

On page 1, line 2, of the Introduced bill, after "facilities" insert ", to "

On page 1, line 2, of the Introduced bill, after "facilities" insert "allow counties to impose a surcharge"

On page 1, line 2, of the Introduced bill, after "facilities" insert " on certain pipeline companies,"

On page 1, after line 3, of the Introduced bill, insert: "

**Section 1. That a NEW SECTION be added to chapter 10-4:**

Pipelines for the transmission of carbon dioxide are not subject to any discretionary formulas authorized by this title."

On page 1, after line 3, of the Introduced bill, insert: "

**Section 2. That § 10-37-3 be AMENDED:**

**10-37-3.** Any pipeline company having lines in this state shall annually, on or before April fifteenth of each year, make out and deliver to the Department of Revenue a statement, verified by the oath of an officer or agent of such pipeline company making such statement, showing in detail for the year ended December thirty-first next preceding:

- (1) The name of the company;
- (2) The nature of the company, whether a person or persons, an association, copartnership, corporation or syndicate, and under the laws of what state organized;
- (3) The location of its principal office or place of business;
- (4) The name and post office address of the president, secretary, auditor, treasurer, and superintendent or general manager;
- (5) The name and post office address of the chief officer or managing agent in this state;
- (6) The whole number of miles of pipeline owned, operated, or leased within the state, including a classification of the size, kind, and weight thereof, separated, so as to show the mileage in each county, and each lesser taxing district;
- (7) A full and complete statement of the cost and actual present value of all buildings of every description owned by said pipeline company within the state and each lesser taxing district, not otherwise assessed;
- (8) The number, location, size, and cost of each pressure pump or station;
- (9) Any and all other property owned by said pipeline company within the state which property shall be classified and scheduled in such a manner as the secretary of revenue may by rule promulgated pursuant to chapter 1-26 require;
- (10) The gross earnings of the entire company, and the gross earnings on business done within this state;

- (11) The operating expenses of the entire company and the operating expenses within this state; and
- (12) The net earnings of the entire company and the net earnings within this state; and
- (13) Whether or not the pipeline company that installs a pipeline for carbon sequestration claims a tax credit under 26 U.S.C 45Q (January 1, 2024) in that year."

On page 1, after line 3, of the Introduced bill, insert: "

**Section 3. That § 10-37-9 be AMENDED:**

**10-37-9.** The Department of Revenue shall on the fifth day of July of each year determine the linear footage of carbon dioxide pipeline installed in each county, if any, and determine the true and actual value of pipeline property located in each taxing district of the state, and in fixing said value shall take into consideration the structures, equipment, pumping stations, etc., located in said taxing district, and shall transmit to the county auditor of each such county through and into which any pipeline may extend, a statement showing the assessed value of said property in each of the taxing districts of said county. The said property shall then be taxed in said county and lesser taxing districts, based upon the valuation so certified, in the same manner as other property is taxed. Any pipeline surcharge shall be remitted to the county."

On page 1, after line 3, of the Introduced bill, insert: "

**Section 4. That § 10-37-15 be AMENDED:**

**10-37-15.** All laws relating to the enforcement of the payment of delinquent taxes or any pipeline surcharge shall be applicable to all taxes levied under the provisions of this chapter. When any tax levied under the provisions of this chapter shall become delinquent, the county treasurer having control of such delinquent taxes may proceed to collect the same in the manner as now provided for the collection of other taxes and with the same right and power of the sheriff under execution, except that no process shall be necessary to authorize him to sell any property belonging to any pipeline company for the collection of such taxes. The additional remedy provided for in § 10-38-10 by action in the circuit court shall also be available to the county treasurer."

On page 1, after line 3, of the Introduced bill, insert: "

**Section 5. That a NEW SECTION be added to chapter 10-37:**

A county may impose a pipeline surcharge up to one dollar per foot of linear carbon dioxide pipeline installed in the county during any tax year that the carbon dioxide pipeline company claims a tax credit pursuant to 26 U.S.C 45Q (January 1, 2024)."

On page 1, line 5, of the Introduced bill, after "34A:" delete "Terms used in this Act mean:

(1) "Action notice," the director's communication of a decision on a claim;"

On page 1, line 7, of the Introduced bill, after "claim;" delete "(2) "Civil recovery," a fund received by the state or a political subdivision from a third party, other than a pipeline company, as a result of violations of the law and transferred to the fund from the riot boosting recovery fund;

(3) "Claim," an invoice submitted to the director of the fund by the state or a political subdivision for an extraordinary expense;

(4) "Department," the Department of Public Safety;

(5) "Director," the director of the Division of Emergency Services within the Department of Public Safety;

(6) "Extraordinary expense," a reasonable and legitimate cost incurred by the state or a political subdivision to prepare for, or respond to, or which arises from, opposition to a project that would not have been incurred but for pipeline construction, and is incurred due to the receipt, processing, issuing, or auditing of a pipeline project or application for a permit for a project, or for emergency response training or equipment desired or required in connection with a project.

