

Chapter 10 Aeronautics Act

Part 1 Uniform Aeronautical Regulatory Act

72-10-101 Title.

This chapter is known as the "Aeronautics Act."

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-102 Definitions.

As used in this chapter:

- (1) "Acrobatics" means the intentional maneuvers of an aircraft not necessary to air navigation.
- (2) "Aeronautics" means transportation by aircraft, air instruction, the operation, repair, or maintenance of aircraft, and the design, operation, repair, or maintenance of airports, or other air navigation facilities.
- (3) "Aeronautics instructor" means any individual engaged in giving or offering to give instruction in aeronautics, flying, or ground subjects, either with or without:
 - (a) compensation or other reward;
 - (b) advertising the occupation;
 - (c) calling his facilities an air school, or any equivalent term; or
 - (d) employing or using other instructors.
- (4) "Aircraft" means any contrivance now known or in the future invented, used, or designed for navigation of or flight in the air.
- (5) "Air instruction" means the imparting of aeronautical information by any aviation instructor or in any air school or flying club.
- (6) "Airport" means any area of land, water, or both, that:
 - (a) is used or is made available for landing and takeoff;
 - (b) provides facilities for the shelter, supply, and repair of aircraft, and handling of passengers and cargo;
 - (c) meets the minimum requirements established by the division as to size and design, surface, marking, equipment, and operation; and
 - (d) includes all areas shown as part of the airport in the current airport layout plan as approved by the Federal Aviation Administration.
- (7) "Airport authority" means a political subdivision of the state, other than a county or municipality, that is authorized by statute to operate an airport.
- (8) "Airport operator" means a municipality, county, or airport authority that owns or operates a commercial airport.
- (9)
 - (a) "Airport revenue" means:
 - (i) all fees, charges, rents, or other payments received by or accruing to an airport operator for any of the following reasons:
 - (A) revenue from air carriers, tenants, lessees, purchasers of airport properties, airport permittees making use of airport property and services, and other parties;
 - (B) revenue received from the activities of others or the transfer of rights to others relating to the airport, including revenue received:

- (I) for the right to conduct an activity on the airport or to use or occupy airport property;
- (II) for the sale, transfer, or disposition of airport real or personal property, or any interest in that property, including transfer through a condemnation proceeding;
- (III) for the sale of, or the sale or lease of rights in, mineral, natural, or agricultural products or water owned by the airport operator to be taken from the airport; and
- (IV) for the right to conduct an activity on, or for the use or disposition of, real or personal property or any interest in real or personal property owned or controlled by the airport operator and used for an airport-related purpose but not located on the airport; or
- (C) revenue received from activities conducted by the airport operator whether on or off the airport, which is directly connected to the airport operator's ownership or operation of the airport; and
 - (ii) state and local taxes on aviation fuel.
- (b) "Airport revenue" does not include amounts received by an airport operator as passenger facility fees pursuant to 49 U.S.C. Sec. 40117.
- (10) "Air school" means any person engaged in giving, offering to give, or advertising, representing, or holding himself out as giving, with or without compensation or other reward, instruction in aeronautics, flying, or ground subjects, or in more than one of these subjects.
- (11) "Airworthiness" means conformity with requirements prescribed by the Federal Aviation Administration regarding the structure or functioning of aircraft, engine, parts, or accessories.
- (12) "Civil aircraft" means any aircraft other than a public aircraft.
- (13) "Commercial aircraft" means aircraft used for commercial purposes.
- (14) "Commercial airport" means a landing area, landing strip, or airport that may be used for commercial operations.
- (15) "Commercial flight operator" means a person who conducts commercial operations.
- (16) "Commercial operations" means:
 - (a) any operations of an aircraft for compensation or hire or any services performed incidental to the operation of any aircraft for which a fee is charged or compensation is received, including the servicing, maintaining, and repairing of aircraft, the rental or charter of aircraft, the operation of flight or ground schools, the operation of aircraft for the application or distribution of chemicals or other substances, and the operation of aircraft for hunting and fishing; or
 - (b) the brokering or selling of any of these services; but
 - (c) does not include any operations of aircraft as common carriers certificated by the federal government or the services incidental to those operations.
- (17) "Dealer" means any person who is actively engaged in the business of flying for demonstration purposes, or selling or exchanging aircraft, and who has an established place of business.
- (18) "Division" means the Operations Division in the Department of Transportation, created in Section 72-1-204.
- (19) "Experimental aircraft" means:
 - (a) any aircraft designated by the Federal Aviation Administration or the military as experimental and used solely for the purpose of experiments, or tests regarding the structure or functioning of aircraft, engines, or their accessories; and
 - (b) any aircraft designated by the Federal Aviation Administration as:
 - (i) being custom or amateur built; and
 - (ii) used for recreational, educational, or display purposes.
- (20) "Flight" means any kind of locomotion by aircraft while in the air.
- (21) "Flying club" means five or more persons who for neither profit nor reward own, lease, or use one or more aircraft for the purpose of instruction, pleasure, or both.

- (22) "Glider" means an aircraft heavier than air, similar to an airplane, but without a power plant.
- (23) "Mechanic" means a person who constructs, repairs, adjusts, inspects, or overhauls aircraft, engines, or accessories.
- (24) "Parachute jumper" means any person who has passed the required test for jumping with a parachute from an aircraft, and has passed an examination showing that he possesses the required physical and mental qualifications for the jumping.
- (25) "Parachute rigger" means any person who has passed the required test for packing, repairing, and maintaining parachutes.
- (26) "Passenger aircraft" means aircraft used for transporting persons, in addition to the pilot or crew, with or without their necessary personal belongings.
- (27) "Person" means any individual, corporation, limited liability company, or association of individuals.
- (28) "Pilot" means any person who operates the controls of an aircraft while in-flight.
- (29) "Primary glider" means any glider that has a gliding angle of less than 10 to one.
- (30) "Public aircraft" means an aircraft used exclusively in the service of any government or of any political subdivision, including the government of the United States, of the District of Columbia, and of any state, territory, or insular possession of the United States, but not including any government-owned aircraft engaged in carrying persons or goods for commercial purposes.
- (31) "Reckless flying" means the operation or piloting of any aircraft recklessly, or in a manner as to endanger the property, life, or body of any person, due regard being given to the prevailing weather conditions, field conditions, and to the territory being flown over.
- (32) "Registration number" means the number assigned by the Federal Aviation Administration to any aircraft, whether or not the number includes a letter or letters.
- (33) "Secondary glider" means any glider that has a gliding angle between 10 to one and 16 to one, inclusive.
- (34) "Soaring glider" means any glider that has a gliding angle of more than 16 to one.

Amended by Chapter 206, 2008 General Session

Amended by Chapter 286, 2008 General Session

72-10-103 Rulemaking requirement.

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules:
 - (a) governing the establishment, location, and use of air navigation facilities;
 - (b) regulating the use, licensing, and supervision of airports;
 - (c) establishing minimum standards with which all air navigation facilities, flying clubs, aircraft, gliders, pilots, and airports must comply; and
 - (d) safeguarding from accident and protecting the safety of persons operating or using aircraft and persons and property on the ground.
- (2) The rules may:
 - (a) require that any device or accessory that forms part of any aircraft or its equipment be certified as complying with this chapter;
 - (b) limit the use of any device or accessory as necessary for safety; and
 - (c) develop and promote aeronautics within this state.
- (3)
 - (a) To avoid the danger of accident incident to confusion arising from conflicting rules governing aeronautics, the rules shall conform as nearly as possible with federal legislation, rules, regulations, and orders on aeronautics.

