therein where it may readily be seen by passengers or inspectors and must be presented for inspection upon the demand of any passenger, any peace officer of this state, the commissioner, his assistant, or any employee of the department, or any official, manager, or person in charge of any airport in this state upon which it shall land, or upon the reasonable request of any person.

Subd. 5. Air instruction without license, permit or certificate. It shall be unlawful for any person to engage in commercial operations or to act as an aeronautics instructor in this state unless he has all required licenses, certificates or permits of the commissioner and of the United States Government.

Subd. 6. Licensing of airports and other air navigation facilities. All proposed airports, restricted landing areas, and other air navigation facilities shall be first licensed by the commissioner before they, or any of them, shall be used or operated. Any municipality or person acquiring property for the purpose of constructing or establishing an airport or restricted landing area shall, prior to such acquisition, make application to the commissioner for a certificate of approval of the site selected and the general purpose or purposes for which the property is to be acquired, to insure that the property and its use shall conform to minimum standards of safety and shall serve public interest. It shall be unlawful for any municipality or officer or employee thereof, or for any person, to operate an airport, restricted landing area, or other air navigation facility for which an annual license has not been issued by the commissioner.

Subd. 7. Hearings on application for certificates and licenses. Whenever the commissioner makes an order granting or denying a certificate of approval of an airport or a restricted landing area, or an original license to use or operate an airport, restricted landing area, or other air navigation facility, and the applicant or any interested municipality, within 15 days after notice of such order has been sent the applicant by registered mail, demands a public hearing, or whenever the commissioner desires to hold a public hearing before making an order, such a public

hearing in relation thereto shall be held in the municipality applying for the certificate of approval or license or, in case the application was made by anyone other than a municipality, at the county seat of the county in which the proposed airport, restricted landing area, or other air navigation facility is proposed to be situated, at which hearing parties in interest and other persons shall have an opportunity to be heard. Notice of the hearing shall be published by the commissioner in a legal newspaper of general circulation in the county in which the hearing is to be held, at least 15 days prior to the date of hearing. After a proper and timely demand has been made, the order shall be stayed until after the hearing, when the commissioner may affirm, modify, or reverse it, or make a new order. If no hearing is demanded as herein provided, the order shall become effective upon the expiration of the time permitted for making a demand. Where a certificate of approval of an airport or restricted landing area has been issued by the commissioner, he may grant a license for operation and use, and no hearing may be demanded thereon; provided, however, and subject to the provisions of section 360.111, as amended, should the airport for which a license is applied lie within the area under the jurisdiction of any corporation organized under Laws 1943, Chapter 500, as amended, the commissioner, before issuing the first license for the operation of said airport, shall forthwith serve notice in writing of the application, together with a copy thereof to the said corporation. Within 15 days after service of such notice said corporation shall serve written notice upon the commissioner whether or not it regards the acquisition and/or operation of said airport as constituting a hazard to the safe operation of an airport or airports owned or operated by it. If in the opinion of the corporation it does not constitute such a hazard, the commissioner may thereafter proceed in the matter of granting or refusing to grant a license in accordance with and pursuant to the provisions of this act. If the corporation, however, be of the opinion that the acquisition and/or operation of such airport would create such a hazard, then the commissioner shall set a time and place for a joint hearing upon the application for license and for consent to or approval by the corporation of the acquisition and/or operation of said airport, which hearing shall be held within 45 days after the service of such notice upon the applicant, the corporation and other interested parties, unless such time shall be extended by consent of all interested parties. At said hearing the corporation shall offer such evidence as it deems material to sustain its contention that the acquisition and/or operation of said airport would create such a hazard. Thereafter other interested parties supporting the view of the corporation shall be heard; and thereafter the applicant and other interested parties supporting applicant's view or their independent views shall be heard, and shall offer such evidence as they deem material to sustain their respective views and contentions. Each party shall have an opportunity of offering rebuttal testimony or rebuttal evidence. Within ten days after the close of the hearing the corporation shall make its order in writing approving or refusing to approve the acquisition and/or operation of said airport, provided that if the order is one disapproving, it must be based solely upon the grounds that the acquisition and/or operation of said airport would constitute a hazard to the safe operation of an airport or airports owned or operated by it or presently to be constructed or being constructed to be operated by it, and its order shall set forth its findings of fact and its reasons for the conclusion reached.

The provisions of this proviso shall apply only to securing the first approval or disapproval of the establishment and operation of said airport or restricted landing area and once the same shall have been approved by the corporation renewal licenses may be issued therefor by the commissioner of aeronautics without notice to the corporation.

Subd. 8. Standards for issuing certificates of approval and licenses. In determining whether he shall issue a certificate of approval or license for the use or operation of any proposed airport or restricted landing area, the commissioner shall take into consideration its proposed location, size, and layout, the relationship of the proposed airport or restricted landing area to a comprehensive plan for state-wide and nation-wide development, whether there are safe areas available for expansion purposes, whether the adjoining area is free from obstructions based on a proper glide ratio, the nature of the terrain, the nature of the uses to which the proposed airport or restricted landing area will be put, and the possibilities for future development.

Subd. 9. Exceptions; federal use. The provisions of subdivisions 6, 7, and 8

shall not apply to any airport, restricted landing area, or other air navigation facility owned or operated by the federal government within this state, or by any public corporation created in and for contiguous cities of the first class of this state. No airport, restricted landing area or other air navigation facility shall be acquired or operated within 25 miles of the city hall of either of two contiguous cities of the first class for which a public corporation has been created pursuant to Laws 1943, Chapter 500, without the consent of such corporation, as provided in and limited by section 360.111, as amended.

Subd. 10. Revocation of certificate of approval and licenses. The commissioner is empowered to suspend or revoke any certificate of approval or license issued by him when he shall determine that an airport, restricted landing area, or other air navigation facility is not being maintained or used in accordance with the provisions of Laws 1945, Chapter 303, and the rules and regulations lawfully promulgated pursuant thereto.

Subd. 11. Examination of premises. To carry out the provisions of Laws 1945, Chapter 303, the commissioner, his assistant, the employees of the department, and any officers, state or municipal, charged with the duty of enforcing Laws 1945, Chapter 303, may inspect and examine at reasonable hours any premises, and the buildings and other structures thereon, where airports, restricted landing areas, air schools, flying clubs, or other air navigation facilities or aeronautical activities are operated or carried on.

[1945 c 303 s 6; 1947 c 175 s 3, 4; 1947 c 363 s 4, 5; 1953 c 733 s 3, 4; 1959 c 446 s 1; 1965 c 288 s 1; 1967 c 863 s 1; 1974 c 8 s 1-3]

360.019 ORDERS OF COMMISSIONER; REVIEW. Subdivision 1. **Refusals; findings of fact; requirements.** In any case where the commissioner refuses to issue a certificate of approval of or license (or renewal of license) for an airport, restricted landing area, or other air navigation facility, or refuses to permit the registration of any license, certificate, or permit, or refuses to grant a license to an air school or to an aeronautics instructor in ground subjects, or in any case where he shall issue any order requiring certain things to be done, or revoking any license or certificate, he shall set forth his reasons therefor and shall state the requirements to be met before such approval will be given, registration permitted, license granted, or order modified or changed. Any order made by the commissioner pursuant to the provisions of Laws 1945, Chapter 303, shall be served upon the interested persons by registered mail or in person.

Subd. 2. Hearings before commissioner, review by certiorari. Any person aggrieved by an order of the commissioner or by the granting or denial of any license, permit, certificate, or registration may request a hearing before the commissioner. The commissioner shall hold a public hearing and may stay the order until after the hearing. Orders of the commissioner reached after a public hearing may be reviewed by certiorari in the district court of Ramsey county or the district court of the county in which the person resides, or (in the case of orders relating to obstructions to air navigation) of the county in which the structure exists or is to be erected.

[1945 c 303 s 7; 1957 c 146 s 3; 1959 c 387 s 12]

360.021 STATE AIRPORTS; ACQUISITION, OPERATION. Subdivision 1. **Authority to establish.** The commissioner is authorized and empowered, on behalf of and in the name of this state, within the limitation of available appropriations, to acquire, by purchase, gift, devise, lease, condemnation proceedings, or otherwise, property, real or personal, for the purpose of establishing and constructing airports, restricted landing areas, and other air navigation facilities, and to acquire in like manner, own, control, establish, construct, enlarge, improve, maintain, equip, operate, regulate, and police such airports, restricted landing areas, and other air navigation facilities, either within or without this state; to make, prior to any such acquisition, investigations, surveys, and plans, to erect, install, construct, and maintain at such airports facilities for the servicing of aircraft and for the comfort and accommodation of air travelers and to dispose of any such property, airport, restricted landing area, or any other air navigation facility, by sale, lease, or otherwise, in accordance with the laws of this state governing the disposition of other like property of the state. He may not acquire or take over any airport, restricted landing area, or other air navigation facility without the consent of the owner. He may erect, equip, operate, and maintain on any airport buildings and equipment necessary and proper to establish, maintain, and conduct such airport and air navigation facilities connected therewith.

Subd. 2. Airport protection privileges. Where necessary in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports and restricted landing areas acquired or operated under the provisions of Laws 1945, Chapter 303, he is hereby granted authority to acquire, in the same manner as is provided for the acquisition of property for airport purposes, easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of the airports or restricted landing areas, and such other airport protection privileges as are necessary to insure safe approaches to the landing areas of said airports and restricted landing areas, and the safe and efficient operation thereof. He is also hereby authorized to acquire, in the same manner, the right of easement, for a term of years or perpetually, to place or maintain suitable marks for the daytime marking and suitable lights for the night-time marking of airport hazards, including the right of ingress and egress to or from such airport hazards for the purpose of maintaining and repairing such lights and marks. This authority shall not be so construed as to limit the right, power, or authority of the state or any municipality to zone property adjacent to any airport or restricted landing area pursuant to any law of this state.

Subd. 3. Joint operations. This state, acting through the commissioner, may engage in all such activities jointly with the United States, other states, and with municipalities or other agencies of this state.

Subd. 4. Condemnation. He may exercise the right of eminent domain, in the name of the state, in the manner provided by the laws of this state for the acquisition of real property for public purposes, for the purpose of acquiring any property which he is herein authorized to acquire by condemnation. The fact that the property so needed has been acquired by the owner under power of eminent domain shall not prevent its acquisition by the exercise of the right of eminent domain herein conferred. For the purpose of making surveys and examinations relative to any condemnation proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage. Notwithstanding the provisions of any other statute, or the charter of any municipality, he may take possession of any such property so to be acquired at any time after the filing of the petition describing the same in condemnation proceedings. He shall not be precluded from abandoning the condemnation of any such property in any case where possession thereof has not been taken.

Subd. 5. Leases and sales. He may lease for a term not exceeding 30 years such airports, or other air navigation facilities or real property acquired or set apart for airport purposes, to private parties, any municipal or state government or the national government, or any department of either thereof, for operation; and may lease or assign for a term not exceeding 30 years to private parties, any municipal or state government or the national government, or any department of either, for operation or use consistent with the purposes of this act, space, area, improvements, or equipment on such airports; may sell any part of such airports, other air navigation facilities, or real property to any municipal or state government, or to the United States or any department or instrumentality thereof, for aeronautical purposes or purposes incidental thereto; and may confer the privilege of concessions of supplying upon the airports goods, commodities, things, services, and facilities; provided that in each case in so doing the public is not deprived of its rightful, equal, and uniform use thereof.

Subd. 6. Charges and rentals. He shall have the authority to determine the charges or rental for the use of any properties and the charges for any service or accommodations under his control and the terms and conditions under which such properties may be used; provided that in all cases the public is not deprived of its rightful, equal, and uniform use of such property. Charges shall be reasonable and uniform for the same class of service and established with due regard to the property and improvements used and the expenses of operation to the state. The state shall have and the commissioner may enforce liens, as provided by law for liens and the enforcement thereof, for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges.

Subd. 7. Contract with owners of existing privately owned airports. He may contract with the owners of existing privately-owned airports for the use, equipment, improvement, maintenance, management, and operation by him of such airports, and thereafter use, equip, improve, maintain, manage, operate, regulate, and police them.

[1945 c 303 s 8; 1947 c 175 s 5]

360.0215 COMMISSIONER MADE ATTORNEY TO ACCEPT PROCESS; EX-

TENSION OF TIME TO ANSWER. The use and operation of an aircraft by a non-resident or his agent in the State of Minnesota or by a resident owner or his agent who has remained without the state continuously for 30 days prior to the commencement of an action against him, shall be deemed an appointment by such non-resident or absentee of the commissioner of aeronautics, to be his true and lawful attorney upon whom may be served all legal processes in any action or proceeding against him growing out of such use or operation of an aircraft in the State of Minnesota, resulting in damages or loss to person or property, and said use or operation shall be a signification of his agreement that any such process in any action against him which is so served shall be of the same legal force and validity as if served upon him personally. Service of such process shall be made by serving a copy thereof upon the commissioner or by filing a copy in his office, together with the payment of a fee of \$2, and such service shall be sufficient service upon said nonresident or absentee, provided that notice of such service and a copy of the process are within ten days thereafter sent by mail by the plaintiff to the defendant at his last known address, and that the plaintiff's affidavit of compliance with the provisions of this act are attached to the summons.

The court in which the action is pending may order such continuance as may be necessary to afford the defendant reasonable opportunity to defend any such action, not exceeding ninety days from the day of the filing of the action in such court. The fee of \$2 paid by the plaintiff to the commissioner at the time of service of such proceeding shall be taxed in his costs if he prevails in the suit. The said commissioner shall keep a record of all such processes so served which shall show the day and hour of such service.

[1947 c 46 s 1]

360.022 PENALTIES. Any person violating any of the provisions of section 360.018, or any of the rules, regulations, or orders issued pursuant to the provisions of section 360.015, shall be guilty of a misdemeanor, and each such violation, or in the case of continuing offenses each day's violation, shall constitute a separate offense.

[1945 c 303 s 9; 1971 c 23 s 23]

360.023 TRANSFER OF AIR NAVIGATION FACILITIES. The commissioner of aeronautics of the state of Minnesota, with the approval of the governor, is hereby granted authority to transfer and assign to the United States government or, to any political subdivisions of the state of Minnesota or to loan to private owners of airports licensed for public use all or any part of radio air navigation facilities or other air navigation facilities along with shelters, repair parts, and supplies used in connection therewith, as are now or hereafter owned by the state of Minnesota.

The commissioner of aeronautics, with the approval of the governor, is authorized to make such loan, transfer and assignment herein upon the conditions that, and so long as, the United States government, the political subdivision, or the private owner of an airport, as the case may be, will undertake the duty to, and does, maintain, repair, operate, and use such air navigation facilities for the benefit of the public of the state. The commissioner may set additional conditions on a transfer of air navigation facilities.

[1963 c 194 s 1; 1967 c 720 s 1]

360.025 [Repealed, 1959 c 387 s 14]

UNIFORM AIRPORTS

360.031 DEFINITION. For the purposes of sections 360.031 to 360.045, inclusive (except section 360.042), only, "municipality" means any county, city or town of this state.

[1945 c 303 s 10; 1973 c 123 art 5 s 7]

360.032 MUNICIPALITIES MAY ACQUIRE AIRPORTS. Subdivision 1. **Acquisition.** Every municipality is hereby authorized, through its governing body, to acquire property, real or personal, for the purpose of establishing, constructing, and enlarging airports and other air navigation facilities and to acquire, establish, construct, enlarge, improve, maintain, equip, operate, and regulate such airports and other air navigation facilities and structures and other property incidental to their operation, either within or without the territorial limits of such municipality and within or without this state; to make, prior to any such acquisition, investigations, surveys, and plans; to construct, install, and maintain airport facilities for the servicing of aircraft and for the comfort and accommodation of air travelers; and

to purchase and sell equipment and supplies as an incident to the operation of its airport properties. It may not acquire, or take over any airport or other air navigation facility owned or controlled by any other municipality of the state without the consent of such municipality. It may use for airport purposes any available property that is now or may at any time hereafter be owned or controlled by it. Such air navigation facilities as are established on airports shall be supplementary to and coordinated in design and operation with those established and operated by the federal and state governments. It may assist other municipalities in the construction of approach roads leading to any airport or restricted landing area owned or controlled by it.

Subd. 2. Manner of acquisition. Property needed by a municipality for an airport or restricted landing area, or for the enlargement of either, or for other airport purposes, may be acquired by purchase, gift, devise, lease, or other means if such municipality is able to agree with the owners of said property on the terms of such acquisition, and otherwise by condemnation in the manner provided by the law under which such municipality is authorized to acquire like property for public purposes, full power to exercise the right of eminent domain for such purposes being hereby granted every municipality both within and without its territorial limits. If but one municipality is involved and the charter of such municipality prescribes a method of acquiring property by condemnation, proceedings shall be had pursuant to the provisions of such charter and may be followed as to property within or without its territorial limits. The fact that the property needed has been acquired by the owner under power of eminent domain, or is already devoted to a public use, shall not prevent its acquisition by the municipality by the exercise of the right of eminent domain herein conferred. For the purpose of making surveys and examinations relative to any condemnation proceedings, it shall be lawful to enter upon any land, doing no unnecessary damage. Notwithstanding the provisions of this or any other statute or the provisions of any charter, the municipality may take possession of any such property so to be acquired at any time after the filing of the petition describing the same in condemnation proceedings. It shall not be precluded from abandoning the condemnation of any such property in any case where possession thereof has not been taken.

Subd. 3. Property and easements adjoining. Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports or restricted landing areas acquired or operated under the provisions of this act, every municipality is authorized to acquire, in the same manner as is provided for the acquisition of property for airport purposes, easements through or other interests in air space over land or water, interests in airport hazards outside the boundaries of the airports or restricted landing areas, and such other airport protection privileges as are necessary to insure safe approaches to the landing areas of said airports or restricted landing areas and the safe and efficient operation thereof. It is also hereby authorized to acquire, in the same manner, the right or easement, for a term of years or perpetually, to place or maintain suitable marks for the daytime marking and suitable lights for the nighttime marking of airport hazards, including the right of ingress and egress to or from such airport hazards, for the purpose of maintaining and repairing such lights and marks. This authority shall not be so construed as to limit any right, power, or authority to zone property adjacent to airports and restricted landing areas under the provisions of any law of this state.

Subd. 4. Regulation of buildings and trees on adjoining property. It shall be unlawful for anyone to build, rebuild, create, or cause to be built, rebuilt, or created, any object, or plant, cause to be planted, or permit to grow higher any tree or trees or other vegetation, which shall encroach upon any airport protection privileges acquired pursuant to the provisions of this section. Any such encroachment is declared to be a public nuisance and may be abated in the manner prescribed by law for the abatement of public nuisances, or the municipality in charge of the airport or restricted landing area for which airport protection privileges have been acquired as in this section provided may go upon the land of others and remove any such encroachment without being liable for damages in so doing.

[1945 c 303 s 11; 1957 c 615 s 1]

360.033 SOVEREIGN RIGHTS. Subdivision 1. **Public necessity.** The acquisition of any lands for the purpose of establishing airports or other air navigation facilities; the acquisition of airport protection privileges; the acquisition, estab-

ishment, construction, enlargement, improvement, maintenance, equipment, and operation of airports and other air navigation facilities, and the exercise of any other powers herein granted to the state or to municipalities are hereby declared to be public, governmental, and municipal functions, exercised for a public purpose, and matters of public necessity, and such lands and other property, easements, and privileges acquired and used by the state and such municipalities in the manner and for the purposes enumerated in Laws 1945, Chapter 303, shall and are hereby declared to be acquired and used for public, governmental, and municipal purposes and as a matter of public necessity.

Subd. 2. [Repealed, 1963 c 798 s 16]

[1945 c 303 s 12]

360.034 PRIOR ACQUISITION OF PROPERTY VALIDATED. Any acquisition of property within or without the limits of any municipality for airports and other air navigation facilities, or of airport protection privileges, heretofore made by any such municipality in any manner, together with the conveyance and acceptance thereof, is hereby legalized and made valid and effective.

[1945 c. 303 s. 13]

360.035 EXEMPTION FROM TAXATION. Any property acquired or used by a municipality pursuant to the provisions of Laws 1945, Chapter 303, shall be exempt from taxation to the same extent as other property used for public purposes.

[1945 c. 303 s. 14]

360.036 PURCHASE PRICE; COST OF IMPROVEMENT. Subdivision 1. **Proportion; "cost" includes awards and rentals.** The cost of investigating, surveying, planning, acquiring, establishing, constructing, enlarging, or improving or equipping airports and other air navigation facilities, and the sites therefor, including structures and other property incidental to their operation, in accordance with the provisions of Laws 1945, Chapter 303, may be paid for by appropriation of moneys available therefor, or wholly or partly from the proceeds of bonds of the municipality, as the governing body of the municipality shall determine. The word "cost" includes awards in condemnation proceedings and rentals where an acquisition is by lease.

Subd. 2. **Issuance of bonds.** Any bonds to be issued by any municipality pursuant to the provisions of Laws 1945, Chapter 303, shall be authorized and issued in the manner and within the limitation, except as herein otherwise provided, prescribed by the laws of this state or the charter of the municipality for the issuance and authorization of bonds thereof for public purposes generally.

Subd. 3. **In excess of tax limitation.** Irrespective of any limitation, by general or special law or charter, as to the amount of bonds which may be issued, a municipality may issue bonds for the purposes defined by Laws 1945, Chapter 303, in excess of such limitation, in such amount as may be authorized by an ordinance or resolution referred to and approved by the voters of such municipality by popular vote, at any general election or special election called for that purpose.

Subd. 4. **Bonds heretofore issued.** The amount of all bonds heretofore or hereafter issued by any municipality for the purposes defined in Laws 1945, Chapter 303, shall not be counted or included in the net indebtedness of the municipality or in any computation of the outstanding indebtedness of the municipality for the purpose of determining the limit of net indebtedness thereof.

Subd. 5. **Bonds for preliminary purposes.** In all cases where a municipality has heretofore issued any bonds for the purpose of investigating, surveying, planning, acquiring, establishing, constructing, enlarging, equipping, or improving any airport, or other air navigation facility, or site therefor, or to meet the cost of structures or other property incidental to their operation, whether such airport or other air navigation facility was termed under the law existing at the time of the issuance of such bonds an airport, a landing field, a landing strip, an aviation field, or a flying field, or has incurred any other indebtedness, or entered into any lease or other contract in connection with the acquisition, establishment, construction, ownership, enlargement, control, leasing, equipment, improvement, maintenance, operation, or regulation of any such airport or other air navigation facility, or site therefor, or structure or other property incidental to its operation, the proceedings heretofore taken in all such cases are hereby in all respects validated and confirmed; any bonds already issued thereunder are validated and made legal obligations of such municipality, and such municipality is hereby authorized and empowered, pursuant to such proceedings, to issue further bonds for such purposes up to the limit fixed in the

original authorization thereof, without limitation of the general power herein granted to all municipalities in this state, which bonds when issued shall be legal obligations of such municipality according to their terms.

Subd. 6. **Expenditures in excess of limitations.** The governing body of any municipality may expend money for the purpose of acquiring property, real or personal, to establish, construct or enlarge an airport or other air navigation facility by purchase, lease or condemnation, irrespective of any limitation by general or special law or charter as to the amount that may be so expended by such governing body provided state or federal funds or funds received by gift have been allocated or otherwise made available to such municipality to reimburse it for the entire amount of such expenditure in excess of the amount authorized by such general or special law or charter; or provided such municipality has obtained funds from the sale of an existing airport, the funds obtained from such sale may be used to acquire land and establish and construct an airport on another site. The acquisition by any such municipality of any airport or airport property heretofore acquired by gift, purchase, lease or condemnation is hereby validated and confirmed irrespective of any limitation by general or special law or charter provision to the contrary notwithstanding.

[1945 c 303 s 15; 1951 c 163 s 1]

360.037 APPROPRIATION AND EXPENDITURE OF MONEYS. Subdivision 1. **Authority to appropriate.** The governing bodies having power to appropriate moneys within the municipalities in this state acquiring, establishing, constructing, enlarging, improving, maintaining, equipping, or operating airports and other air navigation facilities under the provisions of Laws 1945, Chapter 303, are hereby authorized to appropriate and cause to be raised, by taxation or otherwise in such municipalities, moneys sufficient to carry out therein the provisions of Laws 1945, Chapter 303. Expenditures by counties shall be made out of the general revenue fund only.

Subd. 2. **In excess of tax limitation.** Irrespective of any limitation, by general or special law or charter, as to the amount or total of taxes that may be levied, a municipality may levy taxes for the purposes authorized by Laws 1945, Chapter 303, in excess of such limitations, in such amount as may be authorized by an ordinance or resolution referred to and approved by the voters of such municipality by popular vote; provided, such levies shall be within the limits fixed by Minnesota Statutes 1941, Sections 275.10, 275.11, 275.32, and 275.44.

Subd. 3. **Use of revenues.** The revenues obtained from the ownership, control, and operation of any such airport or other air navigation facility shall be used, first, to finance the maintenance and operating expenses thereof and, second, to make payments of interest on and current principal requirements of any outstanding bonds or certificates issued for the acquisition or improvement thereof, and to make payment of interest on any mortgage heretofore made. Revenues in excess of the foregoing requirements may be applied to finance the extension or improvement of the airport or other air navigation facilities.

[1945 c. 303 s. 16]

360.038 SPECIFIC POWERS OF MUNICIPALITIES. Subdivision 1. **Acquisition of property.** In addition to the general powers in Laws 1945, Chapter 303, conferred, and without limitation thereof, a municipality which has established or may hereafter establish airports, restricted landing areas, or other air navigation facilities, or which has acquired or set apart, or may hereafter acquire or set apart, real property for such purpose or purposes is hereby authorized:

Subd. 2. **Construction or improvement.** To vest authority for the construction, enlargement, improvement, maintenance, equipment, operation, and regulation thereof in an officer, a board or body of such municipality, now existing or hereafter provided for pursuant to law or charter, by ordinance or resolution which shall prescribe the powers and duties of such officer, board, or body. The expense of such construction, enlargement, improvement, maintenance, equipment, operation, and regulation shall be a responsibility of the municipality.

Subd. 3. **Adopt rules and regulations.** To adopt and amend all needful rules, regulations, and ordinances for the management, government, and use of any properties under its control, whether within or without the territorial limits of the municipality; to appoint airport guards or police, with full police powers; to fix by ordinance or resolution, as may be appropriate, penalties for the violation of said

rules, regulations, and ordinances and enforce said penalties in the same manner in which penalties prescribed by other rules, regulations, and ordinances of the municipality are enforced. For the purposes of such management and government and direction of public use, such part of all highways, roads, streets, avenues, boulevards, and territory as adjoins or lies within one mile of the limits of any airport or restricted landing area acquired or maintained under the provisions of Laws 1945, Chapter 303, shall be under like control and management of the municipality. It may also adopt and enact rules, regulations, and ordinances designed to safeguard the public upon or beyond the limits of private airports or landing strips within such municipality or its police jurisdiction against the perils and hazards of instrumentalities used in aerial navigation. Rules, regulations, and ordinances shall be published as provided by general law or the charter of the municipality for the publication of similar rules, regulations, and ordinances. They must conform to and be consistent with the laws of this state and the rules and regulations of the commissioner and shall be kept in conformity, as nearly as may be, with the then current federal legislation governing aeronautics and the regulations duly promulgated thereunder and rules and standards issued from time to time pursuant thereto.

Subd. 4. Leased property. To lease for a term not exceeding 30 years such airports or other air navigation facilities, or real property acquired or set apart for airport purposes, to private parties, any municipal or state government or the national government, or any department of either thereof, for operation; to lease or assign for a term not exceeding 99 years to private parties, any municipal or state government, or the national government, or any department of either thereof, for operation or use consistent with the purposes of Laws 1945, Chapter 303, space, area, improvements, or equipment on such airports; notwithstanding any other provisions in this subdivision, to lease ground area for a term not exceeding 99 years to private persons for the construction of structures which in its opinion are essential and necessary to serve aircraft, persons and things engaged in or incidental to aeronautics, including but not limited to shops, hangars, offices, restaurants, hotels, motels, factories, storage space, and any and all other structures necessary or essential to and consistent with the purposes of Laws 1945, Chapter 303, to sell any part of such airports, other air navigation facilities, or real property to any municipal or state government, or to the United States or any department or instrumentality thereof, for aeronautical purposes incidental thereto, and to confer the privileges of concessions of supplying upon its airports goods, commodities, things, services, and facilities; provided that in each case in so doing the public is not deprived of its rightful, equal, and uniform use thereof.

Subd. 5. Sell or lease property. (1) To sell or lease any property, real or personal, acquired for airport purposes and belonging to the municipality, which, in the judgment of its governing body, may not be required for aeronautic purposes, in accordance with the laws of this state, or the provisions of the charter of the municipality, governing the sale or leasing of similar municipally owned property.

(2) The proceeds of sale of any property the purchase price of which was obtained by the sale of bonds shall be deposited in the sinking fund from which funds have been authorized to be taken to finance such bonds. In the event all the proceeds of such sale are not needed to pay the principal of said bonds remaining unpaid, the remainder shall be paid into the general fund of the municipality. The proceeds of sales of property the purchase price of which was paid from appropriations shall be paid into the general fund of the municipality.

Subd. 6. Determine rental charges. To determine the charges or rental for the use of any properties under its control and the charges for any services or accommodations and the terms and conditions under which such properties may be used; provided that in all cases the public is not deprived of its rightful, equal, and uniform use of such property. Charges shall be reasonable and uniform for the same class of service and established with due regard to the property and improvements used and the expense of operation to the municipality. The municipality shall have and may enforce liens, as provided by law for liens and enforcement thereof, for repairs to or improvement or storage or care of any personal property, to enforce the payment of any such charges.

Subd. 7. Exercise general and special powers. To exercise all powers necessarily incidental to the exercise of the general and special powers herein granted.