The term does not include any expense incurred by a private cooperative or business entity; workers' compensation or disability benefits for employees of this state or a political subdivision arising out of injuries incurred in the course of employment; or litigation expense or costs associated with or resulting from the call to active duty, mobilization, or service of the National Guard;"

On page 2, line 1, of the Introduced bill, after "Guard;" delete "(7) "Extraordinary expense fund," the state and political subdivision extraordinary expense fund as created under section 2 of this Act;

(8) "Pipeline," all parts of physical facilities through which any carbon dioxide product is carried within this state, including pipe, valves, other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies;

(9) "Pipeline company," a person or entity who is the owner of a project or holds a permit from the Public Utilities Commission for a project;

(10) "Pipeline construction," the engagement in any activity following the project commencement date in furtherance of a project by a pipeline company, or those acting on its behalf, within this state;

(11) "Political subdivision," a county, municipality, or township of this state;

(12) "Project," the planning, construction, installation, and operation of a pipeline six inches or greater in diameter, or the construction of a supporting facility in furtherance of carrying any carbon dioxide product by a pipeline company."

On page 2, line 16, of the Introduced bill, after "company." delete "(13) "Project commencement date," the date that occurs after:

(a) A project receives its regulatory permit;

(b) No court-imposed impediments on the project exist; and

(c) Preparation of the pipeline right-of-way or the ground for a supporting facility commences.

Notwithstanding subsections (a) to (c) of this subdivision, the secretary may issue an administrative notice, which is not reviewable, deeming pipeline construction to have begun for purposes of this chapter;

(14) "Project completion date," the date on which pipeline construction concludes so that any oil product carried through a pipeline from an originating station fills the entire length of a completed pipeline and permanent pump stations within this state;"

On page 2, line 28, of the Introduced bill, delete "(15)" and insert "

"

On page 2, line 28, of the Introduced bill, after "state;

(15)" delete " "Secretary," the secretary of the Department of Public Safety;

(16) "State," this state or any agency of the state that is vested with the authority to exercise any portion of the state's sovereignty or with law enforcement authority; and

(17) "Supporting facility," a structure necessary and ancillary to a pipeline, including a pressure pump station, housing facility for project personnel, storage area for tangible property, or other temporary structure of a pipeline company or its agent."

On page 3, line 1, of the Introduced bill, after "34A:" delete "There is established in the state treasury the state and political subdivision extraordinary expense fund. Money in the fund may be used to pay administrative costs and extraordinary expenses incurred by the state or a political subdivision, arising out of or in connection with pipeline construction. Any interest earned on money in the fund must be credited to the fund. The fund is continuously appropriated to the department.

The department shall administer the fund and maintain separate accounts for each project. The secretary shall approve vouchers and the state auditor shall draw warrants to pay administrative costs and extraordinary expenses in accordance with this chapter. All money received by the department for the fund must be set forth in an informational budget pursuant to § 4-7-7. 2 and be annually reviewed by the Legislature."

On page 3, line 12, of the Introduced bill, after "34A:" delete "The state or a political subdivision may submit a claim for an extraordinary expense to the director for disbursement from the fund in accordance with this chapter. Each claim under this section must be accompanied by a statement of the basis on which it is made, and true and accurate records and books of account regarding the extraordinary expense claimed, including copies of checks, vouchers, warrants, sales receipts, invoices, billings, payroll records, or similar documents for each extraordinary expense in sufficient detail to allow the director to reasonably review the claim.

The state or a political subdivision receiving a disbursement from the fund for an approved claim under this section shall keep and maintain true and accurate records and books of account consistent with government accounting standards and in the same manner and for the same period as required by law and make them available for inspection by the director and a duly authorized representative of the pipeline company.

On or before the first of February of each year, the director shall provide statements of claim activities for the preceding calendar year to the secretary, any applicable political subdivision, and the pipeline company."

On page 3, line 28, of the Introduced bill, after "34A:" delete "The state or a political subdivision may submit a request for pre-approval of an anticipated claim for extraordinary expense to the fund in accordance with this chapter. Each request for pre-approval submitted under this section must be accompanied by a statement of the basis on which the request is made and a description of the anticipated extraordinary expense in sufficient detail to allow the director to reasonably review the request.

