

Aeronautics Commission of South Dakota

Commissioner Handbook

02/13/2026

Board Information

- Authorization:** Chapter 50-2 of the South Dakota Codified Laws (SDCL)
- Activities:** Supervise civil aeronautical functions in the state and allocate funds for the development of a statewide system of airports. On or before December 31 in each year, the commission shall make a report to the Governor of its proceedings for the biennium ending the 30th day of June proceedings and may submit with such report recommendations pertaining to its affairs.
- Organization:** Administrated by the Department of Transportation. Commission retains quasi-legislative and quasi-judicial functions as well as advisory functions.
- Composition:** Seven members appointed by the Governor. At least four members must be or must have been actively engaged in or have had at least one year practical experience in civil or military aeronautics.
- Appointment Term:** Terms shall expire on October 30 on the third year of appointment.
- Meetings:** 3rd Thursday of each month as of June 2020

Members are allowed to call into the meetings.

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SOUTH DAKOTA AERONAUTICS COMMISSION

		<i>Appointment</i>	<i>Expiration</i>
Dustin Coleman 13887 Clydesdale Road Rapid City, SD 57702	Cell: (608) 620 - 3999 coleman.dustin@gmail.com	2024	10/30/2027
Court Ecklund 405 S. Sunshine Avenue Brandon, SD 57005	Cell: (605) 261 - 1525 cecklund@henrycarlson.com	2025	10/30/2028
David Howard 31628 277th Street Winner, SD 57580	Cell: (605) 670 - 0234 dhoward46970@gmail.com	2025	10/30/2026
Robert "Bob" Huggins 9015 W.32nd Street Sioux Falls, SD 57106	Cell: (605) 354 - 2287 Chairman bobhuggins56@outlook.com	2017	10/30/2026
Rolf Johnson 385 W. Lake Drive Mina, SD 57451	Cell: (605) 277-0406 Vice-chairman rolfj@nvc.net	2018	10/30/2027
Ivan Venner 12460 Black Hills Flyway Road Hot Springs, SD 57747	Cell: (605) 295 - 1535 flyfaster9@msn.com	2025	10/30/2028
Vacant	Cell:		

Updated:02/09/2026

Approved Aeronautics Commission Meeting Dates 2026

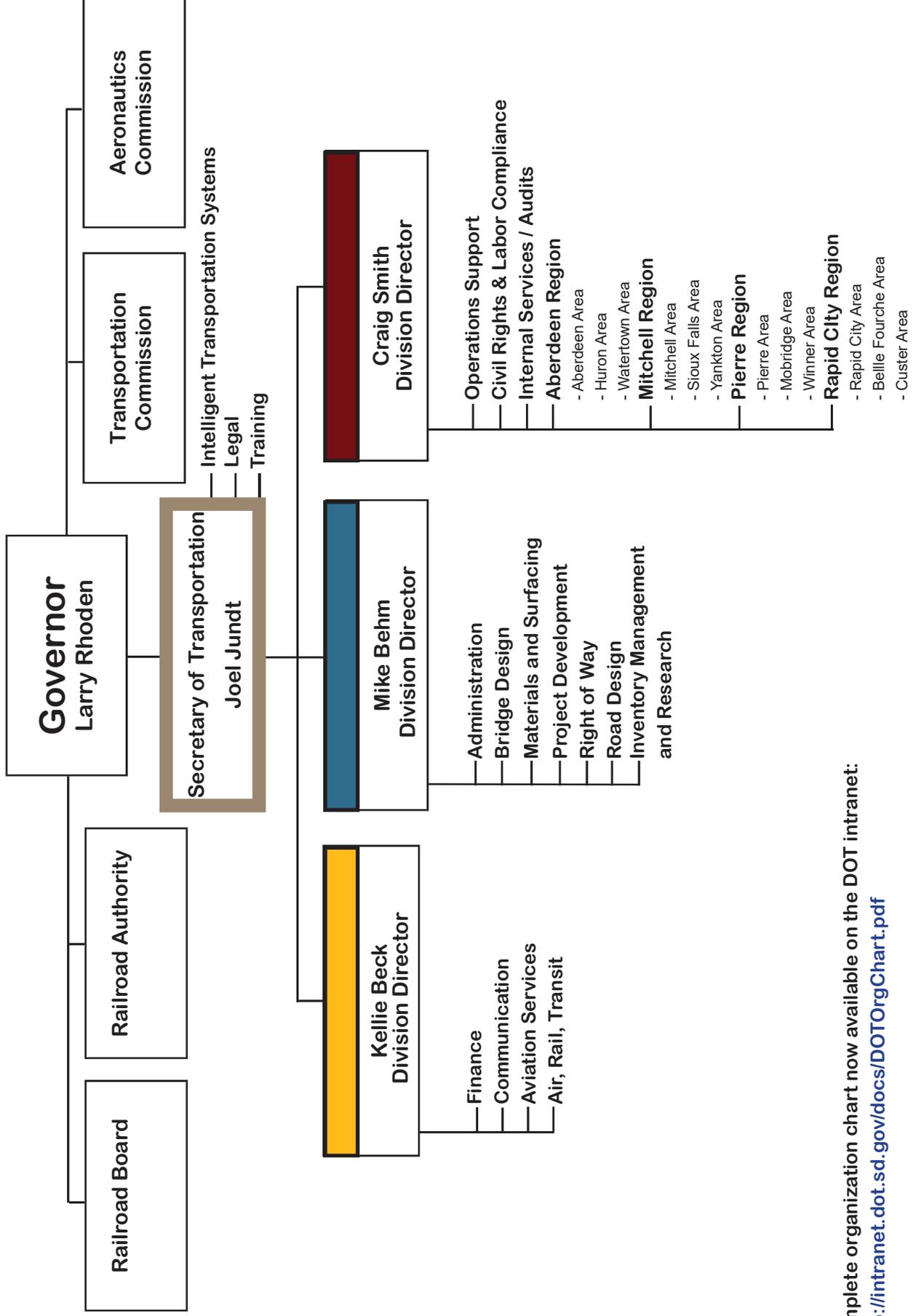
Meeting Dates	Comments
January 15, 2026	
February 19, 2026	
March 19, 2026	
April 16, 2026	
May 21, 2026	
June 18, 2026	
July 16, 2026	
August 20, 2026	
September 17, 2026	
October 15, 2026	
November 19, 2026	
December 17, 2026	

The Aeronautics Commission meets on the **3rd Thursday** of the month at 2:00 p.m. CT.

BOLD RED indicates that the date is different from the normal 3rd Thursday of the month.

South Dakota Department of Transportation

Organization Chart



CHAPTER 50-2 AERONAUTICS COMMISSION

- [50-2-1](#) Appointment of members--Compensation--Qualifications--Terms.
[50-2-1.1](#) Commission within department--Advice regarding state owned aircraft.
[50-2-2](#) [50-2-2](#). Repealed by SL 1987, ch 356, § 1.
[50-2-2.1](#) [50-2-2.1](#). Repealed by SL 2019, ch 203, § 50.
[50-2-3](#) [50-2-3](#). Repealed by SL 1987, ch 356, § 2.
[50-2-4](#) Report to Governor.
[50-2-5](#) Repealed.
[50-2-6](#) [50-2-6](#) to 50-2-11.1. Repealed by SL 1987, ch 356, §§ 3 to 9.
[50-2-12](#) Expenditures and disbursements--Approval--Purposes.
[50-2-13](#) Rules to be consistent with federal law.
[50-2-14](#) [50-2-14](#). Repealed by SL 2010, ch 227, § 8.
[50-2-15](#) Operation of aircraft for other state departments--Reimbursement.
[50-2-16](#) Special aviation internal service fund.
[50-2-17](#) Accounting for use of funds.
[50-2-18](#) [50-2-18](#). Superseded.
[50-2-19](#) [50-2-19](#). Obsolete.
[50-2-20](#) [50-2-20](#), 50-2-21. Repealed by SL 2010, ch 227, §§ 12, 13.
[50-2-22](#) [50-2-22](#) to 50-2-31. Repealed by SL 2014, ch 222, §§ 10 to 19.
[50-2-32](#) Commission action--Appeal.
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50-2-1. Appointment of members--Compensation--Qualifications--Terms.

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

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

Source: SDC 1939, § 2.0105; SL 1943, ch 1, § 1; SL 1949, ch 3; SL 1983, ch 13, § 20; SL 2010, ch 227, § 2; SL 2012, ch 16, § 24; SL 2013, ch 176, § 17; SL 2019, ch 203, § 2.

50-2-1.1. Commission within department--Advice regarding state owned aircraft.

The commission shall continue within the department, and all its functions shall be performed by the department as provided by § [1-44-11](#).

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

Source: SL 1973, ch 2, §§ 227, 228; SL 1974, ch 3, § 33; SL 1992, ch 333, § 1; SL 1997, ch 16, § 4; SL 2010, ch 227, § 3; SL 2014, ch 222, § 2.

[50-2-2](#). Repealed by SL 1987, ch 356, § 1.

50-2-2.1. Repealed by SL 2019, ch 203, § 50.

50-2-3. Repealed by SL 1987, ch 356, § 2.

50-2-4. Report to Governor.

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

Source: SDC 1939, § 2.0107; SL 1947, ch 1, § 3; SL 1949, ch 2, § 4; SL 2010, ch 227, § 5; SL 2014, ch 222, § 4.

50-2-5. Repealed.

Source: SDC 1939, § 2.0108; SL 1945, ch 2; SL 1949, ch 2, § 5; SL 2010, ch 227, § 6; SL 2014, ch 222, § 5; SL 2018, ch 269, § 3; SL 2020, ch 203, § 25.

50-2-6 to 50-2-11.1. Repealed by SL 1987, ch 356, §§ 3 to 9.

50-2-12. Expenditures and disbursements--Approval--Purposes.

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

Source: SDC 1939, § 2.0108 as added by SL 1949, ch 2, § 5; SDC Supp 1960, § 2.0108 (7); SL 1987, ch 356, § 11; SL 1997, ch 16, § 5; SL 2014, ch 222, § 6; SL 2018, ch 269, § 4; SL 2019, ch 203, § 3; SL 2020, ch 203, § 3.

50-2-13. Rules to be consistent with federal law.

The commission shall promulgate rules in accordance with chapter [1-26](#) that are consistent with federal law and regulations governing aeronautics.

Source: SDC 1939, § 2.0108; SL 1945, ch 2; SL 1949, ch 2, § 5; SL 1987, ch 29, § 69; SL 1987, ch 356, § 12; SL 2010, ch 227, § 7; SL 2014, ch 222, § 7; SL 2019, ch 203, § 4.

50-2-14. Repealed by SL 2010, ch 227, § 8.

50-2-15. Operation of aircraft for other state departments--Reimbursement.

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

Source: SL 1957, ch 327, § 1; SDC Supp 1960, § 2.0118; SL 2010, ch 227, § 9; SL 2014, ch 222, § 8; SL 2019, ch 203, § 5.

50-2-16. Special aviation internal service fund.

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

Source: SL 1957, ch 1, § 1; SL 1957, ch 327, § 2; SDC Supp 1960, § 2.0119; SL 2010, ch 227, § 10.

50-2-17. Accounting for use of funds.

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

Source: SL 1957, ch 1, § 2; SDC Supp 1960, § 2.0119; SL 2010, ch 227, § 11; SL 2014, ch 222, § 9.

50-2-18. Superseded.

50-2-19. Obsolete.

50-2-20, 50-2-21. Repealed by SL 2010, ch 227, §§ 12, 13.

50-2-22 to 50-2-31. Repealed by SL 2014, ch 222, §§ 10 to 19.

50-2-32. Commission action--Appeal.

A person may appeal an action of the commission in accordance with chapter [1-26](#).

Source: SL 2020, ch 203, § 4.

Powers of the Aeronautics Commission

February 2026

The purpose of this document is to make known the authority of the Aeronautics Commission according to the laws of the State of South Dakota. The Aeronautics Commission exercises the following powers:

A. Advisory Functions

1. Performs advisory functions of furnishing advice, gathering information, and making recommendations with respect to programs associated with the Aeronautics Commission. *SDCL 1-44-11(1).*
2. Provides advice and expertise to state agencies regarding the purchase, transfer and disposition of state owned and operated aircraft, including those owned or operated by any state institution. *SDCL 50-2-1.1.*
3. Reports to the Governor each year concerning commission proceedings and may make any recommendations pertaining to its affairs. *SDCL 50-2-4.*

B. Funding Functions

1. Performs special budgetary functions, as defined in SDCL 1-32-1(13), and provided for by SDCL 50-2-12, 50-7-10, 50-7-15 to 50-7-19 inclusive, and chapter 50-4. *SDCL 1-44-11(2).*
2. Approves expenditure and disbursement of grants or funds appropriated and available for:
 - a. matching purposes;
 - b. the planning, construction, development, operation, marking, and maintenance of airport facilities; and
 - c. to support advancement of aviation and aviation commerce within the state (*SDCL 50-2-12*).
3. Deems licensed public airports to be operated and maintained in accordance with the laws of this state, the rules of the commission, and standards established by any agency of the United States for purposes of qualifying to use aircraft fuel tax for lighting, marking, and maintenance of runways, taxiways and parking areas. *SDCL 50-4-14(2).*
4. Determines the allocation rate of aircraft fuel tax to eligible airports. *SDCL 50-4-16.*
5. Approves the amount of matching funds for moneys received from the United States, South Dakota, or any political subdivision of South Dakota for the purchase of sites for airports, and for the construction, development, and maintenance of the airports. *SDCL 50-4-14(3).*
6. May authorize the department to enter into financing agreements, on behalf of the Commission, to finance airport improvements for government agencies and to receive reimbursement and statutory interest on financed amounts. *SDCL 50-7-15; 50-7-16.*
7. May withhold future funding from local zoning authorities that do not require compliance with proper zoning in relation to airports. *SDCL 50-10-6.1.*
8. Limitation: Taxes, fees, federal funds, and moneys from any source received by the Aeronautics Commission may be expended only when budgeted pursuant to chapter 4-7 and appropriation has been made therefor pursuant to chapter 4-8. *SDCL 4-8-17.1.*

C. Regulatory Authority Over Aviation Facilities and Aircraft

1. Approves public airports and certain private airports prior to use, issues certificates of approval, and may set a reasonable charge. *SDCL 50-5-1; 50-5-3; 50-5-6.*
2. May order the closing of airports or other air navigation facilities until compliance with requirements established by the commission. *SDCL 50-5-7.*
3. Inspects or has its agent inspect any premises, buildings and other structures where airports or other air navigation facilities are operated. *SDCL 50-5-8.*
4. Receives FAA determination of no hazard prior to the start of construction or alteration of any structure subject to the jurisdiction of the FAA. *SDCL 50-9-1.*
5. Institutes court actions to prevent, restrain, correct or abate violations of airport zoning statutes, regulations, orders or rulings. *SDCL 11-14-15.*
6. Prescribes forms relating to the ascertainment, assessment, collection or return of the additional original registration tax imposed under SDCL 50-11-19. *SDCL 50-11-21.*

D. Quasi-Legislative Functions

1. Performs quasi-legislative functions, as defined in SDCL 1-32-1, and provided for by SDCL chapters 50-2, 50-5, 50-9, 50-10, 50-11, and 50-12. *SDCL 1-44-11(3).*
2. All rules promulgated by the commission must be consistent with federal law and regulations governing aeronautics. *SDCL 50-2-13.*
3. The Aeronautics Commission is authorized to promulgate rules on the following subjects:
 - a. Requirements for the issuance and maintenance of certificates of approval for certain public and private airports. *SDCL 50-5-1.2.*
 - b. Fees for airport approval applications. *SDCL 50-5-3.*
 - c. Ascertainment, assessment, collection and return of the additional original registration tax imposed by SDCL 50-11-19. *SDCL 50-11-21.*
 - d. Aircraft dealer licensing. *SDCL 50-12-20.*

E. Quasi-Judicial Functions

1. Performs quasi-judicial functions, as defined in SDCL 1-32-1, and provided for by SDCL chapters 50-2, 50-5, 50-9, 50-10, 50-11, and 50-12. *SDCL 1-44-11(3).*
2. Decides appeals concerning renewal of aircraft dealer licenses when dealers fail to meet the sale or brokerage requirements of SDCL 50-12-14. *SDCL 50-12-14.*
3. Holds hearings and issues decisions on the revocation, suspension or nonrenewal of aircraft dealer licenses. *SDCL 50-12-17.*
4. Issues decisions on petitions for declaratory rulings concerning the applicability of a statutory provision relating to the powers of the commission or of any rule or order of the commission. *SDCL 1-26-15; ARSD 70:02:01:03.*
5. In the case of conflicting jurisdiction between the commission and a political subdivision over the erection of structures in relation to an airport or other air navigation facility, the commission may, after a public hearing, overrule or modify zoning rules and regulations adopted by the political subdivision or its airport zoning board. *SDCL 50-9-10.*

F. Conflicts of Interest

1. Considers disclosures of conflicts of interest and authorizes current and former commission members to derive a direct benefit from a contract. *SDCL chapter 3-23.*

G. Miscellaneous

1. Allow the operation of the commission's aircraft for other departments of state government, with reimbursement paid to the department to defray the cost of this service. *SDCL 50-2-15.*
2. Requires applicants for licenses for aerial application of pesticides to comply with all the requirements of the FAA and Aeronautics Commission prior to license issuance. *SDCL 38-21-20.*

A. ADVISORY FUNCTIONS

1-44-11 (1) . Performance of functions of Aeronautics Commission.

The Department of Transportation shall, under the direction and control of the secretary of transportation, perform all the functions of the Aeronautics Commission except:

- (1) Advisory functions, as defined in § 1-32-1, with respect to programs associated with the commission;
- (2) Special budgetary functions, as defined in § 1-32-1, provided for by §§ 50-2-12, 50-7-10, and 50-7-15 to 50-7-19, inclusive, and chapter 50-4; and
- (3) Quasi-legislative and quasi-judicial functions, as defined in § 1-32-1, provided for by chapters 50-2, 50-5, 50-9, 50-10, 50-11, and 50-12.

Source: SL 1973, ch 2, §§ 227, 228; SL 1974, ch 3, § 33; SL 1997, ch 16, § 1; SL 2025, ch 195, § 1.

50-2-1.1. Commission within department--Advice regarding state owned aircraft.

