

2024 South Dakota Legislature

House Bill 1186**AMENDMENT 1186G
FOR THE HOUSE 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 **Section 2. That chapter 43-13 be amended with a NEW SECTION:**

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

15 ~~Any carbon pipeline easement runs with the land benefited and burdened and~~
16 ~~terminates upon the conditions stated in the easement, except that the term of any such~~
17 ~~easement may not exceed fifty years.~~ Any carbon pipeline easement is void if no permit
18 has been granted by the Public Utilities Commission pertaining to the transportation of
19 carbon dioxide associated with the easement within five years after the effective date of
20 the easement. ~~In addition to an initial payment for the easement, payments associated~~
21 ~~with the granting or continuance of any carbon pipeline easement must be made on an~~
22 ~~annual basis to the owner of record of the real property and must include a payment of at~~
23 ~~least one dollar per linear foot of carbon pipeline on the property, payable each year the~~
24 ~~pipeline is engaged in actual transportation of carbon dioxide.~~

1 If the easement holder mortgages or otherwise encumbers to any party any part
2 of the easement holder's rights and interests under the easement, any such mortgage or
3 encumbrance on the easement is the responsibility of the easement holder and attaches
4 only to the easement holder's rights and does not otherwise attach to the land or obligate
5 the property owner. Each carbon pipeline easement agreement must include a statement
6 disclosing that the easement holder may mortgage or encumber any part of the easement
7 holder's rights and interests under the agreement unless otherwise specified in the
8 agreement.