

CHAPTER 298

OCCUPATION TAXES

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298.09 NOTICES; HEARINGS; DETERMINATION OF AMOUNT OF TAX IS FINAL; CERTIORARI.

[For text of subds 1 and 2, see M.S.1982]

Subd. 3. **Order; appeal.** After the hearing the commissioner of revenue shall make his order either affirming his determination of the tax due from the person appearing or modifying the determination as he deems just and equitable. Upon the making and filing of the order, the determination shall, except as otherwise provided, become final and conclusive. The determination of the amount of tax due from any person not appearing at the hearing shall, except as otherwise provided, become final and conclusive on the second secular day following the 14th day of May without further order. The determination by the commissioner of the amount of any tax due shall, except as otherwise provided, be subject to review only on a writ of certiorari issued out of the court of appeals on petition for it presented to the court by the person subject to the tax on or before July first next following the determination of the tax.

[For text of subds 4 and 5, see M.S.1982]

History: 1983 c 247 s 129

298.22 IRON RANGE RESOURCES AND REHABILITATION.

Subdivision 1. (1) The office of commissioner of iron range resources and rehabilitation is created. The commissioner shall be appointed by the governor under the provisions of section 15.06.

(2) The commissioner may hold such other positions or appointments as are not incompatible with his duties as commissioner of iron range resources and rehabilitation. The commissioner may appoint a deputy commissioner. All expenses of the commissioner, including the payment of such assistance as may be necessary, shall be paid out of the amounts appropriated by section 298.28, subdivision 1. The compensation of the commissioner shall be set by the governor.

(3) When the commissioner shall determine that distress and unemployment exists or may exist in the future in any county by reason of the removal of natural resources or a possibly limited use thereof in the future and the decrease in employment resulting therefrom, now or hereafter, he may use such amounts of the appropriation made to him in section 298.28, subdivision 1 as he may determine to be necessary and proper in the development of the remaining resources of said county and in the vocational training and rehabilitation of its

residents. For the purposes of this section, "development of remaining resources" includes, but is not limited to, the promotion of tourism.

[For text of subs 2 to 5, see M.S.1982]

History: 1983 c 301 s 183

NOTE: Subdivision 1 was also amended by Laws 1983, chapter 299, section 26, to read as follows:

"Subdivision 1. (1) The office of commissioner of iron range resources and rehabilitation is created. The commissioner shall be appointed by the governor under the provisions of section 15.06.

(2) The commissioner may hold such other positions or appointments as are not incompatible with his duties as commissioner of iron range resources and rehabilitation. The commissioner may appoint a deputy commissioner. All expenses of the commissioner, including the payment of such assistance as may be necessary, shall be paid out of the amounts appropriated by section 298.28, subdivision 1. The compensation of the commissioner shall be set by the legislative coordinating commission.

(3) When the commissioner shall determine that distress and unemployment exists or may exist in the future in any county by reason of the removal of natural resources or a possibly limited use thereof in the future and the decrease in employment resulting therefrom, now or hereafter, he may use such amounts of the appropriation made to him in section 298.28, subdivision 1 as he may determine to be necessary and proper in the development of the remaining resources of said county and in the vocational training and rehabilitation of its residents. For the purposes of this section, "development of remaining resources" includes, but is not limited to, the promotion of tourism."

298.2211 FINANCING ACTIVITIES.

Subdivision 1. **Purpose; grant of authority.** In order to accomplish the legislative purposes specified in chapters 362A, 462C, and 474, within tax relief areas as defined in section 273.134, the commissioner of iron range resources and rehabilitation may exercise the following powers: (1) all powers conferred upon a rural development financing authority under sections 362A.01 to 362A.05; (2) all powers conferred upon a city under chapter 462C, subject to compliance with the provisions of section 462C.09; (3) all powers conferred upon a municipality or a redevelopment agency under chapter 474; (4) all powers provided by chapter 362A to further any of the purposes and objectives of chapters 462C and 474; and (5) all powers conferred upon a municipality or an authority under sections 273.73 to 273.76, section 273.77, except paragraph (a) thereof, and section 273.78, subject to compliance with the provisions of section 273.74, subdivisions 1, 2, and 3; provided that any tax increments derived by the commissioner from the exercise of this authority may be used only to finance or pay premiums or fees for insurance, letters of credit, or other contracts guaranteeing the payment when due of net rentals under a project lease or the payment of principal and interest due on or repurchase of bonds issued to finance a project or program, to accumulate and maintain reserves securing the payment when due on bonds issued to finance a project or program, or to provide an interest rate reduction program pursuant to section 462.445, subdivision 10. Tax increments and earnings thereon remaining in any bond reserve account after payment or discharge of any bonds secured thereby shall be used within one year thereafter in furtherance of this section or returned to the county auditor of the county in which the tax increment financing district is located. If returned to the county auditor, the county auditor shall immediately allocate the amount among all government units which would have shared therein had the amount been received as part of the other ad valorem taxes on property in the district most recently paid, in the same proportions as other taxes were distributed, and shall immediately distribute it to the government units in accordance with the allocation.

