



2023 South Dakota Legislature

House Bill 1072

Introduced by: **Representative Chaffee**

1 **An Act to include lithium and pegmatite as energy minerals subject to severance tax**
 2 **and set the distribution of proceeds therefrom.**

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

4 **Section 1. That § 10-39A-1.1 be AMENDED:**

5 **10-39A-1.1.** Terms used in this chapter mean:

- 6 (1) "Energy minerals," any mineral fuel including coal, lignite, petroleum, oil, natural
 7 gas, uranium, lithium, pegmatite, and thorium and any combination of minerals
 8 used in the production of energy;
- 9 (2) "Market value," the price at which the property would change hands between a
 10 willing buyer and willing seller, neither being under any compulsion to buy or sell
 11 and both having reasonable knowledge of the facts;
- 12 (3) "Operator," a person who directly or physically severs minerals from the land;
- 13 (4) "Owner of interest" or "owner," an owner of a landowner's royalty, of an overriding
 14 royalty, or of profits and working interests, or any combination thereof. The term
 15 does not include an owner of federal, state, or local governmental royalty interest;
- 16 (5) "Sale price," the total consideration received in exchange for energy minerals;
- 17 (6) "Secretary," the secretary of the South Dakota Department of Revenue;
- 18 (7) "Severing," the mining, extracting, or producing of any energy minerals in South
 19 Dakota;
- 20 (8) "Severor," a person engaging in the business of severing energy minerals that the
 21 person owns or a person who is the owner of energy minerals and has another
 22 person performing the severing of such energy minerals, ~~except that the~~ This term
 23 does not include the State of South Dakota or its political subdivisions.

24 **Section 2. That § 10-39A-8 be AMENDED:**

1 **10-39A-8.** ~~All~~Except as provided in section 3 of this Act, all taxes, interest and
2 penalties imposed and collected by the secretary under this chapter shall be distributed
3 as follows:

- 4 (1) One-half shall be returned to the county in which the energy minerals or mineral
5 products were severed; and
6 (2) One-half share shall be paid into the state treasury and credited to the general
7 fund.

8 **Section 3. That chapter 10-39A be amended with a NEW SECTION:**

9 All taxes, interest, and penalties imposed on the taxable value of lithium and
10 pegmatite, and collected by the secretary under this chapter, must be distributed as
11 follows:

- 12 (1) Eighty percent to the county in which the lithium-bearing material or material
13 products were severed; and
14 (2) Twenty percent to the state treasury and credited to the general fund.