- (b) The rules may not be inconsistent with paramount federal legislation, rules, regulations, and orders on the subject.
- (4) The department may not require any pilot, aircraft, or mechanic who has procured a license under the Civil Aeronautics Authority of the United States to obtain a license from this state, other than required by this chapter.
- (5) The department may not make rules that conflict with the regulations of:
 - (a) the Civil Aeronautics Authority; or
 - (b) other federal agencies authorized to regulate the particular activity.
- (6) All schedules of charges, tolls, and fees established by the division shall be approved and adopted by the department.
- (7) The department shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

72-10-104 Investigations and hearings -- Powers.

- (1) The department may conduct investigations, inquiries, and hearings concerning matters covered by this chapter and accidents or injuries incident to the operation of aircraft occurring within this state.
- (2) The department may:
 - (a) administer oaths and affirmations;
 - (b) certify to all official acts;
 - (c) issue subpoenas;
 - (d) compel the attendance and testimony of witnesses; and
 - (e) compel the production of papers, books, and documents.
- (3)
 - (a) If any person fails to comply with any subpoena or order issued by the department, the department may petition any district court in this state to order compliance.
 - (b) The district court may order the person to comply with the requirements of the subpoena or order of the department, or to give evidence upon the matter in question.
 - (c) Any failure to obey the order of the court may be punished by the court as contempt.

Renumbered and Amended by Chapter 270, 1998 General Session

Amended by Chapter 365, 1998 General Session

72-10-105 Reports of investigations or hearings -- Restrictions on use -- Employees of division not required to testify.

- (1) The reports of investigations or hearings, or any part of them, may not be admitted in evidence or used for any purpose in any suit, action, or proceeding growing out of any matter referred to in the investigations or hearings, or in any report of them, except in case of criminal or other proceedings instituted by or on behalf of the division under this title.
- (2) An employee of the division may not be required to testify to any fact ascertained in or information gained by reason of his official capacity.
- (3) The employees of the division may not be required to testify as expert witnesses in any suit, action, or proceeding involving any aircraft or any navigation facility.

Renumbered and Amended by Chapter 270, 1998 General Session

Amended by Chapter 365, 1998 General Session

72-10-106 Enforcement of chapter -- Fees for services by division.

- (1)
- (a) The division and every county and municipal officer required to enforce state laws shall enforce and assist in the enforcement of this chapter.
 - (b) The division may enforce this chapter by injunction in the district courts of this state.
 - (c) Other departments and political subdivisions of this state may cooperate with the department and the division in the development of aeronautics within this state.
- (2)
- (a) Unless otherwise provided by statute, the division may adopt a schedule of fees assessed for services provided by the division.
 - (b) Each fee shall be reasonable and fair, and shall reflect the cost of the service provided.
 - (c) Each fee established in this manner shall be submitted to and approved by the Legislature as part of the division's annual appropriations request.
 - (d) The division may not charge or collect any fee proposed in this manner without approval by the Legislature.

Renumbered and Amended by Chapter 270, 1998 General Session
Amended by Chapter 365, 1998 General Session

72-10-107 Procedures -- Adjudicative proceedings.

The division shall conduct adjudicative proceedings in accordance with Title 63G, Chapter 4, Administrative Procedures Act.

Amended by Chapter 382, 2008 General Session

72-10-108 Payment of expenses of administration.

The division shall pay the expenses of the administration of this part out of the special funds set up by the state treasurer for that purpose.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-109 Certificate of registration of aircraft required -- Exceptions.

- (1)
- (a) A person may not operate, pilot, or navigate, or cause or authorize to be operated, piloted, or navigated within this state any civil aircraft located in this state unless the aircraft has a current certificate of registration issued by this state through the county in which the aircraft is located.
 - (b) This restriction does not apply to aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operations of the registered aircraft or to a non-passenger-carrying flight solely for inspection or test purposes authorized by the Federal Aviation Administration to be made without the certificate of registration.
- (2) Aircraft assessed by the State Tax Commission are exempt from the state registration requirement under Subsection (1).

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-110 Aircraft registration information requirements -- Registration fee -- Administration -- Partial year registration.

- (1) All applications for aircraft registration shall contain:
 - (a) a description of the aircraft, including:
 - (i) the manufacturer or builder;
 - (ii) the aircraft registration number, type, year of manufacture, or if an experimental aircraft, the year the aircraft was completed and certified for air worthiness by an inspector of the Federal Aviation Administration; and
 - (iii) gross weight;
 - (b) the name and address of the owner of the aircraft; and
 - (c) where the aircraft is located, or the address where the aircraft is usually used or based.
- (2)
 - (a) Except as provided in Subsection (3), at the time application is made for registration or renewal of registration of an aircraft under this chapter, an annual registration fee of 0.4% of the average wholesale value of the aircraft shall be paid.
 - (b) For purposes of calculating the value of the aircraft under Subsection (2)(a) or (3)(d), the State Tax Commission shall use the average wholesale value as stated in the Aircraft Bluebook Price Digest.
- (3)
 - (a) An annual registration fee of \$100 is imposed on the following aircraft:
 - (i) an aircraft not listed in the Aircraft Bluebook Price Digest;
 - (ii) an experimental aircraft; or
 - (iii) an aircraft that is used:
 - (A) exclusively by an entity that is exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, and exempt from property taxation under Title 59, Chapter 2, Property Tax Act; and
 - (B) for the emergency transportation of medical patients for at least 95% of its flight time.
 - (b) An annual registration fee is imposed on an aircraft 50 years or older equal to the lesser of:
 - (i) \$100; or
 - (ii) the annual registration fee provided for under Subsection (2)(a).
 - (c) An aircraft that does not have a valid airworthiness certificate for a period of six months or more:
 - (i) may not apply for a certificate of registration required under Section 72-10-109; and
 - (ii) is exempt from an annual registration fee until the aircraft has a valid airworthiness certificate.
 - (d) An annual registration fee of .25% of the average wholesale value of the aircraft is imposed on an aircraft if the aircraft is:
 - (i) used by an air charter service for air charter; and
 - (ii) owned by a person other than the air charter service.
 - (e) The annual registration fee required in this section is due on December 31 of each year.
- (4)
 - (a) The State Tax Commission shall provide a registration card to an owner of an aircraft if:
 - (i) the owner complies with the registration requirements of this section; and
 - (ii) the owner of the aircraft states that the aircraft has a valid airworthiness certificate.
 - (b) An owner of an aircraft shall carry the registration card in the registered aircraft.
- (5) The registration fees assessed under this chapter shall be collected by the State Tax Commission to be distributed as provided in Subsection (6).

- (6) After deducting the costs of administering all aircraft registrations under this chapter, the State Tax Commission shall deposit all remaining aircraft registration fees in the Aeronautics Restricted Account created by Section 72-2-126.
- (7) Aircraft which are registered under this chapter for less than a full calendar year shall be charged a registration fee which is reduced in proportion to the fraction of the calendar year during which the aircraft is registered in this state.
- (8)
 - (a) For purposes of this section, aircraft based at the owner's airport means an aircraft that is hangared, tied down, or parked at an owner's airport for a plurality of the year.
 - (b) Semi-annually, an owner or operator of an airport open to public use shall provide a list of all aircraft based at the owner's airport to the Utah Division of Aeronautics.
- (9)
 - (a) The Utah Division of Aeronautics shall maintain a statewide database of all aircraft based within the state.
 - (b) On or before October 1 of each year, the Utah Division of Aeronautics shall provide the State Tax Commission with the data the State Tax Commission requires from the database described in Subsection (9)(a).
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the contents of the database described in Subsection (9)(a).
 - (d) The State Tax Commission shall annually provide the Utah Division of Aeronautics a list of all aircraft registered in this state.
- (10) The State Tax Commission may suspend or revoke a registration if it determines that the required fee has not been paid and the fee is not paid upon reasonable notice and demand.

