

LEGISLATURE OF NEBRASKA  
 ONE HUNDRED THIRD LEGISLATURE  
 FIRST SESSION  
**LEGISLATIVE BILL 140**

Final Reading

Introduced by Krist, 10.

Read first time January 11, 2013

Committee: Government, Military and Veterans Affairs

A BILL

1 FOR AN ACT relating to the Airport Zoning Act; to amend sections  
 2 3-301, 3-302, 3-303, 3-304, 3-306, 3-307, 3-308, 3-309,  
 3 3-310, 3-311, 3-312, 3-313, 3-314, 3-319, 3-320, 3-324,  
 4 3-329, 3-330, 3-331, and 3-333, Reissue Revised Statutes  
 5 of Nebraska; to provide airport hazard area dimensions;  
 6 to change provisions relating to airport hazard area  
 7 zoning regulations, the board of adjustment, and judicial  
 8 review; to define and redefine terms; to change a  
 9 penalty; to eliminate provisions relating to appeal of  
 10 zoning regulations, the board of adjustment, and judicial  
 11 review; to harmonize provisions; to repeal the original  
 12 sections; and to outright repeal sections 3-315, 3-316,  
 13 3-317, 3-318, 3-321, 3-322, 3-325, 3-326, and 3-327,  
 14 Reissue Revised Statutes of Nebraska.

15 Be it enacted by the people of the State of Nebraska,

1           Section 1. Section 3-301, Reissue Revised Statutes of  
2 Nebraska, is amended to read:

3           3-301 For purposes of the Airport Zoning Act, unless the  
4 context otherwise requires:

5           (1)(a) Airport means ~~any~~an area of land or water  
6 ~~designed and set aside that is used or intended to be used for the~~  
7 ~~landing and taking off takeoff of aircraft and utilized or to be~~  
8 ~~utilized in the interest of the public for such purposes;~~ includes  
9 any related buildings and facilities.

10           (b) Airport includes only public-use airports with state  
11 or federally approved airport layout plans and military airports with  
12 military service-approved military layout plans;

13           (2) Airport hazard means any structure or tree or use of  
14 ~~land which obstructs the airspace required for the flight of aircraft~~  
15 ~~in landing or taking off at an airport or is otherwise hazardous to~~  
16 ~~such landing or taking off of aircraft;~~ that penetrates any approach,  
17 operation, transition, or turning zone;

18           (3) Airport hazard area means any area of land or water  
19 upon which an airport hazard might be established if not prevented as  
20 provided in the act, but such area shall not extend in any direction  
21 a distance in excess of ~~three miles from the adjacent boundary of an~~  
22 ~~airport;~~ the limits provided for approach, operation, transition, and  
23 turning zones;

24           (4) Airport layout plan means a scaled drawing of  
25 existing and proposed land, buildings, and facilities necessary for

1 the operation and development of an airport prepared in accordance  
2 with state rules and regulations and federal regulations and  
3 guidelines;

4 (5) Approach zone means a zone that extends from the end  
5 of each operation zone and is centered along the extended runway  
6 centerlines. Approach zone dimensions are as follows:

7 (a) For an existing or proposed instrument runway:

8 (i) An approach zone extends ten miles from the operation  
9 zone, measured along the extended runway centerline. The approach  
10 zone is one thousand feet wide at the end of the zone nearest the  
11 runway and expands uniformly to sixteen thousand eight hundred forty  
12 feet wide at the farthest end of the zone; and

13 (ii) The height limit of an approach zone begins at the  
14 elevation of the runway end for which it is the approach and rises  
15 one foot vertically for every fifty feet horizontally, except that  
16 the height limit shall not exceed one hundred fifty feet above the  
17 nearest existing or proposed runway end elevation within three miles  
18 of the end of the operation zone at that runway end. At three miles  
19 from such operation zone, the height limit resumes sloping one foot  
20 vertically for every fifty feet horizontally and continues to the  
21 ten-mile limit; and

22 (b) For an existing or proposed visual runway:

23 (i) An approach zone extends from the operation zone to  
24 the limits of the turning zone, measured along the extended runway  
25 centerline. The approach zone is five hundred feet wide at the end of

