

CHAPTER 298

OCCUPATION TAXES

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MINING

298.01 MINING OR PRODUCING ORES.

Subdivision 1. Occupation tax; iron ore; taconite concentrates. Every person engaged in the business of mining or producing iron ore or taconite concentrates in this state shall pay an occupation tax equal to 14 percent of the valuation of the ores produced after December 31, 1986. The tax shall be in addition to all other taxes provided for by law and shall be due on or before June 15 of the year next succeeding the calendar year during which the ore was produced.

Subd. 2. [Repealed, 1985 c 300 s 30]

Subd. 3. **Occupation tax; other ores.** Every person engaged in the business of mining or producing ores, except iron ore or taconite concentrates, shall pay an occupation tax to the state of Minnesota as provided in this subdivision. The tax is measured by the person's taxable income for the year for which the tax is imposed, and computed in the manner and at the rates provided in chapter 290, except that sections 290.01, subdivisions 19c, clause (11), 19d, clause (7), and 290.05, subdivision 1, clause (a), do not apply. Corporations and individuals shall be subject to the alternative minimum taxes imposed under chapter 290. The tax is in addition to all other taxes and is due and payable on or before June 15 of the year succeeding the calendar year covered by the report required by section 298.05.

Subd. 4. **Occupation tax; iron ore; taconite concentrates.** A person engaged in the business of mining or producing of iron ore or taconite concentrates shall pay an occupation tax to the state of Minnesota. The tax is measured by the person's taxable income for the year for which the tax is imposed, and computed in the manner and at the rates provided for in chapter 290, except that sections 290.01, subdivisions 19c, clause (11), 19d, clause (7), and 290.05, subdivision 1, clause (a), do not apply. Corporations and individuals shall be subject to the alternative minimum taxes imposed under chapter 290. The tax is in addition to all other taxes and is due and payable on or before June 15 of the year succeeding the calendar year covered by the report required by section 298.05.

Subd. 5. **If declared unconstitutional.** If the taxes imposed in subdivisions 3 and 4 are found unconstitutional by any court of last resort, then persons engaged in the business of mining or producing iron ore or other ores shall pay the occupation taxes imposed in Minnesota Statutes 1986, chapter 298.

History: (2373, 2373-1) 1921 c 223 s 1; Ex1937 c 85 s 1; 1939 c 356 s 1; 1941 c 544 s 1; 1943 c 590 s 1,2; 1945 c 448 s 1; 1947 c 542 s 1; Ex1955 c 2 art 2 s 1; Ex1957 c 1 art 4 s 1; Ex1959 c 70 art 8 s 1; Ex1971 c 31 art 4 s 1; 1973 c 631 s 1,2; 1984 c 502 art 7 s 10; 1985 c 300 s 20; 1Sp1985 c 14 art 10 s 7; 1987 c 268 art 9 s 22-25; 1988 c 719 art 2 s 51,52

NOTE: Subdivision 1 is repealed by Laws 1987, chapter 268, article 9, section 43, clause (c) effective for iron ore and taconite concentrates mined after December 31, 1989. See Laws 1987, chapter 268, article 9, section 44.

NOTE: Subdivision 4, as added by Laws 1987, chapter 268, article 9, section 24, is effective for iron ore and taconite concentrates mined after December 31, 1989. See Laws 1987, chapter 268, article 9, section 44.

NOTE: Subdivisions 3 and 4, as amended by Laws 1988, chapter 719, article 2, sections 51 and 52, are effective for ores mined after December 31, 1989. See Laws 1988, chapter 719, article 2, section 57.

298.011 [Repealed, Ex1971 c 31 art 4 s 5]

298.012 DEFINITION.

For purposes of chapter 298, the word "city" includes any home rule charter city, statutory city, or any city however organized.

History: 1977 c 423 art 10 s 6

298.015 NET 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 proceeds tax equal to two percent of the net proceeds from mining in Minnesota. The tax applies to all mineral and energy resources mined or extracted within the state of Minnesota except for sand, silica sand, gravel, building stone, crushed rock, limestone, granite, dimension granite, dimension stone, horticultural peat, soil, iron ore, and taconite concentrates. The tax is in addition to all other taxes provided for by law. The tax is due by June 15 of the year succeeding the calendar year covered by the report required by section 298.05.

Subd. 2. **Net proceeds.** For purposes of this section, the term "net proceeds" means the gross proceeds from mining, as defined in section 298.016, less the deduc-

tions allowed in section 298.017. No other credits or deductions shall apply to this tax except for those provided in section 298.017.

History: 1987 c 268 art 9 s 26

298.016 GROSS PROCEEDS.

Subdivision 1. Computation; arms-length transactions. When a metal or mineral product is sold by the producer in an arms-length transaction, the gross proceeds are equal to the proceeds from the sale of the product. This subdivision applies to sales realized on all metal or mineral products produced from mining, including reduction, beneficiation, or any treatment used by a producer to obtain a metal or mineral product which is commercially marketable.

Subd. 2. Other transactions. When a metal or mineral product is used by the producer or disposed of in a non-arms-length transaction, the gross proceeds must be determined using the alternative computation in subdivision 3. Transactions subject to this subdivision include, but are not limited to, shipments to a wholly owned smelter, transactions with associated or affiliated companies, and any other transactions which are not at arms-length.

Subd. 3. Alternative computation. The commissioner of revenue shall determine the alternative computation of gross proceeds using the following procedure:

(a)(1) Metal and mineral prices shall be determined by using the average annual market price as published in the Engineering and Mining Journal; (2) For metals or mineral products with a monthly or weekly price quotation in the Engineering and Mining Journal, but for which no average annual price has been published, an arithmetic average of the monthly or weekly prices published in the Engineering and Mining Journal shall be used; (3) If the price of a particular metal or mineral product is not published in the Engineering and Mining Journal, another recognized published price, as established by the commissioner of revenue will be used.

(b) The quantity of each particular metal or mineral product recovered and paid or credited for by the smelter will be multiplied by the average annual market price as determined in clause (a). Special smelter charges for particular metals will be allowed as a deduction from this price. The resulting amount will be the gross proceeds for calculating the tax in section 298.015.

Subd. 4. Definitions. For the purposes of sections 298.015 and 298.017, the terms defined in this subdivision have the meaning given them unless the context clearly indicates otherwise.

(a) "Metal or mineral products" means all those mineral and energy resources subject to the tax provided in section 298.015.

(b) "Exploration" means activities designed and engaged in to ascertain the existence, location, extent, or quality of any deposit of metal or mineral products prior to the development of a mining site.

(c) "Development" means activities designed and engaged in to prepare or develop a potential mining site for mining after the existence of metal or mineral products in commercially marketable quantities has been disclosed including, but not limited to, the clearing of forestation, the building of roads, removal of overburden, or the sinking of shafts.

(d) "Research" means activities designed and engaged in to create new or improved methods of mining, producing, processing, beneficiating, smelting, or refining metal or mineral products.

History: 1987 c 268 art 9 s 27

298.017 DEDUCTIONS.

Subdivision 1. Deductions not allowed. For purposes of calculating the net proceeds under section 298.015, the following expenses are not deductible: (1) all sales, marketing, and interest expenses; (2) all insurance expense and taxes, except as specifically

provided in this section; (3) all administrative expenses outside of Minnesota; (4) any research expense prior to production; (5) all reclamation expenses after production ends; (6) royalty expenses, depletion allowances, and cost of mining land.

Subd. 2. **Deductions allowed.** (a) In calculating the net proceeds for the purpose of determining the tax provided in section 298.015, only those expenses specifically allowed in this subdivision may be deducted from gross proceeds. The carryback or carryforward of deductions shall not be allowed.

