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SB-125 Public resources: geothermal resources: lithium. (2021-2022)

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Senate Bill No. 125

CHAPTER 63

An act to add Article 3 (commencing with Section 2950) to Chapter 13 of Division 3 of the Fish and Game Code, to add and repeal Section 15570.32 of the Government Code, to amend Sections 2207 and 3823 of the Public Resources Code, and to add Part 25 (commencing with Section 47000) to Division 2 of the Revenue and Taxation Code, relating to public resources, and making an appropriation therefor, to take effect immediately, bill related to the budget.

[Approved by Governor June 30, 2022. Filed with Secretary of State June 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 125, Committee on Budget and Fiscal Review. Public resources: geothermal resources: lithium.

(1) The Salton Sea Restoration Act establishes the Salton Sea Restoration Fund, which is administered by the Director of Fish and Wildlife, and requires that the moneys in the fund be expended, upon appropriation by the Legislature, for environmental and engineering studies related to the restoration of the Salton Sea and the protection of fish and wildlife dependent on the sea, conservation measures necessary to protect the fish and wildlife species dependent on the Salton Sea, and the preferred Salton Sea restoration alternative, including administrative, technical, and public outreach costs related to the development and selection of that alternative, as specified. The act prohibits the expenditure of moneys in the fund for mitigation except for mitigation undertaken by the State of California.

This bill would create the Lithium Subaccount within the Salton Sea Restoration Fund, and would continuously appropriate moneys in the subaccount to the Natural Resources Agency for restoration projects and grants for community engagement, public amenity, capital improvement, or community-benefit projects at or around the Salton Sea and those communities impacted by the Salton Sea's restoration and development, thereby making an appropriation. The bill would require the agency to develop and adopt project solicitation and evaluation guidelines before allocating those moneys. The bill would require the agency, on or before June 30 of each fiscal year, to report on its internet website the projected operating and maintenance costs of state-developed or -managed public works or restoration projects at the Salton Sea for the following fiscal year that will be funded through the subaccount.

(2) Existing law requires the owner or operator of a mining operation within the state, among other things, to annually report specified information to the Supervisor of Mine Reclamation. Existing law requires the State Mining and Geology Board to impose an annual reporting fee on each active or idle mining operation and to collect \$5 per ounce of gold and \$0.10 per ounce of silver mined within the state.

This bill would specify, for purposes of the above requirements, that "mining operation" includes the extraction of minerals from geothermal brine, or any other brine, including, but not limited to, a mining operation colocated or co-operated with geothermal resource facilities. By expanding the operations subject to the tax on gold and silver mined in the state, the bill would impose a tax.

(3) Existing law creates the Geothermal Resources Development Account, requires revenues received by the state pursuant to a specified federal law to be deposited into the account, and continuously appropriates moneys in the account for specified purposes. Upon the receipt and deposit of revenues into the account, existing law requires 40% of the revenues derived from the sale of certain leases, and 40% of the revenues consisting of royalties and rents, to be immediately disbursed by the Controller to the county in which the United States has leased those lands for geothermal development, as specified. Existing law requires 30% of the revenues in the account to be available for expenditure by the State Energy Resources Conservation and Development Commission as grants or loans to local jurisdictions or private entities, as specified. Existing law requires that the revenues disbursed to counties and grants or loans made to local jurisdictions or private entities be expended by the recipient for specified purposes related to geothermal resources.

This bill would additionally authorize the expenditure of those revenues, grants, and loans for specified purposes related to the extraction of minerals from geothermal brines and related activities. By expanding the purposes of which moneys in a continuously appropriated fund may be expended, the bill would make an appropriation.

(4) Existing law imposes taxes upon income and real property, and taxes upon certain transactions and excise taxes. The Fee Collection Procedures Law provides procedures for the collection of certain fees and surcharges and is administered by the California Department of Tax and Fee Administration. Under existing law, a violation of the Fee Collection Procedures Law is a crime.

This bill would, beginning January 1, 2023, require any person who extracts lithium from geothermal fluid, spodumene ore, rock, minerals, clay, or any other naturally occurring substance in this state to pay a lithium extraction excise tax upon each metric ton of extracted lithium carbonate equivalent, as specified. The bill would provide that the tax is in lieu of all county, municipal, or district taxes on lithium extraction or lithium storage, except as provided. The bill would require that the tax revenues, less refunds and reimbursement to the department for its costs associated with the administration and collection of the tax, be deposited into the Lithium Extraction Excise Tax Fund, a continuously appropriated fund established by the bill. By establishing a continuously appropriated fund, and depositing moneys into the fund, the bill would make an appropriation. The bill would require the Controller to distribute 80% of the moneys in the fund to counties in proportion to the amounts of the taxes, interest, penalties, and other amounts collected for lithium extraction within each county and to deposit 20% of the moneys in the fund into the Lithium Subaccount described above. By depositing moneys into the continuously appropriated subaccount, the bill would make an appropriation.

This bill would require the department to administer and collect the tax pursuant to the Fee Collection Procedures Law. By expanding the application of the crimes associated with the Fee Collection Procedures Law, the bill would impose a state-mandated local program.

This bill would require the department, on or before December 31, 2023, to prepare a study of replacing a volume-based tax on the extraction of lithium with an equivalent tax based on gross receipts.

