

1 SENATE BILL NO. 10
 2 INTRODUCED BY HAZELBAKER
 3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL
 5 REVISION AND CLARIFICATION OF THE LAWS RELATING TO
 6 AERONAUTICS; AMENDING SECTIONS 1-401, 1-502, 1-701, 1-702,
 7 1-704, 1-903, 1-912, 1-918, AND 1-1101, R.C.M. 1947; AND
 8 REPEALING SECTIONS 1-829 THROUGH 1-832 AND 1-1001 THROUGH
 9 1-1005, R.C.M. 1947."
 10
 11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
 12 Section 1. Section 1-401, R.C.M. 1947, is amended to
 13 read as follows:
 14 "1-401. Acquisition and operation of state airports.
 15 (1) The department may, on behalf of and in the name of this
 16 state:
 17 (a) acquire real or personal property by purchase,
 18 gift, devise, lease, condemnation proceedings, or otherwise
 19 ~~property-real-or-personal~~ for the purpose of establishing
 20 and constructing airports, restricted landing areas, and
 21 other air navigation facilities; ~~and~~
 22 (b) acquire in like manner, own, control, establish,
 23 construct, enlarge, improve, maintain, equip, operate,
 24 regulate, and police airports, restricted landing areas, and
 25 other air navigation facilities either within or outside

1 this state; make
 2 (c) prior to acquisition, make investigations,
 3 surveys, and plans;
 4 (d) erect, install, construct, and maintain facilities
 5 at those airports ~~facilities~~ for the servicing of aircraft
 6 and for the comfort and accommodation of air travelers; and
 7 (e) dispose of any property, airport, restricted
 8 landing area, or any other air navigation facility, by sale,
 9 lease, or otherwise, in accordance with the laws of this
 10 state governing the disposition of other like property of
 11 the state.
 12 (2) ~~It~~ The department may not, however, acquire or
 13 take over an airport, restricted landing area, or other air
 14 navigation facility owned or controlled by a municipality of
 15 this state without the consent of the municipality. ~~It~~ The
 16 department may erect, equip, operate, and maintain on an
 17 airport, buildings and equipment necessary and proper to
 18 establish, maintain, and conduct the airport and air
 19 navigation facilities connected with it.
 20 (2)~~(3)~~ Where necessary, in order to provide
 21 unobstructed air space for the landing and taking off of
 22 aircraft utilizing airports and restricted landing areas
 23 acquired or operated under the provisions of this ~~title~~, ~~it~~
 24 title, the department may acquire, in the manner provided
 25 for the acquisition of property for airport purposes,

1 easements through or other interests in air space over land
 2 or water, interests in airport hazards outside the
 3 boundaries of the airports or restricted landing areas, and
 4 such other airport protection privileges as are necessary to
 5 ensure safe approaches to the landing areas of airports and
 6 restricted landing areas, and the safe and efficient
 7 operation of them. ~~It~~ The department may also acquire in the
 8 same manner the right or easement, for a term of years or
 9 perpetually, to place or maintain suitable marks for the
 10 daytime marking and suitable lights for the nighttime
 11 marking of airport hazards, including the right of ingress
 12 and egress to or from the airport hazards for the purpose of
 13 maintaining and repairing the lights and marks. This
 14 authority does not limit the right, power, or authority of
 15 the state or a municipality to zone property adjacent to an
 16 airport or restricted landing area pursuant to a law of this
 17 state.

18 ~~(3)(4)~~ It The department may engage in all those
 19 activities jointly with the United States, other states, and
 20 with municipalities or other agencies of this state.

21 ~~(4)(5)~~ It For the purpose of acquiring any property
 22 which it is authorized to acquire, the department may
 23 exercise the right of eminent domain, in the name of the
 24 state, in the manner provided by the laws of this state for
 25 the acquisition of real property for public purposes, ~~for~~

1 ~~the purpose of acquiring any property which it is authorized~~
 2 ~~to acquire.~~ The acquisition of property for any of those
 3 purposes is a public use.

4 ~~(5)(6)~~ It The department may:

5 (a) lease, for a term not exceeding ~~ten~~ (10) years,
 6 airports, or other air navigation facilities or real
 7 property acquired or set apart for airport purposes, to
 8 private parties, a municipal or state government, or the
 9 national government, or a department of either of them, for
 10 operation; ~~and may~~

11 (b) lease or assign, for a term not exceeding ~~ten~~ (10)
 12 years, space, area, improvements, or equipment on those
 13 airports to private parties, a municipal or state government
 14 or the national government, or a department of either for
 15 operation or use consistent with the purposes of this ~~title~~
 16 ~~space, area, improvements, or equipment on those airports~~
 17 title; may

18 (c) sell any part of those airports, other air
 19 navigation facilities, or real property to a municipal or
 20 state government, or to the United States or a department or
 21 instrumentality thereof, for aeronautical purposes or
 22 purposes incidental thereto; and may

23 (d) confer the privilege of concessions of for
 24 supplying upon the airports goods, commodities, things,
 25 services, and facilities upon the premises of those

1 airports. However, ~~in each case~~ in so doing the public may
2 not be deprived of its rightful, equal, and uniform use
3 thereof.

4 ~~(6)(7)~~ It may determine the charges or rental for the
5 use of state airports, ~~and~~ the charges for service or
6 accommodations, under its control, and the terms and
7 conditions under which the properties may be used. However,
8 the public may not be deprived of its rightful, equal, and
9 uniform use of the property. Charges shall be reasonable and
10 uniform for the same class of service and established with
11 due regard to the property and improvements used and the
12 expenses of operation to the state. The state has, and the
13 department may enforce, registers' liens, as provided by law
14 for repair, improvement, storage, or care of any personal
15 property."

16 Section 2. Section 1-502, R.C.M. 1947, is amended to
17 read as follows:

18 "1-502. Aeronautics Governmental nature of
19 aeronautical functions ~~governmental--no-liability-for-torts.~~

20 ~~(1)~~ The acquisition of lands for establishing airports or
21 other air navigation facilities; the acquisition of airport
22 protection privileges; the acquisition, establishment,
23 construction, enlargement, improvement, maintenance,
24 equipment, and operation of airports and other air
25 navigation facilities, whether by the state separately or

1 jointly with a municipality; the assistance of this state in
2 that acquisition, establishment, construction, enlargement,
3 improvement, maintenance, equipment, and operation; and the
4 exercise of any other powers granted to the department are
5 public and governmental functions, exercised for a public
6 purpose, and ~~as a matters~~ matter of public necessity, and
7 such lands and other property and privileges acquired and
8 used by the state in the manner and for the purposes
9 enumerated in this ~~title~~ title are acquired and used for
10 public and governmental purposes and as a matter of public
11 necessity.

