

Powers of the Aeronautics Commission

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 Commission may periodically review these powers and evaluate its performance, with assistance from DOT staff, in carrying out these powers. In consideration of needed changes, either legislative, process, or administrative, the Commission will need to follow state procedure requirements for making changes.

The Aeronautics Commission exercises the following powers:

A. Advisory Functions

1. Performs advisory functions as defined in SDCL 1-32-1 with respect to programs associated with the Aeronautics Commission. *SDCL 1-44-11(1)*.
 - "Advisory function" means furnishing advice, gathering information, and making recommendations. *SDCL 1-32-1(2)*. **N/A**
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*. **N/A**
3. Reports to the Governor each year concerning Commission proceedings and any recommendations pertaining to its affairs. *SDCL 50-2-4*. **Reported on 12-30 to the governor.**

B. Funding Functions

1. Performs special budgetary functions, as defined in SDCL 1-32-1, and provided for by SDCL 50-4-12 to 50-4-17, 50-2-12, 50-7-10, 50-7-15 to 50-7-19, and chapter 50-4. *SDCL 1-44-11(2)*.
 - "Special budgetary function" is a category of administrative functions and means any statutory power granted to an agency with respect to the receipt, or the approval of budgets or allocations, or the disbursement and expenditure of special revenue funds, capital projects funds, debt service funds, trust and agency funds, public service enterprise funds, and working capital or internal service funds as defined by SDCL 4-4-4. *SDCL 1-32-1(13)*. **N/A**
2. Approves expenditure and disbursement of grants or funds appropriated and available for matching purposes and for the construction, development, operation, and maintenance of airport facilities. *SDCL 50-2-12*. **A/C is involved through the normal AIP program, and they are involved to the extent of providing a state match. This performance measure was met based on timely approval of grant project needs. The Commission has also approved projects outside of the normal program.**
3. Budgets, allocates, disburses and expends state aeronautics funds for the following purposes: **See comments from question 2.**
 - Construction, development, and maintenance of public airports.

- Lighting, marking and maintenance of runways, taxiways and parking areas of public airports licensed by the Commission, in proportion to the amount of 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.
- Matching of funds made available by the United States, this state, or any political subdivisions of this state for the purchase of sites for airports, and for the construction, development, and maintenance of the airports in amounts as the Commission may determine.
- Paying of salaries, office expenses, traveling and other expenses of the Commission and the department staff to carry out the responsibilities defined in SDCL chapter 50-2. **Below, please find a summary of expenses.**

Aeronautics Program			
Center: 111142			
	FY21	FY22	FY23
	Actual	Operating	Budgeted
Salaries	\$ 223,467	\$ 254,580	\$ 254,580
Benefits	\$ 74,804	\$ 88,361	\$ 88,361
Total Personal Services	\$ 298,271	\$ 342,941	\$ 342,941
Travel	\$ 4,260	\$ 29,708	\$ 29,708
Contractual	\$ 47,044	\$ 81,575	\$ 81,575
Supplies	\$ 8,232	\$ 34,041	\$ 34,041
Grants	\$ -	\$ 3,600	\$ 3,600
Capital	\$ -	\$ -	\$ -
TOTAL Operating Expenses	\$ 59,536	\$ 148,924	\$ 148,924
Grand Total	\$ 357,807	\$ 491,865	\$ 491,865

SDCL 1-44-11(2);50-4-14; 50-4-16.

4. Allocates a portion of aircraft fuel tax collected pursuant to SDCL 10-47B-1 and 10-47B-4 to each eligible airport. *SDCL 50-4-16.* **Yes, see below for fuel tax projects list approved in 2021.**
 - Gettysburg \$444.65 Runway lights
 - Gettysburg \$665.96 Beacon light
 - Sioux Falls \$488,756.00 Snow Removal Equipment
 - Hot Springs \$1008.43 AWOS equipment
5. Authorizes the department to enter into financing agreements with governmental entities to finance airport improvements from moneys available to the Commission; and receive reimbursement and interest on financed amounts. *SDCL 50-7-15; 50-7-16.* **Yes**
6. Withholds future funding from local zoning authorities that do not enact proper zoning in relation to airports. *SDCL 50-10-6.1.* **N/A**

