

# Combining of the Aeronautics Commission, State Railroad Board, and Transportation Commission

Different transportation modes (air, rail and highway) are increasingly connected in a developing world, and the citizens and State would be better served by a unified intermodal governing commission with knowledge and expertise across the different transportation modes.

Currently, there are four Boards/Commissions within the South Dakota Department of Transportation:

- The South Dakota Aeronautics Commission - primary duty is to foster air commerce, and to provide supervision and control over aeronautical facilities and activities within the state.
- The South Dakota State Railroad Board - primary duties include the matters of operation, management, finance, marketing and development of rail service over all properties and facilities acquired, leased or controlled by the state, and the promotion of rail service.
- The South Dakota Railroad Authority - primary duties include bonding authority for railroad projects. Note: By statute, the Railroad Authority is comprised of the members of the Railroad Board.
- The Transportation Commission - primary duties are related to the development, maintenance, and supervision of the state trunk highway system.

Each of these boards/commissions is composed of separate individuals appointed by the Governor and perform their duties separate from one another.

**Summary of the Bill:** The bill would eliminate the separate Aeronautics Commission and Railroad Board and move those duties to the Transportation Commission, thus creating a Transportation Commission that encompasses all the transportation related functions that are currently separate.

The membership of the Transportation Commission would also change to include members with knowledge and experience in railroad and aeronautics matters. The Railroad Authority responsibilities would be left intact, but the Transportation Commission members would serve as the Railroad Authority. By including members with railroad and aeronautics knowledge and experience in the Transportation Commission, expertise in the other modes is retained, and all transportation related issues would then be handled by this one Commission.

## 2026 Bill Draft: Combining Board/Commission

FOR AN ACT ENTITLED,

### **An Act to revise the South Dakota Transportation Commission**

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

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

**1-44-4. Transportation Commission created—Appointment and qualifications of members.**

There is created the Transportation Commission within the Department of Transportation. The Transportation Commission consists of nine members. The Governor shall appoint the members. All members are full voting members of the commission. Not all members of the commission may be from the same political party. No two members may at the same time be a resident of the same county. At least two members shall have experience in the use or operation of rail service. At least two members shall have experience in aeronautics.

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

**1-44-11. Performance of Aeronautic functions of ~~Aeronautics~~ Transportation Commission.**

The Department of Transportation shall, under the direction and control of the secretary of transportation, perform all the functions of the ~~Aeronautics~~ Transportation Commission relating to aeronautics, aircrafts and aviation 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 Section 9 of this Act and chapter chapters 50-4 and 50-7;~~
- (3) Quasi-legislative and quasi-judicial functions, as defined in § 1-32-1, provided for by chapters ~~50-2, 1-44,~~ 50-5, 50-9, 50-10, 50-11, and 50-12.

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

#### **1-44-20. Powers of department as to railroads.**

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

#### **Section 4.** That § 1-44-25 be REPEALED.

~~The South Dakota State Railroad Board consists of seven members to be appointed by the Governor. Members shall serve a three year term. No more than five members may be of the same political party. No person may be appointed to the board who is an elected official of the State of South Dakota or any subdivision thereof. Any member appointed to fill a vacancy arising from other than the natural expiration of a term shall serve only for the unexpired term, but may be reappointed to a full term. The board shall annually choose from its membership a chair, a vice chair, and a secretary-treasurer. No member may be removed from office except for cause.~~

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

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

#### **Section 5.** That § 1-44-26 be REPEALED.

~~At least one member, in the opinion of the Governor, shall be a person experienced in or having a favorable reputation for skill, knowledge, and experience in business management. At least one member, in the opinion of the Governor, shall be a person experienced in or having a favorable reputation for skill, knowledge, and experience in the operation of railroad service. At least one member, in the opinion of the Governor, shall be a person experienced in or having a favorable reputation for skill, knowledge, and experience in private or public finance. At least one member, in the opinion of the Governor, shall be a person experienced in or having a favorable reputation for skill, knowledge, and experience in marketing. At least one member of the commission shall be, in~~

~~the opinion of the Governor, a person who is a user of rail service. Two members shall be from the public at large.~~

**Section 6.** That § 1-44-27 be AMENDED.

The Department of Transportation shall obtain the approval of the ~~Railroad Board~~ Transportation Commission in the matters of operation, management, finance, marketing, and development of rail service over all properties and facilities acquired, leased, or controlled by the state.