Amended by Chapter 224, 2016 General Session

Amended by Chapter 333, 2016 General Session

72-10-112 Failure to register -- Penalty -- Compliance audits and inspections -- Rulemaking.

- (1) Failure to register any aircraft required to be registered with the state in the county in which the aircraft is located subjects the owners of the aircraft to the same penalties provided for motor vehicles under Sections 41-1a-1101, 41-1a-1301, and 41-1a-1307.
- (2)
 - (a) The division shall conduct compliance audits and inspections as needed to enforce state laws related to the registration of aircraft.
 - (b) The division shall coordinate with airport operators to determine and verify accurate reporting of aircraft that are based within the state for the purpose of administering and enforcing state aircraft registration laws.
- (3)
 - (a) In addition to the penalties described in Subsection (1), the division may impose a fine of 10% of the registration fee for the first month and 5% of the registration fee for each subsequent month an aircraft is operated in violation of Section 72-10-109.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing procedures for the enforcement of state aircraft registration laws and the administration of penalties described in this section.
 - (c) The division shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in all adjudicative proceedings conducted for the enforcement of penalties under this section.

Amended by Chapter 333, 2016 General Session

72-10-113 Pilot's certificate of competency required -- Exceptions.

- (1) A person may not pilot within this state any civil aircraft unless that person is the holder of a currently effective pilot's certificate of competency issued by the government of the United States.
- (2) This restriction does not apply to any person operating any aircraft licensed by a foreign country with which the United States has a reciprocal agreement covering the operation of the licensed aircraft.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-114 Mechanic's certificate of competency.

- (1) Mechanics will be rated as airframe or powerplant mechanics.
- (2) A person may hold a plurality of certificate of competency, including both classes of mechanic's certificate of competency or a pilot's and mechanic's certificate of competency.
- (3) The certificate shall be a currently effective certificate of competency issued by the government of the United States.
- (4) This restriction does not apply to mechanics employed by the United States government.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-115 Certificate carried subject to inspection -- Burden of proving validity of certificate in criminal proceedings.

- (1) The certificate of license or permit required of a pilot or a student shall be kept in the personal possession of a licensee or permittee operating an aircraft within the state.
- (2) The certificate of license required for an aircraft shall be carried in the aircraft at all times and shall be conspicuously posted in clear view of passengers.
- (3) The certificate of pilot's license, student's permit, or aircraft license shall be presented for inspection upon the demand of any peace officer of this state, any authorized official or employee of the division, 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 other person.
- (4) In any criminal prosecution under this title, a defendant who relies upon a license or permit of any kind has the burden of proving that the defendant is properly licensed or is the possessor of a proper license or permit.
- (5) The fact of nonissuance of a license or permit may be evidenced by a certificate signed by the official having power of issuance, or his deputy, under seal of office, stating that a diligent search in the office records has been made and that from the records it appears that no license or permit was issued.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-116 Restrictions on use of lands or waters of another.

- (1)
 - (a) The landing or taking off of aircraft on or from the lands or waters of another without consent is unlawful, except in the case of a forced landing.
 - (b) For damages caused by a takeoff or landing, the owner, lessee of the aircraft, operator, or any of them is liable.

- (2)
 - (a) A student pilot may not land on any area without the knowledge of the operator, instructor, or school from which the student is flying.
 - (b) The use of private landing fields must not impose a hazard upon the person or property of others.

Amended by Chapter 224, 2016 General Session

72-10-117 Aircraft landing permits -- Eligible aircraft -- Special licenses -- Rules -- Proof of insurance -- Bonds.

- (1)
 - (a) The county executive of any county may issue permits authorizing aircraft to land on or take off from designated county roads.
 - (b) Permits may be issued to aircraft operated:
 - (i) as air ambulances;
 - (ii) as pesticide applicators; or
 - (iii) by or under contract with public utilities and used in connection with inspection, maintenance, installation, operation, construction, or repair of property owned or operated by the public utility.
- (2) Permits may also be issued by the county executive to other aircraft under rules made by the division.
- (3)
 - (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules for issuing a special license to:
 - (i) an aircraft permitted by a county executive to land on a county road; and
 - (ii) a pilot permitted to operate an aircraft licensed under this subsection from a county road.
 - (b) The rules made under this subsection shall include provisions for the safety of the flying and motoring public.
- (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department shall make rules for the landing and taking off of aircraft to which permits have been issued, which may include annual reports of activities of the aircraft.
- (5) Prior to obtaining a permit or license to any aircraft, the applicant shall file with the county executive and the division a certificate of insurance executed by an insurance company or association authorized to transact business in this state upon a form prescribed by the division that there is in full force and effect a policy of insurance covering the aircraft for liability against:
 - (a) personal injury or death for any one person in an amount of \$50,000 or more;
 - (b) any one accident in an amount of \$100,000 or more; and
 - (c) property damage in an amount of \$50,000 or more.
- (6) In addition to the insurance required under this section, either the county executive or the division may require the posting of a bond to indemnify the county or division against liability resulting from issuing the permit or license.

Amended by Chapter 382, 2008 General Session

72-10-118 Reason for division order to be stated -- Closing airports -- Notice -- Right of inspection.

- (1) If the division rejects an application for permission to operate or establish an airport, or issues any order under this chapter that requires or prohibits certain actions, its order shall:

- (a) contain the reasons for the rejection or order; and
 - (b) state the requirements to be met before approval will be given or the order changed.
- (2) The division may order the closing of any airport until its requirements have been fulfilled.
- (3)
- (a) An airport not meeting the standards required by the division shall:
 - (i) be given notice of its noncompliance; and
 - (ii) have 10 days from the receipt of that notice to respond to the division with a plan and schedule for compliance.
 - (b) If the airport fails to respond within the required time, the division may revoke the airport license and close the airport.
- (4) The division and any state, county, or municipal officer charged with the duty of enforcing this chapter may inspect and examine at reasonable hours any premises, buildings, or other structures where regulated airports are operated.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-119 Judicial review.

- (1) Any person against whom an order has been entered may obtain judicial review.
- (2) Venue for judicial review of informal adjudicative proceedings is in the district court of the county in which the order was made or the county in which property affected by the order is located.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-120 Violations -- Penalty.

A person who fails to comply with the requirements of or violates any provision of this part is guilty of a class B misdemeanor.

Amended by Chapter 140, 2008 General Session

72-10-121 Severability clause.

If any provision of this part or its application to any person or circumstances is held invalid, this invalidity may not affect other provisions or applications of the part which can be given effect without the invalid provision or application and to this end the provisions of this part are declared to be severable.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-122 Construction of chapter.

This chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-123 Sovereignty in space above land and water in state.

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

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-124 Report of death or serious injury to person or property.

If in the operation of civil aircraft death or serious injury to person or to property results, a report shall be made in accordance with federal aviation regulations.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-125 Report of injury to aircraft or property.

All accidents in the operation of civil aircraft which cause injury to aircraft or property shall be reported in accordance with federal aviation regulations.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-126 Marking buildings to aid navigation.

- (1) The division may cooperate with the officials of all state institutions for the purpose of marking one building within their group as an aid to aerial navigation.
- (2) The marking is subject to the approval of the division and shall comply with the requirements of the United States civil aeronautics authority for air marking.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-127 Tampering with aircraft forbidden.

It shall be unlawful for any person, without express or implied authority of the owner, to operate, climb upon, enter, manipulate the controls or accessories of, set in motion, remove parts or contents of, or otherwise tamper with any civil aircraft within this state, or knowingly cause or permit the same to be done.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-128 Tampering with airport or equipment forbidden.

A person may not interfere or tamper with any airport, landing field, or airway, or the equipment thereof.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-129 Expenditures for Civil Air Patrol.

