

2024 South Dakota Legislature

House Bill 1186**AMENDMENT 1186E
FOR THE SENATE COMMERCE AND ENERGY ENGROSSED
BILL**

1 **An Act to define the requirements for granting a carbon pipeline easement.**

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

3 **Section 1. That chapter 43-13 be amended with a NEW SECTION:**

4 For the purposes of section 2 of this Act, the term "carbon pipeline easement"
5 means a right, whether or not stated in the form of a restriction, option to obtain an
6 easement, easement, covenant, or condition, in a deed, will, or other instrument executed
7 by or on behalf of an owner of land for the purpose of transmitting carbon dioxide by
8 pipeline.

9 For the purposes of section 2 of this Act, the term "initiate business operations"
10 means the filing of a permit or an application with the state, a political subdivision of the
11 state, a federally recognized Indian tribe, or a federal agency having jurisdiction over the
12 project for permitting purposes.

13 **Section 2. That chapter 43-13 be amended with a NEW SECTION:**

14 (1) A property owner may grant a carbon pipeline easement in the same manner and
15 with the same effect as a conveyance of an interest in real property. The easement
16 must be created in writing, and the easement or a memorandum thereof must be
17 filed, duly recorded, and indexed in the office of the register of deeds of the county
18 in which the easement is granted.

19 (2) Any carbon pipeline easement runs with the land benefited and burdened and
20 terminates upon the conditions stated in the easement, except that the term of
21 any such easement may not exceed ~~fifty ninety-nine~~ years.

22 (3) Any carbon pipeline easement is void ~~if no permit has been granted by the Public~~
23 ~~Utilities Commission pertaining to the transportation of carbon dioxide associated~~
24 ~~with the easement~~ if the operator does not initiate business operations within five
25 years after the ~~effective recording~~ date of the easement. ~~In addition to an initial~~

- 1 ~~payment for the easement, payments associated with the granting or continuance~~
2 ~~of any carbon pipeline easement must be made on an annual basis to the owner of~~
3 ~~record of the real property and must include a payment of at least one dollar per~~
4 ~~linear foot of carbon pipeline on the property, payable each year the pipeline is~~
5 ~~engaged in actual transportation of carbon dioxide.~~
- 6 (4) If the easement holder mortgages or otherwise encumbers to any party any part
7 of the easement holder's rights and interests under the easement, any such
8 mortgage or encumbrance on the easement is the responsibility of the easement
9 holder and attaches only to the easement holder's rights and does not otherwise
10 attach to the land or obligate the property owner. Each carbon pipeline easement
11 agreement must include a statement disclosing that the easement holder may
12 mortgage or encumber any part of the easement holder's rights and interests under
13 the agreement unless otherwise specified in the agreement.
- 14 ~~(5) Any carbon pipeline easement shall expire after five years of nonuse at any time~~
15 ~~after the issuance of a permit by the Public Utilities Commission.~~