

# State of South Dakota

EIGHTY-NINTH SESSION  
LEGISLATIVE ASSEMBLY, 2014

400V0290

## HOUSE BILL NO. 1043

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

1 FOR AN ACT ENTITLED, An Act to revise and repeal certain provisions regarding the  
2 regulation of aeronautics.

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

4 Section 1. That § 50-1-1 be amended to read as follows:

5 50-1-1. Terms as used in this title mean:

6 (1) "Aeronautics," the act or practice of the art and science of transportation by aircraft,  
7 and operation, construction, repair, or maintenance of aircraft, airports, ~~landing~~  
8 ~~fields, landing strips, or~~ air navigation facilities, ~~or air instruction;~~

9 (2) "Aircraft," any powered contrivance used or designed for navigation of, or flight in,  
10 the air;

11 (3) ~~"Air instruction," the imparting of aeronautical information in any air school, flying~~  
12 ~~club, or by any aviation instructor;~~

13 ~~—(4)—~~ "Airport," any area, either of land or water, which is used, or intended for use, for the  
14 landing and take-off of aircraft, and any appurtenant areas which are used, or  
15 intended for use, for airport buildings or other airport facilities or rights of way,



1 together with all airport buildings and facilities located thereon;

2 ~~(5) "Air school," any person engaged in giving instruction, or offering to give instruction~~  
3 ~~in aeronautics, either in flying or ground subjects, or both, for or without hire or~~  
4 ~~reward, and advertising, representing, or holding itself out as giving, or offering to~~  
5 ~~give, such instruction;~~

6 ~~(6) "Aviation instructor," any individual engaged in giving instruction, or offering to give~~  
7 ~~instruction, in aeronautics, either in flying or ground subjects, or both, for or without~~  
8 ~~hire or reward, without advertising such occupation, without calling the facilities an~~  
9 ~~air school or anything equivalent, or without employing or using other instructors;~~

10 ~~(7)(4) "Civil aircraft," any aircraft other than a public aircraft;~~

11 ~~(8)(5) "Commission," the South Dakota Aeronautics Commission;~~

12 ~~(9)(6) "Department," the Department of Transportation;~~

13 ~~(10) "Flying club," any person other than an individual who, neither for profit nor reward,~~  
14 ~~owns, leases, or uses one or more aircraft for the purpose of instruction, pleasure, or~~  
15 ~~both;~~

16 ~~(11) "Landing field," any area, either of land or water, which is used or which is made~~  
17 ~~available for the landing and take-off of aircraft, which may or may not provide~~  
18 ~~facilities for the shelter, supply, and repair of aircraft, and which meets the minimum~~  
19 ~~requirements as to size, design, surface marking, equipment, and management as may~~  
20 ~~from time to time be provided by the commission;~~

21 ~~(12) "Landing strip," any area, either of land or water, which is available for the landing~~  
22 ~~and take-off of aircraft, having not less than two hundred feet of usable width and not~~  
23 ~~less than one thousand feet of usable length, the use of which shall, except in case of~~  
24 ~~emergency, be only as provided from time to time by the regulations of the~~

1           commission;

2       (7)    "Prescribed adjusted height," a height adjusted upward seventeen feet for an interstate  
3           highway, fifteen feet for any other public road, ten feet or the height of the highest  
4           mobile object that would normally traverse the road, whichever is greater, for a  
5           private road, and twenty-three feet for a railroad;

6       (13)(8)    "Private airport," any airport, ~~landing field, or landing strip~~ that is open to and  
7           available for use only by the owner and the owner's invitees;

8       (14)(9)    "Public aircraft," any aircraft used exclusively in the governmental service,  
9           including military and naval aircraft, or of any state or territory thereof;

10       (15)(10)   "Public airport," any airport, ~~landing field, or landing strip,~~ whether publicly  
11           or privately owned, that is open to and available for use by the flying public.

12       Section 2. That § 50-2-1.1 be amended to read as follows:

13       50-2-1.1. The commission shall continue within the ~~Department of Transportation~~  
14       department, and all its functions shall be performed by the ~~Department of Transportation~~  
15       department as provided by § 1-44-11.

16       The commission shall provide advice and expertise to state agencies regarding the purchase,  
17       transfer and disposition of state owned and operated aircraft including those owned or operated  
18       by any state institution.

19       Section 3. That § 50-2-2.1 be amended to read as follows:

20       50-2-2.1. The commission may promulgate rules pursuant to chapter 1-26 regarding:

21       (1)    The design, layout, location, construction, operation, equipping, and use of all public  
22           ~~airports, landing fields, or landing strips;~~

23       (2)    ~~The curriculum, equipment, personnel qualifications, operation, and management of~~  
24           ~~all air instruction;~~

1 ~~(3)~~ The establishment, location, maintenance, and operation of all air markings, air  
2 beacons and other navigation facilities; and

3 ~~(4)~~ ~~Common carriers of persons and property in scheduled operations by aircraft in~~  
4 ~~purely intrastate commerce, including definitions, exemptions, certificates and~~  
5 ~~permits, and application therefor, issuance thereof, modification, suspension, or~~  
6 ~~revocation of permits, tariffs, rates, and service, penalties, and~~

7 ~~(5)~~(3) The operation of aerial applicators or operators including minimum standards, class  
8 definitions, and safety requirements.

9 Section 4. That § 50-2-4 be amended to read as follows:

10 50-2-4. On or before the thirty-first day of December, in each ~~even-numbered~~ year, the  
11 commission shall make, to the Governor, a full report of its proceedings for the ~~biennium~~ year  
12 ending the thirtieth day of June preceding and may submit with ~~such~~ the report ~~such~~ any  
13 recommendations pertaining to ~~its~~ the commission's affairs as seem to the commission to be  
14 desirable.

15 Section 5. That § 50-2-5 be amended to read as follows:

16 50-2-5. The commission shall foster air commerce within the State of South Dakota. The  
17 commission shall supervise the aeronautical activities and facilities within the state, including  
18 supervision and control over all airports, ~~landing fields, landing strips, air instruction, air~~  
19 ~~marking, air beacons, and all other air navigation facilities. The commission may in its~~  
20 ~~discretion permit and regulate common carriers of persons and property in scheduled operations~~  
21 ~~by aircraft in purely intrastate commerce.~~

22 Section 6. That § 50-2-12 be amended to read as follows:

23 50-2-12. The commission shall ~~administer~~ approve the expenditure and disbursement of  
24 moneys appropriated and available for matching purposes and for the construction,

1 development, operation, marking, and maintenance of airports, ~~landing fields, landing strips,~~  
2 and air navigation facilities.

3 Section 7. That § 50-2-13 be amended to read as follows:

4 50-2-13. The rules promulgated by the commission under the authority of § 50-2-2.1, shall  
5 be as ~~uniform~~ consistent as possible with federal law and regulations governing aeronautics.

6 Section 8. That § 50-2-15 be amended to read as follows:

7 50-2-15. The commission, when its state aircraft are not being used in the conduct of the  
8 necessary activities of the Department of Transportation, may operate the aircraft for other  
9 departments of the state government of South Dakota. ~~A department shall reimburse the~~  
10 ~~commission in a sum to be fixed~~ The rate of reimbursement shall be set by the Board of  
11 Finance, to fully defray the cost and expenses of rendering the service.

12 Section 9. That § 50-2-17 be amended to read as follows:

13 50-2-17. The ~~commission~~ department shall maintain separate accounting and limit its  
14 expenditures from the special aviation internal service fund so as to in no instance use any sum  
15 for a purpose other than that for which it has been appropriated.

16 Section 10. That § 50-2-22 be repealed.

17 ~~—50-2-22. The commission or any commissioner, or officer of the commission designated by~~  
18 ~~the commission, may hold investigations, inquiries, and hearings concerning matters covered~~  
19 ~~by the provisions of this title and for all accidents in aeronautics within this state. All hearings~~  
20 ~~conducted by the commission shall be open to the public.~~

21 Section 11. That § 50-2-23 be repealed.

22 ~~—50-2-23. Each commissioner, and each officer of the commission designated by the~~  
23 ~~commission to hold any inquiry, investigation, or hearing, may administer oaths and~~  
24 ~~affirmations, certify to all official acts, issue subpoenas, and compel the attendance and~~

1 ~~testimony of witnesses, and the production of papers, books, and documents.~~

2 Section 12. That § 50-2-24 be repealed.

3 ~~—50-2-24. The commission, the commission's members and employees, and each state,~~  
4 ~~county, and municipal officer charged with the enforcement of state and municipal laws, shall~~  
5 ~~enforce and shall assist in the enforcement of this title. Other departments and political~~  
6 ~~subdivisions of this state may cooperate with the commission in the development of aeronautics~~  
7 ~~and aeronautic facilities within the state.~~

8 Section 13. That § 50-2-25 be repealed.

9 ~~—50-2-25. The commission may maintain actions in any of the courts of this state to enforce~~  
10 ~~the provisions of this title, by invoking any of the civil or criminal procedure provided in any~~  
11 ~~case where such court may have jurisdiction. The attorney general shall act as the legal adviser~~  
12 ~~and counsel for the commission and no actions may be instituted and maintained without the~~  
13 ~~attorney general's advice and consent.~~

14 Section 14. That § 50-2-26 be repealed.

15 ~~—50-2-26. Any order made by the commission pursuant to this title shall first be filed and~~  
16 ~~made a matter of permanent record of the commission. A certified copy of the order shall then~~  
17 ~~be served upon any person to be affected by the order, in the same manner that a summons is~~  
18 ~~served in civil actions in the circuit court.~~

19 Section 15. That § 50-2-27 be repealed.

20 ~~—50-2-27. An appeal may be taken by any person affected by any order or decision of the~~  
21 ~~commission to the circuit court for the county in which the person affected resides. However,~~  
22 ~~if the order affects property which is subject to regulation under the purview of this title, the~~  
23 ~~appeal shall then be taken to the circuit court for the county in which the property affected by~~  
24 ~~the order is located. If several persons are affected by the order, or if the property is located in~~

1 ~~more than one county, then the county to which appeal is first taken shall be the county of the~~  
2 ~~venue of the appeal for all purposes.~~

3 Section 16. That § 50-2-28 be repealed.

4 ~~— 50-2-28. An appeal pursuant to § 50-2-27 shall be taken within thirty days from the service~~  
5 ~~of the order or decision by the service of a notice of appeal upon any member of the~~  
6 ~~commission, stating the name of the appellant, the manner in which the appellant is affected by~~  
7 ~~the order or decision, the substance and date of the order or decision, sufficient to identify it, and~~  
8 ~~the court to which the appeal is to be made. A bond in the sum of two hundred fifty dollars,~~  
9 ~~conditioned for payment of costs and damages resulting from the appeal and running to the~~  
10 ~~commission, shall be filed with the notice of appeal. No appeal is effective unless the bond is~~  
11 ~~so filed. If persons other than the commission are affected by the appeal, a copy of the notice~~  
12 ~~and bond shall be served upon them within the time prescribed for taking the appeal.~~