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

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

Source: SL 1973, ch 2, §§ 227, 228; SL 1974, ch 3, § 33; SL 1992, ch 333, § 1; SL 1997, ch 16, § 4; SL 2010, ch 227, § 3; SL 2014, ch 222, § 2.

50-2-4. Report to Governor.

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

Source: SDC 1939, § 2.0107; SL 1947, ch 1, § 3; SL 1949, ch 2, § 4; SL 2010, ch 227, § 5; SL 2014, ch 222, § 4.

B. FUNDING FUNCTIONS

1-44-11 (2). Performance of functions of Aeronautics Commission.

The Department of Transportation shall, under the direction and control of the secretary of transportation, perform all the functions of the Aeronautics Commission except:

- (1) Advisory functions, as defined in § 1-32-1, with respect to programs associated with the commission;
- (2) Special budgetary functions, as defined in § 1-32-1, provided for by §§ 50-2-12, 50-7-10, and 50-7-15 to 50-7-19, inclusive, and chapter 50-4; and
- (3) Quasi-legislative and quasi-judicial functions, as defined in § 1-32-1, provided for by chapters 50-2, 50-5, 50-9, 50-10, 50-11, and 50-12.

Source: SL 1973, ch 2, §§ 227, 228; SL 1974, ch 3, § 33; SL 1997, ch 16, § 1; SL 2025, ch 195, § 1.

50-2-12. Expenditures and disbursements--Approval--Purposes.

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

Source: SDC 1939, § 2.0108 as added by [SL 1949, ch 2, § 5](#); SDC Supp 1960, § 2.0108 (7); [SL 1987, ch 356, § 11](#); [SL 1997, ch 16, § 5](#); [SL 2014, ch 222, § 6](#); [SL 2018, ch 269, § 4](#); [SL 2019, ch 203, § 3](#); [SL 2020, ch 203, § 3](#).

50-4-14. Uses for aeronautics fund.

The state aeronautics fund and the accumulations to the fund as appropriated by the Legislature may be used for:

- (1) The construction, development, and maintenance of public airports;
- (2) The lighting, marking, and maintenance of runways, taxiways, and parking areas of public airports licensed by the commission, in proportion to the amount of the aircraft fuel tax paid on the aircraft fuel purchased for resale for use in aircraft at each public airport, as nearly as practicable, as to each airport the commission deems to be operated and maintained in accordance with the laws of this state, the rules of the commission, and the standards established by any agency of the United States, provided that the unrestricted use of the airport is at all times available to the general public for the taking off and landing of aircraft;
- (3) The matching of any funds made available by the United States, this state, or any of the political subdivisions of this state for the purchase of sites for airports, and for the construction, development, and maintenance of the airports, in amounts the commission may determine; and
- (4) The paying of salaries, office expenses, traveling, and other expenses of commission and department staff to carry out the responsibilities defined in chapter [50-2](#).

Source: [SL 1989, ch 117, § 79](#); [SL 1990, ch 377, § 5](#); [SL 2010, ch 227, § 30](#); [SL 2014, ch 222, § 27](#); [SL 2019, ch 203, § 14](#).

50-4-16. Portion of aircraft fuel tax revenues to be allocated to eligible airports.

The department shall make an allocation of a portion of the aircraft fuel tax collected under §§ [10-47B-1](#) and [10-47B-4](#), to each eligible airport. The allocation rate shall be determined by the commission. The monthly allocation shall be determined by the department from the monthly reports required by § [50-4-12](#), and be based as nearly as practicable upon the amount of aircraft fuel tax collected on retail sales of aircraft fuel sold at each eligible airport for use in general aviation aircraft. The amount of aircraft fuel tax collected on aircraft fuel sales to airport sponsors shall be allocated separately by the department. Any remaining aircraft fuel tax collected under §§ [10-47B-1](#) and [10-47B-4](#) shall be placed in the aeronautics fund and be used by the commission as provided in § [50-4-14](#).

Source: [SL 1989, ch 117, § 81](#); [SL 2014, ch 222, § 28](#); [SL 2019, ch 203, § 15](#).

50-7-15. Cooperative agreements--Airport improvements--Reimbursement.

The department, on behalf of the commission, may enter into cooperative agreements with the governing body of a governmental agency, whereby, the initial expenditures for making authorized airport improvements may be paid from any state aeronautics fund moneys that may be available to the commission and the governmental agency's share of the expenditure may be reimbursed to the commission over a period of three years. The reimbursements shall be paid into the state aeronautics fund and used for airport improvement purposes. Any governmental agency may enter into a cooperative financing agreement upon the adoption of a resolution authorizing the governing body to enter into the agreement.

Source: [SL 1966, ch 4](#); [SL 1992, ch 60, § 2](#); [SL 1997, ch 16, § 15](#); [SL 2014, ch 222, § 54](#); [SL 2020, ch 203, § 10](#).

50-7-16. Interest on amounts to be reimbursed.

The commission shall charge a governmental agency simple interest at the Category A rate of interest established in § [54-3-16](#) on the amount of money subject to reimbursement under § [50-7-15](#) from the date of the expenditure to the date of payment.

Source: [SL 1966, ch 4](#); [SL 1992, ch 60, § 2](#); [SL 1997, ch 16, § 16](#); [SL 1997, ch 269, § 1](#); [SL 2014, ch 222, § 55](#).

50-10-6.1. Commission may withhold funds--Proper zoning required.

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

Source: [SL 2014, ch 222, § 73](#).

4-8-17.1. Budget and appropriation required for expenditures by Department of Transportation and Aeronautics Commission.

Notwithstanding any other provision of law, taxes, fees, federal funds, and funds from any source that are received by the Department of Transportation and the Aeronautics Commission shall be expended only when budgeted pursuant to chapter [4-7](#) and appropriation has been made therefor pursuant to chapter [4-8](#) and § [31-2-14](#).

Source: [SL 1975, ch 190, § 1](#).

C. REGULATORY AUTHORITY OVER AVIATION FACILITIES AND AIRCRAFT

50-5-1. Application for approval of public airports and certain private airports--Action on application--Violation as misdemeanor.

Any owner or operator of a public airport shall apply to the commission for approval for the public airport prior to its use. Any owner or operator of a private airport located within six miles of the nearest boundary of any approved public airport shall apply to the commission for approval for the private airport prior to its use. The commission shall approve or reject an application within sixty days of receipt of the completed application.

A person is guilty of a Class 2 misdemeanor if the person uses or operates a public airport or a private airport located within six miles of the nearest boundary of an approved public airport without the approval of the commission.

Source: SDC 1939, § 2.0111; [SL 1947, ch 1, § 6](#); [SL 1949, ch 4, § 1](#); [SL 2004, ch 287, § 1](#); [SL 2010, ch 227, § 32](#); [SL 2019, ch 203, § 16](#).

50-5-3. Certificate of approval--Fee.

The commission may issue a certificate of approval pursuant to § 50-5-1 and may set a reasonable charge by rules promulgated pursuant to chapter 1-26.

Source: SDC 1939, § 2.0111; [SL 1947, ch 1, § 6](#); [SL 1949, ch 4, § 1](#); [SL 2004, ch 287, § 5](#); [SL 2010, ch 227, § 33](#).

50-5-6. Rejection of application for approval--Conditional approval.

If the commission rejects an application for permission to operate or establish an airport or if the commission issues any order requiring certain things to be done, the commission shall set forth its reasons and shall state the requirements to be met before such approval may be given or such order modified or changed.

Source: SDC 1939, § 2.0114; [SL 2004, ch 287, § 7](#); [SL 2010, ch 227, § 35](#).

50-5-7. Closure of unapproved facilities.

If the commission deems it necessary, the commission may order the closing of any airport, or order any other aviation facility to cease operations until it complies with the requirements established by the commission.

Source: SDC 1939, § 2.0114; [SL 2010, ch 227, § 36](#); [SL 2014, ch 222, § 31](#); [SL 2018, ch 269, § 10](#).

50-5-8. Inspection of aviation facilities.

The commission or the commission's agent may inspect and examine at reasonable hours, to carry out the provisions of this title, the premises, buildings, and other structures where airports or aviation facilities are operated.

Source: SDC 1939, § 2.0114; [SL 2010, ch 227, § 37](#); [SL 2014, ch 222, § 32](#); [SL 2018, ch 269, § 11](#); [SL 2019, ch 203, § 17](#).

50-9-1. FAA determination of no hazard to be provided to commission before construction or alteration of structure--Violation as misdemeanor.

A person or organization that has obtained a Federal Aviation Administration determination of no hazard, shall provide the determination to the commission prior to the start of construction or alteration of any structure that is subject to the jurisdiction of the Federal Aviation Administration.

A violation of this section is a Class 1 misdemeanor.

Source: [SL 1953, ch 3, § 1](#); SDC Supp 1960, § 2.0210; [SL 1992, ch 60, § 2](#); [SL 1994, ch 351, § 142](#); [SL 2010, ch 227, § 41](#); [SL 2014, ch 222, § 59](#); [SL 2018, ch 269, § 30](#); [SL 2019, ch 203, § 25](#).

11-14-15. Court action against violators--Injunction.

In addition, either the political subdivision within which the property is located or the commission may institute in any court of competent jurisdiction, an action to prevent, restrain, correct, or abate any violation of chapter [50-10](#), or of airport zoning regulations adopted under chapter [50-10](#), or of any order or ruling made in connection with their administration or enforcement. The court shall adjudge to the plaintiff such relief, by way of injunction, which may be mandatory or otherwise, as may be proper under all the facts and circumstances of the case, in order fully to effectuate the purposes of chapter [50-10](#) and of the regulations adopted and orders and rulings made pursuant thereto.

Source: [SL 1943, ch 2, § 8](#); SDC Supp 1960, § 2.0515; [SL 2010, ch 227, § 64](#); SDCL § [50-10-27](#); [SL 2019, ch. 203, § 84](#).

50-11-21. Promulgation of rules--Additional registration tax--Aeronautics fund.

The commission may prescribe forms and promulgate rules pursuant to chapter [1-26](#) for the ascertainment, assessment, collection, or return of the additional original registration tax imposed by § [50-11-19](#). Upon receipt of the original registration tax, the department shall pay it to the state treasurer to be credited to the aeronautics fund.

Source: SDC 1939, § 2.0408 as enacted by [SL 1949, ch 4, § 2](#); [SL 1966, ch 1, § 5](#); [SL 1984, ch 311, § 2](#); [SL 1987, ch 356, § 15](#); [SL 2014, ch 222, § 90](#); [SL 2020, ch 203, § 18](#).

D. QUASI-LEGISLATIVE FUNCTIONS

1-44-11 (3) . Performance of functions of Aeronautics Commission.

The Department of Transportation shall, under the direction and control of the secretary of transportation, perform all the functions of the Aeronautics Commission except:

- (1) Advisory functions, as defined in § [1-32-1](#), with respect to programs associated with the commission;
- (2) Special budgetary functions, as defined in § [1-32-1](#), provided for by §§ [50-2-12](#), [50-7-10](#), and [50-7-15](#) to [50-7-19](#), inclusive, and chapter [50-4](#); and
- (3) Quasi-legislative and quasi-judicial functions, as defined in § [1-32-1](#), provided for by chapters [50-2](#), [50-5](#), [50-9](#), [50-10](#), [50-11](#), and [50-12](#).

Source: [SL 1973, ch 2, §§ 227, 228](#); [SL 1974, ch 3, § 33](#); [SL 1997, ch 16, § 1](#); [SL 2025, ch 195, § 1](#).

50-2-13. Rules to be consistent with federal law.

The commission shall promulgate rules in accordance with chapter [1-26](#) that are consistent with federal law and regulations governing aeronautics.

Source: SDC 1939, § 2.0108; [SL 1945, ch 2](#); [SL 1949, ch 2, § 5](#); [SL 1987, ch 29, § 69](#); [SL 1987, ch 356, § 12](#); [SL 2010, ch 227, § 7](#); [SL 2014, ch 222, § 7](#); [SL 2019, ch 203, § 4](#).

50-5-1.2. Certificates of approval for airports--Promulgation of rules--Issuance and maintenance.

The Aeronautics Commission shall promulgate rules, in accordance with chapter [1-26](#), establishing requirements for the issuance and maintenance of certificates of approval for airports, as prescribed in this chapter.

Source: [SL 2025, ch 195, § 2](#).

50-5-3. Certificate of approval--Fee.

The commission may issue a certificate of approval pursuant to § [50-5-1](#) and may set a reasonable charge by rules promulgated pursuant to chapter [1-26](#).

Source: SDC 1939, § 2.0111; [SL 1947, ch 1, § 6](#); [SL 1949, ch 4, § 1](#); [SL 2004, ch 287, § 5](#); [SL 2010, ch 227, § 33](#).

50-11-21. Promulgation of rules--Additional registration tax--Aeronautics fund.

The commission may prescribe forms and promulgate rules pursuant to chapter [1-26](#) for the ascertainment, assessment, collection, or return of the additional original registration tax imposed by § [50-11-19](#). Upon receipt of the original registration tax, the department shall pay it to the state treasurer to be credited to the aeronautics fund.

Source: SDC 1939, § 2.0408 as enacted by [SL 1949, ch 4, § 2](#); [SL 1966, ch 1, § 5](#); [SL 1984, ch 311, § 2](#); [SL 1987, ch 356, § 15](#); [SL 2014, ch 222, § 90](#); [SL 2020, ch 203, § 18](#).

50-12-20. Promulgation of rules.

The commission may promulgate all necessary rules pursuant to chapter [1-26](#) for the purpose of carrying out the purposes and intent of this chapter.

Source: SDC 1939, § 2.0713 as enacted by [SL 1966, ch 1, § 9](#); [SL 2010, ch 227, § 98](#).

E. QUASI-JUDICIAL FUNCTIONS

1-44-11 (3) . Performance of functions of Aeronautics Commission.

The Department of Transportation shall, under the direction and control of the secretary of transportation, perform all the functions of the Aeronautics Commission except:

- (1) Advisory functions, as defined in § 1-32-1, with respect to programs associated with the commission;
- (2) Special budgetary functions, as defined in § 1-32-1, provided for by §§ 50-2-12, 50-7-10, and 50-7-15 to 50-7-19, inclusive, and chapter 50-4; and
- (3) Quasi-legislative and quasi-judicial functions, as defined in § 1-32-1, provided for by chapters 50-2, 50-5, 50-9, 50-10, 50-11, and 50-12.

Source: SL 1973, ch 2, §§ 227, 228; SL 1974, ch 3, § 33; SL 1997, ch 16, § 1; SL 2025, ch 195, § 1.

50-12-14. Dealer's license--Renewal--Requirements--Appeal--Fees.

Each licensed dealer on or before February first of the second year shall apply for the renewal of the dealer's license. The dealer shall verify having sold or brokered at least six aircraft within the past twenty-four calendar months. However, any dealer not meeting the requirements of this section may appeal to the commission for renewal of a dealer's license if the dealer can demonstrate reasonable cause for not meeting those requirements. The fee for the renewal of a license is the same as that required for an original license. Upon failure to apply for the renewal of the license, and to pay the renewal fee on or before the first day of February of the second year, an additional fee of ten dollars per month, or any fraction thereof, is required before the license shall be issued.

A former dealer may make an application for an original aircraft dealer's license after thirty-six months from the expiration date of the dealer's license.

Source: SDC 1939, § 2.0708 as enacted by SL 1966, ch 1, § 9; SL 1980, ch 330, § 9; SL 1993, ch 349, § 4; SL 2010, ch 227, § 93; SL 2020, ch 203, § 21.

50-12-17. Hearing on revocation, suspension, or nonrenewal--Notice of hearing--Appeal.

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

Source: SDC 1939, § 2.0710 as enacted by SL 1966, ch 1, § 9; SL 1983, ch 354, § 2; SL 2014, ch 222, § 101.

1-26-15. Declaratory rulings by agencies.

Each agency shall provide by rule for the filing and prompt disposition of a petition for declaratory ruling as to the applicability of any statutory provision or of any rule or order of the agency. No inmate as defined in § 1-15-20.1 may petition an agency for a declaratory ruling on the applicability of a statutory provision, rule, or order of the agency. A ruling disposing of a petition has the same status as an agency decision or order in a contested case. The agency shall file a copy of the ruling with code counsel for publication in the Administrative Rules of South Dakota.

Source: SL 1966, ch 159, § 8; SL 1979, ch 8, § 3; SL 1989, ch 16, § 12; SL 1990, ch 20, § 3; SL 1993, ch 19, § 8; SL 1995, ch 8, § 13; SL 1999, ch 6, § 3; SL 2025, ch 9, § 22.

70:02:01:03. Petition for declaratory ruling. A person may request the Aeronautics Commission to issue a decision as to the applicability of any statutory provision, rule, or order pertaining to matters of aviation by filing a petition with the secretary of the Department of Transportation. The commission shall consider these petitions at a scheduled hearing date held during a regular meeting.

Source: SL 1975, ch 16, § 1; 13 SDR 129, 13 SDR 134, effective July 1, 1987; 47 SDR 38, effective October 6, 2020.

General Authority: [SDCL 1-26-15](#).

Law Implemented: [SDCL 1-26-15](#).

50-9-10. Conflicting jurisdiction between commission and political subdivision--Superiority of commission--Public hearing.

If conflicting jurisdiction arises over the control of the erection of a building, structure, tower, or hazard in relation to an airport, airway, or airport facility between the commission and any political subdivision of the state, the commission may overrule, change, modify, or amend zoning rules and regulations adopted by any political subdivision or by any airport zoning board created by a political subdivision under the laws of this state, after a public hearing in which all parties have been given an opportunity to be heard.

Source: [SL 1957, ch 2](#), § 3; SDC Supp 1960, § 2.0217; [SL 2010, ch 227](#), § 50; [SL 2018, ch 269](#), § 31.