- (1) The division may expend state aeronautics funds for the Utah wing of the Civil Air Patrol to be used to:
 - (a) purchase aviation facilities, training, supplies, and equipment;
 - (b) defray maintenance and rental costs of hangar facilities and aircraft;
 - (c) purchase maintenance supplies and equipment for the communications network of the Civil Air Patrol; and
 - (d) provide administrative costs approved by the division.
- (2) The expenditures may not exceed in any fiscal year the amount appropriated to the Utah wing of the Civil Air Patrol by the Legislature.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-130 Approval of expenditures for Civil Air Patrol.

An expenditure of state funds for the civil air patrol may not be made unless a purchase order is first approved by the director of aeronautics under guidelines established by the department and unless the funds are specifically used as required in this chapter.

Renumbered and Amended by Chapter 270, 1998 General Session

Amended by Chapter 365, 1998 General Session

72-10-131 Tax-exempt status of Civil Air Patrol equipment.

Equipment, aircraft and vehicles owned by the civil air patrol and used for the emergency service needs of the state of Utah are given tax-exempt status.

Renumbered and Amended by Chapter 270, 1998 General Session

**Part 2
Uniform Airports Act**

72-10-201 Powers of division -- Acceptance of property.

The division, a county, or municipal legislative body may accept contributions of money or real or personal property for the purpose of establishing, developing, operating, or maintaining airports under this part.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-202 Cooperation with counties, municipalities, and federal government -- Expenditures by division.

- (1) The division may:
- (a) cooperate with counties and municipalities in developing and constructing airports;
 - (b) make agreements on behalf of the state with any county or municipality regarding the financial participation, construction, and operation of any airports;
 - (c) cooperate with the federal government in establishing airports; and
 - (d) accept from the United States of America, money to be matched with the funds of the state and funds appropriated by any county or municipality in developing and constructing airports under the Uniform Airports Act.
- (2) The division may expend not to exceed 10% of its annual appropriation upon any one project under this chapter.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-203 Division and counties, municipalities, and airport authorities authorized to acquire and regulate airports.

- (1) The division and municipalities, counties, and airport authorities may acquire, establish, construct, expand, own, lease, control, equip, improve, maintain, operate, regulate, and police

airports for the use of aircraft and may use for these purposes any available property that is owned or controlled by the division or by a municipality, county, or airport authority.

- (2) A county may not exercise the authority conferred in this section outside of its geographical limits except jointly with an adjoining county.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-204 Lands acquired by division and counties, municipalities, and airport authorities -- Declaration of public purpose.

Any land acquired, owned, leased, controlled, or occupied by the division or by a county, municipality, or airport authority for the purposes enumerated in Section 72-10-203, is acquired, owned, leased, controlled, or occupied for public, governmental, and municipal purposes.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-205 Acquisition of property -- Condemnation.

- (1) Private property needed by the division or a county, municipality, or airport authority for an airport or landing field or for the expansion of an airport or landing field may be acquired by grant, purchase, lease, or other means if the division or the political subdivision is able to agree with the owners of the property on the terms of acquisition.
- (2) If no agreement can be reached, the private property may be obtained by condemnation in the manner provided for the state or a political subdivision to acquire real property for public purposes.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-206 Payment by appropriation or sale of bonds.

The purchase price or award for real property acquired, in accordance with the provisions of this part, for an airport or landing field may be paid for by appropriation of money available for the property or wholly or partly from the proceeds of the sale of bonds of the county, municipality, or other political subdivision, as the legislative body of the political subdivision shall determine, subject to the adoption of a proposition at a regular or special election, if the adoption of a proposition is a prerequisite to the issuance of bonds of the political subdivision for public purposes generally.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-207 Powers of department and political subdivisions over airports -- Security unit.

- (1) The department, and counties, municipalities, or other political subdivisions of this state that have established or may establish airports or that acquire, lease, or set apart real property for those purposes, may:
 - (a) construct, equip, improve, maintain, and operate the airports or may vest the authority for their construction, equipment, improvement, maintenance, and operation in an officer of the department or in an officer, board, or body of the political subdivision;
 - (b) adopt rules, establish charges, fees, and tolls for the use of airports and landing fields, fix penalties for the violation of the rules, and establish liens to enforce payment of the charges, fees, and tolls, subject to approval by the commission;

- (c) lease the airports to private parties for operation for a term not exceeding 50 years, as long as the public is not deprived of its rightful, equal, and uniform use of the facility;
 - (d) lease or assign space, area, improvements, equipment, buildings, and facilities on the airports to private parties for operation for a term not exceeding 50 years;
 - (e) lease or assign real property comprising all or any part of the airports to private parties for the construction and operation of hangars, shop buildings, or office buildings for a term not exceeding 50 years, if the projected construction cost of the hangar, shop building, or office building is \$100,000 or more; and
 - (f) establish, maintain, operate, and staff a security unit for the purpose of enforcing state and local laws at any airport that is subject to federal airport security regulations.
- (2) The department or political subdivision shall pay the construction, equipment, improvement, maintenance, and operations expenses of any airport established by them under Subsection (1).
- (3)
- (a) If the department or political subdivision establishes a security unit under Subsection (1)(f), the department head or the governing body of the political subdivision shall appoint persons qualified as peace officers under Title 53, Chapter 13, Peace Officer Classifications to staff the security unit.
 - (b) A security unit appointed by the department or political subdivision is exempt from civil service regulations.

Renumbered and Amended by Chapter 270, 1998 General Session

Amended by Chapter 282, 1998 General Session

Amended by Chapter 365, 1998 General Session

72-10-208 Providing for levying of taxes.

The local public authorities having power to appropriate money within the counties, municipalities, or other public subdivisions of this state for the purpose of acquiring, establishing, developing, operating, maintaining, or controlling airports under the provisions of this part, are authorized to appropriate and cause to be raised by taxation or otherwise in such political subdivisions money sufficient to carry out therein the provisions of this part, also to use for such purpose or purposes money derived from the airports.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-209 Acquisition of air rights -- Condemnation.

- (1) To provide unobstructed air space for the landing and taking off of aircraft using airports acquired or maintained under this chapter, the division and a county, municipality, or airport authority may acquire the air rights over private property necessary to insure safe approaches to the landing areas of the airports.
- (2) The air rights may be acquired by grant, purchase, lease, or condemnation in the same manner provided under Section 72-10-205 for the acquisition or expansion of airports.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-210 Easements for marks or lights -- Condemnation.

- (1) The division and a county, municipality, or airport authority may acquire the right or easement for a term of years or perpetually to place and maintain suitable marks for the daytime, and

to place, operate, and maintain suitable lights for the nighttime marking of buildings or other structures or obstructions for the safe operation of aircraft using airports and landing fields acquired or maintained under this chapter.

- (2) The rights or easements may be acquired by grant, purchase, lease, or condemnation in the same manner provided under Section 72-10-205 for the acquisition or expansion of airports.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-211 Police regulations.

The division and a county, municipality, or airport authority acquiring, establishing, developing, operating, maintaining, or controlling airports outside the geographical limits of the subdivisions, under this chapter may amend and enforce police regulations for the airports.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-212 General provisions of law applicable in condemnation proceedings, issuing bonds, and levying taxes.

It is the intent and purpose of this part that all provisions herein relating to the issuance of bonds and the levying of taxes for airport purposes and the condemnation for airports and airport facilities shall be construed in accordance with general provisions of the law of this state governing the right and procedure of municipalities to condemn property, issue bonds, and levy taxes.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-213 Severability clause.

If any provision of this part or its application is held invalid, this invalidity does not affect provisions or applications of the part which can be given effect without the invalid provision or application, and to this end the provisions of this part are declared to be severable.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-214 Construction of part.