[1945 c 303 s 17; 1957 c 380 s 1]

360.039 FEDERAL AID. Subdivision 1. **Acceptance of aid.** Every municipality is authorized, subject to the provisions of section 360.0161, to accept, receive, receipt for, disburse and expend federal and state moneys and other moneys, public or private, made available by grant or loan or both to accomplish, in whole or in part, any of the purposes of this act. All federal moneys accepted under this section shall be accepted and expended by the municipality upon such terms and conditions as are prescribed by the United States and as are consistent with state law; and all state moneys accepted under this section shall be accepted and expended by the municipality upon such terms and conditions as are prescribed by the state. Unless otherwise prescribed by the agency from which such moneys were received, the chief financial officer of the municipality shall, on its behalf deposit all moneys received pursuant to this section and shall keep them, in separate funds designated according to the purposes for which the moneys were made available, in trust for such purposes.

Subd. 2. **Commissioner to be financial agent.** A municipality is authorized to designate the commissioner as its agent to accept, receive, receipt for and disburse federal and state moneys, and other moneys, public or private made available by grant or loan or both to accomplish, in whole or in part, any of the purposes of this act; and to designate the commissioner as its agent in contracting for and supervising the planning, acquisition, development, construction, improvement, maintenance, equipment or operation of any airports or other air navigation facility. Such municipality may enter into an agreement with the commissioner prescribing the terms and conditions of the agency in accordance with such terms and conditions as are prescribed by the United States, if federal money is involved, and in accordance with the applicable laws of this state. All federal moneys accepted under this section by the commissioner shall be accepted and transferred or expended by the commissioner upon such terms and conditions as are prescribed by the United States.

Subd. 3. **Contracts made pursuant to law.** All contracts for the planning, acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports or other air navigation facilities, made by the municipality itself or through the agency of the commissioner, shall be made pursuant to the laws of this state governing the making of like contracts; provided, however, that, where such planning, acquisition, construction, improvement, enlargement, maintenance, equipment, or operation is financed wholly or partly with federal moneys, the municipality, or the commissioner as its agent may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States, and any rules or regulations made thereunder, notwithstanding any other state law to the contrary.

[1945 c 303 s 18; 1947 c 175 s 6]

360.041 AIRPORTS ON WATERS AND RECLAIMED LAND. Subdivision 1. **Acquisition.** The powers herein granted to a municipality to establish and maintain airports shall include the power to establish and maintain such airports in, over, and upon any public waters of this state within the limits or jurisdiction of or bordering on the municipality, any submerged land under such public waters, and any artificial or reclaimed land which before the artificial making or reclamation thereof constituted a portion of the submerged land under such public waters, and as well the power to construct and maintain terminal buildings, landing floats, causeways, roadways and bridges for approaches to or connecting with the airport, and landing floats and breakwaters for the protection of any such airport.

Subd. 2. **Incidental powers.** All the other powers herein granted municipalities with reference to airports on land are granted to them with reference to such airports in, over, and upon public waters, submerged land under public waters, and artificial or reclaimed land.

[1945 c. 303 s. 19]

360.042 JOINT OPERATIONS. Subdivision 1. **Municipalities may act jointly.** All powers, rights, and authority granted to any municipality in Laws 1945, Chapter 303, may be exercised and enjoyed by two or more municipalities, or by this state and one or more municipalities therein, acting jointly, either within or without the territorial limits of either or any of said municipalities and within or without this state or any municipality therein acting jointly with any other state or municipality therein, either within or without this state, provided the laws of such other state permit such joint action.

Subd. 2. State a municipality. For the purposes of this section only, unless another intention clearly appears or the context otherwise requires, this state shall be included in the term "municipality," and all the powers conferred upon municipalities in Laws 1945, Chapter 303, if not otherwise conferred by law, are hereby conferred upon this state when acting jointly with any municipality or municipalities. Where reference is made to the "governing body" of a municipality, that term shall mean, as to the state, the commissioner.

Subd. 3. Concurrent action. Any two or more municipalities may enter into agreements with each other, duly authorized by ordinance or resolution, as may be appropriate, for joint action pursuant to the provisions of this section. Concurrent action by the governing bodies of the municipalities involved shall constitute joint action.

Subd. 4. Provisions. Each such agreement shall specify its term; the proportionate interest which each municipality shall have in the property, facilities, and privileges involved; and the proportion of preliminary costs, costs of acquisition, establishment, construction, enlargement, improvement, and equipment, and of expenses of maintenance, operation, and regulation to be borne by each; and make such other provisions as may be necessary to carry out the provisions of this section. It shall provide for amendments thereof and for conditions and methods of termination, for the disposition of all or any part of the property, facilities, and privileges jointly owned if said property, facilities, and privileges, or any part thereof, shall cease to be used for the purposes herein provided or if the agreement shall be terminated, and for the distribution of the proceeds received upon any such disposition, and of any funds or other property jointly owned and undisposed of, and the assumption or payment of any indebtedness arising from the joint venture which remains unpaid, upon any such disposition or upon a termination of the agreement.

Subd. 5. Establishment of board. Municipalities acting jointly as herein authorized shall create a board from the inhabitants of such municipalities for the purpose of acquiring property for establishing, constructing, enlarging, improving, maintaining, equipping, operating, and regulating the airports and other air navigation facilities and airport protection privileges to be jointly acquired, controlled, and operated. Such board shall consist of members to be appointed by the governing body of each municipality involved, the number to be appointed by each to be provided for by the agreement for the joint venture. Each member shall serve for such time and upon such terms as to compensation, if any, as may be provided for in the agreement.

Subd. 6. Organization; election. Each such board shall organize, select officers for terms to be fixed by the agreement, and adopt and from time to time amend rules of procedure.

Subd. 7. Powers of board. Such board may exercise, on behalf of the municipalities acting jointly by which it is appointed, all the powers of each of such municipalities granted by Laws 1945, Chapter 303, except as herein provided. Real property, airports, restricted landing areas, air protection privileges, or personal property costing in excess of a sum to be fixed by the joint agreement may be acquired, and condemnation proceedings may be instituted, only by authority of the governing bodies of each of the municipalities involved. The total amount of expenditures to be made by the board for any purpose in any calendar year shall be determined by the municipalities involved by the approval by each on or before the preceding December 1st of a budget for the ensuing calendar year. Rules and regulations provided for by section 360.038, subdivision 3, shall become effective only upon approval of each of the appointing governing bodies. No real property and no airport, other air navigation facility, or air protection privilege, owned jointly, shall be disposed of by the board, by sale, lease, or otherwise, except by authority of all the appointing governing bodies, but the board may lease space, area, or improvements and grant concessions on airports for aeronautical purposes or purposes incidental thereto, subject to the provisions of section 360.038, subdivision 4.

Subd. 8. Enactment of ordinances. Each municipality, acting jointly with another, pursuant to the provisions of this section, is authorized and empowered to enact, concurrently with the other municipalities involved, such ordinances as are provided for by section 360.038, subdivision 3, and to fix by such ordinances penalties for the violation thereof, which ordinances, when so concurrently adopted, shall

have the same force and effect within the municipalities and on any property jointly controlled by them or adjacent thereto, whether within or without the territorial limits of either or any of them, as ordinances of each municipality involved, and may be enforced in any one of said municipalities in like manner as are its individual ordinances. The consent of the commissioner to any such ordinance, where the state is a party to the joint venture, shall be equivalent to the enactment of the ordinance by a municipality. The publication provided for in section 360.038, subdivision 3, shall be made in each municipality involved in the manner provided by law or charter for publication of its individual ordinances.

Subd. 9. Condemnation proceedings. Condemnation proceedings shall be instituted in the names of the municipalities jointly, and the property acquired shall be held by the municipalities as tenants in common. The provisions of section 360.032, subdivision 2, shall apply to such proceedings.

Subd. 10. Joint fund. For the purpose of providing funds for necessary expenditures in carrying out the provisions of this section, a joint fund shall be created and maintained, into which each of the municipalities involved shall deposit its proportionate share as provided by the joint agreement, such funds to be provided for by bond issues, tax levies, and appropriations made by each municipality in the same manner as though it were acting separately under the authority of Laws 1945, Chapter 303, and into which shall be paid the revenues obtained from the ownership, control, and operation of the airports and other air navigation facilities jointly controlled, to be expended as provided in section 360.037, subdivision 3; revenues in excess of cost of maintenance and operating expenses of the joint properties to be divided as may be provided in the original agreement for the joint venture.

Subd. 11. Disbursements. All disbursements from such fund shall be made by order of the board in accordance with such rules and regulations and for such purposes as the appointing governing bodies, acting jointly, shall prescribe.

Subd. 12. Specific performance. Specific performance of the provisions of any joint agreement entered into as provided for in this section may be enforced as against any party thereto by the other party or parties thereto.

[1945 c. 303 s. 20]

360.043 ASSISTANCE TO OTHER MUNICIPALITIES. Whenever the governing body of any municipality determines that the public interest and the interests of the municipality will be served by assisting any other municipality in exercising the powers and authority granted by Laws 1945, Chapter 303, such first-mentioned municipality is expressly authorized and empowered to furnish such assistance by gift, or lease with or without rental, of real property, by the donation, lease with or without rental, or loan of personal property, and by the appropriation of moneys, which may be provided for by taxation or the issuance of bonds in the same manner as funds might be provided for the same purposes if the municipality were exercising the powers heretofore granted in its own behalf.

[1945 c. 303 s. 21]

360.044 COUNTIES; AUTHORITY SPECIFICALLY GRANTED. Subdivision 1. The purposes of Laws 1945, Chapter 303, are specifically declared to be county purposes as well as generally public, governmental, and municipal.

Subd. 2. The powers therein granted to all municipalities are specifically declared to be granted to counties in this state, any other statute to the contrary notwithstanding.

[1945 c. 303 s. 22]

360.045 JURISDICTION EXCLUSIVE. Every airport and other air navigation facility controlled and operated by any municipality, or jointly controlled and operated pursuant to the provisions of Laws 1945, Chapter 303, shall, subject to federal and state laws, rules, and regulations, be under the exclusive jurisdiction and control of the municipality or municipalities controlling and operating it, and no other municipality in which such airport or air navigation facility is situated shall have any police jurisdiction of the same or any authority to charge or exact any license fees or occupation taxes for the operations thereon. Such municipality or municipalities shall have concurrent jurisdiction over the adjacent territory described in section 360.038, subdivision 3.

[1945 c. 303 s. 23]

AIRPORT ZONING

360.061 DEFINITIONS. Subdivision 1. For the purposes of sections 360.061 to 360.074.

Subd. 2. The term "airport" includes restricted landing area.

Subd. 3. "Municipality" does not include a county unless the county owns or controls an airport, in which case such county may exercise all the powers granted by said sections to other municipalities. It specifically includes metropolitan airports commissions created in and for contiguous cities of the first class, and the state of Minnesota.

Subd. 4. "County" includes "counties".

[1945 c 303 s 24; 1951 c 116 s 1]

360.062 HAZARDS CONTRARY TO PUBLIC INTERESTS. It is hereby found that an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity, and also if of the obstruction type, in effect reduces the size of the area available for the landing, taking-off, and maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public investment therein. Accordingly, it is hereby declared: (1) That the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question; (2) that it is therefor necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented; and (3) that this should be accomplished to the extent legally possible, by exercise of the police power, without compensation. It is further declared that both the prevention of the creation or establishment of airport hazards and the elimination, removal, alteration, mitigation, or marking and lighting of existing airport hazards are public purposes for which political subdivisions may raise and expend public funds and acquire land or property interests therein.

[1945 c. 303 s. 25]

360.063 ZONING REGULATIONS. Subdivision 1. **Enforcement under police power.** (1) In order to prevent the creation or establishment of airport hazards, every municipality having an airport hazard area within its territorial limits may adopt, amend from time to time, administer, and enforce, under the police power and in the manner and upon the conditions hereinafter prescribed, airport zoning regulations for such airport hazard area, which regulations may divide such area into zones, and, within such zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.

(2) For the purpose of promoting health, safety, order, convenience, prosperity, general welfare and for conserving property values and encouraging the most appropriate use of land, the municipality may regulate the location, size and use of buildings and the density of population in that portion of an airport hazard area under approach zones for a distance not to exceed two miles from the airport boundary and in other portions of an airport hazard area for a distance not to exceed one mile from the airport boundary.

(3) The powers granted by this subdivision may be exercised by metropolitan airports commissions in contiguous cities of the first class in and for which they have been created.

(4) In the case of airports owned or operated by the state of Minnesota such powers shall be exercised by the state airport zoning boards or by the commissioner of aeronautics as authorized herein.

Subd. 2. Powers of county. Where an airport is owned or controlled by a municipality and any airport hazard area appertaining to such airport is located outside the territorial limits of the municipality, the county in which the airport hazard area is located shall exercise the powers granted to municipalities by subdivision 1.

Subd. 3. Joint airport zoning board. Where an airport is owned or controlled by a municipality and any airport hazard area appertaining to such airport is located outside the territorial limits of the municipality, the municipality owning or controlling the airport and the county within which the airport hazard area is located may, by ordinance or resolution duly adopted, create a joint airport zoning board, which board shall have the same power to adopt, administer, and enforce airport zoning regulations applicable to the airport hazard area in question as that vested by subdivision 1 in the municipality within which such area is located. Each such

joint board shall have as members two representatives appointed by the municipality owning or controlling the airport and two from the county, or in case more than one county is involved two from each county, in which the airport hazard is located, and in addition a chairman elected by a majority of the members so appointed.

Subd. 4. Airport approach. The commissioner may recommend an airport approach plan for each publicly owned airport in the state and for each privately owned airport of the publicly owned class and from time to time recommend revisions of any such plan. Each such plan shall indicate the circumstances in which structures or trees are or would be airport hazards, the airport hazard area, and what measures should be taken to eliminate airport hazards. He shall prescribe minimum airport approach and turning standards for airports of various classes, and all airport zoning regulations adopted by any municipality, county, or joint airport zoning board shall conform to such minimum standards.

Subd. 5. Procedure when county fails to act. If a county within which is located an airport hazard area appertaining to an airport owned or controlled by a municipality, which airport hazard is outside the territorial limits of the municipality, fails within 60 days after a request by the municipality owning or controlling the airport to adopt, or thereafter fails to enforce, airport zoning regulations conforming to the minimum standards prescribed by the commissioner as provided for in subdivision 4, or if that county refuses to join in creating a joint airport zoning board as authorized in subdivision 3, the municipality owning or controlling the airport may itself adopt, administer, and enforce airport zoning regulations for the airport hazard area in question. In the event of conflict between such regulations and any airport zoning regulations adopted by the county within which the airport hazard area is located, the regulations of the municipality owning or controlling the airport shall govern and prevail.

Subd. 6. Procedure when zoning board fails to act. If any municipality, county, or joint airport zoning board fails to adopt within a reasonable time airport zoning regulations in accordance with the provisions of Laws 1945, Chapter 303, or adopts regulations or amendments which do not conform to the minimum standard prescribed by the commissioner, he may, for the protection of the public safety, adopt or supplement and from time to time as may be necessary amend, supplement, or repeal such regulations for such municipality or county until airport zoning regulations provided for in Laws 1945, Chapter 303, are adopted by such municipality, county, or joint airport zoning board. He shall have the same powers with reference to such airport zoning regulations as are granted in Laws 1945, Chapter 303, to municipalities, administrative boards, and boards of adjustment. Any action of the commissioner taken under this subdivision shall be subject to review by the courts as provided in section 360.072.

Subd. 7. Airport zoning board, each airport. Where an airport is owned or operated by the state of Minnesota a state airport zoning board shall be created for each airport, which board shall have the same power to adopt, administer and enforce airport zoning regulations applicable to the airport hazard area of such airport as that vested by subdivision 1 in the municipality. Each board shall consist of the commissioner of aeronautics, or a member of his staff appointed by him, who shall be chairman, one member appointed by the county board who may be a member of the county board, of each county in which an airport hazard area is located and one member appointed by the governing body of each municipality located within the area to be zoned. If the area to be zoned is located entirely within one county and no municipality is located within the area to be zoned, then the duly designated members shall select a third member who shall be a resident of the county. The members of such board shall serve for a period of three years beginning January 1 following their appointment and until their successors are appointed and qualified. The zoning regulations shall be adopted by an order of the board signed by a majority of its members. Such order shall be published once in a legal newspaper in the county in which the airport is located and shall become effective ten days following the date of its publication. A copy of such order shall be filed in the office of the commissioner of aeronautics and with the register of deeds in each county in which a zoned area is located. Any person appointed to serve on a state airport zoning board shall be entitled to reimbursement for travel and other necessary expenses which shall be incurred by him in performance of

his duties on such board which shall be paid from the appropriations made to the department of aeronautics.

Subd. 8. **Airport zoning board, failure to appoint member powers.** If any county board or municipality fails to appoint the member to be appointed by it in the creation of a state airport zoning board within thirty days after requested to do so by the commissioner of aeronautics, the state airport zoning board, consisting of the remaining members in case more than one county is involved, or the commissioner of aeronautics in case no board is created, shall have the same power to adopt, administer and enforce airport zoning regulations applicable to an airport hazard area in such county as that conferred upon the commissioner in subdivision 6.

[1945 c 303 s 26; 1951 c 116 s 2-4; 1957 c 610 s 1]

360.064 ZONING REGULATIONS. Subdivision 1. **Comprehensive regulations.** In the event that a municipality has adopted, or hereafter adopts, a comprehensive zoning ordinance regulating, among other things the height of buildings, any airport zoning regulations applicable to the same area or portion thereof may be incorporated in and made a part of such comprehensive zoning regulations and be administered and enforced in connection therewith.

Subd. 2. **In the event of conflict.** In the event of conflict between any airport zoning regulations adopted under Laws 1945, Chapter 303, and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, the use of land, or any other matter, and whether such other regulations were adopted by the municipality which adopted the airport zoning regulations or by some other municipality, the more stringent limitation or requirement shall govern and prevail.

[1945 c. 303 s. 27]

360.065 REGULATION, PROCEDURE FOR ADOPTION. Subdivision 1. **Notice, hearing.** No airport zoning regulations shall be adopted, amended or changed under Laws 1945, Chapter 303, except by action of the governing body of the municipality or county in question, or the boards provided for in section 360.063, subdivisions 3 and 7, or by the commissioner as provided in subdivisions 6 and 8, after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days notice of the hearing shall be published in an official paper, or a paper of general circulation, in the county in which is located the airport hazard area to be zoned.

Subd. 2. **Regulations submitted to commissioner.** Prior to the initial zoning of any airport hazard area under Laws 1945, Chapter 303, the municipality, county, or joint airport zoning board which is to adopt the regulations shall submit its proposed regulations to the commissioner in order that he may determine whether it conforms to the minimum standards prescribed by him. He shall immediately examine such proposed regulations and report to the municipality, county, or joint airport zoning board his approval, or his objections, if any. If any objections are made by him on the ground that such regulations do not conform to the minimum standards prescribed by him for the class of airport involved, the municipality, county, or joint zoning board shall make such amendments as are necessary to meet such objections. The governing body of the municipality or county or the joint airport zoning board shall not hold its public meeting or take other action until the proposed regulations are approved by the commissioner as conforming to such minimum standards. A copy of such regulations as adopted shall be filed with the register of deeds in each county in which such zoned area is located.

Substantive rights existing prior to the passage of this subdivision and heretofore exercised shall not be affected by the filing of such regulations.

[1945 c 303 s 28; 1951 c 116 s 5; 1957 c 272 s 1, 2]

360.066 ZONING REQUIREMENTS. Subdivision 1. **Reasonableness.** All airport zoning regulations adopted under Laws 1945, Chapter 303, shall be reasonable, and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of Laws 1945, Chapter 303. In determining what regulations it may adopt, each municipality, or county, or joint airport zoning board, shall consider, among other things, the character of the flying operations expected to be conducted at the airport, the nature of the terrain within the airport hazard area, the character of the neighborhood, and the uses to which the property to be zoned is put and adaptable.

Subd. 2. **Nonconforming uses.** No airport zoning regulations adopted under Laws 1945, Chapter 303, shall require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in section 360.067.

[1945 c. 303 s. 29]

360.067 PERMITS, VARIANCES. Subdivision 1. Permits. (1) Any airport zoning regulations adopted under Laws 1945, Chapter 303, may require that a permit be obtained before any new structure or use may be constructed or established and before any existing use or structure may be substantially changed or substantially altered or repaired. In any event, all such regulations shall provide that before any nonconforming structure or tree may be replaced, substantially altered or repaired, rebuilt, allowed to grow higher, or replanted, a permit must be secured from the administrative agency authorized to administer and enforce the regulations, authorizing such replacement, change, or repair. No permit shall be granted that would allow the establishment or creation of an airport hazard or permit a nonconforming structure or tree or nonconforming use to be made or become higher or become a greater hazard to air navigation than it was when the applicable regulation was adopted or than it is when the application for a permit is made.

(2) Whenever the administrative agency determines that a nonconforming use or nonconforming structure or tree has been abandoned or more than 80 percent torn down, destroyed, deteriorated, or decayed: (a) no permit shall be granted that would allow said structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations; and (b), whether application is made for a permit under this subdivision or not, the said agency may by appropriate action compel the owner of the nonconforming structure or tree, at his own expense, to lower, remove, reconstruct, or equip such object as may be necessary to conform to the regulations. If the owner of the nonconforming structure or tree shall neglect or refuse to comply with such order for ten days after notice thereof, the said agency may proceed to have the object so lowered, removed, reconstructed, or equipped and assess the cost and expense thereof upon the object of the land whereon it is or was located. Unless such an assessment is paid within 90 days from the service of notice thereof on the agent or owner of such object or land, the sum shall bear interest at the rate of eight percent per annum until paid, and shall be collected in the same manner as are general taxes.

(3) Except as provided herein, all applications for permits shall be granted.

Subd. 2. **Variances.** Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use his property in violation of airport zoning regulations adopted under Laws 1945, Chapter 303, may apply to the board of adjustment, hereinafter provided for, for a variance from the zoning regulations in question. Such variances shall be allowed where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the regulations and Laws 1945, Chapter 303; provided, any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this act.

Subd. 3. **Hazard marking and lighting.** In granting any permit or variance under this section, the administrative agency or board of adjustment may, if it deems such action advisable to effectuate the purposes of Laws 1945, Chapter 303, and reasonable in the circumstances, so condition such permit or variance as to require the owner of the structure or tree in question to permit the municipality, at its own expense, to install, operate, and maintain thereon such markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

Subd. 4. **Administrative agent, appointment.** In the case of an airport owned or operated by the state, the state airport zoning board adopting the zoning regulations for such airport, or the commissioner of aeronautics in case the zoning regulations are adopted by him as provided herein, shall appoint the county highway engineer of the county in which the airport hazard area is located as the administrative agent. The county highway engineer so appointed is hereby authorized and directed as part of his official duties to exercise the powers and duties of the administrative agency as described in sections 360.067 and 360.069.

[1945 c 303 s 30; 1951 c 116 s 6]

360.068 APPEALS. Subdivision 1. When granted. Any person aggrieved, or taxpayer affected, by any decision of an administrative agency made in its administration of airport zoning regulations adopted under Laws 1945, Chapter 303, or any governing body of a municipality or county, or any joint airport zoning board, which is of the opinion that a decision of such an administrative agency is an improper application of airport zoning regulations of concern to such governing body or board, may appeal to the board of adjustment authorized to hear and decide appeals from the decisions of such administrative agency.

Subd. 2. Within reasonable time. All appeals taken under this section must be taken within a reasonable time, as provided by the rules of the board, by filing with the agency from which the appeal is taken and with the board, a notice of appeal specifying the grounds thereof. The agency from which the appeal is taken shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

Subd. 3. Stay. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the agency from which the appeal is taken certifies to the board, after the notice of appeal has been filed with it, that by reason of the facts stated in the certificate a stay would, in its opinion, cause imminent peril to life or property. In such cases proceedings shall not be stayed otherwise than by order of the board on notice to the agency from which the appeal is taken and on due cause shown.

Subd. 4. Hearing; notice. The board shall fix a reasonable time for the hearing of appeals, give public notice and due notice to the parties in interest, and decide the same within a reasonable time. Upon the hearing any party may appear in person or by agent or by attorney.

Subd. 5. Decision and order. The board may, in conformity with the provisions of Laws 1945, Chapter 303, reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make such order, requirement, decision, or determination as ought to be made, and to that end shall have all the powers of the administrative agency from which the appeal is taken.

[1945 c. 303 s. 31]

360.069 ADMINISTRATION OF AIRPORT ZONING REGULATIONS. All airport zoning regulations adopted under Laws 1945, Chapter 303, shall provide for the administration and enforcement of such regulations by an administrative agency, which may be an agency created by such regulations or any official, board, or other existing agency of the municipality or county adopting the regulations, or of one of the municipalities or counties which participated in the creation of the joint airport zoning board adopting the regulations if satisfactory to the other municipality and county, or in case of a metropolitan airports commission the director and a committee of the commission with equal representation from each of the cities in and for which it is created; but in no case shall such administrative agency be or include any member of the board of adjustment. The duties of any administrative agency designated pursuant to Laws 1945, Chapter 303, shall include that of hearing and deciding all permits under section 360.067, subdivision 1, but such agency shall not have or exercise any of the powers herein delegated to the board of adjustment.

[1945 c. 303 s. 32]

360.071 BOARD OF ADJUSTMENT. Subdivision 1. Powers. All airport zoning regulations adopted under Laws 1945, Chapter 303, shall provide for a board of adjustment to have and exercise the following powers:

(1) To hear and decide appeals from any order, requirement, decision, or determination made by the administrative agency in the enforcement of the airport zoning regulations, as provided in section 360.068.

(2) To hear and decide any special exceptions to the terms of the airport zoning regulations upon which such board may be required to pass under such regulations.

(3) To hear and decide specific variances under section 360.067, subdivision 2.

Subd. 2. Membership. Where a zoning board of appeals or adjustment already exists, it may be appointed as the board of adjustment. Otherwise, the board of adjustment shall consist of five members, each to be appointed for a term of three years by the authority adopting the regulations and to be removable by the appointing authority for cause, upon written charges and after public hearing. In the case of a metropolitan airports commission, two members shall be chosen from each city in and for which the commission was created, any of whom may be mem-

bers of the commission, and the fifth member shall be chosen by a majority of those four members. In the case of an airport owned or operated by the state of Minnesota, the board of commissioners of the county in which the airport hazard area is located shall constitute the airport board of adjustment and shall exercise the powers and duties of such board as provided herein.

Subd. 3. Majority control. The concurring vote of a majority of the members of the board of adjustment shall be sufficient to reverse any order, requirement, decision, or determination of the administrative agency, or to decide in favor of the applicant on any matter upon which it is required to pass under the airport zoning regulations, or to effect any variation in such regulations.

Subd. 4. Rules and regulations. The board shall adopt rules in accordance with the provisions of the ordinance or resolution by which it was created. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses. All hearings of the board shall be public. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or, if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall immediately be filed in the office of the board and shall be a public record. Upon their appointment the members of any board of adjustment shall select a chairman to act at the pleasure of the board.

[1945 c 303 s 33; 1951 c 116 s 7]

360.072 JUDICIAL REVIEW. Subdivision 1. Petition. Any person aggrieved, or taxpayer affected, by any decision of a board of adjustment, or of any action of the commissioner taken under section 360.063, subdivision 6, or any governing body of a municipality or county, or any joint airport zoning board, which is of the opinion that a decision of a board of adjustment or action of the commissioner is illegal may present to the district court of the county in which the airport involved, or the major portion thereof, is located a verified petition setting forth that the decision or action is illegal, in whole or in part, and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the decision is filed in the office of the board, or the action taken by the commissioner.

Subd. 2. Certiorari; stay. Upon presentation of such petition the court may allow a writ of certiorari directed to the board of adjustment, or the commissioner, to review such decision of the board or the commissioner. The allowance of the writ shall not stay proceedings upon the decision appealed from, but the court may, on application, on notice to the board and on due cause shown, grant a restraining order.

Subd. 3. Return. The board of adjustment, or the commissioner, shall not be required to return the original papers acted upon by it, or him, but it shall be sufficient to return certified or sworn copies thereof or of such portions thereof as may be called for by the writ. The return shall concisely set forth such other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.

Subd. 4. Court review. Any person aggrieved by any airport zoning regulations adopted under Laws 1945, Chapter 303, or by any decision of the administrative agency made in administering any such regulations must apply for a permit, exception, or variance, or appeal to the board of adjustment and exhaust the remedies provided for in sections 360.067 and 360.068 before availing himself of the right to petition a court as provided by this section.

Subd. 5. Decision and order of court. The court shall have exclusive jurisdiction to affirm, modify, or set aside the decision brought up for review, in whole or in part, and, if need be, to order further proceedings by the board of adjustment or the commissioner. The findings of fact of the board, or of the commissioner, if supported by substantial evidence, shall be accepted by the court as conclusive, and no objection to a decision of the board or of the commissioner shall be considered by the court unless such objection shall have been urged before the board or the commissioner, or, if it was not so urged, unless there were reasonable grounds for failure to do so.

Subd. 6. Allowance of costs. Costs shall not be allowed against the board of adjustment or the commissioner unless it appears to the court that it or he acted

with gross negligence, in bad faith, or with malice, in making the decision appealed from.

Subd. 7. Limitation as to extent of court order. In any case in which airport zoning regulations adopted under Laws 1945, Chapter 303, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to such an extent, or to be so onerous in their application to such a structure or parcel of land, as to constitute a taking or deprivation of that property in violation of the constitution of this state or the constitution of the United States, such holding shall not affect the application of such regulations as to other structures and parcels of land.

[1945 c. 303 s. 34]

360.073 VIOLATIONS, PENALTIES. Every person who shall construct, establish, substantially change, or substantially alter or repair any existing structure or use, or permit the growth of any tree, without having complied with the provisions of section 360.067 or who, having been granted a permit or variance under the provisions of section 360.067, shall construct, establish, substantially change, or substantially alter or repair any existing growth or structure, or permit the growth of any tree, except as permitted by such permit or variance, or who shall violate any of the ordinances, regulations, orders, or rulings promulgated or made pursuant to section 360.063 shall be guilty of a misdemeanor, and each day a violation continues to exist shall constitute a separate offense. In addition, the municipality, county, or commissioner adopting zoning regulations under Laws 1945, Chapter 303, may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of Laws 1945, Chapter 303, or of airport zoning regulations adopted under Laws 1945, Chapter 303, or of any order or ruling made in connection with their administration or enforcement, and the court shall adjudge to the plaintiff such relief, by way of injunction (which may be mandatory) or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of Laws 1945, Chapter 303, and of the regulations adopted and orders and rulings made pursuant thereto.