Subd. 2. **Area of operation.** Projects undertaken, developed, or financed pursuant to this section shall be located within the tax relief area defined in section 273.134.

Subd. 3. **Project approval.** All projects authorized by this section shall be submitted by the commissioner to the iron range resources and rehabilitation board, which shall recommend approval or disapproval or modification of the projects. Each project shall then be submitted to the legislative advisory commit-

tee for any review and comment the committee deems appropriate. Prior to the commencement of a project involving the exercise by the commissioner of any authority of sections 273.71 to 273.86, the governing body of each municipality in which any part of the project is located and the county board of any county containing portions of the project not located in an incorporated area shall by majority vote approve or disapprove the project. Any project, as so approved by the board and the applicable governing bodies, if any, together with any comment provided by the legislative advisory committee, detailed information concerning the project, its costs, the sources of its funding, and the amount of any bonded indebtedness to be incurred in connection with the project, shall be transmitted to the governor, who shall approve, disapprove, or return the proposal for additional consideration within 30 days of receipt. No project authorized under this section shall be undertaken, and no obligations shall be issued and no tax increments shall be expended for a project authorized under this section until the project has been approved by the governor.

Subd. 4. Obligations not state debt. Bonds and other obligations issued by the commissioner pursuant to this section are not general obligations of the state of Minnesota. The full faith and credit and taxing powers of the state are not and may not be pledged for the payment of these bonds or other obligations, and no person has the right to compel the levy of any state tax for their payment or to compel the appropriation of any moneys of the state for their payment except as specifically provided herein. These bonds and obligations shall be payable solely from the property and moneys derived by the commissioner pursuant to the authority granted in this section that the commissioner pledges to their payment. All these bonds or other obligations must contain the provisions of this subdivision or words to the same effect on their face.

Subd. 5. Appropriation of moneys. There is appropriated to the commissioner for the purpose of carrying out any project or program undertaken pursuant to this section, all property and moneys derived by the commissioner through the exercise of the powers conferred by this section. The commissioner may pledge all the property or moneys for the security or payment of bonds or other obligations issued or entered into by him for this purpose.

History: 1983 c 357 s 1

298.28 DIVISION AND DISTRIBUTION OF PROCEEDS.

Subdivision 1. Distribution from general fund. The proceeds of the taxes collected under section 298.24, except the tax collected under section 298.24, subdivision 2, shall, upon certificate of the commissioner of revenue to the general fund of the state, be paid by the commissioner of revenue as follows:

(1) 2.5 cents per gross ton of merchantable iron ore concentrate, hereinafter referred to as "taxable ton," to the city or town in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. If the mining, quarrying, and concentration, or different steps in either thereof are carried on in more than one taxing district, the commissioner shall apportion equitably the proceeds of the part of the tax going to cities and towns among such subdivisions upon the basis of attributing 40 percent of the proceeds of the tax to the operation of mining or quarrying the taconite, and the remainder to the concentrating plant and to the processes of concentration, and with respect to each thereof giving due consideration to the relative extent of such operations performed in each such taxing district. His order making such apportionment

shall be subject to review by the tax court at the instance of any of the interested taxing districts, in the same manner as other orders of the commissioner.

(2) 12.5 cents per taxable ton, less any amount distributed under clause (8), to the taconite municipal aid account in the apportionment fund of the state treasury, to be distributed as provided in section 298.282.

(3) 29 cents per taxable ton plus the increase provided in paragraph (c) to qualifying school districts to be distributed as follows:

(a) Six cents per taxable ton to the school districts in which the lands from which taconite was mined or quarried were located or within which the concentrate was produced. The commissioner shall follow the apportionment formula prescribed in clause (1).

