

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

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 repeal the original sections; and to outright
 12 repeal sections 3-315, 3-316, 3-317, 3-318, 3-321, 3-322,
 13 3-325, 3-326, and 3-327, Reissue Revised Statutes of
 14 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 takeoff~~ at an airport or is otherwise
16 hazardous to such landing or ~~taking off takeoff~~ of aircraft;

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

23 (4) Airport layout plan means a scaled drawing of
24 existing and proposed land, buildings, and facilities necessary for
25 the operation and development of an airport prepared in accordance

1 with state rules and regulations and federal regulations and
2 guidelines;

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

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

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

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

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

22 (i) An approach zone extends from the operation zone to
23 the limits of the turning zone, measured along the extended runway
24 centerline. The approach zone is five hundred feet wide at the end of
25 the zone nearest the runway and expands uniformly so that at a point

1 on the extended runway centerline three miles from the operation
2 zone, the approach zone is three thousand seven hundred feet wide;
3 and

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

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

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

18 (8) Instrument runway means an existing runway with
19 precision or nonprecision instrument approaches as developed and
20 published by the Federal Aviation Administration or an existing or
21 proposed runway with future precision or nonprecision instrument
22 approaches reflected on the airport layout plan. After the effective
23 date of this act, an airport shall not designate an existing or
24 proposed runway as an instrument runway if the runway was not
25 previously designated as such without the approval of the airport's

1 governing body after a public hearing on such designation;

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

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

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

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

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

19 ~~(5)-(10) Person means any individual, firm, partnership,~~
20 ~~limited liability company, corporation, company, association, joint-~~
21 ~~stock association, or body politic and includes any trustee,~~
22 ~~receiver, assignee, or other similar representative thereof;~~

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

25 (12) Proposed runway means an instrument runway or a

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

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

7 ~~(6)–(14)~~ Structure means any object constructed or
8 installed by man, including, but without limitation, buildings,
9 towers, smokestacks, and overhead transmission or distribution lines;
10 and

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

18 ~~(7)–(16)~~ Tree means any object of natural growth; -

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

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

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

10 3-302 It is hereby found that an airport hazard endangers
11 the lives and property of the users of an airport and occupants of
12 land in its vicinity and also, if of the obstruction type, in effect
13 reduces the size of the area available for the landing, ~~taking off~~
14 takeoff, and maneuvering of aircraft, thus tending to destroy or
15 impair the utility of the airport and the public investment therein.
16 Accordingly, it is hereby declared: (1) That the creation or
17 establishment of an airport hazard is a public nuisance and an injury
18 to the community served by the airport in question; (2) that it is
19 ~~therefor~~ necessary in the interest of the public health, public
20 safety, and general welfare that the creation or establishment of
21 airport hazards be prevented; and (3) that ~~this~~ the prevention of
22 airport hazards should be accomplished, to the extent legally
23 possible, by the exercise of the police power, without compensation.
24 It is further declared that both the prevention of the creation or
25 establishment of airport hazards and the elimination, removal,

1 alteration, mitigation, or marking and lighting of existing airport
2 hazards are public purposes for which political subdivisions may
3 raise and expend public funds and acquire land or property interests
4 therein.

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

7 3-303 In order to prevent the creation or establishment
8 of airport hazards, every political subdivision that ~~has adopted a~~
9 ~~comprehensive plan and zoning regulations and~~ has an airport hazard
10 area within the area of its zoning jurisdiction, shall adopt,
11 administer, and enforce, under the police power and in the manner and
12 upon the conditions hereinafter prescribed, airport zoning
13 regulations for such airport hazard area, which regulations shall
14 meet the minimum regulations as prescribed by the Department of
15 Aeronautics ~~for the airport classifications for each airport and~~ may
16 divide such area into zones and, within such zones, specify the land
17 uses permitted and regulate and restrict the height to which ~~the~~
18 ~~structures and trees~~ may be erected ~~or~~ and trees allowed to grow. The
19 authority of a political subdivision to adopt airport zoning
20 regulations shall not be conditional upon prior adoption of a
21 comprehensive development plan or a comprehensive zoning ordinance.