(b) Ordinary and necessary expenses actually paid for the mining, production, processing, beneficiation, smelting, or refining of metal or mineral products for (1) labor, including wages, salaries, fringe benefits, unemployment and workers' compensation insurance; (2) machinery, equipment, and supplies, including any sales and use tax paid on it, except that machinery and equipment subject to depreciation shall only be deductible under clause (b)(3); (3) depreciation as defined and allowed by section 167 of the Internal Revenue Code of 1986, as amended through December 31, 1986; and (4) administrative expenses inside Minnesota are deductible.

(c) Ordinary and necessary expenses of transporting metal or mineral products are allowed as a deduction if the costs are included in the sale price of the products.

(d) Expenses of exploration, research, or development in this state for the mining and processing of minerals within Minnesota paid in a production year are deductible in the production year.

(e) Expenses of exploration and development in Minnesota incurred prior to production must be amortized and deducted on a straight-line basis over the first five years of production.

History: 1987 c 268 art 9 s 28

298.018 DISTRIBUTION OF PROCEEDS.

Subdivision 1. **Within taconite tax relief area.** The proceeds of the tax paid under sections 298.015 to 298.017 on minerals and energy resources mined or extracted within the taconite tax relief area defined in section 273.134 shall be allocated as follows:

(1) five percent to the city or town within which the minerals or energy resources are mined or extracted;

(2) ten percent to the taconite municipal aid account to be distributed as provided in section 298.282;

(3) ten percent to the school district within which the minerals or energy resources are mined or extracted;

(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 in direct proportion to school district indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted gross tax capacity per pupil unit for school districts receiving aid under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted gross 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 percent to the county within which the minerals or energy resources are mined or extracted;

(6) 20 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 percent to the iron range resources and rehabilitation board for the purposes of section 298.22;

(8) five percent to the northeast Minnesota economic protection trust fund; and

(9) five percent to the taconite environmental protection fund.

The proceeds of the tax shall be distributed on July 15 each year.

Subd. 2. Outside taconite tax relief area. The proceeds of the tax paid under sections 298.015 to 298.017 on minerals and energy resources mined or extracted outside of the taconite tax relief area shall be deposited in the general fund.

History: 1987 c 268 art 9 s 29; 1988 c 719 art 5 s 84

298.02 LOW-GRADE ORE.

Subdivision 1. Credit. For the purpose of increasing employment and the utilization of low-grade, underground, and high labor cost ores any taxpayer on whom a tax is imposed by reason of the provisions of section 298.01, subdivision 1, shall be allowed a credit against the occupation tax as computed in that section because of the mining or production of ore from any mine, in an amount calculated as follows:

In the case of all mines, ten percent of that part of the cost of labor employed by the mine or in the beneficiation of all ore mined or produced in the calendar year in excess of 70 cents and not in excess of 90 cents per ton of the merchantable ore produced during the year at that mine, and 15 percent of that part of the cost of such labor in excess of 90 cents per ton; provided, however, that in no event shall the credit allowed hereunder be in excess of three-fourths of 11 percent of the valuation of the ore used in computing the tax under the provisions of section 298.01. The term "merchantable ore produced" as used herein means ores which as mined or as mined and beneficiated, are ready for shipment as a merchantable product.

Subd. 2. Credit in lieu of cost of labor. In lieu of the credit above provided, at the election of the taxpayer, there may be allowed a credit against the occupation tax assessed against any mine of two-thirds of one percent of the amount of such tax for each one percent of the total production of iron ore from said mine which is converted into pig iron, sponge iron, or powdered iron, within the limits of the state of Minnesota. The taxpayer shall make such election at the time of filing the occupation tax return for said mine.

Subd. 3. If declared unconstitutional. In the event that the credit provided for in subdivision 2 is found unconstitutional by any court of last resort, then the taxpayer shall be limited to the labor credit herein provided in subdivision 1.

History: (2373-2) 1939 c 356 s 3; 1941 c 544 s 3; 1943 c 590 s 3; 1945 c 445 s 1; 1947 c 541 s 1; 1949 c 639 s 1; 1951 c 664 s 1; 1953 c 646 s 1; Ex1955 c 2 art 2 s 2; 1957 c 856 s 1; Ex1959 c 70 art 8 s 3; 1963 c 232 s 1; Ex1971 c 31 art 4 s 2; 1973 c 492 s 14; 1984 c 502 art 7 s 11; 1985 c 300 s 21; 1Sp1986 c 3 art 1 s 35

NOTE: This section is repealed by Laws 1987, chapter 268, article 9, section 43, clause (c) effective for iron ore and taconite concentrates mined after December 31, 1989. See Laws 1987, chapter 268, article 9, section 44.

298.025 [Repealed, Ex1971 c 31 art 4 s 5]

298.026 CREDIT FOR RESEARCH, EXPERIMENTATION, AND EXPLORATION.

A tax credit shall be allowed to each taxpayer against the taxes payable by such taxpayer as computed each year under sections 298.01, subdivision 1, and 298.02, for the cost of all research, experimentation, pilot plant tests and exploration work performed in Minnesota in such year for the express purpose of furthering the discovery, development, or beneficiation of Minnesota iron ore or other Minnesota ores.

Such credit shall be computed by applying to such costs and allowances the weighted average net effective rate of all the occupation taxes applicable to such taxpayer for such year imposed pursuant to section 298.01, subdivision 1, after the application of the credits against such occupation taxes allowed under section 298.02, subdivision 1, but before the application of the credit herein provided.

Any such credit shall be applied against the tax for the year for which such credit is computed except that any such credit in excess of such tax shall be applied in like manner in the next year and thereafter from year to year, but not exceeding two years, until the entire credit has been so applied.

The determination as to what type of costs will qualify under this law, and the amount allowable, will be made by the commissioner of revenue who may use the services of the University of Minnesota department of civil and mineral engineering which is hereby established as a technical consultant to the commissioner for the purposes of this section.

History: 1963 c 610 s 1; 1973 c 582 s 3; 1976 c 2 s 113; 1987 c 268 art 9 s 30

NOTE: This section is repealed by Laws 1987, chapter 268, article 9, section 43, clause (c) effective for iron ore and taconite concentrates mined after December 31, 1989. See Laws 1987, chapter 268, article 9, section 44.

298.027 COSTS OF MINING EXCEEDING VALUE OF ORE TAX CREDIT.

A tax credit shall be allowed to each taxpayer against the taxes computed under this chapter where the allowable costs for any mine determined under section 298.03 except taconite and semitaconite exceed the value of the ore at the place where the same is brought to the surface of the earth. The said allowable costs shall not include amounts attributable to or payable by reason of the termination of mining operations.

The credit shall be computed by applying the tax rates specified in section 298.01, subdivision 1, to the excess of such deductions over such value, but limited to; in the case of open pit iron ore mines, 53.68 percent of the credit so computed and in the case of underground mines, 42.10 percent of the credit so computed.

Such credit shall be allowed for the year in which such excess occurs.

History: 1963 c 687 s 1; 1976 c 2 s 114; 1987 c 268 art 9 s 31

NOTE: This section is repealed by Laws 1987, chapter 268, article 9, section 43, clause (c) effective for iron ore and taconite concentrates mined after December 31, 1989. See Laws 1987, chapter 268, article 9, section 44.

298.028 POLLUTION CONTROL TAX CREDIT.

Subdivision 1. A credit of five percent of the net cost of equipment used primarily to abate or control pollutants to meet or exceed state laws, rules, or standards to the extent the property is so used may be deducted from the tax imposed by section 298.01, subdivision 1, in the first year in which the equipment is installed.

