

LEGISLATURE OF NEBRASKA  
ONE HUNDRED FIFTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 901**

Introduced by Bostelman, 23; Albrecht, 17; Brewer, 43; Brieese, 41;  
Clements, 2; Erdman, 47; Friesen, 34; Geist, 25; Groene,  
42; Halloran, 33; Hilgers, 21; Hughes, 44; Kolterman, 24;  
Linehan, 39; Lowe, 37; Murante, 49; Thibodeau, 6.

Read first time January 08, 2018

Committee: Transportation and Telecommunications

- 1 A BILL FOR AN ACT relating to aeronautics; to amend section 3-404,
- 2 Revised Statutes Supplement, 2017; to require the Director of
- 3 Aeronautics to consult with the Military Department in certain
- 4 structure permitting decisions as prescribed; and to repeal the
- 5 original section.
- 6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 3-404, Revised Statutes Supplement, 2017, is  
2 amended to read:

3 3-404 (1) The application for the permit, required by section  
4 3-403, shall be made in writing on forms prescribed by the Division of  
5 Aeronautics of the Department of Transportation and shall contain or be  
6 accompanied by details as to the location, construction, height, and  
7 dimensions of the proposed structure, the nature of its intended use, and  
8 such other information as the Director of Aeronautics may require.

9 (2) Upon the filing of such application, the director shall make an  
10 investigation and an aeronautical study of such proposed construction and  
11 its effect, if any, upon air navigation, and the health, welfare, and  
12 safety of the public. In making such investigation and aeronautical study  
13 and making his or her determination under this section, the director  
14 shall consider (a) the character of flying operations expected to be  
15 conducted in the area concerned, (b) the nature of the terrain, (c) the  
16 character of the neighborhood, (d) the uses to which the property  
17 concerned is devoted or adaptable, (e) the proximity to existing  
18 airports, airways, control areas, and control zones, (f) the height of  
19 existing adjacent structures, and (g) all the facts and circumstances  
20 existing.

21 (3) If the director, upon such investigation, determines shall  
22 determine that such proposed structure will not constitute a hazard to  
23 air navigation and will not interfere unduly with the public right of  
24 freedom of transit in commerce through the air space affected thereby and  
25 that such proposed structure will not result in a significant impact as  
26 described in subsection (4) of this section, the director shall issue to  
27 the applicant a permit, required by section 3-403, authorizing the  
28 erection and construction of such structure, subject to such conditions  
29 as to marking and lighting as the division may prescribe by its rules and  
30 regulations, authorized by section 3-407. The director shall impose only  
31 such restrictions or requirements as may be reasonably necessary to

1 effectuate the purposes of sections 3-401 to 3-409. If the director does  
2 not so determine, the director shall deny the application. ~~In making such~~  
3 ~~investigation, aeronautical study, and determination, the director shall~~  
4 ~~consider (1) the character of flying operations expected to be conducted~~  
5 ~~in the area concerned, (2) the nature of the terrain, (3) the character~~  
6 ~~of the neighborhood, (4) the uses to which the property concerned is~~  
7 ~~devoted or adaptable, (5) the proximity to existing airports, airways,~~  
8 ~~control areas, and control zones, (6) the height of existing adjacent~~  
9 ~~structures, and (7) all the facts and circumstances existing. The~~  
10 ~~director shall impose only such restrictions or requirements as may be~~  
11 ~~reasonably necessary to effectuate the purposes of sections 3-401 to~~  
12 ~~3-409.~~

13 (4) If the location of the proposed structure is classified by the  
14 United States Department of Defense or Nebraska National Guard as a  
15 terrain flight training area, the director shall consult with the  
16 Military Department to determine if the proposed structure will  
17 significantly impact the use of such location as a terrain flight  
18 training area. If the proposed structure will significantly impact the  
19 use of such location as a terrain flight training area, the Director of  
20 Aeronautics shall deny the application.

21 Sec. 2. Original section 3-404, Revised Statutes Supplement, 2017,  
22 is repealed.