(b) 23 cents per taxable ton, less any amount distributed under part (d), shall be distributed to a group of school districts comprised of those school districts wherein the taconite was mined or quarried or the concentrate produced or in which there is a qualifying municipality as defined by section 273.134 in direct proportion to school district tax levies as follows: each district shall receive that portion of the total distribution which its certified levy for the prior year, computed pursuant to section 275.125, comprises of the sum of certified levies for the prior year for all qualifying districts, computed pursuant to section 275.125. For purposes of distributions pursuant to this part, certified levies for the prior year computed pursuant to section 275.125 shall not include the amount of any increased levy authorized by referendum pursuant to section 275.125, subdivision 2d.

(c) On July 15, 1982 and on July 15 in subsequent years, an amount equal to the increase derived by increasing the amount determined by clause (3)(b) in the same proportion as the increase in the steel mill products index over the base year of 1977 as provided in section 298.24, subdivision 1; clause (a), shall be distributed to any school district described in clause (3)(b) where a levy increase pursuant to section 275.125, subdivision 2d, is authorized by referendum, according to the following formula. Each district shall receive the product of:

(i) \$150 times the pupil units identified in section 124.17, subdivision 1, clauses (1) and (2), enrolled in the previous school year, less the product of two mills times the district's taxable valuation in the second previous year; times

(ii) the lesser of:

(A) one, or

(B) the ratio of the amount certified pursuant to section 275.125, subdivision 2d, in the previous year, to the product of two mills times the district's taxable valuation in the second previous year.

If the total amount provided by clause (3)(c) is insufficient to make the payments herein required then the entitlement of \$150 per pupil unit shall be reduced uniformly so as not to exceed the funds available. Any amounts received by a qualifying school district in any fiscal year pursuant to clause (3)(c) shall not be applied to reduce foundation aids which the district is entitled to receive pursuant to sections 124.2121 to 124.2128 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of finance who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in section 298.28, subdivision 1, clause 10.

(d) There shall be distributed to any school district the amount which the school district was entitled to receive under section 298.32 in 1975.

(4) 19.5 cents per taxable ton to counties to be distributed as follows:

(a) 15.5 cents per taxable ton shall be distributed to the county in which the taconite is mined or quarried or in which the concentrate is produced, less any amount which is to be distributed pursuant to part (b). The commissioner shall follow the apportionment formula prescribed in clause (1).

(b) If an electric power plant owned by and providing the primary source of power for a taxpayer mining and concentrating taconite is located in a county other than the county in which the mining and the concentrating processes are conducted, one cent per taxable ton of the tax distributed to the counties pursuant to part (a) and imposed on and collected from such taxpayer shall be distributed by the commissioner of revenue to the county in which the power plant is located.

(c) Four cents per taxable ton shall be paid to the county from which the taconite was mined, quarried or concentrated to be deposited in the county road and bridge fund. If the mining, quarrying and concentrating, or separate steps in any of those processes are carried on in more than one county, the commissioner shall follow the apportionment formula prescribed in clause (1).

(5) (a) 25.75 cents per taxable ton, less any amount required to be distributed under part (b), to the taconite property tax relief account in the apportionment fund in the state treasury, to be distributed as provided in sections 273.134 to 273.136.

(b) If an electric power plant owned by and providing the primary source of power for a taxpayer mining and concentrating taconite is located in a county other than the county in which the mining and the concentrating processes are conducted, .75 cent per taxable ton of the tax imposed and collected from such taxpayer shall be distributed by the commissioner of revenue to the county and school district in which the power plant is located as follows: 25 percent to the county and 75 percent to the school district.

(6) One cent per taxable ton to the state for the cost of administering the tax imposed by section 298.24.

(7) Three cents per taxable ton shall be deposited in the state treasury to the credit of the iron range resources and rehabilitation board account in the special revenue fund for the purposes of section 298.22. The amount determined in this clause shall be increased in 1981 and subsequent years in the same proportion as the increase in the steel mill products index as provided in section 298.24, subdivision 1. The amount distributed pursuant to this clause shall be expended within or for the benefit of a tax relief area defined in section 273.134. No part of the fund provided in this clause may be used to provide loans for the operation of private business unless the loan is approved by the governor and the legislative advisory commission.