1 the zone nearest the runway and expands uniformly so that at a point  
2 on the extended runway centerline three miles from the operation  
3 zone, the approach zone is three thousand seven hundred feet wide;  
4 and

5 (ii) The height limit of an approach zone begins at the  
6 elevation of the runway end for which it is the approach and rises  
7 one foot vertically for every forty feet horizontally, except that  
8 the height limit shall not exceed one hundred fifty feet above the  
9 nearest existing or proposed runway end elevation within three miles  
10 of the end of the operation zone at that runway end;

11 (6) Electric facility means an overhead electrical line,  
12 including poles or other supporting structures, owned or operated by  
13 an electric supplier as defined in section 70-1001.01, for the  
14 transmission or distribution of electrical power to the electric  
15 supplier's customers;

16 (7) Existing runway means an instrument runway or a  
17 visual runway that is paved or made of turf that has been constructed  
18 or is under construction;

19 (8) Instrument runway means an existing runway with  
20 precision or nonprecision instrument approaches as developed and  
21 published by the Federal Aviation Administration or an existing or  
22 proposed runway with future precision or nonprecision instrument  
23 approaches reflected on the airport layout plan. After the effective  
24 date of this act, an airport shall not designate an existing or  
25 proposed runway as an instrument runway if the runway was not

1 previously designated as such without the approval of the airport's  
2 governing body after a public hearing on such designation;

3 (9) Operation zone means a zone that is longitudinally  
4 centered on each existing or proposed runway. Operation zone  
5 dimensions are as follows:

6 (a) For existing and proposed paved runways, the  
7 operation zone extends two hundred feet beyond the ends of each  
8 runway. For existing and proposed turf runways, the operation zone  
9 begins and ends at the same points as the runway begins and ends;

10 (b) For existing and proposed instrument runways, the  
11 operation zone is one thousand feet wide, with five hundred feet on  
12 either side of the runway centerline. For all other existing and  
13 proposed runways, the operation zone is five hundred feet wide, with  
14 two hundred fifty feet on either side of the runway centerline; and

15 (c) The height limit of the operation zone is the same as  
16 the height of the runway centerline elevation on an existing or  
17 proposed runway or the surface of the ground, whichever is higher;

18 ~~(4) Political subdivision means any municipality, city,~~  
19 ~~village, or county;~~

20 ~~(5)-(10) Person means any individual, firm, partnership,~~  
21 ~~limited liability company, corporation, company, association, joint-~~  
22 ~~stock association, or body politic and includes any trustee,~~  
23 ~~receiver, assignee, or other similar representative thereof;~~

24 (11) Political subdivision means any municipality, city,  
25 village, or county;

1           (12) Proposed runway means an instrument runway or a  
2 visual runway that has not been constructed and is not under  
3 construction but that is depicted on the airport layout plan that has  
4 been conditionally or unconditionally approved by, or has been  
5 submitted for approval to, the Federal Aviation Administration;

6           (13) Runway means a defined area at an airport that is  
7 prepared for the landing and takeoff of aircraft along its length;

8           ~~(6)~~ (14) Structure means any object constructed or  
9 installed by man, including, but without limitation, buildings,  
10 towers, smokestacks, and overhead transmission or distribution lines;  
11 and

12           (15) Transition zone means a zone that extends outward at  
13 a right angle to the runway centerline and upward at a rate of one  
14 foot vertically for every seven feet horizontally. The height limit  
15 of a transition zone begins at the height limit of the adjacent  
16 approach zone or operation zone and ends at a height of one hundred  
17 fifty feet above the highest elevation on the existing or proposed  
18 runway;

19           ~~(7)~~ (16) Tree means any object of natural growth; -

20           (17) Turning zone's outer limit means the area located at  
21 a distance of three miles as a radius from the corners of the  
22 operation zone of each runway and connecting adjacent arcs with  
23 tangent lines, excluding any area within the approach zone, operation  
24 zone, or transition zone. The height limit of the turning zone is one  
25 hundred fifty feet above the highest elevation on the existing or

1 proposed runway; and

2 (18) Visual runway means a runway intended solely for the  
3 operation of aircraft using visual approach procedures, with no  
4 straight-in instrument approach procedure and no instrument  
5 designation indicated on an airport layout plan approved by the  
6 Federal Aviation Administration, a military service-approved military  
7 layout plan, or any planning documents submitted to the Federal  
8 Aviation Administration by a competent authority.