13 Section 17. That § 50-2-29 be repealed.

14 ~~— 50-2-29. An appeal pursuant to § 50-2-27 shall be brought on for hearing before the proper~~  
15 ~~circuit court at the next regular term of the court, or the appeal may be brought on for hearing~~  
16 ~~upon twenty days' notice by either party. The parties are entitled to a trial de novo by the court~~  
17 ~~upon all issues of law and fact involved. From the decision of the circuit court on such appeals,~~  
18 ~~an appeal may be had to the Supreme Court the same as other decisions of the circuit court.~~

19 Section 18. That § 50-2-30 be repealed.

20 ~~— 50-2-30. If no appeal is taken from the order of the commission within the period fixed, the~~  
21 ~~party against whom the order was entered, is deemed to have waived the right to have the~~  
22 ~~reasonableness or lawfulness of the order reviewed by a court. There may be no trial of that~~  
23 ~~issue in any court in which suit may be instituted for the penalty for failure to comply with the~~  
24 ~~order.~~

1 Section 19. That § 50-2-31 be repealed.

2 ~~50-2-31. The failure to obey, or the violation of any process, subpoena, order, rule,~~  
3 ~~judgment, or other legal command of the commission may be punished as contempt of court and~~  
4 ~~the process of the court may be invoked in accordance with the provisions of and under the~~  
5 ~~procedure prescribed by chapter 21-34.~~

6 Section 20. That § 50-4-1 be amended to read as follows:

7 50-4-1. The ~~Transportation Commission~~ department shall assist in the development of  
8 aviation and aviation facilities within the state for the purpose of safeguarding the interests of  
9 those engaged in all phases of the industry and of the general public, and promoting aeronautics.

10 Section 21. That § 50-4-2 be amended to read as follows:

11 50-4-2. The ~~commission~~ department may, on behalf of and in the name of the state, out of  
12 appropriations and other moneys made available for such purposes, construct, improve,  
13 maintain, mark, and operate airports and other air navigation facilities either within or without  
14 this state and to assist financially counties, municipalities, and organized townships in  
15 constructing, improving, maintaining, marking, and operating airports and other air navigation  
16 facilities within or without the state. For such purposes the ~~commission~~ department may  
17 exercise all of the powers and authority conferred upon municipal corporations by this title.

18 Section 22. That § 50-4-3 be amended to read as follows:

19 50-4-3. The ~~commission~~ department may cooperate with the government of the United  
20 States, and any agency or department thereof, in the acquisition, construction, improvement,  
21 maintenance, and operation of airports and other navigation facilities in this state.

22 Section 23. That § 50-4-4 be amended to read as follows:

23 50-4-4. The ~~commission~~ department may accept, ~~receive, and receipt for~~ and receive federal  
24 moneys and other moneys either public or private, for and on behalf of the state, counties, or



1 municipalities, for the acquisition, construction, improvement, maintenance, and operation of  
2 airports and other air navigation facilities, whether the work is to be done by the state, counties,  
3 or municipalities, or jointly, aided by grants of aid from the United States.

4 Section 24. That § 50-4-5 be amended to read as follows:

5 50-4-5. The ~~commission may~~ department shall act as an agent of any county or municipality  
6 of this state upon the request of the county or municipality, in accepting, receiving and  
7 receipting for ~~such any~~ moneys ~~in its behalf~~ for airports or other air navigation facility purposes,  
8 and in contracting for the acquisition, construction, improvement, maintenance, or operation of  
9 airports or other air navigation facilities, financed either in whole or in part by federal moneys.  
10 The governing body of the county or municipality ~~may~~ shall designate the ~~commission~~  
11 department as its agent for such purposes and to enter into an agreement with ~~it~~ the department  
12 prescribing the terms and conditions of ~~such~~ the agency.

13 Section 25. That § 50-4-7 be amended to read as follows:

14 50-4-7. All contracts for the acquisition, construction, improvement, maintenance, and  
15 operation of airports, or other air navigation facilities made by the ~~commission~~ department,  
16 either as the agent of this state or as the agent of any county or municipality, shall be made  
17 pursuant to the laws of this state governing the making of like contracts.

18 Section 26. That § 50-4-8 be amended to read as follows:

19 50-4-8. All moneys accepted for disbursement by the ~~commission~~ department pursuant to  
20 §§ 50-4-3 to 50-4-7, inclusive, shall be deposited in the state treasury, and, unless otherwise  
21 prescribed by the authority from which the money is received, kept in separate funds, designated  
22 according to the purposes for which the moneys were made available, and held by the state in  
23 trust for such purposes. All such moneys are hereby appropriated for the purposes for which the  
24 same were made available, to be expended in accordance with ~~said~~ those sections. The

1 ~~commission~~ department may, whether acting for this state or as the agent of any of its counties  
2 or municipalities, or ~~when~~ if requested by the United States government or any agency or  
3 department thereof, disburse ~~such~~ the moneys for the designated purposes, but this does not  
4 preclude any other authorized method of disbursement.

5 Section 27. That § 50-4-14 be amended to read as follows:

6 50-4-14. The state aeronautics fund and the accumulations ~~thereto~~ to the fund as  
7 appropriated by the Legislature may be used for the following purposes:

8 (1) The construction, development, lighting, marking, and maintenance of publicly  
9 owned airports, ~~landing fields, and landing strips;~~

10 (2) The lighting, marking, and maintenance of runways, ~~landing strips,~~ taxiways and  
11 parking areas of privately owned and operated airports, ~~landing fields and landing~~  
12 ~~strips~~ licensed by the commission, in proportion to the amount of the aircraft fuel tax  
13 paid on the aircraft fuel purchased for resale for use in aircraft at each privately  
14 owned and operated airport, ~~landing field or landing strip,~~ as nearly as practicable,  
15 as to each ~~of which it shall appear~~ airport it appears to the satisfaction of the  
16 commission that ~~such~~ the airport, ~~landing field or landing strip~~ is operated and  
17 maintained in accordance with the laws of this state ~~and,~~ the rules of the  
18 commission, and the standard established ~~therefor~~ for the airport by any agency of the  
19 United States, and the unrestricted use of the airport, ~~landing field or landing strip~~ is  
20 at all times available to the general public for the taking off and landing of aircraft  
21 ~~without cost or charge;~~

22 (3) The matching of any funds made available by the United States, this state, or any of  
23 the political subdivisions of this state for the purchase of sites for airports, ~~landing~~  
24 ~~fields, and landing strips,~~ and for the construction, lighting, and marking of such

1 airports, ~~landing fields, and landing strips~~, in such amounts as the commission may  
2 determine; and

3 (4) The paying of salaries, office expenses, traveling, and other expenses of the  
4 commission and the ~~commission's~~ department staff to carry out the responsibilities  
5 defined in chapter 50-2.

6 Section 28. That § 50-4-16 be amended to read as follows:

7 50-4-16. The ~~South Dakota Aeronautics Commission~~ commission shall make an allocation  
8 of a portion of the aircraft fuel tax collected pursuant to §§ 10-47B-1 and 10-47B-4, to each  
9 eligible airport, ~~landing field, or landing strip~~. The allocation shall be determined by the  
10 ~~commission~~ department from the monthly reports required by § 50-4-12, and be based as nearly  
11 as practicable upon the amount of aircraft fuel tax collected on retail sales of aircraft fuel sold  
12 at each eligible airport, ~~landing field, or landing strip~~ for use in general aviation aircraft. The  
13 amount of aircraft fuel tax collected on aircraft fuel sales to regular airlines shall be allocated  
14 separately by the ~~commission~~ department. All remaining aircraft fuel tax collected pursuant to  
15 §§ 10-47B-1 and 10-47B-4, shall be placed in the aeronautics fund and be used by the  
16 commission as provided in § 50-4-14.

17 Section 29. That § 50-4-17 be amended to read as follows:

18 50-4-17. The ~~secretary of transportation~~ department shall approve vouchers and the state  
19 auditor shall issue warrants to expend the funds appropriated by § 50-4-14. The funds shall be  
20 expended as provided in § 50-4-14.

21 Section 30. That § 50-5-1.1 be amended to read as follows:

22 50-5-1.1. The approval requirements of § 50-5-1 do not apply to temporary airports, ~~landing~~  
23 ~~fields, or landing strips~~ used only by aircraft while engaged in providing emergency medical  
24 services or other emergency services.

1 Section 31. That § 50-5-7 be amended to read as follows:

2 50-5-7. If the commission deems it necessary, the commission may order the closing of any  
3 airport, ~~landing field~~, or order any ~~air school, flying club, or air beacon~~, or other air navigation  
4 facility to cease operations until it complies with the requirements ~~stated~~ established by the  
5 commission.

6 Section 32. That § 50-5-8 be amended to read as follows:

7 50-5-8. The commission or the commission's agent may inspect and examine at reasonable  
8 hours, to carry out the provisions of this title, any premises, and the buildings and other  
9 structures thereon, where the airports, ~~landing fields, air schools, flying clubs, air beacons~~, or  
10 other air navigation facilities are operated.

11 Section 33. That § 50-5-9 be repealed.

12 ~~— 50-5-9. The commission may inspect and examine, at reasonable hours, any premises, and~~  
13 ~~any building and any other structure thereon, where any airport approved by the commission is~~  
14 ~~operated.~~

15 Section 34. That § 50-5-10 be amended to read as follows:

16 50-5-10. ~~No~~ Except as otherwise provided, no person, without the express or implied  
17 consent of the owner or operator of any airport which has been approved by the commission for  
18 public use by aircraft, may enter, trespass on, or occupy any runway, ~~landing strip~~, or other  
19 portion of the airport which will interfere, restrict, impede, or endanger the use of the airport by  
20 another person or the operator of an aircraft. A violation of this section is a Class 1  
21 misdemeanor.