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

24 3-304 ~~Where~~ If an airport is owned or controlled by a
25 political subdivision and any airport hazard area appertaining to

1 such airport is located outside the ~~area regulated by zoning~~
2 ~~regulations adopted pursuant to section 3-303, of the political~~
3 subdivision's zoning jurisdiction, the political subdivision owning
4 or controlling the airport and the zoning jurisdiction of any
5 political subdivision within which ~~the~~ an airport hazard area is
6 located may, by ordinance or resolution duly adopted, create a joint
7 airport zoning board, which board shall have the same power to adopt,
8 ~~administer, and enforce~~ by resolution approved by a majority of the
9 board, airport zoning regulations applicable to ~~the~~ an airport hazard
10 area ~~in question as that vested by section 3-303 in the~~ any political
11 subdivision within whose ~~area of zoning jurisdiction~~ such area is
12 located. ~~Each such joint 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, except as otherwise provided in this section. Board members~~
17 ~~who have served more than two years as of March 1, 1984, shall~~
18 ~~continue to serve for two more years. Board members who have served~~
19 ~~less than two years as of March 1, 1984, shall continue to serve for~~
20 ~~four more years. Any airport zoning regulation, or any amendment~~
21 thereto, adopted by a joint airport zoning board shall be filed with
22 the official or administrative agency responsible for the enforcement
23 of zoning regulations in each of the political subdivisions
24 participating in the creation of the joint airport zoning board and
25 shall be enforced as provided in section 3-319.

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

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

9 3-306 In the event of any conflict between any airport
10 zoning regulations adopted under ~~sections 3-301 to 3-333~~ the Airport
11 Zoning Act and any other regulations applicable to the same area,
12 whether the conflict be with respect to the height of structures or
13 trees, the use of land, or any other matter, and whether such other
14 regulations were adopted by the political subdivision which adopted
15 the airport zoning regulations or by some other political
16 subdivision, the more stringent limitation or requirement shall
17 govern and prevail.

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

20 3-307 No airport zoning regulations shall be adopted,
21 amended, or changed under ~~sections 3-301 to 3-333~~ the Airport Zoning
22 Act except by the action of the legislative body of the political
23 subdivision in question, or the joint airport zoning board provided
24 for in section 3-304, after a public hearing in relation thereto, at
25 which parties in interest and citizens shall have an opportunity to

1 be heard. At least ~~fifteen~~ten days' notice of the hearing shall be
2 published in an official paper, or a paper of general circulation, in
3 the political subdivision or subdivisions in which ~~is located~~ the
4 airport hazard area ~~to be zoned.~~ is located.

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

7 3-308 Prior to the initial zoning of any airport hazard
8 area under ~~sections 3-301 to 3-333,~~ the Airport Zoning Act, the
9 political subdivision or joint airport zoning board which is to adopt
10 the regulations shall appoint a commission, to be known as the
11 airport zoning commission, to recommend the boundaries of the various
12 zones to be established and the regulations to be adopted therefor.
13 Such commission shall make a preliminary report and hold public
14 hearings thereon before submitting its final report. The legislative
15 body of the political subdivision or the joint airport zoning board
16 shall not hold its public hearings or take other action until it has
17 received the final report of such commission. ~~Where~~If a city or
18 county planning commission or ~~comprehensive zoning~~ a joint or
19 interjurisdictional planning commission already exists, it may be
20 appointed as the airport zoning commission.

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

23 3-309 All airport zoning regulations adopted under
24 ~~sections 3-301 to 3-333~~ the Airport Zoning Act shall be reasonable
25 and not impose any requirement or restriction which is not reasonably

1 necessary to effectuate the purposes of ~~sections 3-301 to 3-333.~~ the
2 act. In determining what regulations it may adopt, each political
3 subdivision and joint airport zoning board shall consider, among
4 other things, the character of the flying operations expected to be
5 conducted at the airport, the nature of the terrain within the
6 airport hazard area, the character of the neighborhood, and the uses
7 to which the property to be zoned is put and adaptable. If an airport
8 layout plan has been submitted for approval to the Federal Aviation
9 Administration with a proposed instrument runway depicted thereon and
10 such airport layout plan is conditionally or unconditionally approved
11 without such proposed instrument runway, the political subdivision
12 shall adopt or revise, as necessary, airport zoning regulations to
13 protect any approach zone for a visual runway only.

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

16 3-310 (1) No airport zoning regulations adopted under
17 sections 3-301 to 3-333 the Airport Zoning Act shall require the
18 removal, lowering, or other change or alteration of any existing
19 structure or tree not conforming to the regulations when adopted or
20 amended or otherwise interfere with the continuance of any
21 nonconforming use, except as provided in section 3-313. 3-311.

22 (2) Any electric facility that has not yet been
23 constructed but that has received, prior to August 1, 2013, zoning
24 approval from the political subdivision exercising zoning
25 jurisdiction over such electric facility and, if required, a permit

1 pursuant to section 3-403, may be constructed and shall thereafter be
2 considered an existing structure for purposes of this section.

