CHAPTER 2-05
AERONAUTICS COMMISSION

2-05-01. Aeronautics commission - Creation - Membership.

The North Dakota aeronautics commission consists of five members. The governor shall appoint each member for a term of five years, except that a member appointed to fill a vacancy before the expiration of the term for which the member's predecessor was appointed must be appointed only for the remainder of the term. Each member shall serve until the appointment and qualification of the member's successor. Each member of the commission must be a qualified elector of this state. Any member of the commission may be removed by the governor for inefficiency, neglect of duty, or malfeasance in office. Each member of the commission shall receive compensation of seventy-five dollars for each day or portion of a day the member is actually engaged in the performance of the duties of the member's office and payment for mileage and travel expenses as provided in sections 44-08-04 and 54-06-09.

2-05-02. Director of aeronautics - Appointment - Qualifications - Compensation.

A director of aeronautics must be appointed by the commission to serve at the pleasure of the commission. The director of aeronautics shall devote full time to the duties of the office, and shall have no pecuniary interest in or any stock or bonds of any civil aeronautical enterprises. The director of aeronautics shall receive such compensation as the commission may determine and must be reimbursed for all traveling and other expenses incurred by the director in the discharge of official duties, at the same rates and under the same conditions for the payment of traveling expenses and board and lodging as is provided in section 2-05-01.

2-05-03. Powers and duties of director.

The director shall be the executive officer of the commission. The director shall attend all meetings of the commission, but has no voting power. At the direction of the commission, the director shall, together with the chairman of the commission, execute all contracts entered into by the commission which are legally authorized. The director shall appoint, subject to the approval of the commission, such employees as may be necessary for the proper discharge of the functions of the commission. The director shall act as the agent of the tax commissioner for purposes of enforcement of chapter 57-40.5.

2-05-04. Commission reports - Offices.

The commission may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. The commission shall maintain its office in the state capitol or as authorized under section 54-21-24.

2-05-05. Duty of commission in development of aeronautics.

The commission shall have general supervision over aeronautics within this state and shall:

1. Encourage the establishment of airports and air navigation facilities;
2. Cooperate with and assist the federal government, the municipalities of this state, and other persons in the development and coordination of all aeronautical activities;
3. Represent the state in aeronautical matters before state and federal agencies;
4. Participate as party plaintiff or defendant or as intervenor on behalf of the state or any municipality in any controversy which involves the interest of the state in aeronautics;
5. Establish or promote with the public sector or private sector, or both, and provide financing, in whole or in part, of aeronautical educational programs and support of the educational programs of aeronautical museums in the state; and
6. Establish or promote with the public sector or private sector, or both, and provide financing, in whole or in part, of programs informing the public of commercial and general aviation services available in the state.

2-05-06. Federal aid.

The commission may act as agent of all municipalities in accepting, receiving, receipting for, and disbursing federal moneys, made available to finance, in whole or in part, the planning, acquisition, construction, improvement, maintenance, or operation of municipal airports or air navigation facilities. The commission, as principal on behalf of the state, and for any municipality, may enter into any contracts, with the United States, with any municipality, or with any person, which may be required in connection with a grant or loan of federal moneys for municipal airport or air navigation facility purposes, provided that no contract may be entered into on behalf of any municipality except pursuant to written request of such municipality. All federal moneys accepted under this section must be accepted and transferred or expended by the commission upon such terms and conditions as are prescribed by the United States. All moneys received by the commission pursuant to this section must be deposited in the state treasury, and, unless otherwise prescribed by the authority from which such moneys were received, shall be kept in separate funds designated according to the purpose for which the moneys were made available, and held by the state for such purposes. All such moneys are hereby appropriated for the purposes, for which the same were made available, to be disbursed or expended in accordance with the terms and conditions upon which they were made available.

2-05-06.1. Authorization to accept federal or other moneys.

