



2020 South Dakota Legislature

House Bill 1026

Introduced by: The Committee on Agriculture and Natural Resources at the request of the Department of Environment and Natural Resources

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

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

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

5 **34A-10-2.3. Cleanup and remediation of environmental problems--Use of**
 6 **security.**

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

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

1 **34A-10-2.6. Cleanup and remediation of environmental problems--Use of oil**
2 **and gas well security.**

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