**Section 7.** That § 1-44-30 be AMENDED.

**1-44-30. Rules for management of property.**

Pursuant to chapter 1-26, the ~~railroad board~~ transportation commission shall adopt and publish rules to implement § 1-44-29. The ~~railroad board~~ transportation commission may, by ~~board~~ resolution, implement the provisions of § 1-44-28 and need not implement such provisions pursuant to §§ 1-26-4 to 1-26-14, inclusive.

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

The Transportation 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 Transportation Commission may also approve expenditures from the state aeronautics fund to support the advancement of aviation and aviation commerce within the state.

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

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

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

A party may appeal any act, ruling, or decision by the Transportation Commission regarding operating licenses for airports, in accordance with chapter 1-26.

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

The funds received from the other departments of state government by the department for the use of its state aircraft, when they are not being used in the conduct of the necessary activities of 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.

**Section 12.** That a NEW SECTION be added to chapter 1-44:

The Department of Transportation 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.

**Section 13.** That § 3-23-10 be AMENDED.

**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)~~ (13) Transportation Commission;
- ~~(16)~~ (14) South Dakota Board of Education Standards;
- ~~(17)~~ (15) Board of Regents;
- ~~(18)~~ (16) Board of Pardons and Paroles;

- (19) (17) Board of Minerals and Environment;
- (20) (18) Board of Water and Natural Resources;
- (21) (19) South Dakota Railroad Authority;
- (22) (20) Board of Water Management; and
- (23) (21) Board of Technical Education.

**Section 14.** That § 4-8-17.1 be AMENDED.

**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.

**Section 15.** That § 10-28-21.6 be AMENDED.

**10-28-21.6. Promulgation of rules on capital expense tax credits.**

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

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

There is created the South Dakota Railroad Authority, a body corporate and politic. The governing board of the South Dakota Railroad Authority shall be comprised of the members of the South Dakota Transportation Commission ~~State Railroad Board~~, as provided by § ~~1-44-25~~ 1-44-4.

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

The authority shall receive approval for all proposed expenditures from the South Dakota Transportation Commission ~~Railroad Board~~ and the Governor.

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

**49-16C-3. Loans to regional railroad authorities--Procedure.**

The South Dakota ~~State Railroad Board~~ Transportation Commission may upon the written approval of the Governor make loans from the railroad trust fund to regional railroad authorities upon such terms and conditions as the ~~State Railroad Board~~ Transportation Commission may determine. The South Dakota ~~State Railroad Board~~ Transportation Commission shall adopt rules, pursuant to chapter 1-26 establishing the procedures for loan application and approval.

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

**49-16C-4. Interest and fees on loans to regional authorities.**

The South Dakota ~~State Railroad Board~~ Transportation Commission may set from time to time the interest rates at which it shall make the loans provided for in § 49-16C-3. In addition to such interest charges, the board may make and collect such costs, fees, and other charges as the board may deem necessary.

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

**49-16C-5. Expenditures to match federal funds.**

The South Dakota ~~State Railroad Board~~ Transportation Commission may, ~~with the approval of the Governor,~~ expend funds from the railroad trust fund to match federal railroad rehabilitation funds.