If a request submitted under this section is approved, the state or political subdivision must provide the director with the same documentation, as required for a claim submitted under section 3 of this Act, after the extraordinary expense is incurred. The director shall review the documents provided under this section to determine whether the expenditure is consistent with the pre-approval decision and issue an action notice regarding the director's determination."

On page 4, line 7, of the Introduced bill, after "34A:" delete "The director shall approve or deny, in whole or in part, any claim submitted under section 3 of this Act or any request submitted under section 4 of this Act. The director may condition any claim for extraordinary expense at the director's discretion.

The director shall issue an action notice to the state, political subdivision, and the pipeline company of the approval or denial, in whole or in part, of a claim within ten days of receiving the claim under section 3 of this Act, or of a request within ten days of receiving claim documentation as required under section 4 of this Act. The action notice must include all approved and denied portions of the claim, and the rationale for the approval or denial, in sufficient detail to allow the secretary, political subdivision, and the pipeline company to review the decision. An action notice may be accompanied by the records submitted in accordance with sections 3 and 4 of this Act.

A claim submitted by the state or a political subdivision is not payable from the fund until the claim is approved by the director. The director shall authorize disbursements from the fund for payment of an approved claim to the state or a political subdivision within forty-five days from the date of the action notice."

On page 4, line 23, of the Introduced bill, after "34A:" delete "A claim under section 3 of this Act may be submitted to the director only after the project commencement date. A request under section 4 of this Act may be submitted on or after April 1, 2024.

A claim under section 3 of this Act must be submitted to the director within forty-five days of the date the extraordinary expense is incurred.

Notwithstanding any other provision of this chapter, the director may not approve any extraordinary expense claim that is not, or any request for pre-approval that will not be, incurred within one year after the project completion date, subject to section 16 of this Act."

On page 5, line 1, of the Introduced bill, after "34A:" delete "The department shall communicate with the pipeline company to review any claim or request for pre-approval made to the fund under sections 3 or 4 of this Act. A pipeline company shall designate in writing three official representatives who are authorized to coordinate with the department. Any official representative's concurrence with the director's action notice approving a claim is a waiver of the right of that pipeline company to contest the action notice and is a waiver of the informal review process by the secretary."

On page 5, line 8, of the Introduced bill, after "34A:" delete "If the state or a political subdivision receives payment from the fund for an extraordinary expense, and subsequently receives reimbursement through restitution, judgment, settlement, contribution, or other funding for the expense from any other source, except civil recoveries, the reimbursement must be deposited into the fund. The reimbursement deposited into the fund is a credit to a pipeline company and must be used to offset the next special fee calculated under section 11 of this Act. Any reimbursement from federal sources or civil recoveries must be deposited only as allocated by the secretary."

On page 5, line 16, of the Introduced bill, after "secretary." delete "For the purposes of this section, the term "special fee" means a fee billed to and paid by a pipeline company to defray administrative costs and extraordinary expenses."

On page 5, line 19, of the Introduced bill, after "34A:" delete "A pipeline company that disputes the approval or denial, in whole or in part, of a claim under section 5 of this Act may, within ten days of the date of the action notice, submit its objection in good faith, together with a statement of the basis for the objection, and request a review from the secretary. The secretary shall make an expeditious

review of the director's action notice and may approve, modify, condition, or deny the claim, in whole or in part. The secretary's review must be exhausted before any appeal to the Office of Hearing Examiners."

On page 5, line 26, of the Introduced bill, after "Examiners." delete "A pipeline company may appeal the secretary's decision, if the pipeline company has properly preserved its appeal, by giving written notice to the secretary within ten days of the date of the secretary's decision."

The pipeline company may commence one administrative appeal annually arising out of all decisions, joined for judicial efficiency, dated during the preceding calendar year from which the pipeline company wishes to appeal. The pipeline company shall file a written notice of appeal with the Office of Hearing Examiners. Copies of the written notice must be served on the secretary and any other interested party no later than the first of March or the appeal is barred. A written notice of appeal must identify each disputed and properly preserved claim with a decision in the prior calendar year.

An appeal under this section must be conducted by a hearing examiner in accordance with chapter 1-26D. The hearing examiner, after hearing the evidence, shall make proposed findings of fact and conclusions of law, and issue a proposed decision. The secretary shall accept, reject, or modify the hearing examiner's findings, conclusions, and decision, which then constitutes the final agency decision. Alternatively, the secretary may appoint the hearing examiner to make the final agency decision. The secretary may arrange for assistance from private counsel throughout the administrative appeal process. The final agency decision may be appealed to circuit court in accordance with chapter 1-26. A pipeline company has standing to appeal under this section.