12 ~~(2)--No-suit-in-tort-may-be-brought-or-maintained~~
13 ~~against-the-state-or-any-municipality-of-the-state-or-their~~
14 ~~officers,agents,servants-or-employees-on-account-of-an~~
15 ~~act-done-in-or-about-the-construction,maintenance,~~
16 ~~enlargement,operation,superintendency-or-management-of-an~~
17 ~~airport-or-other-air-navigation-facility."~~

18 Section 3. Section 1-701, R.C.M. 1947, is amended to
19 read as follows:

20 "1-701. ~~Eliminating---dangerous---obstructions---near~~
21 airports Purpose. That-for for the purpose of ensuring and
22 securing safety from death or ~~bodily-harm-and~~ injury for
23 aeronauts and passengers, and to protect the property of
24 those engaged in aeronautics, and to encourage and promote
25 air travel and transportation of mail, passengers, express,

1 and freight by air, it is deemed considered necessary to
 2 eliminate dangerous obstructions of air space in the
 3 vicinity of airports or landing fields which may now be or
 4 which may hereafter be acquired, owned, operated, or
 5 controlled, or maintained by the United States, the state of
 6 Montana, or any county of ~~the state of Montana~~ or any
 7 municipality thereof, and in order to promote the public
 8 order, health, and safety by providing unobstructed air
 9 space for the safe descent, landing, ascent, and operation
 10 of aircraft ~~while using or utilizing the said~~ public
 11 airports in the state of Montana, the height of buildings
 12 and other structures in the vicinity of the airports and
 13 landing fields in the state of Montana owned, leased,
 14 operated, maintained, or controlled by any of the those
 15 public authorities ~~aforesaid~~ shall be regulated and
 16 restricted as hereafter ~~set forth and~~ provided."

17 Section 4. Section 1-702, R.C.M. 1947, is amended to
 18 read as follows:

19 "1-702. ~~Considerations effecting safety Regulation of~~
 20 building heights. For (1) The height of buildings and other
 21 structures shall be regulated for the purposes set forth in
 22 ~~section 1-707 1-701~~, and considering among other things:

23 (a) Requirements ~~requirements~~ and facilities necessary
 24 to secure the safe descent, landing, ascent, and operation
 25 of aircraft ~~using or~~ utilizing the public airports and

1 landing fields ~~aforesaid~~ in the state of Montana;

2 (b) ~~Hezard~~ hazards from the obstruction of air space
 3 ~~in the vicinity of such airports and landing fields;~~ ~~(c) The~~
 4 and the relation of the height of buildings and other
 5 structures in the vicinity of such airports and landing
 6 fields to such hazards;

7 ~~(d)(c) The the~~ area within which height ~~of~~ buildings
 8 and other structures may dangerously obstruct air space in
 9 the vicinity of public airports and landing fields; ~~(e) The~~
 10 and the height of buildings or other structures within such
 11 areas which is consistent with the safe use of such airports
 12 and landing fields; and

13 ~~(f)(d) The the~~ maintenance and use of either
 14 obstruction markers ~~and/or~~ lights, or both, upon buildings
 15 and other structures within ~~the said areas~~ such area as
 16 safety devices.

17 (2) The height of buildings ~~and/or~~ other structures is
 18 hereby regulated and restricted within a distance of ~~two (2)~~
 19 miles from any such public airport or landing field,
 20 measured at a right angle from any side or in a radial line
 21 from any corner of the established boundary line thereof, in
 22 any and all directions, as follows:

23 ~~(1)(a) Approach zone~~ The trapezoidal portion of the
 24 total ~~two-mile~~ 2-mile zone area, 500 feet in width at the
 25 boundary of the field or airport, and broadening to a width

1 of 2500 2,500 feet ~~two~~ 2 miles distant, the center line of
 2 which ~~shall be~~ is a continuation of the center line of each
 3 runway at and upon such public airports and landing fields,
 4 known as the approach zone, ~~shall~~ may have no building or
 5 other structure or natural feature or object of any kind
 6 therein, the height of which is more than one-twentieth its
 7 distance from the nearest boundary of the airport or landing
 8 field.

9 ~~(2)(b) Turning zone:~~ The remaining portion of the
 10 ~~two-mile~~ 2-mile zone area surrounding such public airports
 11 and landing fields ~~aforsaid~~, lying between the approach
 12 zones ~~aforsaid~~ and known as turning zones, ~~shall~~ may have
 13 no building or other structure or natural feature or object
 14 of any kind therein, the height of which is more than
 15 one-seventh its distance from the nearest boundary of the
 16 airport or landing field.

17 (1) In measuring distances and heights to determine
 18 the zone standard, measurements shall be taken from the
 19 nearest side of the building or structure or other object
 20 to the nearest side of the airport or landing field and
 21 ~~aforsaid~~ and in the event of airports having boundaries
 22 not regular, the nearest established perimeter of such port
 23 and field shall be used, as distinguished from ~~the~~ actual
 24 boundary."

25 Section 5. Section 1-704, R.C.M. 1947, is amended to

1 read as follows:

2 "1-704. ~~Permits for erection of structures~~ Duty to
 3 acquire permit. ~~It is hereby made the duty of every (1)~~
 4 Each person, firm, or corporation in this state, proposing
 5 to erect, establish, or maintain any building or other
 6 structure ~~or to grow any natural object~~ that would exceed
 7 the height limit established by law or to grow any natural
 8 object that would exceed such limit when grown, ~~to proceed~~
 9 ~~to erect, establish or maintain such structure or plant~~
 10 ~~said natural object, without first making application~~
 11 whenever the proposed erection or growth is within 2 miles
 12 of a public airport or landing field, shall apply to the
 13 proper officer of the United States or the state of
 14 Montana or any county or any municipality ~~(where the~~
 15 ~~proposed erection or action is within two miles of a public~~
 16 ~~airport or landing field as herein set forth) thereof,~~
 17 whichever of said ~~those~~ bodies has control of the airport or
 18 landing field affecting the area, ~~and obtaining from the~~
 19 ~~proper authority for~~ a permit ~~for the erection~~
 20 ~~establishment and maintenance of~~ to erect, establish, or
 21 maintain the structure, building, or object proposed ~~and~~

22 (2) no No permit ~~shall~~ may be granted unless the
 23 specifications of the building or other structure or object
 24 reveal that the total height ~~shall~~ does not or will not
 25 exceed the height limits fixed by law for the zone in which

1 the same is to be established, and no.

2 ~~(3) No permit shall may be issued in violation hereof~~
 3 ~~of this section, and any erection or maintenance without a~~
 4 ~~permit which is issued in violation of this section hereof~~
 5 ~~shall be ineffectual in law or equity and shall be and~~
 6 ~~remain a nullity so far as this act is concerned, and the~~
 7 ~~enforcement remedies hereunder is void."~~

8 Section 6. Section 1-903, R.C.M. 1947, is amended to
 9 read as follows:

10 "1-903. Airport Department control of airport
 11 operation and income. The department shall have operational
 12 may control the operation of airports constructed under the
 13 provisions of section 1-902 and may provide for the
 14 imposition of landing fees, granting of fuel and service
 15 concessions, or the lease of portions of the premises for
 16 other related airport services or for purposes not
 17 inconsistent with the use of the premises for airport
 18 purposes. All income from the operation of such airports
 19 shall be deposited in the state treasury in a special the
 20 airport operating fund to be known as the airport operating
 21 fund account within the revolving fund. All expenditures
 22 from such fund the account shall be within the limits of
 23 legislative appropriations and shall be made upon vouchers,
 24 signed and approved by the director of the department."

25 Section 7. Section 1-912, R.C.M. 1947, is amended to

1 read as follows:

2 "1-912. Bonds and other obligations. (1) An authority
 3 shall have the power to may borrow money for any of its
 4 corporate purposes and issue its bonds therefor, including
 5 refunding bonds, in such form and upon such terms as it may
 6 determine, payable out of any revenues of the authority,
 7 including revenues derived from:

8 (a) an airport or air navigation facility or
 9 facilities;

10 (b) taxes levied pursuant to section 1-916, or other
 11 law for airport purposes;

12 (c) grants or contributions from the federal
 13 government; or

14 (d) other sources.

