SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 3208

(SENATE AUTHORS: HAUSCHILD)

DATE	D-PG	OFFICIAL STATUS
03/30/2023	2811	Introduction and first reading Referred to Taxes See HF1938

A bill for an act

relating to taxation; minerals; converting the net proceeds tax into a gross proceeds tax; modifying distributions of gross proceeds and taconite production taxes; modifying and increasing distribution of occupation tax proceeds; amending Minnesota Statutes 2022, sections 41A.21; 272.02, subdivision 73; 273.1341; 297A.68, subdivision 4; 298.015; 298.018, subdivisions 1, 1a; 298.17; 298.28, subdivisions 5, 7a; 298.296, subdivision 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2022, section 41A.21, is amended to read:

41A.21 ~~ORIENTED STRAND BOARD PRODUCTION~~ TOMASSONI SOLAR CELL INCENTIVE PROGRAM.

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Commissioner" means the commissioner of agriculture.

(c) ~~"Forest resources" means raw wood logs and material primarily made up of cellulose, hemicellulose, or lignin, or a combination of those ingredients~~ "Solar cell" means a device that is capable of converting the energy of light into electricity.

~~(d) "Oriented strand board" or "OSB" means a material manufactured into panels using forest resources.~~

Subd. 2. **Eligibility.** (a) A facility eligible for payment under this section must ~~source at least 80 percent of its forest resources raw materials from Minnesota. The facility must be located in Minnesota; must begin construction activities by December 31, 2023, for a specific location; must have produced at least one OSB square foot on a 3/8-inch nominal~~

~~basis at a specific location by June 30, 2026; and must not begin operating before January 1, 2022. Eligible facilities must be new OSB construction sites with total capital investment in excess of $250,000,000. Eligible OSB production facilities must produce at least 50,000,000 OSB square feet on a 3/8-inch nominal basis of OSB each quarter. At least one product produced at the facility should be a wood-based wall or roof structural sheathing panel that has an integrated, cellulose-based paper overlay that serves as a water resistive barrier~~ manufacture and produce solar cells in Minnesota, be located in the Taconite Tax Relief Area, and begin operations by December 31, 2026. An eligible facility may include solar module manufacturing, solar cell manufacturing, and warehouse facilities with a total capital investment in excess of $100,000,000. No payments shall be made for solar cell production that occurs after June 30, 2036.

(b) No payments shall be made for ~~OSB~~ solar cell production that occurs after June 30, 2036, for those eligible producers under paragraph (a).

~~(c) An eligible producer of OSB shall not transfer the producer's eligibility for payments under this section to a facility at a different location.~~

~~(d)~~ (c) A producer that ceases production for any reason is ineligible to receive payments under this section until the producer resumes production.

Subd. 3. **Payment amounts; limits.** ~~(a)~~ The commissioner shall make payments to the first eligible ~~producers~~ producer of ~~OSB~~ solar cells. The amount of the payment ~~for each eligible producer's annual production is $7.50 per 1,000 OSB square feet on a 3/8-inch nominal basis of OSB produced at a specific location for ten years starting after the first calendar year in which production begins~~ shall not exceed $3,000,000 per year from fiscal year 2026 through fiscal year 2034. The payment shall be $1,000,000 for the first 12,000,000 solar cells produced each year, $2,000,000 for 24,000,000 solar cells produced each year, and $3,000,000 for 36,000,000 solar cells produced each year, not to exceed $3,000,000 in any fiscal year from 2026 through fiscal year 2034.

~~(b) Total payments under this section to an eligible OSB producer in a fiscal year may not exceed the amount necessary for 400,000,000 OSB square feet on a 3/8-inch nominal basis of OSB produced. Total payments under this section to all eligible OSB producers in a fiscal year may not exceed the amount necessary for 400,000,000 OSB square feet on a 3/8-inch nominal basis of OSB produced. If the total amount for which all producers are eligible in a quarter exceeds the amount available for payments, the commissioner shall make the payments on a pro rata basis.~~

~~(c) For purposes of this section, an entity that holds a controlling interest in more than one OSB facility is considered a single eligible producer.~~

