

CHAPTER 303—H. F. No. 521.

An act relating to aeronautics, the powers and duties of the commissioner of aeronautics, and the regulation of aircraft, airmen, airports, and air instruction; establishing an airports fund; authorizing the receipt of federal aid for the state and municipalities thereof; providing for the acquisition, construction, operation, and regulation of airports, other air navigation facilities, and airport protection privileges by the state and by municipalities acting separately or jointly with other municipalities or with the state, declaring the public, governmental, and municipal character of such functions, and providing for the issuance of bonds and for the levying of taxes for the purposes thereof; providing for zoning for airport purposes; defining the rights and liabilities of owners of aircraft and persons affected by the operation of aircraft; defining aeronautics offenses; prescribing penalties; and to make uniform the law with reference to state development and regulation of aeronautics and with reference to public airports; amending Laws 1943, Chapter 653, Section 1; and repealing Laws 1943, Chapter 653, Sections 3 to 19, inclusive.

(STATE AERONAUTIC DEPARTMENT ACT)

Be it enacted by the Legislature of the State of Minnesota :

Section 1. **Definitions.** Laws 1943, Chapter 653, Section 1, is amended to read as follows :

360.011. 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 flying*" means the carriage by aircraft of persons or property for compensation or hire, or the operation or navigation of aircraft in the conduct or furtherance of a business or vocation.

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, 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 University of Minnesota 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 University of Minnesota 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, a village, or a borough in this state, 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.*

Sec. 2. Declaration. It is hereby declared that the purpose of this act 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.

Sec. 3. 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 this act, 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 this act. 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 this act, as he shall deem necessary to carry out the provisions of this act, and to perform his duties hereunder: 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 any powers specifically granted to metropolitan airports commissions by Laws 1943, Chapter 500, Section 7, Subdivisions 1 through 17.

Subd. 4. Conformity with federal rules. All rules and regulations prescribed by the commissioner under the authority of this act 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, expend, 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. 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 legislation 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 this act 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 this act 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 this act 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 this act, 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. 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 therefore 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 this act 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 this act 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 under the supervision of the commissioner, except projects constructed by metropolitan airports commissions organized pursuant to the provisions of Minnesota Statutes 1941, Sections 360.331 to 360.531, inclusive.

Subd. 14. Contracts. He may enter into any contracts necessary to the execution of the powers granted him by this act.

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 this act.

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.

(b) By mailing copies thereof to all owners and operators or managers of airports or restricted landing areas licensed in the state and to all air schools and aeronautics instructors 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 December 31 each year the commissioner shall make to the governor a full report of the proceedings of the department for the preceding year, and a biennial report shall be made to each legislature that convenes in regular session within ten days after it first convenes, and with such reports the commissioner may submit such recommendations pertaining to the affairs of the department as seem to him to be desirable.

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 public examiner, 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 public examiner 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.

Sec. 4. 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 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 federal moneys and other moneys, either public or private, for and in behalf of this state, or any municipality thereof, for the 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, and he is authorized to act as agent of any municipality of this state, upon the request of such municipality, in accepting, receiving, and receipting for such moneys in its behalf for airports or other air navigation facility purposes and in contracting for the acquisition, construction, improvement, maintenance, or operation of airports or other air navigation facilities financed either in whole or in part by federal

moneys, and the governing body of any such municipality is authorized to designate the commissioner as its agent for such purposes and to enter into an agreement with him prescribing the terms and conditions of such agency in accordance with federal laws, rules, and regulations and with this act. Such moneys as are paid over by the United States Government shall be retained by the state or paid over to said municipalities under such terms and conditions as may be imposed by the United States Government in making such grants.

Subd. 3. Contracts; law governing. All contracts for the 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, however, that, where the 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 of this section 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 this act. The commissioner is authorized, whether acting for this state or as the agent of any of its municipalities, or when requested by the United States Government or any agency or department thereof, to disburse such moneys for the designated purposes, but this shall not preclude any other authorized method of disbursement.

Sec. 5. State airports fund created. 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.

Sec. 6. Regulation of aircraft, airmen, airports, and air instruction. 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 this act requiring that the commissioner should be enabled to exercise the powers of supervision herein 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, of airmen engaged in aeronautics within this state, and of aeronautics instructors giving instruction in flying subjects (including renewals), and to issue certificates of such registration. Such certificates of registration shall constitute licenses of such aircraft, airmen, and instructors for operations within this state to the extent permitted by the federal licenses, certificates, or permits so registered. He may charge a fee for the registration of each federal license, certificate, or permit not exceeding \$1.00. He may accept as evidence of the holding of a federal license, certificate, or permit the verified application of the owner of the aircraft, the airman, or the instructor, which application shall contain such information as the commissioner may by rule, regulation, or order prescribe. Each application for registration must be made within 30 days from the date of the issuance of the federal license, permit, or certificate or renewal thereof to be registered, or if the owner, airman, or instructor is not a resident of this state on the date of the issuance of such federal license, permit, certificate or renewal, within 30 days after he becomes such resident.