9 Sec. 2. Section 3-302, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11 3-302 (1) It is hereby found that an airport hazard  
12 endangers the lives and property of the users of an airport and  
13 occupants of land in its vicinity and also, if of the obstruction  
14 type, in effect reduces the size of the area available for the  
15 landing, ~~taking off~~ takeoff, and maneuvering of aircraft, thus  
16 tending to destroy or impair the utility of the airport and the  
17 public investment therein.

18 (2) Accordingly, it is hereby declared: ~~(1) That~~ that (a)  
19 the creation or establishment of an airport hazard is a public  
20 nuisance and an injury to the community served by the airport in  
21 question, (b) ; ~~(2) that~~ it is therefor necessary in the interest of  
22 the public health, public safety, and general welfare that the  
23 creation or establishment of airport hazards be prevented, and (c)  
24 the prevention of airport hazards ; ~~and (3) that this~~ should be  
25 accomplished, to the extent legally possible, by the exercise of the

1 police power, without compensation.

2           (3) It is further declared that both the prevention of  
3 the creation or establishment of airport hazards and the elimination,  
4 removal, alteration, mitigation, or marking and lighting of existing  
5 airport hazards are public purposes for which political subdivisions  
6 may raise and expend public funds and acquire land or property  
7 interests therein.

8           Sec. 3. Section 3-303, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           3-303 In order to prevent the creation or establishment  
11 of airport hazards, every political subdivision that ~~has adopted a~~  
12 ~~comprehensive plan and zoning regulations and~~ has an airport hazard  
13 area within the area of its zoning jurisdiction, shall adopt,  
14 administer, and enforce, under the police power and in the manner and  
15 upon the conditions ~~hereinafter~~ prescribed in the Airport Zoning Act,  
16 airport zoning regulations for such airport hazard area. ~~The~~, which  
17 regulations shall meet the minimum regulations as prescribed by the  
18 Department of Aeronautics ~~for the airport classifications for each~~  
19 ~~airport~~ and may divide such area into zones and, within such zones,  
20 specify the land uses permitted and regulate and restrict the height  
21 to which ~~the structures and trees~~ may be erected ~~or~~ and trees allowed  
22 to grow, except that a political subdivision or a joint airport  
23 zoning board provided for in section 3-304 may include modifications  
24 or exceptions to the airport zoning regulations adopted under the  
25 Airport Zoning Act that the political subdivision or joint airport



1 zoning board deems appropriate. Such modifications and exceptions  
2 shall not be considered a conflict for the purposes of section 3-306.  
3 The authority of a political subdivision to adopt airport zoning  
4 regulations shall not be conditional upon prior adoption of a  
5 comprehensive development plan or a comprehensive zoning ordinance.

6           Sec. 4. Section 3-304, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8           3-304 ~~Where~~If an airport is owned or controlled by a  
9 political subdivision and any airport hazard area appertaining to  
10 such airport is located outside the ~~area regulated by zoning~~  
11 ~~regulations adopted pursuant to section 3-303, of the political~~  
12 ~~subdivision's zoning jurisdiction,~~ the political subdivision owning  
13 or controlling the airport and the political subdivision or political  
14 subdivisions within ~~which~~whose zoning jurisdiction the airport  
15 hazard area ~~is~~or areas are located may, by ordinance or resolution  
16 duly adopted, create a joint airport zoning board, which board shall  
17 have the same power to adopt, ~~administer, and enforce~~by resolution  
18 approved by a majority of the board, airport zoning regulations  
19 applicable to the ~~an~~ airport hazard area ~~in question~~ as that vested  
20 by section 3-303 in the ~~any~~ political subdivision within whose area  
21 of ~~zoning jurisdiction~~ such area is located. ~~Each such joint board~~  
22 ~~shall have two representatives appointed by each political~~  
23 ~~subdivision participating in its creation as members thereof and also~~  
24 ~~a chairperson elected by a majority of the members so appointed. The~~  
25 ~~term of each member shall be four years, except as otherwise provided~~