The credit allowed by this subdivision shall not exceed so much of the liability for tax for the taxable year as does not exceed \$75,000. The credit shall apply only if the equipment meets rules prescribed by the Minnesota pollution control agency and is installed or operated in accordance with a permit or order issued by the agency.

Subd. 2. If the amount of the credit determined under subdivision 1 for any taxable year exceeds the limitation provided in subdivision 1 for such taxable year, hereinafter referred to as the "unused credit year", such excess shall be a credit carryover to each of the four taxable years following the unused credit year.

The entire amount of the unused credit for an unused credit year shall be carried to the earliest of the four taxable years to which such credit may be carried and then to each of the other three taxable years; provided, however, the maximum credit allowable in any one taxable year under this subdivision, including the credit allowable under subdivision 1 and the carryforward allowable under this paragraph, shall in no event exceed \$75,000.

History: 1979 c 303 art 4 s 4; 1987 c 268 art 9 s 32.

NOTE: This section is repealed by Laws 1987, chapter 268, article 9, section 43, clause (c) effective for iron ore and taconite concentrates mined after December 31, 1989. See Laws 1987, chapter 268, article 9, section 44.

298.03 VALUE OF ORE; HOW ASCERTAINED.

Subdivision 1. **General rules.** The valuation of iron or other ores for the purposes of determining the amount of tax to be paid under the provisions of section 298.01, subdivision 1, shall be ascertained by subtracting from the value of such ore, at the place where the same is brought to the surface of the earth, such value to be determined by the commissioner of revenue:

(1) the reasonable cost of supplies used and labor performed at the mine in separating the ore from the ore body, including hoisting, elevating, or conveying the same to the surface of the earth;

(2) if the ore is taken from an open pit mine, an amount for each ton of ore mined or produced during the year equal to the cost of removing the overburden, divided by the number of tons of ore uncovered, the number of tons of ore uncovered in each case to be determined by the commissioner of revenue;

(3) if the ore is taken from an underground mine, an amount for each ton of ore mined or produced during the year equal to the cost of sinking and constructing shafts and running drifts, divided by the number of tons of ore that can be advantageously taken out through such shafts and drifts, the number of tons of ore that can be advantageously taken out in each case to be determined by the commissioner of revenue;

(4) the amount of royalties paid on the ore mined or produced during the year;

(5) for persons mining or producing iron ore the mining or production of which is subject to the occupation tax imposed by section 298.01, subdivision 1, the amount of the ad valorem taxes levied and paid for the year against the realty in which the ore is deposited; for all others a percentage of the ad valorem taxes levied and paid for such year against the realty in which the ore is deposited equal to the percentage that the tons mined or produced during such year bears to the total tonnage in the mine;

(6) in the case of taconite, semitaconite, and iron sulphide operations, the tax payable under section 298.24, and that payable under section 298.35, on the concentrates produced in said year and any taxes paid under Laws 1955, chapter 391, 429, 514, 576 or 540, or any other law imposing on such taconite operations a specific tax for school or other governmental purposes;

(7) the amount or amounts of all the foregoing subtractions shall be ascertained and determined by the commissioner of revenue. Deductions for interest on plant investment shall not exceed the greater of (a) four percent of book value, or (b) the amount actually paid but not exceeding six percent of book value. No subtraction shall be allowed for shrinkage of iron ore.

Subd. 2. Special transportation costs. With respect to transportation costs incurred after June 30, 1986, if the ore is not transported using the Great Lakes Seaway system, the commissioner must allow, as a deduction in computing the valuation of the ore, the reasonable cost of transportation of the ore to its destination. This subdivision does not affect the valuation of ore shipped using the Great Lakes Seaway system.

History: (2374) 1921 c 223 s 2; 1925 c 307 s 1; Ex1937 c 85 s 2; 1957 c 365 s 1; 1965 c 184 s 1; 1974 c 556 s 27; 1977 c 423 art 10 s 7; 1Sp1985 c 14 art 10 s 8; 1986 c 441 s 9; 1987 c 268 art 9 s 33

NOTE: This section is repealed by Laws 1987, chapter 268, article 9, section 43, clause (c) effective for iron ore and taconite concentrates mined after December 31, 1989. See Laws 1987, chapter 268, article 9, section 44.

298.031 VALUATION OF ORE.

Subdivision 1. Definitions. The following words and phrases when used in this section, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this subdivision:

(1) "Commissioner" means commissioner of revenue.

(2) "Discount" means the difference in excess of 50 cents between the taxpayer's average actual bona fide selling price per ton of iron ore arrived at in open and competitive sales during the taxable year and the value of such iron ore together with the value of ores produced and not sold in bona fide sales, as determined by the commissioner pursuant to the provisions of Minnesota Statutes 1957, chapter 298, section 298.03, and other applicable provisions, if any.

Subd. 2. Value of certain ore; how ascertained. (1) The taxpayer shall be given a credit in each taxable year upon the occupation tax assessed in such year upon iron ore or taconite concentrates, under Minnesota Statutes 1957, chapter 298, against a given mine after credit for labor credits has been given, in an amount equal to the occupation tax under said chapter 298 upon an amount produced by multiplying the number of tons of ore sold at a discount by the amount of such discount.

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(2) The aggregate amount of all credits allowed under this section to all mines shall not exceed four percent of the aggregate amount of all occupation taxes imposed under section 298.01, subdivision 1, assessed against all mines in the state for said year prior to the deduction of the credit allowed by this section.

(3) The amount of the foregoing subtraction shall be ascertained and determined by the commissioner.

(4) If ore stockpiled from previous years operations is sold at a discount, the discount credit shall be allowed against all ore currently being produced by the same company to the extent that the discount credit is available. Any unused credit may be carried forward and utilized with future years production of ore from the stockpiled property or other properties operated by the same company.

Subd. 3. Credit, application. The credit provided by this section shall not be applicable with respect to any mine operated by a mining company or an operating agent

(a) if the net marketable tonnage of iron ores, exclusive of taconite and semitaconite, produced from all mines operated by such mining company or operating agent exceeds three percent of the net marketable tonnage of iron ores or concentrates including taconite and semitaconite, produced in this state during the year for which the tax is being determined, or

(b) if such mining company or operating agent is also engaged in the manufacture of steel, or

(c) if any company manufacturing steel has an interest, either directly or indirectly, through stock ownership in such mining company or operating agent.

The taxpayer shall have the burden of proving its right to the credit provided by this section.

Subd. 4. Nonseverability. In the event that any of the provisions of subdivision 3 are held to be unconstitutional, this entire section shall be void and of no effect.

History: *Ex1961 c 66 s 1; 1969 c 795 s 1; 1973 c 582 s 3; 1Sp1981 c 1 art 10 s 11,12; 1984 c 502 art 7 s 12; 1Sp1985 c 14 art 10 s 9,10; 1987 c 268 art 9 s 34*

NOTE: This section is repealed by Laws 1987, chapter 268, article 9, section 43, clause (c) effective for iron ore and taconite concentrates mined after December 31, 1989. See Laws 1987, chapter 268, article 9, section 44.

298.04 [Repealed, 1987 c 268 art 9 s 43]

298.045 [Repealed, 1984 c 522 s 20]

298.046 [Repealed, 1984 c 522 s 20]

298.047 [Repealed, 1984 c 522 s 20]

298.048 [Repealed, 1984 c 522 s 20]

298.05 MINING COMPANIES TO REPORT ANNUALLY.

Every person engaged in such mining or production of ores shall, annually, on or before the first day of March, file with the commissioner of revenue, under oath, a correct report, in such form and containing such information as the commissioner may require, covering the preceding calendar year.

