

2020 South Dakota Legislature

House Bill 1238**AMENDMENT 1238B FOR THE HOUSE AGRICULTURE AND
NATURAL RESOURCES BILL**

1 **An Act to permit modification of the term of a perpetual conservation easement after**
2 **the death of the grantor.**

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

4 **Section 1.** That § 1-19B-57 be AMENDED:

5 **1-19B-57. Conservation easements--Creation and alteration--Term--Rights.**

6 A conservation easement may be created, conveyed, recorded, assigned, released,
7 modified, terminated, or otherwise altered or affected in the same manner as other
8 easements. The term of the conservation easement shall be established by the parties to
9 the easement, but if the term is perpetual, ~~a person receiving a fee simple interest in the~~
10 ~~real property burdened by the easement the parties~~ may bilaterally modify the ~~term of~~
11 ~~rights and duties under~~ the easement after the death of the person who granted the
12 easement. No right or duty in favor of or against a holder and no right in favor of a person
13 having a third-party right of enforcement arises under a conservation easement before its
14 acceptance by the holder and recording the acceptance. An interest in real property in
15 existence at the time a conservation easement is created is not impaired by it unless the
16 owner of the interest is a party to the conservation easement or consents to it.