[1945 c 303 s 35; 1971 c 23 s 24]

360.074 ACQUISITION OF AIR RIGHTS. In any case in which: (1) It is desired to remove, lower, or otherwise terminate a nonconforming structure or use; or (2) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under Laws 1945, Chapter 303, or (3) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations; the municipality within which the property or nonconforming use is located or the municipality owning the airport or served by it may proceed under section 360.032, subdivision 3, to acquire such easements through or other interest in air spaces over land or water, interests in airport hazards outside the boundaries of the airport, and such other airport protection privileges as are necessary to effectuate the purposes of Laws 1945, Chapter 303.

[1945 c. 303 s. 36]

VIOLATIONS IN USE OF AIRCRAFT

360.075 VIOLATIONS, PENALTIES. Subdivision 1. **Misdemeanor.** Every person who:

(1) Operates an aircraft either on or over land or water in this state without the consent of the owner of such aircraft; or

(2) Operates, or attempts to operate, any aircraft in this state while under the influence of intoxicating liquor or of any narcotic or other habit-forming drug; or

(3) Knowingly permits any individual who may be under the influence of intoxicating liquor or of any narcotic or other habit-forming drug to operate any aircraft owned by such person or in his custody or control; or

(4) Operates aircraft while in the possession of any federal license, certificate, or permit or any certificate of registration issued by the aeronautics department of this state, or displays, or causes or permits to be displayed, such federal license, certificate, or permit or such state certificate of registration, knowing either to have been cancelled, revoked, suspended, or altered; or

(5) Lends to, or knowingly permits the use of by, one not entitled thereto of any federal airman's or aircraft license, certificate, or permit, or any state airman's or aircraft certificate of registration issued to him; or

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(6) Displays or represents as his own any federal airman's or aircraft license, certificate, or permit or any state airman's or aircraft certificate of registration not issued to him; or

(7) Tamper with, climbs upon or into, makes use of, or navigates any aircraft without the knowledge or consent of the owner or person having control thereof, whether while the same is in motion or at rest, or hurls stones or any other missiles at aircraft, or the occupants thereof, or otherwise damages or interferes with the same, or places upon any portion of any airport any object, obstruction, or other device tending to injure aircraft or parts thereof; or

(8) Uses a false or fictitious name, gives a false or fictitious address, knowingly makes any false statement or report, or knowingly conceals a material fact, or otherwise commits a fraud in any application or form required under the provisions of Laws 1945, Chapter 303, or by any rules, regulations, or orders of the commissioner; or

(9) Operates any aircraft in such a manner as to indicate either a willful or a wanton disregard for the safety of persons or property; or

(10) Carries on or over land or water in this state in an aircraft other than a public aircraft any explosive substance except as permitted by the Federal Explosives Act, being the Act of October 6, 1917, as amended by P.L. 775, 77th Congress, approved November 24, 1942; or

(11) Discharges a gun, pistol, or other weapon in or from any aircraft in this state except as the hunting of certain wild animals from aircraft may be permitted by other laws of this state, or unless he is the pilot or officer in command of the aircraft or a peace officer or a member of the military or naval forces of the United States, engaged in the performance of his duty; or

(12) Carries in any aircraft, other than a public aircraft, any shotgun, rifle, pistol, or small arms ammunition except in the manner in which such articles may be lawfully carried in motor vehicles in this state, or unless he is a person excepted from the provisions of clause (11); or

(13) Engages in acrobatic or stunt flying without being equipped with a parachute and without providing any other occupants of the aircraft with parachutes and requiring that they be worn; or

(14) While in flying over a thickly inhabited area or over a public gathering in this state, engages in trick or acrobatic flying or in any acrobatic feat; or

(15) Except while in landing or taking off, flies at such low levels as to endanger persons on the surface beneath, or engages in advertising through the playing of music or transcribed or oral announcements, or makes any noise with any siren, horn, whistle, or other audible device which is not necessary for the normal operation of the aircraft, except that sound amplifying devices may be used in aircraft when operated by or under the authority of any agency of the state or federal government for the purpose of giving warning or instructions to persons on the ground; or

(16) Drops any object, except loose water, loose fuel, or loose sand ballast, without the prior written consent of the commissioner of aeronautics and the prior written consent of the municipality or property owner where objects may land; drops objects from an aircraft that endanger person or property on the ground, or drops leaflets for any purpose whatsoever; or

(17) While in flight in an aircraft, whether as a pilot, passenger, or otherwise, endangers, kills or attempts to kill any birds or animals or uses any aircraft for the purpose of concentrating, driving, rallying, or stirring up migratory waterfowl, except as may be permitted by other laws of this state shall be guilty of a misdemeanor.

Subd. 2. **Gross misdemeanor.** Every person who shall commit any of the acts specified in subdivision 1 for a second or other subsequent time shall be guilty of a gross misdemeanor.

Subd. 3. [Repealed, 1963 c 753 art 2 s 17]

Subd. 4. [Repealed, 1965 c 45 s 73]

Subd. 5. **Careless or reckless operation.** Every person who operates an aircraft in the air or on the ground or water, in a careless or reckless manner so as to endanger the life or property of another shall be guilty of a misdemeanor.

Subd. 6. Additional penalties, certain violations. For any violation of subdivisions 1 and 5 or of any rule or regulation issued pursuant to section 360.015, in addition to the penalties provided in this section, or as a condition to the suspension of a sentence which may be imposed pursuant thereto, the court in its discretion may prohibit the violator from operating an aircraft within the state for such period as it may determine, but not to exceed one year. Violation of the duly imposed prohibition of the court may be punished as a contempt of court. Upon a plea of guilty or conviction under said sections, in any case involving an airman, the court shall issue an order prohibiting the airman from exercising, in the state of Minnesota, the privileges granted to him by his federal certificate for a period, in the discretion of the court, not to exceed one year, and shall notify the commissioner of any action involving a violation under this section by mailing a report to the commissioner showing the name and address of the violator, the offense charged, the time and place of violation, the plea, the finding of the court or jury, and the penalty imposed.

Subd. 7. Operation of aircraft while intoxicated. Upon the trial of any prosecution for a violation of subdivision 1, clause (2), the court may admit evidence of the amount of alcohol in the person's blood taken voluntarily or pursuant to section 360.0751 as shown by a medical or chemical analysis of his blood, or of his breath or urine if the person arrested elected to take such test in lieu thereof.

For the purpose of this subdivision:

(a) Evidence that there was at the time more than 0.03 percent and less than 0.05 percent by weight of alcohol in the person's blood is relevant evidence but it is not to be given prima facie effect in indicating whether or not the person was under the influence of an alcoholic beverage.

(b) Evidence that there was at the time 0.05 percent or more by weight of alcohol in the person's blood may be admitted as prima facie evidence that the person was under the influence of an alcoholic beverage.

The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether or not such person was under the influence of an alcoholic beverage, but the refusal to permit the taking of specimens for such chemical analysis shall not be admissible in evidence. In the event of a breath or urine test, the percentage above shall be increased by ten percent.

For the purposes of this section, an "alcoholic beverage" means any liquid containing more than one half of one percent of alcohol by volume.

[1945 c 303 s 37; 1947 c 175 s 7; 1951 c 115 s 1, 2; 1963 c 138 s 1; 1971 c 165 s 2; 1974 c 8 s 4]

360.0751 CHEMICAL TESTS FOR INTOXICATION. Subdivision 1. Peace officer defined. For purposes of this section, the term "peace officer" means a full-time police officer of any municipality, airport, or county, having satisfactorily completed a prescribed course of instruction in a school for instruction of persons in law enforcement conducted by the university of Minnesota or a similar course considered equivalent by the commissioner of public safety.

Subd. 2. Implied consent; conditions; election as to type of test. Any person who operates or attempts to operate an aircraft in this state shall be deemed to have given consent subject to the provisions of this section for a chemical test of his blood, breath, or urine for the purpose of determining the alcoholic content of his blood. The test shall be administered at the direction of a peace officer, when (1) the officer has reasonable and probable grounds to believe that a person was operating or attempting to operate an aircraft while he was under the influence of an alcoholic beverage, and (2) the person has been lawfully placed under arrest for alleged commission of that offense in violation of section 360.075. No action shall be taken hereunder against the person unless the two enumerated conditions existed at the time the officer requested the chemical test specimen. A person may decline to take a direct blood test and elect to take either a breath, or urine test, whichever is available, in lieu thereof, and either a breath or urine test shall be made available to the arrested person who makes the election. No action shall be taken against the person for declining to take a direct blood test unless either a breath, or urine test was available. At the time the peace officer requests a chemical test specimen, he shall inform the arrested person that his right to fly may be revoked or denied if he refuses to permit the test and that he has the right to have additional tests made by a person of his own choosing.

Subd. 3. **Manner of making test; additional tests.** Only a physician, or a medical technician, or registered nurse acting at the request of a peace officer may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of a breath, or urine specimen. The person tested shall have the right to have a physician, or a medical technician, or registered nurse of his own choosing administer a chemical test or tests in addition to any administered at the direction of a peace officer; provided, that the additional test specimen of the person be obtained at the place where the person is in custody and at no expense to the state. The person shall have the right to immediately communicate with his attorney, doctor or any other person in order to secure a physician, medical technician or registered nurse, for the purpose of administering the additional test or tests; but this shall in no way delay the administering of the test at the direction of the peace officer. The failure or inability to obtain an additional test or tests by a person shall not preclude the admission in evidence of the test taken at the direction of a peace officer unless the additional test was prevented or denied by the peace officer. Upon the request of the person who is tested, full information concerning the test or tests taken at the direction of the peace officer shall be made available to him. The physician, medical technician or registered nurse drawing blood at the request of a peace officer for the purpose of determining alcoholic content shall in no manner be liable in any civil or criminal action except for negligence in drawing the blood. The person administering the test at the request and direction of the peace officer shall be fully trained in the administration and interpretation of the tests pursuant to standards promulgated by rule by the commissioner of public safety.

Subd. 4. **Refusal to permit test; cease and desist order.** If a person under arrest refuses to permit chemical testing, none shall be given, but the commissioner of aeronautics, upon the receipt of a certificate of the peace officer that he had reasonable and probable grounds to believe the arrested person had been operating or attempting to operate an aircraft while under the influence of an alcoholic beverage, and that the person had refused to permit the test, shall issue a cease and desist order prohibiting the operation of an aircraft for a period of one year.

Subd. 5. **Notice of cease and desist order; request for hearing.** No cease and desist order under subdivision 4 shall be made until the commissioner notifies the person by certified or registered mail of his intention to issue a cease and desist order and allows him a 20 day period after the date of receiving the notice to request of the commissioner, in writing, a hearing as herein provided. If no request is filed within the 20 day period the commissioner may then issue a cease and desist order. However if a request for hearing is filed, no cease and desist order hereunder shall be made until final judicial determination resulting in an adverse decision to the person.

Subd. 6. **Hearing.** The hearing shall be before a municipal judge, or probate judge if no municipal judge is available, learned in the law, in the county where the arrest occurred, unless there is agreement that the hearing may be held in some other county. The hearing shall be recorded and proceed as in a criminal matter, without the right of trial by jury, and its scope shall cover the issues of whether the peace officer had reasonable and probable grounds to believe the person was operating or attempting to operate an aircraft while under the influence of an alcoholic beverage; whether the person was lawfully placed under arrest; whether he refused to permit the test, and if he refused whether he had reasonable grounds for refusing to permit the test; and whether at the time of request for the test the peace officer informed the person that his right to fly might be denied if he refuses to permit the test and of his right to have additional tests made by a person of his own choosing. The court shall order either that the denial be rescinded or sustained and refer the order to the commissioner of aeronautics for his further action.

Subd. 7. **Review by district court.** If the denial is sustained, the person whose right to fly has been denied, may within 20 days after notice of the determination by the commissioner file a petition for a hearing of the matter in the district court in the county where the hearing pursuant to subdivision 6 was held unless there is agreement that the hearing may be held in some other county. The petition shall be filed with the clerk of court together with proof of service of a copy on the commissioner. It shall be the duty of the court to set the matter for hearing on a day certain with reasonable notice thereof to the parties. The matter shall be heard de novo with a right of trial by jury.

Subd. 8. **Notice of action to other states.** When it has been finally determined that a nonresident's privilege to operate an aircraft in this state has been denied, the commissioner shall give information in writing of the action taken to the appropriate federal authorities and any state in which he operates an aircraft or has a license to operate an aircraft.

[1971 c 165 s 1; 1974 c 8 s 5-9]

360.076 CITATION, AERONAUTICS CODE. Sections 360.011 to 360.076 may be cited as the "aeronautics code."

[1943 c 653 s 23]

METROPOLITAN AIRPORTS COMMISSION

360.101 DECLARATION OF PURPOSES. It is the purpose of sections 360.101 to 360.144 to promote the public welfare and national security; serve public interest, convenience, and necessity; promote air navigation and transportation, international, national, state, and local, in and through this state; promote the efficient, safe, and economical handling of air commerce; assure the inclusion of this state in national and international programs of air transportation; and to those ends to develop the full potentialities of the metropolitan area in this state as an aviation center, and to correlate that area with all aviation facilities in the entire state so as to provide for the most economical and effective use of aeronautic facilities and services in that area; assure the residents of the metropolitan area of the minimum environmental impact from air navigation and transportation, and to that end provide for noise abatement, control of airport area land use, and other protective measures; and to this end the corporation shall cooperate with and assist the metropolitan council, the federal government, the commissioner of aeronautics of this state and others engaged in aeronautics or the promotion and regulation of aeronautics and shall seek to coordinate its activities with the aeronautical activities of these bodies.

[1943 c 500 s 1; 1947 c 363 s 6; 1974 c 455 s 1]

360.102 DEFINITIONS. Subdivision 1. The following words, terms and phrases shall, for the purposes of sections 360.101 to 360.123 be given the meanings subjoined to them.

Subd. 2. "Commission" and "corporation" each means a metropolitan airports commission, organized and existing under the provisions of sections 360.101 to 360.144.

Subd. 3. "City council" or "council" means the governing body of each of the cities of Minneapolis and St. Paul.

Subd. 4. "Commissioner" means a person appointed or otherwise selected as, and, after his qualification, acting as, a member of the corporation.

Subd. 5. "The commissioners" means a quorum of the members of the corporation, acting as the governing body of the corporation.

Subd. 6. "Aeronautics" means the transportation by aircraft, the operation, construction, repair, or maintenance of aircraft, aircraft power plants and accessories, including the repair, packing and maintenance of parachutes; the design, establishment, construction, operation, improvement, repair, or maintenance of airports, restricted landing areas, or other air navigation facilities and air instruction, and powers incidental thereto.

Subd. 7. "Person" means any individual, firm, copartnership, corporation, company, association, joint stock association, or body politic; and includes any trustee, receiver, assignee, or other similar representative thereof.

Subd. 8. "Airport" means any locality, either of land or water, including intermediate landing fields, which is used or intended to be used for the landing and take off of aircraft, whether or not facilities are provided for the shelter, servicing, or repair of aircraft, or for receiving or discharging passengers or cargo, and also includes any facility used in, available for use in, or designed for use in, aid of air navigation, including, but without limitation, landing areas, lights, any apparatus or equipment for disseminating weather information, for signaling, for radio-directional finding, or for radio or other electrical communication, and any other structure or mechanism having a similar purpose for guiding or controlling flight in the air or the landing and take off of aircraft, and also includes, but without limi-

tation, access roads, parking areas, railroad siding facilities, such land contiguous or not as may be required for installations necessary for safe and efficient operation, buildings, structures, hangars, shops and any personal property usually used in connection with the operations of such airports, including specifically, but not exclusively, snow removal or impacting equipment, fire and ambulance equipment, motor vehicles and equipment for buildings, structures, hangars, and shops. It includes any area heretofore in the statutes of this state termed an "airport" or a "flying field."

Subd. 9. "City" or "each city" means one of the cities Minneapolis and St. Paul.

Subd. 10. [Repealed, 1953 c 734 s 4]

Subd. 11. "Metropolitan area" means the metropolitan area as defined in Minnesota Statutes 1971, Section 473B.02.

[1943 c 500 s 2; 1947 c 363 s 7, 8; 1974 c 455 s 2-7]

360.103 METROPOLITAN AIRPORTS COMMISSION; CREATION. Subdivision 1. For the purposes provided in sections 360.101 to 360.144 the metropolitan airports commission has been created as a public corporation. Except as provided otherwise in Laws 1974, Chapter 455, the existence and the powers, responsibilities, rights, and obligations of this corporation are confirmed and extended in accordance with the provisions of those sections, as they now exist and as they are now and may hereafter be amended and supplemented.

Subd. 2. The commission shall be organized, structured and administered as provided in Laws 1974, Chapter 455.

[1943 c 500 s 3; 1974 c 455 s 8, 9]

360.104 MEMBERSHIP, GOVERNMENT. Subdivision 1. The following persons and their respective successors shall constitute the members and governing body of the corporation, namely:

(1) All of the members and commissioners in office January 1, 1973, for the remainder of the terms for which they were appointed or otherwise selected, respectively;

(2) The mayor of each of the cities, or a qualified voter appointed by him, for his term of office as mayor;

(3) A member of the council of each of the cities, appointed by the council for a term of four years commencing in July, 1977;

(4) A member of the park board of Minneapolis appointed by that board and a second member of the council of St. Paul, appointed by it, each for a term of two years commencing in July in 1979;

(5) One additional resident of each city, who does not hold any office under the state or any of its political subdivisions except that of notary public, herein termed a "citizen commissioner," such member in St. Paul to be appointed by the mayor, with the approval of the council, and in Minneapolis by the council, with the approval of the mayor; each for a term of two years commencing in July 1979;

(6) Six additional members, each appointed by the governor on a non-partisan basis, and each holding no other office under the state or any of its political subdivisions except that of notary public; for terms and with residence qualifications as follows:

(a)(1) A resident of the area of the counties of Washington and Ramsey, outside of St. Paul, for a four year term commencing in July, 1974, and his successor for a term ending July 1, 1981;

(2) A resident of the county of Anoka, for a four year term commencing in July, 1974, and his successor for a term ending July 1, 1981;

(3) Three residents of the area of the counties of Carver, Scott and Hennepin, outside Minneapolis, for a two year term commencing in July, 1974, and their successors for a term ending July 1, 1981;

(4) A resident of the county of Dakota, for a four year term commencing in July, 1974, and his successor for a term ending July 1, 1981;

(b) As successors to all members referred to in clauses (2) to (6)(a), whose terms will expire in July, 1981, a number of members appointed from precincts equal or nearest to but not exceeding half the number of districts which are provided by law for the selection of members of the metropolitan council in section 473B.02. Each member shall be a resident of the precinct which he represents. The members shall be appointed by the governor as follows: a number as near as possible to one fourth, for a term of one year; a similar number for a term of two years; a similar number

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for a term of three years; and a similar number for a term of four years, all of which terms shall commence on July 1, 1981. The successors of each member shall be appointed for four year terms commencing in July of each fourth year after the expiration of the original term;

(7) One member appointed by the governor of the state, who shall be chairman of the corporation, appointed for a six year term commencing in July, 1977 and his successors for six year terms commencing in July in each sixth year thereafter.

Subd. 2. Each mayor, or any voter appointed by him in his stead, shall serve as a commissioner for the term of office of such mayor. The office of any commissioner who is a member of a city council or board shall become vacant when for any reason he ceases to hold the city office to which he was elected, and the office of any commissioner shall become vacant upon the occurrence of any event referred to in section 351.02. Except as provided in the preceding sentences of this subdivision, each commissioner shall serve until his successor is duly appointed and has qualified. Any vacancy in the office of a commissioner shall immediately be filled for the unexpired term, and in such case, or when the term of a commissioner expires, his successor shall be chosen in the same manner as was his predecessor, and his appointment shall be evidenced in the same manner.

Subd. 3. The clerk, secretary, or other appropriate official of each appointing public body shall immediately file with the secretary of state a certified copy of each resolution appointing commissioners. The city clerk of each city, upon the election and qualification of each new mayor thereof, shall file with the secretary of state a certificate stating his full name and address, and that such mayor has elected to act as a commissioner, or, in the event such mayor has appointed some other qualified voter in his place, shall file a certified copy of the order of the mayor appointing such commissioner. The governor shall file his appointments in the same office. Each person selected as a commissioner shall thereupon file in the same office the oath of office prescribed by the State Constitution, Article V, Section 8, subscribed by him and certified by the officer administering the same.

Subd. 4. Should any of the said appointments not be made within 60 days after the commencement of the term for which it is to be made, the governor shall upon the request of the chairman select and appoint such commissioners as have not been so designated. Any commissioner so appointed by the governor shall be a legal voter of the city, county, or precinct for which he was appointed. Upon his filing the oath of office required by subdivision 3, he shall have all the rights, privileges, and powers of a commissioner duly appointed as provided in subdivision 2. If thereafter any vacancy in the office of a commissioner shall not be promptly filled, the governor may upon request of the chairman proceed as in this subdivision provided.

Subd. 5. [Repealed, 1974 c 455 s 34]

Subd. 5a. The commission shall meet regularly at least once each month, at such time and place as the commission shall by resolution designate. Special meetings may be held at any time upon the call of the chairman or any two other members, upon written notice sent by certified mail to each member at least three days prior to the meeting, or upon such other notice as the commission may by resolution provide, or without notice if each member is present or files with the secretary a written consent to the meeting either before or after the meeting. Unless otherwise provided, any action within the authority of the commission may be taken by the affirmative vote of a majority of all the members. A majority of all of the members of the commission shall constitute a quorum, but a lesser number may meet and adjourn from time to time and compel the attendance of absent members.

Subd. 6. [Repealed, 1974 c 455 s 34]

[1943 c 500 s 4; 1951 c 72 s 1; 1974 c 455 s 10-13, 15]

360.105 ORGANIZATION; CORPORATE SEAL; BYLAWS. Subdivision 1. The commissioners shall at the organization meeting of the corporation adopt a corporate seal and shall adopt bylaws for the regulation of the affairs of the corporation and rules of procedure governing their actions, not inconsistent with law. The bylaws shall provide for regular meetings of the corporation to be held at least once in each month, and for special meetings to be held as provided for in said bylaws.

Subd. 2. [Repealed, 1974 c 455 s 34]

Subd. 2a. Each commission member shall be paid a per diem compensation of \$35 for each meeting and for such other services as are specifically authorized by the commission, and shall be reimbursed for all actual and necessary expenses incurred in the performance of his duties in the same manner and amount as state employees. The chairman shall receive such compensation as the commission shall determine and shall be reimbursed for reasonable expenses to the same extent as a member.

Subd. 3. [Repealed, 1974 c 455 s 34]

Subd. 4. The removal of residence of any commissioner from the area from which he was appointed or otherwise selected as a representative shall operate as a resignation of his office. Any commissioner may be removed from office by the body or person appointing him for misfeasance, malfeasance, or nonfeasance in office, upon written charges and after an opportunity to be heard in his defense.

[1943 c 500 s 5; 1953 c 784 s 1; 1957 c 784 s 1; 1974 c 455 s 16, 17]

360.106 OFFICERS. Subdivision 1. The corporation shall at its organization meeting elect from its membership a vice-chairman to serve as such for a period of one year from the first meeting of the corporation, and shall also elect a secretary, who may or may not be one of the commissioners. He shall hold office at the pleasure of the corporation, and shall, if not a commissioner, receive such compensation as may be fixed by the corporation. The state treasurer shall be the treasurer of the corporation, ex officio.

Subd. 2. The chairman, vice-chairman, and secretary shall have such powers and perform such duties as may be given or imposed upon them by Laws 1943, Chapter 500, or by the bylaws of the corporation.

Subd. 3. The treasurer shall receive and be responsible for all moneys of the corporation, from whatever source derived, and the same shall be considered public funds. He shall disburse the moneys of the corporation only on orders made by the executive and operating officer, herein provided for, countersigned by such other officer or such employee of the corporation as may be authorized and directed so to do by the corporation, showing the name of the claimant and the nature of the claim. No disbursement shall be certified by such officers until the same have been approved by said commissioners at a meeting thereof. Whenever the executive director of the corporation shall certify, pursuant to action taken by the commissioners at a meeting thereof, that there are moneys and the amount thereof in the possession of the treasurer not currently needed, then the treasurer may invest said amount or any part thereof in treasury bonds, certificates of indebtedness, bonds or notes of the United States of America, or bonds, notes or certificates of indebtedness of the state of Minnesota, all of which must mature not later than three years from the date of purchase. Whenever it shall appear to the commissioners that any invested funds are needed for current purposes before the maturity dates of the securities held, they shall cause the executive director to so certify to the treasurer and it shall then be the duty of the treasurer to order the sale or conversion into cash of the securities in the amount so certified. All interest and profit on said investments shall be credited to and constitute a part of the funds of the commission. The treasurer shall keep an account of all moneys received and disbursed by him, and at least once a year, at times to be designated by the corporation, file with the secretary a financial statement of the corporation, showing in appropriate and identifiable groupings the receipts and disbursements since the last approved statements; moneys on hand and the purposes for which the same are appropriated; and shall keep an account of all securities purchased as herein provided, the funds from which purchased and the interest and profit which may have accrued thereon, and shall accompany the financial statement aforesaid with a statement setting forth such account. The corporation may pay to the treasurer from time to time compensation in such amount as it may determine to cover clerk hire to enable the treasurer to carry out the duties thus imposed upon him and those required of him in connection with bonds issued by the corporation as in this act authorized.

Subd. 4. The corporation shall, as soon after the organization meeting as is practical, appoint an executive director, who shall be the executive and operating officer of the corporation, shall serve at the pleasure of the corporation, and shall receive such compensation as may be fixed by it. He shall have had experience as a business executive, preferably in connection with aviation and in the promo-

tion of business enterprises. Under the supervision of the corporation, he shall be responsible for the operation, management, and promotion of all activities with which the corporation is charged, together with such other duties as may be prescribed by the corporation. He shall have such powers as are necessarily incident to the performance of his duties and such others as may be granted by the corporation, but without authority to incur liability or make expenditures on behalf of the corporation without general or specific directions by the corporation, as shown by the bylaws or minutes of meeting thereof.

Subd. 5. The corporation shall have the power to appoint engineers and other consultants, attorneys, and such other officers, agents, and employees as it may see fit, who shall perform such duties and receive such compensation as the corporation may determine, and be removable at the pleasure of the corporation. The corporation shall by July 1, 1974, adopt an affirmative action plan, which shall be submitted to the appropriate agency or office of the state for review and approval. The plan shall include a yearly progress report to the agency or office. Officers and employees of the corporation who cannot qualify and participate in the municipal employees retirement fund under chapter 422, shall be separated from service at the retirement age applicable to officers or employees of the state of Minnesota in the classified service of the state civil service as provided in section 43.051, subdivision 1, or as the same may from time to time be amended, regardless of the provisions of the veteran's preference act. Whenever the corporation performs any work within the limits of a city of the first class, or establishes a minimum wage for skilled or unskilled labor in the specifications or any contract for work within one of the cities, the rate of pay to such skilled and unskilled labor shall be the prevailing rate of wage for such labor in that city.

Subd. 6. The corporation may indemnify any commissioner, officer, or employee for loss or expense arising or resulting from any claim made against him because of bodily injury, death or property damage sustained by reason of his performance of his official duties for the corporation, including bodily injury, death or property damage sustained by reason of his operation of a motor vehicle while performing his official duties. It may defend any suit brought against any such commissioner, officer, or employee to enforce any such claim and may settle any such claim or suit and pay the amount of any such settlement or the amount of any final judgment rendered against any such commissioner, officer, or employee on any such claim without first requiring him to pay it. It may pay the premium on any insurance policy which insures any commissioner, officer, or employee of the corporation or any group of such commissioners, officers, or employees against liability for injuries to person or property within the limitations of this paragraph. It may take such action as may be necessary to bring the corporation and its commissioners, officers, and employees within the provisions and limitations of Minnesota Statutes, Chapter 170.

Subd. 7. Any insurance contract covering such risk shall contain, as a condition precedent, a clause or provision expressly waiving the defense, by the insurer, that the corporation is engaged in a governmental function.

[1943 c 500 s 6; 1947 c 363 s 9; 1949 c 369 s 1; 1951 c 72 s 2; 1957 c 289 s 1, 2; 1969 c 680 s 1; 1974 c 455 s 14]

360.107 POWERS OF CORPORATION. Subdivision 1. The corporation, subject to the conditions and limitations herein prescribed, shall possess all the powers as a body corporate necessary and convenient to accomplish the objects and perform the duties prescribed by Laws 1943, Chapter 500, including those hereinafter specified, which shall not be construed as a limitation upon the general or any other specific powers hereby conferred.

Subd. 2. It may acquire by lease, purchase, gift, devise, or condemnation proceedings all necessary right, title, and interest in and to lands and personal property required for airports and all other real or personal property required for the purposes contemplated by Laws 1943, Chapter 500, within the metropolitan area, pay therefor out of funds obtained as hereinafter provided, and hold and dispose of the same, subject to the limitations and conditions herein prescribed. Title to any such property acquired by condemnation or purchase shall be in fee simple, absolute, unqualified in any way, but any such real or personal property or interest therein otherwise acquired may be so acquired or accepted subject to any condition which may be imposed thereon by the grantor or donor and agreed to by the corporation,

not inconsistent with the proper use of the property by the corporation for the purposes herein provided. Any properties, real or personal, acquired, owned, leased, controlled, used, and occupied by the corporation for any of the purposes of Laws 1943, Chapter 500, are declared to be acquired, owned, leased, controlled, used, and occupied for public, governmental, and municipal purposes, and shall be exempt from taxation by the state or any of its political subdivisions. Nothing contained in Laws 1943, Chapter 500, or sections 360.101 through 360.144, shall be construed as exempting properties, real or personal, leased from the metropolitan airports commission to a tenant or lessee who is a private person, association, or corporation from assessments or taxes.