This part shall be so interpreted and construed as to effectuate the general purpose of those states which enact it.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-215 Restrictions on use of airport revenue to finance a fixed guideway.

An airport operator may not use airport revenue to contribute to the cost of constructing, equipping, maintaining, or operating any portion of a fixed guideway as defined in Section 59-12-102.

Amended by Chapter 263, 2010 General Session

**Part 3
Federal Airport Funds Act**

72-10-301 Definitions.

As used in this part:

- (1) "Airport" means any area of land or water which is used, or intended for use for the landing and taking-off of aircraft, and any appurtenant areas which are used, or intended for use, for aircraft buildings or other airport facilities or rights of way, together with all airport buildings and facilities located on them.
- (2) "Air navigation facility" means any facility -- other than one owned and operated by the United States -- used in, available for use in, or designed for use in aid of air navigation, including any structures, mechanisms, lights, beacons, markers, 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, and any combination of any or all of the facilities.
- (3) "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 an airport or is otherwise hazardous to the landing or taking-off of aircraft.
- (4) "Municipality" means any county, city, town, or political subdivision of this state.
- (5) "Person" means any individual, firm, partnership, corporation, company, association, joint stock association, or body politic and includes any trustee, receiver, assignee, or other similar representation thereof.
- (6) "Public agency" means the United States government or any of its agencies, a state or its agencies, a municipality or other political subdivision, or a tax-supported organization.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-302 Purpose and policy of part.

It is declared that the purpose of this part is to further the public interest in aeronautical progress:

- (1) by authorizing public agencies of this state to accept, channel, and disburse federal, state, and other funds for the planning, acquisition, construction, maintenance, operation, and regulation of airports and air navigation facilities;
- (2) by granting to a state agency the powers and imposing upon it the duties that the state may obtain the full benefit of financial assistance made available by the federal government, as well as assistance from other sources;
- (3) by providing authority that may be exercised by a public agency independently or jointly with other public agencies, and enabling two or more cities, towns, counties, and other political subdivisions jointly to establish, acquire, develop, and operate an airport or airports for their joint or common use.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-303 Submission of requests for aid -- Approval by division -- Receipt and disbursement of funds.

- (1) The state, a county, municipality, or airport authority may not submit to any federal agency or department of the United States any requests for aid under any act of congress that provides funds for airports or commercial airport construction, development, expansion, or improvements, unless the project and the requests for aid have been first approved by the division.

- (2) The state, a county, municipality, or airport authority may not directly accept, receive, receipt for, or disburse any funds granted by the United States under the act, but it shall designate the division as its agent and in its behalf to accept, receive, receipt for, and disburse the funds.
- (3) The state, a county, municipality, or airport authority shall enter into an agreement with the division, prescribing the terms and conditions of the agency in accordance with federal laws, rules, and regulations and applicable laws of this state.
- (4) Money paid by the United States government shall be retained by the state or paid to a county, municipality, or airport authority under terms and conditions imposed by the United States government in making the grant.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-304 Powers and duties of division.

- (1) The division may make available its engineering and other technical services, with or without charge, to the state, a county, municipality, or airport authority or person desiring them in connection with the planning, acquisition, construction, improvement, maintenance, or operation of airports or air navigation facilities.
- (2)
 - (a) The division may render financial assistance by grant, loan, or both, to any county, municipality, or airport authority, in the planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled by the county, municipality, or airport authority, out of appropriations made by the Legislature for these purposes.
 - (b) Financial assistance may be furnished in connection with federal or other financial aid for the same purposes.
- (3)
 - (a) The division may use the facilities and services of other state agencies and of the counties and municipalities to the utmost extent possible.
 - (b) The state agencies, counties, and municipalities shall make available their facilities and services.
- (4) All powers granted to any county, municipality, or airport authority by this chapter may be exercised jointly with any county, municipality, or airport authority, and jointly with any state agency or the United States if the laws of the other state or of the United States permit the joint exercise.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-305 Mutual assistance -- Gifts, leases, and loans.

- (1) If any public agency determines that the public interest and the interest of the public agency will be served by assisting any other public agency in exercising the powers and authority granted by this part, the public agency may furnish assistance by gift of real or personal property or money or lease or loan with or without charge or interest.
- (2) In appropriating the property or money and providing for the assistance by taxation, the issuance of bonds, or other means, the public agency may exercise all of its powers as though used for its own direct purposes as provided in this part.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-306 Contractual powers of public agencies.

A public agency may enter into any contracts necessary to the execution of the powers granted it, and for the purposes provided by this part.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-307 Powers of governing bodies.

The governing body of any public agency having power to appropriate and raise money is authorized to appropriate, and to raise by taxation or otherwise, sufficient money to carry out the provisions and purposes of this part.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-308 Construction of part.

This part shall be so interpreted and construed as to make uniform so far as possible the laws and regulations of this state and other states and of the government of the United States having to do with the subject of public airports.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-309 Severability clause.

If any provision of this part or its application to any person or circumstance shall be held invalid, this invalidity does not affect the provisions or applications of this part which can be given effect without the invalid provision or application, and to this end the provisions of this part are declared to be severable.

Renumbered and Amended by Chapter 270, 1998 General Session

**Part 4
Airport Zoning Act**

72-10-401 Definitions.

As used in this part, unless the context otherwise requires:

- (1) "Airport" means any area of land or water designed and set aside for the landing and taking-off of aircraft and utilized or to be utilized in the interest of the public for these purposes.
- (2) "Airport hazard" means any structure or tree or use of land which obstructs the airspace required for the flight of aircraft in landing or taking-off at an airport or is otherwise hazardous to the landing or taking-off of aircraft.
- (3) "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 part.
- (4) "Political subdivision" means any municipality, city, town, or county.
- (5) "Structure" means any object constructed or installed by man, including buildings, towers, smokestacks, and overhead transmission lines.
- (6) "Tree" means any object of natural growth.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-402 Declaration with respect to airport hazards.

The Legislature finds that:

- (1) an airport hazard endangers the lives and property of users of the airport and of occupants of land in its vicinity;
- (2) an obstruction of the type that reduces the size of the area available for the landing, taking-off, and maneuvering of aircraft tends to destroy or impair the utility of the airport and the public investment in the airport;
- (3) the creation or establishment of an airport hazard is a public nuisance and an injury to the community served by the airport in question;
- (4) it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of airport hazards be prevented;
- (5) this should be accomplished, to the extent legally possible, by exercise of the police power, without compensation; and
- (6) 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 in land.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-403 Airport zoning regulations -- Joint airport zoning board -- Powers of board -- Membership.

- (1)
 - (a) In order to prevent the creation or establishment of airport hazards, every political subdivision having an airport hazard area within its territorial limits may adopt, administer, and enforce, under the police power and in the manner and upon the conditions prescribed in this part, airport zoning regulations for the airport hazard area.
 - (b) The regulations may divide the area into zones, and, within the zones, specify the land uses permitted and regulate and restrict the height to which structures and trees may be erected or allowed to grow.
- (2)
 - (a) If an airport is owned or controlled by a political subdivision and any airport hazard area appertaining to the airport is located outside the territorial limits of the political subdivision, the political subdivision owning or controlling the airport and the political subdivision within which the airport hazard area is located may, by ordinance or resolution duly adopted, create a joint airport zoning board.
 - (b) The 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 Subsection (1) in the political subdivision within which the area is located.
 - (c) Each joint board shall have as members two representatives appointed by each political subdivision participating in its creation and in addition a chair elected by a majority of the appointed members.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-404 Zoning ordinances -- Governing law in event of conflict.