1 ~~in this section. Board members who have served more than two years as~~  
2 ~~of March 1, 1984, shall continue to serve for two more years. Board~~  
3 ~~members who have served less than two years as of March 1, 1984,~~  
4 ~~shall continue to serve for four more years. Any airport zoning~~  
5 ~~regulation, or any amendment thereto, adopted by a joint airport~~  
6 ~~zoning board shall be filed with the official or administrative~~  
7 ~~agency responsible for the enforcement of zoning regulations in each~~  
8 ~~of the political subdivisions participating in the creation of the~~  
9 ~~joint airport zoning board and shall be enforced as provided in~~  
10 ~~section 3-319.~~

11           Sec. 5. If a joint airport zoning board is created  
12 pursuant to section 3-304, such board shall have two representatives  
13 appointed by each political subdivision participating in its creation  
14 as members thereof and also a chairperson elected by a majority of  
15 the members so appointed. The term of each member shall be four  
16 years.

17           Sec. 6. Section 3-306, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19           3-306 In the event of any conflict between any airport  
20 zoning regulations adopted under ~~sections 3-301 to 3-333~~ the Airport  
21 Zoning Act and any other regulations applicable to the same area,  
22 whether the conflict be with respect to the height of structures or  
23 trees, the use of land, or any other matter, and whether such other  
24 regulations were adopted by the political subdivision which adopted  
25 the airport zoning regulations or by some other political

1 subdivision, the more stringent limitation or requirement shall  
2 govern and prevail.

3           Sec. 7. Section 3-307, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           3-307 No airport zoning regulations shall be adopted,  
6 amended, or changed under ~~sections 3-301 to 3-333~~ the Airport Zoning  
7 Act except by the action of the legislative body of the political  
8 subdivision in question, or the joint airport zoning board provided  
9 for in section 3-304, after a public hearing in relation thereto, at  
10 which parties in interest and citizens shall have an opportunity to  
11 be heard. At least ~~fifteen~~ ten days' notice of the hearing shall be  
12 published in an official paper, or a paper of general circulation, in  
13 the political subdivision or subdivisions in which ~~is located~~ the  
14 airport hazard area to be zoned. is located.

15           Sec. 8. Section 3-308, Reissue Revised Statutes of  
16 Nebraska, is amended to read:

17           3-308 Prior to the initial zoning of any airport hazard  
18 area under ~~sections 3-301 to 3-333,~~ the Airport Zoning Act, the  
19 political subdivision or joint airport zoning board which is to adopt  
20 the regulations shall appoint a commission, to be known as the  
21 airport zoning commission, to recommend the boundaries of the various  
22 zones to be established and the regulations to be adopted therefor.  
23 Such commission shall make a preliminary report and hold public  
24 hearings thereon before submitting its final report. The legislative  
25 body of the political subdivision or the joint airport zoning board

1 shall not hold its public hearings or take other action until it has  
2 received the final report of such commission. ~~Where~~ If a city or  
3 county planning commission or comprehensive zoning a joint or  
4 interjurisdictional planning commission already exists, it may be  
5 appointed as the airport zoning commission.

6 Sec. 9. Section 3-309, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

8 3-309 All airport zoning regulations adopted under  
9 ~~sections 3-301 to 3-333~~ the Airport Zoning Act shall be reasonable  
10 and not impose any requirement or restriction which is not reasonably  
11 necessary to effectuate the purposes of ~~sections 3-301 to 3-333.~~ the  
12 act. In determining what regulations it may adopt, each political  
13 subdivision and joint airport zoning board shall consider, among  
14 other things, the character of the flying operations expected to be  
15 conducted at the airport, the nature of the terrain within the  
16 airport hazard area, the character of the neighborhood, and the uses  
17 to which the property to be zoned is put and adaptable. If an airport  
18 layout plan has been submitted for approval to the Federal Aviation  
19 Administration with a proposed instrument runway depicted thereon and  
20 such airport layout plan is conditionally or unconditionally approved  
21 without such proposed instrument runway, the political subdivision  
22 shall adopt or revise, as necessary, airport zoning regulations to  
23 protect any approach zone for a visual runway only.