Subd. 3. It may exercise the right of eminent domain in the manner provided by Mason's Minnesota Statutes of 1927, Chapter 41, as amended, for the purpose of acquiring any property which it is herein authorized to acquire by condemnation. The fact that the property so needed has been acquired by the owner under power of eminent domain, or is already devoted to a public use, shall not prevent its acquisition by such corporation by the exercise of the right of eminent domain herein conferred. The corporation may take possession of any such property so to be acquired at any time after the filing of the petition describing the same in condemnation proceedings. It shall not be precluded from abandoning the condemnation of any such property in any case where possession thereof has not been taken. When the airports owned by the affected cities are taken over by the corporation under the provisions of Laws 1943, Chapter 500, all persons who are employees of the public body having the management and control of such airport at the time of the taking of the same, shall preserve their status and be entitled to all the rights and privileges under the provisions of any civil service or pension act contained in any charter of any city under which they had been previously employed, or any applicable law of the state of Minnesota.

Subd. 4. It may sue and be sued.

Subd. 5. It may contract and be contracted with in any matter connected with any purpose or activity within the powers of the corporation as specified in Laws 1943, Chapter 500.

Subd. 6. It may construct and equip new airports, with all powers of acquisition set out in subdivision 2, pay therefor out of the funds obtained as hereinafter provided, and hold, maintain, operate, regulate, police, and dispose of them or any of them as hereinafter provided.

Subd. 7. In addition to the municipal airports taken over by the corporation under the provisions of Laws 1943, Chapter 500, the corporation may acquire by lease, purchase, gift, devise, or condemnation proceedings any existing airports, equip the same and make additions thereto or improvements thereon, pay therefor out of the funds obtained as hereinafter provided, and hold, maintain, operate, regulate, police, and dispose of them or any of them as hereinafter provided; provided, that said corporation shall have no authority to dispose of nor lease municipally owned airports taken over under the provisions of Laws 1943, Chapter 500, as amended; and provided further, that the corporation shall not acquire a municipally owned airport without the consent of such municipality.

Subd. 8. It may contract with the owners of existing privately owned airports for the use, equipment, improvement, maintenance, management, and operation by it of such airports, and thereafter use, equip, improve, maintain, manage, operate, regulate, and police them.

Subd. 9. It may acquire such air rights over private property as are necessary to insure safe approaches to the landing areas of all airports controlled by it, in the manner provided in subdivision 2 for the acquisition of airport property.

Subd. 10. It may acquire rights or easements for terms of years, or perpetually, to place, operate, and maintain suitable markings and lights for daytime or nighttime marking of buildings or other structures or obstructions, for the safe operation of aircraft utilizing airports to be acquired or maintained under the provisions of Laws 1943, Chapter 500, in the manner provided in subdivision 2 for the acquisition of airport property.

Subd. 11. It may purchase all supplies and materials necessary in carrying out the purposes of Laws 1943, Chapter 500.

Subd. 12. It may borrow money and issue bonds for the purposes of acquiring

property, the acquisition of which is herein authorized, constructing and equipping new airports, acquiring existing airports, equipping them and making additions thereto or improvements thereon, and making capital improvements to any airport constructed or acquired by the corporation, or for the purpose of making payments on principal or interest of bonds heretofore issued by either of the cities or any board of park commissioners of either thereof to secure funds for the acquisition, establishment, construction, enlargement or improvement of any airport taken over by the corporation pursuant to the provisions of section 360.109, subdivision 2, payment of which has been assumed by the corporation, in the manner and within the limitations herein specified, and pledge any and all property and income of the corporation acquired or received as herein provided to secure the payment of such bonds, subject to the conditions and limitations herein prescribed, and redeem any such bonds if so provided therein or in the mortgage or deed of trust accompanying them, and may assume the payment of existing bonded indebtedness as specifically provided in Laws 1943, Chapter 500.

Subd. 13. It may use for the following purposes any available moneys received by it from any source as herein provided, in excess of those appropriated, donated, loaned, or otherwise paid over to the corporation for specific purposes, or received from the sale of bonds, and those required for the payment of any bonds issued by the corporation and interest thereon, according to the terms of such bonds or of any mortgage or trust deed accompanying the same: (a) To pay the necessary incidental expenses of carrying on the business and activities of the corporation as herein authorized; (b) to pay the cost of operating, maintaining, repairing, extending, and improving the properties under the control of the corporation; (c) to pay interest and principal of any bonds heretofore issued by either of the cities or any board of park commissioners of either thereof to secure funds for the acquisition, establishment, construction or enlargement of any airport referred to in section 360.109, subdivision 2, payment of which has been assumed by it, or by the state of Minnesota; (d) if any further such excess moneys remain, to purchase upon the open market at or above or below the face or par value thereof any bonds issued by the corporation as herein authorized; any bonds so purchased to thereupon be canceled.

Subd. 14. It may accept from the United States or the state of Minnesota, or any of their agencies, moneys or other assistance, whether by gift, loan, or otherwise, for the purpose of carrying out the purposes of Laws 1943, Chapter 500, and developing airports and other aeronautic facilities, and may enter into such contracts with the United States or the state of Minnesota, or any of their agencies as it may deem proper and consistent with the purposes of Laws 1943, Chapter 500.

Subd. 15. Without limitation upon any other powers in Laws 1943, Chapter 500, granted, whether general or special, it may contract with any person for the use by such person of any property and facilities under its control, for such purposes, and to such an extent as will, in the opinion of the commissioners, further the interests of aeronautics in this state and particularly within the metropolitan area, including, but without limitation, the right to lease any such property or facilities, or any part thereof, for a term not to exceed 99 years, to any person, the national government, or any foreign government, or any department of either, or to the state or any municipality; provided, however, that said corporation shall not have the authority to lease, in its entirety, any municipal airport taken over by it under the provisions of this act. Without intending hereby to limit the generality of the purposes aforementioned, it may contract with any person for the use of any property and facilities under its control, or lease the same as aforementioned, for motel, hotel and garage purposes, and for such other purposes as, in the opinion of the commissioners, are desirable to furnish goods, wares, services and accommodations to or for the passengers and other users of airports under the control of the corporation, provided however that nothing herein shall be interpreted to permit the sale of intoxicating liquor upon such property or facilities.

Subd. 16. It may generally carry on the business of acquiring, establishing, developing, extending, maintaining, operating, and managing airports, with all powers incident thereto.

Subd. 17. (1) It may from time to time make, adopt and enforce such rules, regulations, and ordinances as it may find expedient or necessary for carrying into effect the purposes of this act, including those relating to the internal operation of

the corporation and to the management of airports and the operation thereof owned or operated by it, subject to the conditions and limitations hereinafter set forth. Any person violating any such rule, regulation or ordinance shall be guilty of a misdemeanor.

(2) The prosecution may be in any municipal court sitting within either city, or before a municipal court or justice of the peace having jurisdiction over the place where the violation occurs. Every sheriff, constable, policeman, and other peace officer shall see that all rules, regulations, and ordinances are obeyed, and shall arrest and prosecute offenders. The fines collected shall be paid into the treasury of the corporation, provided, however, that the corporation shall pay and there shall be first deducted and paid over to the office of the clerk of any municipal court processing and prosecuting violations such portion of such fines as shall be necessary to cover all costs and disbursements incurred in the matter of the processing and prosecuting of such violations in such court. All persons committed shall be received into any penal institution in the county in which the offense was committed. All persons shall take notice of such rules, regulations, and ordinances without pleading or proof of the same.

(3) As to rules, regulations and ordinances relating to the internal operation of the commission or to the management of airports or operation thereof, owned or operated by it, unless such rule, regulation or ordinance affects substantial rights thereon, a public hearing need not be held.

(4) As to all other rules, regulations or ordinances where deemed immediately necessary by the corporation, it may adopt and put the same into effect, but it shall within 30 days thereafter hold a public hearing thereon, after giving at least 15 days notice thereof by publication in a legal newspaper in each of the cities of Minneapolis and St. Paul, mailing a copy thereof at least 15 days prior to the hearing to all interested parties who have registered their names with the corporation for that purpose. As to all such other rules, regulations, or ordinances which the corporation does not deem immediately necessary, the corporation shall hold a public hearing thereon following the giving of at least 15 days notice thereof by publication and mailing as aforesaid, and such rules, regulations, or ordinances shall not be adopted and put into effect until after said hearing.

(5) From and after January 1, 1975, notice of the adoption of rules, regulations and ordinances shall, as soon as possible after the adoption thereof, be published in a legal newspaper of general circulation in the metropolitan area and proof of such publication shall be filed with the secretary of state, together with a copy of the rule, regulation, or ordinance, which shall thenceforth be in full force and effect.

(6) Any person substantially interested or affected in his rights as to person or property by a rule, regulation or ordinance adopted by the corporation, may petition the corporation for a reconsideration of such rule, regulation or ordinance, or for an amendment, modification or waiver thereof. Such petition shall set forth a clear statement of the facts and grounds upon which reconsideration, amendment, modification or waiver is sought. The corporation shall grant the petitioner a public hearing within 30 days after the filing of said petition.

Subd. 18. It shall have the power to conduct investigations, inquiries and hearings concerning matters covered by the provisions of Laws 1943, Chapter 500, as amended, and orders, rules and regulations of the commission; and shall hold hearings as required by said chapter 500, as amended. Notice of hearings to all interested parties shall be given as specified in said chapter 500, as amended, in the instances specified, and otherwise in accordance with such rules as the commission may adopt. All hearings shall be open to the public, and shall be conducted by the commission itself or a committee or member thereof designated by the commission for such purposes. Where a hearing is conducted by a committee or a member of the commission, such committee or member shall make a full and complete report thereof, together with a transcript of all testimony and evidence taken at the hearing, to the commission and the commission shall proceed to a determination of the subject matter of said hearing and make its findings and conclusions and order with respect thereto. Any member of the commission conducting or participating in the conduct of any hearing shall have the power to administer oaths and affirmations, to issue subpoenas, and compel the attendance and testimony of witnesses, and the production of papers, books and documents. The com-

mission, or its director, shall upon request of any party to a hearing issue subpoenas to compel the attendance and testimony of witnesses, and the production of papers, books and documents. In case of failure of any witness to comply with any subpoena served upon him, the commission may invoke the aid of any court of this state of general jurisdiction. The court may order the witness to comply with the subpoena and any failure so to do may be punished by the court as a contempt thereof. The testimony and other evidence at any and all hearings shall be taken by a reporter employed by the commission, and any party in interest upon payment to said reporter of the going rates therefor shall be entitled to a transcript thereof. Witnesses shall receive the same fees and mileage as in court actions, and a witness before being required to respond to a subpoena shall be given his fees and mileage for one day's attendance.

Subd. 19. The corporation shall construct an acoustical barrier in or along the perimeter of maintenance areas of the Minneapolis-St. Paul International Airport. It also shall construct acoustical barriers along the perimeter of runways of such airport where it is reasonably necessary, practical and safe to do so according to the standards of the Federal Aviation Administration. All barriers shall conform to specifications approved by the pollution control agency. Construction of the barrier shall commence not later than July 1, 1972. The corporation shall forfeit to the state \$100 for each day after that date that commencement of construction is deferred. Such forfeitures shall be deposited in the state treasury, to the credit of the general fund. For purposes of this subdivision, an acoustical barrier is a wall, fence, natural barrier such as an earthen barrier or trees designed to abate noise. The corporation shall also confer and cooperate with any entity which it creates for the purpose of studying and implementing sound abatement programs and with representatives of persons residing in the vicinity of any airport who desire to explore means for relieving the area of the detrimental effects of aircraft noise.

Notwithstanding the provisions of any other law none of the construction authorized by this subdivision shall be subject to review or approval by the metropolitan council.

[1943 c 500 s 7; 1947 c 363 s 10, 11, 12, 17; 1949 c 369 s 2, 3; 1953 c 734 s 2; 1957 c 260 s 1; 1957 c 622 s 1; 1967 c 908 s 3; 1971 c 23 s 25; Ex1971 c 18 s 1; 1974 c 455 s 18-20]

360.1071 SECONDARY AIRPORTS; ACQUISITION, CONSTRUCTION, IMPROVEMENT. In any case where the acquisition, construction, improvement, and operation of an airport by a corporation created pursuant to Laws 1943, Chapter 500, as amended, shall have resulted in conflict with or damage to airport property in existence and in operation at the time of such acquisition and construction, the owner of such airport property may petition the corporation for relief, and upon the filing of such a petition and within 60 days thereof, the corporation shall exercise its power of eminent domain to extinguish such airport operation and take by condemnation the buildings, aeronautical improvements, and otherwise compensate the owner for the cost of the aeronautical improvements made to the land area and for the cost of restoring the land to its original uses, and shall pay therefor out of funds provided pursuant to Minnesota Statutes 1949, Section 360.117.

[1951 c 646 s 1]

360.108 SURVEY OF EXISTING AIRPORTS; REPORT TO GOVERNOR. Subdivision 1. Immediately after the organization of the corporation, the commissioners shall make a study of existing airports in and about the cities in and for which the corporation is created and shall formulate plans for the betterment and enlargement of existing airports and the acquisition and construction of new airports, together with plans for the maintenance, operation, and use of airports which are to be controlled by the corporation.

Subd. 2. Not later than December 31 of the year in which the corporation is created the findings of the commissioners and the proposed plans of operation shall be submitted in writing to the governor, to the city councils of the cities involved, and to any board or commission having jurisdiction of airports in either city. If such findings and plans are not so submitted within the time limited hereby, the governor shall notify the mayors and the appointing bodies named in section 360.104, subdivision 1, that new commissioners shall be appointed. Thereupon it shall be the duty of each such mayor and appointing body to immediately appoint new commissioners to fill the remaining terms of the original commissioners appointed by

them, and of the governor to appoint a new commissioner to fill the remaining term of the commissioner originally appointed by him; provided, that a mayor who is a commissioner may retain his membership in the corporation if he so elects. Certificates, appointments, and oaths of office shall be filed in the office of the secretary of state in the manner provided for in section 360.104, subdivision 3. The provisions of section 360.104, subdivision 4, shall apply to proceedings under this subdivision.

Subd. 3. Immediately upon the filing of the certificates, appointments, and oaths of office, provided for in subdivision 2, the offices of the original commissioners shall automatically become vacant, in this order: First, those of the commissioners appointed by the councils, boards or commissions from their membership; then those of the commissioners appointed by mayors in their stead, if any; then those of the mayors not electing to retain membership in the corporation; then those of the citizen commissioners, and then that of the commissioner appointed by the governor. As the office of each commissioner becomes vacant, the commissioner selected in his place shall be and become a member and one of the governing body of the corporation for the unexpired term of the commissioner he succeeds; the corporate capacity of the commission continuing uninterrupted.

Subd. 4. The succeeding commissioners shall make the study, prepare the plans, and submit the findings and proposed plans required by subdivision 2 within 90 days from the date they become members of the corporation.

Subd. 5. Any plans adopted by the commission pursuant to this section after January 1, 1975, shall be consistent with the development guide of the metropolitan council.

[1943 c 500 s 8; 1947 c 363 s 13; 1974 c 455 s 21]

360.109 EXERCISE OF POWERS. Subdivision 1. Immediately after the adoption and filing of its permanent plan of operation, the corporation shall proceed to exercise the powers herein granted. These powers may be exercised at any place within either 35 miles of the city hall of either city, or within the metropolitan area, except as limited by section 360.111 as amended.

Subd. 2. Immediately following the adoption and filing of its permanent plan of operation, the corporation shall and is hereby directed to take over the use, management, operation, regulation, policing, and control of any or all airports owned by either city, whether said airports are then under the management and control of, or title thereto is held in the name of, the city itself, the council, a board of park commissioners, or any other body; consent by each city, the council, the board of park commissioners, and any other agency, board, or department thereof, to such use, management, operation, regulation, policing, and control to be conclusively presumed to have been given by the appointment of commissioners pursuant to the provisions of Laws 1943, Chapter 500. Authority is hereby granted to the mayor and council of each city and any board or commission having jurisdiction of airports in either city to give such consent in that manner. Immediately upon taking over the use, management, operation, regulation, policing, and control of any such airport or airports the corporation may exercise all the powers herein granted to it with reference to any airport property, except the right of leasing or disposing of the fee title to the lands included therein, without the payment of any rental therefor, from the date of such taking over. The title to the fee of the land included in each such airport shall remain in the city, or agency, board, or department of such city, then owning it. The action to be taken pursuant to the provisions of this subdivision of this section is declared to be necessary in order to provide an integrated airports system and enable the corporation to carry out the public and governmental purposes of Laws 1943, Chapter 500. The corporation shall not close any existing airport in either city to air freight commerce consigned to or originating in such city unless and until it provides for such city, freight airport facilities which, in the judgment of the corporation, are as substantially equal in convenience and safety to the businesses and industries of that city as are the existing freight airport facilities now available (except as the same may be restricted by governmental use) to its businesses and industries. For the purpose of this subdivision only, the word "airport" shall include only the lands, buildings, and equipment acquired for use primarily for any such airport so taken over as in this subdivision provided.

Subd. 3. The authority in subdivision 2, granted to the corporation is not conditioned upon the receipt of any appropriation provided for in Laws 1943, Chapter

500. Each city involved, or any board or commission of such city, shall pay the balance due on its bonds which have prior to the enactment of Laws 1943, Chapter 500, been issued pursuant to law or charter to secure funds for the acquisition, establishment, construction, enlargement or improvement of the airports to be taken over as provided in subdivision 2, according to the terms of such bonds. The corporation created by Laws 1943, Chapter 500, may, if it shall so determine, assume the payment of part or all of the balance due on such bonds at the time of its taking over the use, management, operation, regulation, policing and control of such airports.

Subd. 4. The corporation shall further proceed, as soon as it is deemed advisable by the commissioners, and funds are available, to otherwise carry out the purposes of Laws 1943, Chapter 500. It may provide, in addition to airports existing at the time of the passage of Laws 1943, Chapter 500, at least one major or primary metropolitan airport which shall be as nearly equidistant from the city halls of both cities as possible. All other new airports to be constructed shall be so located that the airport system of the corporation as a whole shall be of substantially equal convenience to both cities. It shall put all airports and other facilities to their maximum use for passenger, mail, express, freight, and other air transportation operations as the needs therefor develop, and shall encourage the establishment of related aircraft industries.

Subd. 5. The investment of the cities of Minneapolis and St. Paul in the metropolitan airports system, from the date of the original enactment of this section to January 1, 1973, includes the land comprising airports owned by them and taken over pursuant to subdivision 2, and taxes levied on property within the cities in the years 1944 to 1969, the proceeds of which, together with revenues of the system and federal funds, were expended for the operation, administration, maintenance, improvement, and extension of the system and the service of debt incurred for such improvement and extension, including improvement of the city lands. The aggregate amount of such taxes was \$19,816,873, of which \$7,294,022 would have been assessed and extended against property outside the cities if the entire metropolitan area, which will be taxable by the corporation in 1973 and subsequent years under section 360.114, as amended, had been within its taxing jurisdiction when those levies were made. If it should become necessary for the corporation to levy any such taxes for any purpose other than the payment of bonds and interest, they shall be extended and assessed exclusively against taxable property outside the cities until the total amount so assessed and extended equals \$7,294,022, with interest from April 1, 1974, at the rate of six percent per annum on the unpaid balance. In the event that the airport land owned by either city should no longer be used for airport purposes, the corporation's control thereof shall cease, and title to the land and all improvements shall be and remain in the city, but the city shall become liable to the corporation for the repayment, without interest, of an amount of the taxes so paid which is proportionate to its own share of the cities' original investment, being 60 percent for Minneapolis and 40 percent for St. Paul. In the event that any other land or improvements owned or controlled by the corporation should ever cease to be used for airport purposes, all income therefrom and all proceeds received upon disposal thereof shall continue to be used for purposes of the metropolitan airports system, subject to federal laws and regulations governing such disposal; or if the operation of the system should ever be terminated, all such income and proceeds shall be distributed to the seven counties in the metropolitan area, in amounts proportionate to the assessed valuation of taxable property in each county at the time of such distribution.

Subd. 6. All capital projects of the commission requiring the expenditure of more than \$2,000,000 shall be submitted to the metropolitan council for review. No such project which has a significant effect on the orderly and economic development of the metropolitan area may be commenced without the approval of the metropolitan council.

[1943 c 500 s 9; 1947 c 363 s 14; 1974 c 455 s 22-24]

360.111 EXISTING AIRPORTS; CONTROL, JURISDICTION. The corporation shall exercise control and jurisdiction over any other airport within either 35 miles of the city hall of either city or within the metropolitan area. Control and jurisdiction of the corporation over any privately or publicly owned airport shall be limited to control and jurisdiction of the flight and traffic patterns of such airport

in the interests of safety of the operation of any airport owned or operated by the corporation. No airport shall be acquired or operated within the metropolitan area without first securing the approval of the corporation, provided, however, such approval shall not be withheld except after notice to all interested parties and a public hearing held thereon, as provided in section 360.018, subdivision 7, and then only upon a finding by the corporation that the acquisition or operation of such airport would create a flight hazard to any airport or airports owned or operated by it. As to any airport once licensed with the approval of the corporation, approval of the continued operation of such airport shall at no time be withdrawn by the corporation except after notice to all interested parties, a public hearing had, and a finding by the corporation based on substantial evidence that the operation of such airport is inconsistent with the safety of flight to and from an airport owned or operated or presently to be or being constructed to be operated by the corporation, and then only after payment of just compensation to cover the loss sustained by reason of such withdrawal, such just compensation, if not arrived at by agreement, to be ascertained in the condemnation of said airport by the corporation under the power of eminent domain, the commission to institute the condemnation proceedings promptly and to pay in connection with the prosecution thereof all reasonable and necessary expenses incurred not only by it but also by the owner of such airport.

[1943 c 500 s 10; 1947 c 363 s 15; 1949 c 369 s 4; 1974 c 455 s 25]

360.112 RENTALS FIXED. The corporation shall have the authority to determine the charges for the use of any of the property under its management and control, and the terms and conditions under which such property may be used. Where there is reasonable basis for classification of users as to any use, the corporation may classify users, but charges as to each class shall be reasonable and uniform for such use, and established with due regard to the value of the property and improvements used and the expense of operation to the corporation. The corporation shall have and may enforce liens as provided for in sections 514.18 to 514.22, to enforce the payment of any such charges.

[1943 c 500 s 11; 1953 c 734 s 9]

360.113 PUBLIC AND GOVERNMENTAL PURPOSES. Subdivision 1. It is hereby determined and declared that the purposes of sections 360.101 to 360.144 are public and governmental; that the development of the metropolitan airports system by the corporation be consistent with the airport chapter of the metropolitan council's development guide and promote the public safety and welfare of the state; and that the development, extension, maintenance, and operation of the system in such a manner as to assure the residents of the metropolitan area of the minimum environmental impact from air navigation and transportation, with provision for noise abatement, control of airport area land use, and other protective measures, is essential to the development of air navigation and transportation in and through this state, and is necessary in order to assure the inclusion of this state in national and international systems of air transportation, benefits the people of the state as a whole, renders a general public service, and provides employment, and is of great public economic benefit.

Subd. 2. [Repealed, 1974 c 455 s 34]

Subd. 3. [Repealed, 1974 c 455 s 34]

Subd. 4. [Repealed, 1969 c 9 s 103]

Subd. 5. [Repealed, 1974 c 455 s 34]

[1943 c 500 s 12; 1947 c 363 s 16; 1957 c 355 s 1; 1965 c 51 s 68; 1974 c 455 s 26]

360.114 BUDGET. Subdivision 1. The commissioner shall, on or before the first day of July of each year, prepare a detailed budget of the needs of the corporation for the next fiscal year, specifying separately in said budget the amounts to be expended for acquisition of property, construction, payments on bonded indebtedness, if any, operation, and maintenance, respectively, subject only to such changes as the commissioners may from time to time approve.

Subd. 2. The commissioners shall on or before October 10th of each calendar year, certify to the county auditor of each county in the metropolitan area the total amount to be raised by the commissioners during the next calendar year through taxation, and each county auditor shall extend and assess against all property in his county which is then taxable by the corporation for the purpose for which the levy is made under the provisions of section 360.109, subdivision 5, that sum which bears the same proportion to the total amount as the assessed valuation of such taxable

property bears to the assessed valuation of all property in the metropolitan area which is then taxable by the corporation for the purpose for which the levy is made. The county auditor shall extend, spread, and include the same with and as a part of the general taxes for state, county, and municipal purposes, to be collected and enforced therewith, together with penalties and interest and costs, and the county treasurer, upon collection of the same, shall transfer the same to the treasurer of the corporation.

Subd. 3. In any budget certified by the commissioners, pursuant to any of the provisions of this section, the amount included for operation and maintenance shall not exceed an amount which, when extended against the assessed valuation of property then taxable therefor under the provisions of section 360.109, subdivision 5, will require a levy at the rate of one third of one mill upon such assessed valuation. Taxes levied by the corporation shall not affect the amount or rate of taxes which may be levied by any other local government unit within the metropolitan area under the provisions of any law or charter.

[1943 c 500 s 13; 1974 c 455 s 27-29]

360.115 EARNINGS, HOW APPLIED. The earnings of the corporation shall be applied as follows: (a) to the payment of interest on its bonds and of any principal of such bonds which is due and payable; (b) to the establishment of a sufficient fund to pay interest and principal on its bonds which will be payable in the following fiscal year; and (c) to the other purposes set out in section 360.107, subdivision 13. If the amount included in the budget for any year, including the sum necessary to make payment of interest on and principal of bonds in the ensuing fiscal year is not sufficient to meet the needs of the corporation for that year, any deficit shall be included in the budget of the corporation for the following year.

[1943 c. 500 s. 14]

360.116 LIMIT OF TAX LEVY. The taxes levied against the property of the metropolitan area in any one year shall not exceed one third of one mill upon the assessed valuation thereof, exclusive of the taxes it may be necessary to levy to pay the principal or interest on any bonds or indebtedness of said city issued by it under the provisions of Laws 1943, Chapter 500, and exclusive of any amounts required to pay the share of such city for payments on bonded indebtedness of the corporation provided for in Laws 1943, Chapter 500. The levy of taxes authorized in Laws 1943, Chapter 500, shall be in addition to the maximum rate allowed to be levied to defray the cost of government under the provisions of the charter of any city affected by Laws 1943, Chapter 500.

[1943 c 500 s 15; 1974 c 455 s 30]

360.1161 TAX LEVY; METROPOLITAN AREA. Notwithstanding the provisions of section 360.116 or any other provision of chapter 360, any tax levy required to be made to pay debt service on any bonds heretofore or hereafter issued by the commission shall not be restricted to the cities of Minneapolis and Saint Paul but shall be levied against all the taxable property in the metropolitan area in accordance with the provisions of section 360.1191.

[1974 c 455 s 31]

360.117 BONDS, ISSUANCE. Subdivision 1. In anticipation of the receipt by the corporation of payments by cities herein provided for, appropriations, rents, and profits, and of income from any other source, and for the purpose of securing funds as needed for the payment of the cost of property acquired, airports constructed and purchased, and other purposes herein authorized, the corporation is hereby authorized to issue its bonds in an aggregate principal amount not exceeding \$125,000,000, bearing interest at a rate not to exceed five percent per annum, payable semi-annually. Notwithstanding any provision to the contrary included within the charter of either city or any general or special law of the state of Minnesota they may be issued and sold without a vote upon said question by electors of either city.

Subd. 2. Such bonds shall be of such date, denominations, place of payment, form, and details as may be determined by such corporation, not inconsistent with the provisions of Laws 1943, Chapter 500 or acts amendatory thereof or supplemental thereto. They shall mature serially, the first instalment to fall due in not more than three years and the last in not more than 30 years from their date, and no annual maturing instalment shall exceed by five times the amount of the smallest annual maturing instalment; provided, that the amount of such instal-

ments of principal may be such that the increase thereof from year to year shall approximately equal the decrease from year to year in the interest of the bonds remaining unpaid. Any bond may reserve the right of its redemption and prepayment at a date or dates fixed therein at par and accrued interest or at such premium and upon such notice as shall be determined by the corporation prior to the issuance of the bond.

Subd. 3. The bonds shall be signed by the chairman, attested by the secretary and countersigned by the treasurer, of the corporation. The interest coupons to be thereto attached shall be executed and authenticated by the printed, engraved or lithographed facsimile signatures of the chairman and secretary. The signatures of at least one of the officers signing the bonds shall be manual but those of the others may be printed, engraved or lithographed facsimiles. The validity of bonds or coupons so executed shall remain unimpaired by the fact that one or more of such officers shall have ceased to be in office before their delivery to the purchaser or shall not have been in office on the formal date of the bonds. Minnesota Statutes, Section 475.60, in so far as applicable, shall apply to the negotiation and sale of the bonds. They shall not impose any personal liability upon any member of the corporation.

Subd. 4. The bonds shall be secured by pledge of the full faith, credit, and resources of the cities in and for which the corporation has been created. The corporation is hereby authorized to pledge such full faith, credit, and resources, and specific consent thereto by each city shall be conclusively presumed from the appointment of commissioners by the council thereof. They shall be paid from tax levies as hereinafter provided, and from earnings of the corporation, or may be secured by mortgage or deed of trust on any of the property owned by the corporation. As to bonds negotiated and sold independent of the original \$15,000,000 authorization plus \$5,000,000, however, the proceeds derived therefrom shall be used by the corporation only for the acquisition of lands, if acquisition of additional lands be necessary, and the construction upon lands, either to be acquired or already acquired, of such revenue producing airport facilities as will be, in the considered judgment of the commissioners of the corporation, self-liquidating over the useful life of such facilities; and such facilities shall be covered by such contracts or by such charges as such commissioners shall establish for the use thereof as will, in the considered judgment of such commissioners, make such facilities self-liquidating; and before the negotiation and sale of any such bonds, such commissioners shall by resolution find, determine and declare that the facilities for which the bonds are to be issued will to the best of their judgment be self-liquidating. The corporation may in like manner issue and sell bonds for the purpose of refunding any bonds theretofore issued in accordance with this section which by their terms are prepayable at the time of such refunding; and such refunding bonds shall not be included in computing the foregoing limits on amounts of bonds issuable by the corporation.