(5) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(6) This bill would appropriate \$5,000,000 from the General Fund for allocation to the County of Imperial for specified purposes related to geothermal energy development and lithium extraction.

(7) This bill would declare that it is to take effect immediately as a bill providing for appropriations related to the Budget Bill.

(8) This bill would include a change in state statute that would result in a taxpayer paying a higher tax within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of $\frac{2}{3}$ of the membership of each house of the Legislature.

Vote: 2/3 Appropriation: yes Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 3 (commencing with Section 2950) is added to Chapter 13 of Division 3 of the Fish and Game Code, to read:

Article 3. Lithium

2950. For purposes of this article, the following definitions apply:

(a) "Agency" means the Natural Resources Agency.

- (b) "Disadvantaged community" has the same meaning as defined in Section 80002 of the Public Resources Code.
- (c) "Nonprofit corporation" means a nonprofit corporation qualified to do business in California and exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.
- (d) "Salton Sea Management Plan" means the Salton Sea Management Program Phase I: 10-Year Plan published in August 2018.
- (e) "Secretary" means the Secretary of the Natural Resources Agency.
- (f) "Severely disadvantaged community" has the same meaning as defined in Section 80002 of the Public Resources Code.

2951. (a) There is hereby created the Lithium Subaccount within the Salton Sea Restoration Fund.

(b) Pursuant to Section 47100 of the Revenue and Taxation Code, moneys generated by the lithium extraction excise tax imposed pursuant to Section 47010 of the Revenue and Taxation Code, and any other moneys as directed by the Legislature, are deposited into the Lithium Subaccount.

(c) Notwithstanding Section 13340 of the Government Code, the Lithium Subaccount is hereby continuously appropriated without regard to fiscal years to the agency for purposes of this article.

(d) The agency shall allocate the moneys in the Lithium Subaccount for the following purposes, except as specified in subdivision (f):

(1) Operations and maintenance of restoration projects, or other public works projects, that are in existence on January 1, 2023, or are developed by the state pursuant to the Salton Sea Management Plan or an applicable State Water Resources Control Board order, including Orders WRO 2002-0013 and WR 2017-0134 and orders issued on or after January 1, 2023.

(2) Restoration projects required to meet the state's obligations as identified in any state plan or order related to the management of the Salton Sea, including the Salton Sea Management Plan or an applicable State Water Resources Control Board order, including Orders WRO 2002-0013 and WR 2017-0134 and orders issued on or after January 1, 2023.

(3) Grants for community engagement, public amenity, capital improvement, or community-benefit projects, including projects to help build capacity for meaningful public participation and outreach, at or around the Salton Sea and those communities impacted by the Salton Sea's restoration and development, as found by the secretary to be necessary and consistent with the state management objectives in the Salton Sea Management Plan. Entities eligible for these grants include, but are not limited to, tribal governments, nonprofit corporations, and local governments that serve disadvantaged communities or severely disadvantaged communities, as found by the secretary to be necessary and consistent with the state management objectives in the Salton Sea Management Plan.

(e) When awarding a grant pursuant to paragraph (3) of subdivision (d) to a nonprofit corporation, the agency shall give preference to a nonprofit corporation that meets all of the following criteria:

(1) The nonprofit corporation is in good standing by having complied with all state and federal requirements applicable to nonprofit corporations and having not been subject to any form of sanction, suspension, or disciplinary censure.

(2) The nonprofit corporation has a demonstrated presence in the Salton Sea region and experience working across different sectors, including, but not limited to, community stakeholders, local and state agencies, academia, independent contractors, and researchers, and the nonprofit corporation's staff implementing the grant will be located in or near disadvantaged communities located near the Salton Sea.

(3) The nonprofit corporation possesses experience relating to environmental justice initiatives, health intervention programs, direct assistance services, and civic education and engagement with community stakeholders across disadvantaged communities in the Salton Sea region.

(f) Notwithstanding subdivision (d), the agency shall not allocate moneys pursuant to this article for purposes of funding an otherwise legally required mitigation project by a third party under any other existing agreement.

(g) (1) When allocating moneys pursuant to this article, the agency shall prioritize allocations immediately necessary for operations and maintenance, but may allocate those moneys for any of the purposes described in subdivision (d) based on expected revenue.

(2) Each fiscal year, the agency shall allocate a portion of the revenues deposited into the Lithium Subaccount for the purposes described in paragraph (3) of subdivision (d).

(3) The agency may maintain a prudent reserve in the Lithium Subaccount.

2952. (a) Before allocating moneys pursuant to this article, the agency shall develop and adopt project solicitation and evaluation guidelines.

(b) The guidelines may include monitoring and reporting requirements, a limit on the dollar amount of grant awards, and other requirements, including eligibility requirements.

(c) The guidelines shall encourage, where feasible, inclusion of the following project components:

(1) Efficient use of water supplies and other natural resources.

(2) Protection and preservation of habitat.

(3) Mitigation of dust or other human health hazards.

(4) Protection of tribal cultural resources.

(5) Operation and maintenance of built infrastructure.

(6) Access and inclusion of underserved or underrepresented communities in public processes.

