



2026 South Dakota Legislature

Senate Bill 70

Introduced by: The Chair of the Committee on Transportation at the request of the Department of Transportation

1 **An Act to revise the duties of the Transportation Commission to include**
 2 **responsibilities of the South Dakota Railroad Board and the South Dakota**
 3 **Aeronautics Commission.**

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 **Section 1. That § 1-44-4 be AMENDED:**

6 **1-44-4.** There is created the Transportation Commission within the Department
 7 of Transportation. The Transportation Commission consists of nine members. The
 8 Governor shall appoint the members. All members are full voting members of the
 9 commission. Not all members of the commission may be from the same political party. No
 10 two members may, at the same time, be a resident residents of the same county. At least
 11 two members shall have experience in the use or operation of rail service. At least two
 12 members shall have experience in aeronautics.

13 **Section 2. That § 1-44-11 be AMENDED:**

14 **1-44-11.** The Department of Transportation shall, under the direction and control
 15 of the secretary of transportation, perform all the functions of the ~~Aeronautics~~
 16 Transportation Commission relating to aeronautics, aircraft, and aviation, except:
 17 (1) Advisory functions, as defined in § 1-32-1, with respect to programs associated
 18 with the commission;
 19 (2) Special budgetary functions, as defined in § 1-32-1, provided for by ~~§§ 50-2-12,~~
 20 ~~50-7-10, and 50-7-15 to 50-7-19, inclusive,~~ section 6 of this Act and chapter
 21 chapters 50-4 and 50-7; and
 22 (3) Quasi-legislative and quasi-judicial functions, as defined in § 1-32-1, provided for
 23 by chapters ~~50-2~~ 1-44, 50-5, 50-9, 50-10, 50-11, and 50-12.

24 **Section 3. That § 1-44-20 be AMENDED:**

1 **1-44-20.** The Department of Transportation, with the approval of the ~~South~~
2 ~~Dakota State Railroad Board~~ Transportation Commission and the written consent of the
3 Governor, may enter into agreements, contracts, leases (as lessor or lessee), or other
4 arrangements with any corporation, partnership, individual, agency, or authority, on ~~such~~
5 terms and conditions as the department shall determine, including providing for the
6 acquisition, operation, maintenance, and improvement of public rail lines, and the
7 acquisition and disposition of any ~~and all~~ rights-of-way, land, facilities, fixtures and
8 appurtenant structures, services and equipment, determined by the department to be
9 necessary or appropriate.

10 **Section 4. That § 1-44-27 be AMENDED:**

11 **1-44-27.** The Department of Transportation shall obtain the approval of the
12 ~~Railroad Board~~ Transportation Commission in the matters of operation, management,
13 finance, marketing, and development of rail service over all properties and facilities
14 acquired, leased, or controlled by the state.

15 **Section 5. That § 1-44-30 be AMENDED:**

16 **1-44-30.** Pursuant to chapter 1-26, the ~~railroad board~~ Transportation Commission
17 shall adopt and publish rules to implement § 1-44-29. The ~~railroad board~~ Transportation
18 Commission may, by ~~board~~ resolution, implement the provisions of § 1-44-28 ~~and need~~
19 ~~not implement such provisions pursuant to §§ 1-26-4 to 1-26-14, inclusive.~~

20 **Section 6. That a NEW SECTION be added to chapter 1-44:**

21 The Transportation Commission shall approve the expenditure and disbursement
22 of grants or moneys appropriated and available for matching purposes, and for the
23 planning, construction, development, operation, and maintenance of airport facilities. The
24 Transportation Commission may approve expenditures from the state aeronautics fund to
25 support the advancement of aviation and aviation commerce within the state.

26 **Section 7. That a NEW SECTION be added to chapter 1-44:**

27 The Transportation Commission shall promulgate rules in accordance with chapter
28 1-26 that are consistent with federal law and regulations governing aeronautics.

29 **Section 8. That a NEW SECTION be added to chapter 1-44:**

1 Any person adversely affected by an act, ruling, or decision of the Transportation
 2 Commission regarding operating licenses for airports may appeal the act, ruling, or
 3 decision, in accordance with chapter 1-26.

4 **Section 9. That a NEW SECTION be added to chapter 1-44:**

5 Moneys received from other state agencies by the Department of Transportation
 6 for the use of its state aircraft, when the aircraft are not being used in the conduct of the
 7 necessary activities of the department, must be forwarded by the department to the state
 8 treasurer for deposit in an internal service fund to be designated as the special aviation
 9 internal service fund. The department may use the fund for maintenance, operating costs,
 10 repair, and other expenses associated with the operation of state aircraft.