Subd. 5. The corporation, upon issuing any bonds under the provisions of this section, shall, before the issuance thereof, levy for each year, until the principal and interest are paid in full, a direct annual tax on all the taxable property of the cities in and for which the corporation has been created in an amount not less than five per cent in excess of the sum required to pay the principal and interest thereof, when and as such principal and interest matures. After any of such bonds have been delivered to purchasers, such tax shall be irrevocable until all such indebtedness is paid, and after the issuance of such bonds no further action of the corporation shall be necessary to authorize the extensions, assessments, and collection of such tax. The secretary of the corporation shall forthwith furnish a certified copy of such levy to the county auditor or county auditors of the county or counties in which the cities in and for which the corporation has been created are located, together with full information regarding the bonds for which the tax is levied, and such county auditor or such county auditors, as the case may be, shall enter the same in the register provided for in section 475.62, or a similar register, and shall extend and assess the tax so levied. If both cities are located wholly within one county, the county auditor thereof shall annually extend and assess the amount of the tax so levied. If the cities are located in different counties, the county auditor of each such county shall annually extend and assess such portion of the tax levied as the assessed value of the taxable property, not including moneys and credits, located wholly within the city in such county bears to the total assessed value of

the taxable property, not including moneys and credits, within both cities. Any surplus resulting from the excess levy herein provided for shall be transferred to a sinking fund after the principal and interest for which the tax was levied and collected has been paid; provided, that the corporation may, on or before October 15th in any year, by appropriate action, cause its secretary to certify to the county auditor, or auditors, the amount on hand and available in its treasury from earnings, or otherwise, including the amount in the sinking fund, which it will use to pay principal or interest or both on each specified issue of its bonds, and the county auditor or auditors shall reduce the levy for that year, herein provided for by that amount. The amount of funds so certified shall be set aside by the corporation, and be used for no other purpose than for the payment of the principal and interest of the bonds. All taxes hereunder shall be collected and remitted to the corporation by the county treasurer or county treasurers, in accordance with the provisions of law governing the collection of other taxes, and shall be used solely for the payment of the bonds where due.

Subd. 6. This section shall not be construed as limiting the power of the corporation to levy taxes to pay its bonds issued hereunder but such corporation shall have the authority and it shall be its duty to levy any taxes necessary to provide revenue to pay such bonds.

Subd. 7. The treasurer may destroy all redeemed bonds and coupons issued by the commission which have been on file in the treasurer's office for more than six years.

[1943 c 500 s 16; 1953 c 666 s 1; 1957 c 435 s 1-3; 1957 c 571 s 1; 1961 c 391 s 1; 1963 c 86 s 1; 1967 c 908 s 1]

360.118 BONDS, LEGAL INVESTMENTS FOR PUBLIC FUNDS. Bonds legally issued pursuant to Laws 1943, Chapter 500 or acts amendatory thereof or supplemental thereto, may be purchased by the state board of investment for the permanent school fund, permanent university fund, swamp land fund, internal improvement land funds, or any other trust fund of the state of Minnesota, or for any other fund administered by such board, and shall be deemed authorized securities within the provisions of section 50.14, and shall be proper for the investment of capital, surplus, or deposits of any savings bank or trust company, and for the investment of funds of any insurance company, and for the investment of any sinking funds held by any public or municipal corporation, and may be pledged by any bank or trust company as security for the deposit of public moneys therein in lieu of surety bonds. Such bonds shall be deemed and treated as instrumentalities of a public government agency, and as such shall be exempt from taxation.

[1943 c 500 s 17; 1957 c 435 s 4]

360.119 [Repealed, 1974 c 455 s 34]

360.1191 GENERAL OBLIGATION REVENUE FINANCING. Subdivision 1. **Scope.** The Metropolitan Airports Commission shall have all the powers and duties set forth in this section, in addition to the powers granted and the duties imposed and notwithstanding any limitations of such powers set forth in any other law or city charter provision. These powers and duties are likewise granted to and imposed upon any successor public corporation, agency, or subdivision of the state in which the commission's property, rights, powers, obligations, and duties, or any of them, may in the future be vested by law.

Subd. 2. **Borrowing authorization.** No additional bonds shall be issued under the provisions of section 360.117, over and above the amount outstanding April 1, 1974. Except for refunding bonds and certificates of indebtedness, the amount of borrowing authorized by this section, over and above the amount of bonds of the commission outstanding July 1, 1974, is limited to \$20,000,000 until and unless this limitation is increased by law. The pledge of revenues of the commission to its debt service fund in lieu of the taxes otherwise required by section 360.117 to be assessed and extended shall be and remain a first charge on all current revenues of the commission to the extent required annually to cancel such taxes.

Subd. 3. **General obligation revenue bonds.** Subject to the provisions of subdivision 2 the commission may issue bonds for the acquisition and betterment of airports and air navigation facilities, and for the refunding of such bonds and of certificates of indebtedness issued under subdivision 10, in the same manner and with the same powers and duties as a municipality under the provisions of chapter 475 except as otherwise provided in this section. The bonds shall be designated as general obli-

gation revenue bonds, and shall be payable primarily from and secured under resolutions of the commission by an irrevocable pledge and appropriation of the revenues to be derived from rates, fees, charges, and rentals to be imposed, maintained, and collected for all use, service, and availability of airport and air navigation facilities owned and to be owned or operated by the commission. They shall be further secured by the pledge of the full faith and credit of the commission, which shall be obligated to levy upon all taxable property within the metropolitan area a tax at such times and in such amounts, if any, as may be required to provide funds sufficient to pay all of the bonds and interest thereon when due and to maintain a reserve securing such payments in the manner and to the extent provided in this section. This tax, if ever required to be levied, shall not be subject to any limitation of rate or amount. The security afforded by this section extends equally and ratably to all general obligation revenue bonds of the commission, except that nothing herein shall prevent the commission from pledging current revenues from a particular facility or group of facilities first to the payment and security of bonds issued to finance such facilities.

Subd. 4. Debt service fund. The commission shall maintain permanently on its official books and records an account or accounts referred to herein collectively as the debt service fund, separate from all other funds and accounts, to record all receipts and disbursements of money for principal and interest payments on its bonds, and on certificates of indebtedness issued pursuant to subdivision 10. At or before the due date of each principal and interest payment on said bonds and certificates the treasurer shall remit from the debt service fund to the payment agent for the issue an amount sufficient for such payment, without further order from the commission. At or before the time of delivery of any series of bonds the commission shall withdraw from the proceeds thereof, or from revenues then on hand and available for the purpose, and shall deposit in the debt service fund such amount, if any, as may be required to establish in the fund a balance of cash and investments at least equal to the total amount of principal and interest then due and to become due on bonds of the commission to the end of the following year. The commission shall also deposit in the fund as needed and available, from revenues received in excess of budgeted current expenses of operation and maintenance of its property and of carrying on its business and activities, and in excess of amounts required to cancel taxes under subdivision 2, such amounts as shall be required to reimburse the fund for bond and certificate payments and to produce a balance of cash and investments therein by October 10 in each year at least equal to the total amount of principal and interest due and to become due on general obligation revenue bonds of the commission to the end of the following year. If the revenues are insufficient in any year to produce the required balance, then unless provision is made for restoring the deficiency in accordance with the provisions of subdivision 8, the commission shall levy and appropriate to the debt service fund, and certify to the county auditors of all counties in the metropolitan area, a tax in accordance with subdivision 3 in an amount at least five percent in excess of the deficiency. For the purpose of determining the balance in the debt service fund at any time, investments held therein shall be valued at the principal amount payable at maturity if they mature in the following year, or otherwise at market value, plus the amount of interest receivable thereon to the end of the following year.

Subd. 5. Rates, fees, charges, and rentals. The commission shall be obligated to the holders of its bonds, and to the owners of all property subject to taxation for the payment thereof, to establish, revise from time to time, and collect rates, fees, charges, and rentals for all airport and air navigation facilities and service used by and made available to any person, firm, association, or corporation according to schedules such as to produce revenues at all times sufficient for the requirements of the debt service fund as provided in subdivision 4, and sufficient also to pay when due all expenses of operation and maintenance of the commission's property and of carrying on its business and activities in accordance with law. The payment of such rates, charges, fees, and rentals by any party for the use of any facility or service for any period, other than use permitted to the public generally, shall be secured by a lease or other agreement requiring such party to pay each year an amount sufficient to provide for the payment of a share of the principal and interest due during this period on all bonds of the commission, proportionate to the amount of such bonds issued to provide the facility or service and to the amount of use thereof assured to such party in comparison with others. If a tax is ever required

to be levied for a debt service fund deficiency under the provisions of subdivision 4, the commission shall immediately take all action permitted by law and under its leases and other agreements to enforce the payment of rates, fees, charges, and rentals then due, and to raise the amounts thereof payable in the future to the extent required for conformity with subdivision 4 and for repayment of the deficiency with interest at six percent per annum.

Subd. 6. Reimbursement of debt service fund deficiencies. If a debt service fund deficiency tax is ever certified in accordance with subdivision 4, each county auditor shall extend it on the tax roll of his county in that proportion which the assessed valuation of taxable property within his county then bears to the assessed valuation of all taxable property within the metropolitan area, and shall certify to the commission the amount so extended. Thereafter the commission shall be obligated to repay to the treasurer of each county the amount extended upon its tax roll with interest at six percent per annum from the dates of payment of the deficiency tax to the commission to the date or dates of repayment. The commission shall certify to each county auditor the principal amount to be so paid to the county before October 10 in each subsequent year, and the county auditor shall reduce by this amount the taxes levied by the county which are to be extended upon its tax rolls then in preparation.

Subd. 7. Conditions. Bonds of the commission shall not be conditioned upon an election, but no bonds shall be issued at any time, except for refunding in the cases described in subdivision 8, unless the required balance in the debt service fund is first established in accordance with subdivision 4, and the commission determines on one of the bases described in this subdivision that the revenues to be received by it each year during the term of the proposed issue will be at least sufficient to pay when due all of the commission's bonds and interest thereon, including the new issue but excluding any bonds refunded thereby, and to establish the balance required in the debt service fund by October 10. Before the bonds are delivered to the purchaser, the commission shall secure either:

(a) A report of audit of the commission's financial records for the fiscal year most recently ended or, if this is not yet available, a report for the preceding year, prepared by a nationally recognized firm of certified public accountants, showing that the net revenues received that year, computed as the gross receipts less any refunds of rates, fees, charges, and rentals for airport and air navigation facilities and service, less the aggregate amount of current expenses, paid or accrued, of operation and maintenance of property and carrying on the commission's business and activities, equaled or exceeded the maximum amount of then outstanding bonds of the commission and interest thereon to become due in any future fiscal year; or

(b) A lease or other agreement or agreements for the operation or use by one or more airline corporations of the facility for which the bonds are proposed to be issued, requiring such corporation or corporations to pay all costs of operation and maintenance thereof and to pay additional rentals or charges at the times and in not less than the amounts required to pay all of the bonds and interest thereon when due and to establish the annual balance required in the debt service fund to secure such payments, together with a report of audit showing net revenues fulfilling the condition in clause (a) as to all other bonds then outstanding or then to be issued; or

(c) A written report prepared by a nationally recognized consultant on airport management and financing, projecting gross receipts, current expenses, and net revenues at least sufficient during each year of the term of the proposed bonds to pay all principal and interest due on all bonds and to establish and maintain the required annual debt service fund balance, and stating the estimates of air traffic, rate increases, inflation, and other factors on which the projection is based.

Subd. 8. Refunding deficiencies. If in any year the revenues available for transfer to the debt service fund are or will in the judgment of the commission be insufficient to produce the balance required thereon on October 10 under the provisions of subdivision 4, or to make any interest or principal payment due on certificates of indebtedness issued under the provisions of subdivision 10, the commission may, with the approval of the council, issue refunding bonds and appropriate the proceeds to the debt service fund in the amount needed to restore the deficiency, provided that the refunding bonds shall not mature earlier than the date or dates when the commission estimates that the revenues from enforced or increased rates, fees, charges,

and rentals will be sufficient to pay them and to meet all other requirements of the debt service fund as stated in subdivision 4.

Subd. 9. **Additional taxes.** Nothing herein shall prevent the commission from levying a tax not to exceed in any year one twentieth of one mill on the assessed valuation of taxable property within its taxing jurisdiction, over and above any levies found necessary for the debt service fund as authorized by section 360.116. Nothing herein shall prevent the levy and appropriation for purposes of the commission of any other tax on property or on any income, transaction, or privilege, when and if authorized by law. All collections of any taxes so levied shall be included in the revenues appropriated for the purposes referred to in this section, unless otherwise provided in the law authorizing such levies; but no covenant as to the continuance or as to the rate and amount of any such levy shall be made with the holders of the commission's bonds unless specifically authorized by law.

Subd. 10. **Emergency borrowing.** If in any budget year revenue receipts should from any unforeseen cause become insufficient to pay budgeted current expenses, or if a public emergency should necessitate expenditures in excess of revenues anticipated to meet the current budget, the commission may make an emergency appropriation sufficient to meet the deficiency and may authorize the issuance and sale of general obligation certificates of indebtedness in this amount, maturing not later than October 10 in the following budget year, at public or private sale and upon such other terms and conditions as the commission may determine. The principal of and interest on such certificates of indebtedness, unless paid from other revenues, shall be payable from the debt service fund.

[1974 c 455 s 32]

360.121 MUNICIPALITIES TO GUARANTEE BONDS OF COMMISSION. Bonds issued pursuant to the provisions of Laws 1943, Chapter 500 or acts amendatory thereof or supplemental thereto, by either city shall be secured by the full faith, credit, and resources of the city issuing them, shall be paid from tax levies made in conformity with sections 475.61 and 475.74, and shall be sold in the manner prescribed by section 475.60. No provision of any existing law or special or home rule charter under which either city may be acting shall be deemed or construed to impair, curtail, or limit in amount, form, or manner the power to issue any bonds pursuant to Laws 1943, Chapter 500 or acts amendatory thereof or supplemental thereto, and the bonds issued by either city or by the corporation pursuant to Laws 1943, Chapter 500 or acts amendatory thereof or supplemental thereto, shall not be included in computing the net indebtedness of such municipality under any applicable law or charter.

[1943 c 500 s 19; 1957 c 350 s 1; 1957 c 435 s 6]

360.122 CONSTRUCTION WORK. Subdivision 1. The provisions of Minnesota Statutes 1965, Section 445.15, subject, however, to the provisions of subdivision 2 where applicable, shall apply to all construction work and every purchase of equipment, supplies, or materials necessary in carrying out the provisions of Laws 1943, Chapter 500. The powers there granted to and the duties imposed upon the board of trustees of the corporation there referred to are hereby respectively granted to and imposed upon the commissioners.

Subd. 2. The executive director of the corporation with the written concurrence of the chairman or vice chairman may declare that an emergency exists requiring immediate purchase of any equipment or material or supplies or the making of emergency repairs at a cost in excess of \$2,000 but no more than \$5,000, and, in that event, it shall not be necessary to advertise for bids, but such materials, equipment, or supplies may be purchased in the open market at the lowest price obtainable, or such emergency repairs may be contracted for or performed without securing formal competitive bids.

[1943 c 500 s 20; 1967 c 347 s 1]

360.123 LAWS 1943, CHAPTER 500, CONSTRUED. Laws 1943, Chapter 500, shall not be construed so as to abridge any of the powers granted by law to the Minnesota Aeronautics Commission.

[1943 c. 500 s. 23]

360.124 NEW AIRPORT; PUBLIC HEARING. Subdivision 1. In determining whether a new airport shall be acquired or established or an existing airport expanded by the acquisition of and annexation thereto of additional lands, the cor-

poration shall, before taking any action thereon, hold a public hearing in accordance with the procedure set forth in this act; and in reaching such determination, the corporation shall take into consideration the objectives of the act as set forth in section 360.101; and shall take into consideration the use or uses to be made of the new airport or the use or uses to be made of the lands to be acquired and annexed to an existing airport, and shall take into consideration the effect the acquisition or establishment of the new airport will have upon the residents and properties in the area surrounding such new airport, or, in the case of the acquisition and annexation of lands to an existing airport, the effect such acquisition and annexation will have on residents and properties in the area surrounding such lands; and with respect to the new airport to be acquired or established, the commission shall take into consideration, in addition to the foregoing, the adequacy of present airport facilities in the area over which the corporation has jurisdiction, the nature of the terrain at the site thereof and in the vicinity of such site, whether there are safe areas available for expansion purposes, and whether the adjoining area is free from obstructions based on a proper glide ratio; and to aid the commission in giving consideration to such objectives and factors, and in reaching such determination, evidence may be offered and shall be received as to such objectives and factors at the public hearing herein provided for.

Subd. 2. Section 360.124 as thus amended so far as the holding of public hearings is concerned shall operate not only prospectively, but retroactively so as to eliminate the necessity of public hearings, if any were or are required under such section prior to this amendment, as to any and all pending or contemplated alterations, improvements or developments, whether or not contracted for, of any airport under the jurisdiction of the corporation, including but not limited to the addition thereto of structures and facilities for use of or lease to others by the corporation, and all orders, resolutions, motions, plans, and agreements therefor are hereby declared valid and effective notwithstanding the absence of public hearings with respect thereto, if any were or are required under section 360.124 or under any judicial determination prior to this amendment.

Subd. 3. Sections 645.31 and 645.35 shall not be construed to apply to Laws 1957, Chapter 275.

Subd. 4. The metropolitan airports commission shall not initiate land acquisition for a new major airport without explicit authorization from the legislature.

[1947 c 363 s 18; 1957 c 275 s 1-3; 1974 c 455 s 33]

360.125 CERTIORARI. A review of any order of the commission may be had upon certiorari in the district court of Ramsey county upon petition of any party to the proceedings before the commission. The court may, in its discretion, stay the operation of the order sought to be reviewed for such time and on such terms as it deems advisable.

[1947 c 363 s 19]

360.126 DETACHMENT OF CERTAIN MAJOR AIRPORTS LAND FROM CITIES AND SCHOOL DISTRICTS. Lands constituting any major airport or a part thereof now and which may hereafter be operated by any public corporation organized under sections 360.101 to 360.125, and embraced within any city or school district organized under the laws of the state, are hereby detached from such city or school district.

[1953 c 715 s 1; 1973 c 123 art 5 s 7]

360.127 MAJOR AIRPORT, DEFINITION. "Major airport" as herein used is defined to mean any airport now or which may hereafter be operated by such public corporation as a terminal for regular, scheduled air passenger service.

[1953 c 715 s 2]

360.128 VALUATION AND ASSESSMENT OF TAXABLE PROPERTY IN DETACHED AREA. The commissioner of revenue of the state of Minnesota shall value and assess the taxable property in said area and shall report the same to the county auditor of the county in which such property is situated on or before October 1st of each year.

[1953 c 715 s 3; 1973 c 582 s 3]

360.129 CERTIFICATION OF AMOUNT TO BE RAISED ON TAXABLE PROPERTIES IN AREA; IMPOSITION AND COLLECTION OF TAX. The said commission shall on or before the tenth day of October of each calendar year

certify to the county auditor of said county, the amount determined by the commission to be raised on taxable properties within such territory to provide funds for policing and fire protection at and within said airport, and for the construction, maintenance and repair of streets and motor vehicle parking areas within such airport and the auditor shall extend, spread and include the same with and as a part of the general taxes for state and county purposes, to be collected and enforced therewith, together with penalties and interest and costs, and the county treasurer upon collection of the same, shall transfer the same to the treasurer of said public corporation.

[1953 c 715 s 4]

360.131 VALUATION OF PROPERTIES FOR PURPOSE OF BOND ISSUES BY SCHOOL DISTRICTS. As to any lands to be detached from any school district under the provisions hereof, notwithstanding such prospective detachment, the value of such lands and the assessed value of taxable properties now located therein or thereon shall be and constitute from and after the date of the enactment hereof a part of the value of properties upon the basis of which such school district may issue its bonds, the value of such lands for such purpose to be 33 $\frac{1}{3}$ percent of the true and full value thereof as determined and certified by said assessor to said school district, and it shall be the duty of such assessor annually on or before the tenth day of October from and after the passage hereof, to so determine and certify; provided, however, that the value of such detached lands and such taxable properties shall never exceed 20 percent of the value of all properties constituting and making up the basis aforesaid.

[1953 c 715 s 5]

360.132 BOUNDARIES OF MAJOR AIRPORT. The western boundary of any major airport located within Hennepin County shall not be extended by said corporation into the village of Richfield beyond Cedar Avenue as laid out as of the date of enactment of Laws 1953, Chapter 715; provided that nothing herein shall be or constitute a limitation upon the power of such corporation, now or hereafter given, to zone said airport and lands adjacent thereto by the enactment of an ordinance or otherwise.

[1953 c 715 s 6; 1957 c 432 s 1]

360.133 SCHOOL DISTRICTS, AID TO. Subdivision 1. **Allocation from proceeds of income taxes.** When the properties of any school district in this state are detached from such school district because they comprise a part of or are located on a major airport, such district shall receive annually an allocation from the proceeds of income taxes in the amount that would be produced by a tax on such detached properties at the current tax rate for school purposes in the school district.

Subd. 2. **Valuation of properties.** For the purposes of determining the amount of this refund, the value of such properties shall be set at 30 percent of their full and true value except that in no case shall the assessed value of said properties for this purpose exceed such an amount as when added to the assessed value of all other property in the school district exceed \$6,500 per resident pupil unit.

Subd. 3. [Repealed, 1973 c 683 s 30]

Subd. 4. **Limitation of allocation.** In no case shall the amount so allotted in any year exceed 20 percent of the amount levied in the district for school purposes.

Subd. 5. **Application for allocation, contents.** Any school district desiring to take advantage of this section shall apply in writing for its allocation to the state auditor on or before the first of August of each year. Such application shall be accompanied by the following information:

(1) The full and true valuation, as determined by the assessment next preceding the year during which such application is made, of all properties which have been detached from the school district because they comprise a part of, or are located on, a major airport.

(2) The assessed value as of the first of May of the next preceding year of all property in the school district subject to ad valorem taxation.

(3) The current tax rate for school purposes in the school district.

(4) The amount levied in the school district for school purposes for the current year.

(5) The number of resident pupil units in average daily attendance during the current school year.

The clerk of the board of the school district shall apply to the county auditor of the county in which the school district is located for the information called for in paragraphs (1), (2), (3), and (4). The county auditor shall forthwith ascertain and certify the information and shall transmit the information to the clerk.

The clerk of the board of the school district shall apply to the commissioner of education for the information called for in paragraph (5). The commissioner shall forthwith ascertain and certify the information and shall transmit the information to the clerk.

Subd. 6. Determination of eligibility; payment. The commissioner of finance shall immediately consider the matter and determine whether or not such district is entitled to an allocation under the provisions of this section, and if he finds that the school district is entitled to an allocation he shall determine the amount to which it is entitled within the limitations of this section and shall draw his warrant upon the state treasurer, in favor of such school district for the amount to which it is so entitled, and deliver the same thereto, taking proper vouchers or receipts therefor.

There is hereby appropriated from any fund or amount in the state treasury to which the money was credited, such sums as may, from time to time, be necessary to pay these warrants.

[1953 c 722 s 1; 1955 c 498 s 1, 2; 1959 c 158 s 29; 1973 c 492 s 14; 1973 c 683 s 21]

360.135 APPROPRIATION IN LIEU OF TAXES ON AIRPORT PROPERTY.

There is hereby appropriated annually to Independent School District No. 16 of Anoka county the sum of \$15,000, of which \$9,750 is appropriated from the state airports account within the special revenue fund in the state treasury and \$5,250 is appropriated from the general fund in the state treasury, all as payment in lieu of taxes upon real property owned by the Minneapolis-St. Paul metropolitan airports commission.

[1965 c 713 s 1; 1969 c 399 s 49]

360.141 BONDS, WHEN REQUIRED IN PUBLIC AIRPORTS LITIGATION.

When any action or proceeding at law or in equity has been or shall hereafter be commenced questioning the right, power, or authority of a public corporation created and operating under sections 360.101 to 360.133 to make or perform any contract for the development or improvement of an airport under its control and operation or the structures or facilities thereon or contemplated therefor, or to issue, sell, or deliver the corporations' bonds to pay therefor, the corporation may, if it deems that the pendency of such litigation might, directly or indirectly, delay the completion of such improvement or bond issue or otherwise be injurious to the public interests and taxpayers, move the court in which the litigation is pending to require the party or parties who instituted the same to give a surety bond in accordance with sections 360.141 to 360.144.

[1957 c 304 s 1]

360.142 SPECIAL APPEARANCE IN LITIGATION BY PUBLIC AIRPORTS CORPORATION.

If the corporation is not a party to the litigation, it may appear specially for the purpose of making and being heard on such a motion. Three days' notice of hearing on the motion shall be given. If the court determines that loss or damage to the public or taxpayers may result from the pendency of the action or proceeding, the court may require the party or parties who instituted the same to give a surety bond, approved by the court or judge, in a penal sum to be determined by the court to protect against such loss or damage, whether or not a temporary injunction or restraining order against the corporation shall have been demanded or ordered. If the bond so ordered be not filed within the reasonable time allowed therefor by the court, the action or proceeding shall be dismissed with prejudice. Such bond shall be executed by the party or parties who instituted the litigation, or some person for him or them, as principal and conditioned for the payment to the corporation of such damage as the public and taxpayers shall sustain by reason of the litigation, if the court finally decides that the party or parties were not entitled to the relief sought. The amount of damages may be ascertained by a reference or otherwise as the court shall direct, in which case the sureties shall be concluded as to the amount but the damages shall be recoverable only in an action on the bond. If the party or parties by or for whom such bond is furnished prevails in the litigation, the premium paid on the bond shall be repaid by or taxed against the corporation. During the pendency of the litigation, the court, on motion, may require additional security if found necessary, and upon failure to

furnish the same shall dismiss the action or proceeding with prejudice. The court may likewise, on motion, reduce the amount of a bond theretofore required or release the bond upon being shown that the amount is excessive or the bond no longer required.

[1957 c 304 s 2]

360.143 APPEALS. In any such litigation wherein a bond has been required and given under section 360.142 hereof or the court has denied a motion to require such bond, the court shall advance the case on its calendar for trial at the earliest feasible date; and in such litigation an appeal to the supreme court from an appealable order made, or from a judgment entered, in a district court may be taken only within thirty days after entry of such judgment or after written notice of such order from the adverse party.

[1957 c 304 s 3]

360.144 CIVIL DAMAGE ACTIONS. Nothing contained herein in sections 360.141 to 360.144 shall affect the rights of any aggrieved person to bring a suit for civil damages. No bond shall be required therein except as otherwise provided by law.

[1957 c 304 s 4]

RECIPROCITY

360.201 MUNICIPALITIES IN ADJOINING STATE MAY ACQUIRE AIR NAVIGATION FACILITIES IN STATE. The governing body of any county, city, town, or other municipality or political subdivision of an adjoining state, whose laws permit, is hereby authorized to acquire, establish, construct, own, control, lease, equip, improve, maintain, and operate airports, or restricted landing areas, or other air navigation facilities in this state, subject to all laws, rules, and regulations of this state applicable to its municipalities and other political subdivisions in such aeronautical projects, but subject to the laws of its own state in all matters relating to financing such projects.

[1945 c 175 s 1 subd 1; 1973 c 123 art 5 s 7]

360.202 RIGHTS SAME AS LOCAL MUNICIPALITIES. Such municipality or other political subdivision of an adjoining state shall have all the rights, privileges, and duties of like municipalities and political subdivisions of this state, including the right to exercise the right of eminent domain.

[1945 c 175 s 1 subd 2]

360.203 RECIPROCAL PROVISIONS. Sections 360.201 to 360.203 shall not apply unless the laws of such adjoining state shall permit municipalities and other political subdivisions of this state to acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and otherwise control such airports, restricted landing areas, or other air navigation facilities therein, with all privileges, rights, and duties applicable to the municipalities and other political subdivisions of such adjoining state in such aeronautical projects.

[1945 c 175 s 1 subd 3]

MINNESOTA AERONAUTICS BONDS

360.301 MINNESOTA AERONAUTICS BOND ACCOUNT IN THE STATE BOND FUND; TAX LEVIES. Subdivision 1. The commissioner of finance shall maintain in the state bond fund a separate account, designated as the Minnesota aeronautics bond account, showing all taxes levied for such fund pursuant to this section and all moneys transferred to the fund pursuant to section 360.306 for the payment of Minnesota aeronautics bonds issued under section 360.302. The auditor shall levy each year on all taxable property within the state a tax sufficient, with all moneys then and theretofore transferred under section 360.306, to pay all such bonds and interest thereon which are due and to become due within the then ensuing year and to and including July 1 in the second ensuing year. Such tax shall be levied upon all real property used for the purposes of a homestead, as well as other taxable property, notwithstanding the provisions of Minnesota Statutes, Section 273.13, Subdivisions 6 and 7, and shall be and remain subject to no limitation of rate or amount until all such bonds and all interest thereon are fully paid. All proceeds of such taxes are appropriated and shall be credited to the state bond fund, and the principal and interest of state bonds shall be payable from the proceeds of such taxes, and so much thereof as may be necessary is hereby ap-

propriated for such payments; provided that such principal and interest, if any, as may become due at any time when there is not on hand a sufficient amount from the proceeds of such taxes to pay the same, shall be paid out of the general fund in the state treasury, and the amount necessary therefor is hereby appropriated, to be reimbursed from the proceeds of such taxes when received.

Subd. 2. The special fund known as the "Minnesota Aeronautics Fund," shall continue to be used for the purposes specified in Minnesota Statutes 1961, Sections 360.371 to 360.386 until all Minnesota aeronautics certificates of indebtedness issued under those sections and all interest thereon have been fully paid. To provide moneys for this fund the state auditor is hereby authorized and directed to continue to levy taxes sufficient to produce the sums for each of the taxable years therein specified, together with such additional sums as may be necessary to pay the interest upon the certificates of indebtedness therein authorized. This subdivision shall cease to be in effect and the Minnesota aeronautics fund shall be discontinued when all such certificates of indebtedness and interest thereon have been fully paid, or provision for such payment has been duly made in accordance with their terms. The state auditor shall certify the occurrence of this event to the revisor of statutes.