15 (2) The bonds may be issued by resolution or
 16 resolutions of the authority, without an election, and
 17 without any limitation of amount, except as follows: that no
 18 no such bonds may shall be issued at any time if the total
 19 amount of principal and interest to become due in any year
 20 on such bonds, and on any then outstanding bonds for which
 21 revenues from the same source or sources are pledged,
 22 exceeds the amount of such revenues to be received in that
 23 year as estimated in the resolution authorizing the issuance
 24 of the bonds, and the the authority shall be obligated to
 25 take all action necessary and possible to impose, maintain,

1 and collect rates, charges, rentals, and taxes, if any are
 2 pledged, sufficient to make the revenues from the pledged
 3 source or sources in such year at least equal to the amount
 4 of such principal and interest due in that year.

5 ~~(3)~~ The bonds may be sold at public or private
 6 sale and ~~shall~~ may bear interest at a rate or rates not
 7 exceeding ~~ten-per-centum (10%) per annum a year~~. Except as
 8 otherwise provided herein, any bonds issued pursuant to this
 9 chapter by an authority ~~shall~~ may be payable as to principal
 10 and interest solely from revenues of the authority, and
 11 shall state on their face the applicable limitations or
 12 restrictions regarding the source or sources from which such
 13 principal and interest are payable.

14 ~~(4)~~ Bonds issued by an authority or municipality
 15 pursuant to the provisions of this chapter are declared to
 16 be issued for an essential public and governmental purpose
 17 by a political subdivision within the meaning of ~~section~~
 18 84-4905(2)(a).

19 ~~(5)~~ For the security of any such bonds, the authority
 20 or municipality may by resolution make and enter into any
 21 covenant, agreement, or indenture and may exercise any
 22 additional powers authorized to be ~~made, entered into or~~
 23 exercised by a municipality under Title 11, chapter 24. The
 24 sums required from time to time to pay principal and
 25 interest and to create and maintain a reserve for the bonds

1 may be ~~made payable~~ paid from any ~~and all~~ revenues referred
 2 to in this chapter, prior to the payment of current costs of
 3 operation and maintenance of the facilities.

4 ~~(2)(6)~~ Subject to the conditions stated in this
 5 paragraph-~~(2)~~ subsection (6), the governing body of any
 6 municipality having a population in excess of ~~ten-thousand~~
 7 ~~(10,000)~~-may, with respect to bonds issued pursuant to this
 8 chapter by the municipality or by an authority in which the
 9 municipality is included, may by resolution covenant that
 10 in the event that at any time all revenues, including taxes,
 11 appropriated and ~~theretofore~~ collected for such bonds are
 12 insufficient to pay principal or interest then due, it will
 13 levy a general tax upon all of the taxable property in the
 14 municipality for the payment of such deficiency, and may
 15 further covenant that at any time a deficiency is likely to
 16 occur within ~~one (1)~~ year for the payment of principal and
 17 interest due on such bonds, it will levy a general tax upon
 18 all the taxable property in the municipality for the payment
 19 of such deficiency, and such taxes ~~shall~~ are not be subject
 20 to any limitation of rate or amount applicable to other
 21 municipal taxes but shall be limited to a rate estimated to
 22 be sufficient to produce the amount of the deficiency. In
 23 the event more than one municipality having a population in
 24 excess of ~~ten-thousand (10,000)~~ is included in an authority
 25 issuing bonds pursuant to this chapter, the municipalities

1 may apportion the obligation to levy taxes for the payment
 2 of, or in anticipation of, a deficiency in the revenues
 3 appropriated for such bonds in such manner as the
 4 municipalities ~~shall~~ may determine. The resolution shall
 5 state the principal amount and purpose of the bonds and the
 6 substance of the covenant respecting deficiencies. No such
 7 resolution ~~shall become~~ becomes effective until the question
 8 of its approval has been submitted to the qualified electors
 9 of the municipality at a special election called for ~~and~~
 10 that purpose by the governing body of the municipality and a
 11 majority of the electors voting on the question have voted
 12 in favor thereof. The notice and conduct of the election
 13 shall be governed, to the extent applicable, by section
 14 11-2308 and 11-2310 for an election called by cities and
 15 towns, and ~~section 16-202~~ 16-2024 and 16-2026 for an
 16 election called by counties. If a majority of the electors
 17 voting thereon vote against approval of the resolution, the
 18 municipality ~~shall have~~ has no authority to make the
 19 covenant or to levy a tax for the payment of deficiencies
 20 pursuant to this section, but such municipality or authority
 21 may nevertheless issue bonds under this chapter payable
 22 solely from the sources referred to in paragraph subsection
 23 (1) above."

24 Section 8. Section 1-918, R.C.M. 1947, is amended to
 25 read as follows:

1 "1-918. Joint operations ~~exercise of powers.~~ ~~(1)~~ For
 2 the purposes of this section, unless otherwise qualified,
 3 the term "public agency" includes municipality and
 4 authority, each as defined in this chapter, any agency of
 5 the state government and of the United States, and any
 6 municipality, political subdivision, or agency of an
 7 adjoining state, ~~and the~~ ~~The~~ term "governing body" includes
 8 commissioners of an authority, the governing body of a
 9 municipality, and the head of an agency of a state or the
 10 United States if the public agency is other than an
 11 authority or municipality. All powers, privileges, and
 12 authority granted by this chapter may be exercised and
 13 enjoyed by an authority jointly with any public agency of
 14 this state, and jointly with any public agency of any
 15 adjoining state or of the United States to the extent that
 16 the laws of such other state or of the United States permit
 17 such joint exercise of or enjoyment. Any agency of the state
 18 government, when acting jointly with any authority, may
 19 exercise and enjoy all the powers, privileges, and authority
 20 conferred by this chapter upon an authority.

21 ~~2~~(2) Any two ~~(2)~~ or more public agencies may enter
 22 into agreements with each other for joint action pursuant to
 23 the provisions of this section. Each agreement shall specify
 24 its duration; the proportionate interest which each public
 25 agency ~~shall~~ will have in the property, facilities, and

1 privileges involved in the joint undertaking; the
 2 proportion of costs of operation, capital outlay, and
 3 maintenance, to be borne by each public agency; and such
 4 other terms as are deemed considered necessary or required
 5 by law. The agreement may also provide for amendments and
 6 termination; disposal of all or any of the property,
 7 facilities, and privileges jointly owned, prior to, or at
 8 such times as ~~said~~ the property, facilities, and privileges,
 9 or any part thereof, cease to be used for the purposes
 10 provided in this chapter, or upon termination of the
 11 agreement; the distribution of the proceeds received upon
 12 any disposal, and of any funds or other property jointly
 13 owned and undisposed of; the assumption of payment of any
 14 indebtedness arising from the joint undertaking which
 15 remains unpaid upon the disposal of all assets or upon a
 16 termination of the agreement; and such other provisions as
 17 may be necessary or convenient.

18 ~~3-~~(3) Public agencies acting jointly pursuant to this
 19 section shall create a joint board which shall consist of
 20 members appointed by the governing body of each
 21 participating public agency. The number to be appointed, and
 22 their term and compensation, if any, shall be provided for
 23 in the joint agreement. Each joint board shall organize,
 24 select officers for such terms as are fixed by the
 25 agreement, and adopt and amend from time to time rules for

1 its own procedure. The joint board ~~shall have power,~~ as
 2 agent of the participating public agencies, to may plan,
 3 acquire, establish, develop, construct, enlarge, improve,
 4 maintain, equip, operate, regulate, protect, and police any
 5 airport or air navigation facility or airport hazard to be
 6 jointly acquired, controlled, and operated; and the board
 7 may be authorized by the participating public agencies to
 8 exercise on behalf of its constituent public agencies all
 9 the powers of each with respect to the airport, air
 10 navigation facility, or airport hazard, subject to the
 11 limitations of subsection ~~4~~(4) of this section.