(d) Before adopting the guidelines, the agency shall consult with tribes and hold two public meetings to consider tribal input and public comments.

(e) Before holding a public meeting related to the guidelines, the agency shall publish a draft of the guidelines on its internet website.

(f) All public meetings related to the guidelines shall be conducted in the vicinity of the Salton Sea.

(g) The secretary shall cause to be posted, in an electronic form, the adopted guidelines on the agency's internet website.

(h) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to the development and adoption of the guidelines.

2953. For purposes of implementing this article, the agency may enter into agreements with other agencies, including the Department of Water Resources.

2954. On or before June 30 of each fiscal year, the agency shall report on its internet website the projected operating and maintenance costs of state-developed or -managed public works or restoration projects at the Salton Sea for the following fiscal year that will be funded through the Lithium Subaccount.

SEC. 2. Section 15570.32 is added to the Government Code, to read:

15570.32. (a) The department, in consultation with the Department of Finance, shall prepare a study that analyzes the implementation of a gross receipts tax on the extraction of lithium, in accordance with subdivision (c), to be considered by the Legislature for future enactment as legislation.

(b) The Natural Resources Agency, the Department of Conservation, and the State Energy Resources Conservation and Development Commission shall share relevant market information and data with the department to the extent it is needed to complete the study.

(c) On or before December 31, 2023, the study, including estimated fiscal costs of administering the program, shall be submitted to the Assembly Committee on Budget and the Senate Committee on Budget and Fiscal Review.

(d) The study of replacing a volume-based tax on the extraction of lithium with an equivalent tax based on gross receipts shall include, but not be limited to, all of the following:

(1) The administrative feasibility and considerations for the department of converting a volume-based tax on the extraction of lithium to an equivalent tax based on gross receipts.

(2) The revenue stability of a tax based on gross receipts in comparison to a volume-based tax.

(3) Potential impacts on the tax burdens of in-state lithium producers.

(4) An analysis of the reliability of gross receipts data in terms of providing a meaningful measure of the value of lithium production within a particular time period, including, but not limited to, the characteristics and structure of lithium-extracting

firms, types and frequency of sales by producers, price-setting mechanisms, and market volatility.

(5) Considerations on how to define gross receipts to capture the value of in-state production of lithium.

(6) An evaluation of alternatives to a volume-based tax structure that may provide protections to lithium producers if the price of lithium declines.

(e) (1) The study to be submitted pursuant to this section shall be submitted in compliance with Section 9795.

(2) Pursuant to Section 10231.5, this section is repealed on January 1, 2024.

SEC. 3. Section 2207 of the Public Resources Code, as amended by Section 20 of Chapter 521 of the Statutes of 2017, is amended to read:

2207. (a) The owner or the operator of a mining operation within the state shall forward to the supervisor annually, not later than a date established by the supervisor, on forms approved by the board from time to time, a report that identifies all of the following:

(1) The name, address, and telephone number of the person, company, or other owner of the mining operation.

(2) The name, address, and telephone number of a designated agent who resides in this state, and who will receive and accept service of all orders, notices, and processes of the lead agency, board, supervisor, or court.

(3) The location of the mining operation, its name, its mine number as issued by the Division of Mine Reclamation, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7¹/₂-minute or 15-minute quadrangle map.

(4) The lead agency.

(5) The approval date of the mining operation's reclamation plan.

(6) The mining operation's status as active, idle, reclaimed, or in the process of being reclaimed.

(7) The commodities produced by the mine and the type of mining operation.

(8) A copy of the previously completed annual inspection form and a requested date, within 12 months of the prior inspection date, for the next annual inspection by the lead agency.

(9) Proof of financial assurances.

(10) Ownership of the property, including government agencies, if applicable, by the assessor's parcel number, and total assessed value of the mining operation.

(11) The approximate permitted size of the mining operation subject to Chapter 9 (commencing with Section 2710), in acres.

(12) The approximate total acreage of land newly disturbed by the mining operation during the previous calendar year.

(13) The approximate total of disturbed acreage reclaimed during the previous calendar year.

(14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year.

(15) The total production for each mineral commodity produced during the previous year.

(16) A copy of any approved reclamation plan and any amendments or conditions of approval to any existing reclamation plan approved by the lead agency.

(b) (1) Every year, not later than the date established by the supervisor, the person submitting the report pursuant to subdivision (a) shall forward to the lead agency, on forms furnished by the board, a report that provides all of the information specified in subdivision (a).

(2) The owner or operator of a mining operation shall allow access to the property to any governmental agency or the agent of any company providing financial assurance mechanisms in connection with the reclamation plan in order that the reclamation can be carried out by the entity or company, in accordance with the reclamation plan.

(c) Subsequent reports shall include only changes in the information submitted for the items described in subdivision (a), except that, instead of the approved reclamation plan, the reports shall include any reclamation plan amendments approved during the previous year. The reports shall state whether review of a reclamation plan, financial assurances, or an interim management plan is pending under subdivision (h) of Section 2770, or whether an appeal before the board or lead agency governing body is pending under subdivision (e) or (h) of Section 2770. The supervisor shall notify the person submitting the report and the owner's

designated agent in writing that the report and the fee required pursuant to subdivision (d) have been received, specify the mining operation's mine number if one has not been issued by the Division of Mine Reclamation, and notify the person and agent of any deficiencies in the report within 90 days of receipt. That person or agent shall have 30 days from receipt of the notification to correct the noted deficiencies and forward the revised report to the supervisor and the lead agency. A person who fails to comply with this section, or knowingly provides incorrect or false information in reports required by this section, may be subject to an administrative penalty as provided in subdivision (c) of Section 2774.1.