C. Regulatory Authority Over Airports and Other Air Navigation Facilities

1. Fosters air commerce and supervises the aeronautical activities and facilities within the state, including supervision and control over airports, air marking, air beacons, and all other air navigation facilities. *SDCL 50-2-5*. **Yes, the AC provided cones and attended the airports conference, and purchase prizes for the art contest.**
2. Prescribe and provide forms for reporting to the department the number of gallons of aircraft fuel sold in South Dakota to retailers and consumers at wholesale. *SDCL 50-4-12*. **N/A**
3. Approves public airports prior to use, and issues certificates of approval, and may impose conditions on approval. *SDCL 50-5-1; 50-5-3; 50-5-6; ARSD 70:02:04:02; 70:02:04:06; 70:02:04:07; 70:02:04:11*. **Yes, annually in coordination with the SDDOT's inspection program**
4. Approves private airports located within six statute miles of the nearest boundary of any approved public airport and issues certificates of approval. *SDCL 50-5-1; 50-5-3; ARSD 70:02:04:06*. **N/A**
5. Reviews and approves applications for temporary field permits. *ARSD 70:02:04:17*. **N/A**
6. Orders the closing of airports or other air navigation facilities until compliance with requirements established by the Commission. *SDCL 50-5-7*. **Isabel was on conditional approval of state license for tree removal purposes.**
7. Inspects or has its agent inspect any premises, buildings and other structures where airports or aviation facilities are operated. *SDCL 50-5-8*. **SDDOT inspected 65 airports**
8. Waives airport licensing requirements imposed by administrative rule. *ARSD 70:02:04:19*. **N/A**
9. Must be provided an FAA determination of no hazard prior to a person's or organization's construction or alteration of structures subject to FAA's jurisdiction. The Commission may request pursuit of criminal charges for a violation of this notification provision. *SDCL 50-9-1*. **The Commission received 13 notifications of FAA no hazard determination.**
10. Institutes court actions to prevent, restrain, correct or abate violations of airport zoning statutes, regulations, orders or rulings. *SDCL 50-10-27*. **N/A**
11. Prescribes forms relating to the assessment, collection and return of additional original registration tax imposed under *SDCL 50-11-9; SDCL 50-11-19; SDCL 50-11-21*. **N/A**

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, 50-12, and 50-13*. *SDCL 1-44-11(3)*.
 - "Quasi-judicial function" means an adjudicatory function exercised by an agency, involving the exercise of judgment and discretion in making

determinations in controversies. The term includes the functions of interpreting, applying, and enforcing existing rules and laws; granting or denying privileges, rights, or benefits; issuing, suspending, or revoking licenses, permits and certificates; determining rights and interests of adverse parties; evaluating and passing on facts; awarding compensation; fixing prices; ordering action or abatement of action; holding hearings; adopting procedural rules or performing any other act necessary to effect the performance of a quasi-judicial function. *SDCL 1-32-1(10)*.

2. Adopting, repealing, and modifying administrative rules as provided by law. The Commission is authorized to promulgate rules in accordance with chapter 1-26 that are consistent with federal law and regulations governing aeronautics, for example:
 - Assessment, collection and return of the additional original registration tax imposed by SDCL 50-11-19. *SDCL 50-11-21*.
 - Aircraft dealer licensing. *SDCL 50-12-20*.

Title 50 re-write performed over 3-year period

E. Quasi-Judicial Functions

1. Performs quasi-legislative and 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, 50-12, and 50-13. *SDCL 1-44-11(3)*.
 - "Quasi-legislative function" means making or having the power to make and promulgate rules as defined in subdivision 1-26-1(8). *SDCL 1-32-1(11)*.
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; ARSD 70:02:04:05*. **The Commission granted 1 appeal concerning the renewal of an aircraft dealer license.**
3. Holds hearings and issues decisions on the revocation, suspension or nonrenewal of aircraft dealer licenses. *50-12-17*. **N/A**
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. *ARSD 70:02:01:03*. **N/A**
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*. **N/A**

F. Conflicts of Interest

1. Authorize Commission members to derive a direct benefit from a contract. *SDCL 3-23-3*. **Yes.**

G. Miscellaneous

1. Allow the operation of its aircraft for other departments of state government. *SDCL 50-2-15. N/A*

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