(8) .20 cent per taxable ton shall be paid in 1979 and each year thereafter, to the range association of municipalities and schools, for the purpose of providing an area wide approach to problems which demand coordinated and cooperative actions and which are common to those areas of northeast Minnesota affected by operations involved in mining iron ore and taconite and producing concentrate therefrom, and for the purpose of promoting the general welfare and economic development of the cities, towns and school districts within the iron range area of northeast Minnesota.

(9) the amounts determined under clauses (4)(a), (4)(c), and (5) shall be increased in 1979 and subsequent years in the same proportion as the increase in the steel mill products index as provided in section 298.24, subdivision 1.

(10) the proceeds of the tax imposed by section 298.24 which remain after the distributions in clauses (1) to (9) and parts (a) and (b) of this clause have been

made shall be divided between the taconite environmental protection fund created in section 298.223 and the northeast Minnesota economic protection trust fund created in section 298.292 as follows: In 1981 and each year thereafter, two-thirds to the taconite environmental protection fund and one-third to the northeast Minnesota economic protection trust fund. The proceeds shall be placed in the respective special accounts in the general fund.

(a) In 1978 and each year thereafter, there shall be distributed to each city, town, school district, and county the amount that they received under section 294.26 in calendar year 1977; provided, however, that the amount distributed in 1981 to the unorganized territory number 2 of Lake County and the town of Beaver Bay based on the between-terminal trackage of Erie Mining Company will be distributed in 1982 and subsequent years to the unorganized territory number 2 of Lake County and the towns of Beaver Bay and Stony River based on the miles of track of Erie Mining Company in each taxing district.

(b) In 1978 and each year thereafter, there shall be distributed to the iron range resources and rehabilitation board the amounts it received in 1977 under section 298.22.

On or before October 10 of each calendar year each producer of taconite or iron sulphides subject to taxation under section 298.24 (hereinafter called "taxpayer") shall file with the commissioner of revenue and with the county auditor of each county in which such taxpayer operates, and with the chief clerical officer of each school district, city or town which is entitled to participate in the distribution of the tax, an estimate of the amount of tax which would be payable by such taxpayer under said law for such calendar year; provided such estimate shall be in an amount not less than the amount due on the mining and production of concentrates up to September 30 of said year plus the amount becoming due because of probable production between September 30 and December 31 of said year, less any credit allowable as hereinafter provided. Such estimate shall list the taxing districts entitled to participate in the distribution of such tax, and the amount of the estimated tax which would be distributable to each such district in the next ensuing calendar year on the basis of the last percentage distribution certified by the commissioner of revenue. If there be no such prior certification, the taxpayer shall set forth its estimate of the proper distribution of such tax under the law, which estimate may be corrected by the commissioner if he deems it improper, notice of such correction being given by him to the taxpayer and the public officers receiving such estimate. The officers with whom such report is so filed shall use the amount so indicated as being distributable to each taxing district in computing the permissible tax levy of such county, city or school district in the year in which such estimate is made, and payable in the next ensuing calendar year, except that in 1978 and 1979 two cents per taxable ton, and in 1980 and thereafter, one cent per taxable ton of the amount distributed under clause (4)(c) shall not be deducted in calculating the permissible levy. Such taxpayer shall then pay, at the times payments are required to be made pursuant to section 298.27, as the amount of tax payable under section 298.24, the greater of (a) the amount shown by such estimate, or (b) the amount due under said section as finally determined by the commissioner of revenue pursuant to law. If, as a result of the payment of the amount of such estimate, the taxpayer has paid in any calendar year an amount of tax in excess of the amount due in such year under section 298.24, after application of credits for any excess payments made in previous years, all as determined by the commissioner of revenue, the taxpayer shall be given credit for such excess amount against any taxes which, under said section, may become due from the taxpayer in subsequent years. In any calendar year in

which a general property tax levy subject to sections 275.125 or 275.50 to 275.59 has been made, if the taxes distributable to any such county, city or school district are greater than the amount estimated to be paid to any such county, city or school district in such year, the excess of such distribution shall be held in a special fund by the county, city or school district and shall not be expended until the succeeding calendar year, and shall be included in computing the permissible levies under sections 275.125 or 275.50 to 275.59, of such county, city or school district payable in such year. If the amounts distributable to any such county, city or school district, after final determination by the commissioner of revenue under this section are less than the amounts indicated by such estimates, such county, city or school district may issue certificates of indebtedness in the amount of the shortage, and may include in its next tax levy, in excess of the limitations of sections 275.125 or 275.50 to 275.59 an amount sufficient to pay such certificates of indebtedness and interest thereon, or, if no certificates were issued, an amount equal to such shortage.