(2) To license the operation of air schools and aeronautics instructors giving instruction in ground subjects in accordance with rules and regulations to be adopted by the commissioner and to annually renew such licenses. He may charge for the original licensing of an air school not more than \$10.00, and for the renewal of any such license not more than \$10.00, and for the original licensing of an aeronautics instructor not more than \$2.00, and for each renewal of such license not more than \$2.00.

(3) 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 annually renew such licenses. Licenses granted under this subdivision or under any prior law shall be annually renewed 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 the requirement 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 \$10.00 and for each annual renewal of such license not to exceed \$10.00, based on classifications made by the commissioner.

(4) To suspend or revoke any license or certificate of registration of an aircraft, airman, air school, or aeronautics instructor, 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 airman, air school, or aeronautics instructor is not qualified, has willfully violated the provisions of this act, 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 con-

duct, 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 from the commissioner an effective certificate of registration of 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 paragraph (1) of Subdivision 1 and Subdivision 2 of this section 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 airman operating military or public aircraft, or any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of such licensed aircraft;

(5) 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;

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

(7) 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 or certificate unlawful.** It shall be unlawful for any person to operate an air school or to act as an aeronautics instructor in this state unless such person, if an air school or aeronautics instructor in ground subjects, is the holder of an annual license issued by the commissioner or, if an aeronautics instructor in flying subjects, has an appropriate effective license, certificate, or permit issued by the United States Government authorizing him to engage in the particular class of flight instruction in which he is engaged, which has been registered with the commissioner, and such registration with the commissioner is in full force and effect.

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 twice, the first publication to be 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.

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; personal 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.

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 this act and the rules and regulations lawfully promulgated pursuant thereto.

Subd. 11. Examination of premises. To carry out the provisions of this act the commissioner, his assistant, the employees of the department, and any officers, state or municipal, charged with the duty of enforcing this act 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.

Sec. 7. Orders of commission; 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 this act shall be served upon the interested persons by registered mail or in person.

Subd. 2. Review by certiorari. Any person aggrieved by an order of the commissioner or by the granting or denial of any license, certificate, or registration may have the action of

the commissioner reviewed by certiorari in the District Court of Ramsey County.

Sec. 8. Acquisition and operation of state airports. 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, however, 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 this act, 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.

Sec. 9. Penalties. Any person violating any of the provisions of section 6, or any of the rules, regulations, or orders issued pursuant to the provisions of section 3, shall be guilty of a misdemeanor, punishable by a fine of not more than \$100 or by imprisonment of not more than 90 days, or both, and each such violation, or in the case of continuing offenses each day's violation, shall constitute a separate offense.

(REVISED UNIFORM AIRPORTS ACT)

Sec. 10. Definitions. For the purposes of sections 10 to 23, inclusive (except section 20), only, "municipality" means any county, city, village, town, or borough of this state.

Sec. 11. 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, however, 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 avail-

able 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. Any title to real property so acquired shall be in fee simple, absolute and unqualified in any way. The fact that the property needed has been acquired by the owner under power of eminent domain 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 in 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.

Sec. 12. 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, establishment, 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 this act 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. Tort action denied. No action or suit sounding in tort shall be brought or maintained against the state, any municipality, or the officers, agents, servants, or employees thereof, on account of any act done in or about the construction, enlargement, improvement, maintenance, operation, regulation, superintendence, or management of any airport or other air navigation facility.

Sec. 13. 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.

Sec. 14. Exemption from taxation. Any property acquired or used by a municipality pursuant to the provisions of this act shall be exempt from taxation to the same extent as other property used for public purposes.

Sec. 15. Purchase price; costs 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 this act 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 this act 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 this act 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 this act 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.

Sec. 16. 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 this act 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 this act. 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 this act, 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.

Sec. 17. Specific powers of municipalities. Subdivision 1. **Acquisition of property.** In addition to the general powers in this act 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, regula-

tions, 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 this act 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 30 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 this act, space, area, improvements, or equipment on such airports; 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 or 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.

Sec. 18. Federal aid. Subdivision 1. Acceptance of aid. A municipality is authorized to accept, receive, and receipt for federal moneys, and other moneys, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports and other air navigation facilities and site therefor and to comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys upon such airports and other air navigation facilities.

Subd. 2. Commissioner to be financial agent. The governing body of any municipality is authorized to designate the commissioner as its agent to accept; receive and receipt for federal moneys in its behalf for airport purposes and to contract for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of such airports, or other air navigation facilities, and may enter into

an agreement with such commissioner prescribing the terms and conditions of such agency in accordance with federal laws, rules, and regulations and applicable laws of this state. Such moneys as are paid over by the United States Government shall be paid over to said municipality under such terms and conditions as may be imposed by the United States Government in making such grant.

Subd. 3. Contracts made pursuant to law. All contracts for the 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 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.

Sec. 19. 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.

Sec. 20. Joint operations. **Subdivision 1. Municipalities may act jointly.** All powers, rights, and authority granted to any municipality in this act 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 this act, 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 compensate, 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 this act, 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 subdivision 3 of section 17 of this act 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 subdivision 4 of section 17 of this act.