(d) (1) The board shall impose, by regulation, pursuant to paragraph (2), an annual reporting fee on, and method for collecting annual fees from, each active or idle mining operation. The maximum fee for any single mining operation may not exceed ten thousand dollars (\$10,000) annually and may not be less than one hundred dollars (\$100) annually, as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, except that the maximum fee for any single mining operation shall not exceed six thousand dollars (\$6,000) in the 2017–18 fiscal year and eight thousand dollars (\$8,000) in the 2018–19 fiscal year.

(2) (A) The board shall adopt, by regulation, a schedule of fees authorized under paragraph (1) to cover the department's cost in carrying out this section and Chapter 9 (commencing with Section 2710), as reflected in the Governor's proposed Budget, and may adopt those regulations as emergency regulations. In establishing the schedule of fees to be paid by each active and idle mining operation, the fees shall be calculated on an equitable basis reflecting the size and type of operation. The board shall also consider the total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan.

(B) Regulations adopted pursuant to this subdivision shall be adopted by the board in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of any emergency regulations pursuant to this subdivision shall be considered necessary to address an emergency and shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(3) The total revenue generated by the reporting fees may not exceed, and may be less than, the amount of eight million dollars (\$8,000,000), as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2017–18 fiscal year and annually thereafter. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the board shall adjust the fees to compensate for the overcollection or undercollection of revenues.

(4) (A) The reporting fees established pursuant to this subdivision shall be deposited into the Mine Reclamation Account, which is hereby created. Any fees, penalties, interest, fines, or charges collected by the supervisor or board pursuant to this chapter or Chapter 9 (commencing with Section 2710) shall be deposited into the Mine Reclamation Account. The money in the account shall be available to the department and board, upon appropriation by the Legislature, for the purpose of carrying out this section and complying with Chapter 9 (commencing with Section 2710), which includes, but is not limited to, the classification and designation of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance review, mine inspection, and enforcement.

(B) (i) In addition to reporting fees, the board shall collect five dollars (\$5) per ounce of gold and ten cents (\$0.10) per ounce of silver mined within the state and shall deposit the fees collected into the Abandoned Mine Reclamation and Minerals Fund Subaccount, which is hereby created in the Mine Reclamation Account. The department may expend the moneys in the subaccount, upon appropriation by the Legislature, for only the purposes of Section 2796.5 and as authorized herein for the remediation of abandoned mines.

(ii) Notwithstanding subdivision (j) of Section 2796.5, fees collected pursuant to clause (i) may also be used to remediate features of historic abandoned mines and lands that they impact. For purposes of this section, historic abandoned mines are mines for which operations have been conducted before January 1, 1976, and include, but are not limited to, historic gold and silver mines.

(5) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars (\$100) or 10 percent of the amount due, whichever is greater, plus interest at the rate of $1\frac{1}{2}$ percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New mining operations that have not submitted a report shall submit a report before commencement of operations. The new operation shall submit its fee according to the reasonable fee schedule adopted by the board, and the month that the report is received shall become that operation's anniversary month.

(e) The lead agency, or the board when acting as the lead agency, may impose a fee on each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).

(f) For purposes of this section, "mining operation" means a mining operation of any kind or character whatever in this state, including, but not limited to, a mining operation that is classified as a "surface mining operation" as defined in Section 2735, unless excepted by Section 2714, and the extraction of minerals from geothermal brine, or any other brine, including, but not limited to, a mining operation colocated or co-operated with geothermal resource facilities. For purposes of fee collections only, "mining operation" may include one or more mines operated by a single operator or mining company on one or more sites, if the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity produced is not precious metals.

(g) Any information in reports submitted pursuant to subdivision (a) that includes or otherwise indicates the total mineral production, reserves, or rate of depletion of any mining operation may not be disclosed to any member of the public, as defined in subdivision (b) of Section 6252 of the Government Code. Other portions of the reports are public records unless excepted by statute. Statistical bulletins based on these reports and published under Section 2205 shall be compiled to show, for the state as a whole and separately for each lead agency, the total of each mineral produced therein. In order not to disclose the production, reserves, or rate of depletion from any identifiable mining operation, no production figure shall be published or otherwise disclosed unless that figure is the aggregated production of not less than three mining operations. If the production figure for any lead agency would disclose the production, reserves, or rate of depletion of less than three mining operations or otherwise permit the reasonable inference of the production, reserves, or rate of depletion of any identifiable mining operation, that figure shall be combined with the same figure of not less than two other lead agencies without regard to the location of the lead agencies. The bulletin shall be published annually by June 30 or as soon thereafter as practicable.

(h) The approval of a form by the board pursuant to this section is not the adoption of a regulation for purposes of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and is not subject to that act.