12 ~~4-a-~~(4) (a) The total expenditures to be made by the
 13 joint board for any purpose in any calendar year shall be as
 14 determined by a budget approved by the constituent public
 15 agencies on or before the preceding June 10, or as otherwise
 16 specifically authorized by the constituent public agencies.

17 ~~b-~~(b) No airport, air navigation facility, airport
 18 hazard, or real or personal property, the cost of which is
 19 in excess of sums fixed therefor by the joint agreement or
 20 allotted in the annual budget, may be acquired, established,
 21 or developed by the joint board without the approval of the
 22 governing bodies of its constituent public agencies.

23 ~~e-~~(c) Eminent domain proceedings under this section
 24 may be instituted by the joint board only by authority of
 25 the governing bodies of the constituent public agencies of

1 the joint board. If so authorized, such proceedings shall be
 2 instituted in the names of the constituent public agencies
 3 jointly, and the property so acquired shall be held by ~~said~~
 4 the public agencies as tenants in common.

5 ~~4.(d)~~ The joint board ~~shall may~~ not dispose of any
 6 airport, air navigation facility, or real property under its
 7 jurisdiction except with the consent of the governing bodies
 8 of its constituent public agencies, ~~provided that HOWEVER,~~
 9 the joint board may, without such consent, enter into
 10 contract, leases, or other arrangements contemplated by
 11 ~~section 1-913 of this chapter.~~

12 ~~or (e) Any resolutions Resolutions,~~ rules, regulations,
 13 or orders of the joint board dealing with subjects
 14 authorized by ~~section 1-913 of this chapter shall~~ become
 15 effective only upon approval of the governing bodies of the
 16 constituent public agencies, ~~provided that HOWEVER,~~ upon
 17 such approval, the resolutions, rules, regulations, or
 18 orders of the joint board shall have the same force and
 19 effect in the territories or jurisdictions involved as the
 20 ordinances, resolutions, rules, regulations, or orders of
 21 each public agency would have in its own territory or
 22 jurisdiction.

23 ~~5.(5)~~ For the purpose of providing the joint board
 24 with moneys for the necessary expenditures in carrying out
 25 the provisions of this section, a joint fund shall be

1 created and maintained, into which shall be deposited the
 2 share of each of the constituent public agencies as provided
 3 by the joint agreement. Any federal, state, or other grants,
 4 contributions, or loans, and the revenues obtained from the
 5 joint ownership, control, and operation of any airport or
 6 air navigation facility under the jurisdiction of the joint
 7 board shall be paid into the joint fund. Disbursements from
 8 such fund shall be made by order of the board, subject to
 9 the limitations prescribed in subsection ~~4(4)~~ of this
 10 section."

11 Section 9. Section 1-1101, R.C.M. 1947, is amended to
 12 read as follows:

13 ~~"1-1101. Department of community affairs to be~~
 14 ~~custodian of all airplanes owned or leased by state~~
 15 Department as custodian of state airplanes. The department
 16 ~~of community affairs~~ is hereby constituted designated the
 17 custodian of all airplanes owned or leased by the state of
 18 Montana or its boards, commissions, or agencies."

19 Section 10. Repealer. Sections 1-829 through 1-832 and
 20 1-1001 through 1-1005, R.C.M. 1947, are repealed.

-End-

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LC0012

1977 Legislature
Code Commissioner Bill - Summary

Senate Bill No. 10

REVISION AND CLARIFICATION OF LAWS RELATING TO AERONAUTICS

(This summary does not include discussion of routine form or grammatical changes.)

Section 1. 1-401. Former (5) concerning airport concessions poorly worded. Now (6)(d) makes it clear that it is the concessions that are on the airport premises, not that someone is furnishing the concessions to the airport.

Section 2. 1-502. Subsection (2) deleted because unconstitutional under Article II, section 18, which provides that the state has no immunity from suit unless specifically provided by a 2/3 vote of each house of the legislature.

Section 3. 1-701. Divided into two sentences and added verb "shall be" in last line to complete the thought.

Section 4. 1-702. Added words to make (1) a complete sentence. Reference to 1-707 in first sentence was wrong. Changed to 1-701.

Section 5. 1-704. This entire section was one long sentence which stated that it was a person's duty to proceed without a permit, the intent obviously being to require a permit for.

The last part speaks of a building being a nullity whereas it should say an illegal permit for the building is a nullity.

Section 6. 1-903. "Special operating fund" changed to "operating account within the revolving fund" to be consistent with treasury fund law.

Section 7. 1-912. In (2), now numbered (6), section 16-202 was amended to read 16-2024 which is the proper reference to elections called by counties.

Section 8. 1-918(1). The word "of" changed to "or" in phrase "laws. . . of the United States permit such joint exercise or enjoyment."

Section 9. 1-1101. "Constituted" replaced with "designated."

Section 10. Repeals sections 1-829 through 1-832 which were declared unconstitutional in 1970 in Northwest Airlines, Inc. v. Joint City-County Airport Board, 154 M 352, 463 P2d 470.

Also repeals Chapter 10 of Title 1, Airport Passenger Services Charges, which is in conflict with Section 1513(a), Title 49 U. S. Code which prohibits a state from levying such a charge. The federal act, as well as its legal history and interpretation, indicates that Congress intended to forbid states to pass such state tax laws. The federal law, as it now appears, became effective June 18, 1973, nullifying the Montana statute that had been adopted in March of 1973 by the Montana legislature.

Approved by Committee
on State Administration

1 SENATE BILL NO. 10

2 INTRODUCED BY HAZELBAKER

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4 A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE GENERAL

5 REVISION AND CLARIFICATION OF THE LAWS RELATING TO

6 AERONAUTICS; AMENDING SECTIONS 1-401, 1-502, 1-701, 1-702,

7 1-704, 1-903, 1-912, 1-918, AND 1-1101, R.C.M. 1947; AND

8 REPEALING SECTIONS 1-829 THROUGH 1-832 AND 1-1001 THROUGH

9 1-1005, R.C.M. 1947."

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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12 Section 1. Section 1-401, R.C.M. 1947, is amended to

13 read as follows:

14 "1-401. Acquisition and operation of state airports.

15 (1) The department may, on behalf of and in the name of this

16 state:

17 (a) acquire real or personal property by purchase,

18 gift, devise, lease, condemnation proceedings, or otherwise

19 ~~property real or personal~~ for the purpose of establishing

20 and constructing airports, restricted landing areas, and

21 other air navigation facilities; ~~and~~

22 (b) acquire in like manner, own, control, establish,

23 construct, enlarge, improve, maintain, equip, operate,

24 regulate, and police airports, restricted landing areas, and

25 other air navigation facilities either within or outside

1 this state; ~~make~~

2 (c) prior to acquisition, ~~make~~ investigations,

3 surveys, and plans;

4 (d) erect, install, construct, and maintain facilities

5 at those airports ~~facilities~~ for the servicing of aircraft

6 and for the comfort and accommodation of air travelers; and

7 (e) dispose of any property, airport, restricted

8 landing area, or any other air navigation facility by sale,

9 lease, or otherwise in accordance with the laws of this

10 state governing the disposition of other like property of

11 the state.