The North Dakota aeronautics commission, or any county, city, park district, or township is authorized to accept, receive, and receipt for federal moneys, and other moneys, either public or private, for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports and other air navigation facilities, and sites therefor, and to comply with the provisions of the laws of the United States and any rules and regulations made thereunder for the expenditure of federal moneys upon such airports and other air navigation facilities.

2-05-06.2. Designation of aeronautics commission as agent.

The governing body of any political subdivision referred to in section 2-05-06.1 is authorized to designate the state aeronautics commission of the state as its agent to accept, receive, and receipt for federal moneys in its behalf for airport purposes and to contract for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of such airports, or other air navigation facilities, and may enter into an agreement with such aeronautics commission prescribing the terms and conditions of such agency in accordance with federal laws, rules and regulations, and applicable laws of this state. Such moneys as are paid over by the United States government must be paid over to said municipality under such terms and conditions as may be imposed by the United States government in making such grant.

2-05-06.3. Contracts.

All contracts for the acquisition, construction, enlargement, improvement, maintenance, equipment, or operation of airports or other air navigation facilities, made by any of the political subdivisions referred to in sections 2-05-06.1 and 2-05-06.2, by itself or through the agency of the aeronautics commission of the state, must be made pursuant to the laws of this state governing the making of like contracts; provided, however, that if such acquisition, construction, improvement, enlargement, maintenance, equipment, or operation is financed wholly or partly with federal moneys the municipality, or the aeronautics commission as its agent, may let contracts in the manner prescribed by the federal authorities, acting under the laws of the United States, and any rules or regulations made thereunder, notwithstanding any other state law to the contrary.

2-05-06.4. Declaration of purpose - Financial assistance to airports.

Repealed by S.L. 2011, ch. 57, § 8.

2-05-06.5. State assistance for airports.

Each public airport in this state may be provided assistance according to guidelines established by the commission by rule, within the limits of legislative appropriations from the state general fund. The governing body or airport authority which operates an airport that receives assistance under this section shall deposit the moneys received in the same account or accounts as other airport funds are deposited and may expend the moneys as provided by law for other airport funds, including matching any funds made available by the United States.

2-05-07. State airways system.

The state airways system shall consist of all air navigation facilities available for public use now existing or hereafter established, whether publicly or privately owned or except those under the jurisdiction of the federal government. Jurisdiction over the state airways system in matters of safety is vested in the aeronautics commission. The commission may expend state funds duly appropriated for such purpose in the interest of safety on any or all facilities of the system which serve a useful public purpose and satisfy a public need. The commission may make, promulgate, and amend reasonable safety rules, safety regulations, and safety procedures, and establish minimum safety standards covering the activities for each such facility.

2-05-08. Rules, regulations, standards.

Repealed by S.L. 2011, ch. 57, § 8.

2-05-09. Reckless operation of aircraft.

Repealed by S.L. 1975, ch. 106, § 673.

2-05-10. Registration of airmen.

Repealed by S.L. 1999, ch. 52, § 1.

2-05-11. Aircraft registration - Fees.

1. Except as provided in section 2-05-11.3, every aircraft or ultralight vehicle operating within this state for more than thirty days must be registered with the aeronautics commission for each calendar year in which the aircraft or ultralight vehicle is operated within this state, subject to rules adopted by the commission. The commission shall charge a fee for each annual registration. The following fees apply:

Gross Weight in Pounds	Registration Fees
0 to 500	$ 15.00
501 to 1,000	30.00
1,001 to 1,500	38.00
1,501 to 2,000	45.00
2,001 to 2,500	60.00
2,501 to 3,000	75.00
3,001 to 3,500	90.00
3,501 to 4,000	105.00
4,001 to 5,000	120.00
5,001 to 6,000	150.00
6,001 to 7,000	180.00
7,001 to 8,000	210.00
8,001 to 9,000	240.00
9,001 to 10,000	270.00
10,001 to 15,000	300.00
15,001 to 20,000	450.00
20,001 to 30,000	600.00
30,001 to 40,000	900.00
40,001 to 50,000	1,200.00
50,001 to 75,000	1,500.00
75,001 to 100,000	2,250.00

100,001 and over	3,000.00

For aircraft that become based in the state after June thirtieth of a calendar year, the registration fee is one-half the annual fee.