[1945 c 469 s 1; 1963 c 791 s 1; 1969 c 399 s 49; 1973 c 492 s 14]

360.302 MINNESOTA AERONAUTICS BONDS. Subdivision 1. To provide moneys appropriated from time to time by the legislature for aeronautics purposes in accordance with the Constitution, Article XIX, upon request of the commissioner of aeronautics, the state auditor is directed to issue and sell bonds of the state of Minnesota, not exceeding the amount required from time to time to meet the appropriations so made, for the prompt and full payment of which, with the interest thereon, the full faith, credit, and taxing powers of the state are hereby irrevocably pledged. Such bonds shall be known as "Minnesota aeronautics bonds." The principal amount thereof shall be credited to the state airports fund created by sections 360.017 and 270.077, together with any interest received by the state upon investment of such bond proceeds, but the accrued interest and any premium received upon sale of the bonds shall be credited to the state bond fund and except that the principal amount of any bonds authorized to refund existing obligations shall be credited to the fund or funds from which those obligations are payable.

Subd. 2. Such bonds shall be issued and sold at not less than par upon sealed bids after two weeks published notice, unless sold to the state board of investment. They shall be issued and sold in such number of series, at such times, in such form and denominations, bearing interest at such rate or rates, maturing on such dates, either without option of prior redemption or subject to prepayment upon such notice and at such times and prices, payable at such bank or banks, within or without the state, with such provisions for registration, conversion, and exchange and for the issuance of notes in anticipation of the sale and delivery of definitive bonds, and in accordance with such further regulations as the state auditor may determine, subject to any limitations stated in the acts authorizing such bonds and appropriating the proceeds thereof (but not subject to the provisions of Minnesota Statutes, Sections 15.0411 to 15.0422). The bonds shall be executed by the state auditor and attested by the state treasurer under their official seals. The signature of one of these officers on the face of any bond, and their seals, and the signatures of both officers on the interest coupons appurtenant to any bond, may be printed, lithographed, stamped, or engraved thereon.

Subd. 3. The auditor is authorized and directed to ascertain and certify to purchasers of the bonds the performance and existence of all acts, conditions, and things necessary to make them valid and binding general obligations of the state of Minnesota in accordance with their terms. Any act authorizing the issuance of bonds pursuant to this section shall, together with this section, constitute complete authority for such issue, and such bonds shall not be subject to the restrictions or limitations contained in any other law.

Subd. 4. Any expenses incidental to the sale, printing, execution, and delivery of bonds pursuant to this section, including, but without limitation, actual and necessary travel and subsistence expenses of state officers and employees for such purposes, shall be paid from the state airports fund, and the amounts necessary therefor are hereby appropriated from such fund.

[1945 c 469 s 2; 1963 c 791 s 2]

360.303 AUTHORIZED INVESTMENT. The state board of investment is hereby authorized to invest any funds under its control or direction in any bonds issued pursuant to section 360.302 and to purchase such bonds, and such bonds may be issued and sold to the board without advertising for bids.

[1945 c 469 s 3; 1963 c 791 s 3]

360.304 APPROPRIATIONS. Unless otherwise stated in any act authorizing bonds and appropriating the proceeds thereof in accordance with sections 360.301 to 360.306, or a subsequent act amending or repealing the same, any balance of such appropriation remaining at the end of any fiscal year shall be carried over and shall be available for the purposes of these sections until expended for the purposes for which the appropriation was made.

[1945 c 469 s 4; 1963 c 791 s 4]

360.305 EXPENDITURES. Subdivision 1. The moneys appropriated to the commissioner of aeronautics as contemplated by sections 360.301 to 360.306 shall be used in accordance with chapter 360, in amounts not exceeding the sums specified for individual purposes in the acts making such appropriations. Unless otherwise provided in any such act, the governor may on his own initiative or upon application by the commissioner of aeronautics order a change in the provisional limitations on the amounts to be expended for the individual purposes specified.

Subd. 2. Before any expenditure of any of the moneys appropriated pursuant to sections 360.301 to 360.306 to assist political subdivisions, municipalities, and public corporations in acquiring, constructing, improving, maintaining, and operating airports and other air navigation facilities may be authorized, the commissioner of aeronautics shall have made, with the approval of the governor, an order designating the municipalities and airports which are a part of the key airport system, the intermediate airport system, the landing strip system, and the state system of radio and navigational aids, in accordance with the definitions and limitations stated in subdivision 3.

Subd. 3. (1) Key system airports are those used or intended to be used by aircraft of all sizes up to and including large multi-engine and jet aircraft, not exceeding 40.

(2) Intermediate system airports shall be those used or intended for use by single engine or light to medium multi-engine aircraft and shall include vertical takeoff and landing areas and short takeoff and landing areas not exceeding 70.

(3) The landing strip system shall consist of those small airports which may be unattended, sod or hard surfaced and which are used or intended for use by single or multi-engine light aircraft, and not exceeding 85.

(4) The commissioner may amend such order from time to time to expand or modify the airport system to serve best the interest of the state, subject to the approval of the governor.

Subd. 4. (1) Except as otherwise provided in this subdivision, the commissioner of aeronautics shall require as a condition of such assistance by the state that the political subdivision, municipality, or public corporation itself make a substantial contribution to the cost of the construction, improvement, maintenance, or operation, such costs are hereinafter referred to as project costs, in connection with which the assistance of the state is sought.

(2) For any airport, whether key, secondary or landing strip, where only state and local funds are to be used, said contribution shall be not less than one-fifth of the sum of:

(a) the said project costs,

(b) acquisition costs of the land and clear zones, hereinafter "acquisition costs."

Where federal, state and local funds are to be used, said contribution shall not be less than one tenth of said sum.

(3) The commissioner may pay the total cost of radio and navigational aids.

(4) However, notwithstanding subdivision 4, clause (2) above, the commissioner may pay all of the said project costs of a new landing strip, but not a secondary airport or key airport, or may pay an amount equal to the federal funds granted and used for a new landing strip plus all of the remaining project costs; but the total amount paid by the commissioner for the project costs of a new landing strip, unless specifically authorized by an act appropriating moneys therefor, shall not exceed \$100,000.

(5) To receive aid hereunder for acquisition costs the municipality must enter into an agreement with the commissioner giving assurance that said airport will be

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operated and maintained in a safe, serviceable manner for aeronautical purposes only for the use and benefit of the public for a period of twenty years after the date that the state funds are received by the municipality. The agreement may contain such other conditions as the commissioner deems reasonable.

(6) The commissioner shall establish a hangar construction revolving account which shall be used for the purpose of financing the construction of hangar buildings to be constructed by municipalities owning airports. All municipalities owning airports are authorized to enter into contracts for the construction of hangars, and contracts with the commissioner for the financing of such hangar construction for such amount and period of time as may be determined by the commissioner and municipality. All receipts from the financing contracts shall be deposited in the hangar construction revolving account and are hereby reappropriated for the purpose of financing construction of hangar buildings. The commissioner may pay from the hangar construction revolving account 80 percent of the cost of financing construction of hangar buildings. For purposes of this clause, the "construction" of hangars shall include their design.

(7) The commissioner may pay a portion of the purchase price of any airport maintenance and safety equipment and of the actual airport snow removal costs incurred by any municipality. The portion to be paid by the state shall not exceed two-thirds of the cost of such purchase price or snow removal. To receive such aid such municipality must enter into an agreement of the type referred to in clause (5) above.

(8) This subdivision shall apply only to project costs or acquisition costs of municipally owned airports which are incurred after June 1, 1971.

Subd. 5. The commissioner of aeronautics shall cause to be prepared or supervise the preparation of plans and specifications for the construction, improvement, and maintenance of all airports and air navigation facilities upon which expenditures are made pursuant to sections 360.301 to 360.306; approve such plans and specifications; supervise and inspect all work; approve all lawful changes in plans and specifications; approve estimates for payments; and approve the construction when completed according to such plans and specifications.

[1945 c 469 s 5; 1947 c 548 s 1; 1963 c 791 s 5; 1965 c 606 s 1; 1967 c 791 s 1-3; 1969 c 786 s 1, 2; 1971 c 706 s 1; 1973 c 760 s 1-3; 1974 c 373 s 1]

360.306 TRANSFERS FROM STATE AIRPORTS FUND. Subdivision 1. On the first day of November in each year there shall be transferred from the state airports fund to the Minnesota aeronautics bond account in the state bond fund, out of any moneys remaining in the state airports fund after the transfers and payments referred to in subdivision 3, and there is hereby appropriated annually to the state bond fund, a sum sufficient, with all moneys previously transferred pursuant to this subdivision 1, to pay all principal and interest then and theretofore due and to become due within the next ensuing year and to and including July 1 in the second ensuing year on bonds issued and sold pursuant to section 360.302. If sufficient funds are made available by the transfer in any year, the tax levy for that year provided for by section 360.301 shall be canceled and shall not be made; otherwise the amount to be raised by the tax levy for that year shall be reduced by the amount transferred. The state auditor and the state treasurer are authorized and directed to make the appropriate entries in the accounts of the respective funds.

Subd. 2. All moneys transferred from the state airports fund to the Minnesota aeronautics bond account in the state bond fund shall be available for the payment of outstanding state bonds and interest thereon, whether or not issued pursuant to section 360.302, in the same manner as the proceeds of such taxes, and so much thereof as may be necessary is appropriated for such payments.

Subd. 3. Notwithstanding any provision of any other statute appropriating moneys in the state airports fund, all moneys in that fund over and above the amounts required, if any, to reimburse the general fund as otherwise provided by law, and the amounts, if any, required by section 360.301, subdivision 2, to be transferred to the Minnesota aeronautics fund, and the amounts required to pay the salaries, supplies, and expenses of the department of aeronautics as otherwise provided by law, shall be used only for the purpose of making the transfers provided for by section 360.306, subdivision 1.

[1945 c 469 s 6; 1963 c 791 s 6; 1969 c 399 s 49]

360.311 [Repealed, 1963 c 791 s 10]

360.321 [Repealed, 1963 c 791 s 10]

- 360.331 [Repealed, 1963 c 791 s 10]
- 360.34 [Obsolete]
- 360.341 [Repealed, 1963 c 791 s 10]
- 360.351 [Repealed, 1963 c 791 s 10]
- 360.361 [Obsolete]
- 360.371 [Expired]
- 360.381 [Expired]
- 360.382 [Expired]
- 360.383 [Expired]
- 360.384 [Expired]

360.385 AERONAUTICS FUND, ADDITIONAL MONEYS. Subdivision 1. **Appropriation.** There is hereby appropriated to the commissioner of aeronautics out of the Minnesota aeronautics fund, for the purposes hereinafter specified, the sum of \$3,801,000 for the biennium ending June 30, 1959, which appropriation is hereby made available in such amounts and at such times as may be deemed necessary by the commissioner of aeronautics to carry out the purposes of this section. Any balance remaining at the end of any fiscal year shall be carried over and shall be available for the purposes of this section until July 1, 1959, and thereafter until all obligations theretofore incurred hereunder have been paid.

Subd. 2. **Specific expenditures.** (1) The moneys hereby appropriated to the commissioner of aeronautics shall, from time to time, upon his authorization, be used in accordance with Minnesota Statutes 1953, Chapter 360, as amended.

Except as otherwise provided in this subdivision, of the moneys hereby appropriated, the commissioner of aeronautics shall not authorize the expenditure of more than \$2,350,000 on the Minneapolis-St. Paul International Airport, \$1,107,400 on other key system airports, \$92,100 on secondary airports, \$85,000 on the state landing strip system, \$16,500 on radio navigational aids, \$25,000 for the purchase of an airplane, and \$25,000 on snow removal. In addition, the commissioner shall establish a hangar construction revolving account in the amount of \$100,000 for the purpose of constructing hangar buildings to be sold by conditional sales contract or contract for deed to municipalities owning airports. For the purposes of this section all municipalities owning airports are hereby authorized to enter into such contracts for such amount and period of time as may be determined by the commissioner and the municipality. All receipts from the sale of these buildings shall be deposited in the hangar construction revolving account and are hereby re-appropriated to that purpose.

(2) The governor may on his own initiative or upon application by the commissioner of aeronautics issue his order authorizing a change in the provisional limitations on the amounts to be expended as provided in (1) hereof.

(3) Before any expenditure of any of the moneys hereby appropriated to assist political subdivisions, municipalities, and public corporations in acquiring, constructing, improving, maintaining, and operating airports and other air navigation facilities, may be authorized, the commissioner of aeronautics shall have made, with the approval of the governor, his order designating the municipalities and airports which are a part of the key airport system, the secondary airport system, the landing strip system, and the state system of radio navigational aids. For the purposes of this section, the key system airports shall be those being served by or intended to be served by scheduled air carriers and large multi-engine aircraft and shall not exceed a total of 30. The secondary system shall consist of airports designed for or having active commercial operations other than scheduled air service and shall not exceed a total of 40 and the landing strip system shall consist of landing strips in the rural areas not designed for commercial activities and the total number shall not exceed 55. He may amend such order from time to time to expand or modify the airport system to best serve the interest of the state, subject to the approval of the governor. Except as otherwise provided in this paragraph, the commissioner of aeronautics shall require as a condition of such assistance by the state, that the political subdivision, municipality, or public corporation itself make a substantial contribution to the cost of construction, improvement, maintenance, or operation in connection with which the assistance by the state is sought for all airports of not less than one-third of the project costs, if state and local funds only are to be used, or not less than one-sixth of the project costs, if federal, state and local funds are to be used. He may pay

- (a) the total cost of radio navigational aids,

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(b) one-half the actual snow removal costs (not including the purchase of equipment) but not more than \$500 per fiscal year to any city,

(c) not to exceed \$15,000 for all of the construction costs for new landing strip airports,

(d) from the hangar construction revolving account 80 percent of the cost of hangars, and

(e) not to exceed \$35,000 for all of the initial construction of a landing strip on the North Shore in the vicinity of Beaver Bay.

No state money may be used for land acquisition for key system or secondary system airports, or landing strips.

(4) Before authorizing any expenditure of any of the moneys hereby appropriated the commissioner of aeronautics shall issue his order allocating the amount of moneys estimated to be required, and he shall certify that the improvements to be made or the work to be accomplished is in the interest of the state and in compliance with the laws of the state and the provisions of this section. From time to time he may amend or rescind his allocation orders. Upon completion of the work or project for which the funds are allocated and on final payment discharging the state's obligation the commissioner of aeronautics shall issue his order releasing any unexpended portions of the moneys first allocated.

(5) The commissioner of aeronautics shall cause to be prepared or supervise the preparation of plans and specifications for the construction, improvement, and maintenance of all airports and air navigation facilities on which expenditures are made pursuant to this section; approve such plans and specifications; supervise and inspect all work; approve all lawful changes in plans and specifications; approve estimates for payments; and approve the construction when completed according to such plans and specifications.

Subd. 3. Tax levy for additional funds. To provide additional moneys for the Minnesota aeronautics fund, the state auditor shall levy upon all taxable property in this state, in the manner in which other state taxes are levied, for the taxable years 1959, 1960, 1961, 1962, 1963, 1964, 1965, 1966, 1967, and 1968, taxes sufficient to produce the sum of \$380,100 for each of said taxable years, together with such additional sums as may be necessary to pay the interest upon the certificates of indebtedness hereinafter authorized. In case of a deficiency in the proceeds of such tax levy for any year, the auditor shall levy additional amounts in succeeding years to compensate therefor until the full amount herein authorized has been raised. The proceeds of such taxes shall be credited to the Minnesota aeronautics fund.

Subd. 4. Certificates of indebtedness. Pending the levy and collection of such taxes, upon request of the commissioner of aeronautics the state auditor is hereby authorized and directed to issue and sell certificates of indebtedness of this state, as funds are needed for the purposes of this section, not exceeding the amount required from time to time to meet the appropriations hereinafter made and not exceeding \$3,801,000 in the aggregate. Such certificates shall be known as "Minnesota Aeronautics Certificates of Indebtedness, Series VII" shall be numbered consecutively, and shall be issued and sold at not less than par upon sealed bids after two weeks' published notice, unless sold to the state board of investment as hereinafter provided. Such certificates shall be in such form and of such denominations and shall mature at such times as the state auditor may determine, not exceeding the time when funds shall be available for the payment thereof from the tax levies authorized by subdivision 3. All certificates maturing more than three years after their date must be made redeemable at par at the expiration of such three years and on each interest payment date thereafter upon such notice as the state auditor shall determine prior to their issuance. Such certificates shall bear such rate of interest, payable semi-annually, and shall contain such other terms and provisions not inconsistent herewith, as the state auditor may determine. The certificates shall be signed by the state treasurer and attested by the state auditor under their official seals, and the auditor and treasurer shall keep records thereof. The certificates shall be a charge upon and a lien against the taxes authorized by subdivision 3. The principal and interest of the certificates, except as provided in subdivision 6, shall be payable only from the proceeds of such taxes, and so much thereof as may be necessary is hereby appropriated for such payments; provided, that such interest as may become due at any time when there is not on hand a sufficient amount from the proceeds of such taxes to pay the same shall be paid out of the general fund, and the amount necessary therefor is hereby appropriated, to be reimbursed from the

proceeds of such taxes when received. All moneys received from the sale of the certificates shall be credited to the Minnesota aeronautics fund.

Subd. 5. **Authorized investments.** The state board of investment is hereby authorized to invest any funds under its control or direction in any certificates of indebtedness issued hereunder and such certificates may be issued and sold to the board without advertising for bids.

Subd. 6. **Transfer of funds.** (1) On November 1, 1959, and on the first day of November in each year thereafter up to and including November 1, 1968, there shall be transferred from the state airports fund, otherwise created by law, to the Minnesota aeronautics fund out of any moneys remaining in said state airports fund after the transfer provided by Minnesota Statutes 1953, Sections 360.351, 360.371, Subdivision 6, 360.382, Subdivision 6, and 360.383, Subdivision 6, and Minnesota Laws 1955, Chapter 719, and after any reimbursement of the general fund therefrom otherwise provided by law, the sum of \$380,100 and such additional sums as may be necessary to pay interest on any certificates of indebtedness issued and sold pursuant to subdivision 4 and to compensate for any deficiencies in the proceeds of tax levies authorized by subdivision 3 for any prior year, or so much of the total of said sums as may be available in the state airports fund for transfer. If sufficient funds are made available by the transfer, the tax levy for that taxable year provided for by subdivision 3 shall be cancelled and shall not be made; otherwise the amount to be raised by the tax levy for that taxable year shall be reduced by the amount transferred. The state auditor and the state treasurer are authorized and directed to make the appropriate entries in the accounts of the respective funds.

(2) All moneys transferred from the state airports fund to the Minnesota aeronautics fund shall be available for the payment of outstanding certificates of indebtedness and interest thereon and deficiencies in the proceeds of prior tax levies, if any, in the same manner as the proceeds of taxes provided for in subdivision 3, and so much thereof as may be necessary is appropriated for such payments.

(3) Notwithstanding any provision of any other statute appropriating moneys in the state airports fund, all those moneys over and above the amounts required to be transferred as provided by Minnesota Statutes 1953, Sections 360.306, 360.351, 360.371, Subdivision 6, 360.382, Subdivision 6, and 360.383, Subdivision 6, and Minnesota Laws 1955, Chapter 719, and the amounts required to pay the salaries, supplies and expenses of the department of aeronautics as otherwise provided by law, shall be used only for the purpose of making the transfers provided for by (1) of this subdivision and thus reducing the amounts to be raised by the tax levies provided for by subdivision 3 of this section, until after the date prescribed for the making of the last of those levies, or until they are otherwise canceled by law.

(4) The appropriation to the commission by subdivision 1 is in addition to any other appropriation made to him out of the Minnesota aeronautics fund by any other statutes.

[1957 c 931 s 1-6; 1959 c 629 s 8; 1969 c 399 s 49]

360.386 AERONAUTICS FUND, ADDITIONAL MONEYS. Subdivision 1. **Appropriation.** There is hereby appropriated to the commissioner of aeronautics out of the Minnesota aeronautics fund, for the purposes hereinafter specified, the sum of \$826,000 for the biennium ending June 30, 1961, which appropriation is hereby made available in such amounts and at such times as may be deemed necessary by the commissioner of aeronautics to carry out the purposes of this section. Any balance remaining at the end of any fiscal year shall be carried over and shall be available for the purposes of this act until July 1, 1961, and thereafter until all obligations theretofore incurred hereunder have been paid.

Subd. 2. **Specific expenditures.** (1) The moneys hereby appropriated to the commissioner of aeronautics shall from time to time, upon his authorization, be used in accordance with Minnesota Statutes, Chapter 360, as amended.

Except as otherwise provided in this section, of the moneys hereby appropriated, the commissioner of aeronautics shall not authorize the expenditure of more than \$434,000 on key system airports, \$209,000 on secondary airports, \$142,000 on the state landing strip system, \$15,000 on radio navigational aids, \$11,000 for the purchase of an airplane, and \$15,000 for air marking.

(2) The governor may on his own initiative or upon application by the commissioner of aeronautics issue his order authorizing a change in the provisional limitations on the amounts to be expended as provided in (1) hereof.

(3) Before any expenditure of any of the moneys hereby appropriated to assist political subdivisions, municipalities, and public corporations in acquiring, constructing, improving, maintaining, and operating airports and other air navigation facilities, may be authorized, the commissioner of aeronautics shall have made, with the approval of the governor, his order designating the municipalities and airports which are a part of the key airport system, the secondary airport system, the landing strip system, and the state system of radio navigational aids. For the purposes of this section, the key system airports shall be those being served by or intended to be served by scheduled air carriers and large multi-engine aircraft and shall not exceed a total of 30. The secondary system shall consist of airports designed for or having active commercial operations other than scheduled air service and shall not exceed a total of 45, and the landing strip system shall consist of landing strips in the rural areas not designed for commercial activities and the total number shall not exceed 60. He may amend such order from time to time to expand or modify the airport system to best serve the interest of the state, subject to the approval of the governor. Except as otherwise provided in this clause, the commissioner of aeronautics shall require as a condition of such assistance by the state, that the political subdivision, municipality, or public corporation itself make a substantial contribution to the cost of construction, improvement, maintenance, or operation in connection with which the assistance by the state is sought for all airports of not less than one-third of the project costs, if state and local funds only are to be used, or not less than one-sixth of the project costs, if federal, state and local funds are to be used. He may pay

(a) the total cost of radio navigation aids,

(b) not to exceed \$15,000 including all of the construction costs for new landing strip airports,

(c) not to exceed \$50,000 for all of the initial construction of a landing strip on the North Shore in the vicinity of Beaver Bay.

No state money may be used for land acquisition.

(4) The commissioner of aeronautics shall cause to be prepared or supervise the preparation of plans and specifications for the construction, improvement, and maintenance of all airports and air navigation facilities on which expenditures are made pursuant to this section; approve such plans and specifications; supervise and inspect all work; approve all lawful changes in plans and specifications; approve estimates for payments; and approve the construction when completed according to such plans and specifications.

Subd. 3. Tax levy for additional funds. To provide additional moneys for the Minnesota aeronautics fund, the state auditor shall levy upon all taxable property in this state, in the manner in which other state taxes are levied, for the taxable years 1961, 1962, 1963, 1964, 1965, 1966, and 1967, taxes sufficient to produce the sum of \$118,000 for each of said taxable years, together with such additional sums as may be necessary to pay the interest upon the certificates of indebtedness hereinafter authorized. In case of a deficiency in the proceeds of such tax levy for any year, the auditor shall levy additional amounts in succeeding years to compensate therefor until the full amount herein authorized has been raised. The proceeds of such taxes shall be credited to the Minnesota aeronautics fund.

Subd. 4. Certificates of indebtedness. Pending the levy and collection of such taxes, upon request of the commissioner of aeronautics, the state auditor is hereby authorized and directed to issue and sell certificates of indebtedness of this state, as funds are needed for the purposes of this section, not exceeding the amount required from time to time to meet the appropriations hereinafter made and not exceeding \$826,000 in the aggregate. Such certificates shall be known as "Minnesota Aeronautics Certificates of Indebtedness, Series VIII" shall be numbered consecutively, and shall be issued and sold at not less than par upon sealed bids after two weeks' published notice, unless sold to the state board of investment as hereinafter provided. Such certificates shall be in such form and of such denominations and shall mature at such times as the state auditor may determine, not exceeding the time when funds shall be available for the payment thereof from the tax levies authorized by subdivision 3. All certificates maturing more than three years after their date must be made redeemable at par at the expiration of such three years and on each interest payment date thereafter upon such notice as the state auditor shall determine prior to their issuance. Such certificates shall bear such rate of interest, payable semi-annually, and shall contain such other terms and provisions not inconsistent herewith, as the state auditor may

determine. The certificates shall be signed by the state treasurer and attested by the state auditor under their official seals, and the auditor and treasurer shall keep records thereof. The certificates shall be a charge upon and a lien against the taxes authorized by subdivision 3. The principal and interest of the certificates, except as provided in subdivision 6, shall be payable only from the proceeds of such taxes, and so much thereof as may be necessary is hereby appropriated for such payments; provided, that such interest as may become due at any time when there is not on hand a sufficient amount from the proceeds of such taxes to pay the same shall be paid out of the general fund, and the amount necessary therefor is hereby appropriated, to be reimbursed from the proceeds of such taxes when received. All moneys received from the sale of the certificates shall be credited to the Minnesota aeronautics fund.

Subd. 5. **Authorized investments.** The state board of investment is hereby authorized to invest any funds under its control or direction in any certificates of indebtedness issued hereunder. Such certificates may be issued and sold to the board without advertising for bids.

Subd. 6. **Transfer of funds.** (1) On November 1, 1961, and on the first day of November in each year thereafter up to and including November 1, 1967, there shall be transferred from the state airports fund, otherwise created by law, to the Minnesota aeronautics fund out of any moneys remaining in said state airports fund after the transfer provided by Minnesota Statutes, Sections 360.371, Subdivision 6, 360.382, Subdivision 6, 360.383, Subdivision 6, 360.384, Subdivision 6, 360.385, Subdivision 6, and after any reimbursement of the general fund therefrom otherwise provided by law, the sum of \$118,000 and such additional sums as may be necessary to pay interest on any certificates of indebtedness issued and sold pursuant to subdivision 4 and to compensate for any deficiencies in the proceeds of tax levies authorized by subdivision 3 for any prior year, or so much of the total of said sums as may be available in the state airports fund for transfer. If sufficient funds are made available by the transfer, the tax levy for that taxable year provided for by subdivision 3 shall be cancelled and shall not be made; otherwise the amount to be raised by the tax levy for that taxable year shall be reduced by the amount transferred. The state auditor and the state treasurer are authorized and directed to make the appropriate entries in the accounts of the respective funds.

(2) All moneys transferred from the state airports fund to the Minnesota aeronautics fund shall be available for the payment of outstanding certificates of indebtedness and interest thereon and deficiencies in the proceeds of prior tax levies, if any, in the same manner as the proceeds of taxes provided for in subdivision 3, and so much thereof as may be necessary is appropriated for such payments.

(3) Notwithstanding any provision of any other statute appropriating moneys in the state airports fund, all those moneys over and above the amounts required to be transferred as provided by Minnesota Statutes, Sections 360.371, Subdivision 6, 360.382, Subdivision 6, 360.383, Subdivision 6, 360.384, Subdivision 6, and 360.385, Subdivision 6, and the amounts required to pay the salaries, supplies and expenses of the department of aeronautics as otherwise provided by law, shall be used only for the purpose of making the transfers provided for by (1) of this subdivision and thus reducing the amounts to be raised by the tax levies provided for by subdivision 3 until after the date prescribed for the making of the last of those levies, or until they are otherwise canceled by law.

(4) The appropriation to the commissioner by subdivision 1 is in addition to any other appropriation made to him out of the Minnesota aeronautics fund by any other statutes.

Subd. 7. **Reappropriation of unexpended appropriations.** The unexpended balances of appropriations made to the commissioner of aeronautics by Laws 1955, Chapter 719, and Laws 1957, Chapter 931, are hereby reappropriated to the commissioner of aeronautics for the biennium ending June 30, 1961, for the purposes of those laws. Any and all provisions of those laws which must be in effect to provide for the appropriation made by this action are extended or reenacted as may be necessary for such purpose. The total amount of the appropriations made hereby shall not exceed the amount originally appropriated by those laws.

[1959 c 629 s 1-6, 9; 1969 c 399 s 49]

360.3861 REAPPROPRIATIONS. The unexpended balances of appropriations made to the commissioner of aeronautics by Minnesota Statutes 1961, Sections 360.384 to 360.386 are hereby reappropriated to the commissioner of aeronautics

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and shall be available until expended for the purposes for which such appropriations were made. Sections 360.383 to 360.386 shall cease to be in effect when all provisions for such appropriations have been made and all certificates of indebtedness issued under those laws and interest thereon have been fully paid, or provision for such payment has been duly made in accordance with their terms. The commissioner of finance shall certify the occurrence of this event to the revisor of statutes.

[1963 c 791 s 8; 1973 c 492 s 14]
 360.387 [Repealed, 1963 c 791 s 10]

360.388 AERONAUTICS BOND FUND, APPROPRIATION. Subdivision 1. There is hereby appropriated to the commissioner of aeronautics out of the proceeds of the bonds herein authorized, for the purposes specified herein and in Minnesota Statutes, Section 360.305, the sum of \$6,600,000.

Subd. 2. Except as otherwise provided in said section 360.305, of the moneys hereby appropriated, the commissioner of aeronautics shall spend not more than \$2,112,500 including not more than \$1,250,000 on the key system airports; not more than \$305,000 on the secondary airport system; not more than \$255,000 on the state landing strip system; not more than \$160,000 for navigational aids and airborne test equipment; not more than \$28,000 for the purchase of aircraft; not more than \$8,000 grant-in-aid in cooperation with the department of business development for promotional material; not more than \$31,500 assistance in updating flight instructors and mechanics in cooperation with the department of education, division of vocational education; and not more than \$75,000 for the hangar construction revolving fund, money to be added to the hangar construction revolving fund to be expended in accordance with Minnesota Statutes, Section 360.385.