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 subdivision 3 of section 17 of this act 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 subdivision 3 of section 17, aforesaid, 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 subdivision 2 of section 11 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 this act, 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 subdivision 3 of section 16 of this act; 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.

Sec. 21. 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 this act, 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.

Sec. 22. Counties; authority specifically granted. Subdivision 1. The purposes of this act are specifically declared to be county purposes as well as generally public, governmental, and municipal.

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

Sec. 23. 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 this act, 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 situate 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 subdivision 3 of section 17 of this act.

(AIRPORT ZONING ACT)

Sec. 24. Definitions. Subdivision 1. For the purposes of sections 24 to 36, inclusive:

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.

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

Sec. 25. 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 re-

duces 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 therefore 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.

Sec. 26. Zoning regulations. Subdivision 1. **Enforcement under police power.** 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, such power to be exercised by metropolitan airports commissions in contiguous cities of the first class in and for which they have been created.

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 of this section.

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 of this section, or if that county refuses to join in creating a joint airport zoning board as authorized in subdivision 3 of this section, 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 this act 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 in this act provided for 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 in this act granted 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 34

Sec. 27. 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 this act 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.

Sec. 28. Procedure for adoption. Subdivision 1. **Notice and hearing.** No airport zoning regulations shall be adopted, amended, or changed under this act except by action of the governing body of the municipality or county in question, or the joint board provided for in section 26, subdivision 3, 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 this act, 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.

Sec. 29. Zoning requirements. Subdivision 1. **Reasonableness.** All airport zoning regulations adopted under this act shall be reasonable, and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this act. 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. **Non-conforming uses.** No airport zoning regulations adopted under this act 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 non-conforming use, except as provided in section 30.

Sec. 30. Permits and variances. Subdivision 1. **Permits.** (1) Any airport zoning regulations adopted under this act 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, however, 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 per cent 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 per cent 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 this act, 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 this act; 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 this act, 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.

Sec. 31. 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 this act, 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 this act, 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.

Sec. 32. Administration of airport zoning regulations. All airport zoning regulations adopted under this act 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 this act shall include that of hearing and deciding all permits under section 30, subdivision 1, but such agency shall not have or exercise any of the powers herein delegated to the board of adjustment.

Sec. 33. Board of adjustment. Subdivision 1. Powers. All airport zoning regulations adopted under this act 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 31.

(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 30, 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 members of the commission, and the fifth member shall be chosen by a majority of those four members.

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.

Sec. 34. 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 this section 26, 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 this act, 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 30 and 31 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 this act, 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.

Sec. 35. Violation and penalty. 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 pro-

visions of section 30 of this act or who, having been granted a permit or variance under the provisions of said section 30, 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 26 shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$100 or imprisonment for not more than 90 days or by both such fine and imprisonment, and each day a violation continues to exist shall constitute a separate offense. In addition, the municipality, county, or commissioner adopting zoning regulations under this act may institute in any court of competent jurisdiction an action to prevent, restrain, correct, or abate any violation of this act, or of airport zoning regulations adopted under this act, 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 this act and of the regulations adopted and orders and rulings made pursuant thereto.

Sec. 36. 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 this act; 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 11, 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 this act.

Sec. 37. Violations; penalties. Subdivision 1. 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

(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) tampers 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 this act 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, be-

ing 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) of this subdivision; 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 level as to endanger persons on the surface beneath, or drops any object except loose water or loose sand ballast, 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; or

(16) 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. 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. Any person who, by operating an aircraft in a reckless or grossly negligent manner, causes a human being to be killed, under circumstances not constituting murder in the first, second, or third degree, or manslaughter in the first

or second degree, is guilty of criminal negligence in the operation of an aircraft, resulting in death.

Subd. 4. A person convicted of the crime defined in subdivision 3 of this section shall be punished by imprisonment in a state penal institution for a term not exceeding five years or in the workhouse or county jail for not more than one year, or by a fine of not more than \$1,000, or by both a fine and imprisonment in a state penal institution or a fine and imprisonment in the workhouse or county jail.

Sec. 38. **Repeal.** Laws 1943, Chapter 653, Sections 3 to 19, inclusive, are hereby repealed.

Approved April 16, 1945

CHAPTER 304—H. F. No. 537

An act establishing area vocational-technical schools, providing for apportionment and distribution of funds in aid thereof, and establishing standards for administration.

Be it enacted by the Legislature of the State of Minnesota:

Section 1. **Purpose.** It is the purpose of this act to more nearly equalize the educational opportunities in certain phases of vocational-technical education to persons of the state who are of the age and maturity to profitably pursue training for a specific occupation.

Sec. 2. **Designation of area.** The Commissioner of Education, with the approval of the State Board for Vocational Education, shall designate an area to be served by each area vocational-technical school, assigning administrative authority to that school district in which the area vocational plant is located.

Sec. 3. **Apportionment and distribution of funds.** All funds, whether state or federal or other funds, which may be made available to the State Board for Vocational Education for carrying out the purposes of vocational-technical education as provided by this act, shall be apportioned and distributed by the State Board for Vocational Education to the various local school districts as additional aid for use in helping such local school districts in defraying the cost involved in maintaining and operating approved vocational training