SEC. 4. Section 2207 of the Public Resources Code, as amended by Section 366 of Chapter 615 of the Statutes of 2021, is amended to read:

2207. (a) The owner or the operator of a mining operation within the state shall forward to the supervisor annually, not later than a date established by the supervisor, on forms approved by the board from time to time, a report that identifies all of the following:

- (1) The name, address, and telephone number of the person, company, or other owner of the mining operation.
- (2) The name, address, and telephone number of a designated agent who resides in this state, and who will receive and accept service of all orders, notices, and processes of the lead agency, board, supervisor, or court.
- (3) The location of the mining operation, its name, its mine number as issued by the Division of Mine Reclamation, its section, township, range, latitude, longitude, and approximate boundaries of the mining operation marked on a United States Geological Survey 7¹/₂-minute or 15-minute quadrangle map.
- (4) The lead agency.
- (5) The approval date of the mining operation's reclamation plan.
- (6) The mining operation's status as active, idle, reclaimed, or in the process of being reclaimed.
- (7) The commodities produced by the mine and the type of mining operation.
- (8) A copy of the previously completed annual inspection form and a requested date, within 12 months of the prior inspection date, for the next annual inspection by the lead agency.
- (9) Proof of financial assurances.
- (10) Ownership of the property, including government agencies, if applicable, by the assessor's parcel number, and total assessed value of the mining operation.
- (11) The approximate permitted size of the mining operation subject to Chapter 9 (commencing with Section 2710), in acres.
- (12) The approximate total acreage of land newly disturbed by the mining operation during the previous calendar year.
- (13) The approximate total of disturbed acreage reclaimed during the previous calendar year.
- (14) The approximate total unreclaimed disturbed acreage remaining as of the end of the calendar year.
- (15) The total production for each mineral commodity produced during the previous year.

(16) A copy of any approved reclamation plan and any amendments or conditions of approval to any existing reclamation plan approved by the lead agency.

(b) (1) Every year, not later than the date established by the supervisor, the person submitting the report pursuant to subdivision (a) shall forward to the lead agency, on forms furnished by the board, a report that provides all of the information specified in subdivision (a).

(2) The owner or operator of a mining operation shall allow access to the property to any governmental agency or the agent of any company providing financial assurance mechanisms in connection with the reclamation plan in order that the reclamation can be carried out by the entity or company, in accordance with the reclamation plan.

(c) Subsequent reports shall include only changes in the information submitted for the items described in subdivision (a), except that, instead of the approved reclamation plan, the reports shall include any reclamation plan amendments approved during the previous year. The reports shall state whether review of a reclamation plan, financial assurances, or an interim management plan is pending under subdivision (h) of Section 2770, or whether an appeal before the board or lead agency governing body is pending under subdivision (e) or (h) of Section 2770. The supervisor shall notify the person submitting the report and the owner's designated agent in writing that the report and the fee required pursuant to subdivision (d) have been received, specify the mining operation's mine number if one has not been issued by the Division of Mine Reclamation, and notify the person and agent of any deficiencies in the report within 90 days of receipt. That person or agent shall have 30 days from receipt of the notification to correct the noted deficiencies and forward the revised report to the supervisor and the lead agency. A person who fails to comply with this section, or knowingly provides incorrect or false information in reports required by this section, may be subject to an administrative penalty as provided in subdivision (c) of Section 2774.1.

(d) (1) The board shall impose, by regulation, pursuant to paragraph (2), an annual reporting fee on, and method for collecting annual fees from, each active or idle mining operation. The maximum fee for any single mining operation may not exceed ten thousand dollars (\$10,000) annually and may not be less than one hundred dollars (\$100) annually, as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, except that the maximum fee for any single mining operation shall not exceed six thousand dollars (\$6,000) in the 2017–18 fiscal year and eight thousand dollars (\$8,000) in the 2018–19 fiscal year.

(2) (A) The board shall adopt, by regulation, a schedule of fees authorized under paragraph (1) to cover the department's cost in carrying out this section and Chapter 9 (commencing with Section 2710), as reflected in the Governor's proposed Budget, and may adopt those regulations as emergency regulations. In establishing the schedule of fees to be paid by each active and idle mining operation, the fees shall be calculated on an equitable basis reflecting the size and type of operation. The board shall also consider the total assessed value of the mining operation, the acreage disturbed by mining activities, and the acreage subject to the reclamation plan.

(B) Regulations adopted pursuant to this subdivision shall be adopted by the board in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code). The adoption of any emergency regulations pursuant to this subdivision shall be considered necessary to address an emergency and shall be considered by the Office of Administrative Law to be necessary for the immediate preservation of the public peace, health, safety, and general welfare.

(3) The total revenue generated by the reporting fees may not exceed, and may be less than, the amount of eight million dollars (\$8,000,000), as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2017–18 fiscal year and annually thereafter. If the director determines that the revenue collected during the preceding fiscal year was greater or less than the cost to operate the program, the board shall adjust the fees to compensate for the overcollection or undercollection of revenues.

(4) (A) The reporting fees established pursuant to this subdivision shall be deposited into the Mine Reclamation Account, which is hereby created. Any fees, penalties, interest, fines, or charges collected by the supervisor or board pursuant to this chapter or Chapter 9 (commencing with Section 2710) shall be deposited into the Mine Reclamation Account. The money in the account shall be available to the department and board, upon appropriation by the Legislature, for the purpose of carrying out this section and complying with Chapter 9 (commencing with Section 2710), which includes, but is not limited to, the classification and designation of areas with mineral resources of statewide or regional significance, reclamation plan and financial assurance review, mine inspection, and enforcement.