11 **Section 10. That a NEW SECTION be added to chapter 1-44:**

12 The Department of Transportation shall maintain separate accounting for the
 13 special aviation internal service fund.

14 **Section 11. That § 3-23-10 be AMENDED:**

15 **3-23-10.** The following authorities, boards, or commissions are subject to this
 16 chapter:

- 17 (1) South Dakota Building Authority;
- 18 (2) Board of Economic Development;
- 19 (3) South Dakota Housing Development Authority;
- 20 (4) South Dakota Health and Education Facilities Authority;
- 21 (5) South Dakota Science and Technology Authority ~~Board of Directors~~;
- 22 (6) South Dakota Ellsworth Development Authority;
- 23 (7) South Dakota Commission on Gaming;
- 24 (8) South Dakota Lottery Commission;
- 25 (9) South Dakota State Brand Board;
- 26 (10) Game, Fish and Parks Commission;
- 27 (11) South Dakota State Banking Commission;
- 28 (12) Board of Trustees of the South Dakota Retirement System;
- 29 (13) ~~Aeronautics Commission~~;
- 30 (14) ~~South Dakota State Railroad Board~~;
- 31 (15) Transportation Commission;

- 1 ~~(16)~~(14) South Dakota Board of Education Standards;
 2 ~~(17)~~(15) Board of Regents;
 3 ~~(18)~~(16) Board of Pardons and Paroles;
 4 ~~(19)~~(17) Board of Minerals and Environment;
 5 ~~(20)~~(18) Board of Water and Natural Resources;
 6 ~~(21)~~(19) South Dakota Railroad Authority;
 7 ~~(22)~~(20) ~~Board of Water Management~~ Water Management Board; and
 8 ~~(23)~~(21) South Dakota Board of Technical Education.

9 **Section 12. That § 4-8-17.1 be AMENDED:**

10 **4-8-17.1.** Notwithstanding any other provision of law, taxes, fees, federal funds,
 11 and ~~funds moneys~~ from any source ~~that, which~~ are received by the Department of
 12 Transportation ~~and the Aeronautics Commission shall,~~ may be expended only when
 13 budgeted pursuant to chapter 4-7 and appropriation has been made therefor pursuant to
 14 chapter 4-8 and § 31-2-14.

15 **Section 13. That § 6-20-1 be AMENDED:**

16 **6-20-1.** Any municipality or county owning and operating an airport ~~which that~~
 17 has been approved by the ~~state Aeronautics~~ Transportation Commission for public use
 18 may contract to construct, improve, and equip buildings, hangars, runways, and structures
 19 for the improvement of its ~~municipal or county~~ airport. In lieu of issuing general obligation
 20 bonds for the ~~projects~~ improvements or financing them, the municipality or county may
 21 issue revenue bonds. All revenue bonds ~~shall~~ must be authorized, issued, and sold as
 22 provided in chapter 6-8B, except as specifically provided otherwise in this chapter. No
 23 election is required for the issuance of revenue bonds under this chapter.

24 **Section 14. That § 10-28-21.6 be AMENDED:**

25 **10-28-21.6.** The ~~State Railroad Board~~ Transportation Commission shall, in
 26 accordance with chapter 1-26, promulgate rules establishing the form upon which a
 27 railroad shall submit verification information for capital expenses being claimed as tax
 28 credits authorized by § 10-28-21.2, when the information is to be submitted, and the
 29 manner in which the certification is submitted.

30 **Section 15. That § 38-21-20 be AMENDED:**

1 **38-21-20.** If the secretary finds the applicant qualified to apply pesticides in the
 2 classifications for which the applicant applied, after ~~such any~~ examinations ~~as~~ the
 3 secretary shall require ~~by regulation~~, and if the applicant applying for a license to engage
 4 in aerial application of pesticides has met all the requirements of the ~~Federal Aviation~~
 5 ~~Agency, the Aeronautics~~ Transportation Commission of this state, and any other applicable
 6 federal or state laws or regulations to operate the equipment described in the application,
 7 the secretary shall issue an applicator's license limited to the classifications for which the
 8 applicant is qualified. The secretary may deny any application for any applicator's license
 9 if the secretary finds that the applicant has violated any provisions of this chapter.