F. CONFLICT OF INTEREST

**CHAPTER [3-23](#)
CONFLICTS OF INTEREST**

- [3-23-1](#) State authority, board, and commission members prohibited from having interest in or deriving direct benefit from contract.
- [3-23-1.1](#) Definitions.
- [3-23-2](#) Circumstances under which state authority, board, or commission member derives direct benefit.
- [3-23-2.1](#) Circumstances under which state authority, board, or commission member has interest in contract.
- [3-23-2.2](#) Circumstances under which state authority, board, or commission member does not derive direct benefit from or have interest in contract.
- [3-23-3](#) Circumstances under which state authority, board, or commission may authorize member to derive direct benefit from contract.
- [3-23-3.1](#) Circumstances under which state authority, board, or commission member may have interest in contract.
- [3-23-4](#) Circumstances under which authority, board, or commission may contract with former member.
- [3-23-5](#) Removal of state authority, board, or commission member for violation--Criminal penalties--Disgorgement--Voidable contract.
- [3-23-6](#) School districts and cooperative education service units--Officials with contract authority--Prohibitions on interest in or direct benefit from contract.

- 3-23-7 Officials with contract authority--Description of direct benefit from contract.
 - 3-23-7.1 Officials with contract authority--Description of interest in contract.
 - 3-23-7.2 Officials with contract authority--Exclusions from interest in or direct benefit from contract.
 - 3-23-8 Officials with contract authority--Authorizing interest in or direct benefit from contract.
 - 3-23-8.1 Written conflict of interest policy.
 - 3-23-9 Removal of board member or other person from office or employment--Criminal penalties--Disgorgement--Voidable contract.
 - 3-23-10 Authorities, boards, and commissions subject to chapter.
 - 3-23-11 3-23-11. Repealed by SL 2017, ch 74, § 4.
-

3-23-1. State authority, board, and commission members prohibited from having interest in or deriving direct benefit from contract.

No elected or appointed member of a state authority, board, or commission may have an interest in or derive a direct benefit from any contract:

- (1) With the state agency to which the authority, board, or commission is attached for reporting or oversight purposes that requires the expenditure of government funds;
- (2) With the state that requires the approval of the authority, board, or commission and the expenditure of government funds; or
- (3) With a political subdivision of the state if the political subdivision approves the contract and is under the regulatory oversight of the authority, board, or commission, or the agency to which the authority, board, or commission is attached for reporting or oversight purposes.

No elected or appointed member of a state authority, board, or commission may derive a direct benefit from any contract as provided under this section for one year after the end of the member's term on the authority, board, or commission, except as provided in § 3-23-3 or 3-23-4.

Source: SL 2016, ch 33, § 1; SL 2017, ch 31, § 2.

3-23-1.1. Definitions.

Terms used in this chapter mean:

- (1) "Board member," an elected or appointed member of the governing board;
- (2) "Cooperative education service unit," a legal entity created pursuant to §§ 13-5-31 to 13-5-33, inclusive, including subcontractors, agents or assigns of the cooperative education service unit;
- (3) "Disgorgement," the act of giving up on demand or by legal compulsion something that was obtained by illegal or unethical acts; and
- (4) "School district," a school district as defined in § 13-5-1.

Source: SL 2017, ch 31, § 1; SL 2021, ch 73, § 22.

3-23-2. Circumstances under which state authority, board, or commission member derives direct benefit.

An elected or appointed member of a state authority, board, or commission derives a direct benefit from a contract if the member, the member's spouse, or any other person with whom the member lives or commingles assets:

- (1) Is a party to or intended beneficiary of the contract;
- (2) Has more than a five percent ownership interest in an entity that is a party to the contract;
- (3) Acquires property under the contract; or
- (4) Will receive from the contracting party compensation, commission, promotion, or other monetary benefit that is directly attributable to the contract.

Source: SL 2016, ch 33, § 2; SL 2017, ch 31, § 3.

3-23-2.1. Circumstances under which state authority, board, or commission member has interest in contract.

An elected or appointed member of a state authority, board, or commission has an interest in a contract if the member, the member's spouse, or any other person with whom the member lives or commingles assets:

- (1) Is employed by a party to the contract; or
- (2) Receives more than nominal compensation or reimbursement for actual expenses for serving on the board of directors of an entity that derives income or commission directly from the contract or acquires property under the contract.

Source: SL 2017, ch 31, § 4.

3-23-2.2. Circumstances under which state authority, board, or commission member does not derive direct benefit from or have interest in contract.

A state authority, board, or commission member does not derive a direct benefit from or have an interest in a contract:

- (1) Based solely on the value associated with the member's publicly-traded investments or holdings, or the investments or holdings of any other person with whom the member lives or commingles assets;
- (2) By participating in a vote or a decision in which the member's only interest arises from an act of general application;
- (3) If the member is a state employee and is authorized to enter into the contract pursuant to §§ 5-18A-17 through 5-18A-17.6, inclusive;
- (4) If the contract is for the sale of goods, or for maintenance or repair services, in the regular course of business at or below a price offered to all customers;
- (5) If the contract is subject to a public bidding process; or
- (6) If the contract is for the deposit of public funds in a financial institution as otherwise authorized by law.

Source: SL 2017, ch 31, § 5.

3-23-3. Circumstances under which state authority, board, or commission may authorize member to derive direct benefit from contract.

Any elected or appointed state authority, board, or commission may authorize an authority, board, or commission member to derive a direct benefit from a contract if:

- (1) The member has provided full disclosure to the authority, board, or commission, including:

- (a) All parties to the contract;
 - (b) The member's role in the contract;
 - (c) The purpose and objective of the contract;
 - (d) The consideration or benefit conferred or agreed to be conferred upon each party; and
 - (e) The duration of the contract;
- (2) The authority, board, or commission finds that the terms of the contract are fair, reasonable, and not contrary to the public interest; and
 - (3) The authorization is a public record included in the official minutes of the authority, board, or commission, that shall be filed with the auditor-general and attorney general.

The auditor-general shall compile the authorizations and present them annually for review by the Government Operations and Audit Committee. A member who requests an authorization under this section shall make the request prior to entering into any contract that requires disclosure or within forty-five days after entering into the contract. Once disclosed and authorized by the governing board, no further disclosure or authorization is required unless the contract extends into consecutive fiscal years. A contract that extends into consecutive fiscal years requires an annual disclosure but no new authorization is required. If the authority, board, or commission rejects the request for authorization made by the member, the contract is voidable and subject to disgorgement pursuant to § 3-23-5, or the member may resign from the authority, board, or commission. No member of a state authority, board, or commission may participate in or vote upon a decision of the state authority, board, or commission relating to a matter in which the member derives a direct benefit.

Source: SL 2016, ch 33, § 3; SL 2017, ch 31, § 6.

3-23-3.1. Circumstances under which state authority, board, or commission member may have interest in contract.

Any elected or appointed state authority, board, or commission member may have an interest in a contract if:

- (1) The member, upon learning of the interest subject to the provisions of this chapter or a transaction that may create an interest subject to the provisions of this chapter discloses the interest no later than the first meeting of the authority, board, or commission held after the first day of July of each year;
- (2) The authority, board, or commission is notified of the contract and the member's role in the contract;
- (3) The terms of the contract do not violate any other provision of law; and
- (4) The disclosure is included in the minutes that are publicly available and are filed with the auditor-general and attorney general.

Each member shall receive a form, developed by the attorney general, for the purpose of annual disclosure of any interest and direct benefit covered by the provisions of this chapter. In addition to any interest in a contract and direct benefit covered by the provisions of this chapter, the member shall also disclose at least annually any ownership interest of five percent or greater in any entity that receives grant money from the state, either directly or by a pass-through grant, or that contracts with the state or any political subdivision for services. An authority, board, or commission member who has an interest in a contract pursuant to this section shall disclose the existence of a contract in which the member has an interest but for which authorization by the authority, board, or commission is not required for the person to have an interest in the contract. The auditor-general shall compile and present any disclosure annually for review by the Department of Legislative Audit and the Government Operations and Audit Committee.

Source: SL 2017, ch 31, § 7.

3-23-4. Circumstances under which authority, board, or commission may contract with former member.

Within the one-year period prohibiting any contract with an elected or appointed authority, board, or commission member, the authority, board, or commission may approve a former member to contract with the elected or appointed authority, board, or commission if the authority, board, or commission determines that the terms of the contract are fair, reasonable, and are in the best interests of the public.

Any approval given pursuant to this section shall be included in the official minutes of the authority, board, or commission and is a public record. The minutes including the approval shall be filed with the auditor-general and attorney general. The auditor-general shall compile and present any approval annually for review by the Government Operations and Audit Committee.

Source: SL 2016, ch 33, § 4; SL 2017, ch 31, § 8.

3-23-5. Removal of state authority, board, or commission member for violation--Criminal penalties--Disgorgement--Voidable contract.

Any elected or appointed state authority, board, or commission member who knowingly violates §§ 3-23-1 to 3-23-4, inclusive, shall be removed from the authority, board, or commission and is guilty of a Class 1 misdemeanor. Any person who knowingly violates §§ 3-23-1 to 3-23-4, inclusive, and is also guilty of theft under chapter 22-30A, shall be penalized at the next greater class of penalty prescribed by chapters 22-6 and 22-30A. No authority, board, or commission member who has submitted a good faith request for authorization pursuant to § 3-23-3 may be convicted of a crime under this chapter. Any benefit to the authority, board, or commission member in violation of §§ 3-23-1 and 3-23-2 is subject to disgorgement and any contract made in violation of this chapter is voidable by the authority, board, or commission.

Source: SL 2016, ch 33, § 5; SL 2017, ch 31, § 9.

3-23-6. School districts and cooperative education service units--Officials with contract authority--Prohibitions on interest in or direct benefit from contract.

No board member, business manager, chief financial officer, superintendent, chief executive officer, or other person with the authority to enter into a contract or spend money in an amount greater than five thousand dollars of a school district, cooperative education service unit, or jointly governed education service entity that receives money from or through the state may have an interest in a contract nor receive a direct benefit from a contract in amount greater than five thousand dollars or multiple contracts in an amount greater than five thousand dollars with the same party within a twelve-month period to which the school district or cooperative education service unit is a party except as provided in § 3-23-8.

Source: SL 2016, ch 33, § 6; SL 2017, ch 31, § 10; SL 2017, ch 74, § 1; SL 2021, ch 73, § 23.

3-23-7. Officials with contract authority--Description of direct benefit from contract.

A person described in § 3-23-6 derives a direct benefit from a contract if the person, the person's spouse, or any other person with whom the person lives and commingles assets:

- (1) Is a party to or intended beneficiary of any contract held by the school district or cooperative education service unit;
- (2) Has more than a five percent ownership interest in an entity that is a party to any contract held by the school district or cooperative education service unit;
- (3) Acquires property under the contract; or
- (4) Will receive compensation, commission, promotion, or other monetary benefit directly attributable to any contract with the school district or cooperative education service unit.

Source: SL 2016, ch 33, § 7; SL 2017, ch 31, § 11; SL 2021, ch 73, § 24.

3-23-7.1. Officials with contract authority--Description of interest in contract.

A person described in § 3-23-6 has an interest in a contract if the person, the person's spouse, or any other person with whom the person lives and commingles assets:

- (1) Is employed by a party to any contract with the school district or cooperative education service unit; or
- (2) Receives more than nominal compensation or reimbursement for actual expenses for serving on the board of directors of an entity that derives income or commission directly from the contract or acquires property under the contract.

Source: SL 2017, ch 31, § 12; SL 2021, ch 73, § 25.

3-23-7.2. Officials with contract authority--Exclusions from interest in or direct benefit from contract.

A person described in § 3-23-6 does not derive a direct benefit from or have an interest in a contract:

- (1) Based solely on the value associated with the person's publicly-traded investments or holdings, or the investments or holdings of any other person with whom the board member, business manager, chief financial officer, superintendent, or chief executive officer lives or commingles assets;
- (2) By participating in a vote or a decision in which the person's only interest arises from an act of general application;
- (3) Based on the person receiving income as an employee or independent contractor of a party with whom the school district or cooperative education service unit has a contract, unless the person receives compensation or a promotion directly attributable to the contract, or unless the person is employed by the party as a board member, executive officer, or other person working for the party in an area related to the contract;
- (4) If the contract is for the sale of goods or services, or for maintenance or repair services, in the regular course of business at a price at or below a price offered to all customers;
- (5) If the contract is subject to a public bidding process;
- (6) If the contract is with the official depository as set forth in § 6-1-3;
- (7) Based solely on the person receiving nominal income or compensation, a per diem authorized by law or reimbursement for actual expenses incurred; or

- (8) If the contract or multiple contracts with the same party within a twelve-month period with whom the school district or cooperative education service unit contracts is in an amount less than five thousand dollars.

Source: SL 2017, ch 31, § 13; SL 2021, ch 73, § 26.

3-23-8. Officials with contract authority--Authorizing interest in or direct benefit from contract.

A school district or cooperative education service unit may authorize a person described in § 3-23-6 to derive a direct benefit from a contract if:

- (1) The person has provided full written disclosure to the agency, district, or unit governing board of all parties to the contract, the person's role in the contract, the purpose or objective of the contract, the consideration or benefit conferred or agreed to be conferred upon each party, and the duration of the contract;
- (2) The governing board finds that the terms of the contract are fair, reasonable, and not contrary to the public interest; and
- (3) Any request for authorization or governing board action are public records. The official minutes of the governing board shall include any governing board action on each request for authorization and shall be filed with the auditor-general and attorney general.

A person described in § 3-23-6 who has an interest in a contract pursuant to § 3-23-7.1 shall disclose the existence of a contract in which the person has an interest and the person's role in the contract but no governing board authorization is required for the person to have an interest in the contract. Disclosure shall also be made at the annual reorganization meeting if the contract extends into consecutive fiscal years. The interest disclosure shall be included in the official minutes of the governing board.

Any person receiving a direct benefit from a contract and requesting an authorization pursuant to § 3-23-8 shall make the request prior to entering into any contract that requires disclosure or within forty-five days after entering into the contract that requires disclosure. Any authorization by the governing board requires no further disclosure or authorization unless the contract extends into consecutive fiscal years. If the contract extends into consecutive fiscal years, disclosure shall be made annually at the annual reorganization meeting but no new authorization is required. If the entity rejects any request for authorization, the contract is voidable and subject to disgorgement pursuant to § 3-23-9 or the person may resign from the school district or cooperative education service unit.

No board member of a school district or cooperative education service unit may participate in or vote upon a decision of a school district or cooperative education service unit relating to a matter in which the member derives a direct benefit.

Source: SL 2016, ch 33, § 8; SL 2017, ch 31, § 14; SL 2017, ch 74, § 2; SL 2021, ch 73, § 27.

3-23-8.1. Written conflict of interest policy.

Each school district or cooperative education service unit shall develop a written conflict of interest policy, including any disclosure and authorization form that includes the list of any disclosable interest in contracts or direct benefits covered by this chapter.

Source: SL 2017, ch 31, § 15; SL 2021, ch 73, § 28.

3-23-9. Removal of board member or other person from office or employment--Criminal penalties--Disgorgement--Voidable contract.

Any person who knowingly violates §§ 3-23-6 to 3-23-8, inclusive, shall be removed from office or employment and is guilty of a Class 1 misdemeanor. Any person who knowingly violates §§ 3-23-6 to 3-23-8, inclusive, and is also guilty of theft under chapter 22-30A, shall be penalized at the next greater class of penalty prescribed by chapters 22-6 and 22-30A. No person described in § 3-23-6 who has submitted a good faith disclosure or request for authorization pursuant to § 3-23-8 may be convicted of a crime under this chapter. Any benefit to a person derived from the person's knowing violation of §§ 3-23-6 to 3-23-8, inclusive, is subject to disgorgement . Any contract made in violation of §§ 3-23-6 to 3-23-8, inclusive, is voidable by the governing body of the local service agency, school district, or cooperative education service unit.

Source: SL 2016, ch 33, § 9; SL 2017, ch 31, § 16; SL 2017, ch 74, § 3.

3-23-10. Authorities, boards, and commissions subject to chapter.

The following authorities, boards, or commissions are subject to this chapter:

- (1) South Dakota Building Authority;
- (2) Board of Economic Development;
- (3) South Dakota Housing Development Authority;
- (4) South Dakota Health and Education Facilities Authority;
- (5) Science and Technology Authority Board of Directors;
- (6) South Dakota Ellsworth Development Authority;
- (7) South Dakota Commission on Gaming;
- (8) South Dakota Lottery Commission;
- (9) State Brand Board;
- (10) Game, Fish and Parks Commission;
- (11) Banking Commission;
- (12) Board of Trustees of the South Dakota Retirement System;
- (13) Aeronautics Commission;
- (14) South Dakota State Railroad Board;
- (15) Transportation Commission;
- (16) South Dakota Board of Education Standards;
- (17) Board of Regents;
- (18) Board of Pardons and Paroles;
- (19) Board of Minerals and Environment;
- (20) Board of Water and Natural Resources;
- (21) South Dakota Railroad Authority;
- (22) Board of Water Management; and
- (23) Board of Technical Education.

Source: SL 2016, ch 33, § 10; SL 2017, ch 81, §§ 57, 59.

3-23-11. Repealed by SL 2017, ch 74, § 4.

G. MISCELLANEOUS

50-2-15. Operation of aircraft for other state departments--Reimbursement.