(B) (i) In addition to reporting fees, the board shall collect five dollars (\$5) per ounce of gold and ten cents (\$0.10) per ounce of silver mined within the state and shall deposit the fees collected into the Abandoned Mine Reclamation and Minerals Fund Subaccount, which is hereby created in the Mine Reclamation Account. The department may expend the moneys in

the subaccount, upon appropriation by the Legislature, for only the purposes of Section 2796.5 and as authorized herein for the remediation of abandoned mines.

(ii) Notwithstanding subdivision (j) of Section 2796.5, fees collected pursuant to clause (i) may also be used to remediate features of historic abandoned mines and lands that they impact. For purposes of this section, historic abandoned mines are mines for which operations have been conducted before January 1, 1976, and include, but are not limited to, historic gold and silver mines.

(5) In case of late payment of the reporting fee, a penalty of not less than one hundred dollars (\$100) or 10 percent of the amount due, whichever is greater, plus interest at the rate of $1\frac{1}{2}$ percent per month, computed from the delinquent date of the assessment until and including the date of payment, shall be assessed. New mining operations that have not submitted a report shall submit a report before commencement of operations. The new operation shall submit its fee according to the reasonable fee schedule adopted by the board, and the month that the report is received shall become that operation's anniversary month.

(e) The lead agency, or the board when acting as the lead agency, may impose a fee on each mining operation to cover the reasonable costs incurred in implementing this chapter and Chapter 9 (commencing with Section 2710).

(f) For purposes of this section, "mining operation" means a mining operation of any kind or character whatever in this state, including, but not limited to, a mining operation that is classified as a "surface mining operation" as defined in Section 2735, unless excepted by Section 2714, and the extraction of minerals from geothermal brine, or any other brine, including, but not limited to, a mining operation colocated or co-operated with geothermal resource facilities. For purposes of fee collections only, "mining operation" may include one or more mines operated by a single operator or mining company on one or more sites, if the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity produced is not precious metals.

(g) Any information in reports submitted pursuant to subdivision (a) that includes or otherwise indicates the total mineral production, reserves, or rate of depletion of any mining operation may not be disclosed to any member of the public, as defined in Section 7920.515 of the Government Code. Other portions of the reports are public records unless excepted by statute. Statistical bulletins based on these reports and published under Section 2205 shall be compiled to show, for the state as a whole and separately for each lead agency, the total of each mineral produced therein. In order not to disclose the production, reserves, or rate of depletion from any identifiable mining operation, no production figure shall be published or otherwise disclosed unless that figure is the aggregated production of not less than three mining operations. If the production figure for any lead agency would disclose the production, reserves, or rate of depletion of less than three mining operations or otherwise permit the reasonable inference of the production, reserves, or rate of depletion of any identifiable mining operation, that figure shall be combined with the same figure of not less than two other lead agencies without regard to the location of the lead agencies. The bulletin shall be published annually by June 30 or as soon thereafter as practicable.

(h) The approval of a form by the board pursuant to this section is not the adoption of a regulation for purposes of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) and is not subject to that act.

SEC. 5. Section 3823 of the Public Resources Code is amended to read:

3823. Revenues disbursed to counties of origin pursuant to Section 3821 and grants or loans made to local jurisdictions or private entities pursuant to Section 3822 shall be expended by the recipient for the following purposes:

(a) Undertaking research and development projects relating to geothermal resource assessment and exploration, and direct-use and electric generation technology.

(b) Local and regional planning and policy development and implementation necessary for compliance with programs required by local, state, or federal laws and regulations.

(c) Identification of feasible measures that will mitigate the adverse impacts of the development or production of geothermal resources, the extraction of minerals from geothermal brines, and related activities, and the adoption of ordinances, regulations, and guidelines to implement those measures.

(d) Collecting baseline data and conducting environmental monitoring.

(e) Preparation or revision of geothermal resource elements, or geothermal components of energy elements, for inclusion in the local general plan, zoning and other ordinances, and related planning and environmental documents.

(f) Administrative costs incurred by the local jurisdiction that are attributable to the development or production of geothermal resources, the extraction of minerals from geothermal brines, and related activities.

(g) Monitoring and inspecting geothermal facilities and related activities to assure compliance with applicable laws, regulations, and ordinances.

(h) Identifying, researching, and implementing feasible measures that will mitigate the adverse impacts of the development or production of geothermal resources, extraction of minerals from geothermal brines, and related activities, including mitigation measures that provide community benefits directly or indirectly related to adverse social and economic impacts.

(i) Planning, constructing, providing, operating, and maintaining those public services and facilities that are necessitated by, and result from, the development or of geothermal resources, the extraction of minerals from geothermal brines, and related activities.

(j) Undertaking projects demonstrating the technical and economic feasibility of geothermal direct heat and electrical generation applications.

(k) Undertaking projects for the enhancement, restoration, or preservation of natural resources, including, but not limited to, water development, water quality improvement, fisheries enhancement, and park and recreation facilities and areas.