History: *(2375) 1921 c 223 s 3; 1925 c 307 s 2; 1973 c 582 s 3; 1986 c 444*

298.06 COMMISSIONER TO DETERMINE TAX.

Upon receiving the report the commissioner of revenue shall determine, from information as the commissioner may possess or obtain, whether the same is correct or otherwise; and, if found correct, the commissioner shall, on or before May first, find and determine therefrom the amount of tax due from such person.

History: *(2376) 1921 c 223 s 4; 1973 c 582 s 3; 1986 c 444*

298.07 WHEN REPORT INCORRECT COMMISSIONER TO FIX AMOUNT OF TAX.

Upon receiving the report, the commissioner of revenue shall determine, from information as the commissioner may possess or obtain, whether the same is correct or otherwise; and, if found incorrect, from information as the commissioner may possess or obtain, the commissioner shall find and determine the amount of tax due from such person.

History: (2381) 1921 c 223 s 5; 1973 c 582 s 3; 1986 c 444

298.08 PROCEDURE WHEN NO REPORT IS FILED; PENALTY FOR FAILURE TO REPORT.

If any person subject to sections 298.01, 298.015, 298.03, 298.05 to 298.16, and 298.21 fails to make the report provided for in section 298.05 at the time and in the manner provided, the commissioner of revenue shall, upon information the commissioner may possess or obtain, ascertain the kind and amount of ore mined or produced, together with its valuation, and determine the amount of the tax due from such person. There shall be added to the tax a penalty for failure to report, equal to ten percent of the tax imposed which shall be treated as a part of the tax.

History: (2382) 1921 c 223 s 6; 1973 c 582 s 3; 1986 c 444; 1987 c 268 art 9 s 35

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

Subdivision 1. On or before May 1 in each year, the commissioner of revenue shall send to each person subject to occupation taxes under the provisions of section 298.01, as amended, or the net proceeds tax under the provisions of section 298.015, a notice of the amount of the tax so determined to be due. Said notice shall be sent by certified mail and directed to the person at the address given in the report filed by the person, and, if no report has been filed or no address given, then at such address as the commissioner of revenue may be able to ascertain; but the validity of the tax shall not be affected by the failure of the commissioner of revenue to mail such notice or the failure of the person subject to the tax to receive it.

Subd. 2. On the first secular day following the fourteenth day of May, the commissioner of revenue shall hold a hearing which may be adjourned from day to day. All relevant and material evidence having probative value with respect to the issues shall be submitted at the hearing and such hearing shall not be a "contested case" within the meaning of section 14.02, subdivision 3. Every person subject to such tax may at such hearing present evidence and argument on any matter bearing upon the validity or correctness of the tax determined to be due, and the commissioner of revenue shall review the determination of such tax.

Subd. 3. **Order; appeal.** After the hearing the commissioner of revenue shall make an order either affirming the determination of the tax due from the person appearing or modifying the determination as the commissioner 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.

Subd. 4. If the amount of tax determined by the commissioner is subsequently found to be erroneous, the commissioner may, at any time within three years from the date the tax is certified as provided in section 298.10, redetermine the amount thereof. No such redetermination shall be made increasing the tax unless the person from whom the additional amount is due is given ten days written notice thereof and an opportuni-

ty to be heard thereon. If an order is made increasing the tax, the same proceedings shall be had as provided for occupation taxes originally determined and certified. Any person who has paid an occupation tax may apply to the commissioner within the time herein limited for a redetermination of the tax, and if the commissioner determines that the tax has been overpaid, the commissioner shall make and file an order determining the amount of such overpayment, and pay a refund of that amount to the person who has overpaid the amount as so determined. If the tax is increased, interest at the rate specified in section 270.75 from the date payment should have been made shall be determined and paid; if the tax is reduced, interest at the rate specified in section 270.76 from the date of overpayment shall be allowed.

Subd. 5. If before the expiration of the time allowed in subdivision 4 for the redetermination of the tax, the commissioner and the taxpayer consent in writing to an extension of time for the redetermination of the tax, the tax may be redetermined at any time prior to the expiration of the period agreed upon. The period agreed upon may be extended by subsequent agreements in writing made before the expiration of the period previously agreed upon.

History: (2383) 1921 c 223 s 7; 1925 c 307 s 3; 1943 c 657 s 1; 1963 c 525 s 1; 1973 c 582 s 3; 1975 c 377 s 38; 1977 c 203 s 4; 1981 c 164 s 7; 1982 c 424 s 130; 1983 c 247 s 129; 1984 c 522 s 13; 1Sp1985 c 14 art 10 s 11; art 15 s 15; 1986 c 444; 1987 c 268 art 9 s 36

298.10 COMMISSIONER TO ASSESS TAXES AND BILL PERSONS LIABLE FOR TAX.

The commissioner of revenue shall record the amount of taxes found and determined to be due from any person, as herein provided; and, on or before June first, shall make an assessment and send a statement to the person subject to the tax, which tax shall be payable to the commissioner of revenue as provided in this chapter and deposited in the state treasury.

History: (2384) 1921 c 223 s 8; 1925 c 307 s 4; 1973 c 582 s 3; 1973 c 631 s 3; 1986 c 444

298.11 TIME FOR PAYMENT OF TAXES; PENALTIES.

In case the tax provided for in sections 298.01 to 298.16 is not paid before the fifteenth day of June of the year when due and payable, a penalty of ten percent thereof shall immediately accrue; and thereafter one percent per month shall be added to such tax and penalty while such tax remains unpaid.

History: (2385) 1921 c 223 s 9; 1925 c 307 s 5

298.12 COMMISSIONER'S ASSESSMENT PRIMA FACIE EVIDENCE OF AMOUNT DUE.

The assessment of the commissioner of revenue for the tax, or tax and penalties, imposed by the provisions of sections 298.01 to 298.11, shall be prima facie evidence, in any court where proceedings may be brought for its enforcement, that the amount therein stated is due the state from the person indicated.

History: (2377) 1921 c 223 s 10; 1973 c 582 s 3; 1973 c 631 s 4

298.13 ATTORNEY GENERAL TO COLLECT UNPAID TAXES.

On July first each year, the commissioner of revenue shall deliver to the attorney general a certification of all unpaid taxes imposed under sections 298.01 to 298.16 and shall bring an action thereon in the district court of Ramsey county, or of the county where such ores are mined or produced, for the amount of such taxes, together with interest, penalties, and costs. The judgment of the court, when so obtained, shall bear interest at the rate of one percent per month and be enforceable in the manner provided by law for the enforcement of judgments obtained in civil actions.

History: (2378) 1921 c 223 s 11; 1973 c 582 s 3; 1973 c 631 s 5; 1986 c 444

298.14 PENALTY FOR FALSE RETURN.

Any person who, for the purpose of evading the payment of the tax hereinbefore provided, or any part thereof, makes any false return or report under section 298.05 shall pay to the state a penalty of 50 percent of the amount of the tax; and any one who shall knowingly make or sign, under oath, any false return of the kind and amount of ores produced therefrom, and of the value thereof, or who shall knowingly submit any other false information required by sections 298.01 to 298.16, shall be deemed guilty of perjury; and, upon conviction, punished therefor as provided by law.

History: (2379) 1921 c 223 s 12

298.15 RECORDS OF COMPANIES TO BE OPEN TO INSPECTION.

Subdivision 1. All books, waybills, inventories, correspondence, and memoranda relating to or used in the transaction of the business of any person owning or operating any such mine shall, on demand by the commissioner of revenue, or the commissioner's authorized representatives, be open to inspection or examination. If any one having charge, control, or possession of these papers and books of the owner or operator shall neglect or refuse, on demand of the commissioner of revenue, or the commissioner's authorized representatives, access to these papers and books, that person shall be deemed guilty of a gross misdemeanor; and, upon conviction, punished therefor as provided by law.