2. All weights must be based upon the maximum permissible take-off weight, except that the weights must be empty weights for all ultralight vehicles which are not certificated for maximum permissible take-off weight.
3. The aeronautics commission may charge a reasonable cost of service fee for registration of aircraft operated by state agencies, political subdivisions, aviation schools operated by state institutions of higher education, or the civil air patrol in lieu of the regular registration fee.
4. All fees received under this section must be deposited in the aeronautics commission special fund.

2-05-11.1. Definitions.

As used in sections 2-05-11.1 through 2-05-11.3, unless the context otherwise requires:

1. "Antique aircraft" means an aircraft built and originally federally certified by its manufacturer before January 1, 1941.
2. "Classic aircraft" means an aircraft built and originally federally certified by its manufacturer after January 2, 1941, and before January 1, 1948.
3. "Warbird aircraft" means military aircraft no longer in military service.

2-05-11.2. Permanent registration of certain older aircraft.

On making proper application to the commission and paying the fee required under section 2-05-11.3, the owner of an antique, classic, or warbird aircraft may permanently register that aircraft in accordance with this section. An aircraft so registered may be used only for display, airshow demonstration, testing, and maintenance, and preparation flights necessary to maintain flight safety of operations otherwise permitted under this section. An aircraft so registered cannot be used for conducting commercial or private aviation business. An aircraft entitled to a permanent registration may be transferred to a new owner under that permanent registration. The new owner is entitled to permanent registration as long as the owner qualifies in accordance with this section.

2-05-11.3. Fee for a permanent registration - Issuance of registration decal - Disposition of fee.

The fee for a permanent registration under section 2-05-11.2 is one hundred twenty-five dollars. The commission shall prepare a distinctive decal denoting permanent registration under section 2-05-11.2. The fee must be deposited in the aeronautics commission special fund.

2-05-12. Licensing of air schools and aeronautics instructors.

Repealed by S.L. 2011, ch. 57, § 8.

2-05-13. Investigations, hearings.

The commission may hold investigations and hearings concerning matters covered by the provisions of this chapter which must be open to the public and must be held upon such call or notice as the commission deems advisable. Each member of the commission may administer oaths and issue subpoenas.

2-05-14. Enforcement of aeronautics laws.

The commission, its members, the director, officers, and the employees of the commission, and every highway patrol trooper and all peace officers shall enforce and assist in the enforcement of this chapter.

2-05-15. Common carrier certificate required.

Repealed by S.L. 2011, ch. 57, § 8.

2-05-15.1. Bond required.
Repealed by S.L. 2011, ch. 57, § 8.

2-05-16. Filing of tariffs required.
Repealed by S.L. 2011, ch. 57, § 8.

2-05-17. Penalty.
Repealed by S.L. 2011, ch. 57, § 8.

2-05-18. License for aerial spraying - Fees - Rules - Penalty.
A person may not engage in aerial spraying without a license from the North Dakota aeronautics commission. Application must be made by a commercial aerial sprayer in the name of the business and each application must be made upon forms provided by the commission. Upon the payment of a license fee, not to exceed two hundred dollars, and upon compliance with reasonable rules adopted by the commission for the safety and protection of persons and property, the commission shall issue a license to an applicant for an aerial spraying license. The license and fees provided in this section are in addition to any other license or registration required by law, and the proceeds must be deposited in the aeronautics commission special fund. A person violating this section or rules adopted under this section is guilty of a class B misdemeanor.

2-05-19. Cease and desist orders.
The aeronautics commission may issue and serve upon any person, engaged in aerial spraying, an order to cease and desist when the commission has reason to believe the person is violating, has violated, or is attempting to violate this chapter or any rule adopted by the commission. An interested party may appeal the issuance of a cease and desist order under chapter 28-32 by filing written notice of appeal within seven days after service of the order. A hearing must be held within ten days after a notice of appeal has been timely filed. A person who has been issued an order to cease and desist that has been determined to be final either through default or an adjudicative proceeding may not engage in aerial spraying for any other commercial applicator in this state.