~~Subd. 4.~~ **~~Forest resources requirements.~~** ~~Forest resources that are purchased to be used at the facility must be in compliance with one or more of the following: the Sustainable Forestry Initiative Fiber Sourcing Standard, the Forest Stewardship Council Chain of Custody Standard, or the Forest Stewardship Controlled Wood Standard. For forest resources that come from land parcels greater than 160 acres, all efforts must be made to procure from land that is certified by one or more of the following: the Forest Stewardship Council Forest Management Standard, the Sustainable Forestry Initiative Forest Management Standard, or the American Tree Farm System.~~

~~Subd. 5.~~ **~~Claims.~~** ~~(a) By the last day of October, January, April, and July, each eligible OSB producer shall file a claim for payment for OSB production during the preceding three calendar months. An eligible OSB producer that files a claim under this subdivision shall include a statement of the eligible producer's total board feet of OSB produced during the quarter covered by the claim. For each claim and statement of total board feet of OSB filed under this subdivision, the board feet of OSB produced must be examined by a certified public accounting firm with a valid permit to practice under chapter 326A, in accordance with Statements on Standards for Attestation Engagements established by the American Institute of Certified Public Accountants.~~

~~(b) The commissioner must issue payments by November 15, February 15, May 15, and August 15. A separate payment must be made for each claim filed.~~

Subd. 6. **Appropriation.** (a) In fiscal year 2025, a sum sufficient to make the payments required by this section, not to exceed $1,500,000, is appropriated from the general fund to the commissioner. This is a onetime appropriation.

(b) From fiscal year 2026 through fiscal year 2034, a sum sufficient to make the payments required by this section, not to exceed $3,000,000 in a fiscal year, is annually appropriated from the general fund to the commissioner.

Sec. 2. Minnesota Statutes 2022, section 272.02, subdivision 73, is amended to read:

Subd. 73. **Property subject to taconite production tax or ~~net~~ gross proceeds tax.** (a) Real and personal property described in section 298.25 is exempt to the extent the tax on taconite and iron sulphides under section 298.24 is described in section 298.25 as being in lieu of other taxes on such property. This exemption applies for taxes payable in each year that the tax under section 298.24 is payable with respect to such property.

(b) Deposits of mineral, metal, or energy resources the mining of which is subject to taxation or the minimum payment under section 298.015 are exempt.

EFFECTIVE DATE. This section is effective beginning with assessment year 2023.

Sec. 3. Minnesota Statutes 2022, section 273.1341, is amended to read:

273.1341 TACONITE ASSISTANCE AREA.

A "taconite assistance area" means the geographic area that falls within the boundaries of a school district that contains:

(1) a municipality in which the assessed valuation of unmined iron ore on May 1, 1941, was not less than 40 percent of the assessed valuation of all real property; ~~or~~

(2) a municipality in which on January 1, 1977, or the applicable assessment date, there is a taconite concentrating plant or where taconite is mined or quarried or where there is located an electric generating plant which qualifies as a taconite facility~~.~~; or

(3) a municipality that is located in a county that:

(i) contains a school district described in clause (1) or (2); and

(ii) where active mining of materials subject to the tax under section 298.015, subdivision 1, is occurring, or where a mine subject to the minimum payment under section 298.015, subdivision 3, is located.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2022.

Sec. 4. Minnesota Statutes 2022, section 297A.68, subdivision 4, is amended to read:

Subd. 4. **Taconite, other ores, metals, or minerals; production materials.** Mill liners, grinding rods, and grinding balls that are substantially consumed in the production of taconite or other ores, metals, or minerals are exempt when sold to or stored, used, or consumed by persons taxed under the in-lieu or ~~net~~ gross proceeds provisions of chapter 298.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2022, section 298.015, is amended to read:

298.015 ~~NET~~ GROSS PROCEEDS TAX ON MINING.

Subdivision 1. **Tax imposed.** A person engaged in the business of mining shall pay to the state of Minnesota for distribution as provided in section 298.018 a ~~net~~ gross proceeds tax equal to ~~two~~ 0.4 percent of the ~~net~~ gross proceeds from mining in Minnesota. The tax applies to all ores, metals, and minerals mined, extracted, produced, or refined within the state of Minnesota except for sand, silica sand, gravel, building stone, crushed rock, limestone, granite, dimension granite, dimension stone, horticultural peat, clay, soil, iron ore, and taconite concentrates. The tax is in addition to all other taxes provided for by law.