24 Sec. 10. Section 3-310, Reissue Revised Statutes of  
25 Nebraska, is amended to read:

1           3-310 (1) No airport zoning regulations adopted under  
2 ~~sections 3-301 to 3-333~~ the Airport Zoning Act shall require the  
3 removal, lowering, or other change or alteration of any existing  
4 structure or tree not conforming to the regulations when adopted or  
5 amended or otherwise interfere with the continuance of any  
6 nonconforming use, except as provided in section ~~3-313~~. 3-311.

7           (2) Any structure that has not yet been constructed but  
8 that has received, prior to August 1, 2013, zoning approval from the  
9 political subdivision exercising zoning jurisdiction over such  
10 structure may be constructed and shall thereafter be considered an  
11 existing structure for purposes of this section.

12           Sec. 11. Section 3-311, Reissue Revised Statutes of  
13 Nebraska, is amended to read:

14           3-311 (1) Airport zoning regulations, adopted under  
15 ~~sections 3-301 to 3-333~~, the Airport Zoning Act may require that a  
16 permit be obtained before any new structure or use may be constructed  
17 or established and before any existing use or structure may be  
18 substantially changed, altered, or repaired. ~~In any event, however,~~

19           (2) Except as provided in subsection (3) of this section  
20 for certain electric facilities, all such airport zoning regulations  
21 adopted under the act shall provide that before any nonconforming  
22 structure or tree may be replaced, substantially altered or repaired,  
23 rebuilt, allowed to grow higher, or replanted, a permit authorizing  
24 any replacement, alteration, repair, reconstruction, growth, or  
25 replanting must be secured from the administrative agency authorized

1 to administer and enforce the regulations., ~~authorizing such~~  
2 ~~replacement, change or repair. No A permit shall be granted that~~  
3 ~~would allow the establishment or creation of an airport hazard or~~  
4 ~~permit a~~ under this subsection if the applicant shows that the  
5 replacement, alteration, repair, reconstruction, growth, or  
6 replanting of the nonconforming structure, tree, or nonconforming use  
7 to be made, become higher or become would not result in an increase  
8 in height or a greater hazard to air navigation than it was the  
9 condition that existed when the applicable regulation was adopted.  
10 For nonconforming structures other than electric facilities, no  
11 permit under this subsection shall be required for repairs  
12 necessitated by fire, explosion, act of God, or the common enemy or  
13 for repairs which do not involve expenditures exceeding more than  
14 sixty percent of the fair market value of the nonconforming  
15 structure, so long as the height of the nonconforming structure is  
16 not increased over its preexisting height. or than it is when the  
17 application for a permit is made. Except as provided herein, all  
18 applications for permits shall be granted.

19 (3) An electric supplier owning or operating an electric  
20 facility made nonconforming by the adoption of airport zoning  
21 regulations under the Airport Zoning Act may, without a permit or  
22 other approval by the political subdivision adopting such  
23 regulations, repair, reconstruct, or replace such electric facility  
24 if the height of such electric facility is not increased over its  
25 preexisting height. Any construction, repair, reconstruction, or

1 replacement of an electric facility, the height of which will exceed  
2 the preexisting height of such electric facility, shall require a  
3 permit from the political subdivision adopting such regulations. The  
4 permit shall be granted only upon a showing that the excess height of  
5 the electric facility will not establish or create an airport hazard  
6 or become a greater hazard to air navigation than the electric  
7 facility that previously existed.