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

**49-16C-6. Expenditure to join other states in preserving certain railroad.**

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

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

**50-1-1. Definitions.**

Terms as used in this title mean:

- (1) "Air traffic control," a service operated by an authority under Federal Aviation Administration oversight to promote the safe, orderly, and expeditious flow of air traffic in the United States;

- (2) "Aircraft," a device that is used, intended to be used, or designed for flight in the air. The term includes any airplane, balloon, drone, glider, and helicopter;
- (3) "Aircraft dealer," any person, manufacturer, or distributor engaged in the business of buying, selling, exchanging, or acting as a broker for three or more aircraft in any twelve consecutive months, other than a business liquidation of used aircraft;
- (4) "Airport," any area of land or water used, or intended to be used, for landing and take-off of aircraft, and any appurtenant area, structure, facility, or right of way to facilitate that use;
- (5) "Airport authority," a government entity created under this chapter for the purpose of acquiring, establishing, contracting, maintaining, improving and operating airports and other navigation facilities;
- (6) "Airport facility," any property, structure, mechanism, machinery, light, beacon, communicating system, or other equipment or device used as an aid to the safe taking off and landing of aircraft, or the safe and efficient operation or maintenance of an airport;
- (7) "Airport hazard," any existing or potential condition that can endanger the life or property of a user of an airport, any airport facility, or any occupant of land in the vicinity of an airport;
- (8) "Airport sponsor," a public agency, private owner, state entity, or other political subdivision that is associated with a public use airport facility and is a recipient of any federal airport improvement grant;
- (9) "Anemometer tower," a structure, including any guy wire or accessory facility, on which an anemometer is mounted;
- (10) "Aviation facility," any facility that supports aviation activities, including any airport, heliport, and navigational aid;
- (11) "Balloon," an aircraft that is not engine-driven, is lighter than air, and sustains flight through the use of gas buoyancy or an airborne heater;
- (12) "Commercial purpose," an aviation activity for profit that includes flight instruction, charter, air taxi, or rental, but does not include the substitution of a commercial use stamp for regular aircraft registration for the promotion of a business or other purpose that does not involve aviation;
- (13) "Commission," the South Dakota ~~Aeronautics Commission~~ Transportation Commission;
- (14) "Controlled airspace," any airspace of specific and defined classifications and dimensions inside of which air traffic control services are provided;
- (15) "Department," the Department of Transportation;



- (16) "Drone," an unmanned aircraft (UA);
- (17) "Helipport," an area of land, water, or a structural surface, used or intended for use as a landing and take-off area for helicopters;
- (18) "Military airport," any military air base, air station, airfield, or other area, publicly or privately owned, that is designed, set aside, and operated by the state, a political subdivision of the state, or the United States, for civil or national defense, or for any federal program relating to flight, or for the operation of military aircraft, and used in the interest of the public for those purposes;
- (19) "Navigational aid," an aviation facility which is external to an aircraft specifically intended to assist a pilot in determining the aircraft's position and safe course;
- (20) "Obstruction," any structure or obstacle, or use of land, that obstructs an aerial approach of an airport or is otherwise hazardous to the use of an airport by aircraft for landing or taking off;
- (21) "Place of business," a permanent enclosed structure at which a permanent business of bartering, trading, or selling aircraft is carried out in good faith. The term does not include any residence, tent, stand, or any other temporary structure;
- (22) "Prescribed adjusted height," a height adjusted upward seventeen feet for an interstate highway, fifteen feet for any other public road, ten feet or the height of the highest mobile object that would normally traverse the road, whichever is greater, for a private road, and twenty-three feet for a railroad;
- (23) "Private airport," any privately-owned airport that is available for use only by the owner and the owner's invitees;
- (24) "Public airport," any airport, whether publicly or privately owned, that is available for use by the public;
- (25) "Small unmanned aircraft," a UA that weighs not more than fifty-five pounds, (twenty-five kilograms) including everything that is onboard or otherwise attached to the aircraft;
- (26) "Small unmanned aircraft system" or "sUAS," any small unmanned aircraft and its associated elements including communication links and the components that control the UA that are required for the safe and efficient operation of the UA;
- (27) "Temporary airport," any airport established and set aside for the operation of aircraft for transitory or impermanent purposes;

- (28) "Unmanned aircraft" or "UA," an aircraft operated without the possibility of direct human intervention from within or on the aircraft.

**Section 23.** That chapter 50-2 be REPEALED.

**Section 24.** That § 50-5-1.2 be AMENDED.

The ~~Aeronautics Commission~~ 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.