Subd. 2. **~~Net~~ Gross proceeds.** For purposes of this section, the term "~~net~~ gross proceeds" means the gross proceeds from mining, as defined in section 298.016~~, less the deductions for purposes of determining taxable income under section 298.01, subdivision 3b, applied to the mining, production, processing, beneficiation, smelting, or refining of metal or mineral products. No other credits or deductions shall apply to this tax~~.

Subd. 3. **Minimum payment.** A person who has obtained all required permits to mine all ores and metals, except for sand, silica sand, gravel, building stone, crushed rock, limestone, granite, dimension granite, dimension stone, horticultural peat, clay, soil, iron ore, and iron concentrates, is annually subject to the minimum payment under this subdivision, unless:

(1) the tax imposed on the individual under subdivision 1 in a given year is greater than zero; or

(2) the commissioner of revenue verifies that litigation preventing the business of mining is pending.

The annual payment under this subdivision is $2,000,000.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2022.

Sec. 6. Minnesota Statutes 2022, section 298.018, subdivision 1, is amended to read:

Subdivision 1. **Within taconite assistance area.** (a) The proceeds of the tax paid under sections 298.015 and 298.016 on ores, metals, or minerals mined or extracted within the taconite assistance area defined in section 273.1341, shall be allocated as follows:

(1) except as provided under paragraph (b), five percent to the city or town within which the minerals or energy resources are mined or extracted, or within which the concentrate was produced. If the mining and concentration, or different steps in either process, are carried on in more than one taxing district, the commissioner shall apportion equitably the proceeds among the cities and towns by attributing 50 percent of the proceeds of the tax to the operation of mining or extraction, 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 the respective operations performed in each taxing district;

(2) ten percent to the taconite municipal aid account to be distributed as provided in section 298.282, subdivisions 1 and 2, on the dates provided under this section;

(3) ten percent to the school district within which the minerals or energy resources are mined or extracted, or within which the concentrate was produced. If the mining and concentration, or different steps in either process, are carried on in more than one school district, distribution among the school districts must be based on the apportionment formula prescribed in clause (1);

(4) 20 percent to a group of school districts comprised of those school districts wherein the mineral or energy resource was mined or extracted or in which there is a qualifying municipality as defined by section 273.134, paragraph (b), in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 126C.05 for the prior school year shall be multiplied by the ratio of the average adjusted net tax capacity per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapters 122A, 126C, and 127A for the school year ending prior to distribution to the adjusted net tax capacity per pupil unit of the district. Each district shall receive that portion of the distribution which its index bears to the sum of the indices for all school districts that receive the distributions;

(5) ~~20~~ ten percent to the county within which the minerals or energy resources are mined or extracted, or within which the concentrate was produced. If the mining and concentration, or different steps in either process, are carried on in more than one county, distribution among the counties must be based on the apportionment formula prescribed in clause (1), provided that any county receiving distributions under this clause shall pay one percent of its proceeds to the Range Association of Municipalities and Schools;

(6) ~~20~~ five percent to St. Louis County acting as the counties' fiscal agent to be distributed as provided in sections 273.134 to 273.136;

(7) ~~five~~ 20 percent to the commissioner of Iron Range resources and rehabilitation for the purposes of section 298.22;

(8) three percent to the Douglas J. Johnson economic protection trust fund; ~~and~~

(9) seven percent to the taconite environmental protection fund; and

(10) ten percent to the commissioner of Iron Range resources and rehabilitation for capital improvements to Giants Ridge Recreation Area.

(b) If the materials or energy resources are mined, extracted, or concentrated in School District No. 2711, Mesabi East, then the amount under paragraph (a), clause (1), must instead be distributed pursuant to this paragraph. The cities of Aurora, Babbitt, Ely, and Hoyt Lakes must each receive 20 percent of the amount. The city of Biwabik and Embarrass Township must each receive ten percent of the amount.

(c) For the first five years that distributions are made under this subdivision, ten percent of the total proceeds distributed in each year must first be distributed pursuant to this paragraph. The remaining 90 percent of the total proceeds distributed in each of those years must be distributed as outlined in paragraph (a). Of the amount available under this paragraph, the cities of Aurora, Babbitt, Ely, and Hoyt Lakes must each receive 20 percent. Of the amount available under this paragraph, the city of Biwabik and Embarrass Township must each receive ten percent.

EFFECTIVE DATE. This section is effective for distributions beginning after December 31, 2022.