Subd. 2. For the purpose of determining the correctness of any return or of determining whether or not any person should have made a return or paid taxes or for the purpose of collection of any of the taxes imposed by this chapter, the commissioner shall have power to examine, or cause to be examined, any books, papers, records, or memoranda, which may be relevant to making the determinations, whether the books, papers, records, or memoranda, are the property of or are in the possession of the person or any other person. The commissioner shall have the power to require the attendance of any person having knowledge or information which may be relevant, to compel the production of books, papers, records, or memoranda by persons so required to attend, to take testimony on matters material to the determination, and to administer oaths or affirmations.

Subd. 3. For the purpose of making examinations and determinations, the commissioner may appoint examiners as deemed necessary. The examiners shall have all the rights and powers conferred upon the commissioner by this section. The clerk or court administrator of any court of record, upon demand of the commissioner or any examiner, shall issue a subpoena for the attendance of any witness or the production of any books, papers, records or memoranda. The commissioner may also issue subpoenas. Disobedience of subpoenas issued under this section shall be punished by the district court of the district in which the subpoena is issued as for a contempt of the district court.

History: (2380) 1921 c 223 s 13; 1973 c 582 s 3; 1981 c 164 s 8; 1Sp1986 c 3 art 1 s 82

298.16 TAXES TO BE CREDITED TO GENERAL FUND.

All taxes imposed and collected under the provisions of sections 298.01 to 298.15 shall be paid into the state treasury and credited to the general fund.

History: (2386) 1921 c 223 s 14; 1969 c 399 s 49

298.17 OCCUPATION TAXES TO BE APPORTIONED.

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 10, 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. Of the moneys apportioned to the general fund by this section there is annually appropriated and credited to the iron range resources and rehabilitation board account in the special revenue fund an amount equal to that which would have been generated by a one 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 pursuant to this section shall be used (1) to provide environmental development grants to local governments located within any county in region 3 as defined in governor's executive order number 68, issued on June 12, 1970, which does not contain a municipality qualifying pursuant to section 273.134 or (2) 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 iron range resources and rehabilitation board regarding the loans. Payment to the iron range resources and rehabilitation board account shall be made by May 15 annually.

History: (2391) 1923 c 402 s 1; 1961 c 561 s 9; 1969 c 399 s 42; 1976 c 2 s 172; 1980 c 607 art 7 s 2; 1984 c 524 s 1

298.18 TAXES TO GO TO GENERAL FUND IF SECTION 298.17 INVALID.

If for any reason section 298.17 shall be held to be invalid, then all such taxes, when collected, shall be paid into the state treasury and credited to the general fund.

History: (2392) 1923 c 402 s 2; 1969 c 399 s 49

298.19 ORE CARRYING ROADS TO REPORT TO COMMISSIONER.

It shall be the duty of every railway company or other common carrier receiving iron ore for original shipment from any mine in this state to make report, in writing, delivered or deposited in the mail addressed to the commissioner of revenue, at St. Paul, Minnesota, on or before the tenth day of May and November, each and every year, the amounts in tons received for shipment, as provided for in this section and section 298.20, up to and inclusive of the last day of April and October, of each year, setting forth the total amount, in tons, received for shipment from each such mine and of the amounts of tons received for shipment since the last date required to be included in the last report, and whether received from open pit, pocket, or stockpile, stating the amount, in tons, so received from each of such sources. The report shall also show the place where the ore was received for shipment and the name of the shipper in each case.

History: (2389) 1923 c 354 s 1; 1973 c 582 s 3

298.20 VIOLATION A GROSS MISDEMEANOR.

Any railway company or other common carrier which fails, neglects, or refuses to make any report required by section 298.19 shall be deemed guilty of a gross misdemeanor; and, upon conviction, fined not exceeding \$3,000 for each such offense.

History: (2390) 1923 c 354 s 2; 1984 c 628 art 3 s 11

298.21 PERSON.

For all purposes of sections 298.01 to 298.16, the word "person" shall be construed to include individuals, copartnerships, companies, joint stock companies, corporations, and all associations, however and for whatever purpose organized.

History: (2388) 1921 c 223 s 16

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 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. The compensation of the commissioner shall be set by the legislative coordinating commission and may not exceed the maximum salary set for the commissioner of administration under section 15A.081, subdivision 1.

(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, the commissioner may use such amounts of the appropriation made to the commissioner of revenue in section 298.28 as are determined 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, except that the amount needed to cover cost overruns awarded to a contractor by an arbitrator in relation to a contract awarded by the commissioner or in effect after July 1, 1985, is appropriated from the general fund. For the purposes of this section, "development of remaining resources" includes, but is not limited to, the promotion of tourism.

Subd. 2. There is hereby created the iron range resources and rehabilitation board, consisting of 11 members, five of whom shall be state senators appointed by the subcommittee on committees of the rules committee of the senate, and five of whom shall be representatives, appointed by the speaker of the house of representatives, their terms of office to commence on May 1, 1943, and continue until January 3rd, 1945, or until their successors are appointed and qualified. Their successors shall be appointed each two years in the same manner as the original members were appointed, in January of every second year, commencing in January, 1945. The 11th member of said board shall be the commissioner of natural resources of the state of Minnesota. Vacancies on the board shall be filled in the same manner as the original members were chosen. At least a majority of the legislative members of the board shall be elected from state senatorial or legislative districts in which over 50 percent of the residents reside within a tax relief area as defined in section 273.134. All expenditures and projects made by the commissioner of iron range resources and rehabilitation shall first be submitted to said iron range resources and rehabilitation board which shall recommend approval or disapproval or modification of expenditures and projects for rehabilitation purposes as provided by this section, and the method, manner, and time of payment of all said funds proposed to be disbursed shall be first approved or disapproved by said board. The board shall biennially make its report to the governor and the legislature on or before November 15 of each even numbered year. The expenses of said board shall be paid by the state of Minnesota from the funds raised pursuant to this section.

Subd. 3. Whenever the commissioner of iron range resources and rehabilitation has made determinations required by subdivision 1 and has determined that distress and unemployment exists or may exist in the future in any county by reason of the removal of the natural resources or a possible limited use thereof in the future and the decrease in employment resulting therefrom and deems that the acquirement of real estate or personal property is necessary and proper in the development of the remaining resources, the commissioner may acquire such property or interests therein by gift, purchase or lease. The commissioner may purchase insurance to protect any property acquired from loss or damage by fire, or to protect the commissioner from any liability the commissioner may incur by reason of ownership of the property, or both. If after such property is acquired it is necessary in the judgment of the commissioner to acquire a right-of-way for access to projects operated on property acquired, by gift, purchase or lease, said right-of-way may be acquired by condemnation in the manner provided by law.

Subd. 4. Whenever property has been granted and conveyed to the state of Minnesota in accordance with an agreement made by the commissioner of iron range

resources and rehabilitation and the commissioner of administration for the necessary and proper development of the remaining resources of any distressed county, such grants, and conveyances or leases are hereby accepted in accordance with the terms and conditions thereof.

Subd. 5. In order to carry out the terms and provisions of this section, the commissioner of iron range resources and rehabilitation and the commissioner of administration may lease any property acquired hereunder for a term not to exceed 20 years upon such terms as they may determine, provided that such property shall not be leased to any person in such a manner as to constitute a direct contribution of working capital to a business enterprise. Such lease may provide that in the event the property is ever sold by the state to such lessee, the lessee may obtain a credit on the purchase price covering the rentals paid under the lease or any renewals thereof and that said real estate can be conveyed by the commissioner of iron range resources and rehabilitation and the commissioner of administration and the said commissioners are hereby authorized to make such conveyances.

