



2020 South Dakota Legislature  
**House Bill 1026**  
**ENROLLED**

AN ACT

**ENTITLED An Act to revise certain provisions relating to use of security for cleanup and remediation of environmental problems.**

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

**Section 1.** That § 34A-10-2.3 be AMENDED:

**34A-10-2.3. Cleanup and remediation of environmental problems--Use of security.**

The state, with any board or court approval necessary, as provided in the permit or security instrument required under § 34A-10-2.1 or 34A-10-2.2, may use the security as necessary for the cleanup and remediation of environmental problems related to the activity for which the security was provided. If security is forfeited in accordance with § 45-9-15 due to the failure of an oil and gas well operator to perform according to the provisions of §§ 45-9-5 to 45-9-18, inclusive, the state may use the security for environmental cleanup or remediation of any lands or resources regulated under chapter 45-9. When the cleanup and remediation is complete, as certified by the board, or sufficient funds have been set aside to achieve complete remediation pursuant to a site-specific, board-approved remedial action plan, the state may proceed against any remaining security for the purpose of collecting any properly recoverable cost incurred by the state in pursuing the cleanup, environmental damages, or penalties. Until the environmental cleanup or remediation is complete, any state cost, environmental damage, and penalty judgments have been satisfied and the security has been released by the board, the security may not be assigned for the benefit of creditors, attached, garnished, levied, or executed on, or subject to process issued from any court; except for the purpose of enabling the state to effectuate the environmental cleanup or remediation.

**Section 2.** That a NEW SECTION be added:

**34A-10-2.6. Cleanup and remediation of environmental problems--Use of oil and gas well security.**

If necessary cleanup and remediation of environmental problems related to the site-specific activity for which security was provided in accordance with § 45-9-15 is complete, as certified by the board, or sufficient funds have been set aside to achieve complete remediation pursuant to a site-specific, board-approved remedial action plan, the state may use the remaining security for environmental cleanup or remediation of any lands or resources regulated under chapter 45-9 if forfeiture of the security was ordered solely or in part due to the failure of the operator to perform in accordance with the provisions of §§ 45-9-5 to 45-9-18, inclusive.

An Act to revise certain provisions relating to use of security for cleanup and remediation of environmental problems.

I certify that the attached Act originated in the:  
House as Bill No. 1026

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
Speaker of the House

Attest:

\_\_\_\_\_  
Chief Clerk

\_\_\_\_\_  
President of the Senate

Attest:

\_\_\_\_\_  
Secretary of the Senate

House Bill No. 1026  
File No. \_\_\_\_\_  
Chapter No. \_\_\_\_\_

Received at this Executive Office  
this \_\_\_\_ day of \_\_\_\_\_,  
2020 at \_\_\_\_\_ M.

By \_\_\_\_\_  
for the Governor

The attached Act is hereby  
approved this \_\_\_\_\_ day of  
\_\_\_\_\_, A.D., 2020

\_\_\_\_\_  
Governor

**STATE OF SOUTH DAKOTA,**

ss.

Office of the Secretary of State

Filed \_\_\_\_\_, 2020  
at \_\_\_\_\_ o'clock \_\_ M.

\_\_\_\_\_  
Secretary of State

By \_\_\_\_\_  
Asst. Secretary of State