



2024 South Dakota Legislature

House Bill 1186

CONFERENCE COMMITTEE ENGROSSED

Introduced by: **Representative** Mortenson

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 ninety-nine years.

22 (3) Any carbon pipeline easement is void if the operator does not initiate business
 23 operations within five years after the recording date of the easement.

24 (4) If the easement holder mortgages or otherwise encumbers to any party any part
 25 of the easement holder's rights and interests under the easement, any such

- 1 mortgage or encumbrance on the easement is the responsibility of the easement
2 holder and attaches only to the easement holder's rights and does not otherwise
3 attach to the land or obligate the property owner. Each carbon pipeline easement
4 agreement must include a statement disclosing that the easement holder may
5 mortgage or encumber any part of the easement holder's rights and interests under
6 the agreement unless otherwise specified in the agreement.
- 7 (5) Any carbon pipeline easement shall expire after five years of nonuse at any time
8 after the issuance of a permit by the Public Utilities Commission.