Subd. 3. The commissioner of aeronautics shall expend \$4,526,900 of the money herein appropriated for the refunding, payment and redemption of a like principal amount of the Minnesota aeronautics certificates of indebtedness, issued in the following respective series and authorized by each of the following sections of Minnesota Statutes:

Series III, under sections 360.371 and 360.381	\$ 195,000
Series IV, under section 360.382	20,000
Series V, under section 360.383	300,000
Series VI, under section 360.384	644,000
Series VII, under section 360.385	2,659,900
Series VIII, under section 360.386	708,000

Said amount of \$4,526,900 shall be credited to the "Minnesota Aeronautics Fund" referred to in these laws, and expended therefrom for the purpose of such refunding, and the state auditor and treasurer are directed to call each and all of said certificates for redemption in accordance with their terms, from said bond proceeds. The tax which was levied by each of these laws and was directed to be extended and spread upon the tax rolls in amounts sufficient to produce the required sums of principal and interest in the years specified therein, shall continue to be so extended and spread until all certificates of indebtedness issued pursuant to each of the laws, respectively, and all interest accrued thereon, have been fully paid. The appropriation by each of these laws of so much of the proceeds of the tax thereby levied as may be necessary to pay principal and interest when due on certificates of indebtedness other than those refunded hereunder is likewise continued, and shall be irrevocable until those certificates and interest thereon have been fully paid. However, all proceeds of such taxes in excess of those so appropriated are re-appropriated to the state bond fund and shall be credited against the amounts of taxes required to be levied by Minnesota Statutes, Section 360.301, Subdivision 1.

Subd. 4. To provide the moneys herein appropriated the state auditor is authorized and directed upon request of the commissioner of aeronautics to issue and sell Minnesota aeronautics bonds under the provisions of the Constitution, Article IX, Section 6, and Article XIX, Section 2, and Minnesota Statutes, Section 360.302, in an aggregate principal amount not to exceed \$6,600,000. The bonds may be issued in denominations of \$1,000, \$5,000, or multiples thereof as determined by the state auditor and shall mature on January 1 in the amount of \$80,000 in 1965, \$280,000 in 1966, and the following amounts in the following respective years:

1967	\$290,000	1976	370,000
1968	300,000	1977	390,000
1969	310,000	1978	400,000

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1970	310,000	1979	410,000
1971	320,000	1980	420,000
1972	330,000	1981	430,000
1973	340,000	1982	450,000
1974	350,000	1983	460,000
1975	360,000		

All bonds maturing later than January 1, 1974, must be made redeemable at par on that date and on each interest payment date thereafter, upon such notice as the commissioner of finance shall determine.

[1963 c 791 s 7; 1965 c 606 s 2; 1973 c 492 s 14]

360.389 ADDITIONAL APPROPRIATIONS. There is also appropriated to the commissioner of aeronautics for the purposes specified in Minnesota Statutes, Section 360.305 so much of the proceeds of the aircraft registration tax, the aviation fuel tax, and the flight property tax, as may be received in the state airports fund in excess of \$885,800 in the fiscal year commencing July 1, 1963, and so much of the proceeds of such taxes as may be received in said fund in excess of \$943,200 in the fiscal year commencing July 1, 1964; provided, that no amount so appropriated shall be expended until the commissioner has consulted the legislative advisory committee and such committee has made its recommendation thereon. Such recommendation shall be advisory only. Failure or refusal of the committee to make a recommendation promptly shall be deemed a negative recommendation. The maximum amount to be expended under the appropriation made by this section during the biennium commencing July 1, 1963 shall not exceed \$175,000.

[1963 c 791 s 9]

AIRCRAFT REGISTRATION AND TAXATION

360.511 DEFINITIONS. Subdivision 1. For the purposes of sections 360.54 to 360.67 the following words, terms, and phrases shall have the meanings herein given, unless otherwise specifically defined, or unless another intention clearly appears or the context otherwise requires:

Subd. 2. "Person" means any individual, corporation, firm, copartnership, company, or association, and includes any guardian, trustee, executor, administrator, receiver, conservator, or any person acting in any fiduciary capacity therefor.

Subd. 3. "Aircraft" means any contrivance, now known or hereafter invented, used or designed for navigation of or flight in the air.

Subd. 4. "Air commerce" means the transportation by aircraft of persons or property for hire in interstate, intrastate, or international transportation on regularly scheduled flights by airline companies operating under a certificate of convenience and necessity issued by the United States Civil Aeronautics Board.

Subd. 5. "Airline company" means any person who undertakes directly or indirectly to engage in the business of air commerce.

Subd. 6. "Commissioner" means the commissioner of aeronautics of this state.

Subd. 7. "Owner" means any person owning or renting an aircraft, or having the exclusive use thereof, under a lease or otherwise, for a period greater than 30 days.

Subd. 8. "Dealer" means any person regularly engaged in the business of manufacturing or selling, purchasing, and generally dealing in new or used aircraft, having an established place of business for the trade, sale, and display thereof and having in its, his, or their possession new or used aircraft for the purpose of sale or trade.

Subd. 9. "Airports thereof" (referring to airports of the state of Minnesota) includes all airports located in this state owned by the state, by any political subdivision or municipality thereof, or by any person.

Subd. 10. "Municipality" means a city, a county or a town in this state and includes metropolitan airports commissions organized pursuant to the provisions of Laws 1943, Chapter 500.

Subd. 11. "Aircraft manufacturer" means a person, firm, or corporation engaged in the business of constructing aircraft of a particular design and model for the purpose of selling the finished product.

Subd. 12. "Rebuilt aircraft" means airworthy aircraft constructed from aircraft damaged to an extent that prior to the rebuilding process they were unairworthy.

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Subd 13. "Aircraft refitter" means a person, firm, or corporation engaged in the business of refitting and modifying aircraft.

Subd. 14. An aircraft being manufactured or rebuilt is completed as of the date of the initial airworthiness certificate issued thereon by proper federal authorities.

Subd. 15 Fiscal year starts July 1 and ends June 30, effective July 1, 1966.

[1945 c 411 s 1; 1955 c 113 s 1-5; 1959 c 446 s 2; 1965 c 161 s 1; 1973 c 123 art 5 s 7; 1974 c 195 s 1]

360.521 LIMITATION AND ELECTION. (a) None of the provisions of sections 360.531 to 360.67 apply to aircraft or airline companies used in air commerce which have a certificate of convenience and necessity issued by the United States civil aeronautics board.

(b) All aircraft of an airline company operating without a certificate of convenience and necessity issued by the United States civil aeronautics board and with at least three regularly scheduled interstate flights per week shall be registered annually in the manner prescribed in sections 360.511 to 360.67 or if the airline company so elects, thereafter, or until an election otherwise, all of its air flight property shall be assessed annually by the commissioner of revenue in a manner prescribed by sections 270.071 to 270.079 unless prior to July 1 in the year of election the airline company has registered and paid a tax under sections 360.511 to 360.67.

(c) If pursuant to (b) an airline company being taxed pursuant to chapter 270.071 to 270.079 registers pursuant to chapter 360.511 to 360.67 prior to July 1 then such airline company will be required to pay one half of the registration tax which would have been due July 1 in the year of election for an airline company not already being taxed pursuant to chapter 270.071 to 270.079, such one half to be allocable to the last six months of the registration period.

(d) If an airline company registered pursuant to sections 360.511 to 360.67 elects to be taxed in the manner prescribed by sections 270.071 to 270.079, then such airline company will be required to pay one half of the registration tax which would have been due July 1 of the year of election if the airline company would not have elected to be taxed in the manner prescribed by sections 270.071 to 270.079, such one half to be allocable to the first six months of the registration period.

(e) Written notice of such election shall be given to the commissioner of aeronautics and the commissioner of revenue prior to July 1 in the year of election. If an airline company not already taxed under sections 270.071 to 270.079 fails to make an election, then such airline company shall register its aircraft and pay a tax under sections 360.511 to 360.67.

[1945 c 411 s 2; 1969 c 791 s 1; 1973 c 582 s 3]

360.531 TAXATION. Subdivision 1. **An in lieu tax.** All aircraft using the air space overlying the state of Minnesota or the airports thereof, except as set forth in section 360.55, shall be taxed in lieu of all other taxes thereon, on the basis and at the rate for the period January 1, 1966, to June 30, 1967, and for each fiscal year as follows.

Subd. 2. Rate. The tax shall be at the rate of one per cent of value; provided that the minimum tax on an aircraft subject to the provisions of sections 360.511 to 360.67 shall not be less than 25 percent of the tax on said aircraft computed on its base price or \$10 whichever is the higher.

Subd. 3. First year of life. "First year of life" means the year of model designation of the aircraft, or, if there be no model designation it shall mean the year of manufacture.

Subd. 4. Base price for taxation. For the purpose of fixing a base price for taxation from which depreciation in value at a fixed per cent per annum can be counted, such price is defined as follows:

(1) The base price for taxation of an aircraft of which a similar or corresponding model was being manufactured on August 1 preceding the fiscal year for which the tax is levied shall be the manufacturer's list price of such similar or corresponding model in effect on such August 1.

(2) The base price for taxation of an aircraft of which no similar or corresponding model was manufactured until after such August 1 shall be the manufacturer's list price at the factory when the aircraft taxed was first manufactured.

(3) The commissioner shall have authority to fix the base value for taxation purposes of any aircraft of which no such similar or corresponding model has been manufactured since a time prior to such August 1, and of any rebuilt or foreign

aircraft, any aircraft on which a record of the list price is not available in his office, or any military aircraft converted for civilian use, using as a basis for such valuation the list price on such August 1 of aircraft with comparable performance characteristics, and taking into consideration the age and condition of the aircraft.

Subd. 5. Similarity of corresponding models. Models shall be deemed similar if substantially alike and of the same make. Models shall be deemed to be corresponding models for the purpose of taxation under sections 360.54 to 360.67 if of the same make and having approximately the same weight and type of frame and the same style and size of motor.

Subd. 6. Depreciation. After the first year of aircraft life the base value for taxation purposes shall be reduced as follows: ten per cent the second year, and 15 percent the third and each succeeding year thereafter, but in no event shall such tax be reduced below the minimum.

Subd. 7. Prorating the tax. When an aircraft first becomes subject to taxation during the period for which the tax is to be paid, the tax on it shall be for the remainder of that period, prorated on a monthly basis of one-twelfth of the annual tax for each calendar month counting the month during which it becomes subject to the tax as the first month of such period, except that the tax for the period of January 1, 1966, through June 30, 1967, shall be prorated on a monthly basis of one-eighteenth of the tax for said period.

Subd. 8. Tax, fiscal year. Every aircraft subject to the provisions of this act which has at any time since April 19, 1945, used the air space overlying the state of Minnesota or the airports thereof shall be taxed for the period from January 1, 1966, through June 30, 1967, for each fiscal year thereafter in which it is so used. Any aircraft which does not use the air space overlying the state of Minnesota or the airports thereof at any time during the period of January 1, 1966, to and including June 30, 1967, or at any time during any fiscal year thereafter shall not be subject to the tax provided by this act for such period. Rebuilt aircraft shall be subject to the tax provided by Minnesota Statutes, Sections 360.511 to 360.67 for that portion of the aforesaid periods remaining after the aircraft has been rebuilt, prorated on a monthly basis.

Subd. 9. Assessed as personal property in certain cases. Aircraft subject to taxation under the provisions of sections 360.54 to 360.67 shall not be assessed as personal property and shall be subject to no tax except as provided for by these sections. Aircraft not subject to taxation as provided in these sections, but subject to taxation as personal property within the state of Minnesota shall be assessed and valued at 33 1/3 percent of the true and full value thereof and taxed at the rate and in the manner provided by law for the taxation of ordinary personal property. If the person against whom any tax has been levied on the ad valorem basis because of any aircraft shall, during the calendar year for which such ad valorem tax is levied, be also taxed under provisions of these sections, then and in that event, upon proper showing, the commissioner of revenue shall grant to the person against whom said ad valorem tax was levied, such reduction or abatement of assessed valuation or taxes as was occasioned by the so-called ad valorem tax imposed. If the ad valorem tax upon any aircraft has been assessed against a dealer in new and used aircraft, and the tax imposed by these sections for the required period is thereafter paid by the owner, then and in that event, upon proper showing, the commissioner of revenue, upon the application of said dealer, shall grant to such dealer against whom said ad valorem tax was levied such reduction or abatement of assessed valuation or taxes as was occasioned by the so-called ad valorem tax imposed.

[1945 c 411 s 3; 1949 c 161 s 1-4; 1955 c 113 s 6; 1959 c 446 s 3; 1965 c 161 s 2-6; 1973 c 532 s 3]

360.532 NONRESIDENT COMMERCIAL OPERATIONS; SUBJECT TO TAX. Any aircraft of which a nonresident has the right to possession and which is used for commercial operations in this state shall be registered in this state before said aircraft is used for such commercial operations, except that aircraft used for charter which a nonresident has the right to possession need not be so registered if while in the state he does not advertise, represent, or hold himself out as giving or offering to provide such service with such aircraft. Aircraft registered under this section shall not be entitled to a refund under 360.62 except if destroyed or for errors in computing the tax or fees and for the error on the part of an owner who may have registered an aircraft that was not before or at the time of such regis-

tration, or at any time thereafter during the current past year, subject to such tax in this state, or the aircraft is sold to a nonresident who is not engaged in a commercial operation in this state.

[1963 c 118 s 1]

360.54 SUBJECT TO TAX, EXEMPTION. Every aircraft shall be presumed to be one using the air space overlying the state of Minnesota or the airports thereof, and thence subject to taxation under sections 360.511 to 360.67, if such aircraft has prior to the effective date of Laws 1945, Chapter 411, used such air space or airports, or shall actually use them or if it shall come into the possession of an owner in this state, other than a manufacturer, dealer, warehouseman, mortgagee, or pledgee and it shall be the burden of the owner thereof to prove that said aircraft has not in fact used the air space overlying the state of Minnesota or the airports thereof in order to avoid the payment of the tax as required herein.

[1945 c 411 s 4; 1949 c 161 s 5; 1955 c 118 s 7; 1965 c 161 s 7]

360.55 EXEMPTIONS. Subdivision 1. **Nonresident, noncommercial operators.** Subject to the exceptions set forth in section 360.532, any aircraft owned by a nonresident of this state and transiently or temporarily using the air space overlying this state or the airports thereof shall be exempt from taxation under the provisions of sections 360.511 to 360.67 unless it uses the air space overlying this state or the airports thereof for more than 60 days in the tax period of January 1, 1966, to and including June 30, 1967, or any fiscal year thereafter. The operation of an aircraft in the air space overlying this state or the use of airports within this state for any purpose at any time during one day shall be considered as use for one complete day. Aircraft owned by nonresidents, on the ground at an airport in this state for major repairs, shall not be considered as using the airports of this state while being repaired and while awaiting return to the nonresident owner provided however, such waiting period shall not exceed 60 days from completion of the repairs.

Subd. 2. **Other exemptions.** Aircraft owned and used solely in the transaction of official business by representatives of foreign powers, by the federal government, or by the state or any municipality thereof shall be exempt from the provisions of sections 360.54 to 360.67 requiring the payment of a tax, but all such aircraft, except those owned by representatives of foreign powers or by the federal government, shall be registered as required by sections 360.54 to 360.67 and shall display tax exempt number plates, labels, or stamps furnished by the commissioner at cost. The exemption herein provided shall not apply to any aircraft except those owned by representatives of foreign powers or by the federal government and except such aircraft as may be used in general police work, unless the name of the state department or the municipality owning such aircraft shall be plainly printed on both sides thereof in letters of a size and character to be prescribed by the commissioner.

Subd. 3. **Civil air patrol.** Any aircraft owned and used solely in the transaction of official business by any unit of the civil air patrol created by Public Law 476, 79th Congress, Public Law 557, 80th Congress or acts amendatory thereto, whether or not the title to such aircraft is retained by the federal government or vested in such unit unconditionally, shall be exempt from the provisions of sections 360.54 to 360.57 requiring the payment of tax, but all such aircraft shall be registered as required by sections 360.54 to 360.57 and shall display tax exempt number plates, labels or stamps furnished by the commissioner at cost.

[1945 c 411 s 5; 1949 c 161 s 6; 1955 c 100 s 1; 1957 c 465 s 1; 1963 c 118 s 2; 1965 c 161 s 8; 1965 c 429 s 1]

360.56 [Repealed, 1957 c 218 s 1]

360.57 SWORN STATEMENT BY MANUFACTURER. Every manufacturer of an aircraft sold or offered for sale within this state, either by the manufacturer, distributor, dealer, or any other person, shall, on or before the first day in August of each year, file in the office of the commissioner a sworn statement showing the various models manufactured by him and the retail list price of each model being manufactured August 1 of that year, and shall also file with the commissioner, in such form as manufacturers usually use for advertising, complete specifications of the construction of each model that has been manufactured by him. Upon each change in such price and upon the manufacture of each new model thereafter such manufacturer shall in like manner file a new statement setting forth such change.

[1945 c. 411 s. 7]

360.58 OPERATION WITHOUT REGISTRATION AND PAYMENT OF TAX. No aircraft except as exempted by sections 360.54 and 360.55 shall use or be operated in the air space over this state or upon any of the airports thereof in the tax period of January 1, 1966, to and including June 30, 1967, or in any fiscal year thereafter until it shall have been registered as required in sections 360.54 to 360.67 and the aircraft tax and fees herein provided shall have been paid and the number plates, labels, or stamps issued therefor shall be duly displayed on such aircraft. A purchaser of a new aircraft may operate his aircraft without such plates, labels, or stamps provided that he shall secure from the commissioner, or any person designated by the commissioner for that purpose, a permit to operate such aircraft pending the issuance of plates, such permit shall be valid for not more than 15 days.

[1945 c 411 s 8; 1965 c 161 s 9]

360.59 REGISTRATION AND LISTING. Subdivision 1. **Date of listing and application; form.** Every owner of aircraft in this state, except as exempted by sections 360.54 and 360.55, shall, before July 1, in each fiscal year thereafter, or as soon after such date as he shall become the owner thereof, file with the commissioner, on a blank provided by him, a listing for taxation and application for the registration of such aircraft, in such form and stating such information as the commissioner may require. The said owner shall certify that the statements made are correct and true, and any false statement willfully and knowingly made in regard thereto shall be deemed a perjury and punished accordingly. The listing and application for registration by dealers or manufacturers' agents within the state of aircraft received for sale or use within the state shall be accepted as compliance with the requirements of sections 360.54 to 360.67 imposed upon the manufacturer.

Subd. 2. Agent or lienor may list. Any act required herein of an owner may be performed in his behalf by a duly authorized agent. Any person having a lien upon, or claim to, any aircraft may pay any tax due thereon to prevent the penalty for delayed registration from accruing, but the registration certificate and number plates shall not be issued until legal ownership is definitely determined.

Subd. 3. Issuance of certificate. The commissioner shall file such application and upon approval thereof and upon payment of the aircraft tax as provided in sections 360.54 to 360.67, together with all arrears and penalties, if any, and upon the delivery to him of the duly endorsed registration certificate of the former owner, if any, or proof of loss provided in lieu thereof, shall assign to it a distinctive number and issue to the owner a registration certificate which shall contain the name, place of residence, with street and number, if in a city, and post office address of the owner, a specific description of the aircraft, and the number assigned, together with a place on the face of the certificate in which the owner shall immediately upon receipt thereof place his signature and on the reverse side thereof, an assignment and notice of sale or termination of ownership with places for the signature of both seller and purchaser, and a place for assignment of the tax that has been paid. The registration certificate shall be retained by the owner until surrender as herein provided. In the case of listing and registration by manufacturers' agents or dealers of aircraft not using the air space overlying the state of Minnesota and the airports thereof no registration certificate shall be issued, but a duplicate of such list may be retained by the dealer or manufacturer as the registration certificate.

Subd. 4. Number plates. The commissioner, upon such approval and payment, shall also issue to the applicant number plates, decalcomania labels, or stamps bearing an abbreviation of the state name and the number assigned to the aircraft. After being issued for use upon an aircraft no number plate, label, or stamp shall be transferred to another aircraft. Such number plates, labels, or stamps, shall be securely attached in a conspicuous place on the aircraft for which they are issued.

Subd. 5. Commissioner to approve. The commissioner shall approve applications and issue number plates for any aircraft. When an applicant is listing the same aircraft for taxation and registration for the second and succeeding time the registration certificate issued for the prior year need not be delivered to the commissioner; but in case of a transfer or sale the registration certificate therefor issued or proof of loss thereof by sworn statement shall be delivered to the commissioner, and he shall satisfy himself from his records that all taxes and fees due hereunder shall have been paid, and endorsements upon said certificate or sworn proof of loss in writing signed by the seller and purchaser, shall furnish proof that

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the applicant for registration is paying or receiving credit for the tax upon the aircraft of which he is the rightful possessor.

Subd. 6. Expiration of registration certificate. The registered owner's right to the registration certificate provided for herein and the right to use the number plates issued therewith shall expire upon the termination of ownership of any person in the aircraft for which the same was issued, and in any event at midnight on June 30 of the fiscal year for which the registration certificate was issued.

Subd. 7. Transfer of ownership. Upon the transfer of ownership, destruction, theft, dismantling as such, or the permanent removal by the owner thereof from this state of any aircraft registered in accordance with the provisions of this act, the right of the owner of such aircraft to use the registration certificate and number plates assigned such aircraft shall expire, and such certificate and any existing plates shall be, by such owner, forthwith returned with transportation prepaid to the commissioner with a signed notice of the date and manner of termination of ownership, giving the name and post office address, with street and number, if in a city, of the person to whom transferred; provided, however, that whenever the ownership of an aircraft shall be transferred to another who shall forthwith register the same in his name, the commissioner may permit the manual delivery of such plates to the new owner of such aircraft. Whenever any person, including a dealer or manufacturer, shall become the owner by gift, trade or purchase of any aircraft for which a registration certificate has been theretofore issued under the provisions of sections 360.511 to 360.67, he shall, within seven days after acquiring ownership, join with the registered owner in transmitting with his application the said registration certificate with the assignment and notice of sale duly executed upon the reverse side thereof, or in case of loss of such certificate, with such proof of loss by sworn statements in writing as shall be satisfactory to the commissioner. Upon the transfer of any aircraft by a manufacturer or dealer, for use within the state, whether by sale, lease or otherwise, such manufacturer or dealer shall, within seven days after such transfer, transmit the transferee's application for registration thereof and such manufacturer or dealer shall each month file with the commissioner a notice or report containing the date of such transfer, a description of such aircraft, and the name, street and number of residence, if in a city, and post office address of the transferee.

Subd. 8. Amendment, suspension, modification, revocation. All registrations and issue of number plates shall be subject to amendment, suspension, modification or revocation by the commissioner summarily for any violation of or neglect to comply with the provisions of this act. In any case where the proper registration of an aircraft is dependent upon procuring information entailing such delay as to unreasonably deprive the owner of the use of his aircraft, the commissioner may issue a tax receipt and plates conditionally. In any case when the commissioner for cause has revoked a registration, he shall have authority to demand the return of the number plates and registration certificate, and, if necessary, to seize the number plates issued for such registration.

Subd. 9. Defacement or destruction of number plates. In the event of the defacement, loss or destruction of any number plates the commissioner upon receiving and filing a sworn statement of the aircraft owner, setting forth the circumstances of the defacement, loss, destruction or theft of the number plates, together with any defaced plates and the payment of the fee of \$1 shall issue a new set of plates especially designed for that purpose. The commissioner shall then note on his records the issue of such new number plates and shall proceed in such manner as he may deem advisable to cancel and call in the original plates so as to insure against their use on another aircraft. Duplicate registration certificates plainly marked as duplicates may be issued in like cases upon the payment of a 25 cent fee.

[1945 c 411 s 9; 1949 c 161 s 7, 8, 9; 1957 c 146 s 2; 1957 c 147 s 1, 2; 1965 c 161 s 10, 11; 1969 c 929 s 1; 1969 c 1077 s 1]

360.595 PAYMENT OF CERTAIN TAXES PRIOR TO REGISTRATION AND LICENSING. Subdivision 1. No aircraft shall be registered or licensed in this state unless the applicant presents proof that the sales and use tax imposed by chapter 297A has been paid or that the aircraft is exempt from the imposition of the sales tax pursuant to that chapter.

Subd. 2. In the case of aircraft purchased from a dealer holding a valid sales

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and use tax permit provided for by chapter 297A, the applicant shall present proof that the sales tax has been paid to such dealer.

Subd. 3. In the case of an aircraft purchased from a person who is not the holder of a valid sales and use tax permit as provided in subdivision 2, the applicant shall present a certificate from the commissioner of revenue that the sales and use tax has been paid.

Subd. 4. In the case of transactions which are exempt under the provisions of chapter 297A, the applicant shall present a certificate from the commissioner of revenue that no sales or use tax is due and owing.

Subd. 5. The commissioner of aeronautics in conjunction with the commissioner of revenue may adopt regulations for the implementation of this section.

[1973 c 476 s 2; 1973 c 582 s 3]

360.60 DAMAGED AIRCRAFT; REGISTRATION REQUIREMENTS; ISSUANCE OF CERTIFICATE; FAILURE TO REGISTER; PENALTY. Subdivision 1. Every aircraft not exempted by sections 360.54 and 360.55 shall be registered as required by this act whether or not said aircraft is being used in the air space overlying the state of Minnesota or on the airports thereof. Aircraft which have become damaged, are unairworthy and not in flying condition and which have not in fact used the air space overlying the state of Minnesota or the airports thereof during the period January 1, 1966, to and including June 30, 1967, or during any fiscal year thereafter, shall not be subject to the tax provided by this act for such tax periods provided the owner of such aircraft shall with his application for registration file with the commissioner a signed statement describing the aircraft, its condition, and the reason for such aircraft not being in operating condition, and furnish such other information as may be necessary for the commissioner to determine that the aircraft is not in fact using the air space overlying the state of Minnesota or the airports thereof. Any false statement willfully and knowingly made in regard thereto shall be deemed a perjury and punished accordingly. Upon receipt of such application together with the statement required herein, the commissioner shall issue to such owner a certificate which shall state thereon that the tax has not been paid and that the aircraft shall not use the air space overlying the state of Minnesota or the airports thereof until the tax required by this act has been paid.

Subd. 2. Every aircraft owner who fails or neglects to register his aircraft as required by this act shall be guilty of a misdemeanor.

[1945 c 411 s 10; 1949 c 161 s 10, 11; 1965 c 161 s 12; 1969 c 929 s 2]

360.61 DUE DATE OF TAX; PENALTY. Subdivision 1. **First registration.** The tax required under sections 360.54 to 360.67 to be paid upon an aircraft is due as soon as such aircraft first uses the air space overlying the state of Minnesota or the airports thereof, in accordance with section 360.54, and shall become delinquent upon the expiration of 20 days thereafter, unless paid.

Subd. 2. **Renewal registration.** The tax for that period January 1, 1966, to and including June 30, 1967, and for each fiscal year thereafter, shall be due and payable July 1, and shall become delinquent upon the expiration of ten days thereafter unless paid.

Subd. 3. **Penalties.** Every owner or person charged with the duty to register an aircraft or pay any tax payable under the provisions of sections 360.511 to 360.67 who fails or delays to register such aircraft and pay such tax as required by the provisions of this act shall pay to the commissioner as an added fee for failure or delay in registering and paying the tax a penalty fee of \$2.50 for the first calendar month or any part thereof in which such failure or delay continues, plus a monthly penalty of five percent of the tax due and payable for the tax period for which the penalty is charged, such monthly penalty to be paid for the second calendar month or any part thereof and for each additional month thereafter or any part thereof in which such failure or delay continues; but in no event shall such total added fees and penalties for such failure or such delay exceed the sum of \$200 for the tax period for which the added fee or penalty is charged. When the last day for payment without penalty of any taxes shall fall upon Sunday or any legal holiday, such taxes may be paid without such penalty on the next succeeding business day.

[1945 c 411 s 11; 1957 c 146 s 1; 1963 c 97 s 1; 1963 c 112 s 1; 1965 c 161 s 13]

360.62 REFUND OF TAX. Except as provided herein the tax upon any aircraft which has been paid for any year, shall be refunded only for errors made in computing the tax or fees or for the error on the part of an owner who may in error have

registered an aircraft that was not before, nor at the time of such registration, nor at any time thereafter during the tax period, subject to such tax in this state, provided that after more than 24 months after such tax was paid no refund shall be made for any tax paid on any aircraft. Refunds as provided by sections 360.511 to 360.67 shall be made in the manner provided by Laws 1947, Chapter 416. The former owner of a transferred aircraft by an assignment in writing endorsed upon his registration certificate and delivered to the commissioner within the time provided herein may sell and assign to the new owner thereof the right to have the tax paid by him accredited to such new owner who duly registers such aircraft. Any owner whose aircraft shall be destroyed or permanently removed from the state shall be entitled to a refund for the unused portion of the tax paid upon the aircraft so destroyed or removed from the state, such refund to be computed pro rata by the month, and to be equal to the monthly tax rate multiplied by the number of full calendar months remaining in the fiscal year, or multiplied by the number of full calendar months remaining in that period between January 1, 1966, to and including June 30, 1967, whichever period is applicable.

In order to secure such refund, the aircraft owner shall submit a signed statement that such aircraft has either been sold out-of-state or destroyed, the date of such sale or destruction and such other information as the commissioner may require. Any false statement willfully and knowingly made in regard thereto shall be deemed a perjury and punished accordingly. No refund shall be made if application is not made within 12 months after the date the aircraft was sold out-of-state or destroyed.

