



2026 South Dakota Legislature

House Joint Resolution 5001

SENATE STATE AFFAIRS ENGROSSED

Introduced by: **Representative** Gosch

1 **A JOINT RESOLUTION** proposing and submitting to the voters at the next general
 2 election an amendment to the Constitution of the State of South Dakota,
 3 requiring a declaration of necessity and clarifying public use of private
 4 property taken or damaged by eminent domain.

5 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

6 **Section 1.** That at the next general election held in the state, the following amendment to
 7 Article VI of the Constitution of the State of South Dakota, as set forth in section 2 of this
 8 Joint Resolution, which is hereby agreed to, be submitted to the electors of the state for
 9 approval.

10 **Section 2.** That Article VI, § 13 of the Constitution of the State of South Dakota, be
 11 **AMENDED:**

12 § 13. Private property ~~shall~~ may not be taken for public use, or damaged, without
 13 a public declaration by the condemnor, establishing the necessity for taking or damaging
 14 the property, and just compensation, which will be as determined according to legal
 15 procedure established by the Legislature and according to § 6 of this article. ~~No~~ A benefit
 16 which that may accrue to the owner as the result of an improvement made by any private
 17 corporation ~~shall~~ may not be considered in fixing the compensation for property taken or
 18 damaged. The fee of land taken for railroad tracks or other highways ~~shall remain in such~~
 19 ~~owners~~ remains in the owner, subject to the use for which it is taken. For purposes of this
 20 section, public use does not include an increase in the tax base, tax revenues,
 21 employment, or general economic health.