Sec. 7. Minnesota Statutes 2022, section 298.018, subdivision 1a, is amended to read:

Subd. 1a. **Distribution date.** The proceeds of the tax allocated under subdivision 1 shall be distributed on December 15 each year. Any payment of proceeds received after December 15 shall be distributed on the next ~~net~~ gross proceeds tax distribution date.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 8. Minnesota Statutes 2022, section 298.17, is amended to read:

298.17 OCCUPATION TAXES TO BE APPORTIONED.

(a) All occupation taxes paid by persons, copartnerships, companies, joint stock companies, corporations, and associations, however or for whatever purpose organized, engaged in the business of mining or producing iron ore or other ores, when collected shall be apportioned and distributed in accordance with the Constitution of the state of Minnesota, article X, section 3, in the manner following: 90 percent shall be deposited in the state treasury and credited to the general fund of which four-ninths shall be used for the support of elementary and secondary schools; and ten percent of the proceeds of the tax imposed by this section shall be deposited in the state treasury and credited to the general fund for the general support of the university.

(b) ~~Of the money apportioned to the general fund by this section~~ From the general fund, the following distributions shall be made:

(1) there is annually appropriated and credited to the mining environmental and regulatory account in the special revenue fund an amount equal to that which would have been generated by a 2-1/2 cent tax imposed by section 298.24 on each taxable ton produced in the preceding calendar year. Money in the mining environmental and regulatory account is appropriated annually to the commissioner of natural resources to fund agency staff to work on environmental issues and provide regulatory services for ferrous and nonferrous mining operations in this state. Payment to the mining environmental and regulatory account shall be made by July 1 annually. The commissioner of natural resources shall execute an interagency agreement with the Pollution Control Agency to assist with the provision of environmental regulatory services such as monitoring and permitting required for ferrous and nonferrous mining operations;

(2) there is annually appropriated and credited to the Iron Range resources and rehabilitation account in the special revenue fund an amount equal to that which would have been generated by a ~~1.5~~ three cent tax imposed by section 298.24 on each taxable ton produced in the preceding calendar year, to be expended for the purposes of section 298.22. The money appropriated shall be used (i) to provide environmental development grants to local governments located within any county in region 3 as defined in Executive Order No. 60, issued on June 12, 1970, which does not contain a municipality qualifying pursuant to section 273.134, paragraph (b); or (ii) to provide economic development loans or grants to businesses located within any such county, provided that the county board or an advisory group appointed by the county board to provide recommendations on economic development shall make recommendations to the commissioner of Iron Range resources and rehabilitation regarding the loans. Of the money allocated to Koochiching County, one-third must be paid to the Koochiching County Economic Development Commission. Payment to the Iron Range resources and rehabilitation account shall be made by May 15 annually; ~~and~~

(3) there is annually appropriated and credited to the Iron Range resources and rehabilitation account in the special revenue fund for transfer to the Iron Range school consolidation and cooperatively operated school account under section 298.28, subdivision 7a, an amount equal to that which would have been generated by ~~a six~~ an 18 cent tax imposed by section 298.24 on each taxable ton produced in the preceding calendar year. Payment to the Iron Range resources and rehabilitation account shall be made by May 15 annually~~.~~; and

(4) there is annually appropriated and credited to the Iron Range resources and rehabilitation account under section 298.28, subdivision 7, an amount equal to that which would have been generated by an 18 cent tax imposed by section 298.24 on each taxable

ton produced in the preceding calendar year. Payment to the Iron Range resources and rehabilitation account shall be made by May 15 annually.

~~(c) The money appropriated pursuant to paragraph (b), clause (2), shall be used (i) to provide environmental development grants to local governments located within any county in region 3 as defined in governor's executive order number 60, issued on June 12, 1970, which does not contain a municipality qualifying pursuant to section 273.134, paragraph (b), or (ii) to provide economic development loans or grants to businesses located within any such county, provided that the county board or an advisory group appointed by the county board to provide recommendations on economic development shall make recommendations to the commissioner of Iron Range resources and rehabilitation regarding the loans. Payment to the Iron Range resources and rehabilitation account shall be made by May 15 annually.~~

~~(d) Of the money allocated to Koochiching County, one-third must be paid to the Koochiching County Economic Development Commission.~~

EFFECTIVE DATE. This section is effective beginning with the 2023 production year.

