



Written by [Rebecca Terrell](#) on August 6, 2025

## Federal Land Grab Hidden in New Legislation?

A new bill introduced on Capitol Hill threatens to skirt state restrictions on eminent domain with a federal mandate, paving the way for a carbon-capture pipeline land grab, according to pipeline fighters. Voters in South Dakota last year rejected carbon capture, but the high payoff of federal subsidies encourages private, for-profit companies to continue their push for these dangerous, ludicrous projects.

Representative Dusty Johnson (R-S.D.) introduced H.R. 4135 on June 25, 2025. At first glance, the bill looks harmless — as if it is merely a memo to states encouraging them to participate in a nationwide online database:



AP Images  
Dusty Johnson

A bill to encourage States to participate with the Federal Permitting Improvement Steering Council's online dashboard for certain covered projects. *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, SECTION 1. Coordination with Federal Permitting Improvement Steering Council. With respect to any covered project (as defined under section 41001 of the FAST Act ([42 U.S.C. 4370m](#)) for which a certification or permit from a State under section 401, 402, or 404 of the Federal Water Pollution Control Act is required, the State is encouraged to choose to participate, to the maximum extent practicable, in the environmental review and authorization process under section 41003(c) of the FAST Act ([42 U.S.C. 4370m-2\(c\)](#)), pursuant to paragraph (3)(A) of such section.

South Dakota State Senator Mark Lapka wrote a white paper about it, explaining that “Rep. Johnson's staff has made statements that his bill only applies to certain Clean Water Act Projects.”

He went on to explain:

However, South Dakota landowners have sounded the alarm that carbon pipeline projects could be included within this bill, and after careful review of H.R. 4135, one can conclude that factually, carbon pipelines would indeed fall under the umbrella of ‘covered projects,’ affected by this bill.

Here are the facts about H.R. 4135 that every South Dakotan needs to know:

- H.R. 4135 encourages states to participate on permits 401, 402 and 404 that pertain to the Clean Water Act. This is significant because carbon capture pipeline companies have applied for these permits that are required by South Dakota's PUC. These permits must have federal approval as well as state approval from the South Dakota Department of Agriculture and Natural Resources (DANR).



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- According to 42 U.S. Code Section 4370m, the term ‘covered project’ means any activity in the United States that requires authorization or environmental review by a federal agency involving construction of infrastructure for renewable or conventional energy production, electricity transmission, surface transportation, aviation, port and waterways, water resource projects, broadband, pipelines, manufacturing, semiconductors, artificial intelligence and machine learning, high-performance computing and advanced computer hardware and software, quantum information science and technology, data storage and data management, cybersecurity, carbon capture, energy storage, or any other sector...”
- As clear examples of how H.R. 4135 could be used to facilitate and fast-track carbon pipeline projects through federal oversight, in both South Dakota and North Dakota, Summit Carbon Solutions used this process to apply for their water permits.
- Additionally, if you view the dashboard that Rep. Johnson is promoting, two proposed carbon sequestration pipeline projects are currently listed and available for viewing — one in California and one in Louisiana. See the dashboard here: <https://www.permits.performance.gov/projects/fast-41-covered>.
- While the bill is not a mandate, as the language simply ‘encourages’ the use of following federal guidelines, it could be seen as another attempt to circumvent and bypass local control, by utilizing federal environmental review and authorization processes rather than the state’s specific review process. In an effort to ‘streamline’ the review process for the project developer, this could, in turn, minimize or avoid state and local authority.
- RL21 (SB201), which would have stripped away local control to favor carbon pipeline companies, was widely rejected by South Dakota voters in the 2024 election with 59% of the vote in 65 to 66 counties. South Dakotans have spoken loud and clear that they will fight to maintain local control and community voices over the top-down, heavy hand of just a few at the state or federal levels.
- In June, a provision within the original draft of the ‘Big Beautiful Bill’ attempted to grant federal eminent domain authority for carbon pipeline projects. If this would have remained within the bill, HB 1052, which was recently passed to eliminate eminent domain for carbon pipeline projects in South Dakota, would have been rendered a moot point.
- Fortunately, after a group of South Dakota legislators traveled to Washington, D.C. with concerns on this provision, that language was stripped from the final version of the bill. The question to ask: is H.R. 4135 a starting point of eventually allowing for federal preemption over state control on these types of projects?

South Dakota farmers, ranchers and landowners have endured a painful four-year battle to preserve their private property rights and local control against the abusive actions of some carbon pipeline companies. They have spoken firmly on this issue. Because of this, I would respectfully ask Rep. Johnson to withdraw this bill.

In the video below, Lapka and Heart of Rural America podcaster Amanda Radke join Rebecca Terrell to discuss the dangerous nuances of the bill.

**Helpful links:**

[Amanda Radke’s original video explaining the dangers of H.R. 4135](#)



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[U.S. Rep. Dusty Johnson's response lambasting Amanda Radke](#)

[S.D. Senator Mark Lapka's white paper](#)

[Hub City Radio](#)

[Dakota News Now](#)

[H.R. 4135](#)

[Contact Senator Lapka](#)

[Amanda Radke's website](#)

[Heart of Rural America](#)

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