(l) In furtherance of the state's zero-emission vehicle and energy storage objectives, undertaking projects to recover lithium, metals, agricultural products, and other beneficial minerals from highly mineralized geothermal brines at a geothermal facility that is in a disadvantaged community and provides local employment opportunities.

SEC. 6. Part 25 (commencing with Section 47000) is added to Division 2 of the Revenue and Taxation Code, to read:

PART 25. Lithium Extraction Tax Law

CHAPTER 1. General Provisions and Definitions

47000. (a) This part shall be known, and may be cited, as the Lithium Extraction Tax Law.

(b) The purpose of this part is to promote a robust California-based lithium extraction industry that considers the needs of the local communities where the lithium extraction occurs, while recognizing the significant benefit of having a domestic supply of lithium for the state's goals for reducing the emissions of greenhouse gases. By imposing a statewide tax on lithium extraction and preempting the taxing authority of counties, municipalities, and districts on the extraction and storage of lithium, lithium producers will have greater certainty about the potential costs of doing business and will be more likely to engage in lithium production activities.

(c) It is the intent of the Legislature to comprehensively regulate the imposition and collection of taxes on the extraction and storage of lithium and to occupy the field to the exclusion of local action, except as specifically provided in this part.

(d) The Legislature finds and declares that promoting the development of a robust lithium production industry in the state to reduce the impact of climate change is a matter of statewide concern and, therefore, is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution.

47002. For purposes of this part, the following definitions apply:

(a) "Department" means the California Department of Tax and Fee Administration.

(b) "Extraction" means the process of removing lithium from geothermal fluid, spodumene ore, rock, minerals, clay, or any other naturally occurring substance by a physical or chemical process.

(c) "Geothermal fluid" means naturally occurring groundwater, brines, vapor, and steam associated with, or derived from, a geothermal resource.

(d) "Geothermal resource" has the same meaning as defined in Section 6903 of the Public Resources Code.

(e) "In this state" means within the exterior limits of the State of California and includes all territory within these limits owned by, or ceded to, the United States.

(f) "Metric ton" means a unit of mass equal to 1,000 kilograms.

(g) "Minerals" has the same meaning as defined in Section 2005 of the Public Resources Code.

(h) "Producer" means any person who extracts lithium from geothermal fluid, spodumene ore, rock, minerals, clay, or any other naturally occurring substance in this state.

CHAPTER 2. The Lithium Extraction Excise Tax

47010. (a) Beginning January 1, 2023, a producer shall pay a lithium extraction excise tax upon each metric ton of lithium carbonate equivalent extracted from geothermal fluid, spodumene ore, rock, minerals, clay, or any other naturally occurring substance in this state, at the following amounts:

Lifetime cumulative metric tons of lithium carbonate equivalent extracted by a producer:	Applicable tax rate:
20,000 or less	\$400 per metric ton extracted.
Over 20,000 but not over 30,000.	\$600 per metric ton extracted over 20,000 up to 30,000 metric tons, inclusive.
Over 30,000 metric tons.	\$800 per metric ton extracted over 30,000.

(b) (1) The tax brackets specified in subdivision (a) shall apply to the total metric tons of lithium carbonate extracted by a producer cumulatively beginning from the date the first metric ton of lithium carbonate was extracted. In each quarterly reporting period, as described in Section 47070, the producer shall add the amount of metric tons of lithium carbonate extracted during that quarter to the cumulative amount of lithium carbonate previously reported by the producer.

(2) Where the permit (ownership) of a mine, lithium extraction facility, or well changes, the cumulative amount of lithium carbonate extracted previously reported by the producer shall be assumed to be 30,000 metric tons.

(c) Beginning January 1, 2025, the lithium extraction tax rate imposed under subdivision (a) shall be adjusted annually by the department consistent with increases and decreases in the cost of living, as measured by the California Consumer Price Index issued by the Department of Industrial Relations or a successor agency, rounded to the nearest whole dollar. The first adjustment pursuant to this subdivision shall be an amount equal to the increase or decrease in the California Consumer Price Index for all urban consumers (CPI-U) from June 2023 to June 2024. Subsequent annual adjustments shall cover subsequent 12-month periods. The adjusted rate shall apply beginning the following January 1.

(d) A producer shall remit the tax to the department in a manner and form as prescribed by this part.

47015. For purposes of this part, the lithium and lithium compounds extracted shall be converted to lithium carbonate equivalent by multiplying the tonnage of lithium and lithium compounds by the appropriate conversion factor, as follows:

Lithium or lithium compound:	Conversion factor:
Lithium (Li)	5.323
Lithium oxide (Li ₂ O)	2.473
Lithium chloride (LiCl)	0.871
Lithium bromide (LiBr)	0.425
Lithium hydroxide monohydrate (LiOH.H ₂ O)	0.880
Butyllithium (C ₄ H ₉ Li)	0.576
Lithium carbonate (Li ₂ CO ₃)	1.000

47020. (a) It is the intent of the Legislature that this part preempt provisions pertaining to the imposition of taxes by counties, municipalities, and districts to the extent that the provisions are inconsistent with this part.