History: 1941 c 544 s 4; 1943 c 590 s 4; 1949 c 739 s 22; 1951 c 713 s 31; 1957 c 882 s 1; Ex1959 c 49 s 1; 1969 c 399 s 43,49; 1969 c 1129 art 8 s 9; art 10 s 2; 1971 c 25 s 59; 1973 c 613 s 1; 1974 c 406 s 67; 1975 c 271 s 6; 1977 c 305 s 34; 1977 c 423 art 10 s 8,9; 1980 c 607 art 7 s 3; 1983 c 301 s 183; 1986 c 444; 1Sp1986 c 3 art 2 s 49; 1987 c 404 s 162; 1988 c 719 art 19 s 16

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."

298.221 RECEIPTS FROM CONTRACTS; APPROPRIATION.

All moneys paid to the state of Minnesota pursuant to the terms of any contract entered into by the state under authority of Laws 1941, chapter 544, section 4; or of said section as amended and any fees which may, in the discretion of the commissioner of iron range resources and rehabilitation, be charged in connection with any project pursuant to that section as amended, shall be deposited in the state treasury to the credit of the iron range resources and rehabilitation board account in the special revenue fund and are hereby appropriated for the purposes of section 298.22.

History: 1961 c 215 s 1; 1973 c 613 s 2; 1975 c 271 s 6

298.2211 FINANCING ACTIVITIES.

Subdivision 1. **Purpose; grant of authority.** In order to accomplish the legislative purposes specified in sections 469.142 to 469.165 and chapter 462C, 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 469.142 to 469.149; (2) all powers conferred upon a city under chapter 462C, subject to compliance with the provisions of section 474A.07; (3) all powers conferred upon a municipality or a redevelopment agency under sections 469.152 to 469.165; (4) all powers provided by sections 469.142 to 469.151 to further any of the purposes and objectives of chapter 462C and sections 469.152 to 469.165; and (5) all powers conferred upon a municipality or an authority under sections 469.174 to 469.177, 469.178, except subdivision 2 thereof, and 469.179, subject to compliance with the provisions of section 469.175, 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 469.012, subdivision 7. 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 committee 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 469.174 to 469.179, 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 the commissioner for this purpose.

Subd. 6. Fee setting. Fees for admission to or use of facilities operated by the iron range resources and rehabilitation board that have been established according to prevailing market conditions and to recover operating costs need not be set by rule.

History: 1983 c 357 s 1; 1Sp1985 c 13 s 313; 1986 c 444; 1986 c 465 art. 1 s-2; 1987 c 291 s 213,214

298.2212 INVESTMENT OF FUNDS.

All funds credited to the iron range resources and rehabilitation board account in the special revenue fund for the purposes of section 298.22 must be invested pursuant to law. The net interest and dividends from the investments are included and become part of the funds available for purposes of section 298.22.

History: *1Sp1985 c 14 art 10 s 12*

IRON RANGE RESOURCES AND REHABILITATION**298.2213 NORTHEAST MINNESOTA ECONOMIC DEVELOPMENT FUND.**

Subdivision 1. Appropriation. \$4,000,000 is appropriated from the general fund to the commissioner of iron range resources and rehabilitation. \$300,000 of this appropriation must be used in the same manner as money appropriated under section 298.17.

Subd. 2. Purpose of expenditures. The money appropriated in this section may be used for projects and programs for which technological and economic feasibility have been demonstrated and that have the following purposes:

- (1) creating and maintaining productive, permanent, skilled employment, including employment in technologically innovative businesses; and
- (2) encouraging diversification of the economy and promoting the development of minerals, alternative energy sources utilizing indigenous fuels, forestry, small business, and tourism.

Subd. 3. Use of money. The money appropriated under this section may be used to provide loans, loan guarantees, interest buy-downs, and other forms of participation with private sources of financing, provided that a loan to a private enterprise must 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 must be no less than the lesser of eight percent or the rate of interest that is three percentage points less than a full faith and credit obligation of the United States government of comparable maturity, at the time that the loan is approved.

Money appropriated in this section must be expended only in or for the benefit of the tax relief area defined in section 273.134, and as otherwise provided in this section.

Subd. 4. Project approval. The board shall by August 1, 1987, and each year thereafter prepare a list of projects to be funded from the money appropriated in this section with necessary supporting information including descriptions of the projects, plans, and cost estimates. A project must not be approved by the board unless it finds that:

- (1) the project will materially assist, directly or indirectly, the creation of additional long-term employment opportunities;
- (2) the prospective benefits of the expenditure exceed the anticipated costs; and
- (3) 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 must be submitted to the legislative advisory commission for its review. The list with the recommendation of the legislative advisory commission must be submitted to the governor, who shall, by November 15 of each year, approve, disapprove, or return for further consideration, each project. The money for a project may be spent only upon approval of the project by the governor.

The board may submit supplemental projects for approval at any time. Supplemental projects must be submitted to the members of the legislative advisory commission for their review and recommendations of further review. If a recommendation is not provided within ten days, no further review by the legislative advisory commission

is required, and the governor shall approve or disapprove each project or return it for further consideration. If the recommendation by a member is for further review, the governor shall submit the request to the legislative advisory commission for its review and recommendation. Failure or refusal of the commission to make a recommendation promptly is a negative recommendation.

Subd. 5. Advisory committees. Before submission to the board of a proposal for a project for expenditure of money appropriated under this section, the commissioner of iron range resources and rehabilitation shall appoint a technical advisory committee consisting of at least seven persons who are knowledgeable in areas related to the objectives of the proposal. If the project involves investment in a scientific research proposal, at least four of the committee members must be knowledgeable in the specific scientific research area relating to the project. Members of the committees must 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.

Subd. 6. Use of repayments and earnings. Principal and interest received in repayment of loans made under this section must be deposited in the state treasury and are appropriated to the board for the purposes of this section.

History: 1987 c 386 art 8 s 1; 1988 c 719 art 19 s 17

TACONITE ENVIRONMENTAL PROTECTION FUND ACT

298.222 CITATION.

Sections 298.222 to 298.226 and Laws 1977, chapter 423, article 10, section 22 shall be known as the taconite environmental protection fund act of 1977.

History: 1977 c 423 art 10 s 19

298.223 TACONITE AREA ENVIRONMENTAL PROTECTION FUND.

Subdivision 1. Creation; purposes. A fund called the taconite environmental protection fund is created for the purpose of reclaiming, restoring and enhancing those areas of northeast Minnesota located within a tax relief area defined in section 273.134 that are adversely affected by the environmentally damaging operations involved in mining taconite and iron ore and producing iron ore concentrate and for the purpose of promoting the economic development of northeast Minnesota. The taconite environmental protection fund shall be used for the following purposes:

- (a) to initiate investigations into matters the iron range resources and rehabilitation board determines are in need of study and which will determine the environmental problems requiring remedial action;
- (b) reclamation, restoration, or reforestation of minelands not otherwise provided for by state law;
- (c) local economic development projects including construction of sewer and water systems, and other public works located within a tax relief area defined in section 273.134;
- (d) monitoring of mineral industry related health problems among mining employees.