There is hereby annually appropriated to such taxing districts as are stated herein, to the taconite property tax relief account and to the taconite municipal aid account in the apportionment fund in the state treasury, to the department of revenue, to the iron range resources and rehabilitation board, to the range association of municipalities and schools, to the taconite environmental protection fund, and to the northeast Minnesota economic protection trust fund, from any fund or account in the state treasury to which the money was credited, an amount sufficient to make the payment or transfer. The payment of the amount appropriated to such taxing districts shall be made by the commissioner of revenue on or before May 15 annually.

[For text of subds 2 and 3, see M.S.1982]

History: 1983 c 216 art 1 s 50

298.292 POLICY.

The legislature is cognizant of the severe economic dislocations and widespread unemployment that result when a single industry on which an area is largely dependent, experiences a drastic reduction in activity. The northeast Minnesota economic protection trust fund is hereby created to be devoted to economic rehabilitation and diversification of industrial enterprises where these conditions ensue as the result of the decline of such a single industry. Priority shall be given to using the northeast Minnesota economic protection trust fund for the following purposes:

(a) projects and programs that are designed to create and maintain productive, permanent, skilled employment, including employment in technologically innovative businesses;

(b) projects and programs to encourage diversification of the economy and to promote the development of minerals, alternative energy sources utilizing indigenous fuels, forestry, small business, and tourism;

(c) projects and programs for which technological and economic feasibility have been demonstrated;

(d) loans, loan guarantees, interest buy-downs and other forms of participation with private sources of financing, but a loan to a private enterprise shall be for a principal amount not to exceed one-half of the cost of the project for which financing is sought, and the rate of interest on a loan shall be no less than eight percent; and

(e) funding reserve accounts established to secure the payment when due of the principal of and interest on bonds issued pursuant to section 298.2211.

Money from the trust fund shall be expended only in or for the benefit of the tax relief area defined in section 273.134.

History: 1983 c 46 s 1; 1983 c 357 s 2

298.293 EXPENDING FUNDS.

The funds provided by section 298.28, subdivision 1, clause (10), relating to the northeast Minnesota economic protection trust fund, except money expended pursuant to Laws 1982, Second Special Session, chapter 2, sections 8 to 14, shall be expended only in an amount that does not exceed the sum of the net interest, dividends, and earnings arising from the investment of the trust for the preceding 12 calendar months from the date of the authorization plus, for fiscal year 1983, \$10,000,000 from the corpus of the fund. The funds may be spent only in or for the benefit of those areas that are tax relief areas as defined in section 273.134. If during any year the taconite property tax account under sections 273.134 to 273.136 does not contain sufficient funds to pay the property tax relief specified in Laws 1977, chapter 423, article X, section 4, there is appropriated from this trust fund to the relief account sufficient funds to pay the relief specified in Laws 1977, chapter 423, article X, section 4.

History: 1983 c 46 s 2

298.294 INVESTMENT OF FUND.

The trust fund established by section 298.292 shall be invested pursuant to law by the state board of investment and the net interest, dividends, and other earnings arising from the investments shall be transferred on the first day of each month to the trust and shall be included and become part of the trust fund. The amounts transferred, including the interest, dividends, and other earnings earned prior to July 13, 1982, together with the additional amount of \$10,000,000 for fiscal year 1983, which is appropriated April 21, 1983, are appropriated from the trust fund to the commissioner of iron range resources and rehabilitation for deposit in a separate account for expenditure for the purposes set forth in section 298.292. Amounts appropriated pursuant to this section shall not cancel but shall remain available unless expended.

History: 1983 c 46 s 3

298.295 [Repealed, 1983 c 46 s 8]

298.296 OPERATION OF FUND.

Subdivision 1. **Project approval.** The board shall by August 1 of each year prepare a list of projects to be funded from the northeast Minnesota economic protection trust with necessary supporting information including description of the projects, plans, and cost estimates. These projects shall be consistent with the priorities established in section 298.292 and shall not be approved by the board unless it finds that:

(a) the project will materially assist, directly or indirectly, the creation of additional long-term employment opportunities;

(b) the prospective benefits of the expenditure exceed the anticipated costs;
and

(c) in the case of assistance to private enterprise, the project will serve a sound business purpose.