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

5 3-311 (1) Airport zoning regulations, adopted under
6 ~~sections 3-301 to 3-333, the Airport Zoning Act,~~ may require that a
7 permit be obtained before any new structure or use may be constructed
8 or established and before any existing use or structure may be
9 substantially changed, altered, or repaired. ~~In any event, however,~~
10 Except as provided in subsection (2) of this section, all such
11 regulations shall provide that before any nonconforming structure or
12 tree may be replaced, substantially altered or repaired, rebuilt,
13 allowed to grow higher, or replanted, a permit authorizing any
14 replacement, alteration, repair, reconstruction, growth, or
15 replanting must be secured from the administrative agency authorized
16 to administer and enforce the regulations. ~~, authorizing such~~
17 ~~replacement, change or repair.~~ No permit shall be granted that would
18 allow the establishment or creation of an airport hazard or permit a
19 nonconforming structure, tree, or nonconforming use to be made,
20 become higher, or become a greater hazard to air navigation than it
21 was when the applicable regulation was adopted or than it is when the
22 application for a permit is made. ~~Except as provided herein, all~~
23 ~~applications for permits shall be granted.~~ No permit shall be
24 required for repairs to a nonconforming structure necessitated by
25 fire, explosion, act of God, or the common enemy or if the repairs do

1 not involve expenditures exceeding more than sixty percent of the
2 fair market value of the nonconforming structure, so long as the
3 height of the nonconforming structure is not increased over its
4 preexisting height.

5 (2) An electric facility made nonconforming by the
6 adoption of airport zoning regulations pursuant to the act may,
7 without a permit or other approval by the political subdivision
8 adopting such regulations, repair, reconstruct, or replace such
9 electric facility if the height of such electric facility is not
10 increased over its preexisting height. Any construction, repair,
11 reconstruction, or replacement of an electric facility, the height of
12 which will exceed the preexisting height of such electric facility,
13 shall require a permit from the political subdivision adopting such
14 regulations. The permit shall be granted only upon a showing that the
15 excess height of the electric facility will not establish or create
16 an airport hazard or become a greater hazard to air navigation than
17 the electric facility that previously existed.

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

20 3-312 Any person desiring to erect any structure,
21 increase the height of any structure, permit the growth of any tree,
22 or otherwise use his or her property in ~~violation of a manner~~
23 ~~inconsistent with the~~ airport zoning regulations adopted under
24 ~~sections 3-301 to 3-333~~ the Airport Zoning Act may apply to the board
25 of adjustment for a variance from the zoning regulations in question.

1 Such variances shall be allowed only where a ~~literal application or~~
2 ~~enforcement of the regulations would result in practical difficulty~~
3 ~~or unnecessary hardship and the relief granted would not be contrary~~
4 ~~to the public interest but would do substantial justice and be in~~
5 ~~accordance with the spirit of the regulations and sections 3-301 to~~
6 ~~3-333; Provided, that any the board of adjustment makes the same~~
7 ~~findings for the granting of variances generally as set forth in~~
8 ~~subsection (2) of section 19-910. Any variance may be allowed subject~~
9 ~~to any reasonable conditions that the board of adjustment may deem~~
10 ~~necessary to effectuate the purposes of ~~sections 3-301 to 3-333.~~ the~~
11 ~~act.~~

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

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

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

1 3-319 All airport zoning regulations adopted under
2 ~~sections 3-301 to 3-333~~ the Airport Zoning Act shall provide for the
3 administration and enforcement of such regulations by an
4 administrative agency which may be an agency created by such
5 regulations or any official, board, or other existing agency of the
6 political subdivision adopting the regulations. In the case of
7 airport zoning regulations adopted by a joint airport zoning board,
8 each ~~or of one~~ of the political subdivisions which participated in
9 the creation of the joint airport zoning board ~~adopting the~~
10 ~~regulations, if satisfactory to that political subdivision, but in no~~
11 ~~case shall such administrative agency be or include any member of the~~
12 ~~board of adjustment.~~ shall create or designate an official or an
13 administrative agency to administer and enforce the airport zoning
14 regulations within its respective zoning jurisdiction. The duties of
15 any official or administrative agency designated pursuant to ~~sections~~
16 ~~3-301 to 3-333~~ the act shall include that of hearing and deciding all
17 reviewing and acting upon all applications for permits under section
18 ~~3-311, the airport zoning regulations,~~ but such agency shall not have
19 or exercise any of the powers herein delegated to the board of
20 adjustment. In no event shall such official or administrative agency
21 be or include any member of the board of adjustment.

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

24 ~~3-314~~ (1) Any person aggrieved, or taxpayer affected, by
25 any decision of an administrative agency made in its administration

1 of airport zoning regulations adopted under ~~sections 3-301 to 3-333,~~
2 the Airport Zoning Act, or any governing body of a political
3 subdivision, ~~or any joint airport zoning board,~~ which is of the
4 opinion that a decision of such an administrative agency is an
5 improper application of airport zoning regulations of concern to such
6 governing body, ~~or board,~~ may appeal to the board of adjustment
7 authorized to hear and decide appeals from the decisions of such
8 administrative agency.

