

2026 South Dakota Legislature

House Bill 1295**AMENDMENT 1295A
FOR THE INTRODUCED BILL**

1 **An Act to revise provisions for the acquisition of highway easements and rights of**
2 **way by gift or purchase.**

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

4 **Section 1. That § 31-19-1 be AMENDED:**

5 **31-19-1.** The land ~~or material~~ for a right-of-way and borrow pit may be acquired
6 for the state by good faith negotiations by the Department of Transportation, either by
7 gift, or purchase, or condemnation. ~~If said the land or material is to be acquired by~~
8 ~~condemnation, the proceedings shall must be as provided by § 31-19-3.~~

9 **Section 2. That a NEW SECTION be added to chapter 31-19:**

10 The ~~land or material for from~~ a borrow pit may be acquired for the state by good
11 faith negotiations by the Department of Transportation, either by gift, or purchase, or
12 condemnation. ~~If the land or material is acquired by condemnation, the proceedings must~~
13 ~~be as provided by § 31-19-3.~~

14 **Section 3. That a NEW SECTION be added to chapter 31-19:**

15 If the Department of Transportation is to acquire an easement or right of way for
16 a borrow pit, the department must file a notice with the landowner and the register of
17 deeds for the county in which the easement or right of way is located. The notice must
18 state the purpose for the easement or right of way and state that just compensation must
19 be paid to the landowner, as negotiated.

20 The notice must include the department's plans for the easement or right of way,
21 and a detailed description of the property through, or over which, the proposed
22 improvement is to be constructed.

23 All persons having an interest in, or a lien upon the property must be provided with
24 a copy of the notice, insofar as those persons may be known at the time of the filing.

1 Upon agreement between a landowner and the department for the purchase of the
2 easement and finalization of the sale, the county register of deeds shall record the
3 easement or right of way. If negotiations fail, the requirements for ~~condemnation, as set~~
4 ~~forth in §§ 31-19-2 to 31-19-19, inclusive, initiating condemnation pursuant to § 31-19-~~
5 ~~3,~~ apply.

6 **Section 4. That § 31-19-2 be AMENDED:**

7 **31-19-2.** Before acquiring land or material by gift, purchase, or condemnation,
8 the Department of Transportation shall, by resolution, declare the necessity for acquiring
9 the land or material and file a copy of the resolution with the office of right-of-way in the
10 department.