The appeal under this section is the exclusive remedy of a pipeline company regarding the disbursement of a claim of extraordinary expense and constitutes a limited express waiver of sovereign immunity only to the extent necessary under this section. The venue for any disputed claim and appeal under this section is in state circuit court in Hughes County. Pre-judgment interest shall accrue from the date of the secretary's final decision on all disputed claims at the Category B rate of interest specified in § 54-3-16."

On page 6, line 19, of the Introduced bill, after "34A:" delete "Within twenty days of a project commencement date, the pipeline company shall make a deposit to the fund of four million dollars. The project account and fund may only be used in accordance with this chapter, and any remaining balance must be remitted to the pipeline company no later than eighteen months after the project completion date less the amount equal to unresolved disputed claims under section 9 of this Act."

On page 6, line 25, of the Introduced bill, after "34A:" delete "The secretary may instruct the director to:

- (1) Withhold, delay, suspend, or reduce any monthly billing to a pipeline company, if the secretary has cause to anticipate the receipt of an additional deposit from a source other than a pipeline company; or
- (2) For good cause shown, review any claim that is submitted to the director more than forty-five days from the date the extraordinary expense was incurred."

On page 7, line 1, of the Introduced bill, after "34A:" delete "Nothing in this Act prevents the state and a pipeline company from entering into any contract or other agreement, provided the terms of the contract or agreement are not inconsistent with this chapter."

On page 7, line 5, of the Introduced bill, after "34A:" delete "The secretary may promulgate rules in accordance with chapter 1-26 to implement the provisions of sections 1 to 14, inclusive, of this Act."

On page 7, line 8, of the Introduced bill, after "34A:" delete "Sections 1 to 14, inclusive, of this Act are to be repealed October 1, 2026. All claims must be submitted by that date. All claims must be adjudicated by December 31, 2026."

On page 7, line 11, of the Introduced bill, delete " city" and insert " municipality, township"

On page 7, line 12, of the Introduced bill, after "form" insert the comma

On page 7, line 17, of the Introduced bill, delete "County road " and insert "Road use, "

On page 7, line 18, of the Introduced bill, after "to" delete " either"

On page 7, line 18, of the Introduced bill, after "title" insert "s"

On page 7, line 18, of the Introduced bill, after "7" insert ", 8, 9,"

On page 7, line 18, of the Introduced bill, after "or" delete " title"

On page 7, line 19, of the Introduced bill, delete "The application of county zoning ordinance building permit fees related to any building, structure, or other above ground appurtenance related to a gas or liquid transmission line or an electric transmission line which requires or holds a permit under chapter 49-41B " and insert "The surcharge created by section 5 of this Act"

On page 7, line 22, of the Introduced bill, after "municipality" insert the comma

On page 7, line 22, of the Introduced bill, after "municipality" delete " or"

On page 7, line 22, of the Introduced bill, after "township" insert ", or other governmental unit, including governmental units chartered under S. D. Const. , Art. IX, § 2,"

On page 7, line 23, of the Introduced bill, after "use" insert ", construction,"

On page 7, line 23, of the Introduced bill, after "maintenance" insert ", and improvement"

On page 7, line 26, of the Introduced bill, after "facilities" insert ", except the surcharge listed under subdivision 3 of this section"

On page 7, line 28, of the Introduced bill, delete " road district" and insert " other governmental unit, including governmental units chartered under S.D. Const., Art. IX, § 2,"

On page 8, line 1, of the Introduced bill, delete " applicants" and insert " applicant's"

On page 7, line 31, of the Introduced bill, after "units" insert the comma

On page 7, line 31, of the Introduced bill, after "roads" insert the comma

On page 7, line 31, of the Introduced bill, after "bridges" insert the comma

On page 8, line 2, of the Introduced bill, delete " city" and insert " municipality"

On page 8, line 2, of the Introduced bill, after "city," insert " township,"

On page 8, line 5, of the Introduced bill, after "49-41B" delete "A"

On page 8, line 8, of the Introduced bill, after "setbacks" insert ", or to require the compliance of above-ground structures with generally applicable zoning ordinances, building, and fire codes"

On page 8, line 9, of the Introduced bill, after "setbacks." delete "The provisions of this section do not prohibit a county, city, or other governmental unit, including governmental units chartered under S. D. Const. , Art. IX, § 2, from passing and enforcing a zoning ordinance regulating the location of any building, structure, or other above ground appurtenance related to a gas or liquid transmission line or

an electric transmission line which requires or holds a permit under chapter 49-41B, including without limitation any building permit fees.

"

On page 9, line 15, of the Introduced bill, after "bridge" insert the comma

On page 9, line 26, of the Introduced bill, after "real" insert " estate"