To be proposed by the board, a project must be approved by at least eight iron range resources and rehabilitation board members and the commissioner of iron range resources and rehabilitation. The list of projects shall be submitted to the legislative advisory commission for its review. The list with the recommendation of the legislative advisory commission shall be submitted to the governor, who shall, by November 15 of each year, approve or disapprove, or return for further consideration, each project. The money for a project may be expended only upon approval of the project by the governor.

The board may submit supplemental projects for approval at any time.

Subd. 2. Expenditure of funds. Before January 1, 2002, funds may be expended on projects and for administration of the trust fund only from the net interest, earnings, and dividends arising from the investment of the trust at any time, including net interest, earnings, and dividends that have arisen prior to July 13, 1982, plus \$10,000,000 made available for use in fiscal year 1983, except that any amount required to be paid out of the trust fund to provide the property tax relief specified in Laws 1977, chapter 423, article X, section 4, and to make school bond payments and payments to recipients of taconite production tax proceeds pursuant to section 298.225, may be taken from the corpus of the trust. On and after January 1, 2002, funds may be expended on projects and for administration from any assets of the trust. Annual administrative costs, not including detailed engineering expenses for the projects, shall not exceed five percent of the net interest, dividends, and earnings arising from the trust in the preceding fiscal year.

Principal and interest received in repayment of loans made pursuant to this section shall be deposited in the state treasury and credited to the trust. These receipts are appropriated to the board for the purposes of sections 298.291 to 298.298.

Subd. 3. Administration. The commissioner and staff of the iron range resources and rehabilitation board shall administer the program under which funds are expended pursuant to sections 298.292 to 298.298.

History: 1983 c 46 s 4

298.297 ADVISORY COMMITTEES.

Before submission of a project to the board, the commissioner of iron range resources and rehabilitation shall appoint a technical advisory committee consisting of one or more persons who are knowledgeable in areas related to the objectives of the proposal. Members of the committees shall be compensated as provided in section 15.059, subdivision 3. The board shall not act on a proposal until it has received the evaluation and recommendations of the technical advisory committee or until 15 days have elapsed since the proposal was transmitted to the advisory committee, whichever occurs first.

History: 1983 c 46 s 5

298.298 LONG RANGE PLAN.

Consistent with the policy established in sections 298.291 to 298.298, the iron range resources and rehabilitation board shall prepare and present to the governor and the legislature by January 1, 1984 a long range plan for the use of the northeast Minnesota economic protection trust fund for the economic development and diversification of the tax relief area defined in section 273.134. The iron range resources and rehabilitation board shall, before November 15 of each even numbered year, prepare a report to the governor and legislature updating and

revising this long range plan and reporting on the iron range resources and rehabilitation board's progress on those matters assigned to it by law. After January 1, 1984, no project shall be approved by the iron range resources and rehabilitation board which is not consistent with the goals and objectives established in the long range plan.

History: 1983 c 46 s 6

298.75 AGGREGATE MATERIAL REMOVAL; PRODUCTION TAX.

Subdivision 1. **Definitions.** Except as may otherwise be provided, the following words, when used in this section, shall have the meanings herein ascribed to them.

(1) "Aggregate material" shall mean nonmetallic natural mineral aggregate including, but not limited to sand, silica sand, gravel, building stone, crushed rock, limestone, and granite. Aggregate material shall not include dimension stone and dimension granite.

(2) "Person" shall mean any individual, firm, partnership, corporation, organization, trustee, association, or other entity.

(3) "Operator" shall mean any person engaged in the business of removing aggregate material from the surface or subsurface of the soil, for the purpose of sale, either directly or indirectly, through the use of the aggregate material in a marketable product or service.

(4) "Extraction site" shall mean a pit, quarry, or deposit containing aggregate material and any contiguous property to the pit, quarry, or deposit which is used by the operator for stockpiling the aggregate material.

(5) "Importer" shall mean any person who buys aggregate material produced from a county not listed in paragraph (6) or another state and causes the aggregate material to be imported into a county in this state which imposes a tax on aggregate material.