22 Section 35. That § 50-6-1 be repealed.

23 ~~— 50-6-1. All first and second class municipalities may by ordinance create an airport board.~~  
24 ~~The ordinance creating the board shall specify the number, qualifications, and term of office of~~

1 ~~the members, the frequency of board meetings, the officers to be selected and a description of~~  
2 ~~their duties, the number of members necessary for a quorum, and the scope of the board's~~  
3 ~~authority.~~

4 Section 36. That §§ 50-6-3 to 50-6-17, inclusive, be repealed.

5 Section 37. That § 50-6A-1 be amended to read as follows:

6 50-6A-1. Terms used in this chapter, ~~unless different meanings clearly appear from the~~  
7 ~~context,~~ mean:

8 (1) "Air navigation facility," any facility, other than one owned and operated by the  
9 United States, used in, available for use in, or designed for use in the aid of air  
10 navigation, including any structures, mechanisms, lights, beacons, markers,  
11 communicating systems, or other instrumentalities, or devices, used or useful as an  
12 aid, or constituting an advantage or convenience, to the safe taking off, navigation,  
13 and landing of aircraft, or the safe and efficient operation or maintenance of an  
14 airport, or any combination of any or all of such facilities;

15 (2) ~~"Airport," any area of land or water which is used, or intended for use, for the landing~~  
16 ~~and taking off of aircraft, and any appurtenant areas which are used, or intended for~~  
17 ~~use, for airport buildings or other airport facilities or rights of way, including~~  
18 ~~approaches and clear zones, together with all airport buildings and facilities located~~  
19 ~~thereon;~~

20 ~~—(3)—~~ "Airport authority" or "authority," any regional airport authority created pursuant to  
21 the provisions of this chapter;

22 ~~(4)~~(3) "Airport hazard," any structure, object of natural growth, or use of land which  
23 obstructs the airspace required for the flight of aircraft in landing or taking off at an  
24 airport or is otherwise hazardous to such landing or taking off of aircraft;

1       ~~(5)~~(4) "Bonds," any bonds, notes, interim certificates, debentures, or similar obligations  
2           issued by an authority pursuant to this chapter;

3       ~~(6)~~(5) "Governing body," ~~shall mean~~ the official or officials authorized by law to exercise  
4           ordinance or other lawmaking powers of a political subdivision;

5       ~~(7)~~(6) "Person," a person as defined by subdivision 2-14-2(18) as well as any joint stock  
6           association, or body politic; and includes any trustee, receiver, assignee, or other  
7           similar representative thereof;

8       ~~(8)~~(7) "Political subdivision" or "subdivision," any county, municipality, or other public  
9           body of this state;

10      ~~(9)~~(8) "Project," any airport operated by an authority, including all real and personal  
11           property, structures, machinery, equipment and appurtenances or facilities ~~which that~~  
12           are part of ~~such the~~ airport or used or useful in connection therewith either as ground  
13           facilities for the convenience of handling aviation equipment, passengers and freight  
14           or as part of aviation operation, air navigation and air safety operation; and

15      ~~(10)~~(9)       "Real property," lands, structures and interests in land, including lands under  
16           water and riparian rights, and any and all things and rights usually included  
17           within the term real property, including not only fee simple absolute but also  
18           any and all lesser interests, such as easements, rights of way, uses, leases,  
19           licenses, and all other incorporeal hereditaments and every estate, interest or  
20           right, legal or equitable, pertaining to real property.

21      Section 38. That § 50-6A-2 be amended to read as follows:

22      50-6A-2. Any subdivision ~~or any two or more subdivisions, whether in this state or in an~~  
23      ~~adjoining state, provided that at least one subdivision is in South Dakota,~~ may by joint  
24      resolution, create a public body, corporate and politic, to be known as a regional airport

1 authority ~~which~~. That authority shall be authorized to exercise its functions upon the issuance  
2 by the secretary of state of a certificate of incorporation.

3 Section 39. That § 50-6A-5 be amended to read as follows:

4 50-6A-5. Upon the appointment and qualification of the commissioners first appointed to  
5 a regional airport authority, ~~they~~ the regional airport authority shall submit, to the secretary of  
6 state, a certified copy of each resolution adopted pursuant to § 50-6A-2 by the subdivisions  
7 included in the regional authority, and upon receipt ~~thereof~~ of the copy the secretary of state  
8 shall issue a certificate of incorporation to the regional airport authority.

9 Section 40. That § 50-6A-28 be amended to read as follows:

10 50-6A-28. An authority may designate the department as the authority's agent to accept,  
11 receive, receipt for, and disburse federal and state moneys, and other moneys, public or private,  
12 made available by grant or loan or both, to accomplish in whole or in part, any of the purposes  
13 of this chapter. The authority ~~may~~ shall designate the department as the authority's agent in  
14 contracting for and supervising the planning, acquisition, development, construction,  
15 improvement, maintenance, equipment, or operation of any airport or other air navigation  
16 facility.

17 An authority ~~may~~ shall enter into an agreement with the department prescribing the terms  
18 and conditions of the agency in accordance with any terms and conditions as are prescribed by  
19 the United States, if federal money is involved, and in accordance with the applicable laws of  
20 this state. All federal moneys accepted under this section by the department shall be accepted  
21 and transferred or expended by the department upon any terms and conditions as are prescribed  
22 by the United States.

23 All moneys received by the department pursuant to this section shall be deposited in the state  
24 treasury, and unless otherwise prescribed by the agency from which the moneys were received,

1 shall be kept in separate funds designated according to the purposes for which the moneys were  
2 made available, and shall be held by the state in trust for such purposes.

3 Section 41. That § 50-6A-38.1 be amended to read as follows:

4 50-6A-38.1. A regional airport authority may pay compensation to a regularly scheduled  
5 commercial air carrier to provide basic or enhanced air service as provided in the Airport and  
6 Airway Safety and Capacity Expansion Act of 1987 and may provide compensation to a  
7 regularly scheduled air carrier ~~under contract with the South Dakota Airline Authority~~. Funds  
8 provided by a regional airport authority to pay compensation for such air service shall be  
9 budgeted pursuant to chapter 50-6A.

10 Section 42. That § 50-7-1 be amended to read as follows:

11 50-7-1. ~~Whenever in this chapter the term "municipalities" is used the same shall be deemed~~  
12 ~~to include~~ For the purposes of this chapter, the term, municipalities, includes organized  
13 townships and organized counties and like power and authority is hereby conferred upon  
14 organized townships and organized counties as now exists in municipalities. For the purposes  
15 of this chapter, the term, governmental agency, means any municipality, county, public  
16 corporation, or other public agency.

17 Section 43. That § 50-7-2 be amended to read as follows:

18 50-7-2. The board of county commissioners of any county in this state ~~is hereby authorized~~  
19 ~~to~~ may acquire, establish, construct, own, control, lease, equip, improve, maintain, operate, and  
20 regulate airports ~~or landing fields~~ for the use of ~~airplanes and other~~ aircraft within the limits of  
21 ~~such counties~~ the county, and may use for any such purpose ~~or purposes~~ any real property  
22 suitable therefor ~~that is now or may at any time hereafter be~~ owned or controlled by ~~such~~ the  
23 county. ~~The same power and jurisdiction is hereby provided for municipalities~~ Each  
24 municipality has the same power and jurisdiction except that ~~any~~ a municipality may exercise



1 ~~such powers~~ the power either within or without the corporate limits of ~~such~~ the municipality.  
 2 ~~Municipalities~~ Any municipality situated at or near the boundary line of an adjoining state may  
 3 exercise ~~such powers~~ the power and jurisdiction over real property and persons, for such  
 4 purposes in ~~such~~ the adjoining state and may maintain actions in the corporate name in the  
 5 courts of ~~such~~ the adjoining state for the exercise or protection of any rights authorized by this  
 6 chapter. The governing boards of a county or a municipality may by resolution create an airport  
 7 board.

8 Section 44. That § 50-7-2.1 be repealed.

9 ~~—50-7-2.1. For the purpose of §§ 50-7-2.2 to 50-7-2.4, inclusive, "governmental agency"~~  
 10 ~~means any municipality, county, public corporation, or other public agency.~~

11 Section 45. That § 50-7-3 be amended to read as follows:

12 50-7-3. ~~The governing body of a municipality or county~~ Any governmental agency may  
 13 lease ~~such an~~ an airport or landing field or any portion thereof or any building or part of any  
 14 building thereon of an airport or any airport facility for operating purposes to any responsible  
 15 person or corporation upon ~~such~~ terms and conditions for a term of not to exceed twenty-five  
 16 years as the governing body may approve. ~~Upon taking effect of any lease of the entire airport~~  
 17 ~~lease, no liability for the negligent maintenance or operation of said airport or landing field~~  
 18 ~~building and facilities shall attach to the municipality or county, respectively nor shall it be~~ No  
 19 governmental agency nor the governing agency is liable in any event for the negligent  
 20 maintenance or operation of any airport building, or other facility leased to an operator or  
 21 erected by an operator upon a leased site.

22 Section 46. That § 50-7-4 be amended to read as follows:

23 50-7-4. Any lands acquired, owned, controlled, or occupied by ~~such municipalities or~~  
 24 ~~counties~~ a governmental agency for the purposes enumerated in § 50-7-3 shall and are hereby

1 declared to be acquired, owned, controlled, and occupied for a public purpose and as a matter  
2 of public necessity; ~~and such municipalities or counties shall have.~~ The governmental agency  
3 has the right to acquire public or private real property for such purposes by purchase from the  
4 owner if agreement on the terms can be made and if not by condemnation in the manner  
5 provided by law under which the ~~county, municipality~~ governmental agency is authorized to  
6 acquire real property for public purposes; ~~or if.~~ If there be no such law, in the manner provided  
7 generally for the condemnation of property for public use, ~~or such municipalities and counties~~  
8 ~~shall have~~ the governmental agency has the right to exchange lands owned by it the  
9 governmental agency for other lands of like character and value within the county or an abutting  
10 county whether privately owned or owned by the United States, the State of South Dakota, or  
11 any of its political subdivisions. ~~Said~~ The exchange shall be authorized by resolution of the  
12 governing body directing the execution of the necessary conveyance or conveyances ~~to effect~~  
13 ~~the same; such.~~ Any conveyance ~~or conveyances~~ shall be signed by the presiding officer of the  
14 governing body and attested by the auditor or clerk ~~as the case may be.~~

15 Section 47. That § 50-7-5 be amended to read as follows:

16 50-7-5. ~~The powers~~ Any power granted by this chapter to counties and municipalities may  
17 be exercised jointly by the county and municipalities located in ~~said~~ the county or abutting  
18 county, ~~and in.~~ In the case of any existing airports airport owned by a municipality, the county  
19 in which ~~said~~ the municipality is located, or an abutting county, may purchase from ~~said~~ the  
20 municipality an interest ~~therein and in~~ in the airport. In the case of airports any airport operated  
21 by a county, a municipality in ~~such~~ the county or abutting county may purchase from ~~said~~ the  
22 county an interest ~~therein~~ in the airport and may appropriate money and do all other things  
23 necessary to share in the operation expense as ~~though said~~ if the airport ~~were~~ was owned and  
24 operated solely by ~~said~~ the county or municipality. In case of a jointly owned and operated

1 airport the management of ~~said~~ the airport shall be in accordance with regulations adopted by  
 2 the governing boards of the county and municipality not inconsistent with other provisions of  
 3 this chapter, and the governing boards of the county and municipality may by resolutions of their  
 4 respective governing bodies create an airport board ~~as provided by chapter 50-6 which said~~  
 5 ~~chapter by reference thereto to the extent applicable is made a part of this chapter.~~

6 Section 48. That § 50-7-7 be amended to read as follows:

7 50-7-7. If the question of establishing a county airport ~~shall~~ has not previously ~~have~~ been  
 8 approved by a majority vote of the voters at an election at which ~~such~~ the question was  
 9 submitted, then any county desiring to establish and construct an airport shall state in the next  
 10 published report of ~~their~~ the county's proceedings ~~their~~ the county's intention to establish and  
 11 construct ~~such~~ the airport stating the maximum amount which might be required to do so. If  
 12 within sixty days from ~~such~~ the publication a protest signed by fifteen percent of the voters of  
 13 the county voting for Governor at the last general election be filed with ~~such~~ the county  
 14 commissioners, then no action ~~shall~~ may be taken until the question ~~shall have~~ has been  
 15 submitted to a vote of the people and sixty percent of those voting shall vote in favor thereof.  
 16 The question to be so submitted shall be, "Shall the county expend an amount not to exceed  
 17 \$\_\_\_\_\_ to establish and construct an airport?"