10 **Section 16. That § 49-16B-3 be AMENDED:**

11 **49-16B-3.** There is created the South Dakota Railroad Authority, a body corporate
 12 and politic. The governing board of the South Dakota Railroad Authority ~~shall be~~ is
 13 comprised of the members of the ~~South Dakota State Railroad Board~~ Transportation
 14 Commission, as provided ~~by § 1-44-25 in § 1-44-4.~~

15 **Section 17. That § 49-16B-13.1 be AMENDED:**

16 **49-16B-13.1.** The authority shall receive approval for all proposed expenditures
 17 from the ~~South Dakota State Railroad Board~~ Transportation Commission and the
 18 Governor.

19 **Section 18. That § 49-16C-3 be AMENDED:**

20 **49-16C-3.** The ~~South Dakota State Railroad Board~~ Transportation Commission
 21 may, upon the written approval of the Governor, make loans from the railroad trust fund
 22 to regional railroad authorities upon ~~such the~~ the terms and conditions ~~as the State Railroad~~
 23 ~~Board~~ the Transportation Commission may determine. The ~~South Dakota State Railroad~~
 24 ~~Board~~ Transportation Commission shall adopt rules, pursuant to chapter 1-26 establishing
 25 the procedures for loan ~~application~~ applications and approval.

26 **Section 19. That § 49-16C-4 be AMENDED:**

27 **49-16C-4.** The ~~South Dakota State Railroad Board~~ Transportation Commission
 28 may set, from time to time, the interest rates at which it shall make the loans provided
 29 for in § 49-16C-3. In addition to ~~such~~ interest charges, the ~~board~~ commission may ~~make~~

1 charge for and collect ~~such~~ costs, fees, and other ~~charges~~ expenses incurred in
2 administering the loan, as the ~~board~~ commission may deem necessary.

3 **Section 20. That § 49-16C-5 be AMENDED:**

4 **49-16C-5.** The ~~South Dakota State Railroad Board~~ Transportation Commission
5 may, ~~with the approval of the Governor,~~ expend funds ~~moneys~~ from the railroad trust
6 fund to match federal railroad rehabilitation funds.

7 **Section 21. That § 49-16C-7 be AMENDED:**

8 **49-16C-7.** Any funds in the railroad trust fund designated for expenditure by any
9 of the provisions of § 49-16B-13.1, 49-16C-2, 49-16C-3, or 49-16C-5, ~~or 49-16C-6~~ are
10 hereby continuously appropriated for such purposes.

11 **Section 22. That § 50-1-1 be AMENDED:**

12 **50-1-1.** Terms as used in this title mean:

- 13 (1) "Air traffic control," a service operated by an authority under Federal Aviation
14 Administration oversight to promote the safe, orderly, and expeditious flow of air
15 traffic in the United States;
- 16 (2) "Aircraft," a device that is used, intended to be used, or designed for flight in the
17 air. The term includes any airplane, balloon, drone, glider, and helicopter;
- 18 (3) "Aircraft dealer," any person, manufacturer, or distributor engaged in the business
19 of buying, selling, exchanging, or acting as a broker for three or more aircraft in
20 any twelve consecutive months, other than a business liquidation of used aircraft;
- 21 (4) "Airport," any area of land or water used, or intended to be used, for landing and
22 take-off of aircraft, and any appurtenant area, structure, facility, or right of way to
23 facilitate that use;
- 24 (5) "Airport authority," a government entity created under this chapter for the purpose
25 of acquiring, establishing, contracting, maintaining, improving and operating
26 airports and other navigation facilities;
- 27 (6) "Airport facility," any property, structure, mechanism, machinery, light, beacon,
28 communicating system, or other equipment or device used as an aid to the safe
29 taking off and landing of aircraft, or the safe and efficient operation or maintenance
30 of an airport;