2-05-20. Assessment of civil money penalties.
The aeronautics commission may impose civil money penalties against any person willfully violating an order to cease and desist or any provision of this chapter or any of the rules adopted by the commission in an amount not to exceed five hundred dollars for each violation. As used in this section, the term "willfully" means that the person engaged in the conduct intentionally, knowingly, or recklessly. An interested party may appeal the assessment of civil money penalties under chapter 28-32 by filing written notice of appeal within twenty days after service of the assessment of civil money penalties. A civil money penalty collected under this section must be paid to the state treasurer and deposited in the aeronautics commission's special fund.

2-05-21. Anemometer towers - Definitions - Penalty.
1. As used in this section, unless the context otherwise requires:
   a. "Anemometer" means an instrument for measuring and recording the speed of wind.
   b. "Anemometer tower" means a structure, including all guy wires and accessory facilities, on which an anemometer is mounted for the purposes of documenting wind resources for the operation of a wind turbine generator.
   c. "Commission" means the North Dakota aeronautics commission.
2. An anemometer tower that is fifty feet [15.24 meters] in height above the ground or higher, is located outside the zoning jurisdiction of a city, and the appearance of which is not otherwise regulated by state or federal law must be marked, painted, flagged, or otherwise constructed to be recognizable in clear air during daylight hours and:

a. Must be painted in equal, alternating bands of orange and white, beginning with orange at the top of the tower and ending with orange at the bottom of the tower;
b. One or more seven-foot [2.13-meter] safety sleeves must be placed at each anchor point and must extend from the anchor point along each guy wire attached to the anchor point; and
c. At least one marker ball must be attached to each guy wire in the highest set of guy wires which does not affect the stability of the tower and the measurement of wind speed.

3. The commission may establish and maintain a database that contains locations of all existing anemometer towers by January 1, 2012. The commission may contract with a governmental entity or a private entity to create and maintain the database.
   a. Within sixty days after April 26, 2011, an owner of any anemometer tower erected in the state shall provide the commission with global positioning system coordinates of the center of the anemometer tower.
   b. At least ten days before the erection of an anemometer tower, an owner of the tower shall provide coordinates to the commission.
   c. Within ten days after the removal of an anemometer tower, an owner of the tower shall notify the commission.
4. The commission may enforce this section. A violation of this section is an infraction.

2-05-22. Aeronautics commission special fund.

1. A special fund known as the aeronautics commission special fund is established.
2. The aeronautics commission special fund must be administered and expended by the commission for the following:
   a. Administration of the commission.
   b. Airport construction and improvement projects, including:
      (1) Airport administration and terminal buildings, hangers, and landing strips for aircraft;
      (2) Purchase of land for airports or landing fields and easements for such facilities;
      (3) Maintenance and maintenance equipment; and
      (4) Clearing of sites, marking, lighting and engineering, and navigational aids.
   c. Administration, construction, reconstruction, repair, maintenance, and operation of airports near communities, recreational areas, or parks, including the International Peace Garden airport, and for necessary expenses and purchases of land and easements for such facilities.
   d. Expenses related to the duties of the commission as set out in section 2-05-05, including the creation and distribution of education grants.
3. All money derived from the investment of the aeronautics commission special fund or any portion of the fund, including aircraft excise tax funds collected and received under chapter 57-40.5, must be credited to the aeronautics commission special fund.

2-05-23. Airport infrastructure fund.

There is created in the state treasury the airport infrastructure fund. The fund consists of all moneys deposited in the fund pursuant to chapter 57-51.1. Moneys in the fund may be spent by the aeronautics commission pursuant to legislative appropriations to provide grants to airports for infrastructure projects. Grant funds must be distributed giving priority to projects that have been awarded or are eligible to receive federal funding.