18 Section 49. That § 50-7-10 be amended to read as follows:

19 50-7-10. The governing body of any ~~municipality or county~~ may governmental agency shall  
 20 designate the ~~commission~~ department as ~~its~~ the body's agent to accept, receive, and receipt for  
 21 federal moneys in ~~its~~ the body's behalf for airport purposes, and to contract for the acquisition,  
 22 construction, enlargement, improvement, maintenance, equipment, or operation of airports, or  
 23 other air navigation facilities. The ~~governing body~~ governmental agency may enter into an  
 24 agreement with the ~~commission~~ department prescribing the terms and conditions of ~~such~~ the

1 agency. The federal moneys ~~paid over by the United States government~~ shall be paid over to the  
2 municipality or county under such terms and conditions as may be imposed by the United States  
3 government in making ~~such~~ the grant.

4 Section 50. That § 50-7-11 be amended to read as follows:

5 50-7-11. ~~All contracts~~ Any contract for the acquisition, construction, enlargement,  
6 improvement, maintenance, equipment, or operation of ~~airports~~ any airport or any other air  
7 navigation facilities facility, made by the ~~municipality or county~~ governmental agency itself, or  
8 through the agency of the ~~Department of Transportation of the state~~ department, shall be made  
9 pursuant to the laws of this state governing the making of like contracts.

10 Section 51. That § 50-7-12 be amended to read as follows:

11 50-7-12. The ~~governing body of a municipality or county which~~ governmental agency that  
12 has established an airport ~~or landing field~~ and acquired, leased, or set apart real property for such  
13 purpose may construct, improve, equip, maintain, and operate the same and ~~shall have authority~~  
14 to may lease or sublet ~~such~~ the property for airport purposes. The expenses of ~~such~~ the  
15 construction, improvement, equipment, maintenance, and operation shall be a municipality or  
16 county charge as the case may be.

17 Section 52. That § 50-7-13 be amended to read as follows:

18 50-7-13. The ~~governing body of a municipality or county which~~ governmental agency that  
19 has established an airport ~~or landing field~~ and acquired, leased, or set apart real property for such  
20 purpose may vest jurisdiction for the construction, improvement, equipment, maintenance, and  
21 operation ~~thereof~~ of the airport, in any suitable officer, board, or body of ~~such municipality or~~  
22 ~~county, and providing further a municipality is authorized to~~ the governmental agency. The  
23 governmental agency may create by ordinance a board whose sole purpose shall be to improve,  
24 regulate and supervise the operation and management of air facilities.

1 Section 53. That § 50-7-14 be amended to read as follows:

2 50-7-14. The ~~governing body of a municipality or county~~ governmental agency may adopt  
3 regulations and establish ~~fees or charges~~ for the use of such airport ~~or landing field~~, or may  
4 authorize an officer, board, or body of ~~such municipality or county~~ the governmental agency  
5 having jurisdiction to adopt ~~such~~ regulations and establish ~~such fees or charges~~, subject,  
6 however, to the approval of ~~such~~ the governing body before ~~they shall~~ the regulations or charges  
7 take effect.

8 Section 54. That § 50-7-15 be amended to read as follows:

9 50-7-15. The department, on behalf of the commission, may enter into cooperative  
10 agreements with the governing body of a ~~municipality~~ governmental agency, whereby, the initial  
11 expenditures for making authorized airport improvements may be paid from any moneys that  
12 may be available to the commission and the ~~municipality's~~ governmental agency's share of ~~such~~  
13 the expenditure may be reimbursed to the commission over a period of three years. The  
14 reimbursements shall be paid into the special aviation internal service fund created by § 50-2-16  
15 and used for airport improvement purposes, or shall be paid into the specific fund used to make  
16 the initial expenditures. Any ~~municipality~~ governmental agency may enter into a cooperative  
17 financing agreement upon the adoption of a resolution authorizing the governing body to enter  
18 into ~~such an~~ the agreement.

19 Section 55. That § 50-7-16 be amended to read as follows:

20 50-7-16. The commission shall charge a ~~municipality~~ governmental agency simple interest  
21 at the Category A rate of interest established in § 54-3-16 on the amount of money subject to  
22 reimbursement under § 50-7-15 from the date of the expenditure to the date of payment.

23 Section 56. That § 50-7-17 be amended to read as follows:

24 50-7-17. No ~~municipality or county~~ governmental agency in this state, whether acting alone

1 or jointly with another ~~municipality or county or with the state~~ governmental agency, may  
2 submit to the administrator of the federal aviation administration any project application under  
3 the provisions of any act of Congress which provides airport planning, construction, and  
4 development funds or other funds for the expansion and improvement of the airport system as  
5 such act shall pertain to the State of South Dakota, unless the project ~~and the project~~ application  
6 ~~have~~ has been first approved by the ~~commission~~ department. No ~~municipality or county~~  
7 governmental agency may directly ~~accept, receive, receipt for,~~ or disburse any funds granted by  
8 the United States under such act, but ~~it~~ the governmental agency shall designate the ~~commission~~  
9 department as its agent ~~and in behalf to accept, receive, receipt for~~ and disburse ~~such~~ the funds.  
10 ~~It~~ The governmental agency shall enter into an agreement with the ~~commission~~ department  
11 prescribing the terms and conditions of ~~such~~ the agency in accordance with federal laws, ~~rules~~  
12 and regulations and applicable laws of this state. The moneys paid over by the United States  
13 government shall be retained by the state or paid over to the ~~municipality or county~~  
14 governmental agency under such terms and conditions as may be imposed by the United States  
15 government making ~~such~~ the grant.

16 ~~Any agreements made between any of the parties or with the commission in accordance with~~  
17 ~~the provisions of this section, and relating to airport planning, and made prior to July 1, 1972,~~  
18 ~~are hereby validated.~~

19 Section 57. That § 50-7-18 be amended to read as follows:

20 50-7-18. The ~~commission~~ department may in cases where federal ~~aid~~ funds are channeled  
21 through the ~~commission~~ department, pursuant to the provisions of § 50-7-17, enter into contracts  
22 and agreements binding on this state with the administrator of the federal aviation  
23 administration to indemnify the United States for federal ~~aid money~~ funds contributed to the  
24 State of South Dakota, or any ~~county or municipality thereof~~ governmental agency, used for the

1 purchase of land as the site of a public airport or for the construction of airport improvements  
 2 ~~thereon on the airport~~ within this state where the title to the land is subject to mineral rights or  
 3 oil and gas leases, the release or subordination of which is determined by the administrator of  
 4 the federal aviation administration not to be practicable.

5 Section 58. That § 50-7-19 be amended to read as follows:

6 50-7-19. The indemnifying agreements authorized in §§ 50-7-17 and 50-7-18 are limited:

7 (1) To agreements which obligate the ~~commission~~ department, acting for and on behalf  
 8 of the State of South Dakota, to refund to the United States of America as represented  
 9 by the administrator of the federal aviation administration, a sum equal to the full  
 10 amount of federal funds contributed for the purchase of land or construction of  
 11 airport improvements thereon; or, ~~at~~

12 (2) At the option of the administrator, to provide and construct at state expense and  
 13 without further contributions by the federal government, an airport facility equivalent  
 14 to that developed with the aid of federal funds and located as near as practicable to  
 15 the site of the existing facilities on land with good title satisfactory to the  
 16 administrator of the federal aviation administration as prescribed by the provisions  
 17 of section 9 of the Federal Airport Act (Public Law 377, 79th Congress, 2nd session  
 18 as amended to January 1, 2014);

19 ~~(2) To airports which prior to January 1, 1953, have been approved for construction by~~  
 20 ~~both the commission and the Civil Aeronautics Administration.~~

21 Section 59. That § 50-9-1 be amended to read as follows:

22 50-9-1. ~~Any public utility, power district, or other governmental subdivision, or any person,~~  
 23 ~~association, corporation, limited liability company, or partnership, before engaging in the~~  
 24 ~~construction or alteration which extends the height, in the state, of any overhead line, cable,~~

1 ~~pipeline, outdoor theater, derricks, towers, or other structures within two miles from the nearest~~  
2 ~~boundary of any airport which has been approved by the commission for public use by aircraft,~~  
3 ~~the height of which is over ten feet above the elevation of an airport, for each five hundred feet~~  
4 ~~of distance from the nearest boundary of the airport, before the alteration or construction of any~~  
5 ~~such item or structure, shall file an application with and obtain the approval of the commission,~~  
6 ~~for permission to enter upon and complete such construction or alteration. However, no~~  
7 ~~application is needed if the construction or alteration is within the corporate limits of a~~  
8 ~~municipality and is adjacent to other structures of a permanent character which are an equal or~~  
9 ~~greater height than the construction or alteration proposed. Any person or organization who~~  
10 ~~intends to construct or alter a structure shall submit an application and obtain an approval permit~~  
11 ~~from the commission for any construction or alteration that:~~

- 12 (1) Exceeds two hundred feet above ground level;
- 13 (2) Is within twenty thousand feet of a state approved public airport or military airport  
14 that has at least one runway more than three thousand two hundred feet in actual  
15 length and the construction or alteration exceeds a one hundred to one surface ratio  
16 from any point on the runway;
- 17 (3) Is within ten thousand feet of a state approved public airport or military airport that  
18 has its longest runway no more than three thousand two hundred feet in actual length  
19 and the construction or alteration exceeds a fifty to one surface ratio from any point  
20 on the runway;
- 21 (4) Is within five thousand feet of a state approved public heliport and the construction  
22 or alteration exceeds a twenty-five to one surface ratio;
- 23 (5) Is a highway, railroad, or other traverse way that the prescribed adjusted height  
24 exceeds the standards provided in this section; or



1       (6) Is requested by the department.