(b) Except as provided in subdivision (c), the taxes imposed by this part are in lieu of all county, municipal, or district taxes on lithium extraction or lithium storage by producers.

(c) This section does not prohibit the application of Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), or Part 1.6 (commencing with Section 7251) to the sale, storage, use, or other consumption of lithium.

CHAPTER 3. Administration

47060. The department shall administer and collect the taxes imposed by this part pursuant to the Fee Collection Procedures Law (Part 30 (commencing with Section 55001)). For purposes of this part, the references in the Fee Collection Procedures Law to "fee" shall include the taxes imposed by this part, and references to "feepayer" shall include a person required to pay the taxes imposed by this part.

47070. (a) The taxes imposed by this part shall be due and payable quarterly on or before the last day of the month following each calendar quarter.

(b) The payments shall be accompanied by a return filed by the producer using electronic media on or before the last day of the month following each quarterly period for the preceding quarterly period. Returns shall be authenticated in a form or pursuant to methods as may be prescribed by the department.

47080. (a) The department may prescribe, adopt, and enforce regulations relating to the administration and enforcement of this part, including, but not limited to, provisions governing collections, reporting, refunds, and appeals.

(b) The department may prescribe, adopt, and enforce emergency regulations relating to the administration and enforcement of this part. Any emergency regulations prescribed, adopted, or enforced pursuant to this section shall be adopted in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and, for purposes of that chapter, including Section 11349.6 of the Government Code, the adoption of these regulations is an emergency and shall be considered by the Office of Administrative Law as necessary for the immediate preservation of the public peace, health and safety, and general welfare.

47090. (a) A producer subject to this part shall register for a permit with the department using electronic media and shall set forth the name under which it transacts or intends to transact business and any other information as the department may require.

(b) By September 1 of each year, the Department of Conservation shall provide to the department the annual reports submitted pursuant to Section 2207 of the Public Resources Code that report on the extraction of lithium from geothermal fluid, spodumene ore, rock, minerals, clay, or any other naturally occurring substance by a physical or chemical process.

47100. All revenues collected pursuant to this part, less refunds and reimbursement to the department for expenses incurred in the administration and collection of the taxes imposed by this part, shall be deposited into the Lithium Extraction Excise Tax Fund, which is hereby created in the State Treasury. Notwithstanding Section 13340 of the Government Code, moneys in the fund are continuously appropriated, without regard to fiscal year, as follows:

(a) (1) Eighty percent shall be disbursed by the Controller to all counties in proportion to the amounts of the taxes, interest, penalties, and other amounts collected for lithium extraction within each county. Each county shall establish for deposit of these revenues an account or fund separate from the other accounts and funds of the county.

(2) (A) Of the amount disbursed to the County of Imperial pursuant to this subdivision, the county shall establish a method to distribute an amount not less than 30 percent of that disbursed amount to the County of Imperial communities that are most directly and indirectly impacted by the lithium extraction activities, including, but not limited to, the following communities:

(i) The directly affected communities listed below:

(I) Bombay Beach.

(II) The City of Brawley.

(III) The City of Calipatria.

(IV) Niland.

(V) The City of Westmorland.

(ii) The indirectly affected communities listed below:

(I) Bard.

(II) The City of Calexico.

(III) Desert Shores.

(IV) The City of El Centro.

(V) Heber.

(VI) The City of Holtville.

(VII) The City of Imperial.

(VIII) Ocotillo.

(IX) Palo Verde.

(X) Salton City.

(XI) Salton Sea Beach.

(XII) Seeley.

(XIII) Winterhaven.

(XIV) Vista Del Mar.

(B) The County of Imperial shall annually, on a date and in a manner determined by the department, report to the department the communities to which funding was distributed pursuant to this paragraph.

(b) Twenty percent shall be deposited into the Lithium Subaccount within the Salton Sea Restoration Fund created in Section 2951 of the Fish and Game Code.

SEC. 7. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

SEC. 8. (a) The sum of five million dollars (\$5,000,000) is hereby appropriated from the General Fund for allocation to the County of Imperial.

(b) The Director of Finance, or their designee, shall instruct the Controller to remit the sum set forth in subdivision (a) to the County of Imperial for deposit into the county treasury with 30 days of the Department of Finance's receipt of a letter from the county requesting the funds.

(c) The funds appropriated in this section shall be used by the County of Imperial for the following purposes:

(1) Three million eight hundred fifty thousand dollars (\$3,850,000) to prepare the county's programmatic environmental impact report and a health impact assessment, and to support community outreach for geothermal energy development and lithium extraction, processing, production, and related manufacturing activities within the county.

(2) Eight hundred thousand dollars (\$800,000) to distribute grants for engagement by community-based organizations in the county on the programmatic environmental impact report created by the county for lithium and geothermal energy development efforts in the county.

(3) Three hundred fifty thousand dollars (\$350,000) to support the activities of an ombudsperson to engage with stakeholders on lithium extraction, rare-earth minerals mining, and renewable energy generation to provide enhanced communication by and between internal departments within the county and assistance in communication with state and federal agencies.

SEC. 9. This act is a bill providing for appropriations related to the Budget Bill within the meaning of subdivision (e) of Section 12 of Article IV of the California Constitution, has been identified as related to the budget in the Budget Bill, and shall take effect immediately.