8           Sec. 12. Section 3-312, Reissue Revised Statutes of  
9 Nebraska, is amended to read:

10           3-312 Any person desiring to erect any structure,  
11 increase the height of any structure, permit the growth of any tree,  
12 or otherwise use his or her property in ~~violation of a manner~~  
13 inconsistent with the airport zoning regulations adopted under  
14 ~~sections 3-301 to 3-333~~ the Airport Zoning Act may apply to the board  
15 of adjustment for a variance from the zoning regulations in question.  
16 Such variances shall be allowed ~~where a literal application or~~  
17 ~~enforcement of the regulations would result in practical difficulty~~  
18 ~~or unnecessary hardship and the relief granted would not be contrary~~  
19 ~~to the public interest but would do substantial justice and be in~~  
20 ~~accordance with the spirit of the regulations and sections 3-301 to~~  
21 ~~3-333; Provided, that any~~ only if the board of adjustment makes the  
22 same findings for the granting of variances generally as set forth in  
23 subsection (2) of section 19-910, except that if the applicant  
24 demonstrates that the proposed structure or alteration of a structure  
25 does not require any modification or revision to any approach or

1 approach procedure as approved or written by the Federal Aviation  
2 Administration on either an existing or proposed runway and the  
3 applicant provides signed documentation from the Federal Aviation  
4 Administration that the proposed structure or alteration of the  
5 structure will not require any modification or revision of any  
6 airport minimums, such documentation may constitute evidence of undue  
7 hardship and the board of adjustment may grant the requested variance  
8 without such findings. Any variance may be allowed subject to any  
9 reasonable conditions that the board of adjustment may deem necessary  
10 to effectuate the purposes of ~~sections 3-301 to 3-333.~~ the act.

11           Sec. 13. Section 3-313, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           3-313 In granting any permit under or variance ~~under~~  
14 ~~sections 3-311 to 3-313, from any airport zoning regulation adopted~~  
15 under the Airport Zoning Act, the administrative agency or board of  
16 adjustment may, if it deems ~~such action~~ it advisable to effectuate  
17 the purposes of ~~sections 3-301 to 3-333~~ the act and reasonable in the  
18 circumstances, so condition such permit or variance as to require the  
19 owner of the structure or tree in question to permit the political  
20 subdivision, at its own expense, to install, operate, and maintain  
21 thereon such markers and lights as may be necessary to indicate to  
22 flyers the presence of an airport hazard.

23           Sec. 14. Section 3-319, Reissue Revised Statutes of  
24 Nebraska, is amended to read:

25           3-319 All airport zoning regulations adopted under



1 ~~sections 3-301 to 3-333~~ the Airport Zoning Act shall provide for the  
2 administration and enforcement of such regulations by an  
3 administrative agency which may be an agency created by such  
4 regulations or any official, board, or other existing agency of the  
5 political subdivision adopting the regulations. In the case of  
6 airport zoning regulations adopted by a joint airport zoning board,  
7 each ~~or of one~~ of the political subdivisions which participated in  
8 the creation of the joint airport zoning board ~~adopting the~~  
9 ~~regulations, if satisfactory to that political subdivision, but in no~~  
10 ~~case shall such administrative agency be or include any member of the~~  
11 ~~board of adjustment.~~ shall create or designate an official or an  
12 administrative agency to administer and enforce the airport zoning  
13 regulations within its respective zoning jurisdiction. The duties of  
14 any official or administrative agency designated pursuant to ~~sections~~  
15 ~~3-301 to 3-333~~ the act shall include that of ~~hearing and deciding all~~  
16 reviewing and acting upon all applications for permits under section  
17 ~~3-311,~~ the airport zoning regulations, but such agency shall not have  
18 or exercise any of the powers herein delegated to the board of  
19 adjustment. In no event shall such official or administrative agency  
20 be or include any member of the board of adjustment.

21           Sec. 15. Section 3-314, Reissue Revised Statutes of  
22 Nebraska, is amended to read:

23           ~~3-314~~ (1) Any person aggrieved, or taxpayer affected, by  
24 any decision of an administrative agency made in its administration  
25 of airport zoning regulations adopted under ~~sections 3-301 to 3-333,~~

1 the Airport Zoning Act, or any governing body of a political  
2 subdivision, or any joint airport zoning board, which is of the  
3 opinion that a decision of such an administrative agency is an  
4 improper application of airport zoning regulations of concern to such  
5 governing body, ~~or board,~~ may appeal to the board of adjustment  
6 authorized to hear and decide appeals from the decisions of such  
7 administrative agency.