2 No application is needed if the construction or alteration of a structure would be shielded by an  
3 existing structure of a permanent and substantial character within the corporate limits of a  
4 municipality or by natural terrain or topographic features of equal or greater height. It must be  
5 evident beyond any reasonable doubt that the construction or alteration of the structure so  
6 shielded does not adversely affect safety in air navigation.

7       Section 60. That § 50-9-2 be amended to read as follows:

8       50-9-2. ~~The alteration or construction of overhead lines, cables, pipelines, outdoor theaters,~~  
9 ~~derricks, towers, or other structures not approved by the commission within two miles from the~~  
10 ~~nearest boundary of any airport which has been approved by the commission for public use by~~  
11 ~~aircraft, is declared to be a danger to the public and to life, limb, property and persons in the~~  
12 ~~vicinity. The commission shall promulgate and publish reasonable rules, pursuant to chapter 1-~~  
13 ~~26, covering the requirements that shall be met by any applicant to obtain the approval for the~~  
14 ~~construction or alteration of any such overhead line, cable, pipeline, outdoor theater, derricks,~~  
15 ~~towers, or other structures~~ structure which is not exempt from the requirements of § 50-9-1.

16       Section 61. That § 50-9-3 be amended to read as follows:

17       50-9-3. The commission may, in its discretion, approve the application filed, as required by  
18 § 50-9-1 without a hearing. However, if the commission deems the erection of the structure to  
19 create a hazard to the safe use of an airport by aircraft, ~~and~~ or a public danger, or the department  
20 finds the ~~same~~ erection to be in violation of any of the rules ~~referred to in~~ authorized by § 50-9-  
21 2, the commission shall assign the application for hearing upon reasonable notice to the  
22 applicant ~~and~~. The commission may order and require the applicant to cease and desist from  
23 erecting the ~~overhead lines, cables, pipelines, outdoor theaters, towers, or other structures~~  
24 structure except ~~pursuant to and~~ in conformity to plans and specifications relating to height

1 thereof, approved by the commission.

2 Section 62. That § 50-9-5 be amended to read as follows:

3 50-9-5. The erection or alteration of any of ~~overhead lines, cables, pipelines, towers, outdoor~~  
4 ~~theaters, derricks, or other structures~~ within two miles of the nearest boundary of an airport not  
5 ~~exempt from the requirements of~~ structure covered by § 50-9-1 without the approval of the  
6 commission is a Class 1 misdemeanor.

7 Section 63. That § 50-9-6 be repealed.

8 ~~50-9-6. The provisions of §§ 50-9-1 to 50-9-5, inclusive, do not apply to airports for which~~  
9 ~~zoning regulations have been adopted by municipal, county, or other political subdivisions.~~

10 Section 64. That § 50-9-7 be repealed.

11 ~~50-9-7. No person, firm, corporation, limited liability company, or association may erect~~  
12 ~~anywhere in this state a building, structure, or tower of any kind over two hundred feet in height~~  
13 ~~above the terrain, without first filing with the commission a notice and application showing the~~  
14 ~~location and dimensions of the building, structure, or tower, and procuring a permit approving~~  
15 ~~the location from the commission. A violation of this section, or a rule or order adopted~~  
16 ~~pursuant to § 50-9-9, is a Class 1 misdemeanor.~~

17 Section 65. That § 50-9-8 be repealed.

18 ~~50-9-8. Notwithstanding the provisions of § 50-9-7, temporary buildings or structures not~~  
19 ~~located within the airways or within five miles of an airport, may be erected upon filing with~~  
20 ~~the commission a notice showing the location thereof without making application and procuring~~  
21 ~~a permit pursuant to § 50-9-7. A temporary building, structure, or tower means any building,~~  
22 ~~structure or tower which shall be dismantled or removed not later than six months from the date~~  
23 ~~the erection of the building or structure is commenced.~~

24 Section 66. That § 50-9-9 be amended to read as follows:

1       50-9-9. The commission may, pursuant to chapter 1-26, promulgate and enforce rules  
 2 establishing minimum standards and criteria, including lighting, painting, and marking of any  
 3 ~~buildings, structures, towers, and hazards~~ structure referred to in §§ ~~50-9-2, 50-9-3 and 50-9-7~~  
 4 § 50-9-2 or 50-9-3 in the interest of safe operation of aircraft and public safety. ~~In promulgating~~  
 5 ~~and enforcing rules, the commission shall consider aviation safety, economic impact, financial~~  
 6 ~~impact on applicants applying for permits to build structures, multiple uses of airspace, federal~~  
 7 ~~regulations, and other relevant factors. The power and authority to enforce such rules by~~  
 8 ~~injunction proceedings in any court of competent jurisdiction instituted in the name of the~~  
 9 ~~commission, is hereby conferred.~~

10       Section 67. That § 50-10-1 be amended to read as follows:

11       50-10-1. Terms used in this chapter mean:

12       (1)   ~~"Airport," any military airport or any area of land or water designed for the landing~~  
 13           ~~and taking-off of aircraft and utilized or to be utilized by the public as a point of~~  
 14           ~~arrival or departure by air;~~

15       ~~—(2)—~~ "Airport hazard," any structure, or tree, or use of land, which obstructs ~~the~~ an aerial  
 16           ~~approaches~~ approach of such an airport or is otherwise hazardous to its use for  
 17           ~~landing or taking off;~~

18       ~~—(3)—~~ "Commission," ~~the South Dakota Aeronautics Commission;~~

19       ~~(4)~~(2) "Person," any individual, firm, copartnership, corporation, company, limited liability  
 20           company, association, joint stock association or body politic, including any trustee,  
 21           receiver, assignee, or other similar representative;

22       ~~(5)~~(3) "Publicly owned," an airport is publicly owned if the portion of the airport used for  
 23           the landing and taking-off of aircraft is owned by a governmental body, political  
 24           subdivision, public agency, or other public corporation;

1       ~~(6)(4)~~ "Structure," any object constructed or installed by human action, including buildings,  
2               towers, smokestacks, and overhead transmission lines, but not including any  
3               building, or any part of any building, used or useful in serving the public;

4       ~~(7)(5)~~ "Tree," any object of natural growth.

5       Section 68. That § 50-10-2 be amended to read as follows:

6       50-10-2. It is hereby found ~~and declared~~ that an airport hazard endangers the lives and  
7       property of users of the airport and of occupants of land in its vicinity, and also, if of the  
8       obstruction type, in effect reduces the size of the area available for the landing, taking off and  
9       maneuvering of aircraft, thus tending to destroy or impair the utility of the airport and the public  
10       investment therein. ~~Accordingly it~~ It is hereby declared:

11       (1)     That the creation or establishment of an airport hazard is a public nuisance and an  
12             injury to the community or the United States served by the airport in question; and

13       (2)     That it is therefore necessary in the interest of the public health, public safety, and  
14             general welfare that the creation or establishment of airport hazards be prevented;

15       ~~(3)     That this should be accomplished, to the extent legally possible, by exercise of the~~  
16             ~~police powers, without compensation.~~

17       Section 69. That § 50-10-3 be repealed.

18       ~~50-10-3. The commission shall formulate and adopt, and from time to time as may be~~  
19       ~~necessary revise, an airport approach plan for each publicly owned airport in the state. Each plan~~  
20       ~~shall indicate the circumstances in which structures and trees are or would be airport hazards,~~  
21       ~~the area within which measures for the protection of the airport's aerial approaches should be~~  
22       ~~taken, and what the height limits and other objectives of such measures should be. However,~~  
23       ~~no zone and height limits may be more exacting than is necessary to conform to the current~~  
24       ~~airport approach and turning space standards of any agency of the federal government which~~

1 ~~may be concerned with the fostering of civil aeronautics.~~

2 Section 70. That § 50-10-4 be repealed.

3 ~~50-10-4. In adopting or revising any airport approach plan, the commission shall consider,~~  
4 ~~among other things, the character of the flying operations expected to be conducted at the~~  
5 ~~airport, the nature of the terrain, the height of existing structures and trees above the level of the~~  
6 ~~airport, and the possibility of lowering or removing existing obstructions. The commission may~~  
7 ~~obtain and consider the views of the agency of the federal government charged with the~~  
8 ~~fostering of civil aeronautics, as to the aerial approaches necessary to safe flying operations at~~  
9 ~~the airport.~~

10 Section 71. That § 50-10-5 be amended to read as follows:

11 50-10-5. Each municipality, county, or other political subdivision ~~having within or without~~  
12 ~~its territorial limits an area within which, according to that has an airport approach layout plan~~  
13 ~~adopted by the commission, shall take measures ~~should be taken~~ for the protection of airport~~  
14 ~~approaches, and shall adopt, administer, and enforce, under the police power and in the manner~~  
15 ~~and upon the conditions prescribed by this chapter, airport zoning regulations applicable to the~~  
16 ~~area.~~

17 Section 72. That § 50-10-6 be amended to read as follows:

18 50-10-6. The regulations required by § 50-10-5 shall divide the area into zones, and, within  
19 the zones, specify the land uses permitted, regulate and restrict the height to which structures  
20 and trees may be erected or allowed to grow, prohibit the obstruction, by lights, smoke,  
21 electronic devices, or any other means, of the safe operation of aircraft near airports, and impose  
22 such other restrictions and requirements as may be necessary to effectuate the ~~commission's~~  
23 ~~approach layout plan for the airport. The existing and ultimate runway protection zone as~~  
24 ~~depicted on the airport layout plan shall be zoned to exclude homes and structures which~~

1 constitute a concentration of people unless otherwise approved by the Federal Aviation  
2 Administration.

3 Section 73. That chapter 50-10 be amended by adding thereto a NEW SECTION to read as  
4 follows:

5 If the local zoning authority does not require compliance with the requirements for proper  
6 zoning at an airport pursuant to § 50-10-6, the commission may withhold future funding.

7 Section 74. That § 50-10-8 be amended to read as follows:

8 50-10-8. Any zoning or other regulations ~~applicable to any area within which, according to~~  
9 shall be consistent with an airport approach layout plan adopted by the commission, measures  
10 ~~should.~~ Measures shall be taken for the protection of airport approaches, including not only any  
11 airport zoning regulations adopted under this chapter but any zoning or other regulations dealing  
12 with the same or similar matters, that have been or may be adopted under authority other than  
13 that conferred by this chapter, and shall be consistent with, and conform to, the ~~commission's~~  
14 approach airport layout plan for such area. The regulations shall be amended as may be  
15 necessary to conform to any revision of the airport layout plan ~~that may be made by the~~  
16 ~~commission.~~

17 Section 75. That § 50-10-11 be amended to read as follows:

18 50-10-11. Any person desiring to erect any structure, to increase the height of any structure,  
19 to permit the growth of any tree, or to otherwise use the person's property, in violation of airport  
20 zoning regulations adopted under this chapter, may apply to the board of appeals, as provided  
21 in § 50-10-15, for a variance from the zoning regulations in question. A variance ~~shall~~ may be  
22 allowed if a literal application or enforcement of the regulations would result in practical  
23 difficulty or unnecessary hardship and the relief granted would not be contrary to the public  
24 interest but would do substantial justice and be in accordance with the spirit of the regulations.