Subd. 2. Administration. The taconite environmental protection fund shall be administered by the commissioner of the iron range resources and rehabilitation board. The commissioner shall by September 1 of each year prepare a list of projects to be funded from the taconite environmental protection fund, with such supporting information including description of the projects, plans, and cost estimates as may be necessary. Upon recommendation of the iron range resources and rehabilitation board, this list shall be submitted to the legislative advisory commission for its review. This list with the recommendation of the legislative advisory commission shall then be

transmitted to the governor by November 1 of each year. By December 1 of each year, the governor shall approve or disapprove, or return for further consideration, each project. Funds for a project may be expended only upon approval of the project by the governor.

The commissioner may submit supplemental projects for approval at any time. Supplemental projects approved by the board must be submitted to the members of the legislative advisory commission for their review and recommendations of further review. If a recommendation is not provided within ten days, no further review by the legislative advisory commission is required, and the governor shall approve or disapprove each project or return it for further consideration. If the recommendation by any member is for further review the governor shall submit the request to the legislative advisory commission for its review and recommendation. Failure or refusal of the commission to make a recommendation promptly is a negative recommendation.

Subd. 3. Appropriation. There is hereby annually appropriated to the commissioner of iron range resources and rehabilitation such funds as are necessary to carry out the projects approved and such funds as are necessary for administration of this section. Annual administrative costs, not including detailed engineering expenses for the projects, shall not exceed five percent of the amount annually expended from the fund.

Funds for the purposes of this section are provided by section 298.28, subdivision 11, relating to the taconite environmental protection fund.

History: 1977 c 423 art 10 s 20; 1980 c 607 art 7 s 4; 1Sp1981 c 4 art 2 s 31; 1Sp1985 c 14 art 10 s 13; 1988 c 719 art 19 s 18

298.224 INVESTMENT OF FUNDS; INCOME.

The fund established by section 298.223 shall be invested pursuant to law and the net interest and dividends arising from the investment shall be included and become part of the fund.

History: 1977 c 423 art 10 s 21

298.225 APPROPRIATION.

Subdivision 1. For distribution of taconite production tax in 1987 and thereafter with respect to production in 1986 and thereafter, the distribution of the taconite production tax as provided in section 298.28, subdivisions 2 to 5, 6, paragraphs (b) and (c), 7, and 8, shall equal the lesser of the following amounts:

(1) the amount distributed pursuant to this section and section 298.28, with respect to 1983 production if the production for the year prior to the distribution year is no less than 42,000,000 taxable tons. If the production is less than 42,000,000 taxable tons, the amount of the distributions shall be reduced proportionately at the rate of two percent for each 1,000,000 tons, or part of 1,000,000 tons by which the production is less than 42,000,000 tons; or

(2)(i) for the distributions made pursuant to section 298.28, subdivisions 4, paragraphs (b) and (c), and 6, paragraph (c), 50 percent of the amount distributed pursuant to this section and section 298.28, with respect to 1983 production.

(ii) for the distributions made pursuant to section 298.28, subdivision 5, paragraphs (b) and (d), 75 percent of the amount distributed pursuant to this section and section 298.28, with respect to 1983 production.

Subd. 2. The money necessary for funding the difference between the initial distribution made pursuant to section 298.28 and the amount guaranteed in subdivision 1 is appropriated in equal proportions from the initial current year distributions to the taconite environmental protection fund and to the northeast Minnesota economic protection trust pursuant to section 298.28. If the initial distributions to the taconite environmental protection fund and the northeast Minnesota economic protection trust are insufficient to fund the difference, the commissioner of iron range resources and rehabilitation shall make the payments of any remaining difference from the corpus of

the taconite environmental protection fund and the corpus of the northeast Minnesota economic protection trust fund in equal proportions as directed by the commissioner of revenue.

If a taconite producer ceases beneficiation operations permanently and is required by a special law to make bond payments for a school district, the northeast Minnesota economic protection trust fund shall assume the payments of the taconite producer if the producer ceases to make the needed payments. The commissioner of iron range resources and rehabilitation shall make these school bond payments from the corpus of the northeast Minnesota economic protection trust fund in the amounts certified by the commissioner of revenue.

History: 1977 c 423 art 10 s 23; 1Sp1981 c 1 art 10 s 13; 1982 c 523 art 30 s 1; 2Sp1982 c 2 s 1; 1984 c 502 art 7 s 13; 1985 c 300 s 22; 1Sp1985 c 14 art 10 s 14; 1986 c 441 s 10; 1Sp1986 c 3 art 2 s 37

298.226 APPROPRIATION.

There is hereby appropriated from the general fund to the taconite environmental protection fund the amount needed to pay the payments authorized under section 298.225. The commissioner of finance shall transfer the funds only if the taconite environmental protection fund does not have a sufficient balance to pay the payments. No funds may be transferred from the general fund after January 1, 1980. Any amount transferred to the taconite environmental protection fund shall be repaid to the general fund without interest as soon as practicable.

History: 1977 c 423 art 10 s 24

TAX ON TACONITE AND IRON SULPHIDES

298.23 TACONITE AND IRON SULPHIDES DEFINED.

For the purpose of sections 298.23 to 298.28, "taconite" is defined as ferruginous chert or ferruginous slate in the form of compact, siliceous rock, in which the iron oxide is so finely disseminated that substantially all of the iron-bearing particles of merchantable grade are smaller than 20 mesh and which is not merchantable as iron ore in its natural state, and which cannot be made merchantable by simple methods of beneficiation involving only crushing, screening, washing, jigging, drying, or any combination thereof. "Iron sulphides" are defined as chemical combinations of iron and sulphur (mineralogically known as pyrrhotite, pyrites or marcasite), in relatively impure condition, which are not merchantable as iron ore and which cannot be made merchantable by the simple methods of beneficiation above described.

History: 1941 c 375 s 1; 1947 c 93 s 1; 1957 c 362 s 1

298.24 TAX ON TACONITE AND IRON SULPHIDES.

Subdivision 1. (a) For concentrate produced in 1986 and 1987 there is hereby imposed upon taconite and iron sulphides, and upon the mining and quarrying thereof, and upon the production of iron ore concentrate therefrom, and upon the concentrate so produced, a tax of \$1.90 per gross ton of merchantable iron ore concentrate produced therefrom.

(b) Except as provided in paragraph (c), for concentrates produced in 1988 and subsequent years, the tax rate shall be equal to the preceding year's tax rate plus an amount equal to the preceding year's tax multiplied by the percentage increase in the implicit price deflator from the fourth quarter of the second preceding year to the fourth quarter of the preceding year. "Implicit price deflator" for the gross national product means the implicit price deflator prepared by the bureau of economic analysis of the United States Department of Commerce.

(c) The provisions of paragraph (b) will not be in effect for concentrates produced

in 1988 if the 1988 production is not less than 34,000,000 tons. If the provisions of paragraph (b) are not in effect for concentrates produced in a year, the rate of the tax for that year's production will be the rate of the tax imposed on the previous year's production. The tax shall be imposed on the average of the production for the current year and the previous two years. The rate of the tax imposed will be the current year's tax rate. This clause shall not apply in the case of the closing of a taconite facility if the property taxes on the facility would be higher if this clause and section 298.25 were not applicable.

(d) If the tax or any part of the tax imposed by this subdivision is held to be unconstitutional, a tax of \$1.90 per gross ton of merchantable iron ore concentrate produced shall be imposed.

(e) Consistent with the intent of this subdivision to impose a tax based upon the weight of merchantable iron ore concentrate, the commissioner of revenue may indirectly determine the weight of merchantable iron ore concentrate included in fluxed pellets by subtracting the weight of the limestone, dolomite, or olivine derivatives or other basic flux additives included in the pellets from the weight of the pellets. For purposes of this paragraph, "fluxed pellets" are pellets produced in a process in which limestone, dolomite, olivine, or other basic flux additives are combined with merchantable iron ore concentrate. No subtraction from the weight of the pellets shall be allowed for binders, mineral and chemical additives other than basic flux additives, or moisture.