- (1) In the event that a political subdivision has adopted or adopts a comprehensive zoning ordinance regulating the height of buildings, any airport zoning regulations applicable to the same area or a portion of the area may be incorporated in and made a part of comprehensive zoning regulations, and be administered and enforced in connection with the comprehensive zoning regulations.
- (2) In the event of conflict between any airport zoning regulations adopted under this part 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 the other regulations were adopted by the political subdivision which adopted the airport zoning regulations or by some other political subdivision, the more stringent limitation or requirement shall govern and prevail.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-405 Airport zoning regulations -- Adoption and amendment -- Airport zoning commission -- Powers and duties.

- (1)
 - (a) An airport zoning regulation may not be adopted, amended, or changed under this part except by action of the legislative body of the political subdivision in question, or the joint board provided for in Subsection 72-10-403(2), after a public hearing at which parties in interest and citizens shall have an opportunity to be heard.
 - (b) At least 15 days' notice of the hearing shall be published in an official paper, or a paper of general circulation, in the political subdivision or subdivisions in which is located the airport hazard area to be zoned.
- (2)
 - (a) Prior to the initial zoning of any airport hazard area under this part, the political subdivision or joint airport zoning board which is to adopt the regulations shall appoint a commission, to be known as the airport zoning commission, to recommend the boundaries of the various zones to be established and the regulations to be adopted.
 - (b) The commission shall make a preliminary report and hold public hearings before submitting its final report, and the legislative body of the political subdivision or the joint airport zoning board may not hold its public hearings or take other action until it has received the final report of the commission.
 - (c) If a comprehensive zoning commission already exists, it may be appointed as the airport zoning commission.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-406 Airport zoning regulations -- Validity, limitations, and restrictions.

- (1)
 - (a) All airport zoning regulations adopted under this part shall be reasonable and none shall impose any requirement or restriction which is not reasonably necessary to effectuate the purposes of this part.
 - (b) In determining what regulations it may adopt, each political subdivision and joint airport zoning board shall consider 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.

- (2) Any airport zoning regulations adopted under this part may not require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations when adopted or amended, or otherwise interfere with the continuance of any nonconforming use, except as provided in Subsection 72-10-407(3).

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-407 Permit for new or changed structures or uses -- Nonconforming structures -- Airport hazards -- Application to board of adjustment for variance -- Allowance of variance -- Conditioning permit or variance.

- (1)
- (a) Any airport zoning regulations adopted under this part 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.
 - (b) All 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 shall be secured from the administrative agency authorized to administer and enforce the regulations, authorizing the replacement, change, or repair.
 - (c) A permit may not be granted that allows 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 when the application for a permit is made.
 - (d) Except as provided in this Subsection (1), all applications for permits shall be granted.
- (2)
- (a) Any person desiring to erect any structure, or increase the height of any structure, or permit the growth of any tree, or otherwise use the person's property in violation of airport zoning regulations adopted under this part, may apply to the board of adjustment for a variance from the zoning regulations in question.
 - (b) A variance 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 part.
 - (c) Any variance may be allowed subject to any reasonable conditions that the board of adjustment may deem necessary to effectuate the purposes of this part.
- (3) In granting any permit or variance under this section, the administrative agency or board of adjustment may, if it considers the action advisable to effectuate the purposes of this part and reasonable in the circumstances, so condition a permit or variance as to require the owner of the structure or tree in question to permit the political subdivision, at its own expense, to install, operate, and maintain thereon markers and lights as may be necessary to indicate to flyers the presence of an airport hazard.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-408 Appeals to board of adjustment -- Procedure -- Stay of proceedings -- Hearing and judgment.

- (1) Any person aggrieved, or taxpayer affected, by any decision of any administrative agency made in its administration of airport zoning regulations adopted under this part, or any governing body of a political subdivision, or any joint airport zoning board, which is of the opinion that a decision

of an administrative agency is an improper application of airport zoning regulations of concern to the governing body or board, may appeal to the board of adjustment authorized to hear and decide appeals from the decisions of the administrative agency.

- (2)
 - (a) All appeals taken under this section shall 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 of the appeal.
 - (b) The agency from which the appeal is taken shall transmit to the board all the papers constituting the record upon which the action appealed from was taken.
- (3)
 - (a) 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.
 - (b) In these 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.
- (4)
 - (a) 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 appeal within a reasonable time.
 - (b) Upon the hearing any party may appear in person or by agent or by attorney.
- (5) The board may, in conformity with the provisions of this part, reverse or affirm wholly or partly, or modify, the order, requirement, decision, or determination appealed from and may make an 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.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-409 Airport zoning regulations -- Administration and enforcement.

- (1)
 - (a) All airport zoning regulations adopted under this part shall provide for the administration and enforcement of the regulations by an administrative agency which may be an agency created by the regulations or any official, board, or other existing agency of the political subdivision adopting the regulations or of one of the political subdivisions which participated in the creation of the joint airport zoning board adopting the regulations, if satisfactory to that political subdivision.
 - (b) The administrative agency may not be or include any member of the board of adjustment.
- (2) The duties of any administrative agency designated pursuant to this part shall include that of hearing and deciding all permits under Subsection 72-10-407(1), but the agency may not have or exercise any of the powers delegated to the board of adjustment.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-410 Board of adjustment -- Powers -- Appointment and membership of board -- Hearings and decisions by board -- Meetings -- Adoption of rules.

- (1) All airport zoning regulations adopted under this part shall provide for a board of adjustment to have and exercise the following powers:

- (a) 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 72-10-408;
 - (b) to hear and decide any special exceptions to the terms of the airport zoning regulations upon which the board may be required to pass under the regulations;
 - (c) to hear and decide specific variances under Subsection 72-10-407(2).
- (2)
- (a) If a zoning board of appeals or adjustment already exists, it may be appointed as the board of adjustment.
 - (b) 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.
- (3) 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 the regulations.
- (4)
- (a) The board shall adopt rules in accordance with the provisions of the ordinance or resolution by which it was created.
 - (b) Meetings of the board shall be held at the call of the chair and at other times as the board may determine.
 - (c) The chair, or in the chair's absence, the acting chair, may administer oaths and compel the attendance of witnesses.
 - (d) All hearings of the board shall be public.
 - (e) 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 the 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.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-411 Appeals to district courts -- Procedure -- Findings, judgment, and costs -- Regulations invalid as to one structure or parcel of land.

- (1)
- (a) Any person aggrieved, or taxpayer affected, by any decision of a board of adjustment, or any governing body of a political subdivision or any joint airport zoning board, which is of the opinion that a decision of a board of adjustment is illegal, may present to the district court a verified petition setting forth that the decision is illegal, in whole or in part, and specifying the grounds of the illegality.
 - (b) The petition shall be presented to the court within 30 days after the decision is filed in the office of the board.
- (2)
- (a) Upon presentation of the petition the court may allow a writ of certiorari directed to the board of adjustment to review the decision of the board.
 - (b) The allowance of the writ may 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.
- (3)

- (a) The board of adjustment may not be required to return the original papers acted upon by it, but it shall be sufficient to return certified or sworn copies of the papers or of any portions as may be called for by the writ.
 - (b) The return shall concisely set forth any other facts as may be pertinent and material to show the grounds of the decision appealed from and shall be verified.
- (4)
- (a) 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 necessary, to order further proceedings by the board of adjustment.
 - (b) The findings of fact of the board shall be considered by the court unless an objection shall have been urged before the board, or, if it was not so urged, unless there were reasonable grounds for failure to do so.
- (5) Costs may not be allowed against the board of adjustment unless it appears to the court that it acted with gross negligence, in bad faith, or with malice, in making the decision appealed from.
- (6) In any case in which airport zoning regulations adopted under this part, although generally reasonable, are held by a court to interfere with the use or enjoyment of a particular structure or parcel of land to an extent, or to be so onerous in their application to 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, the holding shall not affect the application of the regulations to other structures and parcels of land.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-412 Violations of chapter or rulings -- Misdemeanor -- Remedies of political subdivisions.