1 Section 76. That § 50-10-28 be amended to read as follows:

2 50-10-28. In any case in which:

3 (1) It is desired to remove, lower, or otherwise terminate a nonconforming use;

4 (2) The approach protection necessary according to the ~~commission's~~ airport ~~approach~~  
5 layout plan cannot, because of constitutional limitations, be provided by airport  
6 zoning regulations under this chapter; or

7 (3) It appears advisable that the necessary approach protection be provided by acquisition  
8 of property rights;

9 the political subdivision within which the property or nonconforming use is located, the political  
10 subdivision owning the airport or served by it, ~~or the commission~~, shall acquire by purchase,  
11 grant, or condemnation in the manner provided by the law under which political subdivisions  
12 are authorized to acquire real property for public purposes, such an air right, easement, or other  
13 estate or interest in the property or nonconforming use in question as may be necessary to  
14 effectuate the purposes of this chapter.

15 Section 77. That § 50-11-1 be repealed.

16 ~~— 50-11-1. It is a Class 2 misdemeanor for any person to operate, pilot, navigate, or cause or~~  
17 ~~authorize to be operated, piloted, or navigated, an aircraft within the state unless it has an~~  
18 ~~appropriate, current registration issued by the United States Department of Transportation,~~  
19 ~~Federal Aviation Administration.~~

20 Section 78. That § 50-11-2 be repealed.

21 ~~— 50-11-2. The restriction in § 50-11-1 does not apply to public aircraft of the United States,~~  
22 ~~or public aircraft of any state, territory, or possession thereof; or to aircraft licensed by a foreign~~  
23 ~~country with which the United States has a reciprocal agreement covering the operations of such~~  
24 ~~licensed aircraft.~~

1 Section 79. That § 50-11-3 be repealed.

2 ~~50-11-3. The South Dakota Aeronautics Commission may waive § 50-11-1 in the interest~~  
3 ~~of a nonpassenger carrying flight solely for maintenance, inspection, or test purposes.~~

4 Section 80. That § 50-11-4 be repealed.

5 ~~50-11-4. It is a Class 2 misdemeanor for any person to pilot an aircraft in this state, unless~~  
6 ~~the person is the holder of a current pilot's certificate issued by the United States Department~~  
7 ~~of Transportation, Federal Aviation Administration. This section does not apply to a person~~  
8 ~~operating public aircraft of the United States, or public aircraft of a state, territory or possession~~  
9 ~~thereof, or operating an aircraft licensed by a foreign country with which the United States has~~  
10 ~~a reciprocal agreement covering the operation of licensed aircraft.~~

11 Section 81. That § 50-11-5 be amended to read as follows:

12 50-11-5. Any certificate required to be a pilot shall be kept in the personal possession of the  
13 ~~pilot when operating aircraft, and the~~ The aircraft registration certificate shall at all times be  
14 conspicuously posted within the aircraft so as to be readily seen by passengers ~~or~~ and inspectors.  
15 ~~The secretary of transportation~~ department shall provide a decal bearing the same identification  
16 number as the registration certificate. The aircraft owner shall ~~immediately~~ display the decal in  
17 ~~such a manner as to be~~ a location easily visible from the right outside of the aircraft. A violation  
18 of this section is a Class 2 misdemeanor.

19 Section 82. That § 50-11-6 be amended to read as follows:

20 50-11-6. ~~Either an~~ The aircraft registration certificate ~~or pilot's certificate~~ shall be presented  
21 for inspection upon ~~the demand of a passenger, a law enforcement officer of this state, an~~  
22 ~~authorized official or employee of the commission, or an official, manager, or person in charge~~  
23 ~~of an airport in this state upon which a landing is made, or upon the reasonable request of any~~  
24 ~~other person.~~ A violation of this section is a Class 2 misdemeanor.



1 Section 83. That § 50-11-7 be repealed.

2 ~~50-11-7. In any criminal prosecution under any of the provisions of this title, a defendant~~  
3 ~~who relies for justification upon a certificate of any kind has the burden of proving that the~~  
4 ~~defendant is properly certificated, or is the possessor of a proper certificate, as the case may be,~~  
5 ~~and the fact of nonissuance of a certificate may be evidenced by a certificate signed by the~~  
6 ~~official having power of issuance, under seal of office, stating that the official has made diligent~~  
7 ~~search of the records and that, from the records, it appears that no certificate was issued up to~~  
8 ~~the date of the making of the certificate.~~

9 Section 84. That § 50-11-8 be amended to read as follows:

10 50-11-8. Unless otherwise expressly provided by the provisions of this chapter, the federal  
11 ~~certificates of every~~ certificate of each civil aircraft owned and operated within this state shall  
12 be registered by the aircraft owner annually with the ~~secretary of transportation~~ department in  
13 the manner prescribed in §§ 50-11-9 to 50-11-31, inclusive. The required fee shall be paid by  
14 the aircraft owner to the ~~director~~ department at the time of registration. A violation of this  
15 section is a Class 2 misdemeanor.

16 Section 85. That § 50-11-9 be amended to read as follows:

17 50-11-9. The owner or lessee of an aircraft to be operated within this state shall, except as  
18 otherwise expressly provided, file with the department on a form ~~prescribed and~~ furnished by  
19 the ~~commission~~ department, an application for registration of the aircraft. A person who fails  
20 to register an aircraft within thirty days after it is operated in this state is guilty of a Class 2  
21 misdemeanor. A person who makes a false statement of a material fact in the application is  
22 guilty of a Class 6 felony. ~~In addition, failure to register an aircraft within ninety days of the date~~  
23 ~~when registration is due shall result in a civil penalty equal to ten percent of the registration fee~~  
24 ~~provided in § 50-11-12 for each month, or portion thereof, until the fee is paid, not to exceed~~

1 ~~five times the fee due.~~

2 Section 86. That § 50-11-10 be amended to read as follows:

3 50-11-10. On receipt of the application, the department shall file it. Upon determining that  
4 an aircraft is entitled to registration ~~and to be registered~~ by the applicant, and that the original  
5 registration tax required by § 50-11-19 has been paid in full, the department shall register it and  
6 forward to the applicant a registration certificate and decal bearing a distinctive number together  
7 with such other identifying matter as the commission shall prescribe. ~~If, for any reason,~~ the  
8 aircraft is not entitled to registration or the applicant is not entitled to register the aircraft, the  
9 department shall immediately notify the applicant ~~of such fact together with the reasons.~~

10 Upon receipt of the registration fee, the department shall pay it to the state treasurer to be  
11 credited to the aeronautics fund.

12 Section 87. That § 50-11-16 be amended to read as follows:

13 50-11-16. The ~~secretary of transportation~~ department may not approve an application for any  
14 aircraft which should have been previously registered or taxed under the laws of this state,  
15 without collecting all past-due registration fees or taxes.

16 Section 88. That § 50-11-19 be amended to read as follows:

17 50-11-19. In addition to all other registration fees paid to the ~~Department of Transportation~~  
18 department, an additional original registration tax of four percent, based upon the purchase price  
19 of the aircraft, shall be paid to the ~~Department of Transportation~~ department in conjunction with  
20 the application for the original registration of an aircraft. Any aircraft owned by a resident of this  
21 state, but registered in another state, is subject to the original registration fee upon locating the  
22 aircraft in South Dakota. However, for the initial registration of aircraft manufactured and used  
23 exclusively for agricultural spraying, crop dusting, seeding, fertilizing, or defoliating purposes,  
24 the tax is three percent. Aircraft subject to the tax imposed by this chapter are exempt from taxes

1 imposed by chapters 10-45 and 10-46. Aircraft used under a use stamp or dealer certificate or  
 2 engaged in regularly scheduled flying consisting of an act of interstate or foreign commerce are  
 3 exempt from the taxes imposed by chapters 10-45 and 10-46. Failure to pay the registration tax  
 4 within thirty days after an aircraft is operated in this state is a Class 1 misdemeanor. ~~In addition,~~  
 5 ~~failure to pay the registration tax within ninety days of the due date shall result in a civil penalty~~  
 6 ~~of ten percent of tax due for each month, or portion thereof, until the tax is paid in accordance~~  
 7 ~~with this chapter, not to exceed two times the tax due.~~

8 Section 89. That § 50-11-19.1 be amended to read as follows:

9 50-11-19.1. For the purposes of this chapter, the purchase price is:

- 10 (1) For an aircraft purchase, sale, or transfer, the total consideration for the aircraft  
 11 whether received in money or otherwise less the value of any aircraft taken by the  
 12 seller as trade, if the aircraft traded was registered in South Dakota. The purchaser  
 13 of the aircraft shall submit to the ~~Department of Transportation, office of aeronautics,~~  
 14 department an application for original registration, ~~approved and supplied by the~~  
 15 ~~director~~ department. If no proof of purchase price is provided, the ~~purchase price~~  
 16 shall ~~be considered to be the~~ current fair market value of the aircraft at the time of  
 17 registration is due ~~as stated in the aircraft bluebook and price digest~~ less the value of  
 18 any South Dakota registered aircraft taken by the seller in trade;
- 19 (2) For an aircraft acquired by gift, bequest, purchase, or transfer for a nominal  
 20 consideration, the price ~~for the aircraft~~ shall be considered to be the current fair  
 21 market value of the aircraft at the time registration is due ~~as stated in the aircraft~~  
 22 ~~bluebook and price digest;~~
- 23 (3) For an aircraft manufactured by any person other than a bona fide manufacturer,  
 24 commonly referred to as "homebuilt," the amount expended for materials, ~~labor,~~ and

1 other properly allocable costs of manufacture or in the absence of actual expenditures  
2 for the manufacture of a part or all of the aircraft, the reasonable value of the  
3 completed aircraft based on ~~trade publications~~ current fair market value; and

4 (4) For a rebuilt aircraft, upon its initial registration, the total consideration for the  
5 salvage aircraft, the amount expended for materials, ~~labor~~ and other properly  
6 allocable costs to repair the aircraft to an airworthy condition, whether received in  
7 money or otherwise. In the absence of actual expenditures for the reconstruction of  
8 the aircraft, the market value of the aircraft at the time registration is due ~~as stated in~~  
9 ~~the aircraft bluebook and price digest~~ based on current fair market value.