- 1 (7) "Airport hazard," any existing or potential condition that can endanger any airport
2 facility, endanger the life or property of ~~a user of an airport, any airport facility~~
3 user, or the life or property of any occupant of land in the vicinity of an airport;
- 4 (8) "Airport sponsor," a public agency, private owner, state entity, or other political
5 subdivision that is associated with a public use airport facility and is a recipient of
6 any federal airport improvement grant;
- 7 (9) "Anemometer tower," a structure, including any guy wire or accessory facility, on
8 which an anemometer is mounted;
- 9 (10) "Aviation facility," any facility that supports aviation activities, including any
10 airport, heliport, and navigational aid;
- 11 (11) "Balloon," an aircraft that is not engine-driven, is lighter than air, and sustains
12 flight through the use of gas buoyancy or an airborne heater;
- 13 (12) "Commercial purpose," an aviation activity for profit that includes flight instruction,
14 charter, air taxi, or rental, ~~but does not include the substitution of a commercial~~
15 ~~use stamp for regular aircraft registration for the promotion of a business or other~~
16 ~~purpose that does not involve aviation;~~
- 17 (13) "Commission," the ~~South Dakota Aeronautics Commission~~ Transportation
18 Commission;
- 19 (14) "Controlled airspace," any airspace of specific and defined classifications and
20 dimensions inside of which air traffic control services are provided;
- 21 (15) "Department," the Department of Transportation;
- 22 (16) "Drone," an unmanned aircraft ~~(UA)~~;
- 23 (17) "Heliport," an area of land, water, or a structural surface, used or intended for use
24 as a landing and take-off area for helicopters;
- 25 (18) "Military airport," any military air base, air station, airfield, or other area, publicly
26 or privately owned, that is designed, set aside, and operated by the state, a political
27 subdivision of the state, or the United States, for civil or national defense, or for
28 any federal program relating to flight, or for the operation of military aircraft, and
29 used in the interest of the public for those purposes;
- 30 (19) "Navigational aid," an aviation facility ~~which that~~ is external to an aircraft and is
31 specifically intended to assist a pilot in determining the aircraft's position and safe
32 course;
- 33 (20) "Obstruction," any structure or obstacle, or use of land, that obstructs an aerial
34 approach of an airport or is otherwise hazardous to the use of an airport by aircraft
35 for landing or taking off;

- 1 (21) "Place of business," a permanent enclosed structure at which a permanent business
 2 of bartering, trading, or selling aircraft is carried out in good faith. The term does
 3 not include any residence, tent, stand, or any other temporary structure;
- 4 (22) "Prescribed adjusted height," a height adjusted upward ~~seventeen;~~
 5 (a) Seventeen feet for an interstate highway, ~~fifteen;~~
 6 (b) Fifteen feet for any other public road, ~~ten;~~
 7 (c) Ten feet or the height of the highest mobile object that would normally
 8 traverse the road, whichever is greater, for a private road, ~~and twenty-~~
 9 ~~three; and~~
 10 (d) Twenty-three feet for a railroad;
- 11 (23) "Private airport," any ~~privately owned~~ privately owned airport that is available for
 12 use only by the owner and the owner's invitees;
- 13 (24) "Public airport," any airport, whether publicly or privately owned, that is available
 14 for use by the public;
- 15 (25) "Small unmanned aircraft," ~~a UA~~ an unmanned aircraft that weighs not more than
 16 fifty-five pounds, ~~(twenty-five kilograms)~~ including everything that is onboard or
 17 otherwise attached to the aircraft;
- 18 (26) "Small unmanned aircraft system" or "sUAS," any small unmanned aircraft and its
 19 associated elements, including communication links and the components that
 20 control the UA, that are required for the safe and efficient operation of the UA;
- 21 (27) "Temporary airport," any airport established and set aside for the operation of
 22 aircraft for transitory or impermanent purposes; and
- 23 (28) "Unmanned aircraft" ~~or "UA,"~~ an aircraft operated without the possibility of direct
 24 human intervention from within or on the aircraft.

25 **Section 23. That § 50-5-1.2 be AMENDED:**

26 **50-5-1.2.** The ~~Aeronautics Commission~~ commission shall promulgate rules, in
 27 accordance with chapter 1-26, establishing requirements for the issuance and
 28 maintenance of certificates of approval for airports, as prescribed in this chapter.

29 **Section 24. That § 1-44-25 be REPEALED.**

30 The ~~South Dakota State Railroad Board~~ consists of seven members to be appointed
 31 by the Governor. Members shall serve a three-year term. No more than five members
 32 may be of the same political party. No person may be appointed to the board who is an
 33 elected official of the State of South Dakota or any subdivision thereof. Any member

1 ~~appointed to fill a vacancy arising from other than the natural expiration of a term shall~~
2 ~~serve only for the unexpired term, but may be reappointed to a full term. The board shall~~
3 ~~annually choose from its membership a chair, a vice chair, and a secretary treasurer. No~~
4 ~~member may be removed from office except for cause.~~

5 ~~The terms of members begin on October thirty first of the calendar year. The~~
6 ~~appointee's term expires on October thirtieth in the third year of appointment.~~

7 ~~Any member's term ending June 30, 2013, or thereafter is extended to October~~
8 ~~thirtieth in the year the term is to expire.~~