12 (2) ~~It~~ The department may not, however, acquire or

13 take over an airport, restricted landing area, or other air

14 navigation facility owned or controlled by a municipality of

15 this state without the consent of the municipality. ~~It~~ The

16 department may erect, equip, operate, and maintain on an

17 airport, buildings and equipment necessary and proper to

18 establish, maintain, and conduct the airport and air

19 navigation facilities connected with it.

20 (2)(3) Where necessary, in order to provide

21 unobstructed air space for the landing and taking off of

22 aircraft utilizing airports and restricted landing areas

23 acquired or operated under the provisions of this ~~title~~ ~~it~~

24 title, the department may acquire, in the manner provided

25 for the acquisition of property for airport purposes,

There are no changes in SB 10, & will not be re-run.

Please refer to white copy for complete text. SECOND READING

1 easements through or other interests in air space over land
 2 or water, interests in airport hazards outside the
 3 boundaries of the airports or restricted landing areas, and
 4 such other airport protection privileges as are necessary to
 5 ensure safe approaches to the landing areas of airports and
 6 restricted landing areas, and the safe and efficient
 7 operation of them. ~~It~~ The department may also acquire in the
 8 same manner the right or easement, for a term of years or
 9 perpetually, to place or maintain suitable marks for the
 10 daytime marking and suitable lights for the nighttime
 11 marking of airport hazards, including the right of ingress
 12 and egress to or from the airport hazards for the purpose of
 13 maintaining and repairing the lights and marks. This
 14 authority does not limit the right, power, or authority of
 15 the state or a municipality to zone property adjacent to an
 16 airport or restricted landing area pursuant to a law of this
 17 state.

18 ~~(3)(4)~~ It The department may engage in all those
 19 activities jointly with the United States, other states, and
 20 with municipalities or other agencies of this state.

21 ~~(4)(5)~~ It For the purpose of acquiring any property
 22 which it is authorized to acquire, the department may
 23 exercise the right of eminent domain, in the name of the
 24 state, in the manner provided by the laws of this state for
 25 the acquisition of real property for public purposes, ~~for~~

1 ~~the purpose of acquiring any property which it is authorized~~
 2 ~~to acquire.~~ The acquisition of property for any of those
 3 purposes is a public use.

4 ~~(5)(6)~~ It The department may:

5 (a) lease, for a term not exceeding ~~ten~~(10) years,
 6 airports, or other air navigation facilities or real
 7 property acquired or set apart for airport purposes, to
 8 private parties, a municipal or state government, or the
 9 national government, or a department of either of them, for
 10 operation; ~~and may~~

11 (b) lease or assign, for a term not exceeding ~~ten~~(10)
 12 years, space, area, improvements, or equipment on those
 13 airports to private parties, a municipal or state government
 14 or the national government, or a department of either for
 15 operation or use consistent with the purposes of this ~~title~~
 16 ~~space, area, improvements, or equipment on those airports~~
 17 title; may

18 (c) sell any part of those airports, other air
 19 navigation facilities, or real property to a municipal or
 20 state government, or to the United States or a department or
 21 instrumentality thereof, for aeronautical purposes or
 22 purposes incidental thereto; and may

23 (d) confer the privilege of concessions of for
 24 supplying ~~upon the airports~~ goods, commodities, things,
 25 services, and facilities upon the premises of those

1 SENATE BILL NO. 10
 2 INTRODUCED BY HAZELBAKER
 3
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 18 gift, devise, lease, condemnation proceedings, or otherwise
 19 ~~property-real-or-personal~~ for the purpose of establishing
 20 and constructing airports, restricted landing areas, and
 21 other air navigation facilities; and

22 (b) acquire in like manner, own, control, establish,
 23 construct, enlarge, improve, maintain, equip, operate,
 24 regulate, and police airports, restricted landing areas, and
 25 other air navigation facilities either within or outside

1 this state; ~~make~~
 2 (c) prior to acquisition, ~~make~~ investigations,
 3 surveys, and plans;

4 (d) erect, install, construct, and maintain ~~facilities~~
 5 at those airports ~~facilities~~ for the servicing of aircraft
 6 and for the comfort and accommodation of air travelers; and

7 (e) dispose of any property, airport, restricted
 8 landing area, or any other air navigation facility, by sale,
 9 lease, or otherwise in accordance with the laws of this
 10 state governing the disposition of other like property of
 11 the state.

12 (2) ~~It~~ The department may not, however, acquire or
 13 take over an airport, restricted landing area, or other air
 14 navigation facility owned or controlled by a municipality of
 15 this state without the consent of the municipality. ~~It~~ The
 16 department may erect, equip, operate, and maintain on an
 17 airport, buildings and equipment necessary and proper to
 18 establish, maintain, and conduct the airport and air
 19 navigation facilities connected with it.

20 (2)(3) Where necessary, in order to provide
 21 unobstructed air space for the landing and taking off of
 22 aircraft utilizing airports and restricted landing areas
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THIRD READING

1 easements through or other interests in air space over land
 2 or water, interests in airport hazards outside the
 3 boundaries of the airports or restricted landing areas, and
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 5 ensure safe approaches to the landing areas of airports and
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 9 perpetually, to place or maintain suitable marks for the
 10 daytime marking and suitable lights for the nighttime
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 13 maintaining and repairing the lights and marks. This
 14 authority does not limit the right, power, or authority of
 15 the state or a municipality to zone property adjacent to an
 16 airport or restricted landing area pursuant to a law of this
 17 state.

18 ~~(3)(4)~~ It The department may engage in all those
 19 activities jointly with the United States, other states, and
 20 with municipalities or other agencies of this state.

21 ~~(4)(5)~~ It For the purpose of acquiring any property
 22 which it is authorized to acquire, the department may
 23 exercise the right of eminent domain, in the name of the
 24 state, in the manner provided by the laws of this state for
 25 the acquisition of real property for public purposes, ~~for~~

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 8 private parties, a municipal or state government, or the
 9 national government, or a department of either of them, for
 10 operation; and may

11 (b) lease or assign, for a term not exceeding ten ~~(10)~~
 12 years, space, area, improvements, or equipment on those
 13 airports to private parties, a municipal or state government
 14 or the national government, or a department of either for
 15 operation or use consistent with the purposes of this ~~title~~
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18 (c) sell any part of those airports, other air
 19 navigation facilities, or real property to a municipal or
 20 state government, or to the United States or a department or
 21 instrumentality thereof, for aeronautical purposes or
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(b) acquire in like manner, own, control, establish, construct, enlarge, improve, maintain, equip, operate, regulate, and police airports, restricted landing areas, and other air navigation facilities either within or outside

REFERENCE BILL

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(e) dispose of any property, airport, restricted landing area, or any other air navigation facility, by sale, lease, or otherwise, in accordance with the laws of this state governing the disposition of other like property of the state.

(2) If the department may not, however, acquire or take over an airport, restricted landing area, or other air navigation facility owned or controlled by a municipality of this state without the consent of the municipality. If the department may erect, equip, operate, and maintain on an airport, buildings and equipment necessary and proper to establish, maintain, and conduct the airport and air navigation facilities connected with it.