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

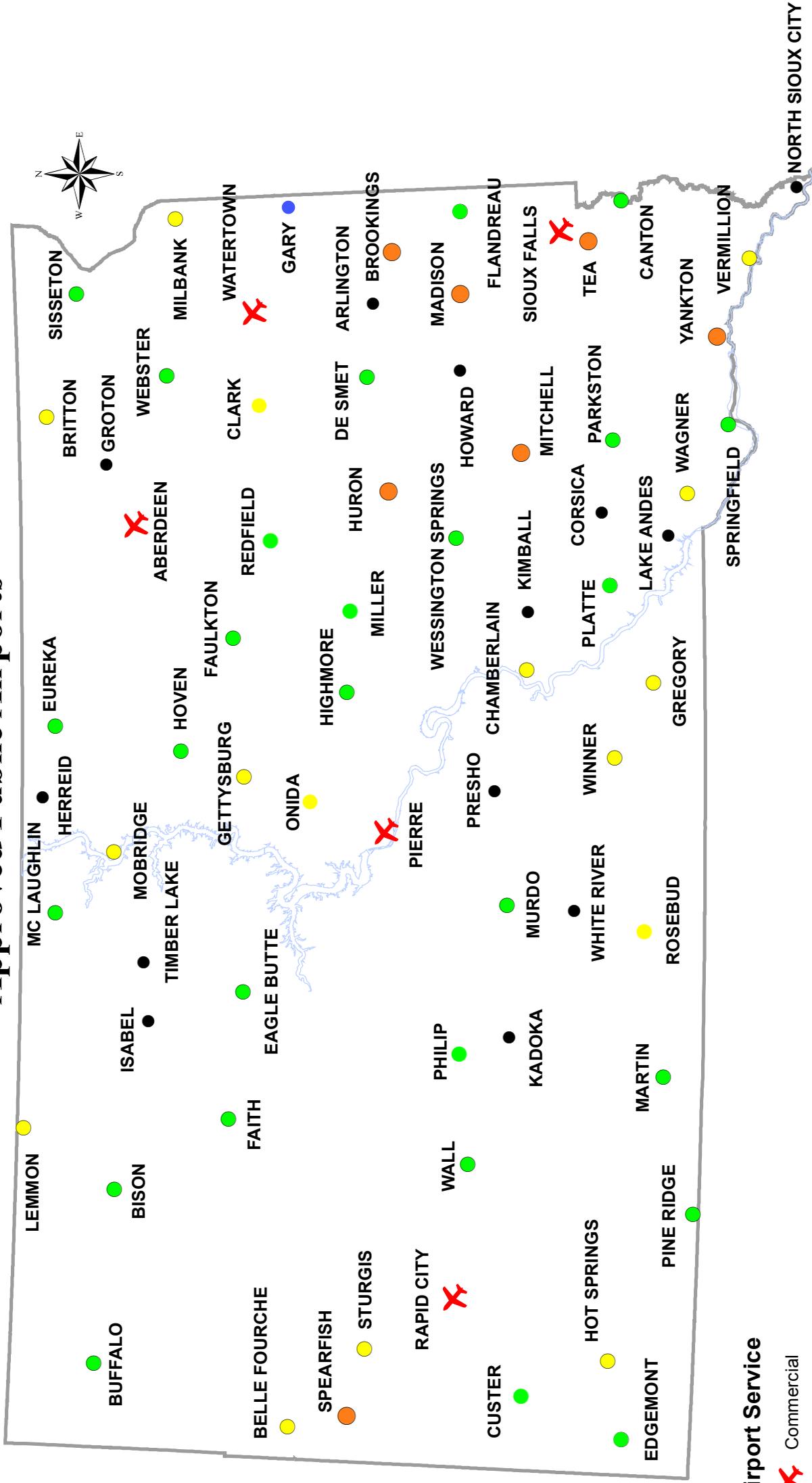
Source: [SL 1957, ch 327, § 1](#); [SDC Supp 1960, § 2.0118](#); [SL 2010, ch 227, § 9](#); [SL 2014, ch 222, § 8](#); [SL 2019, ch 203, § 5](#).

38-21-20. Qualified applicants--Issuance of license--Denial of application.

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

Source: [SL 1974, ch 255, § 9](#); [SL 1976, ch 245, § 3](#); [SL 2020, ch 173, § 38](#).

South Dakota Approved Public Airports



Airport Service

-  Commercial
-  Large general aviation
-  Medium general aviation
-  Small general aviation
-  Basic/turf
-  Seaport

South Dakota Department of Transportation
Office of Air, Rail and Transit
January 1, 2024



South Dakota Aeronautics Commission

700 East Broadway Avenue
Pierre, South Dakota 57501
605.773.5105

December 1, 2025

Governor Larry Rhoden
500 East Capitol Avenue
Pierre, SD 57501

Dear Governor Rhoden,

Enclosed is a copy of the 2025 Aeronautics Commission Report. This is our annual report to you pursuant to the South Dakota Codified Law Chapter 50-2-4.

Sincerely,

Robert Huggins
Chairman

AERONAUTICS COMMISSION REPORT

CY2025



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

Commission members and terms (all expire on October 30):

- Robert “Bob” Huggins, Chairman, Sioux Falls, term expires 2026
- Rolf Johnson Vice-Chairman, Mina, term expires 2027
- Dustin Coleman, Rapid City, term expires 2027
- David Howard, Winner, term expires 2026
- Ivan Venner, Hot Springs, term expires 2028 (appointed in 10/30/2025)
- Kassidy Nelson, Aberdeen, term expired 2025
- Jerry Rieber, Watertown, resigned on 7/9/2025
- Chris Funk, Brookings, resigned on 7/14/2025

Number of airports:

There are currently 69 public use airports in the State, five have commercial services and the remainder being general aviation.

Number of registered aircraft over the last five years and registration fees collected in the same period:

- The “Registration Fee” is due yearly based on the size and age of an aircraft. The average registration fee is less than \$35, and a relatively large percentage of aircraft are registered for \$27.50 per year. However, there were a considerable number of registration fees between \$100 and \$300 which brought the average registration fee to \$41.72. For further details, please refer to Attachment A.
- The “Tax Payment” is an original registration tax based on the purchase price of the aircraft. This is 4% on all aircraft except agriculture related aircraft which is set at 3%. The variation that occurs from year to year is caused by the high value of some aircraft. For example, the original registration of just one \$20,000,000 jet would provide \$800,000 in tax.

In 2025, an audit of the FAA’s database of registered owners in South Dakota was performed comparing SDDOT’s aircraft registration program. Staff reached out to those that had not registered with the state. DOT updated our records as there were various reasons why aircraft had not been registered such as their aircrafts were unairworthy or not hangered in the state. Annual registrations that previously were marked as stored were also changed to active and therefore required to register annually if their aircrafts were airworthy and still hangered in the state. Due to the audit and removing the stored option, this resulted in collecting more registrations and taxes in 2025.

Aviation fuels used in the last five years and the tax received is listed in Attachment A.

Federal grants received per the federal fiscal year (October 1st – September 30th) for the past five years are listed below:

FY2021 - \$62,530,379 (Includes Covid related grants)
FY2022 - \$56,397,913 (Includes Covid related grants and IIJA)
FY2023 - \$36,021,091 (Includes BIL grants)
FY2024 - \$55,379,475 (Includes BIL grants)
FY2025 - \$93,699,291 (Includes IIJA grants)

Airport Improvement Program (AIP):

See Attachment B for a list of Airport Improvement Program (AIP) projects the State of South Dakota received. This list of projects comprises our 2025 AIP grants and shown is a breakdown of costs based on participation. Normal federally funded AIP project is 90% federal, 5% state, and 5% local. In 2025, the match was 95% federal, 2.5% state and 2.5% local. Typical eligible projects for AIP work include runway construction, runway maintenance, taxiways, airport aprons, runway lighting, airport fencing, and other infrastructure improvements.

Coronavirus Response and Relief Act (CRRSAA):

Signed into law on December 27, 2020, Non-primary commercial service and general aviation airports received funding to provide economic relief affected by the COVID-19 pandemic. South Dakota airports received a total of \$10,243,364. These funds were used for operational costs, along with any supply needs related to the pandemic were funded with no local cost share requirement. These funds expired 6/30/2025.

American Rescue Plan Act (ARPA):

Signed into law on March 11, 2021, included funds to be awarded as economic assistance to airports to prevent, prepare for, and respond to the pandemic. South Dakota airports were allocated \$16,466,090. These funds must be expended by 12/29/2025 and are used for operational costs, along with any supply needs related to the pandemic and are funded with no local cost share requirement. SD has \$132,363 as of 10/8/2025 left in ARPA funds which includes 8 grants. Staff has continuously reminded airports about the deadline and for them to expend funds prior to the expiration date as any remaining unobligated funds will lapse.

Infrastructure Investment and Jobs Act (IIJA):

Signed into law on November 15, 2021, the Infrastructure Investment and Jobs Act (IIJA) also known as the Bipartisan Infrastructure Law (BIL) provides \$550 billion over fiscal years 2022 through 2026 in Federal eligible infrastructure projects, including roads, bridges, mass transit, water infrastructure, resilience, and broadband. South Dakota airports were allocated \$32,874,922 in FY2025 this includes airport terminal project grants. The expenditure dates vary for each grant awarded and are based upon each individual airport’s funding agreement. The last funding agreement must be executed by 9/30/2030.

Airport inspections:

Non-commercial airports are inspected by SDDOT each year, with further compliance inspections conducted as needed. The commercial service airports are inspected by the FAA inspectors.

South Dakota Airport Conference:

SDDOT hosts a yearly “Airports Conference” in the spring to educate and communicate with airport managers, airport sponsors, finance officers, SDDOT staff, engineering consultants representing the sponsors, and FAA personnel. The conference for 2025 was held in Deadwood, SD at The Lodge on April 1-3. The conference provided a great opportunity to exchange information for current and future aviation issues. The conference for 2026 will be held in Pierre, SD at The Ramkota Hotel and Convention Center and will be April 7-8, 2026.

Aeronautics Fund Balance: Attachments C and D

The State aeronautics fund receives its revenues from those funds listed above (aircraft registration fees and aircraft fuel taxes) and is used to support airport grants, ongoing aviation related services, and special projects. The funds deposited into the Aeronautics fund are allocated into two distinct uses, one for state aeronautics use and the other for individual airport sponsor use. The airport sponsor allocations are based on set allocations as established by the Aeronautics Commission and then are prorated according to aircraft fuel sold and collected at each eligible airport. Thus, each airport receives funding based on aircraft fuel sales derived from their individual airport which can be used for general aviation purposes. For SFY2025, year-end state aeronautics funds balance was \$17,188,404 and the total for individual airport sponsor use was \$1,116,588, giving a grand total amount of \$18,304,992 in the state aeronautics fund.

South Dakota Airport Terminal Program (SDATP):

The SDDOT launched the South Dakota Airport Terminal Program (SDATP) following the successful passage of Senate Bill 144 in the 2024 legislative session. This bill allocated \$10 million in funding to support airport terminal projects across the state, representing a one-time investment in enhancing South Dakota’s aviation infrastructure. The SDATP funds are unique, as they are one-time appropriations distinct from the traditional Aeronautics Commission policies. SDATP funds are designated strictly for construction reimbursement and exclude costs related to project planning, design, and administration. Local community effort and funding were critical components for consideration. Eligible projects for SDATP funding had to meet stringent criteria:

- Projects must be part of the Airport Capital Improvement Plan or included in the National Plan of Integrated Airports submitted yearly to the state.
- Projects must receive federal funding through at least one year of AIP federal entitlements and the Bipartisan Infrastructure Law (BIL) Airport Infrastructure Grant allocation. This includes having submitted an application, awarded a grant, or committed to applying in the next federal funding round for federal discretionary funds.
- Projects must not have been completed by the application deadline and must be scheduled to receive federal discretionary grants by Monday, Sept. 30, 2025, to retain eligibility.

The following is a list of the airport facilities that were awarded SDATP funds for terminal projects:

Airport Facility and SDATP Allocation

Aberdeen	\$1,200,000	Spearfish	\$1,319,073
Hot Springs	\$27,000	Sturgis	\$210,000
Rapid City	\$3,047,126	Tea	\$735,000
Sioux Falls	\$2,561,801	Watertown	\$900,000

In 2025, Hot Springs and Tea decided not to remodel their terminals, and their funds were reallocated to Rapid City and Sioux Falls. Of the \$762,000 in funds to be reallocated, Rapid City received an additional \$413,518 and Sioux Falls received an additional \$348,482. The reallocation was based on the percentages used in the original distribution plan. The new total amount for Rapid City is \$3,460,644 and Sioux Falls is \$2,910,283.

Potential Air Space Obstructions:

Wind turbine construction across South Dakota has increased substantially, with many structures now exceeding 600 feet above ground level. Under Federal Aviation Administration (FAA) Part 77 regulations, structures above 499 feet are considered potential obstructions to air navigation. Despite this, several 600-foot turbines have been approved near airports and flight paths. The FAA guidance requires that a Safety Risk Management Panel (SRMP) be conducted locally when there are objections to the structure being built. To the best of our knowledge, no SRMPs have been conducted for wind farms in South Dakota, even though turbines of this height could directly affect visual flight operations and radar coverage.

The Commission is now reviewing airport zoning regulations and FAA tall structure construction filings in greater detail. The Commission intends to provide formal comments on any proposed wind turbines exceeding 499 feet above ground level when such structures pose a potential threat to navigable airspace. In coordination with the FAA, the Commission also plans to participate in future SRMP processes to ensure that local aviation safety concerns are fully evaluated before project approval.

Aeronautics taxes and registration fees collected.

<u>State FY</u>	<u>Gallons of Fuel Sold</u>		<u>Taxes Collected</u>				<u>Total</u>
	<u>AV Gas</u>	<u>Jet Fuel</u>	<u>Fuel Collections</u>	<u>Aircraft Tax</u>	<u>Registration Fee</u>		
FY2021	907,517	15,978,973	\$666,510	\$898,262	\$55,211	\$1,619,983	
FY2022	942,032	21,595,431	\$919,261	\$2,196,771	\$57,424	\$3,173,456	
FY2023	831,660	21,159,714	\$891,929	\$3,193,041	\$53,160	\$4,138,130	
FY2024	929,484	21,248,838	\$923,439	\$1,969,820	\$51,439	\$2,944,698	
FY2025	967,011	22,437,961	\$936,092	\$5,750,228	\$68,771	\$6,755,091	

	<u>FY2021</u>	<u>FY2022</u>	<u>FY2023</u>	<u>FY2024</u>	<u>FY2025</u>
Number of Aircraft Registrations	1387	1338	1268	1233	1542
Percentage increases each year	10.2%	-3.5%	-5.2%	-2.76%	25.1%

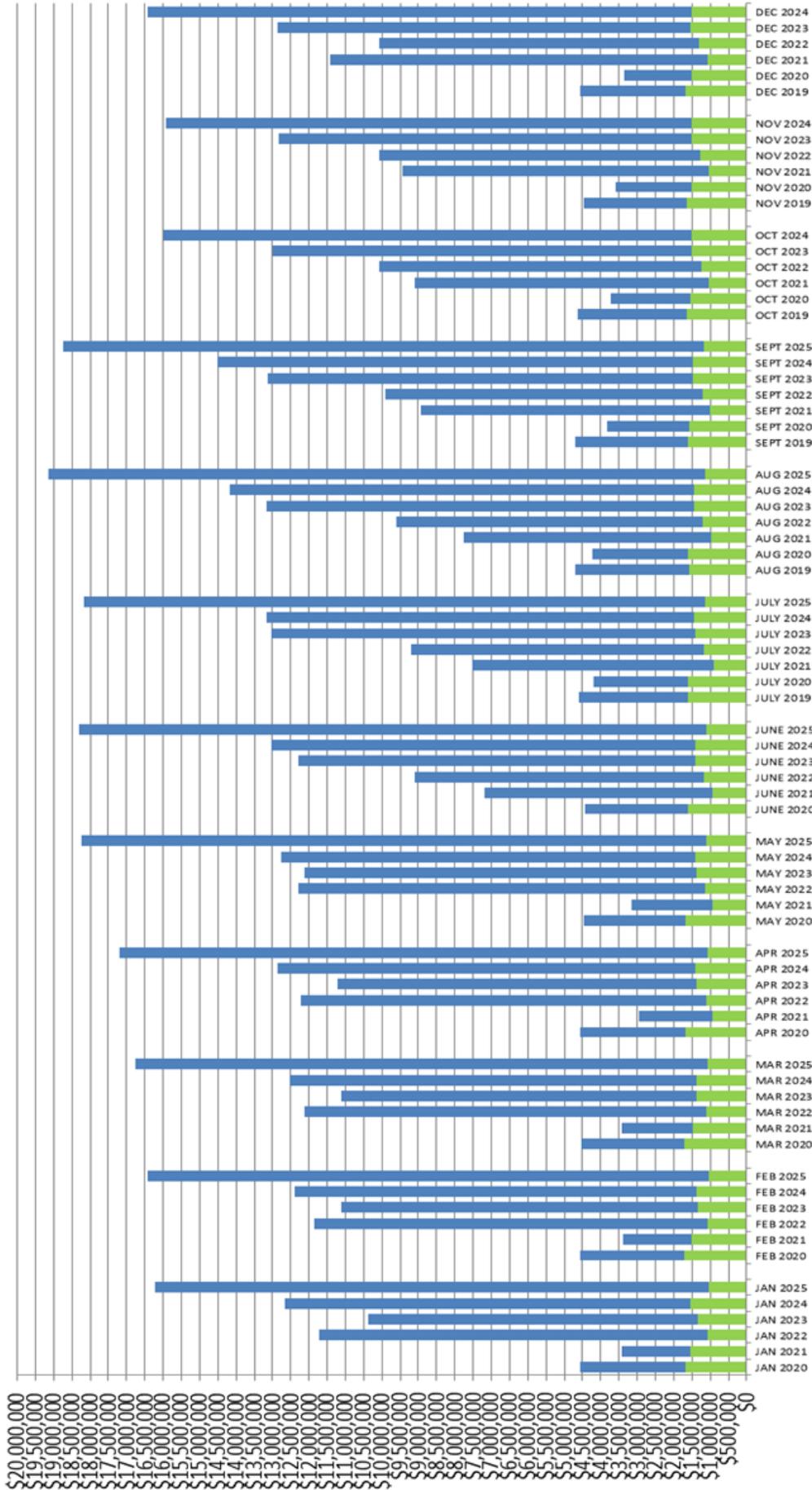
Figures based upon date of entry (or date payment is received), not when it's reflected in the State's Accounting System. The number of aircraft registrations may change throughout the year from the numbers listed if a plane is sold out of state or becomes unairworthy.