Sec. 9. Minnesota Statutes 2022, section 298.28, subdivision 5, is amended to read:

Subd. 5. **Counties.** (a) 21.05 cents per taxable ton ~~for distributions in 2015 through 2023, and 26.05 cents per taxable ton for distributions beginning in 2024,~~ is allocated to counties to be distributed, based upon certification by the commissioner of revenue, under paragraphs (b) to (d).

(b) 10.525 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 paragraph (c). The apportionment formula prescribed in subdivision 2 is the basis for the distribution.

(c) 1.0 cent per taxable ton of the tax distributed to the counties under paragraph (b) shall be paid to a county that received a distribution under this section in 2000 because there was located in the county an electric power plant owned by and providing the primary source of power for a taxpayer mining and concentrating taconite in a different county.

(d) 10.525 cents per taxable ton ~~for distributions in 2015 through 2023, and 15.525 cents per taxable ton for distributions beginning in 2024,~~ 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 subdivision 2.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 10. Minnesota Statutes 2022, section 298.28, subdivision 7a, is amended to read:

Subd. 7a. **Iron Range school consolidation and cooperatively operated school account.** (a) The following amounts must be allocated to the commissioner of Iron Range resources and rehabilitation to be deposited in the Iron Range school consolidation and cooperatively operated school account that is hereby created:

(1)~~(i)~~ for distributions beginning in 2015 ~~through 2023~~, ten cents per taxable ton of the tax imposed under section 298.24; ~~and~~

~~(ii) for distributions beginning in 2024, five cents per taxable ton of the tax imposed under section 298.24;~~

(2) the amount as determined under section 298.17, paragraph (b), clause (3); and

(3) any other amount as provided by law.

(b) Expenditures from this account may be approved as ongoing annual expenditures and shall be made only to provide disbursements to assist school districts with the payment of bonds that were issued for qualified school projects, or for any other school disbursement as approved by the commissioner of Iron Range resources and rehabilitation after consultation with the Iron Range Resources and Rehabilitation Board. For purposes of this section, "qualified school projects" means school projects within the taconite assistance area as defined in section 273.1341, that were (1) approved, by referendum, after April 3, 2006; and (2) approved by the commissioner of education pursuant to section 123B.71.

(c) Beginning in fiscal year 2019, the disbursement to school districts for payments for bonds issued under section 123A.482, subdivision 9, must be increased each year to offset any reduction in debt service equalization aid that the school district qualifies for in that year, under section 123B.53, subdivision 6, compared with the amount the school district qualified for in fiscal year 2018.

(d) No expenditure under this section shall be made unless approved by the commissioner of Iron Range resources and rehabilitation after consultation with the Iron Range Resources and Rehabilitation Board.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 11. Minnesota Statutes 2022, section 298.296, subdivision 4, is amended to read:

Subd. 4. **Temporary loan authority.** (a) After consultation with the advisory board, the commissioner may use up to $7,500,000 from the corpus of the trust for loans, loan guarantees, grants, or equity investments as provided in this subdivision. The money would be available for loans for construction and equipping of facilities constituting (1) a value added iron products plant, which may be either a new plant or a facility incorporated into an existing plant that produces iron upgraded to a minimum of 75 percent iron content or any iron alloy with a total minimum metallic content of 90 percent; or (2) a new mine or minerals processing plant for any mineral subject to the ~~net~~ gross proceeds tax imposed under section 298.015. A loan or loan guarantee under this paragraph may not exceed $5,000,000 for any facility.

(b) Additionally, the commissioner, after consultation with the advisory board, may use up to $5,500,000 from the corpus of the trust for additional grants, loans, loan guarantees, or equity investments for the purposes set forth in paragraph (a).

(c) The commissioner, after consultation with the advisory board, may require that the fund receive an equity percentage in any project to which it contributes under this section.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 12. **TRANSFER 2023 DISTRIBUTION ONLY.**

The fund established under Minnesota Statutes, section 298.28, subdivision 7, shall receive the excess balance remaining in the fund established under Minnesota Statutes, section 298.28, subdivision 6, after the distribution of amounts required under Minnesota Statutes, section 298.28, subdivision 6, for the 2023 distribution. The transfer amount under this section must not exceed $6,000,000 and must be made within ten days of the August 2023 payment.

EFFECTIVE DATE. This section is effective the day following final enactment and applies only to the 2023 distribution.