

2026 South Dakota Legislature

House Bill 1049**AMENDMENT 1049A
FOR THE INTRODUCED BILL**

1 **An Act to protect electric infrastructure in this state.**

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

3 **Section 1. That a NEW SECTION be added to a NEW CHAPTER in title 49:**

4 Terms used in this chapter mean:

- 5 (1) "Electric facility," infrastructure in this state used for the distribution, generation,
6 or transmission of electric power, including an energy conversion facility, as defined
7 in § 49-41B-2, and any equipment or facilities used by an electric utility, as defined
8 in § 49-34A-1, but not including any behind-the-meter electric generation facility
9 that generates electricity on site for private consumption; and
10 (2) "Prohibited person," any prohibited entity, as defined in § 5-18A-1, and any
11 individual who is not a United States citizen but is a citizen of a country listed in
12 § 5-18A-1.

13 **Section 2. That a NEW SECTION be added to a NEW CHAPTER in title 49:**

14 A prohibited person may not control, operate, or own, in whole or in part, an
15 electric facility. An electric facility controlled, operated, or owned in violation of this
16 chapter is subject to forfeiture pursuant to section 5 of this Act and in accordance with the
17 provisions of chapter 23A-49. ~~De minimis stock ownership does not constitute control,~~
18 ~~operation, or ownership for the purpose of this section.~~

19 An operator or owner of an electric facility may not enter into an agreement that
20 grants a prohibited person direct or indirect control of the electric facility. Any agreement,
21 including an easement or lease, in violation of this chapter, which is entered into on or
22 after July 1, 2026, is unenforceable.

23 **Section 3. That a NEW SECTION be added to a NEW CHAPTER in title 49:**

1 Any prohibited person that acquires, including by devise or descent, any interest
2 in an electric facility, in violation of this chapter, shall fully divest the interest within one
3 year from the date of acquisition.

4 **Section 4. That a NEW SECTION be added to a NEW CHAPTER in title 49:**

5 Upon receiving notice regarding an alleged violation of this chapter, the
6 commission may investigate the allegation and, if the allegation is substantiated, may
7 bring an action pursuant to section 5 of this Act.

8 To pursue the action, the commission may apply to the circuit court of Hughes
9 County for appointment of a receiver, who shall have duties and powers as directed by
10 the court.

11 Upon commencing the action, the commission may, in addition to any authority
12 granted under §§ 15-6-28.2 to 15-6-28.4, inclusive, subpoena any information necessary
13 to demonstrate a violation of this chapter from:

14 (1) A prohibited person alleged to have violated this chapter; or

15 (2) Any government with authority or jurisdiction over the prohibited person.

16 **Section 5. That a NEW SECTION be added to a NEW CHAPTER in title 49:**

17 The commission, or a receiver appointed pursuant to section 4 of this Act, may
18 bring an action, pursuant to title 15, in the circuit court of Hughes County, to enforce the
19 forfeiture or divestiture of a prohibited person's interest in the electric facility or to
20 terminate an agreement in violation of this chapter.

21 The commission or receiver may recover attorney fees and costs incurred in the
22 enforcement of the provisions of this chapter. The attorney fees and costs may be
23 assessed against the prohibited person or recovered from the sale of the prohibited
24 person's interest.

25 The court may not enter an order granting the request for relief pursuant to this
26 section unless:

27 (1) The commission or receiver proves any alleged violation of this chapter by a
28 preponderance of the evidence; and

29 (1) The action is brought within three years after the first allegation of the violation is
30 referred to the commission, as provided in section 4 of this Act.

31 **Section 6. That a NEW SECTION be added to a NEW CHAPTER in title 49:**

- 1 Notwithstanding any other provision of this chapter, title to an electric facility is
2 not invalidated nor is the electric facility subject to forfeiture solely by reason of the
3 alienage of any former operator or owner.

AMENDED