2025 AIP and BIL Grants

Grant	Airport Name	Project Description	Project Total	AIP	State	State Terminal	Local	BIL (Including BIL ATP)	Total Federal
055	Aberdeen Regional	BIL Design and construct remodel / expansion of terminal building for baggage screening	842,106	0	0	1,200,000	42,105	800,000	800,000
056	Aberdeen Regional	State Terminal	1,200,000	0	0	1,200,000	39,250	1,491,500	1,491,500
057	Aberdeen Regional	IJA construct 164,200 sq ft terminal parking lot	1,570,000	1,258,750	33,125	0	33,125	0	1,286,750
058	Aberdeen Regional	IJA reconstruct 5200' of terminal access road	1,325,000	0	0	0	3,400	64,600	64,600
059	Aberdeen Regional	IJA reconstruct admin to improve and expand terminal for baggage screening	65,000	0	0	0	13,250	0	251,750
060	Belle Fourche Municipal	AIP - install preconditioned air unit to commercial aircraft boarding bridge (VALE)	285,000	251,750	0	4,500	4,500	171,000	171,000
061	Belle Fourche Municipal	BIL Reconstruct 1340' of hangar taxi-lane, phase 3 east taxi-lane.	180,000	0	0	0	25,750	0	978,500
062	Bison Municipal	AIP Reconstruct hangar taxi-lane west, middle and east.	1,030,000	978,500	25,750	0	12,400	235,600	235,600
063	Bison Municipal	revenue producing hangar - design and bidding	248,000	0	0	0	5,875	223,250	223,250
064	Brookings Municipal	BIL Design and construct 140 x 35' hangar taxi-lane expansion	235,000	0	5,875	0	2,000	76,000	76,000
065	Buffalo-Harding County	BIL Wildlife site visit and management plan	80,000	0	0	0	4,771	181,298	181,298
066	Canton Municipal	BIL Update master plan and AIP - 52% planning study.	190,840	0	4,771	0	7,211	137,000	137,000
067	Canton Municipal	AIP Update master plan and AIP - 48% planning study.	176,160	167,352	4,404	0	4,404	0	167,352
068	Clark County	IJA Phase 2 Construct fuel system - site work	144,212	0	0	0	7,211	136,000	136,000
069	Clark County	IJA Environmental assessment for reconstruction, extension and widening of rw 8/26	428,025	590,000	10,701	0	10,701	406,623	406,623
070	Eagle Butte	IJA Design / bid and install AWOS-III; and associated power and communications infrastructure	590,000	560,500	14,750	0	14,750	0	560,500
071	Earth Municipal	IJA Renumber runway to 14-32; obstruction lighting for 14/32	138,000	0	3,450	0	3,450	131,100	131,100
072	Earth Municipal	IJA Reconstruct airport beacon and flight check	94,140	0	2,354	0	2,354	89,432	89,432
073	Earth Municipal	IJA Replace MIRLS, PA PIs, lighting controls, electrical vault, windcone; asbuilt AGIS survey	1,015,861	965,068	25,396	0	25,396	0	985,068
074	Flandreau Municipal	AIP land acquisition parcel 8 and 9 for runway 10/28 shift and AGIS survey	1,130,000	1,073,500	28,250	0	28,250	1,073,500	1,073,500
075	Flandreau Municipal	BIL shift runway 10/28 - AGIS survey; Design construction of taxiway A.	295,000	0	7,375	0	7,375	280,250	280,250
076	Gettysburg Municipal	IJA Rehab SRE by insulating and heating structure	46,316	0	1,158	0	1,158	44,000	44,000
077	Gettysburg Municipal	AIP Design 6 unit T hangar; aquatic and cultural resource surveys	150,000	142,500	0	0	7,500	0	142,500
078	Gregory Municipal - Flynn Field	AIP Phase 3 revenue-producing T hangars (4-unit); 65% bid schedule B - construction	467,369	0	0	0	23,369	444,000	444,000
079	Gregory Municipal - Flynn Field	AIP Construct 4 unit T hangars bid schedule A, 35% bid schedule B	560,000	532,000	0	0	28,000	0	532,000
080	Highmore Municipal	AIP Reconstruct and expand Apron; reconstruct taxiway A	875,774	831,983	21,894	0	21,894	0	831,983
081	Highmore Municipal	AIP Reconstruct AWOS-III system	535,000	508,250	13,375	0	13,375	0	508,250
082	Hoven Municipal	IJA phase 1 Design revenue producing hangar (60' x 80')	90,000	0	0	0	4,500	85,500	85,500
083	Lemmon Municipal	IJA Apron and hangar taxi-lane reconstruction - design and bidding	215,000	0	5,375	0	5,375	204,250	204,250
084	Lemmon Municipal	AIP Construct apron reconstruction, admin and testing	449,000	426,550	11,225	0	11,225	0	426,550
085	Madison Municipal	IJA Phase 2 Reconst taxi-lane	123,000	0	3,076	0	3,076	116,850	116,850
086	Madison Municipal	IJA Design and bidding for realignment of taxiway	145,000	0	3,625	0	3,625	0	3,625
087	McLaughlin Municipal	IJA reimburse revenue hangar (4800') - Phase IV	145,000	0	0	0	7,250	137,750	137,750
088	McLaughlin Municipal	IJA reimburse revenue hangar (4800') - Phase IV	340,000	0	0	0	8,500	137,750	137,750
089	Midbank Municipal	AIP - phase 2 construct taxiway A, turnaround; asphalt surfacing, taxiway lighting, storm sewer	625,000	593,750	15,625	0	15,625	323,000	323,000
090	Miller Municipal	BIL design AWOS III	85,000	0	2,125	0	2,125	0	83,750
091	Miller Municipal	AIP Construct connector taxiway and terminal access road rehab; reconstruct beacon	909,000	863,950	22,725	0	22,725	0	863,950
092	Miller Municipal	AIP Design for shift, narrow, reduce length and reconstruction of 18/36; reconstruct taxiway B	273,359	259,691	6,834	0	6,834	0	259,691
093	Mitchell Municipal	IJA Construct revenue producing hangar phase 2	1,127,000	0	0	0	56,350	1,070,650	1,070,650
094	Mitchell Municipal	IJA Design Runway 14/32 reconstruction and lighting; system, MIRL and PAPIs and 14 turnaround;	380,000	0	9,750	0	9,750	370,500	370,500
095	Murdo Municipal	BIL Master plan/ALP development; surveys; property map	171,000	118,750	4,275	0	4,275	162,450	162,450
096	Phillip	AIP Master plan narrative, ALP phase 2	125,000	0	3,125	0	3,125	0	118,750
097	Pierre Regional	IJA Design construction of parallel taxi C, taxi MIRL and crack/seal 1250' of taxi B	565,300	0	14,133	0	14,133	537,035	537,035
098	Pierre Regional	IJA Replacement of runway 7/25 supplemental wind cones; demo and install new supplemental wi	95,300	0	2,382	0	2,382	90,535	90,535
099	Pine Ridge-Oglala Sioux	IJA Procure SRE plow with blower attachment	194,000	0	4,850	0	4,850	184,300	184,300
100	Platte Municipal	IJA ALP update, master plan and approach survey	315,790	0	7,895	0	7,895	300,000	300,000
101	Platte Municipal	AIP Construct installation of AWOS III	365,000	346,750	9,125	0	9,125	346,750	346,750
102	Presho	IJA Develop new ALP and master plan	203,685	0	5,092	0	5,092	193,500	193,500
103	Rapid City Regional	State Terminal	3,460,644	0	0	3,460,644	0	0	0
104	Rapid City Regional	AIP Terminal renovation and expansion project 1 phase 1, 2, 3 TSA checkpoint, ticketing and baggage	21,052,632	20,000,000	0	0	1,052,632	0	20,000,000
105	Rapid City Regional	BIL Terminal expansion phase 4; TSA checkpoint, ticketing and baggage.	5,850,378	0	0	0	292,519	5,557,859	5,557,859
106	Rosebud Sioux Tribal	AIP reconstruct hangar taxi-lane extension -	435,000	413,250	10,875	0	10,875	0	413,250
107	SDDOT	Statewide PM	882,206	838,095	22,055	0	22,055	0	838,095
108	Sioux Falls-Joe Foss Field	IJA Phase 2 expand terminal building.	9,836,645	0	0	0	983,665	8,852,980	8,852,980
109	Sioux Falls-Joe Foss Field	State Terminal	2,910,283	0	0	2,910,283	0	0	0
110	Sioux Falls-Joe Foss Field	IJA ATP phase 3, expand Terminal building; 53,852 S.F.	8,421,063	0	0	0	421,053	8,000,000	8,000,000
111	Sioux Falls-Joe Foss Field	AIP Phase 2 East cargo apron construction and expansion; phase 1 construction expand terminal	12,029,166	10,826,250	601,459	0	601,459	0	10,826,250
112	Sioux Falls-Joe Foss Field	AIP construct Terminal apron expansion phase 2 (28,127 SY); construct taxi-lane phase 1	9,366,305	8,429,674	468,316	0	468,316	0	8,429,674
113	Sioux Falls-Joe Foss Field	BIL Expand apron phase 3, engineering services for apron and taxi-lane.	340,000	0	8,500	0	8,500	323,000	323,000
114	Sisseton Municipal	AIP Reconstruct taxi-lane phase 2	626,000	594,700	15,650	0	15,650	0	594,700
115	Sisseton Municipal	IJA Design GA apron for terminal and final phase for engineering services for terminal constructio	776,948	0	0	0	38,948	740,000	740,000
116	Spearfish - Clyde Ice Field	State Terminal	1,319,073	0	0	1,319,073	0	0	0
117	Springfield Municipal	AIP reconstruction of partial apron rehab	224,088	212,882	5,603	0	5,603	0	212,882
118	Springfield Municipal	IJA Reconstruct 840 Sq Yards of terminal apron	113,685	0	2,842	0	2,842	108,000	108,000
119	Sturgis Municipal	AIP Design/construct parallel taxiway 1, 131' x 35'.	1,157,895	1,100,000	28,948	0	28,948	0	1,100,000
120	Sturgis Municipal	BIL terminal building remodel, interior, expand pilot briefing area and two restrooms.	271,959	0	0	0	13,598	258,360	258,360
121	Sturgis Municipal	State Terminal	210,000	210,000	0	0	0	0	0
122	Sturgis Municipal	AIP construct parallel taxiway - phase 1 design, construction, engineering.	3,244,357	3,082,139	81,109	0	81,109	0	3,082,139
123	Tea - Lincoln County	AIP Reconstruct taxiway A lighting	157,895	150,000	3,948	0	3,948	150,000	150,000
124	Vermillion-Harold Davidson Field	IJA Phase 3 Reconstruct taxiway A lighting	175,000	0	4,375	0	4,375	166,250	166,250
125	Vermillion-Harold Davidson Field	AIP Phase 2 Reconstruct partial parallel taxiway A and construction engineering.	1,550,000	1,472,500	38,750	0	38,750	0	1,472,500
126	Walt Municipal	BIL GA apron and hangar area expansion and taxi-lane design	103,158	0	2,579	0	2,579	98,000	98,000
127	Watertown Regional	State Terminal	900,000	0	0	900,000	0	0	0
128	Watertown Regional	AIP construct taxiways B and C, including B lighting.	3,932,037	3,735,435	98,301	0	98,301	0	3,735,435
129	Watertown Regional	AIP Fuel system phase 4, site work	95,000	90,250	0	0	4,750	0	90,250
130	Webster Municipal	State Terminal	10,000,000	10,000,000	0	0	0	0	0
131	Webster Municipal	AIP reconstruct taxiway B	60,824,369	1,781,424	0	0	4,793,925	32,874,922	32,874,922
132	Webster Municipal	State Terminal	110,274,644	60,824,369	1,781,424	10,000,000	4,793,925	32,874,922	93,699,291

AERONAUTICS FUND BALANCE

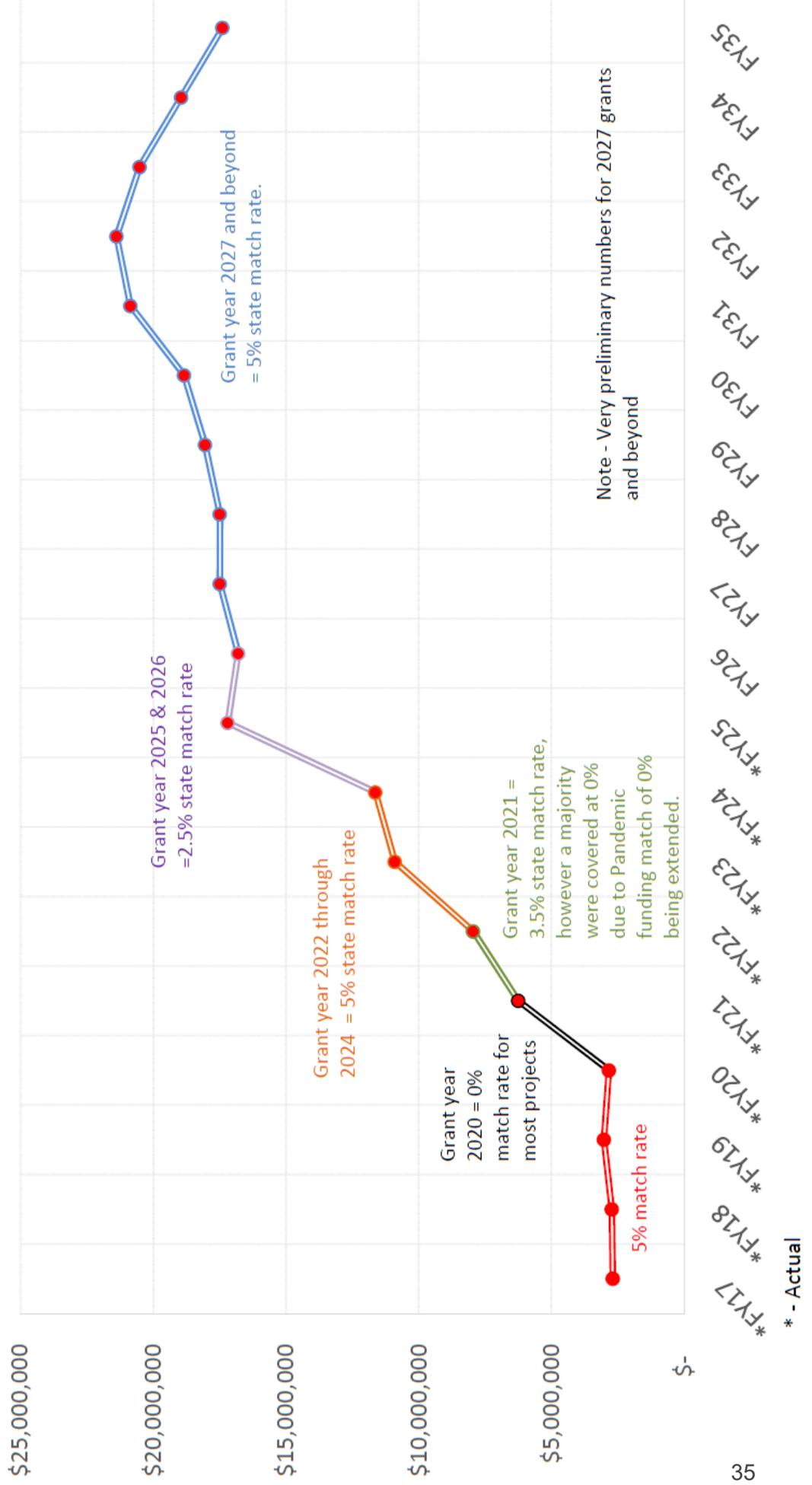
■ REMAINING AERO FUNDS
■ CITY ALLOCATION



*JUNE, 2021: INCREASE IN AERO FUNDS (\$4.0M) DUE TO SB64 FROM STATE'S GENERAL FUND
 *SEPT, 2021: INCREASE IN AERO FUNDS (\$1.25M) DUE TO SALE OF KA90 II
 *DEC, 2021: INCREASE IN AERO FUNDS (\$1.81M) DUE TO SALE OF KA200
 *JUNE, 2022: DECREASE IN AERO FUNDS (\$3.06M) DUE TO TRANSFER OUT OF SALE OF KA 90II & KA200

Updated as of 10/09/25

AERONAUTICS FUND PROJECTIONS EXCLUDING CITY ALLOCATION



APPENDIX A

Aeronautics Commission Funding Policy

SOUTH DAKOTA AERONAUTICS COMMISSION

POLICIES & PROCEDURES FOR USE OF STATE FUNDS LAST REVISED **July 20, 2023**

The following policies and procedures are adopted by the Commission to govern the usage of the State aeronautics fund.

A. Preconditions for AIP Project Approvals by the Commission

1. Political subdivisions must demonstrate a need for the project.
2. The airport must be included in the State Aviation System Plan.
3. The proposed development must be shown on an approved airport layout plan, or the Commission may conduct a special review to assure the proposed development is consistent with the statewide aviation system plan.
4. Construction projects will be in accordance with FAA specifications and design standards.
5. Project sponsors will have the requisite amount of local matching funds available prior to Commission approval.

B. Categories of AIP Funded Projects Eligible for State Aeronautics Fund (Not in Priority Order)

1. Land acquisition for runways and runway extensions.
2. Runway and taxiway construction, reconstruction, strengthening or pavement maintenance treatments.
3. General Aviation (GA) and air carrier apron construction.
4. Runway and taxiway lighting, obstruction lighting, and navaid lighting.
5. Certified weather reporting equipment.
6. Obstruction removal will be a Commission priority when the obstruction is in violation of Federal Aviation Regulations, Part 77, or when the obstruction exists on the approach surfaces of an airport layout plan.
7. Security and wildlife fencing.
8. Snow removal equipment and storage buildings.

9. Portions of a terminal building, dedicated to public use and non-revenue producing, may be funded by the Aeronautics Commission. Three limitations apply:
 - i. On projects funded by State and Local only, the Commission will review on a case by case basis to determine state funding participation.
 - ii. On projects involving Federal/State/Local funding, State aid will be limited to the current match set by the Commission.
 - iii. State aid will be limited to a maximum of \$200,000 for each commercial service airport project.
10. Generally, revenue producing projects including, but not limited to; terminal buildings, fuel systems, hangars and parking lots are not eligible for AIP funding. The Commission will review these projects on a case-by-case basis to determine the level of state funding participation. Planned construction projects will not to be broken out into numerous projects, or phases, for the purpose of receiving additional state funds.

C. Criteria Utilized in Determining State Funding for Non-AIP Projects

1. State/Local construction projects for minimum airport facilities, which may be necessary to comply with basic service or small GA airport requirements or State Licensing Standards, are eligible for 75% State participation.
2. The maximum funding amounts available for said construction projects is \$75,000. State participation funds for any one airport and for any one planned construction project that addresses the needed specific basic service. Planned construction projects will not be broken out into numerous projects, or phases, for the purpose of receiving additional state funds.
3. Preventive maintenance projects on GA airports are eligible for 50% State participation. The maximum funding for these projects shall also be capped at \$75,000 of state funding.