9 **Section 25. That § 1-44-26 be REPEALED.**

10 ~~At least one member, in the opinion of the Governor, shall be a person experienced~~
11 ~~in or having a favorable reputation for skill, knowledge, and experience in business~~
12 ~~management. At least one member, in the opinion of the Governor, shall be a person~~
13 ~~experienced in or having a favorable reputation for skill, knowledge, and experience in the~~
14 ~~operation of railroad service. At least one member, in the opinion of the Governor, shall~~
15 ~~be a person experienced in or having a favorable reputation for skill, knowledge, and~~
16 ~~experience in private or public finance. At least one member, in the opinion of the~~
17 ~~Governor, shall be a person experienced in or having a favorable reputation for skill,~~
18 ~~knowledge, and experience in marketing. At least one member of the commission shall~~
19 ~~be, in the opinion of the Governor, a person who is a user of rail service. Two members~~
20 ~~shall be from the public at large.~~

21 **Section 26. That § 49-16C-6 be REPEALED.**

22 ~~The South Dakota State Railroad Board may, upon approval of the Governor,~~
23 ~~expend from the railroad trust fund an amount not to exceed one million dollars to join~~
24 ~~with other states to preserve the railroad line extending from Jonathan, Minnesota, in a~~
25 ~~westerly direction through South Dakota to Miles City, Montana.~~

26 **Section 27. That § 50-2-1 be REPEALED.**

27 ~~The commission consists of seven persons appointed by the Governor who shall~~
28 ~~receive the per diem set by § 4-7-10.4 for the time actually spent in the performance of~~
29 ~~their official duties, together with traveling expenses set by rule of the Board of Finance.~~
30 ~~At least four members of the commission shall be or have been actively engaged in and~~
31 ~~have had at least one year of practical experience in civil or military aeronautics.~~

1 ~~The term of each member begins on October thirty first of the calendar year in~~
2 ~~which the Governor appoints the member, unless otherwise designated by the Governor.~~
3 ~~The member's term is for three years and expires on October thirtieth in the third year of~~
4 ~~the member's appointment.~~

5 **Section 28. That § 50-2-1.1 be REPEALED.**

6 ~~The commission shall continue within the department, and all its functions shall be~~
7 ~~performed by the department as provided by § 1-44-11.~~

8 ~~The commission shall provide advice and expertise to state agencies regarding the~~
9 ~~purchase, transfer and disposition of state owned and operated aircraft including those~~
10 ~~owned or operated by any state institution.~~

11 **Section 29. That § 50-2-4 be REPEALED.**

12 ~~On or before the thirty first day of December, in each year, the commission shall~~
13 ~~make, to the Governor, a full report of its proceedings for the year ending the thirtieth~~
14 ~~day of June preceding and may submit with the report any recommendations pertaining~~
15 ~~to the commission's affairs as seem to the commission to be desirable.~~

16 **Section 30. That § 50-2-12 be REPEALED.**

17 ~~The commission shall approve the expenditure and disbursement of grants or funds~~
18 ~~appropriated and available for matching purposes, and for the planning, construction,~~
19 ~~development, operation, and maintenance of airport facilities. The commission may also~~
20 ~~approve expenditures from the state aeronautics fund to support the advancement of~~
21 ~~aviation and aviation commerce within the state.~~

22 **Section 31. That § 50-2-13 be REPEALED.**

23 ~~The commission shall promulgate rules in accordance with chapter 1-26 that are~~
24 ~~consistent with federal law and regulations governing aeronautics.~~

25 **Section 32. That § 50-2-15 be REPEALED.**

26 ~~The commission, when its state aircraft are not being used in the conduct of the~~
27 ~~necessary activities of the department, may operate the aircraft for other departments of~~
28 ~~this state. The rate of reimbursement to the department shall be set by the Board of~~
29 ~~Finance, to fully defray the cost and expenses of rendering the service under this section.~~

1 **Section 33. That § 50-2-16 be REPEALED.**

2 ~~The funds received from the other departments of state government by the~~
3 ~~department shall be deposited in the state treasury in an internal service fund to be~~
4 ~~designated as the special aviation internal service fund. The department shall use the fund~~
5 ~~for the maintenance, cost of operation, repair, and other expenses in connection with the~~
6 ~~operation of its state aircraft.~~

7 **Section 34. That § 50-2-17 be REPEALED.**

8 ~~The department shall maintain separate accounting and limit its expenditures from~~
9 ~~the special aviation internal service fund so as to in no instance use any sum for a purpose~~
10 ~~other than that for which it has been appropriated.~~

11 **Section 35. That § 50-2-32 be REPEALED.**

12 ~~A person may appeal an action of the commission in accordance with chapter 1-~~
13 ~~26.~~