- (1) Each violation of this part or of any regulations, orders, or rulings promulgated or made pursuant to this part, shall constitute a misdemeanor.
- (2)
- (a) A political subdivision or agency adopting zoning regulations under this part may institute in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of this part, or of airport zoning regulations adopted under this part, or of any order or ruling made in connection with their administration or enforcement.
 - (b) The court shall adjudge to the plaintiff the relief, by way of injunction or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of this part and of the regulations adopted and orders and rulings made pursuant to them.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-413 Purchase or condemnation of air rights or navigation easements.

A political subdivision within which the property or nonconforming use is located or the political subdivision owning the airport or served by it may acquire, by purchase, grant, or condemnation in the manner provided by the law under which political subdivisions are authorized to acquire real property for public purposes, an air right, navigation easement, or other estate or interest in the property or nonconforming structure or use in question if:

- (1) it is desired to remove, lower, or otherwise terminate a nonconforming structure or use;
- (2) the approach protection necessary cannot, because of constitutional limitations, be provided by airport zoning regulations under this part; or

- (3) it appears advisable that the necessary approach protection be provided by acquisition of property rights rather than by airport zoning regulations.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-414 Exchange of private property near federal airports.

- (1) If any governmental entity or agency adopts any measure which infringes upon the use of privately owned property, or which is designed to assure development compatible with the continued operation of a federal airport, the owner of that private property, if the owner has continuously owned the land from the date of the measure and whose land is wholly or partially within the area directly affected by the measure, may request an exchange of the affected land for state land outside the affected area.
- (2)
- (a) Upon a request pursuant to Subsection (1), the Board of State Lands, without cost to the affected landowner, shall appraise the subject land taking into consideration the fair market value of any and all improvements, and may offer a land exchange at the earliest practicable time.
 - (b) The state may identify at least one, and may identify up to three parcels of state land of a substantially equal value to the land requested to be exchanged, and which can otherwise be exchanged in a manner which will not prejudice the interest of the state and which will not be inconsistent with proper management, control, protection, and use of state land.
 - (c) The state may provide for the use of qualified appraisers to expedite the process of the request.

Renumbered and Amended by Chapter 270, 1998 General Session

72-10-415 Severability clause.

If any provision of this part or its application to any person or circumstances is held invalid, this invalidity does not affect the provisions or applications of the part which can be given effect without the invalid provision or application, and to this end the provisions of this part are declared to be severable.

Renumbered and Amended by Chapter 270, 1998 General Session

**Part 5
Flying While Intoxicated**

72-10-501 Flying under the influence of alcohol, drugs, or with specified or unsafe blood alcohol concentration -- Calculations of blood or breath alcohol -- Criminal punishment -- Arrest without warrant.

- (1)
- (a) A person may not operate or be in actual physical control of an aircraft within this state if the person:
 - (i) has sufficient alcohol in his body that a subsequent chemical test shows that the person has a blood or breath alcohol concentration of .04 grams or greater at the time of the test;

- (ii) is under the influence of alcohol, any drug, or the combined influence of alcohol and any drug to a degree that renders the person incapable of safely operating an aircraft; or
 - (iii) has a blood or breath alcohol concentration of .04 grams or greater at the time of operation or actual physical control.
- (b) The fact that a person charged with violating this section is or has been legally entitled to use alcohol or a drug is not a defense against any charge of violating this section.
- (2) Calculations of blood or breath alcohol concentration under this section shall be made in accordance with Subsection 41-6a-502(1).
- (3)
- (a) A person convicted of a violation of Subsection (1) is guilty of a:
 - (i) class B misdemeanor; or
 - (ii) class A misdemeanor if the person has also inflicted bodily injury upon another as a proximate result of having operated the aircraft in a negligent manner.
 - (b) In this section, the standard of negligence is that of simple negligence, the failure to exercise that degree of care that an ordinarily reasonable and prudent person exercises under like or similar circumstances.
- (4) A peace officer may, without a warrant, arrest a person for a violation of this section when the officer has probable cause to believe:
- (a) the violation has occurred, although not in the officer's presence; and
 - (b) the violation was committed by that person.

Amended by Chapter 2, 2005 General Session

72-10-502 Implied consent to chemical tests for alcohol or drugs -- Number of tests -- Refusal -- Person incapable of refusal -- Results of test available -- Who may give test -- Evidence -- Immunity from liability.

- (1)
- (a) A person operating an aircraft in this state consents to a chemical test or tests of the person's breath, blood, urine, or oral fluids:
 - (i) for the purpose of determining whether the person was operating or in actual physical control of an aircraft while having a blood or breath alcohol content statutorily prohibited under Section 72-10-501, or while under the influence of alcohol, any drug, or combination of alcohol and any drug under Section 72-10-501, if the test is or tests are administered at the direction of a peace officer having grounds to believe that person to have been operating or in actual physical control of an aircraft in violation of Section 72-10-501; or
 - (ii) if the person operating the aircraft is involved in an accident that results in death, serious injury, or substantial aircraft damage.
 - (b)
 - (i) The peace officer determines which of the tests are administered and how many of them are administered.
 - (ii) The peace officer may order any or all tests of the person's breath, blood, urine, or oral fluids.
 - (iii) If an officer requests more than one test, refusal by a person to take one or more requested tests, even though the person does submit to any other requested test or tests, is a refusal under this section.
 - (c)

- (i) A person who has been requested under this section to submit to a chemical test or tests of the person's breath, blood, urine, or oral fluids may not select the test or tests to be administered.
 - (ii) The failure or inability of a peace officer to arrange for any specific chemical test is not a defense to taking a test requested by a peace officer, and it is not a defense in any criminal, civil, or administrative proceeding resulting from a person's refusal to submit to the requested test or tests.
- (2)
- (a) If the person has been placed under arrest and has then been requested by a peace officer to submit to any one or more of the chemical tests provided in Subsection (1) and refuses to submit to any chemical test, the person shall be warned by the peace officer requesting the test that a refusal to submit to the test is admissible in civil or criminal proceedings as provided under Subsection (8).
 - (b) Following this warning, unless the person immediately requests that the chemical test offered by a peace officer be administered, a test may not be given.
- (3) Any person who is dead, unconscious, or in any other condition rendering the person incapable of refusal to submit to any chemical test or tests is considered to not have withdrawn the consent provided for in Subsection (1), and the test or tests may be administered whether the person has been arrested or not.
- (4) Upon the request of the person who was tested, the results of the test or tests shall be made available to that person.
- (5)
- (a) Only the following, acting at the request of a peace officer, may draw blood to determine its alcohol or drug content:
 - (i) a physician;
 - (ii) a registered nurse;
 - (iii) a licensed practical nurse;
 - (iv) a paramedic;
 - (v) as provided in Subsection (5)(b), emergency medical service personnel other than paramedics; or
 - (vi) a person with a valid permit issued by the Department of Health under Section 26-1-30.
 - (b) The Department of Health may designate by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which emergency medical service personnel, as defined in Section 26-8a-102, are authorized to draw blood under Subsection (5)(a)(v), based on their type of certification under Section 26-8a-302.
 - (c) Subsection (5)(a) does not apply to taking a urine, breath, or oral fluid specimen.
 - (d) The following are immune from civil or criminal liability arising from drawing a blood sample from a person who a peace officer has reason to believe is flying in violation of this chapter if the sample is drawn in accordance with standard medical practice:
 - (i) a person authorized to draw blood under Subsection (5)(a); and
 - (ii) if the blood is drawn at a hospital or other medical facility, the medical facility.
- (6)
- (a) The person to be tested may, at the person's own expense, have a physician of the person's own choice administer a chemical test in addition to the test or tests administered at the direction of a peace officer.
 - (b) The failure or inability to obtain the additional test does not affect admissibility of the results of the test or tests taken at the direction of a peace officer, or preclude or delay the test or tests to be taken at the direction of a peace officer.