10 Section 90. That § 50-11-20 be amended to read as follows:

11 50-11-20. The provisions of § 50-11-19 apply to all aircraft not previously registered in this  
12 state, except:

13 (1) Aircraft, owned by a person coming into this state from another state for the purpose  
14 of making the person's home within this state, and registered in the other state, are  
15 exempt from the additional original registration tax of this state to the extent of a  
16 similar additional original registration tax previously paid in the other state upon the  
17 purchase price of the aircraft. However, this exception applies only to the extent that  
18 under the law of the state of the person's residence like exemptions and privileges are  
19 granted to aircraft duly registered under the laws and owned by the residents of this  
20 state;

21 (2) Aircraft ~~owned~~ purchased by a resident of this state upon which the ~~purchase price~~  
22 ~~of which the~~ original registration tax of this state has previously been paid;

23 (3) Aircraft duly registered and certificated under chapter 50-12; or

24 (4) ~~Aircraft owned by youth correctional institutions if purchased by authorized officials,~~

1 ~~payment made from the institution funds, and title to the property retained in the~~  
2 ~~name of the institution;~~

3 ~~—(5)—~~Aircraft owned or leased by a person coming into this state for the purposes of  
4 seasonally operating the person's aircraft licensed and operating pursuant to § 38-21-  
5 20 or applying commercial fertilizer, and if the aircraft has been duly registered or  
6 licensed in such other state, are exempt from the additional registration tax. However,  
7 this exception applies only to the extent that under the law of the state of such  
8 person's residence like exemptions and privileges are granted to aircraft duly  
9 registered under laws and owned by the residents of this state.

10 ~~—The department may exempt the persons excepted by this section from the payment of the~~  
11 ~~additional original registration tax upon such person filing with the department an affidavit upon~~  
12 ~~a form prescribed by the commission.~~

13 Section 91. That § 50-11-21 be amended to read as follows:

14 50-11-21. The ~~Aeronautics Commission~~ commission may prescribe forms and ~~adopt~~  
15 promulgate rules pursuant to chapter 1-26 for the ascertainment, assessment, collection, or  
16 return of the additional original registration tax imposed by § 50-11-19. Upon receipt of the  
17 original registration tax the ~~Department of Transportation~~ department shall pay it to the state  
18 treasurer to be credited to the aeronautics fund.

19 Section 92. That § 50-11-22 be amended to read as follows:

20 50-11-22. If an aircraft registered in accordance with §§ 50-11-8 to 50-11-21, inclusive, is  
21 sold or transferred the person in whose name the aircraft is registered shall complete and sign  
22 the endorsement on the back of the certificate of registration as prescribed by the ~~commission~~  
23 department and shall, within seven working days, forward to the department by mail a notice  
24 of the sale or transfer including the date and place thereof and the name and address of the

1 purchaser or transferee. Failure to make the change of registration within the time required by  
2 this section is a Class 2 misdemeanor. A person who makes a false statement of a material fact  
3 in the certificate of registration is guilty of a Class 5 felony.

4 Section 93. That § 50-11-23 be amended to read as follows:

5 50-11-23. The purchaser or transferee described by § 50-11-22 shall, within thirty days,  
6 apply to the department for the transfer of the registration of the aircraft to the purchaser's or  
7 transferee's name and the issuance of a new certificate of registration. Failure to ~~make the~~  
8 ~~change of~~ registration within the time required by this section is a Class 2 misdemeanor. A  
9 person who makes a false statement of a material fact in the application is guilty of a Class 5  
10 felony.

11 The endorsed certificate of registration is void thirty days after the date of the sale or transfer  
12 of such aircraft.

13 ~~—The department shall file the application and upon determining that the applicant has paid~~  
14 ~~the fee and is entitled thereto, shall transfer the registration to the applicant's name and issue the~~  
15 ~~applicant a new certificate of registration. The fee for the transfer of registration is five dollars.~~

16 Section 94. That § 50-11-31 be amended to read as follows:

17 50-11-31. In the event of loss, mutilation, or destruction of a registration certificate or other  
18 identifying matter prescribed by the ~~Aeronautics Commission~~ commission and issued under the  
19 provisions of this chapter, the registrant may obtain ~~from the secretary of transportation a~~  
20 duplicate certificate by filing ~~in the office of the secretary~~ with the department an affidavit  
21 showing such facts and paying the fee prescribed by the commission. A person who makes a  
22 false statement of a material fact in the affidavit is guilty of a Class 5 felony. The affidavit and  
23 fee shall be filed and remitted by the ~~secretary~~ department as is required by law. The ~~director~~  
24 department shall thereupon issue a duplicate registration certificate or other identifying matter

1 to the applicant.

2 Section 95. That § 50-11-36 be repealed.

3 ~~50-11-36. Any airport employee, airline employee, and any employee of a fixed base~~  
4 ~~operator or a charter service, unless otherwise required by federal law or regulation, shall have~~  
5 ~~in possession while on duty at the airport a state-issued photo identification badge. The~~  
6 ~~Aeronautics Commission shall promulgate rules pursuant to chapter 1-26 specifying display of~~  
7 ~~the badge; indications on the badge regarding the scope of the person's access and movement~~  
8 ~~privileges at an airport; personal information including full name, employer, and identification~~  
9 ~~number; procedures regarding the production, issuance, retrieval, and replacement of badges;~~  
10 ~~and the length of time for which the badge is valid.~~

11 ~~The commission shall, by rules promulgated pursuant to chapter 1-26, establish the fee for~~  
12 ~~a badge. The fee shall be based on the cost to produce the badge but may not exceed ten dollars.~~  
13 ~~Any fee collected shall be deposited into the state aeronautics fund.~~

14 Section 96. That § 50-12-1 be amended to read as follows:

15 50-12-1. Terms used in this chapter mean:

16 (1) "Aircraft dealer," any person, manufacturer, or distributor engaged in the business of  
17 buying, selling, exchanging, or acting as a broker of three or more aircraft in any  
18 twelve consecutive months except for a business liquidation of used aircraft;

19 (2) "Commercial purpose," the use in aviation activities such as flight instruction,  
20 charter, air taxi, and rental use but does not authorize substitution of the commercial  
21 use stamp in lieu of regular aircraft registration for the promotion of nonaviation  
22 business or other purposes;

23 (3) "Place of business," a permanent enclosed ~~building or~~ structure ~~either owned in fee~~  
24 ~~or leased~~, at which a permanent business of bartering, trading, and selling of aircraft

1 will be carried on as such in good faith and not for the purpose of evading this  
2 chapter or chapter 50-11. The business name and telephone listing shall indicate it  
3 is an aircraft or aviation related place of business. ~~It does not mean residents~~ The  
4 term does not include residences, tents, temporary stands, or other temporary  
5 quarters. The ~~building or~~ structure shall be used primarily as a place of business for  
6 the sale or commercial use of aircraft.

7 Section 97. That § 50-12-2 be amended to read as follows:

8 50-12-2. Any person desiring to sell or solicit as a dealer the sale of aircraft within South  
9 Dakota shall apply for an aircraft dealer's license to the department. For the original application  
10 ~~such~~ the person shall possess one or more aircraft under normal registration. ~~Such~~ The  
11 application shall be made in writing on a form furnished by the ~~commission~~ department and  
12 shall contain the following information:

- 13 (1) The name ~~under which the new or used aircraft dealer's business shall be conducted~~  
14 ~~and the address of the dealer is established as the place of business~~ and physical  
15 address of the aircraft dealer;
- 16 (2) The ~~resident~~ physical address of each owner, director, or principal officer of such  
17 aircraft dealer. If the applicant is a foreign corporation, the application shall designate  
18 the state ~~wherein such corporation was incorporated~~ of incorporation, and shall set  
19 ~~forth~~ the post office address of the registered office and registered agent of such  
20 corporation in South Dakota. ~~In addition, evidence~~ Evidence shall be furnished  
21 showing that the foreign corporation has been granted authority to do business in  
22 South Dakota by the secretary of state. If the applicant is a foreign person or  
23 partnership, the application shall set forth the permanent business address in ~~such~~ the  
24 foreign state; and



1       (3) ~~A statement of whether the applicant will deal in new aircraft, used aircraft, or both.~~  
2             ~~If the applicant is to sell or offer for sale new aircraft, the applicant shall list the make~~  
3             ~~or makes of aircraft so to be sold, and the name of the manufacturer or distributor~~  
4             ~~with whom the applicant is franchised;~~

5       ~~(4)~~ Whether the applicant has previously been an aircraft dealer in South Dakota, and if  
6             so, the number of aircraft the applicant has sold within a period of twenty-four  
7             months preceding the date of the application.

8       Section 98. That § 50-12-3 be amended to read as follows:

9       50-12-3. ~~Upon receipt of an application pursuant to § 50-12-2, the department shall file it.~~  
10       Upon determining that the applicant is entitled ~~thereto~~ to a license, the department shall assign  
11       to the applicant a distinctive aircraft dealer license number, and issue the applicant the required  
12       number of dealer's certificates bearing the license number. Each licensed dealer shall display the  
13       license in a conspicuous place in the dealer's established place of business. Failure to display  
14       the license is a Class 2 misdemeanor.

15       Section 99. That § 50-12-6 be amended to read as follows:

16       50-12-6. The ~~secretary of transportation~~ department at the time of the issuance of the  
17       original license, or the renewal ~~thereof~~ of the license as provided in this chapter, shall issue six  
18       aircraft dealer's certificates to an aircraft dealer. Any aircraft dealer may secure additional  
19       aircraft dealer's certificates upon application therefor on forms furnished by the ~~secretary~~  
20       department and the payment of the additional fee as required by § 50-12-12.

