



2026 South Dakota Legislature
House Bill 1049
ENROLLED

AN ACT

ENTITLED An Act to protect electric infrastructure in this state.

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

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

Terms used in this chapter mean:

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

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

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

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

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

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

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

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

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

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

- (1) A prohibited person alleged to have violated this chapter; or
- (2) Any government with authority or jurisdiction over the prohibited person.

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

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

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

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

- (1) The commission or receiver proves any alleged violation of this chapter by a preponderance of the evidence; and
- (2) The action is brought within three years after the first allegation of the violation is referred to the commission, as provided in section 4 of this Act.

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

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

An Act to protect electric infrastructure in this state.

I certify that the attached Act originated in
the:
House as Bill No. 1049

Received at this Executive Office
this ____ day of _____,
2026 at _____ M.

Chief Clerk of the House

By _____
for the Governor

Speaker of the House

The attached Act is hereby
approved this _____ day of
_____, A.D., 2026

Attest:

Chief Clerk of the House

Governor

STATE OF SOUTH DAKOTA,

ss.

Office of the Secretary of State

President of the Senate

Attest:

Filed _____, 2026
at _____ o'clock ___ M.

Secretary of the Senate

Secretary of State

House Bill No. 1049
File No. _____
Chapter No. _____

By _____
Asst. Secretary of State