

2023 South Dakota Legislature

House Bill 1126**AMENDMENT 1126A
FOR THE INTRODUCED BILL**

1 **An Act to revise the fee for a utility to cross a railroad right-of-way.**

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

3 **Section 1. That § 49-16A-100.5 be AMENDED:**

4 **49-16A-100.5.** Unless otherwise agreed by the parties, and except as provided
5 below, a utility that crosses a railroad right-of-way, ~~other than a crossing within the public~~
6 ~~right-of-way, shall~~must pay the railroad a one-time standard crossing fee of **seven**
7 **hundred fifty~~fourteen hundred~~ dollars for each crossing. The standard crossing fee is in
8 lieu of any license, permit, application, processing fee, or any other fees or charges to
9 reimburse the railroad for the direct expenses incurred by the railroad as a result of the
10 crossing. No other fee may be assessed by the railroad or by any railroad agent,
11 contractor, or assignee to the utility or to any agent or contractor of the utility. The utility
12 ~~shall~~must also reimburse the railroad for any reasonable and necessary flagging expense
13 associated with a crossing, based on the railroad traffic at the crossing, in addition to the
14 standard crossing fee. ~~No crossing fee is required if the crossing is located within a public~~
15 ~~right-of-way.~~**

16 A crossing fee may only be charged for a utility that crosses a railroad right-of-way
17 within a public right-of-way if the railroad existed before the public right-of-way.

18 **Section 2. That § 49-16A-100.10 be AMENDED:**

19 **49-16A-100.10.** Sections 49-16A-100.2 to 49-16A-100.9, inclusive, apply to:

- 20 (1) Any crossing in existence before July 1, 2014, ~~if an agreement concerning the~~
21 ~~crossing has expired or is terminated. In such that~~ instance, if the collective amount
22 of **seven hundred fifty**~~fourteen hundred~~ dollars has been paid to the railroad during
23 the existence of the crossing, no additional fee is required; and
24 (2) Any crossing commenced on or after July 1, 2014.