D. Operational Procedures for State Funding

1. State funding for a federally participating project may be approved by the Aeronautics Commission. The grant increase shall be limited to the same percentage increase as the federal grant increase. If, for some reason, the federal share increase cannot be obtained or is partially funded, the State increase may be limited to the same percentage. No State increase will be allowed until all costs have been incurred and the project is ready for closeout. State grant increase will be approved by the Aeronautics Commission. All other state financial assistance agreements are not eligible for a grant increase unless approved by the Aeronautics Commission.
2. Political subdivisions may use locally allocated State fuel tax funds to match State participation on approved projects.

E. Aviation Fuel Tax Allocation Formula

1. The six cents per gallon tax on AvGas is allocated as follows:

<u>Amount</u>	<u>Recipient</u>
\$0.025	State Aeronautics Fund
\$0.0027	Wholesaler Allowance for Shrinkage
\$0.0323	Allocated to the Airport from which the Fuel was Sold

2. The four cents per gallon tax on Jet Fuel is allocated as follows:

<u>Amount</u>	<u>Recipient</u>
\$0.02775	State Aeronautics Fund
\$0.0005	Wholesaler Allowance for Shrinkage
\$0.01175	Allocated to Air Carrier Airports based on Number of Airline Departures this is Separately Calculated for Each Commercial Airline. In case of non-airline jet fuel sales, the \$0.01175 is allocated to the airport where the fuel was purchased.

The fuel excise tax rates for taxes imposed pursuant to South Dakota Codified Law (SDCL) Ch. 10-47B are detailed in SDCL 10-47B-4.

APPENDIX B

Open Meeting Brochure



Conducting the Public's Business in Public

A guide to South Dakota's
Open Meetings Laws
(Revised 2025)

Prepared by:
S.D. Attorney General's Office
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Q: WHAT ARE SOUTH DAKOTA'S OPEN MEETINGS LAWS?

A. South Dakota's open meetings laws embody the principle that the public is entitled to the greatest possible information about public affairs and are intended to encourage public participation in government. SDCL Ch. 1-25 requires that official meetings of public bodies must be public and advance notice is to be given of such meetings. The statutes define an "official meeting" as one where a quorum of the public body is present and at which official business or public policy of the body is discussed or decided. Openness in government is encouraged.

Q: WHO DOES THE OPEN MEETINGS LAWS APPLY TO?

A. The open meetings laws apply to all public bodies of the state and its political subdivisions. SDCL 1-25-1, 1-25-12(3). This includes cities, counties, school boards and other public bodies created by ordinance or resolution, such as appointed boards, task forces, and committees, so long as they have authority to exercise sovereign power. SDCL 1-25-12(2). Although no court decisions have been issued on the subject, this probably does not include bodies that serve only in an advisory capacity. The State Constitution allows the Legislature and the Unified Judicial System to create rules regarding their own separate functions.

Q: ARE TELECONFERENCES CONSIDERED PUBLIC MEETINGS?

A. Yes. The open meetings laws allow meetings, including executive or closed meetings, to be conducted by teleconference – defined as an exchange of information by audio, video, or electronic means (including the internet) – if a place is provided for the public to participate. SDCL 1-25-1.5, 1-25-12(5). In addition, for teleconferences where

less than a quorum of the public body is present at the location open to the public, arrangements must also be made for the public to listen by telephone or internet (except for portions of meetings properly closed for executive sessions). SDCL 1-25-1.6. The media and public must be notified of teleconference meetings under the same notice requirements as any other meeting.

Q: HOW ARE THE PUBLIC AND MEDIA NOTIFIED WHEN PUBLIC BUSINESS IS BEING DISCUSSED?

A. SDCL 1-25-1.1 requires that all political subdivisions (except the state and its boards, commissions, or departments as provided in § 1-25-1.3) prominently post a notice and copy of the proposed agenda at the political subdivision's principal office. At a minimum, the proposed agenda must include the date, time, and location of the meeting and must be visible, readable, and accessible to the public for 24 continuous hours immediately preceding the meeting. Also, if the political subdivision has its own website, the notice must be posted on the website upon dissemination of the notice. For special or rescheduled meetings, political subdivisions must comply with the regular meeting notice requirements as much as circumstances permit. The notice must be delivered in person, by mail, by email, or by telephone to all local news media who have asked to be notified. It is good practice for local media to renew requests for notification of special or rescheduled meetings at least annually.

SDCL 1-25-1.3 varies slightly from SDCL 1-25-1.1 and requires the State and its agencies, boards, commissions, or departments to give notice by posting a proposed agenda at least 72 continuous hours before a meeting is scheduled to start (this does not include any weekend or legal holiday). The State is also required to give notice of a public meeting by posting its proposed agenda on <http://boardsandcommissions.sd.gov>.

Q: WHO ARE LOCAL NEWS MEDIA?

A: There is no definition of “local news media” in SDCL ch. 1-25. “News media” is defined in SDCL 13-1-57 generally as those personnel of a newspaper, periodical, news service, radio station, or television station regardless of the medium through which their content is delivered. The Attorney General is of the opinion that “local news media” is all news media – broadcast and print – that regularly carry news to the community.

Q: IS A PUBLIC COMMENT PERIOD REQUIRED AT PUBLIC MEETINGS?

A: Yes. Public bodies are required to provide at every official meeting a period of time on their agenda for public comment. SDCL 1-25-1. Each public body has the discretion to limit public comment as to the time allowed for each topic commented on, and as to the total time allowed for public comment. Public comment is not required at meetings held solely for an executive session, inauguration, presentation of an annual report, or swearing in of elected officials.

Q: CAN PUBLIC MEETINGS BE RECORDED?

A: Yes, SDCL 1-25-11 requires public bodies to allow recording (audio or video) of their meetings if the recording is reasonable, obvious, and not disruptive. This requirement does not apply to those portions of a meeting confidential or closed to the public.

Q: WHEN CAN A MEETING BE CLOSED TO THE PUBLIC AND MEDIA?

A: SDCL 1-25-2 allows a public body to close a meeting for the following purposes: 1) to discuss personnel issues pertaining to officers or employees; 2) consideration of the performance or discipline of a student, or the student’s participation in interscholastic activities; 3) consulting with legal counsel, or reviewing communications from legal counsel about proposed or pending litigation or

contractual matters; 4) employee contract negotiations; 5) to discuss marketing or pricing strategies of a publicly-owned competitive business; or 6) to discuss information related to the protection of public or private property such as emergency management response plans or other public safety information. The statute also recognizes that executive session may be appropriate to comport with other laws that require confidentiality or permit executive or closed meetings. Federal law pertaining to students and medical records will also cause school districts and other entities to conduct executive sessions or conduct meetings to refrain from releasing confidential information. Meetings may also be closed by cities and counties for certain economic development matters. SDCL 9-34-19.

Note that SDCL 1-25-2 and SDCL 9-34-19 do not require meetings be closed in any of these circumstances.

Any official action based on discussions in executive session must, however, be made at an open meeting.

Q: WHAT IS THE PROPER PROCEDURE FOR EXECUTIVE SESSIONS?

A: Motions for executive sessions must refer to the specific state or federal law allowing for the executive session i.e. “pursuant to SDCL 1-25-2(3).” Also, best practice to avoid public confusion would be that public bodies explain the reason for going into executive session. For example, the motion might state “motion to go into executive session pursuant to SDCL 1-25-2(1) for the purposes of discussing a personnel matter,” or “motion to go into executive session pursuant to SDCL 1-25-2(3) for the purposes of consulting with legal counsel.”

Discussion in the executive session must be strictly limited to the announced subject. No official votes may be taken on any matter during an executive session. The public body must return to open session before any official action can be taken.

Q: WHAT HAPPENS IF THE MEDIA OR PUBLIC IS IMPROPERLY EXCLUDED FROM A MEETING OR OTHER VIOLATIONS OF THE OPEN MEETING LAWS OCCUR?

A: Excluding the media or public from a meeting that has not been properly closed subjects the public body or the members involved to: (a) prosecution as a Class 2 misdemeanor punishable by a maximum sentence of 30 days in jail, a \$500 fine or both; or (b) a reprimand by the Open Meeting Commission (“OMC”). The same penalties apply if the agenda for the meeting is not properly posted, or other open meeting violations occur.

Also, action taken during any meeting that is not open or has not been properly noticed could, if challenged, be declared null and void.

Q: HOW ARE ISSUES REFERRED TO THE OPEN MEETINGS COMMISSION (“OMC”)?

A: Persons alleging violations of the open meetings laws must make their complaints with law enforcement officials in the county where the offense occurred. After a signed and notarized complaint is made under oath, and any necessary investigation is conducted, the State's Attorney may: (a) prosecute the case as a misdemeanor; (b) find that the matter has no merits and file a report with the Attorney General for statistical purposes; or (c) forward the complaint to the OMC for a determination. The OMC is comprised of five State's Attorneys or Deputy State's Attorneys appointed by the Attorney General. The OMC examines whether a violation has occurred and makes written public findings explaining its reasons. If you have questions on the procedures or status of a pending case, you may contact the Attorney General's Office at 605-773-3215 to talk to an assistant for the OMC. Procedures for the OMC are posted on the website for the Office of Attorney General. <http://atg.sd.gov/>.

Q: WHAT DOES THE TERM “SOVEREIGN POWER” MEAN?

A: The open meetings laws do not define this term, but it generally means the power to levy taxes, impose penalties, make special assessments, create ordinances, abate nuisances, regulate the conduct of others, or perform other traditional government functions. The term may include the exercise of many other governmental functions. If an entity is unclear whether it is exercising “sovereign power” it should consult with legal counsel.

Q: MAY AGENDA ITEMS BE CONSIDERED IF THEY ARE ADDED LESS THAN 24 HOURS BEFORE A MEETING?

A: Proposed agendas for public meetings must be posted at least 24 hours in advance of the meeting. The purpose of providing advance notice of the topics to be discussed at a meeting is to provide information to interested members of the public concerning the governing body's anticipated business. Typically, the public body adopts the final agenda upon convening the meeting. At the time the final agenda is adopted, the governing body may add or delete agenda items and may also change the order of business. See *In re Yankton County Commission, Open Meetings Commission Decision # 20-03*, December 31, 2020. New items cannot be added after the agenda has been adopted by the governing body.

Public bodies are strongly encouraged to provide at least 24 hours' notice of all agenda items so as to be fair to the public and to avoid dispute.

For special or rescheduled meetings, public bodies are to comply to the extent circumstances permit. In other words, posting less than 24 hours in advance may be permissible in emergencies.

Q: ARE EMAIL DISCUSSIONS "MEETINGS" FOR PURPOSES OF THE OPEN MEETINGS LAWS?

A. The definition of an "official meeting" in SDCL 1-25-12(1) specifically includes meetings conducted by "electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform[.]" A quorum of a public body that discusses official business of that body via electronic means is conducting an official meeting for purposes of the open meetings laws. Electronic communications made solely for scheduling purposes do not fall within the definition of an official meeting.

Q: WHAT RECORDS MUST BE AVAILABLE TO THE PUBLIC IN CONJUNCTION WITH PUBLIC MEETINGS?

A. SDCL 1-25-1.4 requires state boards, commissions, or departments to make public meeting materials available on <http://boardsandcommissions.sd.gov>. SDCL 1-27-1.16 requires that any other public body must post meeting materials on the public body's website or make those materials available to the public at least twenty-four hours prior to the hearing or when made available to the members of the public body, whichever is later. Finally, SDCL 1-27-1.17 requires that draft minutes of public meetings must be made available to the public at the principal place of business for the public body within 10 business days after the meeting (or made available on the website for the public body within five business days).

These laws are in addition to any specific requirements for public bodies (i.e., publication requirements in state laws pertaining to cities, counties, or school districts). Enforcement of public records laws contained in SDCL Ch. 1-27 are handled by separate procedures found in SDCL 1-27-35, et. seq. rather than the open meeting procedures described above. Violations of SDCL 1-27-1.16 and 1-27-1.17 are also Class 2 misdemeanors.

Q: WHAT REQUIREMENTS APPLY TO TASK FORCES, COMMITTEES AND WORKING GROUPS?

A. Task forces and committees that exercise "sovereign power," and are created by statute, ordinance, or proclamation are required to comply with the open meetings laws. SDCL 1-25-12(1). Task forces, committees, and working groups that are not created by statute, ordinance, or proclamation, or are advisory only, may not be subject to the open meetings laws, but are encouraged to comply to the extent possible when public matters are discussed. Ultimately, if such advisory task forces, committees and working groups present any reports or recommendations to public bodies, the public bodies must wait until the next meeting (or later) before taking final action on the recommendations. SDCL 1-27-1.18.

Q: ARE PUBLIC BODIES REQUIRED TO REVIEW THE OPEN MEETINGS LAWS?

A. Public bodies must annually review an explanation of the open meetings laws provided by the Attorney General, along with any other material pertaining to the open meetings laws made available by the Attorney General. SDCL 1-25-13. Each public body must report in its minutes that the annual review of the open meetings laws was completed.

PERTINENT S.D. OPEN MEETINGS STATUTES

(other specific provisions may apply depending on the public body involved)

1-25-1. OPEN MEETINGS. An official meeting of a public body is open to the public unless a specific law is cited by the public body to close the official meeting to the public.

It is not an official meeting of one public body if its members provide information or attend the official meeting of another public body for which the notice requirements of § 1-25-1.1 or 1-25-1.3 have been met. It is not an official meeting of a public body if its members attend a press conference called by a representative of the public body.

For any event hosted by a nongovernmental entity to which a quorum of the public body is invited and public policy may be discussed, but the public body does not control the agenda, the public body may post a public notice of a quorum, in lieu of an agenda. The notice of a quorum must meet the posting requirements of § 1-25-1.1 or 1-25-1.3 and must contain, at a minimum, the date, time, and location of the event.

The public body shall reserve at every official meeting a period for public comment, limited at the public body's discretion as to the time allowed for each topic and the total time allowed for public comment, but not so limited as to provide for no public comment.

Public comment is not required at an official meeting held solely for the purpose of meeting in executive session, an inauguration, presentation of an annual report to the public body, or swearing in of a newly elected official, regardless of whether the activity takes place at the time and place usually reserved for an official meeting.

If a quorum of township supervisors, road district trustees, or trustees for a municipality of the third class meets solely for purposes of implementing previously publicly adopted policy; carrying out ministerial functions of that township, district, or municipality; or undertaking a factual investigation of conditions related to public safety; the meeting is not subject to the provisions of this chapter.

A violation of this section is a Class 2 misdemeanor.

1-25-1.1. PUBLIC NOTICE OF POLITICAL SUBDIVISIONS. Each political subdivision shall provide public notice, with proposed agenda, that is visible, readable, and accessible for at least an entire, continuous twenty-four hours immediately preceding any official meeting, by posting a copy of the notice, visible to the public, at the principal office of the political subdivision holding the meeting. The proposed agenda shall include the date, time, and location of the meeting. The notice shall also be posted on the political subdivision's website upon dissemination of the notice, if a website exists. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by

telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, each political subdivision shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.3. PUBLIC NOTICE OF STATE. The state shall provide public notice of a meeting by posting a copy of the proposed agenda at the principal office of the board, commission, or department holding the meeting. The proposed agenda shall include the date, time, and location of the meeting, and be visible, readable, and accessible to the public. The agenda shall be posted at least seventy-two hours before the meeting is scheduled to start according to the agenda. The seventy-two hours does not include Saturday, Sunday, or legal holidays. The notice shall also be posted on a state website, designated by the commissioner of the Bureau of Finance and Management. For any special or rescheduled meeting, the information in the notice shall be delivered in person, by mail, by email, or by telephone, to members of the local news media who have requested notice. For any special or rescheduled meeting, the state shall also comply with the public notice provisions of this section for a regular meeting to the extent that circumstances permit. A violation of this section is a Class 2 misdemeanor.

1-25-1.5. TELECONFERENCE MEETING. Any official meeting may be conducted by teleconference. A teleconference may be used to conduct a hearing or take final disposition regarding an administrative rule pursuant to § 1-26-4. A member is deemed present if the member answers present to the roll call conducted by teleconference for the purpose of determining a quorum. Each vote at an official meeting held by teleconference may be taken by voice vote. If any member votes in the negative, the vote shall proceed to a roll call vote.

1-25-1.6. TELECONFERENCE PARTICIPATION. At any official meeting conducted by teleconference, there shall be provided one or more places at which the public may listen to and participate in the teleconference meeting. For any official meeting held by teleconference, that has less than a quorum of the members of the public body participating in the meeting who are present at the location open to the public, arrangements shall be provided for the public to listen to the meeting via telephone or internet. The requirement to provide one or more places for the public to listen to the teleconference does not apply to official meetings closed to the public pursuant to specific law.

1-25-2. EXECUTIVE SESSION. Executive or closed meetings may be held for the sole purposes of:

(1) Discussing the qualifications, competence, performance, character or fitness of any public officer or employee or prospective public officer or employee. The term, employee, does not include any independent contractor;

(2) Discussing the expulsion, suspension, discipline, assignment of or the educational program of a student or the eligibility of a student to participate in interscholastic activities provided by the South Dakota High School Activities Association;

(3) Consulting with legal counsel or reviewing communications from legal counsel about proposed or pending litigation or contractual matters;

(4) Preparing for contract negotiations or negotiating with employees or employee representatives;

(5) Discussing marketing or pricing strategies by a board or commission of a business owned by the state or any of its political subdivisions, when public discussion may be harmful to the competitive position of the business; or

(6) Discussing information pertaining to the protection of public or private property and any person on or within public or private property specific to:

(a) Any vulnerability assessment or response plan intended to prevent or mitigate criminal acts;

(b) Emergency management or response;

(c) Public safety information that would create a substantial likelihood of endangering public safety or property, if disclosed;

(d) Cyber security plans, computer, communications network schema, passwords, or user identification names;

(e) Guard schedules;

(f) Lock combinations;

(g) Any blueprint, building plan, or infrastructure record regarding any building or facility that would expose or create vulnerability through disclosure of the location, configuration, or security of critical systems of the building or facility; and

(h) Any emergency or disaster response plans or protocols, safety or security audits or reviews, or lists of emergency or disaster response personnel or material; any location or listing of weapons or ammunition; nuclear, chemical, or biological agents; or other military or law enforcement equipment or personnel.

