



## 2023 South Dakota Legislature

# House Bill 1072

HOUSE TAXATION ENGROSSED

Introduced by: **Representative Chaffee**

1 **An Act to include lithium as an energy mineral subject to severance tax and set the**  
 2 **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, and thorium and any combination of minerals used in the  
 8 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 collected by the secretary under this chapter, must be distributed as follows:

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

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

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