(6) "County" shall mean the counties of Stearns, Benton, Sherburne, Wright, Carver, Scott, Dakota, LeSeuer, Kittson, Marshall, Pennington, Red Lake, Polk, Norman, Mahnomen, Clay, Becker, Wilkin, Traverse, Big Stone, Stevens, Pope, Anoka, Hennepin, Washington, and Ramsey.

Subd. 2. A county shall impose upon every importer and operator a production tax equal to ten cents per cubic yard or seven cents per ton of aggregate material removed except that the county board may decide not to impose this tax if it determines that in the previous year operators removed less than 20,000 tons or 14,000 cubic yards of aggregate material from that county. The tax shall be imposed on aggregate material produced in the county when the aggregate material is transported from the extraction site or sold, when in the case of storage the stockpile is within the state of Minnesota and the highways are not used for transporting the aggregate material. The tax shall be imposed on an importer when the aggregate material is imported into the county that imposes the tax.

If the aggregate material is transported directly from the extraction site to a waterway, railway, or another mode of transportation other than a highway, road or street, the tax imposed by this section shall be apportioned equally between the county where the aggregate material is extracted and the county to which the aggregate material is originally transported. If that destination is not located in Minnesota, then the county where the aggregate material was extracted shall receive all of the proceeds of the tax.

Subd. 3. By the 14th day following the last day of each calendar quarter, every operator or importer shall make and file with the county auditor of the county in which the aggregate material is removed or imported, a correct report

under oath, in such form and containing such information as the auditor shall require relative to the quantity of aggregate material removed or imported during the preceding calendar quarter. The report shall be accompanied by a remittance of the amount of tax due.

If any of the proceeds of the tax is to be apportioned as provided in subdivision 2, the operator or importer shall also include on the report any relevant information concerning the amount of aggregate material transported, the tax and the county of destination. The county auditor shall notify the county treasurer of the amount of such tax and the county to which it is due. The county treasurer shall remit the tax to the appropriate county within 30 days.

Subd. 4. If any operator or importer fails to make the report required by subdivision 3 or files an erroneous report, the county auditor shall, by the fifth working day after the date the report became due, determine the amount of tax due and notify the operator or importer by registered mail of the amount of tax so determined. An operator or importer may, within 30 days from the date of mailing the notice, file in the office of the county auditor a written statement of objections to the amount of taxes determined to be due. The statement of objections shall be deemed to be a petition within the meaning of chapter 278, and shall be governed by sections 278.02 to 278.13.

Subd. 5. Failure to file the report shall result in a penalty of \$5 for each of the first 30 days, beginning on the 14th day after the date when the county auditor has sent notice to the operator or importer as provided in subdivision 4, during which the report is overdue and no statement of objection has been filed. For each subsequent day during which the report is overdue and no statement of objection has been filed, a penalty of \$10 shall be assessed against the operator or importer who is required to file the report. The penalties imposed by this subdivision shall be collected as part of the tax. If neither the report nor a statement of objection has been filed after more than 60 days have elapsed from the date when the notice was sent, the operator or importer who is required to file the report is guilty of a misdemeanor.

Subd. 6. It is a misdemeanor for any operator or importer to remove aggregate material from a pit, quarry, or deposit or for any importer to import aggregate material unless all taxes due under this section for the previous reporting period have been paid or objections thereto have been filed pursuant to subdivision 4.

Subd. 7. All moneys collected as taxes under this section shall be deposited in the county treasury and credited as follows, for expenditure by the county board:

(a) Sixty percent to the county road and bridge fund for expenditure for the maintenance, construction and reconstruction of roads, highways and bridges;

(b) Thirty percent to the road and bridge fund of those towns as determined by the county board and to the general fund or other designated fund of those cities as determined by the county board, to be expended for maintenance, construction and reconstruction of roads, highways and bridges; and

(c) Ten percent to a special reserve fund which is hereby established, for expenditure for the restoration of abandoned pits, quarries, or deposits located upon public and tax forfeited lands within the county.

If there are no abandoned pits, quarries or deposits located upon public or tax forfeited lands within the county, this portion of the tax shall be deposited in the county road and bridge fund for expenditure for the maintenance, construction and reconstruction of roads, highways and bridges.

History: 1983 c 342 art 14 s 1