

State of South Dakota

EIGHTY-NINTH SESSION
LEGISLATIVE ASSEMBLY, 2014

175V0743

SENATE ENGROSSED NO. **SB 170** - 02/24/2014

Introduced by: Senators Rhoden, Maher, Rampelberg, and Sutton and Representatives Rozum, Feickert, and Verchio

1 FOR AN ACT ENTITLED, An Act to revise the structure for compensating surface owners for
2 losses due to mineral development.

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

4 Section 1. That § 45-5A-4 be amended to read as follows:

5 45-5A-4. The mineral developer shall pay the surface owner a sum of money equal to the
6 amount of damages sustained by the surface owner for loss of: agricultural production, ~~lost use~~
7 of the surface owner's land, access to the surface owner's land, land value, and ~~lost~~ value of
8 improvements caused by mineral development. The amount of damages may be determined by
9 any formula mutually agreeable between the surface owner and the mineral developer. In
10 determining damages, consideration shall be given to the period of time during which the loss
11 occurs ~~and the~~. The surface owner may elect to be paid damages in annual installments over a
12 period of time. However, the surface owner shall be compensated for harm caused by
13 exploration only by a single sum payment. The payments contemplated by this section shall only
14 cover land directly affected by mineral development. Payments under this section for lost land
15 value shall be paid only to the title holder of such land. Any reservation or assignment of such



1 compensation apart from the surface estate except to a lessee of the surface estate is prohibited.
2 In the absence of an agreement between the title holder and lessee as to the division of the
3 compensation payable under this section, the lessee is entitled to recover from the title holder
4 that portion of the compensation attributable to the lessee's share of the damages sustained.