- (c) The additional test shall be subsequent to the test or tests administered at the direction of a peace officer.
- (7) For the purpose of determining whether to submit to a chemical test or tests, the person to be tested does not have the right to consult an attorney or have an attorney, physician, or other person present as a condition for the taking of any test.
- (8) If a person under arrest refuses to submit to a chemical test or tests or any additional test under this section, evidence of any refusal is admissible in any civil or criminal action or proceeding arising out of acts alleged to have been committed while the person was operating or in actual physical control of an aircraft while under the influence of alcohol, any drug, or combination of alcohol and any drug.
- (9) The results of any test taken under this section or the refusal to be tested shall be reported to the Federal Aviation Administration by the peace officer requesting the test.

Amended by Chapter 267, 2012 General Session

72-10-503 Standards for chemical analysis of breath or oral fluids -- Evidence.

- (1) The Commissioner of the Department of Public Safety shall establish standards for the administration and interpretation of chemical analysis of a person's breath or oral fluids, including standards of training.
- (2) In any action or proceeding in which it is material to prove that a person was operating or in actual physical control of an aircraft while under the influence of alcohol or any drug or operating with a blood or breath alcohol content statutorily prohibited, documents offered as memoranda or records of acts, conditions, or events to prove that the analysis was made and the instrument used was accurate, according to standards established in Subsection (1), are admissible if:
 - (a) the judge finds that they were made in the regular course of the investigation at or about the time of the act, condition, or event; and
 - (b) the source of information from which made and the method and circumstances of their preparation indicate their trustworthiness.
- (3) If the judge finds that the standards established under Subsection (1) and the conditions of Subsection (2) have been met, there is a presumption that the test results are valid and further foundation for introduction of the evidence is unnecessary.

Amended by Chapter 205, 2004 General Session

72-10-504 Admissibility of chemical test results in actions for flying under the influence -- Weight of evidence.

- (1)
 - (a) In any civil or criminal action or proceeding in which it is material to prove that a person was operating or in actual physical control of an aircraft while under the influence of alcohol, drugs, or with a blood or breath alcohol content statutorily prohibited, the results of a chemical test or tests as authorized in Section 72-10-502 are admissible as evidence.
 - (b)
 - (i) In a criminal proceeding, noncompliance with Section 72-10-502 does not render the results of the chemical test inadmissible.
 - (ii) Evidence of a defendant's blood or breath alcohol content or drug content is admissible except when prohibited by Rules of Evidence or the constitution.

- (2) This section does not prevent a court from receiving otherwise admissible evidence as to a defendant's blood or breath alcohol level or drug level at the time relevant to the alleged offense.

Amended by Chapter 106, 2002 General Session

Part 6

Airport Ground Transportation Security

72-10-601 Definitions.

As used in this part:

- (1) "City" means a municipality of the first class, as defined under Section 10-2-301, that:
 - (a) is authorized by statute to operate an airport; and
 - (b) operates an airport with greater than 10 million annual passengers.
- (2) "Division" means the Criminal Investigation and Technical Services Division of the Department of Public Safety, established in Section 53-10-103.
- (3) "Ground transportation service" means transporting passengers for hire or as a courtesy in connection with a business over public streets pursuant to a license with the city.
- (4)
 - (a) "Ground transportation service provider" means a driver who provides ground transportation service where the pickup or drop-off of a passenger occurs at an airport under a city's authority.
 - (b) "Ground transportation service provider" includes:
 - (i) a taxicab driver;
 - (ii) a limousine or luxury car driver;
 - (iii) a bus or minibus driver, except a driver of a transit vehicle, as defined in Section 17B-2a-802;
 - (iv) a courtesy vehicle or hotel vehicle driver;
 - (v) a special transportation vehicle driver who transports persons with a disability; and
 - (vi) a van driver.

Amended by Chapter 366, 2011 General Session

72-10-602 Criminal background check authorized -- Written notice required.

- (1) A city may by ordinance require a ground transportation service provider to submit to a criminal background check as a condition of providing ground transportation service to an airport under the city's authority.
- (2)
 - (a) Each ground transportation service provider, if required to submit a background check under Subsection (1), shall:
 - (i) submit a fingerprint card in a form acceptable to the division; and
 - (ii) consent to a fingerprint background check by:
 - (A) the Utah Bureau of Criminal Identification; and
 - (B) the Federal Bureau of Investigation.
 - (b) If requested by a city that has adopted an ordinance in accordance with Subsection (1), the division shall request the Department of Public Safety to complete a Federal Bureau of

Investigation criminal background check through a national criminal history system for each background check requested by a city under this section.

(c)

- (i) If a city has adopted an ordinance in accordance with Subsection (1), the city may make a ground transportation service provider's access to provide ground transportation service to an airport conditional pending completion of a criminal background check under this section.
 - (ii) If a criminal background check discloses that a ground transportation service provider failed to disclose accurately a criminal history, the city may deny or, if conditionally given, immediately terminate the ground transportation service provider's right to provide ground transportation service to an airport.
 - (iii) If a ground transportation service provider accurately disclosed the relevant criminal history and the criminal background check discloses that the ground transportation service provider has been convicted of a crime that indicates a potential risk for the safety or well-being of the patrons or employees of the airport under the city's authority, the city may deny or, if conditionally given, immediately terminate the ground transportation service provider's right to provide ground transportation service to an airport.
- (3) Each city that requests a criminal background check under Subsection (1) shall prepare criteria for which criminal activity will preclude ground transportation service to the airport and shall provide written notice to the ground transportation service provider who is the subject of the criminal background check that the background check has been requested.
- (4) The legislative body of a city may by a majority vote of its members overrule a decision made by the mayor or a city employee establishing the criteria for precluding the right of a ground transportation service provider under Subsection (3).

Enacted by Chapter 137, 2006 General Session

72-10-603 Duties of the Criminal Investigation and Technical Services Division -- Costs of separate file and background check.

- (1) If a city requests the division to conduct a criminal background check under Section 72-10-602, the division shall:
- (a) release to the city the full record of criminal convictions for the ground transportation service provider who is the subject of the background check;
 - (b) if requested by the city, seek additional information from regional or national criminal data files in conducting the criminal background check;
 - (c) maintain a separate file of fingerprints submitted under Section 72-10-602; and
 - (d) notify the requesting city when a new entry is made against a ground transportation service provider whose fingerprints are held in the file.
- (2)
- (a) Each city requesting a criminal background check shall pay to the division the cost of:
 - (i) maintaining the separate file of fingerprints under Subsection (1); and
 - (ii) conducting a criminal background check under Section 72-10-602, including costs charged by the Federal Bureau of Investigation or other entity for conducting a national criminal background check, if requested by a city.
 - (b) The cost borne by a city under Subsection (2)(a) may be covered by fees charged to a ground transportation service provider who is the subject of the background check.

Enacted by Chapter 137, 2006 General Session

72-10-604 Written notice to ground transportation service provider whose access to airport is denied or terminated -- Right to respond and seek review.

- (1) If a city denies or terminates the right of a ground transportation service provider to provide ground transportation service to an airport because of information obtained through a criminal background check under this part, the city shall:
 - (a) notify the ground transportation service provider in writing of the reasons for the denial or termination; and
 - (b) give the ground transportation service provider an opportunity to respond to the reasons and to seek review of the denial or termination through administrative procedures established by the city.
- (2) If a ground transportation service provider is denied access to provide ground transportation service to an airport, the denial shall not impact the right of another ground transportation service provider who provides ground transportation service for the same business.

Enacted by Chapter 137, 2006 General Session