

2023 South Dakota Legislature

House Bill 1072**AMENDMENT 1072B FOR THE INTRODUCED BILL**

1 **An Act to include lithium ~~and pegmatite~~ as an energy ~~minerals~~ mineral subject to**
2 **severance tax 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.

15 **Section 4. That chapter 10-39A be amended with a NEW SECTION:**

16 The taxable value of severed and saved lithium-bearing material is the sales price
17 per pound of the content of lithium contained in the severed and saved lithium ore,
18 regardless of the form in which the product is actually disposed of. However, if the severed
19 and saved lithium ore is not sold, the taxable value is the market value of the lithium in
20 such material.