(3) Where necessary, in order to provide unobstructed air space for the landing and taking off of aircraft utilizing airports and restricted landing areas acquired or operated under the provisions of this title, the department may acquire, in the manner provided for the acquisition of property for airport purposes,

1 easements through or other interests in air space over land
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 4 such other airport protection privileges as are necessary to
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 19 navigation facilities, or real property to a municipal or
 20 state government, or to the United States or a department or
 21 instrumentality thereof, for aeronautical purposes or
 22 purposes incidental thereto; ~~and may~~

23 (d) confer the privilege of concessions ~~of~~ for
 24 supplying ~~upon the airports~~ goods, commodities, things,
 25 services, and facilities upon the premises of those

1 ~~airports.~~ However, ~~in each case~~ in so doing the public may
2 not be deprived of its rightful, equal, and uniform use
3 thereof.

4 ~~(6)(1)~~ It may determine the charges or rental for the
5 use of state airports, and the charges for service or
6 accommodations, under its control, and the terms and
7 conditions under which the properties may be used. However,
8 the public may not be deprived of its rightful, equal, and
9 uniform use of the property. Charges shall be reasonable and
10 uniform for the same class of service and established with
11 due regard to the property and improvements used and the
12 expenses of operation to the state. The state has, and the
13 department may enforce, registers' liens, as provided by law,
14 for repair, improvement, storage, or care of any personal
15 property."

16 Section 2. Section 1-502, R.C.M. 1947, is amended to
17 read as follows:

18 "1-502. Aeronautics Governmental nature of
19 aeronautical functions governmental--no liability for torts.

20 ~~(1)~~ The acquisition of lands for establishing airports or
21 other air navigation facilities; the acquisition of airport
22 protection privileges; the acquisition, establishment,
23 construction, enlargement, improvement, maintenance,
24 equipment, and operation of airports and other air
25 navigation facilities, whether by the state separately or

1 jointly with a municipality; the assistance of this state in
2 that acquisition, establishment, construction, enlargement,
3 improvement, maintenance, equipment, and operation; and the
4 exercise of any other powers granted to the department are
5 public and governmental functions, exercised for a public
6 purpose, and ~~as a matter~~ matter of public necessity, and
7 such lands and other property and privileges acquired and
8 used by the state in the manner and for the purposes
9 enumerated in this ~~title~~ title are acquired and used for
10 public and governmental purposes and as a matter of public
11 necessity.

12 ~~(2) No suit in tort may be brought or maintained~~
13 ~~against the state or any municipality of the state, or their~~
14 ~~officers, agents, servants, or employees, on account of an~~
15 ~~act done in or about the construction, maintenance,~~
16 ~~enlargement, operation, superintendency, or management of an~~
17 ~~airport or other air navigation facility."~~

18 Section 3. Section 1-701, R.C.M. 1947, is amended to
19 read as follows:

20 "1-701. ~~Eliminating dangerous obstructions near~~
21 ~~airports Purpose. That for~~ For the purpose of ensuring ~~and~~
22 ~~securing~~ safety from death or ~~bodily harm and injury~~ for
23 aeronauts and passengers, and to protect the property of
24 those engaged in aeronautics, and to encourage and promote
25 air travel and transportation of mail, passengers, express,

1 and freight by air, it is deemed ~~considered~~ necessary to
 2 eliminate dangerous obstructions of air space in the
 3 vicinity of airports or landing fields which may now be or
 4 which may hereafter be acquired, owned, operated, or
 5 controlled, or maintained by the United States, the state of
 6 Montana, or any county of ~~the state of Montana~~ or any
 7 municipality thereof, and in order to promote the public
 8 order, health, and safety by providing unobstructed air
 9 space for the safe descent, landing, ascent, and operation
 10 of aircraft ~~while using or utilizing the said~~ public
 11 airports in the state of Montana, the height of buildings
 12 and other structures in the vicinity of the airports and
 13 landing fields in the state of Montana owned, leased,
 14 operated, maintained, or controlled by any of the ~~those~~
 15 public authorities ~~oforeaid~~, shall be regulated and
 16 restricted as hereafter ~~set forth and~~ provided."

17 Section 4. Section 1-702, R.C.M. 1947, is amended to
 18 read as follows:

19 "1-702. ~~Considerations affecting safety~~ Regulation of
 20 building heights. For ~~(1) The height of buildings and other~~
 21 structures shall be regulated for the purposes set forth in
 22 ~~section 1-707 1-701~~, and considering among other things:

23 (a) ~~Requirements~~ requirements and facilities necessary
 24 to secure the safe descent, landing, ascent, and operation
 25 of aircraft ~~using or utilizing the~~ public airports and

1 landing fields ~~oforeaid~~ in the state of Montana;

2 (b) ~~Hazard~~ hazards from the obstruction of air space
 3 ~~in the vicinity of such airports and landing fields;~~ ~~(c) The~~
 4 ~~and the~~ relation of the height of buildings and other
 5 structures in the vicinity of such airports and landing
 6 fields to such hazards;

7 ~~(d)(c) The~~ ~~the~~ area within which ~~height of~~ buildings
 8 and other structures may dangerously obstruct air space in
 9 the vicinity of public airports and landing fields; ~~(e) The~~
 10 ~~and the~~ height of buildings or other structures within such
 11 area, which is consistent with the safe use of such airports
 12 and landing fields; and

13 ~~(f)(d) The~~ ~~the~~ maintenance and use of ~~either~~
 14 obstruction markers and/or lights, ~~or both~~ upon buildings
 15 and other structures within ~~the said areas~~, such area as
 16 safety devices.

17 (2) The height of buildings and/or other structures is
 18 hereby regulated and restricted within a distance of ~~two (2)~~
 19 miles from any such public airport or landing field,
 20 measured at a right angle from any side or in a radial line
 21 from any corner of the established boundary line thereof, in
 22 any and all directions, as follows:

23 ~~(1)(a) Approach zone.~~ The trapezoidal portion of the
 24 total ~~two-mile~~ 2-mile zone area, 500 feet in width at the
 25 boundary of the field or airport, and broadening to a width

1 of 2500 ~~2,500~~ feet two 2 miles distant, the center line of
 2 which ~~shall be~~ is a continuation of the center line of each
 3 runway at and upon such public airports and landing fields,
 4 known as the approach zone, ~~shall may~~ have no building~~v~~ or
 5 other structure~~v~~ or natural feature or object of any kind
 6 therein, the height of which is more than one-twentieth its
 7 distance from the nearest boundary of the airport or landing
 8 field.

9 ~~(2)(b) Turning--zone:~~ The remaining portion of the
 10 two-mile ~~2-mile~~ zone area surrounding such public airports
 11 and landing fields ~~aforsaid~~, lying between the approach
 12 zones ~~aforsaid~~, and known as turning zones, ~~shall may~~ have
 13 no building or other structure~~v~~ or natural feature or object
 14 of any kind therein, the height of which is more than
 15 one-seventh its distance from the nearest boundary of the
 16 airport or landing field.

