

On page 3, after line 7, of the Senate Engrossed bill, insert: "

Section 6. That § 49-41B-1 be AMENDED:

49-41B-1. The Legislature finds that energy development and material transmission in South Dakota and the Northern Great Plains significantly affects the welfare of the population, the environmental quality, the location and growth of industry, and the use of the natural resources of the state. The Legislature also finds that by assuming permit authority, that the state must also ensure that ~~these permitted~~ facilities are constructed in an orderly and timely manner ~~so that the energy requirements of the people of the state are fulfilled~~. Therefore, it is necessary to ensure that the location, construction, and operation of facilities will produce minimal adverse effects on the environment and upon the citizens of this state by providing that a facility may not be constructed or operated in this state without first obtaining a permit from the commission.

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On page 3, after line 7, of the Senate Engrossed bill, insert: "

Section 7. That § 49-41B-28 be AMENDED:

49-41B-28. A permit for the construction of a transmission facility within a designated area ~~may~~ must supersede or preempt any county or municipal land use, zoning, ~~or building rules, or safety standards,~~ regulations, or ordinances upon a finding by the Public Utilities Commission that such rules, or regulation, or ordinances, as applied to the proposed route, are unreasonably restrictive in view of existing technology, factors of cost, or economics, or needs of parties where located in or out of the county or municipality or such regulations or ordinances are preempted by federal law. ~~Without such a finding by the commission, no route shall be designated which violates local land use zoning, or building rules, or regulations, or ordinances~~

An ordinance or regulation is preempted by federal law if:

- (1) The ordinance or regulation directly conflicts with any federal statute, regulation, standard, or common law pertaining to the same subject matter;
- (2) Any applicable federal statute expressly prohibits a state or political subdivision from enacting any ordinance, regulation, or standard pertaining to the same subject matter; or
- (3) Any applicable federal statute delegates to a federal agency sole authority to enact any regulation or standard pertaining to the same subject matter."

On page 4, line 1, of the Senate Engrossed bill, after "49-41B:" delete "A county, municipality, township, or other governmental unit, including governmental units chartered under S. D. Const. , Art. IX, § 2, may not pass or enforce an ordinance that regulates, restricts, or prohibits 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 requirement or restrictions as to routing, setback, construction, operation, maintenance, and zoning permits. Nothing herein restricts the ability of the commission to

establish setbacks, or to require the compliance of above-ground structures with generally applicable zoning ordinances, building, and fire codes.

This Act preempts any local law, ordinance, or regulation that conflicts with any provision of this chapter or any policy of the state implemented in accordance with this chapter and, notwithstanding any other provision of law, a governmental unit of this state may not enact or enforce an ordinance, local law, or regulation conflicting with or preempted by this chapter."