

2026 South Dakota Legislature

House Bill 1001**AMENDMENT 1001F
FOR THE INTRODUCED BILL**

1 **An Act to provide for prescribed burning of state-owned land by a person owning**
2 **adjoining land and to declare an emergency.**

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

4 **Section 1. That a NEW SECTION be added to chapter 34-35:**

5 A person that owns land adjacent to state-owned land bordering the Missouri River
6 may burn the state-owned land in conjunction with the person's own land by utilizing
7 prescribed burning, if:

8 ~~(1) The person submits a written request providing the location of the person's own~~
9 ~~land and the state-owned land, and the timeframe during which the burn will occur,~~
10 ~~to the associated department secretary or commissioner in control of the state-~~
11 ~~owned land;~~

12 ~~(2) The person has reasonable forces and equipment available to suppress the spread~~
13 ~~of the fire;~~

14 ~~(3) The prescribed burn is for the purposes of controlling or eradicating invasive woody~~
15 ~~species and grassland management;~~

16 ~~(4) The associated department secretary or commissioner in control of the state-~~
17 ~~owned land consents in writing to the burn as an appropriate land management~~
18 ~~technique for the state-owned land; and~~

19 ~~(5) The person does not violate § 34-35-9 or 34-35-10 during the course of the~~
20 ~~prescribed burn, provided the person submits a written request to the department~~
21 ~~secretary or commissioner in control of the land and receives consent, in writing, stating~~
22 ~~that the prescribed burn is an appropriate land management technique.~~

23 The written request for consent to utilize prescribed burning of the land must:

24 ~~(1) Indicate that the purpose for the prescribed burning is to control or eradicate~~
25 ~~woody species and provide grassland management;~~

1 (2) Include a description of the person's land and the state-owned land to be burned;
2 and

3 (3) Provide the timeframe within which the prescribed burn is to occur.

4 Written consent provided by the department secretary or a commissioner serves
5 as an authorization by the state, for purposes of § 5-4-15.

6 A person who receives written consent from the department secretary or a
7 commissioner to burn state-owned land in conjunction with the person's own land shall
8 ensure the availability of reasonable forces and equipment necessary to provide for fire
9 suppression and is responsible for complying with §§ 34-59-9 and 34-59-10, and with all
10 other applicable laws during the prescribed burn.

11 ~~The person conducting a prescribed burn pursuant to this statute~~ A person who
12 receives written consent from the department secretary or a commissioner to burn state-
13 owned land in conjunction with the person's own land assumes all liability for the burn.

14 The state is immune from liability, and no cause of action for damages may arise against
15 the state as a result of a prescribed burn conducted by a person pursuant to this section.

16 **Section 2.** Whereas, this Act is necessary for the support of the state government and its
17 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in
18 full force and effect from and after its passage and approval.