17 ~~(3)~~ In measuring distances and heights to determine
 18 the zone standard, measurements shall be taken from the
 19 nearest side of the building or structure or other object~~v~~
 20 to the nearest side of the airport or landing field~~v~~
 21 ~~aforsaid~~ and ~~in~~ in the event of airports having boundaries
 22 not regular, the nearest established perimeter of such port
 23 and field shall be used, as distinguished from ~~the~~ actual
 24 boundary.*

25 Section 5. Section 1-704, R.C.M. 1947, is amended to

1 read as follows:

2 "1-704. ~~Permits-for-erection--of--structures~~ Duty to
 3 acquire permit. ~~It--is--hereby-made-the-duty-of-every~~ all
 4 each person, firm~~v~~ or corporation in this state~~v~~ proposing
 5 to erect, establish~~v~~ or maintain any building or other
 6 structure~~v~~ or to grow any natural object that would exceed
 7 the height limit established by law or to grow any natural
 8 object that would exceed such limit when grown, to ~~proceed~~
 9 ~~to--erect--establish--or--maintain--such--structure--or--plant~~
 10 ~~said--natural--object--without--first--making--application~~
 11 whenever the proposed erection or growth is within 2 miles
 12 of a public airport or landing field, shall apply to the
 13 proper officer of the United States~~v~~ or the state of
 14 Montanav~~v~~ or any county or any municipality ~~(where--the~~
 15 ~~proposed--erection--or--action--is--within--two--miles--of--a--public~~
 16 ~~airport--or--landing--field--as--herein--set--forth)~~ thereof,
 17 whichever of said ~~those~~ bodies has control of the airport or
 18 landing field affecting the area, ~~and--obtaining--from--the~~
 19 ~~proper--authority~~ for a permit ~~for--the--erection~~
 20 ~~establishment--and--maintenance--of~~ to erect, establish or
 21 ~~maintain~~ the structure, building~~v~~ or object proposed~~v~~ and~~v~~
 22 (4) no ~~No~~ permit ~~shall may~~ be granted unless the
 23 specifications of the building or other structure or object
 24 reveal that the total height ~~shall does not or will~~ not
 25 exceed the height limits fixed by law for the zone in which

1 the same is to be established ~~and no~~
 2 ~~(3) No~~ permit shall ~~may~~ be issued in violation hereof
 3 ~~of this section~~, and any erection ~~or maintenance~~ without a
 4 permit which is ~~issued~~ in violation ~~of this section~~ hereof
 5 shall be ~~ineffectual in law or equity, and shall be and~~
 6 ~~remain a nullity so far as this act is concerned, and the~~
 7 ~~enforcement remedies hereunder is void.~~"

8 Section 6. Section 1-903, R.C.M. 1947, is amended to
 9 read as follows:

10 "1-903. Airport Department control of airport
 11 operation and income. The department ~~shall have operational~~
 12 ~~may~~ control the operation of airports constructed under the
 13 provisions of section 1-902 and may provide for the
 14 imposition of landing fees, granting of fuel and service
 15 concessions, or the lease of portions of the premises for
 16 other related airport services or for purposes not
 17 inconsistent with the use of the premises for airport
 18 purposes. All income from the operation of such airports
 19 shall be deposited in the state treasury in ~~a special~~ the
 20 airport operating fund to be known as the airport operating
 21 fund account within the revolving fund. All expenditures
 22 from ~~such fund~~ the account shall be within the limits of
 23 legislative appropriations and shall be made upon vouchers
 24 signed and approved by the director of the department."

25 Section 7. Section 1-912, R.C.M. 1947, is amended to

1 read as follows:

2 "1-912. Bonds and other obligations. (1) An authority
 3 ~~shall have the power to~~ ~~may~~ borrow money for any of its
 4 corporate purposes and issue its bonds therefor, including
 5 refunding bonds, in such form and upon such terms as it may
 6 determine, payable out of any revenues of the authority,
 7 including revenues derived from:

8 (a) an airport or air navigation facility or
 9 facilities;

10 (b) taxes levied pursuant to section 1-916 or other
 11 law for airport purposes;

12 (c) grants or contributions from the federal
 13 government; or

14 (d) other sources.

15 (2) The bonds ~~may~~ be issued by resolution or
 16 resolutions of the authority, without an election, and
 17 without any limitation of amount, except ~~as follows:~~ ~~that~~ No
 18 ~~or~~ such bonds ~~may~~ shall be issued at any time if the total
 19 amount of principal and interest to become due in any year
 20 on such bonds, and on any then outstanding bonds for which
 21 revenues from the same source or sources are pledged,
 22 exceeds the amount of such revenues to be received in that
 23 year as estimated in the resolution authorizing the issuance
 24 of the bonds, ~~and the~~ ~~the~~ authority shall be ~~obligated to~~
 25 take all action necessary and possible to impose, maintain,

1 and collect rates, charges, rentals, and taxes, if any are
 2 pledged, sufficient to make the revenues from the pledged
 3 source ~~or-sources~~ in such year at least equal to the amount
 4 of such principal and interest due in that year.

5 ~~13~~ They ~~the~~ bonds may be sold at public or private
 6 sale and ~~shall~~ ~~may~~ bear interest at a rate ~~or-rates~~ not
 7 exceeding ~~ten-per-centum-(10%) per-annum~~ a year. Except as
 8 otherwise provided herein, any bonds issued pursuant to this
 9 chapter by an authority ~~shall~~ ~~may~~ be payable as to principal
 10 and interest solely from revenues of the authority, and
 11 shall state on their face the applicable limitations or
 12 restrictions regarding the source ~~or-sources~~ from which such
 13 principal and interest are payable.

14 ~~14~~ Bonds issued by an authority or municipality
 15 pursuant to the provisions of this chapter are declared to
 16 be issued for an essential public and governmental purpose
 17 by a political subdivision within the meaning of ~~section~~
 18 ~~84-4905(2)(a)~~.

19 ~~15~~ For the security of any such bonds, the authority
 20 or municipality may by resolution make and enter into any
 21 covenant, agreement, or indenture and ~~may~~ exercise any
 22 additional powers authorized to be ~~made,--entered--into--or~~
 23 exercised by a municipality under Title 11, chapter 24. The
 24 sums required from time to time to pay principal and
 25 interest and to create and maintain a reserve for the bonds

1 may be ~~made-payable~~ paid from any ~~and-att~~ revenues referred
 2 to in this chapter, prior to the payment of current costs of
 3 operation and maintenance of the facilities.

4 ~~(2)(5)~~ Subject to the conditions stated in this
 5 ~~paragraph-(2) subsection (6)~~, the governing body of any
 6 municipality having a population in excess of ~~ten-thousand~~
 7 ~~(10,000)-may~~, with respect to bonds issued pursuant to this
 8 chapter by the municipality or by an authority in which the
 9 municipality is included, ~~may~~ by resolution covenant ~~that~~
 10 in the event that at any time all revenues, including taxes,
 11 appropriated and ~~theretofore~~ collected for such bonds are
 12 insufficient to pay principal or interest then due, it will
 13 levy a general tax upon all of the taxable property in the
 14 municipality for the payment of such deficiency, and ~~may~~
 15 further covenant that at any time a deficiency is likely to
 16 occur within ~~one-(1)~~ year for the payment of principal and
 17 interest due on such bonds, it will levy a general tax upon
 18 all the taxable property in the municipality for the payment
 19 of such deficiency, and such taxes ~~shall~~ ~~are~~ not be subject
 20 to any limitation of rate or amount applicable to other
 21 municipal taxes but shall be limited to a rate estimated to
 22 be sufficient to produce the amount of the deficiency. In
 23 the event more than one municipality having a population in
 24 excess of ~~ten-thousand-(10,000)~~ is included in an authority
 25 issuing bonds pursuant to this chapter, the municipalities

1 may apportion the obligation to levy taxes for the payment
 2 of ~~1~~ or in anticipation of ~~1~~ a deficiency in the revenues
 3 appropriated for such bonds in such manner as the
 4 municipalities ~~shall~~ may determine. The resolution shall
 5 state the principal amount and purpose of the bonds and the
 6 substance of the covenant respecting deficiencies. No such
 7 resolution ~~shall become~~ becomes effective until the question
 8 of its approval has been submitted to the qualified electors
 9 of the municipality at a special election called for ~~said~~
 10 ~~that~~ purpose by the governing body of the municipality and a
 11 majority of the electors voting on the question have voted
 12 in favor thereof. The notice and conduct of the election
 13 shall be governed, to the extent applicable, by section
 14 11-2308 and 11-2310 for an election called by cities and
 15 towns~~2~~ and ~~section--16-202~~ 16-2024 and 16-2026 for an
 16 election called by counties. If a majority of the electors
 17 voting thereon vote against approval of the resolution, the
 18 municipality ~~shall--have~~ has no authority to make the
 19 covenant or to levy a tax for the payment of deficiencies
 20 pursuant to this section, but such municipality or authority
 21 may nevertheless issue bonds under this chapter payable
 22 solely from the sources referred to in paragraph subsection
 23 (1) above."