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

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

24 (4) The board shall fix a reasonable time for the hearing
25 of appeals, give public notice thereof, give due notice to the

1 parties in interest, and decide the appeal within a reasonable amount
2 of time. Any party may appear in person or by an agent or attorney at
3 the hearing.

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

6 3-320 (1) All airport zoning regulations adopted under
7 sections 3-301 to 3-333 the Airport Zoning Act shall provide for a
8 board of adjustment to have and exercise the following powers: (1) To
9 hear and decide appeals from any order, requirement, decision, or
10 determination made by the administrative agency in the enforcement of
11 the airport zoning regulations; , as provided in sections 3-314 to
12 3-318; (2) to hear and decide any special exceptions to the terms of
13 the airport zoning regulations upon which such board may be required
14 to pass under such regulations; and (3) to hear and decide specific
15 petitions for variances under section 3-312. from the strict
16 application of airport zoning regulations. Such board shall consist
17 of five regular members, each to be appointed for a term of three
18 years by the political subdivision or joint airport zoning board
19 adopting the regulations. Any member thereof may be removed by the
20 appointing authority for cause, upon written charges and after a
21 public hearing. The concurring vote of four members of the board
22 shall be necessary to reverse any order, requirement, decision, or
23 determination of the administrative agency or to decide in favor of
24 the applicant on any matter upon which the board is required to pass
25 under the airport zoning regulations or to effect any variation in

1 such regulations.

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

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

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

14 3-324 Any (1) person aggrieved or taxpayer affected by
15 any decision of a board of adjustment, (2) governing body of a
16 political subdivision or (3) joint airport zoning board, which is of
17 the opinion that a decision of a board of adjustment is arbitrary or
18 capricious, illegal, or unsupported by evidence may present a
19 verified petition to the district court setting forth that the
20 decision is illegal in whole or in part and specifying the grounds of
21 the illegality. Such a petition shall be presented to the court
22 within thirty days after the decision is filed in the office of the
23 board. obtain judicial review of such decision by filing a petition
24 in error in the district court of the county in which the structure
25 or tree that is the subject of the decision is located. The filing of

1 and proceeding on the petition in error shall be in accordance with
2 sections 25-1901 to 25-1937.

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

5 3-329 In any case in which airport zoning regulations
6 adopted under ~~sections 3-301 to 3-333,~~ the Airport Zoning Act,
7 although generally reasonable, are held by a court to interfere with
8 the use or enjoyment of a particular structure or parcel of land to
9 such an extent or to be so onerous in their application to such a
10 structure or parcel of land, as to constitute a taking or deprivation
11 of that property in violation of the Constitution of ~~this state~~
12 Nebraska or the Constitution of the United States, such holding shall
13 not affect the application of such regulations to other structures
14 and parcels of land.

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

17 3-330 Each violation of ~~sections 3-301 to 3-333~~ the
18 Airport Zoning Act or of any regulations, orders, or rulings
19 promulgated or made pursuant to ~~sections 3-301 to 3-333,~~ the act
20 shall constitute a Class ~~III~~ IV misdemeanor. Each day a violation
21 continues to exist shall constitute a separate offense. In addition,
22 the political subdivision or agency adopting zoning regulations under
23 ~~sections 3-301 to 3-333~~ the act may institute, in any court of
24 competent jurisdiction, an action to prevent, restrain, correct, or
25 abate any violation of (1) ~~sections 3-301 to 3-333,~~ the act, (2)

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

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

12 3-331 In any case in which (1) it is desired to remove,
13 lower, or otherwise terminate a nonconforming structure or use, (2)
14 the approach protection necessary cannot, because of constitutional
15 limitations, be provided by airport zoning regulations under ~~sections~~
16 ~~3-301 to 3-333,~~ the Airport Zoning Act, or (3) it appears advisable
17 that the necessary approach protection be provided by acquisition of
18 property rights rather than by airport zoning regulations, the
19 political subdivision within which the property or nonconforming use
20 is located or the political subdivision owning or operating the
21 airport or served by it may acquire by purchase, grant, or
22 condemnation, such air right, aviation easement, or other estate or
23 interest in the property or nonconforming structure or use in
24 question as may be necessary to effectuate the purposes of ~~sections~~
25 ~~3-301 to 3-333,~~ the act. The procedure to condemn property shall be

1 exercised in the manner set forth in sections 76-704 to 76-724.

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

4 3-333 Sections 3-301 to 3-333 and section 5 of this act
5 shall be known and may be cited as the Airport Zoning Act.

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

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