21       Section 100. That § 50-12-11 be amended to read as follows:

22       50-12-11. In the event of loss, mutilation, or destruction of any dealer's license, certificate,  
23       commercial use stamps, or other identifying matter ~~prescribed by the commission~~ and issued  
24       under the provisions of this chapter, a registered aircraft dealer may obtain a duplicate ~~thereof~~

1 upon filing with the department an affidavit showing ~~such~~ the facts and upon payment of a fee  
2 prescribed by the commission ~~at the discretion of the department. Upon receipt of the affidavit~~  
3 ~~and the appropriate fee, which shall be filed and remitted by the dealer as is required by law, the~~  
4 ~~department shall issue a duplicate dealer's license, certificate, commercial use stamp, or other~~  
5 ~~identifying matter to the applicant.~~

6 Section 101. That § 50-12-16 be amended to read as follows:

7 50-12-16. The department may refuse to issue or renew, or may suspend or revoke, an  
8 aircraft dealer's license if the department has reasonable grounds to believe that the dealer has:

- 9 (1) Forged or altered any federal certificate, permit, rating, or license, relating to  
10 ownership or airworthiness of an aircraft;
- 11 (2) Sold or disposed of an aircraft which the dealer knows or has reason to know has  
12 been stolen or appropriated without the consent of the true owner;
- 13 (3) Willfully misrepresented any material fact in the application for an aircraft dealer's  
14 license;
- 15 (4) Willfully withheld or caused to be withheld from a purchaser any document required  
16 by the laws of this state, including an affidavit to the effect that there are no liens,  
17 mortgages, or encumbrances of any kind on the aircraft other than those noted  
18 thereon, if the document or affidavit has been requested by the purchaser;
- 19 (5) Used an aircraft dealer's certificate or a commercial use stamp for any purpose other  
20 than those permitted by this chapter, or used any such certificate or commercial use  
21 stamp after it has expired;
- 22 (6) Failed to keep and make available for inspection by the ~~secretary of transportation~~  
23 department a proper record ~~as required by the commission~~ of all aircraft bought and  
24 sold;

- 1 (7) Willfully refused to apply for or pay the fee for a renewal license after an issued  
2 dealer's license has expired;
- 3 (8) Failed to maintain an established place of business as required by this chapter;
- 4 (9) Maintained a branch office or subagency for the sale or soliciting of sales of aircraft  
5 without applying for and receiving a license for such branch office or subagency;
- 6 (10) Been refused a license, or had a license revoked by the licensing agencies for aircraft  
7 in this or any other state;
- 8 (11) Failed to register on or prior to certificate or commercial use stamp expiration date;
- 9 (12) Failed to renew license as required;
- 10 (13) Failed to notify the department upon sale of aircraft;
- 11 (14) Failed to promptly notify the department of an aircraft and place it on a certificate or  
12 use stamp or both; or
- 13 (15) Any other violation of this chapter or chapter 50-11 referenced in this chapter.

14 Section 102. That § 50-12-17 be amended to read as follows:

15 50-12-17. No license may be revoked or suspended, nor may the renewal of any license be  
16 refused until after a hearing by the ~~director of aeronautics~~ commission, of which the licensee  
17 has ten days' notice of the time and place of the hearing. If any license is revoked or suspended,  
18 or its renewal is refused, the person affected by the order may appeal the decision as provided  
19 in chapter 1-26.

20 Section 103. That § 50-12-19 be amended to read as follows:

21 50-12-19. The ~~commission~~ department shall prepare the forms and certificates required by  
22 this chapter. The ~~commission~~ department may prescribe the method of and location for the  
23 public display of any and all certificates and licenses as are required and in conformity with the  
24 provisions of this chapter.

1 Section 104. That § 50-12-22 be amended to read as follows:

2 50-12-22. The ~~director of aeronautics~~ department may inspect the pertinent books, letters,  
3 records, and contracts of any licensed aircraft dealer periodically or relating to specific  
4 complaints made against a dealer and which may be in violation of provisions of this chapter.

5 Section 105. That § 50-13-1 be repealed.

6 ~~50-13-1. In §§ 50-13-1 to 50-13-9, inclusive:~~

7 ~~(1) "Aeronaut" includes aviator, pilot, balloonist, and every other person having any part~~  
8 ~~in the operation of aircraft while in flight.~~

9 ~~(2) "Aircraft" includes balloon, airplane, hydroplane, and every other vehicle used for~~  
10 ~~navigation through the air. A hydroplane, while at rest on water and while being~~  
11 ~~operated on or immediately above water shall be governed by the rules regarding~~  
12 ~~water navigation; while being operated through the air otherwise than immediately~~  
13 ~~above water, it shall be treated as an aircraft.~~

14 ~~(3) "Passenger" includes any person riding in an aircraft, but having no part in its~~  
15 ~~operation.~~

16 Section 106. That § 50-13-2 be repealed.

17 ~~50-13-2. Sovereignty in the space above the lands and waters of this state is declared to rest~~  
18 ~~in the state, except where granted to and assumed by the United States pursuant to a~~  
19 ~~constitutional grant from the people of this state.~~

20 Section 107. That § 50-13-5 be amended to read as follows:

21 50-13-5. The landing of an aircraft on the lands or waters of another, without his consent,  
22 is a Class 2 misdemeanor, except in the case of a forced landing. ~~The owner or lessee of an~~  
23 ~~aircraft or its aeronaut is liable for damages caused by a forced landing, as provided in § 50-13-~~

24 6.

1 Section 108. That § 50-13-6 be amended to read as follows:

2 50-13-6. ~~The owner and the pilot, or either of them, of every~~ The owner or the pilot, or both,  
3 of each aircraft ~~which that~~ is operated over lands or waters of this state ~~shall be~~ is liable for  
4 injuries or damage to persons or property on the land or water beneath, caused by the ascent,  
5 descent, or flight of the aircraft, or the dropping or falling of any object ~~therefrom~~ from the  
6 aircraft in accordance with the rules of law applicable to torts in this state.

7 As used in this section, "~~owner~~" ~~shall include~~ the term, owner, includes a person having full  
8 title to aircraft and operating it through servants, and ~~shall also include~~ includes a bona fide  
9 lessee or bailee of ~~such the~~ the aircraft, whether gratuitously or for hire; ~~but "owner," as used in this~~  
10 ~~section, shall.~~ However, the term does not include a bona fide bailor or lessor of ~~such the~~ the  
11 aircraft, whether gratuitously or for hire, or a mortgagee, conditional seller, trustee for creditors  
12 of ~~such the~~ the aircraft, or other person having a security title only; ~~nor shall the.~~

13 The owner of such the aircraft be is not liable ~~when if~~ the pilot ~~thereof~~ of the aircraft is in  
14 possession ~~thereof~~ of the aircraft as a result of theft or felonious conversion.

15 The person in whose name an aircraft is registered with the ~~United States Department of~~  
16 ~~Transportation or the Aeronautics Commission of this state~~ Federal Aviation Administration  
17 or the department shall be prima facie the owner of ~~such the~~ the aircraft within the meaning of this  
18 section.

19 Section 109. That § 50-13-7 be amended to read as follows:

20 50-13-7. The liability of the owner of one aircraft to the owner of another aircraft, or to  
21 ~~aeronauts~~ pilots or passengers on either aircraft, for damage caused by collision on land or in  
22 the air, shall be determined by the rules of law applicable to torts on land.

23 Section 110. That § 50-13-8 be amended to read as follows:

24 50-13-8. All crimes, torts, and other wrongs committed by or against ~~an aeronaut~~ a pilot or

1 passenger while in flight over this state ~~shall be~~ are governed by the laws of this state; ~~and the,~~  
2 Any question whether damage occasioned by or to an aircraft while in flight over this state  
3 constitutes a tort, crime, or other wrong by or against the owner of ~~such~~ the aircraft shall be  
4 determined by the laws of this state.

5 Section 111. That § 50-13-9 be amended to read as follows:

6 50-13-9. All contractual and other legal relations entered into by ~~aeronauts~~ pilots or  
7 passengers while in flight over this state shall have the same effect as if entered into on the land  
8 or water beneath.

9 Section 112. That § 50-13-11 be repealed.

10 ~~—50-13-11. There is hereby established and exists pursuant to acts of Congress (49 U.S.C.~~  
11 ~~§§ 1301-1302, 1303-1304, and 1347-1348(a)(c)) and confirmed by this enactment a public~~  
12 ~~highway for air commerce in the navigable air space over all the land in South Dakota wherein~~  
13 ~~the public right of freedom of air navigation and transit by aircraft is herein established, defined,~~  
14 ~~and confirmed.~~

15 Section 113. That § 50-13-12 be repealed.

16 ~~—50-13-12. The air space established by § 50-13-11 consists of the space above an altitude~~  
17 ~~of one thousand feet above the highest obstacle within a horizontal radius of two thousand feet~~  
18 ~~from the aircraft to the ground when over congested areas such as municipalities or settlements,~~  
19 ~~or an open air space assembly of persons, and over other than a congested area the air space~~  
20 ~~above an altitude of five hundred feet above the surface except over open water or sparsely~~  
21 ~~populated areas, which in such event the freedom of transit of an aircraft is no closer than five~~  
22 ~~hundred feet over any person, vessel, vehicle, or structure.~~

23 Section 114. That § 50-13-13 be repealed.

24 ~~—50-13-13. For take-off from or landing on a public airport, the navigable air space includes~~

1 the air space needed for safe take-off from or landing on any public airport. The right of freedom  
2 of transit and air navigation through such air space is hereby adopted and declared to exist as  
3 defined in and established by the Air Navigation Regulations enacted by the administrator of  
4 the Federal Aviation Agency as now detailed and published in subchapter E of title 14 of the  
5 Code of Federal Regulations as revised as of January 1, 1975, which by reference thereto is  
6 hereby enacted as a part of this section.

7 Section 115. That § 50-13-14 be repealed.

8 ~~50-13-14. The growth, expanded use, development of aviation and air commerce,  
9 construction, operation, and need for airports and landing facilities, the protection of the large  
10 public investments of this state in public airports require and necessitate the establishment and  
11 defining under the police power and navigable air space for public use by aircraft. The  
12 unrestricted right of freedom of flight and transit established in §§ 50-13-11 to 50-13-13,  
13 inclusive, constitutes a necessary public highway for air commerce and the use of the air space  
14 is herein conferred and established without liability to the landowner except for objects or  
15 structures existing or built thereon or air space thereover occupied and used on February 3,  
16 1966.~~

17 Section 116. That § 50-13-16 be amended to read as follows:

18 50-13-16. It is a Class 1 misdemeanor for any person to operate an aircraft ~~within the~~  
19 ~~airspace over, above, and upon the lands and waters of this state, carelessly and heedlessly in~~  
20 ~~intentional disregard of the rights or safety of others, or without due caution and circumspection~~  
21 ~~in a manner~~ in the air or on the ground or water in a careless or reckless manner so as to  
22 endanger or be likely to endanger any person or property. In any proceeding for a violation of  
23 this section, the court in determining whether the operation was careless or reckless shall  
24 consider the standards for safe operation of aircraft prescribed by federal statutes or regulations

1 governing aeronautics.

2 Section 117. That § 50-13-17 be amended to read as follows:

3 50-13-17. It is a Class 1 misdemeanor for any person who is under the influence of an  
4 alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any  
5 drug to operate an aircraft in this state on any airport, landing field or landing strip, or to operate  
6 an aircraft in the air in this state, while in an intoxicated condition or while under the influence  
7 of liquor or any accelerating or stupefying drug. Having on or about his person or in his clothing  
8 or in or about the aircraft any of such liquor or drug is prima facie evidence of the violation of  
9 this law the air or on the ground or water. No person may operate an aircraft in the air or on the  
10 ground or water who has 0.04 percent or more, by weight, of alcohol in that person's blood.