24 Section 8. Section 1-918, R.C.M. 1947, is amended to
 25 read as follows:

1 "1-918. Joint operations exercise of powers. ~~1-11~~ For
 2 the purposes of this section, unless otherwise qualified,
 3 the term "public agency" includes municipality and
 4 authority, each as defined in this chapter, any agency of
 5 the state government and of the United States, and any
 6 municipality, political subdivision~~2~~ or agency of an
 7 adjoining state~~2~~ ~~and the~~ the term "governing body" includes
 8 commissioners of an authority, the governing body of a
 9 municipality, and the head of an agency of a state or the
 10 United States if the public agency is other than an
 11 authority or municipality. All powers, privileges, and
 12 authority granted by this chapter may be exercised and
 13 enjoyed by an authority jointly with any public agency of
 14 this state, and jointly with any public agency of any
 15 adjoining state or of the United States to the extent that
 16 the laws of such other state or of the United States permit
 17 such joint exercise of ~~or~~ enjoyment. Any agency of the state
 18 government, when acting jointly with any authority, may
 19 exercise and enjoy all the powers, privileges, and authority
 20 conferred by this chapter upon an authority.

21 ~~2-12~~ Any two ~~2~~ or more public agencies may enter
 22 into agreements with each other for joint action pursuant to
 23 the provisions of this section. Each agreement shall specify
 24 its duration~~2~~; the proportionate interest which each public
 25 agency ~~shall~~ will have in the property, facilities, and

1 privileges involved in the joint undertaking; the
 2 proportion of costs of operation, capital outlay, and
 3 maintenance to be borne by each public agency; and such
 4 other terms as are deemed ~~considered~~ necessary or required
 5 by law. The agreement may also provide for amendments and
 6 termination; disposal of all or any of the property,
 7 facilities, and privileges jointly owned prior to, or at
 8 such times as said ~~the~~ property, facilities, and privileges,
 9 or any part thereof, cease to be used for the purposes
 10 provided in this chapter, or upon termination of the
 11 agreement; the distribution of the proceeds received upon
 12 any disposal, and of any funds or other property jointly
 13 owned and undisposed of; the assumption of payment of any
 14 indebtedness arising from the joint undertaking which
 15 remains unpaid upon the disposal of all assets or upon a
 16 termination of the agreement; and such other provisions as
 17 may be necessary or convenient.

18 ~~3-~~(3) Public agencies acting jointly pursuant to this
 19 section shall create a joint board which shall consist of
 20 members appointed by the governing body of each
 21 participating public agency. The number to be appointed, and
 22 their term and compensation, if any, shall be provided for
 23 in the joint agreement. Each joint board shall organize,
 24 select officers for such terms as are fixed by the
 25 agreement, and adopt and amend from time to time rules for

1 its own procedure. The joint board ~~shall have power~~, as
 2 agent of the participating public agencies, to ~~may~~ plan,
 3 acquire, establish, develop, construct, enlarge, improve,
 4 maintain, equip, operate, regulate, protect, and police any
 5 airport or air navigation facility or airport hazard to be
 6 jointly acquired, controlled, and operated; and the board
 7 may be authorized by the participating public agencies to
 8 exercise on behalf of its constituent public agencies all
 9 the powers of each with respect to the airport, air
 10 navigation facility, or airport hazard, subject to the
 11 limitations of subsection ~~4~~(4) of this section.

12 ~~4-~~~~6-~~(4) ~~(a)~~ The total expenditures to be made by the
 13 joint board for any purpose in any calendar year shall be as
 14 determined by a budget approved by the constituent public
 15 agencies on or before the preceding June 10, or as otherwise
 16 specifically authorized by the constituent public agencies.

17 ~~5-~~(b) No airport, air navigation facility, airport
 18 hazard, or real or personal property, the cost of which is
 19 in excess of sums fixed therefor by the joint agreement or
 20 allotted in the annual budget, may be acquired, established,
 21 or developed by the joint board without the approval of the
 22 governing bodies of its constituent public agencies.

23 ~~6-~~(c) Eminent domain proceedings under this section
 24 may be instituted by the joint board only by authority of
 25 the governing bodies of the constituent public agencies of

1 the joint board. If so authorized, such proceedings shall be
 2 instituted in the names of the constituent public agencies
 3 jointly, and the property so acquired shall be held by ~~said~~
 4 ~~the~~ public agencies as tenants in common.

5 ~~d(1)~~ The joint board ~~shall~~ may not dispose of any
 6 airport, air navigation facility, or real property under its
 7 jurisdiction except with the consent of the governing bodies
 8 of its constituent public agencies, ~~provided that HOWEVER,~~
 9 the joint board may, without such consent, enter into
 10 contracts, leases, or other arrangements contemplated by
 11 section 1-913 of this chapter.

12 ~~e(1)~~ Any ~~resolutions~~ Resolutions, rules, regulations,
 13 or orders of the joint board dealing with subjects
 14 authorized by section 1-913 of this chapter ~~shall~~ become
 15 effective only upon approval of the governing bodies of the
 16 constituent public agencies, ~~provided that HOWEVER,~~ upon
 17 such approval, the resolutions, rules, regulations, or
 18 orders of the joint board shall have the same force ~~and~~
 19 effect in the territories or jurisdictions involved as the
 20 ordinances, resolutions, rules, regulations, or orders of
 21 each public agency would have in its own territory or
 22 jurisdiction.

23 ~~5(5)~~ For the purpose of providing the joint board
 24 with moneys for the necessary expenditures in carrying out
 25 the provisions of this section, a joint fund shall be

1 created and maintained, into which shall be deposited the
 2 share of each of the constituent public agencies as provided
 3 by the joint agreement. Any federal, state, or other grants,
 4 contributions, or loans, and the revenues obtained from the
 5 joint ownership, control, and operation of any airport or
 6 air navigation facility under the jurisdiction of the joint
 7 board shall be paid into the joint fund. Disbursements from
 8 such fund shall be made by order of the board, subject to
 9 the limitations prescribed in subsection 4(4) of this
 10 section."

11 Section 9. Section 1-1101, R.C.M. 1947, is amended to
 12 read as follows:

13 "~~1-1101. Department of community affairs to be~~
 14 ~~custodian of all airplanes owned or leased by state~~
 15 Department as custodian of state airplanes. The department
 16 of community affairs is hereby constituted designated the
 17 custodian of all airplanes owned or leased by the state of
 18 Montana or its boards, commissions, or agencies."

19 Section 10. Repealer. Sections 1-829 through 1-832 and
 20 1-1001 through 1-1005, R.C.M. 1947, are repealed.

-End-