8 (2) Any appeal taken under this section shall be taken  
9 within a reasonable amount of time, as provided by the rules of the  
10 board, by filing with the agency from which the appeal is taken and  
11 with the board, a notice of appeal specifying the grounds thereof.  
12 The agency from which the appeal is taken shall forthwith transmit to  
13 the board all the papers constituting the record upon which the  
14 action appealed from was taken.

15 (3) An appeal shall stay any proceeding in furtherance of  
16 the action appealed from, unless the agency from which the appeal is  
17 taken certifies to the board, after the notice of appeal has been  
18 filed with it, that by reason of the facts stated in the certificate  
19 a stay would, in its opinion, cause imminent peril to life or  
20 property. In such cases the proceedings shall not be stayed except by  
21 an order of the board after notice to the agency from which the  
22 appeal is taken and upon due cause shown.

23 (4) The board shall fix a reasonable time for the hearing  
24 of appeals, give public notice thereof, give due notice to the  
25 parties in interest, and decide the appeal within sixty days after

1 the date of filing such appeal. Any party may appear in person or by  
2 an agent or attorney at the hearing.

3           Sec. 16. Section 3-320, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           3-320 (1) All airport zoning regulations adopted under  
6 sections 3-301 to 3-333 the Airport Zoning Act shall provide for a  
7 board of adjustment to have and exercise the following powers:

8           (a) (1) To hear and decide appeals from any order,  
9 requirement, decision, or determination made by the administrative  
10 agency in the enforcement of the airport zoning regulations; , as  
11 provided in sections 3-314 to 3-318; (2) to

12           (b) To hear and decide any special exceptions to the  
13 terms of the airport zoning regulations upon which such board may be  
14 required to pass under such regulations; and

15           (c) To (3) to hear and decide specific petitions for  
16 variances under section 3-312. from the strict application of airport  
17 zoning regulations.

18           (2) A board of adjustment shall consist of five regular  
19 members, each to be appointed for a term of three years by the  
20 political subdivision or joint airport zoning board adopting the  
21 regulations. Any member thereof may be removed by the appointing  
22 authority for cause, upon written charges and after a public hearing.  
23 The concurring vote of four members of the board shall be necessary  
24 to reverse any order, requirement, decision, or determination of the  
25 administrative agency or to decide in favor of the applicant on any

1 matter upon which the board is required to pass under the airport  
2 zoning regulations or to effect any variation in such regulations.

3 (3) The board of adjustment may, consistent with the  
4 Airport Zoning Act, reverse or affirm wholly or partly or modify the  
5 order, requirement, decision, or determination appealed from and may  
6 make such order, requirement, decision, or determination as it deems  
7 right and proper under the circumstances.

8 (4) A board of adjustment, board of zoning appeals, or  
9 similar zoning appeals board that exists on the effective date of  
10 this act may be designated as and shall exercise the power of the  
11 board of adjustment for airport zoning regulations as required by  
12 this section.

13 Sec. 17. Section 3-324, Reissue Revised Statutes of  
14 Nebraska, is amended to read:

15 3-324 Any (1) person aggrieved or taxpayer affected by  
16 any decision of a board of adjustment, (2) governing body of a  
17 political subdivision, or (3) joint airport zoning board, which is of  
18 the opinion that a decision of a board of adjustment is arbitrary or  
19 capricious, illegal, or unsupported by evidence, may ~~present a~~  
20 ~~verified petition to the district court setting forth that the~~  
21 ~~decision is illegal in whole or in part and specifying the grounds of~~  
22 ~~the illegality. Such a petition shall be presented to the court~~  
23 ~~within thirty days after the decision is filed in the office of the~~  
24 ~~board.~~ obtain judicial review of such decision by filing a petition  
25 in error in the district court of the county in which the structure

1 or tree that is the subject of the decision is located. The filing of  
2 and proceeding on the petition in error shall be in accordance with  
3 sections 25-1901 to 25-1937.