However, any official action concerning the matters pursuant to this section shall be made at an open official meeting. An executive or closed meeting must be held only upon a majority vote of the members of the public body present and voting, and discussion during the closed meeting

is restricted to the purpose specified in the closure motion. Nothing in § 1-25-1 or this section prevents an executive or closed meeting if the federal or state Constitution or the federal or state statutes require or permit it. A violation of this section is a class 2 misdemeanor.

1-25-6. DUTY OF STATE'S ATTORNEY. If a complaint alleging a violation of chapter 1-25 is made pursuant to § 23A-2-1, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. Upon doing so, the state's attorney shall send a copy of the complaint and any investigation file to the attorney general. The attorney general shall use the information for statistical purposes and may publish abstracts of such information, including the name of the government body involved for purposes of public education; or

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action.

1-25-6.1. DUTY OF STATE'S ATTORNEY (COUNTY COMMISSION ISSUES). If a complaint alleges a violation of this chapter by a board of county commissioners, the state's attorney shall take one of the following actions:

(1) Prosecute the case pursuant to Title 23A;

(2) Determine that there is no merit to prosecuting the case. The attorney general shall use the information for statistical purposes and may publish abstracts of the information as provided by § 1-25-6;

(3) Send the complaint and any investigation file to the South Dakota Open Meetings Commission for further action; or

(4) Refer the complaint to another state's attorney or to the attorney general for action pursuant to § 1-25-6.

1-25-7. REFERRAL TO OMC. Upon receiving a referral from a state's attorney or the attorney general, the South Dakota Open Meetings Commission shall examine the complaint and investigatory file submitted by the state's attorney or the attorney general and shall also consider signed written submissions by the persons or entities that are directly involved. Based on the investigatory file submitted by the state's attorney or the attorney general and any written responses, the commission shall issue a written determination on whether the conduct violates this chapter, including a statement of the reasons therefor and findings of fact on each issue and conclusions of law necessary for the proposed decision. The final decision shall be made by a majority of the commission members, with each member's vote set forth in the written decision. The final decision shall be filed with the attorney general and shall be provided to the public entity and or public officer involved, the state's attorney,

and any person that has made a written request for such determinations. If the commission finds a violation of this chapter, the commission shall issue a public reprimand to the offending official or governmental entity. However, no violation found by the commission may be subsequently prosecuted by the state's attorney or the attorney general. All findings and public censures of the commission shall be public records pursuant to § 1-27-1. Sections 1-25-6 to 1-25-9, inclusive, are not subject to the provisions of chapter 1-26.

1-25-8. OMC Members. The South Dakota Open Meeting Commission is comprised of five state's attorneys or deputy state's attorneys appointed by the attorney general. Each commissioner serves at the pleasure of the attorney general. The members of the commission shall choose a chair of the commission annually by majority vote.

1-25-12. DEFINITIONS. Terms used in the open meetings laws mean:

(1) "Official meeting," any meeting of a quorum of a public body at which official business or public policy of that public body is discussed or decided by the public body, whether in person or by means of teleconference or electronic means, including electronic mail, instant messaging, social media, text message, or virtual meeting platform, provided the term does not include communications solely to schedule a meeting or confirm attendance availability for a future meeting;

(2) "Political subdivision," any association, authority, board, municipality, commission, committee, council, county, school district, task force, town, township, or other local governmental entity, which is created by statute, ordinance, or resolution, and is vested with the authority to exercise any sovereign power derived from state law;

(3) "Public body," any political subdivision or the state;

(4) "State," each agency, board, commission, or department of the State of South Dakota, not including the Legislature; and

(5) "Teleconference," an exchange of information by any audio, video, or electronic medium, including the internet.

1-25-13. ANNUAL REVIEW OF OPEN MEETING LAWS. Any agency, as defined in § 1-26-1, or political subdivision of this state, that is required to provide public notice of its meetings pursuant to § 1-25-1.1 or 1-25-1.3 must annually review the following, during an official meeting of the agency or subdivision:

(1) The explanation of the open meeting laws of this state published by the attorney general, pursuant to § 1-11-1; and

(2) Any other material pertaining to the open meeting laws of this state provided by the attorney general.

The agency or subdivision must include in the minutes of the official meeting an acknowledgement that the review was completed.

1-27-1.16. MEETING PACKETS AND MATERIALS.

If a meeting is required to be open to the public pursuant to § 1-25-1 and if any printed material relating to an agenda item of the meeting is prepared or distributed by or at the direction of the governing body or any of its employees and the printed material is distributed before the meeting to all members of the governing body, the material shall either be posted on the governing body's website or made available at the official business office of the governing body at least twenty-four hours prior to the meeting or at the time the material is distributed to the governing body, whichever is later. If the material is not posted to the governing body's website, at least one copy of the printed material shall be available in the meeting room for inspection by any person while the governing body is considering the printed material. However, the provisions of this section do not apply to any printed material or record that is specifically exempt from disclosure under the provisions of this chapter or to any printed material or record regarding the agenda item of an executive or closed meeting held in accordance with § 1-25-2. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to printed material, records, or exhibits involving contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.17. DRAFT MINUTES. The unapproved, draft minutes of any public meeting held pursuant to § 1-25-1 that are required to be kept by law shall be available for inspection by any person within ten business days after the meeting. However, this section does not apply if an audio or video recording of the meeting is available to the public on the governing body's website within five business days after the meeting. A violation of this section is a Class 2 misdemeanor. However, the provisions of this section do not apply to draft minutes of contested case proceedings held in accordance with the provisions of chapter 1-26.

1-27-1.18. WORKING GROUP REPORTS. Any final recommendations, findings, or reports that result from a meeting of a committee, subcommittee, task force, or other working group which does not meet the definition of a political subdivision or public body pursuant to § 1-25-1, but was appointed by the governing body, shall be reported in open meeting to the governing body which appointed the committee, subcommittee, task force, or other working group. The governing body shall delay taking any official action on the recommendations, findings, or reports until the next meeting of the governing body.

APPENDIX C

Conflicts of Interest Information

Code of Conduct and Conflict of Interest Policy for Use By State Authority, Board, Commission, and Committee Members

Purpose

The purpose of this code of conduct and conflict of interest policy (“Code”) is to establish a set of minimum ethical principles and guidelines for members of state authorities, boards, commissions, or committees when acting within their official public service capacity. This Code applies to all appointed and elected members of state authorities, boards, commissions, and committees (hereinafter “Boards” and “Board member(s)”). A Board may add provisions to, or modify the provisions of, the Code. However, any change that constitutes a substantive omission from the Code must be approved by the State Board of Internal Control.

Conflict of Interest for Board Members

Board members may be subject to statutory restrictions specific to their Boards found in state and federal laws, rules and regulations. Those restrictions are beyond the scope of this Code. Board members should contact their appointing authority or the attorney for the Board for information regarding restrictions specific to their Board.

General Restrictions on Participation in Board Actions

A conflict of interest exists when a Board member has an interest in a matter that is different from the interest of members of the general public. Examples of circumstances which may create a conflict of interest include a personal or pecuniary interest in the matter or an existing or potential employment relationship with a party involved in the proceeding.

Whether or not a conflict of interest requires a Board member to abstain from participation in an official action of the Board depends upon the type of action involved. A Board’s official actions are administrative, quasi-judicial or quasi-legislative.

A quasi-judicial official action is particular and immediate in effect, such as a review of an application for a license or permit. In order to participate in a quasi-judicial official action of the Board, a Board member must be disinterested and free from actual bias or an unacceptable risk of actual bias. A Board member must abstain from participation in the discussion and vote on a quasi-judicial official action of the Board if a reasonably-minded person could conclude that there is an unacceptable risk that the Board member has prejudged the matter or that the Board member’s interest or relationship creates a potential to influence the member’s impartiality.

A quasi-legislative official action, also referred to as a regulatory action, is general and future in effect. An example is rule-making. If the official action involved is quasi-legislative in nature, the Board member is not required to abstain from participation in the discussion and vote on the action unless it is clear that the member has an unalterably closed mind on matters critical to the disposition of the action.

Administrative actions involve the day-to-day activities of the Board and include personnel, financing, contracting and other management actions. Most of the administrative official actions of a Board are done through the Board's administrative staff. To the extent Board members are involved, the conflict of interest concern most frequently arises in the area of state contracting which is addressed in more detail below. If issues arise that are not directly addressed by this Code, the Board member should consult with the attorney for the Board.

"Official action" means a decision, recommendation, approval, disapproval or other action which involves discretionary authority. A Board member who violates any of these restrictions may be subject to removal from the Board to which the member is appointed.

Contract Restrictions

There are federal and state laws, rules and regulations that address conflict of interest for elected and appointed Board members in the area of contracts. As an initial matter, a Board member may not solicit or accept any gift, favor, reward, or promise of reward, including any promise of future employment, in exchange for recommending, influencing or attempting to influence the award of or the terms of a state contract. This prohibition is absolute and cannot be waived.

Members of certain Boards are required to comply with additional conflict of interest provisions found in SDCL Chapter 3-23 and are required to make an annual disclosure of any contract in which they have or may have an interest or from which they derive a direct benefit. The restrictions apply for one year following the end of the Board member's term. The Boards impacted by these laws are enumerated within SDCL 3-23-10. For more information on these provisions, see the State Authorities/Boards/Commissions page in the Legal Resources section of the Attorney General's website at: <http://atg.sd.gov/legal/opengovernment/authorityboardcommission.aspx>.

Absent a waiver, certain Board members are further prohibited from deriving a direct benefit from a contract with an outside entity if the Board member had substantial involvement in recommending, awarding, or administering the contract or if the Board member supervised another state officer or employee who approved, awarded or administered the contract. With the exception of employment contracts, the foregoing prohibition applies for one year following the end of the Board member's term. However, the foregoing prohibition does not apply to Board members who serve without compensation or who are only paid a per diem. See SDCL 5-18A-17 to 5-18A-17.6. For more information on these restrictions see the Conflict of Interest Waiver Instructions and Form on the South Dakota Bureau of Human Resources website at: <http://bhr.sd.gov/forms/>.

Other federal and state laws, rules and regulations may apply to specific Boards. For general questions regarding the applicability of SDCL Chapter 3-23 or other laws, a Board member may contact the attorney for the Board. However, because the attorney for the Board does not

represent the Board member in his or her individual capacity, a Board member should contact a private attorney if the member has questions as to how the conflict of interest laws apply to the Board member's own interests and contracts.

Consequences of Violations of Conflict of Interest Laws

A contract entered into in violation of conflict of interest laws is voidable and any benefit received by the Board member is subject to disgorgement. In addition, a Board member who violates conflict of interest laws may be removed from the Board and may be subject to criminal prosecution. For example, a Board member may be prosecuted for theft if the member knowingly uses funds or property entrusted to the member in violation of public trust and the use resulted in a direct financial benefit to the member. See SDCL 3-16-7, 5-18A-17.4, and 22-30A-46.

Retaliation for Reporting

A Board cannot dismiss, suspend, demote, decrease the compensation of, or take any other retaliatory action against an employee because the employee reports, in good faith, a violation or suspected violation of a law or rule, an abuse of funds or abuse of authority, a substantial and specific danger to public health or safety, or a direct criminal conflict of interest, unless the report is specifically prohibited by law. SDCL 3-16-9 & 3-16-10.

Board members will not engage in retaliatory treatment of an individual because the individual reports harassment, opposes discrimination, participates in the complaint process, or provides information related to a complaint. See SDCL 20-13-26.

Anti-Harassment/Discrimination Policy

While acting within their official capacity, Board members will not engage in harassment or discriminatory or offensive behavior based on race, color, creed, religion, national origin, sex, pregnancy, age, ancestry, genetic information, disability or any other legally protected status or characteristic.

Harassment includes conduct that creates a hostile work environment for an employee or another Board member. This prohibition against harassment and discrimination also encompasses sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature, when: (1) submission to or rejection of the harassment is made either explicitly or implicitly the basis of or a condition of employment, appointment, or a favorable or unfavorable action by the Board member; or (2) the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Harassment or discriminatory or offensive behavior may take different forms and may be verbal, nonverbal, or physical in nature. To aid Board members in identifying inappropriate conduct, the following examples of harassment or discriminatory or offensive behavior are provided:

- Unwelcome physical contact such as kissing, fondling, hugging, or touching;

- Demands for sexual favors; sexual innuendoes, suggestive comments, jokes of a sexual nature, sexist put-downs, or sexual remarks about a person's body; sexual propositions, or persistent unwanted courting;
- Swearing, offensive gestures, or graphic language made because of a person's race, color, religion, national origin, sex, age or disability;
- Slurs, jokes, or derogatory remarks, email, or other communications relating to race, color, religion, national origin, sex, age, or disability; or
- Calendars, posters, pictures, drawings, displays, cartoons, images, lists, e-mails, or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age or disability.

The above cited examples are not intended to be all-inclusive.

A Board member who is in violation of this policy may be subject to removal from the Board.

Confidential Information

Except as otherwise required by law, Board members shall not disclose confidential information acquired during the course of their official duties. In addition, members are prohibited from the use of confidential information for personal gain.

Reporting of Violations

Any violation of this Code should be reported to the appointing authority for the Board member who is alleged to have violated the Code.

This Code of Conduct and Conflict of Interest Policy was adopted by the State Board of Internal Control pursuant to SDCL § 1-56-6.

State Board Disclosure Laws
WAIVER & DISCLOSURE DECISION MATRIX
SDCL 3-23-1 et seq.
Effective July 1, 2017

DO I NEED TO DISCLOSE OR REQUEST A WAIVER?

This matrix will assist a current or former state board member in determining whether it is necessary to disclose an interest in a contract or to seek a waiver in order to receive a benefit from a contract with a State agency or with a political subdivision of the State. This matrix is not designed to be used in isolation. Instead, it should be used in conjunction with the State Board Disclosure Law Instructions and Forms, the annual disclosure form prepared by the Attorney General's Office,¹ a review of the Disclosure Laws, and discussions with legal counsel. This matrix is intended as a general guide only and is not by itself determinative of whether disclosure is necessary. The statutes covered by this matrix can be found in HB 1170 and SB 65 from the 2017 legislative session. These laws go into effect on July 1, 2017.

The questions in this matrix may not address your specific situation. In addition, to answer these questions, you should keep in mind that an agreement does not always need to be in writing to be considered a contract. Also, keep in mind that a board member him or herself need not be a party to the contract for the contract to be covered under the disclosure laws. If you have any doubt as to the answer to any of the questions below, you are encouraged to choose "YES" for the purposes of completing the matrix and deciding whether you need to disclose a contractual relationship or request a waiver.

1. Within the last year, was I a member of one of the boards, commissions, or authorities listed below?
 - (1) South Dakota Building Authority;
 - (2) Board of Economic Development;
 - (3) South Dakota Housing Development Authority;
 - (4) South Dakota Health and Education Facilities Authority;
 - (5) Science and Technology Authority Board of Directors;
 - (6) South Dakota Ellsworth Development Authority;
 - (7) South Dakota Commission on Gaming;
 - (8) South Dakota Lottery Commission;
 - (9) State Brand Board;
 - (10) Game, Fish and Parks Commission;
 - (11) Banking Commission;
 - (12) Board of Trustees of the South Dakota Retirement System;
 - (13) Aeronautics Commission;
 - (14) South Dakota State Railroad Board;

¹ This form can be on the Attorney General's website at:
<http://atg.sd.gov/legal/opengovernment/authorityboardcommission.aspx>.

- (15) Transportation Commission;
- (16) South Dakota Board of Education;
- (17) Board of Regents;
- (18) Board of Pardons and Paroles;
- (19) Board of Minerals and Environment;
- (20) Board of Water and Natural Resources;
- (21) South Dakota Railroad Authority;
- (22) Board of Water Management; or
- (23) South Dakota Board of Technical Education.

If YES, proceed to next question.

If NO, no disclosure or request for waiver is needed.²

- 2. Do I have an ownership interest of five percent or greater in any entity that receives grant money from the state, either directly or by a pass-through grant, or that contracts with the state or any political subdivision for services?

If YES, **DISCLOSURE IS NECESSARY FOR CURRENT BOARD MEMBERS ONLY. HOWEVER, NO REQUEST FOR WAIVER IS NEEDED.** Proceed to question 3 to determine if you have additional obligations under the law.

If NO, proceed to the next question.

- 3. Does the contract involve the expenditure of government funds?

If YES, proceed to next question.

If NO, no disclosure or request for waiver is needed unless:

- (a) the contract is with a political subdivision of the state; and
- (b) the political subdivision approves of the contract and is under the regulatory oversight of the authority, board, commission, or the agency to which the authority, board, or commission is attached for reporting or oversight purposes.

If (a) and (b) are satisfied proceed to the next question.

- 4. Is the contract with:
 - a. The state agency to which the authority, board, or commission is attached for reporting or oversight purposes; OR
 - b. With the State and requires approval of the authority, board, or commission; OR

² This matrix does not address conflicts for a board member, fiscal agent, officer, or executive of a local service agency, school district, cooperative education service unit, or education service agency, that receives money from or through the state. However, such persons are also subject to the provisions of HB 1170.

- c. With a political subdivision which is under the regulatory oversight of the authority, board, or commission or under the regulatory oversight of the agency to which the authority, board or commission is attached?

If YES, proceed to next question.

If NO to all, no disclosure or request for waiver is needed.

- 5. Does the contract fit one of the following exceptions:
 - a. The only financial benefit to the board member is the value associated with the member's publicly-traded investments or holdings or the value associated with the investments or holdings of a person with whom the board member lives or commingles assets; OR
 - b. The member's only interest arises from an act of the Board that has general application; OR
 - c. The member is a state employee and authorized to enter into the contract pursuant to SDCL 5-18A-17 through 5-18A-17.6; OR
 - d. The contract is for the sale of goods, or for maintenance or repair services, in the regular course of business at or below a price offered to all customers; OR
 - e. The contract is subject to a public bidding process; OR
 - f. The contract is for the deposit of public funds in a financial institution as otherwise authorized by law?

If YES to any, no disclosure or request for waiver is necessary.

If NO to all, proceed to next question.

- 6. Am I, my spouse, or any other person with whom I live or commingle assets a party to or intended beneficiary of the contract?

If YES, **DISCLOSURE AND REQUEST FOR WAIVER IS NEEDED.**

If NO, proceed to next question.

- 7. Do I, my spouse, or any other person with whom I live or commingle assets have more than a five percent ownership interest in a party to the contract?