[1945 c 411 s 12; 1949 c 161 s 12; 1963 c 188 s 1; 1965 c 161 s 14; 1969 c 929 s 3]

360.63 DEALERS LICENSE. Subdivision 1. Any person engaged in the business of selling, purchasing, or dealing in aircraft, new or used, and who desires to withhold aircraft owned by him from tax as provided in sections 360.511 to 360.67, may apply to the commissioner for an aircraft dealer's license. In order to qualify for an aircraft dealer's license the applicant shall show that he has an established place of business on an airport licensed as a public airport by the commissioner and that he has the necessary buildings, facilities and equipment for the proper storage and maintenance of aircraft in accordance with such rules and regulations as may be established by the commissioner. The commissioner may charge a fee of \$10 for each license which license shall be effective for one year from the date of its issuance or he may authorize an aircraft dealer to operate under a flight operator's license as otherwise provided by Minnesota Statutes 1945, Chapter 360 as amended. The commissioner is empowered to suspend or revoke any license issued by him when he shall determine that the holder thereof has violated any of the provisions of sections 360.511 to 360.67 or has failed to maintain any of the requirements necessary to obtain such license.

Subd. 2. Any licensed aircraft dealer may apply to the commissioner for one or more aircraft dealers plates. A charge of \$5 shall be made for each such plate. Any aircraft owned by said dealer may be used for the purpose of demonstration or for any purpose incident to the usual conduct and operation of his business as an aircraft dealer provided aircraft dealers plates are conspicuously attached to the aircraft when so used, and provided said aircraft has been first listed with the commissioner on an aircraft withholding form provided by him.

[1945 c 411 s 13; 1949 c 161 s 13; 1955 c 113 s 8]

360.64 TAXES PERSONAL OBLIGATION OF OWNER; LIEN OF TAX; ACTION FOR DELINQUENT TAXES; PROSECUTIONS. All taxes imposed under the provisions of this act shall be deemed the personal obligation of the aircraft owner and the amount of such tax, including added penalties for the non-payment thereof, shall be a first lien upon the aircraft taxed, paramount and superior to all other liens thereon whether previously or subsequently accruing thereon; and, in addition to any other remedy herein prescribed, the state shall have a right of action against the owner for the recovery of the amount of any delinquent tax thereon, including the penalties accruing because of the non-payment thereof, or for the enforcement of the tax lien thereon hereby declared, or both, in any court of competent jurisdiction. The county attorney of the county in which such aircraft is owned shall perform such service in the matter of the commencement and prosecution of such suit or in the prosecution of any other remedy for the enforcement of such tax as the attorney general may require.

[1945 c 411 s 14; 1949 c 161 s 14]

360.65 [Repealed, 1955 c 113 s 11]

360.651 MANUFACTURERS, LISTING OF AIRCRAFT. Subdivision 1. On July 1, 1955, every person, firm or corporation engaged in business as an aircraft manufacturer in the state of Minnesota shall list each aircraft in his possession, showing for each aircraft its United States registration number, model, horsepower, and date of completion. The listing shall be filed with the commissioner of aeronautics on or before July 15, 1955.

Subd. 2. On the first day of January, April, July, and October in each year, every manufacturer of aircraft in the state of Minnesota shall complete and file with the commissioner of aeronautics not later than fifteen days thereafter, a listing of all aircraft manufactured since his last report, showing for each such aircraft:

1. The United States registration number, model, and horsepower;
2. Its date of completion;
3. If it has been sold, the name and address of the purchaser and the date of the sale.

In addition, the listing shall include by United States registration number:

1. Aircraft which were manufactured in a previous quarter and are still in the possession of the manufacturer; and
2. Aircraft sold that were reported as completed aircraft in the possession of the manufacturer on his listing for the last quarter, and the name and address of the person to whom the aircraft was sold.

[1955 c 113 s 10]

360.653 AIRCRAFT, EXEMPTIONS. The following aircraft, under the conditions specified, shall be exempt from the registration and the tax provided by Minnesota Statutes, Sections 360.511 to 360.67.

(1) Any aircraft held by a dealer listed and used as provided in section 360.63, except that aircraft held by dealers on October 1, of each year, shall be registered and the entire tax provided by sections 360.511 to 360.67 shall be paid for the portion of the fiscal year, prorated on a monthly basis remaining after the aircraft came into the possession of the dealer. It is further provided that a dealer who has previously had aircraft on withholding may register such aircraft in September of each fiscal year by payment of an amount equal to $\frac{1}{3}$ of the annual tax, which tax shall be applicable for the months of September through December and in January the dealer may again list these aircraft on his withholding form.

(2) Aircraft remaining in the possession of aircraft manufacturers ten months after completion shall become subject to the tax provided by sections 360.511 to 360.67. The tax shall be computed from the expiration of the ten months period and shall be pro-rated on a monthly basis.

(3) Aircraft while in the hands of aircraft refitters for the purpose of being refitted or modified or both, and while being refitted or modified or both.
[1955 c 113 s 9; 1965 c 161 s 15; 1965 c 429 s 2]

360.654 AIRCRAFT DEALER'S COMMERCIAL USE PERMIT. Upon written application by a dealer licensed in accordance with section 360.63 and payment of a fee of \$20 for each aircraft identified in the application, the commissioner of revenue shall issue a commercial use permit which shall entitle the dealer to use the aircraft for commercial purposes without payment of the tax imposed by section 297A.02 or 297A.14 for a period of 12 months or until the aircraft is sold, whichever first occurs. Commercial purposes as used herein does not include rental or lease of the aircraft for which the aircraft dealers normally collect the sales tax from their customers. Applications shall be on forms prescribed and furnished by the commissioner of revenue and shall include the federal aircraft registration number of each aircraft for which a permit is to be issued. A permit shall be affixed to the dealer's license and shall be conspicuously displayed in the aircraft for which it was issued, which aircraft shall remain in the possession of or under the control of the licensed dealer to whom the permit was issued. The permit shall expire and the tax imposed by section 297A.02 or 297A.14 shall become due upon either sale of the aircraft by the dealer or expiration of the 12 month period. If the aircraft has not been sold within the 12 month period the tax is due on the purchase price of the aircraft and its auxiliary equipment to the dealer and the tax imposed by section 297A.02 shall become due on the

eventual sale of the aircraft. Laws 1971, Chapter 740 shall in no way apply to registration or taxation pursuant to sections 360.511 to 360.67.

[1971 c 740 s 1; 1973 c 582 s 3]

360.66 STATE AIRPORTS FUND. Subdivision 1. **Tax credited to fund.** The proceeds of the tax imposed on aircraft under sections 360.54 to 360.67 and all fees and penalties provided for therein shall be collected by the commissioner and paid into the state treasury and credited to the State Airports Fund created by other statutes of this state.

Subd. 2. **Reimbursements for expenses.** There shall be transferred by the commissioner of finance each year from the State Airports Fund to the general fund in the state treasury the amount expended from the latter fund for expenses of administering the provisions of sections 360.54 to 360.67.

[1945 c 411 s 16; 1969 c 399 s 49; 1973 c 492 s 14]

360.67 VIOLATIONS AND PENALTIES. Subdivision 1. Any person who, with intent to escape payment of any tax on an aircraft as provided in sections 360.54 to 360.67, delays or neglects to properly list and apply to register the same, or, with intent to prevent the payment or collection of the proper tax, fee, or lien thereon, violates or neglects to comply with any of the provisions thereof shall be guilty of a gross misdemeanor.

Subd. 2. Any person who uses, or causes to be used or operated, any aircraft in violation of the provisions of sections 360.54 to 360.67, or while a certificate of registration of an aircraft issued to him is suspended or revoked, or knowingly delivers an aircraft to another to be used or operated in violation of sections 360.54 to 360.67, or violates any of the provisions thereof, shall be guilty of a misdemeanor.

Subd. 3. Any person who sells, delivers or otherwise transfers ownership of an aircraft required to be registered as provided by sections 360.511 to 360.67 without having registered said aircraft as required by sections 360.511 to 360.67 shall be guilty of a misdemeanor.

Subd. 4. Any person who:

(1) Uses any number plates, label, or stamp or registration certificate upon or in connection with any aircraft except the one for which the same were duly issued, or upon any such aircraft after the certificate, plates, label, or stamp or the right to use the same have expired, or retains in his possession or fails to surrender as provided in sections 360.511 to 360.67 any such number plates, label, stamp, or registration certificate; or

(2) Displays, or causes to be displayed, or has in his possession any cancelled, revoked, suspended, or fraudulently obtained or stolen registration plates, label, or stamp; or

(3) Lends his registration plates, label, or stamp to any person or knowingly permits the use thereof by another; or

(4) Displays or represents as his own any registration plates, label, or stamp not issued to him, provided, this shall not apply to any legal change of ownership of the aircraft to which the plates, label, or stamp are attached; or

(5) Uses a false or fictitious name or address or description of the aircraft, engine number, or frame number in any application for registration of an aircraft or knowingly makes a false statement or knowingly conceals a material fact or otherwise commits a fraud in any such application; or

(6) Defaces or alters any registration certificate or number plates or retains the same in his possession after the same have been defaced or altered; shall be guilty of a misdemeanor.

[1945 c 411 s 17; 1949 c 161 s 15]

JOINTLY OWNED AIRPORTS

360.68 AIRPORTS JOINTLY OWNED BY MUNICIPALITIES. Any city of the second, third or fourth class, statutory city or county which now or hereafter owns a public airport licensed as such by the Minnesota Department of Aeronautics or any city of such class and a county acting jointly in the ownership of a public airport so licensed may issue and sell revenue certificates to provide the money for the construction or purchase of hangars, repair shops and other buildings on the airport site designed for the repair, reconstruction, servicing and storage of

aeroplanes when authorized to do so by an ordinance or resolution adopted by a vote of sixty per cent of the members of the governing body of the municipality and in the case of joint ownership of a public airport by a city and county then by an ordinance or resolution adopted by a vote of 60 percent of the governing body of each. At or before the time that any such revenue certificates are issued the governing body or bodies as the case may be shall by ordinance or resolution establish an airport building revenue certificate fund into which the proceeds from the sale of such certificates shall be placed and any revenue certificates issued under the provisions of sections 360.68 to 360.73 shall be payable solely from and constitute an obligation only of such fund and shall not constitute an indebtedness of the issuing city or county under any applicable law or charter provision, but shall confer on the holder all other rights of a holder of a negotiable instrument. In any case where a municipality has a commission or board or where a county and city have entered into an agreement for joint ownership and maintenance of a public airport and have created a commission or board having any control over the public airport where such hangar, shop or other building is to be erected, no airport building revenue certificate fund shall be established and no revenue certificates issued under sections 360.68 to 360.73 unless such commission or board shall also by resolution adopted by a vote of three-fourths of the membership of such commission or board also approve such establishment and issuance.

[1949 c 590 s 1; 1973 c 123 art 5 s 7]

360.69 INSURANCE. Any hangar, shop or other building constructed or purchased with funds received from the sale of such revenue certificates shall be kept insured against loss by fire and windstorm in stock insurance companies licensed to write insurance in Minnesota to the amount of the outstanding revenue certificates if such amount is obtainable and if not obtainable then to the full amount obtainable. The premiums for such insurance and the cost of repairing and maintaining such hangar, shop and other building may be paid from such fund and such fund shall be used to pay the interest on and the principal of such airport building revenue certificates and for no other purpose. In case of loss covered by such insurance the proceeds received from insurers named in the policies shall be paid into the airport building revenue certificate fund and may be used either to rebuild the building destroyed or to repair the same or to pay and retire such certificates and for no other purpose as long as there are any unpaid certificates.

[1949 c 590 s 2]

360.70 RENTALS. All rentals received for the use of such hangar, shop or other building and all earnings realized by the municipality or municipality and county as the case may be by reason of operations carried on in such hangar, shop or other building shall be paid into the airport building revenue fund. In determining earnings realized no deduction shall be made by reason of the salary paid to the manager of the airport and no airport maintenance or operational expense shall be deducted from the income received from operations carried on in such hangar, shop or other building. In addition all net income realized by the municipality or the municipality and the county from the business of selling aviation gasoline and oil at the airport and all gross income received by reason of granting to others the right to sell aviation gasoline and oil to the public at the airport shall be paid into the airport building revenue fund as long as there are any revenue certificates unpaid.

[1949 c 590 s 3]

360.71 REVENUE CERTIFICATES. Such revenue certificates shall bear such date, mature at such times, bear such rates of interest not exceeding five per cent per annum and be sold at such times and under such terms as the governing body or governing bodies as the case may be may deem to be for the best interests of the municipality. Such certificates shall not be sold for less than face value. The total face amount unpaid and outstanding shall not exceed at any time \$3 for each person residing in the municipality or \$3 for each person residing in the county in the case of joint ownership by a city and county all according to the last official census.

[1949 c 590 s 4]

360.72 REFUND CERTIFICATES. After such revenue certificates are issued, the governing body shall have power to issue refunding revenue certificates when

the funds on hand in such airport building revenue certificate fund are not sufficient to meet any maturing revenue certificates or interest or to refund such revenue certificates at their optional or callable dates where such certificates when issued are made optional or callable at some time prior to their maturity date. The issuance of such refunding revenue certificates shall be authorized by a resolution of the governing body or governing bodies and shall constitute the same charge or lien on the airport building revenue fund as did the certificates refunded.

[1949 c 590 s 5]

360.73 CHARTER NOT TO AFFECT. No provision of any existing law or special or home rule charter shall be deemed or construed to impair, curtail or limit in amount, form or manner the power to authorize and issue revenue certificates as herein provided and the revenue certificates herein authorized shall not be included in computing the net indebtedness of such municipality or county under any applicable law or charter.

[1949 c 590 s 6]

DEVELOPMENT OF MAJOR AIRPORT

360.74 NEW MAJOR AIRPORT; AIRPORT DEVELOPMENT AREA. Subdivision 1. **Metropolitan council; land use criteria and guidelines.** Within 120 days after the selection by the commission of a site in the metropolitan area for a new major airport to serve as a terminal for regular, scheduled air passenger service and the approval thereof by the metropolitan council, the council shall adopt criteria and guidelines for the regulation of use and development of all or a portion of the property in the metropolitan area extending out three miles from the proposed boundaries of the site, or out five miles from the boundaries in any direction the council determines is necessary to protect natural resources of the metropolitan area, which property shall be known as an airport development area. The criteria and guidelines shall establish the boundaries of the airport development area and shall include a statement of goals and policies to be accomplished by regulation of the use and development of property in the area. They may relate to all types of land use and development control measures, including zoning ordinances, building codes, subdivision regulations, and official maps. The criteria and guidelines shall encourage controls for the use and development of property and the planning of public facilities for the purposes of protecting inhabitants of the airport development area from aircraft noise and preserving natural underground water reservoirs and other natural resources of the metropolitan area, and such purposes are hereby declared to be public purposes upon which land use and development control measures adopted by any government unit pursuant to law may be based. The criteria and guidelines shall be a part of the metropolitan development guide when it is adopted, and a copy of the criteria and guidelines and any amendment thereto shall be mailed to the governing body of each government unit having authority to adopt land use and development control measures applicable to the airport development area under sections 360.061 to 360.073, chapter 394, or chapter 462, or any other law, to the commission, and to the state commissioner of aeronautics. The council may amend the criteria and guidelines from time to time, and shall reestablish the airport development area whenever the airport site boundaries are altered.

Subd. 2. **Local zoning and land use and development controls.** Upon the selection and approval of a site for a new major airport in the metropolitan area, all land within its airport development area which is not then zoned for other use is zoned for use exclusively for agricultural purposes, except that a prior nonconforming use established with reference to any lot or parcel of land may be continued and all land zoned by this subdivision for agricultural purposes may be rezoned by the appropriate government unit upon compliance with this subdivision. Thereafter the governing body of each government unit proposing to adopt a land use and development control measure applicable to the airport development area, or any amendment thereto, shall submit it to the metropolitan council for review, and within 120 days after receipt of the council's criteria and guidelines shall make and submit to the council for review such changes in its existing land use and development control measures as it deems necessary to make them consistent with the criteria and guidelines. The council or a committee designated by it shall hold a hearing on the control measures submitted by each government unit within 60 days after they are submitted, on written notice mailed to the governing body of the government unit not less than 15 days before the hearing. At the hearing the government unit

shall be allowed to present all data and information which support the control measures submitted to the council. The council shall approve each such measure or amendment within 120 days after it is received, with such changes as it deems necessary to make it consistent with the criteria and guidelines, and the government unit submitting it shall take all actions necessary to put it into effect within 60 days after it is approved. If the council amends its criteria and guidelines, the procedures set forth in this subdivision shall be followed to insure that applicable land use and development control measures are consistent with the amendment.

Subd. 3. Enforcement of local measures. After the selection and approval of a site for a new major airport in the metropolitan area, no public or private use contrary to subdivision 2 or any land use and development control measure then in effect shall be made of the property to which it applies within an airport development area, and no government unit shall issue a permit for the use, construction, alteration or planting of any property, building, structure or tree not in accordance with its general provisions, except for minor footage variances, until the council has approved changes or variances in such control measure pursuant to subdivision 2. After the council has approved a land use and development control measure pursuant to subdivision 2, no public or private use contrary to its provisions shall be made of the property to which it applies, and no government unit shall issue a permit for the use, construction, alteration or planting of any property, building, structure or tree not in accordance with its general provisions; and no special use permit or variance may be granted which authorizes a use or development which is contrary to the council's criteria and guidelines.

Subd. 4. Control measure review before site selection. After the commission has called a hearing for the selection of a site for a new major airport in the metropolitan area pursuant to section 360.124, and until the commission has determined not to use the site described in the notice of hearing for a new major airport, the governing body of each government unit in the metropolitan area shall submit to the council for review and comment in accordance with and submit to the provisions of section 473B.06, subdivision 7, any land use and development control measure applicable to or proposed for the site described in the notice of hearing or to any property within five miles thereof, and any proposed amendment or variance thereto. During the period described above, no government unit shall construct a public building or facility on the proposed airport site or within five miles thereof until it has submitted its plan therefor to the metropolitan council for review and comment as provided in this subdivision.

[1969 c 1111 s 1]

360.75 AIRCRAFT NOISE ZONES. Within 120 days after the selection and approval of a site for a new major airport in the metropolitan area, the metropolitan council shall determine the probable levels of noise which will result in various parts of the metropolitan area from the operation of aircraft using the site, shall establish aircraft noise zones based thereon applicable to property affected by such noise, and shall establish acceptable levels of perceived noise decibels for each land use, using the composite noise rating method and tables or the noise exposure forecast method and tables. Each government unit having power to adopt land use and development control measures applicable to property included in any aircraft noise zone, shall adopt or incorporate in existing land use and development control measures the applicable acceptable level of perceived noise decibels established by the council, and shall adopt such other control measures as may be necessary to prevent the use, construction or improvement of property and buildings under its jurisdiction so that persons using the property and buildings are subjected to a level of perceived noise decibels in excess of the acceptable level established for that land use. A map showing the aircraft noise zones and a copy of the applicable acceptable levels of perceived noise decibels shall be mailed to the governing body of each government unit having authority to adopt land use and development control measures applicable to property in each aircraft noise zone, to the commission, and to the state commissioner of aeronautics. The control measures adopted by a government unit to comply with this section shall be submitted to and reviewed, changed and approved by the council, and placed into effect by the government unit, in the manner prescribed in section 360.74, subdivision 2. The council may make changes in the aircraft noise zones and the applicable acceptable levels of perceived noise decibels to conform with the actual levels of noise produced by aircraft using the airport site when it is in operation, and may require changes in control measures

applicable to airport noise zones to conform with changes made by it. No property shall be used, and no building or other structure shall be constructed or improved, within any aircraft noise zone, so that persons using the property and buildings are subjected to a level of perceived noise decibels in excess of the acceptable level established by the council for that land use.

[1969 c 1111 s 2]

360.76 CONTROL MEASURE INVOLVING TAKING; CONDEMNATION BY COMMISSION. Subdivision 1. If either the provisions or the application of section 360.74, subdivision 2, or any land use and development control measure applicable to public or private property in an airport development area is determined by a court of competent jurisdiction to constitute a taking, the commission in the exercise of its power to acquire lands for the airport shall have the power to acquire the property or any similar property or to acquire an interest therein to the extent needed for the application of such measure, by eminent domain exercised in accordance with chapter 117. The right of eminent domain shall be exercised if the commission has or will have funds to pay the condemnation award and the council determines that it is necessary to protect the airport from encroachment or hazards, or to protect residents in the area, or to encourage the most appropriate use of property in the airport development area, or to protect and conserve the natural resources of the metropolitan area.

Subd. 2. The commission may retain any property now owned by it or acquired pursuant to subdivision 1 and use it for a lawful purpose, or it may provide for the sale or other disposition of the property in accordance with a redevelopment plan in the same manner and upon the same terms as the housing and redevelopment authority and governing body of a municipality under the provisions of section 462.525, all subject to the provisions of section 360.74, subdivision 2, or existing land use and development control measures approved by the council.

Subd. 3. The commission and any other government unit in the metropolitan area may enter into an agreement whereby the cost of acquiring any property and the proceeds from the sale or other disposition thereof pursuant to subdivision 2 are to be shared by the commission and such government unit. The commission, the metropolitan council, or any government unit may also enter into any agreements with the United States or the state of Minnesota, or any agency or subdivision thereof, and do all acts and things required by state or federal law or regulations as a condition or consideration, for the loan or grant of funds or property for the purpose of land acquisition or improvement pursuant to subdivisions 1 and 2.

[1969 c 1111 s 3]

360.77 RELATION TO AIRPORT HAZARD ZONING. Sections 360.74 and 360.75 and any criteria, guidelines or land use and development control measure approved by the council pursuant thereto shall in no way supersede or limit the powers conferred on a municipality to do airport hazard zoning or the commissioner of aeronautics by sections 360.061 to 360.073, and shall be consistent with any exercise of such powers by the commissioner.

[1969 c 1111 s 4]

360.78 GOVERNMENT UNITS IN AIRPORT DEVELOPMENT AREA; TAX SHARING. The legislature determines that the location of a new major airport in the metropolitan area will increase the value and rate of development of land in the airport development area; that the airport development area may comprise property located in several government units; that the exercise of the powers and duties conferred on government units by sections 360.74 to 360.76 to control development of land in an airport development area may result in greater development of such land within one government unit than another; that the control of such development will be of benefit to the entire airport development area; and that the assessed value of taxable property and the tax resources in the government unit where the most development takes place may be significantly greater than in other government units in the area. Therefore, to encourage the protection of inhabitants of the area and natural resources of the metropolitan area, to increase the likelihood of orderly development in an airport development area, and to provide a way for all government units in the area to share in the tax resources generated by growth of the area, the governing bodies of all government units located wholly or partly in an airport development area shall jointly study and decide upon a plan for the sharing of property tax revenues derived from property located in an airport development

area. If 80 percent of the government units having territory within the airport development area agree upon a plan, such plan shall be put into effect and all government units shall enter into such agreements as may be necessary for this purpose, provided that the plan shall not impair the existing contract obligations of any government unit. This section shall not apply to the commission or the council.

[1969 c 1111 s 5]

360.79 DEFINITIONS. Subdivision 1. For the purposes of sections 360.74 to 360.80 the terms defined in this section have the meanings given them.

Subd. 2. "Commission" means the Minneapolis-Saint Paul metropolitan airports commission.

Subd. 3. "Government unit" means any county, city, town, council, commission or school district.

Subd. 4. "Metropolitan area" means the area of the counties of Anoka, Carver, Dakota, Hennepin, Ramsey, Scott and Washington.

[1969 c 1111 s 6; 1973 c 123 art 5 s 7]

360.80 SELECTION OF AIRPORT SITE. Notwithstanding any provisions of sections 360.101 to 360.144, or any other law to the contrary, the commission may select a site and exercise the powers, control and jurisdiction granted it by law at any place or over any other airport within 35 miles of the city hall of either city as defined in section 360.102, subdivision 9.

[1969 c 1111 s 7]

REGULATION OF STRUCTURE HEIGHTS

360.81 PURPOSE. The safety, welfare, and protection of persons and property in the air and on the ground and of the maintenance of electronic communications within this state require that the navigable airspace overlying the state and the approaches to and the air traffic pattern area of any public airport in this state be maintained in a reasonably unobstructed condition for the safe flight of aircraft. To that end, the location, height, and identification of structures and the use of land thereto related, are regulated.

[1959 c 387 s 1]

360.82 DEFINITIONS. As used in sections 360.81 to 360.91, unless the context otherwise requires:

"Permit" means a permit issued by the commissioner of aeronautics under the provisions of sections 360.81 to 360.91.

"Airport reference point" is a point selected and marked at the approximate geometric center of the airport landing area.

"Public airport" means any area of land which is either licensed as a public use airport by the commissioner of aeronautics or is operated by a metropolitan airports commission as a public use airport.

[1959 c 387 s 2]

360.83 PERMITS, NECESSITY. Subdivision 1. Until a permit therefor has been issued by the commissioner, no person shall erect, or add to the height of any structure at any place in this state which will result in a structure extending more than 500 feet above the highest point of land within a one-mile radius from the structure, except when allowed under subdivisions 2 or 3 of this section.

Subd. 2. In territory surrounding public airports for which zoning regulations have not been adopted pursuant to Minnesota Statutes, Sections 360.061 to 360.074, no person may erect, or add to the height of any structure which will result in an obstruction to air navigation as defined by rules of the commissioner of aeronautics, until a permit therefor has been issued by the commissioner. In accordance with Minnesota Statutes, Section 360.015, Subdivision 4, these rules of the commissioner must be kept in conformity with federal legislation and federal rules and standards. The commissioner may designate the airport reference point for all airports affected by this subdivision.

Subd. 3. In territory for which zoning regulations have been adopted pursuant to Minnesota Statutes, Sections 360.061 to 360.074, no permit from the commissioner is required. Regulations effective on the effective date of Laws 1959, Chapter 387, or which become effective subsequent to that date shall control the erection, addition to the height of, or replacement of a structure. No person may erect, add

to the height of, or replace any structure except as allowed by those zoning regulations.

Subd. 4. Under subdivisions 1 and 2 of this section, the commissioner may issue a permit for a structure which will be located with respect to natural formations or other objects of a permanent character so that no material increase in the aeronautical hazard results therefrom. He shall issue permits where a literal application or enforcement of the regulations would result in practical difficulty or unnecessary hardship and the relief granted would not be contrary to the public interest but do substantial justice and be in accordance with the spirit of the rules and Minnesota Statutes, Sections 360.011 to 360.074.

Subd. 5. No permit is required for structures existing or authorized by an agency of the federal government prior to the effective date of Laws 1959, Chapter 387. No change in the rules of the commissioner and no relocation or alteration of an airport imposes a new restriction on any structure existing or authorized by an agency of the federal government at the time of the change, relocation or alteration.

[1959 c 387 s 3]

360.84 HEIGHT LIMITATIONS; EXCEPTIONS. No permit shall be issued to erect, or add to the height of any structure which will extend more than 1000 feet above the highest point of land within a one-mile radius from the location of the structure, except as hereinafter provided, or shall any person erect, or add to the height of any structure for which a permit is required that exceeds the height allowed by the permit.

The commissioner may issue a permit to erect or add to a structure which will extend to a height of more than 1000 feet above the highest point of land within a one-mile radius from the location of the structure proposed to be erected or added to if such proposed structure will not be higher than 50 feet above the height of the highest structure in existence on the effective date of Laws 1959, Chapter 387 which is within a distance of one mile from the location of the structure proposed to be erected or added to.

Sections 360.81 to 360.91 do not apply to a structure for which an erection permit is required by the federal government.

[1959 c 387 s 4]

360.85 INTEREST OF APPLICANT FOR PERMIT. It is not necessary that ownership of, option for, or other possessory right to a specific location site be held by the applicant before application for a permit is filed with the commissioner but any permit granted by the commissioner shall, among other things, state the specific location and also the maximum height allowed for the structure.

[1959 c 387 s 5]

360.86 VISUAL OR AURAL IDENTIFICATION. Every permit granted shall also specify what, if any, obstruction markers, markings, lighting, or other visual or aural identification shall be installed on or in the vicinity of the structure. Such identification characteristics required shall conform to federal laws and regulations where applicable; however, a higher standard of identification may be required under sections 360.81 to 360.91.

[1959 c 387 s 6]

360.87 INVESTIGATION; DETERMINATION; NOTICE; HEARING. Upon receiving an application for a permit the commissioner shall make such investigation as may be necessary to process the application properly under sections 360.81 to 360.91.

If, upon such investigation, the commissioner determines that a permit should not be issued or that the height or location should be other than as applied for, the commissioner shall thereupon notify the applicant in writing of his determination. Such notification may be served by delivering it personally to the applicant or by sending it first class mail to the applicant at the address specified in the application. Such determination shall become final 20 days after notification thereof is served unless the applicant, within such 20-day period, requests in writing that a hearing be held before the commissioner with reference to the application. All such hearings shall be open to the public. Any person interested may appear and be heard either in person or by counsel and may present such evidence and testimony as may be pertinent.

[1959 c 387 s 7]

360.88 FAILURE TO FILE FOR PERMIT; COMMISSIONER'S ACTION. In any instance where the commissioner learns or has reasonable grounds to believe that any person is erecting or adding to a structure that would be subject to the provisions of sections 360.81 to 360.91 for which an application for a permit has not been filed, he may on his own motion issue an order to such person to appear before him and show cause why an application for a permit to erect or add to the structure need not be obtained. A date for a hearing thereon shall be set out in such order.

[1959 c 387 s 8]

360.89 ENFORCEMENT. In addition to any other remedy, the commissioner may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of the provisions of sections 360.81 to 360.91 or of any rules, regulations, or orders of the commissioner issued pursuant thereto. The court may grant such relief, by way of injunction or otherwise, as may be necessary under sections 360.81 to 360.91 and the rules, regulations, and orders of the commissioner issued pursuant thereto.

[1959 c 387 s 9]

360.90 RULES AND REGULATIONS; FORMS. The commissioner shall adopt and promulgate, and may from time to time amend or rescind, reasonable rules and regulations for the administration of sections 360.81 to 360.91. The commissioner shall prescribe and furnish forms necessary for the administration of sections 360.81 to 360.91.

[1959 c 387 s 10]

360.91 VIOLATIONS. Whoever violates or fails to comply with the provisions of sections 360.81 to 360.91 shall be guilty of a misdemeanor, and each day a violation continues to exist shall constitute a separate offense.

[1959 c 387 s 11; 1971 c 23 s 26]