4           Sec. 18. Section 3-329, Reissue Revised Statutes of  
5 Nebraska, is amended to read:

6           3-329 In any case in which airport zoning regulations  
7 adopted under ~~sections 3-301 to 3-333,~~ the Airport Zoning Act,  
8 although generally reasonable, are held by a court to interfere with  
9 the use or enjoyment of a particular structure or parcel of land to  
10 such an extent or to be so onerous in their application to such a  
11 structure or parcel of land, as to constitute a taking or deprivation  
12 of that property in violation of the Constitution of ~~this state~~  
13 Nebraska or the Constitution of the United States, such holding shall  
14 not affect the application of such regulations to other structures  
15 and parcels of land.

16           Sec. 19. Section 3-330, Reissue Revised Statutes of  
17 Nebraska, is amended to read:

18           3-330 Each violation of ~~sections 3-301 to 3-333~~ the  
19 Airport Zoning Act or of any regulations, orders, or rulings  
20 promulgated or made pursuant to ~~sections 3-301 to 3-333,~~ the act  
21 shall constitute a Class ~~III~~ IV misdemeanor. Each day a violation  
22 continues to exist shall constitute a separate offense. In addition,  
23 the political subdivision or agency adopting zoning regulations under  
24 ~~sections 3-301 to 3-333~~ the act may institute, in any court of  
25 competent jurisdiction, an action to prevent, restrain, correct, or

1 abate any violation of (1) ~~sections 3-301 to 3-333, the act,~~ (2)  
2 airport zoning regulations adopted under ~~sections 3-301 to 3-333 the~~  
3 act, or (3) any order or ruling made in connection with ~~their~~ the  
4 administration or enforcement of the act or such regulations. The  
5 court in such proceedings shall adjudge to the plaintiff such relief  
6 by way of injunction, which may be mandatory or otherwise, as may be  
7 proper under all the facts and circumstances of the case in order to  
8 fully effectuate the purposes of ~~sections 3-301 to 3-333 the act~~ and  
9 of the regulations adopted and orders and rulings made pursuant  
10 thereto.

11           Sec. 20. Section 3-331, Reissue Revised Statutes of  
12 Nebraska, is amended to read:

13           3-331 In any case in which (1) it is desired to remove,  
14 lower, or otherwise terminate a nonconforming structure or use, (2)  
15 the approach protection necessary cannot, because of constitutional  
16 limitations, be provided by airport zoning regulations under ~~sections~~  
17 ~~3-301 to 3-333, the Airport Zoning Act,~~ or (3) it appears advisable  
18 that the necessary approach protection be provided by acquisition of  
19 property rights rather than by airport zoning regulations, the  
20 political subdivision within which the property or nonconforming use  
21 is located or the political subdivision owning or operating the  
22 airport or served by it may acquire by purchase, grant, or  
23 condemnation, such air right, aviation easement, or other estate or  
24 interest in the property or nonconforming structure or use in  
25 question as may be necessary to effectuate the purposes of ~~sections~~

1 ~~3-301 to 3-333.~~ the act. The procedure to condemn property shall be  
2 exercised in the manner set forth in sections 76-704 to 76-724.

3           Sec. 21. Section 3-333, Reissue Revised Statutes of  
4 Nebraska, is amended to read:

5           3-333 Sections 3-301 to 3-333 and sections 5 and 15 of  
6 this act shall be known and may be cited as the Airport Zoning Act.

7           Sec. 22. Original sections 3-301, 3-302, 3-303, 3-304,  
8 3-306, 3-307, 3-308, 3-309, 3-310, 3-311, 3-312, 3-313, 3-314, 3-319,  
9 3-320, 3-324, 3-329, 3-330, 3-331, and 3-333, Reissue Revised  
10 Statutes of Nebraska, are repealed.

11           Sec. 23. The following sections are outright repealed:  
12 Sections 3-315, 3-316, 3-317, 3-318, 3-321, 3-322, 3-325, 3-326, and  
13 3-327, Reissue Revised Statutes of Nebraska.