If YES, **DISCLOSURE AND REQUEST FOR WAIVER IS NEEDED.**

If NO, proceed to next question.

- 8. Will or do I, my spouse, or any other person with whom I live or commingle assets acquire property under the contract?

If YES, **DISCLOSURE AND REQUEST FOR WAIVER IS NEEDED.**

If NO, proceed to next question.

9. Will or do I, my spouse, or any other person with whom I live or comingle assets receive from a contracting party compensation, commission, promotion, or other monetary benefit directly attributable to the contract?

If YES, **DISCLOSURE AND REQUEST FOR WAIVER IS NEEDED.**

If NO, proceed to next question.

10. Am I, my spouse, or any other person with whom I live or commingle assets employed by a party to the contract?

If YES, **DISCLOSURE IS NECESSARY FOR CURRENT BOARD MEMBERS ONLY. HOWEVER, NO REQUEST FOR WAIVER IS NEEDED.**

If NO, proceed to the next question.

11. Am I, my spouse, or any other person with whom I live or commingle assets serving as a board member of an entity that is a party to the contract and receiving more than nominal compensation for service on such board?

If YES, **DISCLOSURE IS NECESSARY FOR CURRENT BOARD MEMBERS ONLY. HOWEVER, NO REQUEST FOR WAIVER IS NEEDED.**

If NO, no disclosure or request for waiver is necessary.

**State Board Disclosure Laws
Instructions and Forms
SDCL 3-23-1 et seq.
Effective July 1, 2017**

OVERVIEW

This document outlines requirements found in SDCL Chapter 3-23, including updates that take effect on July 1, 2017 (hereinafter “disclosure laws”). The disclosure laws apply to current and certain former members of certain State boards, commissions and authorities (hereinafter “Boards” and “Board Members or Members”). The disclosure laws prohibit a current Board Member absent proper disclosure and/or waiver, from having an interest in, or from deriving a direct benefit from certain contracts with the State or with certain political subdivisions of the State. This document refers to contracts that are implicated under this law as “covered contracts”. The disclosure laws also prohibit certain former Board Members, absent proper waiver, from deriving a direct benefit from covered contracts. The foregoing prohibitions also apply to direct benefits derived by a spouse or other person living with the Board Member or commingling assets with the Board Member. The disclosure laws also do not supplant: existing prohibitions applicable to members of certain State boards, commissions, and authorities; the prohibitions on self-dealing applicable to all public officers found at SDCL 3-16-8; or the prohibitions on State employees receiving dual compensation for serving on a State board, commission, or authority found in SDCL 3-8-4.1.

The most recent updates to the disclosure laws can be found in HB 1170 and SB 65 from the 2017 Legislative Session. SB 65 added the South Dakota Board of Technical Education to the list of authorities, boards, or commissions covered by the law. HB 1170 revised the disclosure laws found in HB 1214 from the 2016 Legislative Session. More specifically, HB 1170 distinguishes between “deriving a direct benefit from” a covered contract and “having an interest in” a covered contract. Under the new law, a current or former Board Member may only derive a direct benefit from a covered contract if the contract is disclosed and a waiver¹ is authorized by the Board. The Board Member must disclose covered contracts in which they “have an interest” only during the Member’s term on the Board. Former Board Members are not subject to the disclosure requirements for contracts in which they have an interest but from which they do not derive a direct benefit.

These instructions include best practices and are not intended to be used in isolation: instead, they should be used in conjunction with a review of the disclosure laws, the State Board Decision Matrix, and the annual disclosure form. Attorneys for the State agency, board, authority or commission may answer general questions about the applicability of the disclosure laws or about the other laws that address self-dealing or dual compensation. However, because these attorneys represent the agency or board, their client is the agency, board, authority or commission: board members in their individual capacity are not their clients, nor do they owe a

¹ The term “waiver” is used to describe the process by which a board reviews and approves of or authorizes a board member’s covered contract.

legal obligation to board members in their individual capacity. These attorneys cannot provide private legal advice regarding the best interests of an individual board member or the board member's employer or business, and cannot guarantee the confidentiality of communications with individual board members. As a result, members are encouraged to contact a private attorney in regard to their individual interests and contracts. Private attorneys may, in turn, contact the attorneys for the state board, authority or commission with questions.

Note that there may be more specific provisions relating to a board, commission or authority than what is set forth in the disclosure laws. In the event the disclosure laws described in these instructions and the laws specific to the board, commission, or authority are different, the more restrictive law will be applied.

SUMMARY OF THE DISCLOSURE LAWS

Who do the disclosure laws apply to?

The disclosure laws apply to individuals who, on or after July 1, 2017, are members of the following State boards, commissions and authorities:

- (1) South Dakota Building Authority;
- (2) Board of Economic Development;
- (3) South Dakota Housing Development Authority;
- (4) South Dakota Health and Education Facilities Authority;
- (5) Science and Technology Authority Board of Directors;
- (6) South Dakota Ellsworth Development Authority;
- (7) South Dakota Commission on Gaming;
- (8) South Dakota Lottery Commission;
- (9) State Brand Board;
- (10) Game, Fish and Parks Commission;
- (11) Banking Commission;
- (12) Board of Trustees of the South Dakota Retirement System;
- (13) Aeronautics Commission;
- (14) South Dakota State Railroad Board;
- (15) Transportation Commission;
- (16) South Dakota Board of Education;
- (17) Board of Regents;
- (18) Board of Pardons and Paroles;
- (19) Board of Minerals and Environment;
- (20) Board of Water and Natural Resources;
- (21) South Dakota Railroad Authority;
- (22) Board of Water Management; and
- (23) South Dakota Board of Technical Education.

What types of contracts are prohibited under the law?

A current Board Member is prohibited from having an interest in or deriving a direct benefit from any contract:

- 1) with the state agency to which the Board is attached for reporting or oversight purposes if the contract requires the expenditure of government funds;
- 2) with the state if the contract requires approval of the Board, and the expenditure of government funds; or
- 3) with a political subdivision of the state if the political subdivision approves the contract and²

² Contracts with political subdivisions do not require the expenditure of government funds to be subject to the disclosure laws.

- a. is under the regulatory oversight of the Board; or
- b. is under the regulatory oversight of the agency to which the Board is attached.

Current and former Board Members are prohibited from deriving a direct benefit from any such contract. Additionally, a former board member may not contract with the board for a year after his or her term ends unless the Board determines that the terms of the contract are fair, reasonable, and in the best interests of the public.

What does it mean to “derive a direct benefit” from a contract?

A current or former Board Member derives a direct benefit from a covered contract if the Member, the Member’s spouse, or a person with whom the Member lives or commingles assets:

- 1) Is a party to or intended beneficiary of the covered contract;
- 2) Has more than a five percent ownership interest in an entity that is a party to the covered contract;
- 3) Acquires property under the covered contract; or
- 4) Will receive from a party to the covered contract compensation, commission, promotion or other monetary benefit that is directly attributable to the covered contract.

What does it mean to have “an interest” in a contract?

A current Board Member has an interest in a covered contract if the Member, the Member’s spouse, or a person with whom the Member lives or commingles assets:

- 1) Is employed by a party to the covered contract (but does not receive any compensation, commission, promotion or other monetary benefit directly attributable to the covered contract); OR
- 2) Receives more than nominal compensation or reimbursement for actual expenses for serving on the board of directors of an entity that derives income or commission directly from the covered contract or that acquires property under the covered contract.

What is not covered under the terms “derive a benefit” or “have an interest”?

A current or former Board Member does not need to disclose or request a waiver for a contract if:

- 1) The derived benefit or interest is based solely on the value associated with the Member’s publicly-traded investments or holdings, or the investments or holdings of any other person with whom the member lives or commingles assets; or
- 2) The Member’s benefit or interest is only from an act of the Board that has general application, such as a decision by the Board to increase or decrease a fee that many South Dakotans pay; or

- 3) The Member is a state employee and authorized to enter into the contract pursuant to SDCL 5-18A-17 through 5-18A-17.6; or
- 4) The covered contract is for the sale of goods, or for maintenance or repair services, in the regular course of business at or below a price offered to all customers;
- 5) The contract is subject to a public bidding process; or
- 6) The contract is for the deposit of public funds in a financial institution as otherwise authorized by law.

How can a Board Member obtain a waiver for a direct benefit?

A current or former Board Member who derives a direct benefit from a covered contract that is entered into or renewed on or after July 1, 2017, will need to obtain a waiver for those contracts. A waiver may be granted to authorize a direct benefit from a covered contract if the following conditions are met:

1. The Board Member provides a full disclosure to the Board, including:
 - a. The parties to the covered contract;
 - b. The Member's role in the contract;
 - c. The purpose and objective of the contract;
 - d. The consideration or benefit conferred or agreed to be conferred upon each party;
 - e. The duration of the contract;
2. The Board finds that the terms of the covered contract are fair, reasonable, and not contrary to the public interest; and
3. The authorization by the Board is a public record included in the official minutes of the Board that are filed with the auditor-general and attorney general.

Note: For record keeping purposes, it is advisable that Board Members use the attached forms to provide written disclosure of a direct benefit and that Boards use the attached forms for authorization for the Member to derive the direct benefit. The forms should be included with the minutes.

All efforts should be made to disclose and seek authorization before the Board Member derives a direct benefit from the covered contract. However, a Board Member may disclose and seek authorization for a contract up to forty-five days after the contract has been executed. The Board Member may not participate in the discussion or vote regarding the Board's approval of the waiver.

Once a waiver is obtained, further disclosure or authorization is not required unless the contract extends into consecutive fiscal years. If so, the contract must be disclosed at least annually but no additional waiver is required. A form for annual disclosure is available on the Attorney General's website: <http://atg.sd.gov/legal/opengovernment/authorityboardcommission.aspx>.

Under what circumstances can a current board member have an interest in a contract?

A current Board Member may have “an interest in” a covered contract if the Board Member discloses, on at least an annual basis (no later than the first meeting after July 1 of each year), the contract giving rise to the interest and the Board Member’s role in that contract.³ The covered contract must not violate any other provision of law and the disclosure must be included in the minutes of the Board that are publicly available and are filed with the auditor-general and attorney general. The Member shall make an annual disclosure of covered contracts in which the Member has an interest using a form which is available on the website for the Office of Attorney General at: <http://atg.sd.gov/legal/opengovernment/authorityboardcommission.aspx>. The Member must also disclose, on at least an annual basis, any ownership interest of five percent or greater in any entity that receives grant money from the state, either directly or by pass-through grant, or that contracts with the state or with any political subdivision for services (“ownership disclosures”).

What are some examples of how the law would be applied?

1. A current commissioner of Game, Fish and Parks enters into a contract with Game Fish and Parks for the landscape design at a new state park facility. This is a contract with the state agency to which the Game, Fish and Parks Commission is attached. Accordingly, the contract is allowable only if properly disclosed and waiver is sought and secured from the Commission.
2. A current member of the State Board of Education lives with and commingles assets with a person who owns a commercial property development firm. The local school district enters into a purchase agreement to buy certain property from the firm. This is a prohibited contract with a political subdivision of the State (the school district) that is under the regulatory authority of the Board of Education. The contract is allowable only if properly disclosed and waiver is sought and secured from the Board.
3. A current Aeronautics Commission member owns a construction company. The construction company contracts with the State for the construction of air navigation facilities. Such facilities must be approved by the Aeronautics Commission pursuant to statute. This is a prohibited contract because it is with the State and requires approval of the Aeronautics Commission. The contract is allowable only if properly disclosed and waiver is sought and secured from the Commission.
4. A member of the Board of Economic Development sits on the board of a non-profit organization which provides job training. The organization applies for and receives a loan from the Board of Economic Development to build a new job training center. The board member receives a \$10,000 per year stipend for serving on the organization’s

³ As noted above, former Board Members are not required to disclose contracts in which they have an interest but from which they do not derive a direct benefit.

board. This is a prohibited contract because the member receives more than nominal compensation for service on the non-profit board and, as a result, has an interest in a covered contract. The contract is only allowable if the person properly discloses to the Board of Economic Development the contract and the member's relationship to the non-profit organization. No waiver is necessary.

GUIDANCE FOR BOARD MEMBERS

How can I obtain a waiver?

If a waiver is necessary, a written request for a waiver should be submitted to the Board prior to a meeting. This should be done as soon as the Member is aware that he or she has or will derive a direct benefit from a covered contract. If in doubt whether a direct benefit exists, disclose and request a waiver.

Briefly describe the parties to the covered contract. Briefly describe your role in the contract and how any relationship you have may give rise to the necessity for a waiver, including how you, your spouse or anyone with whom you live or commingle assets might derive a direct benefit from the contract. Examples of persons other than your spouse might include a girlfriend, boyfriend, roommate, or an adult child.

Briefly describe the purpose and objective of the covered contract. What goods or services are provided? What project is the contract for?

Briefly describe the consideration or benefit conferred or agreed to be conferred upon each party to the covered contract. How much money is being paid directly? Are there any bonuses or commissions involved?

Briefly describe the duration of the covered contract. What is the anticipated timeline for completion?

THE REQUEST FOR WAIVER IS A PUBLIC DOCUMENT THAT WILL BE OPEN TO PUBLIC INSPECTION.

CAUTION: The failure of a Board to act on a request for a waiver does not mean the waiver was or will be allowed. The Board Member requesting waiver is responsible to follow up on waiver requests as necessary.

CAUTION: No “blanket” waivers may be granted under the disclosure laws. For example, a Board Member could not seek approval to derive a direct benefit from “any land lease transaction with the Department of Game, Fish and Parks.” Because the Board must review the terms of the contract to determine that the terms are fair, reasonable and not contrary to the public interest, each contract must be given separate approval. Some Boards may need to schedule special meetings depending on how often the Board meets or the frequency of waiver requests.

How do I disclose a contract?

Disclosures not requiring authorization or waiver by the Board, including disclosures of covered contracts in which the Member has an interest, disclosures of direct benefits which were previously authorized by the Board, and ownership disclosures, should be done on at least an

annual basis. If in doubt whether an interest exists, disclose. Disclosures should be completed using the annual disclosure form available on the website for the Office of Attorney General at: <http://atg.sd.gov/legal/opengovernment/authorityboardcommission.aspx> and sent to the Auditor-General and Attorney General after review by the Board.

What are the penalties for failing to comply with the law?

Any Board Member who knowingly violates the provisions of the disclosure laws shall be removed from the Board and is guilty of a Class 1 misdemeanor. The covered contract is voidable by the Board and any benefit that the Board Member received from the contract is subject to disgorgement. In the event that the Board Member is also guilty of theft under SDCL Chapter 22-30A, including theft by direct criminal conflict of interest,⁴ his or her criminal penalty is enhanced. However, a Board Member who has submitted a good faith request for a waiver related to a direct benefit cannot be convicted of violation of the disclosure laws in connection with the covered contract.

⁴ Created by Chapter 98, 2017 Session Laws, effective July 1, 2017.

GUIDANCE FOR THE BOARD

What are best practices for acting on a request for waiver from a board member?

A procedure for receiving and distributing waiver requests prior to a meeting should be adopted. Boards are also advised to have a standing item at the beginning of their meeting agendas during which the Board will address disclosures and waiver requests. The request for a waiver should be reviewed by the other Board Members prior to the Board meeting and, to the extent necessary, the other Board Members should be prepared to ask the requesting Board Member questions during the meeting in order to determine whether the contract is eligible for waiver.

In the interest of fairness to Board Members requesting waivers and persons with whom they may be dealing, all waiver requests should be decided at the meeting in which the request is brought forth. Boards are advised to conduct special meetings if necessary for timely action on a waiver request. If you deem the request form incomplete, you should ask for additional information from the requesting Board Member during the meeting, rather than delaying action on the request.

Unless readily apparent from the disclosure or written request, you should ask questions to determine the requesting party's relationship to the contract; the requesting party's relationship to the outside contracting party; whether the contract terms are fair, reasonable and not contrary to the public interest; and any other questions you believe will help establish the facts and circumstances surrounding the contract and the request for waiver.

The requesting Board Member should be prepared to answer any questions the Board may have. Then, the requesting Board Member should leave the meeting while the other Board members discuss the request and determine whether authorization for a waiver is appropriate. The request and the Board's determination shall be included in the minutes of the meeting. The Board should avoid using an incomplete request form as a reason to extend the time for review if the needed information is readily provided by the Board Member.

If the authorization is granted, the decision must be included in the meeting minutes. In addition, following the meeting, a written authorization should be prepared using the appropriate State Board Disclosure Laws Waiver Authorization form, signed by the chair of the Board or other authorized Board Member, and filed with the Auditor General and Attorney General.

Minutes may be filed with the attorney general by email attachment in PDF format and sent to ATGMinutes@state.sd or sent by mail to: Office of Attorney General Attn: Board Minutes 1302 E. Highway 14, #1 Pierre, SD 57501	Minutes may be filed with the auditor-general by email attachment in PDF format to: DLAMinutes@state.sd.us or sent by mail to: Department of Legislative Audit 427 S Chapelle c/o 500 E Capitol Pierre, SD 57501
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STATE OF SOUTH DAKOTA

(insert name of board/commission/authority)

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23 (current member)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated _____, was received from
_____. The request was acted upon by the members of
_____ (insert name of board/commission/authority) during a meeting held on
_____.

(check one)

_____ The request for waiver was denied for the following reasons:

_____ The request for waiver was authorized for the following reasons:

_____ The request for waiver was authorized subject to the following conditions:

Signature of Chairperson or Authorized Member

Date

Printed Name: _____

Date sent to Auditor-General _____ Date sent to Attorney General _____

STATE OF SOUTH DAKOTA

(insert name of board/commission/authority)

STATE BOARD DISCLOSURE LAWS
WAIVER AUTHORIZATION
PURSUANT TO SDCL 3-23 (former member)

THIS IS A PUBLIC DOCUMENT

A written request for waiver dated _____, was received from
_____. The request was acted upon by the members of
_____ (insert name of board/commission/authority) during a meeting held on
_____.

(check one)

_____ The request for waiver was denied for the following reasons:

_____ The request for waiver was authorized for the following reasons:

_____ The request for waiver was authorized subject to the following conditions:

Signature of Chairperson or Authorized Member Date

Printed Name: _____

Date sent to Auditor-General _____ Date sent to Attorney General _____