Subd. 2. There is hereby imposed upon taconite and iron sulphides, and upon the mining and quarrying thereof, and upon the production of iron ore concentrate therefrom, and upon the tailings so produced an additional tax of 10 cents per 2,000 pounds of tailings produced. For the purposes of this subdivision tailings mean the solid and liquid waste materials resulting from the beneficiation process.

The tax imposed by this subdivision shall only apply to those tailings from a taconite facility which are not deposited on land in accordance with permits issued by the pollution control agency and the department of natural resources.

The proceeds of the tax imposed by this subdivision shall be deposited in the general fund of the state.

Subd. 3. (a) A credit in the amount of not to exceed four cents per gross ton of taxable iron ore concentrate produced shall be allowed against the tax imposed by subdivision 1, with respect to the production of iron ore concentrate from taconite plants which, together with the lands upon which they are located and lands used in connection with the mining, quarrying and concentration of taconite and buildings, machinery, equipment and other fixtures used in the production of taconite, and notwithstanding the provisions of section 298.25, have by law been made subject to direct taxes for the payment of principal and interest on bonds issued by a school district or city.

(b) Notwithstanding clause (a), a credit of not to exceed seven cents shall be allowed a producer for the payment of taxes for bonds, and interest on them, issued by independent school district No. 703, for which the producer's property has been made subject to direct taxes.

(c) The credit allowed in this subdivision shall be allowed against taxes payable in the calendar years following the issuance and sale of the bonds until the total credit allowed in all years equals the total liability of the producer for direct taxes for the payment of the bonds and interest. If necessary to equal the total liability of the producer, the credit may be taken in years after the years when the taxes for the bond principal and interest were paid.

The amount of credit allowable hereunder in any year with respect to production from any plant subjected to direct taxes shall not exceed the amount of the direct taxes levied in the prior year against the plant for the bonds and interest and the indebtedness secured thereby, except if the credit allowed does not equal the amount levied in the prior year, then the unused credits of prior years may be used for the deficiency.

Subd. 4. A credit shall be allowed against the tax imposed by subdivision 1, in

the amount of \$250,000 per year to any taconite producer that builds a water filtration and treatment plant in 1984 at a cost in excess of \$1,000,000 in order to alleviate the contamination of water resulting from the disposal of taconite tailings on land. This credit shall be available against taxes paid in 1985, 1986, and 1987. The commissioner of iron range resources and rehabilitation shall pay these credits from the taconite environmental protection fund created in section 298.223.

History: 1941 c 375 s 2; 1947 c 93 s 2; 1951 c 613 s 1; 1969 c 1156 s 1; 1973 c 123 art 5 s 7; 1977 c 423 art 10 s 10,11; 1979 c 303 art 10 s 13; 1Sp1981 c 1 art 10 s 14; 1982 c 523 art 30 s 2; 1984 c 502 art 7 s 14,15,22 subd 2; 1984 c 655 art 2 s 23 subd 1; 1Sp1985 c 14 art 10 s 15; 1986 c 441 s 11; 1Sp1986 c 1 art 4 s 43; 1987 c 268 art 9 s 37

298.241 [Repealed, 1977 c 423 art 10 s 31]

298.242 [Repealed, 1975 c 437 art 11 s 7]

298.243 [Repealed, 1977 c 423 art 10 s 31]

298.244 LAKE SUPERIOR WATER FILTRATION AND PURIFICATION.

Subdivision 1. [Repealed, 1977 c 423 art 10 s 30]

Subd. 2. (a) For the purposes of this subdivision, the following terms shall have the meanings given them.

(1) "Agency" means the state commissioner of health.

(2) "Municipality" means any city or any other governmental subdivision having the power or duty to provide drinking water and using Lake Superior as the source of the drinking water.

(3) "Eligible cost" includes all costs incurred by a municipality including acquisition of necessary real and personal property, engineering, system cleaning, construction, alteration, improvements, inspection, supervision of construction and all other costs related to the construction and establishment of a permanent water filtration or purification system. Such costs shall be eligible even if incurred prior to June 7, 1975.

(4) "Municipal water purification system" includes all properties, real or personal, determined by a municipality and the state to be necessary for the elimination of polluting or potentially injurious substances from water used for municipal water supply purposes.

(b) There is hereby appropriated from the general fund to the state commissioner of health the sum of \$2,500,000 and an additional amount of \$1,750,000 for a grant program for the construction of water filtration and purification systems for those communities using Lake Superior as a drinking water source. The commissioner of health shall establish a grant program to implement the provisions of this subdivision. This program shall include the disbursement of funds hereinafter described for the construction of the facilities, the creation of guidelines designed to assure that the funds will be disbursed in accord with the purposes of this subdivision, the continued surveillance of the effectiveness of constructed facilities in cooperation with other related state agencies, and other duties of administration necessary to accomplish the purpose of this subdivision. Grants shall be made in accordance with the guidelines created under authority of this subdivision and shall not exceed 33 percent of the eligible project cost.

(c) A Lake Superior water filtration and purification fund is created as a separate bookkeeping account in the general books of account of the state, to record receipts of the proceeds of moneys appropriated to the fund and disbursements of money appropriated from the fund to municipalities for the acquisition and betterment of public land, buildings, and improvements of a capital nature needed for the construction of water filtration and purification systems, in accordance with the purpose of this subdivision. It is determined that state financial assistance for the construction of water filtration and purification facilities needed to fulfill the purposes of this subdivision is a public purpose and a proper function of state government.

(d) No recipient of financial assistance may receive more than 80 percent of the

total amount of funds appropriated in this subdivision. Any recipient of financial assistance shall pursue its remedies under the permits granted to the discharges or subrogate to the state those remedies for purposes of obtaining reimbursement of the state funds expended for the purposes of this subdivision. The commissioner of health shall at the time of any disbursement of funds under this subdivision enter into necessary agreements for reimbursement. Any amounts recovered pursuant to this subdivision shall be credited to and disbursed as provided in section 298.28, subdivision 5, paragraph (b).

(e) This subdivision of Laws 1975, chapter 437, article XI, section 2 is effective on June 7, 1975. The \$2,500,000 in funds appropriated pursuant to this subdivision are available as of July 1, 1975. The additional amount of \$1,750,000 appropriated pursuant to this subdivision shall be available July 1, 1977.

(f) The additional \$1,750,000 appropriated by this subdivision shall be repaid to the general fund from proceeds of the tax imposed by section 298.24, subdivision 2.

History: 1975 c 271 s 6; 1975 c 437 art 11 s 2; 1976 c 18 s 4; 1976 c 271 s 91; 1977 c 305 s 45; 1977 c 423 art 10 s 12; 1Sp1981 c 4 art 1 s 155

298.25 TAXES ADDITIONAL TO OTHER TAXES.

The taxes imposed under section 298.24 shall be in addition to the occupation tax imposed upon the business of mining and producing iron ore. Except as herein otherwise provided, such taxes shall be in lieu of all other taxes upon such taconite and iron sulphides, or the lands in which they are contained, or upon the mining or quarrying thereof, or the production of concentrate therefrom, or upon the concentrate produced, or upon the machinery, equipment, tools, supplies and buildings used in such mining, quarrying or production, or upon the lands occupied by, or used in connection with, such mining, quarrying or production facilities. If electric or steam power for the mining, transportation or concentration of such taconite or the concentrates produced therefrom is generated in plants principally devoted to the generation of power for such purposes, the plants in which such power is generated and all machinery, equipment, tools, supplies, transmission and distribution lines used in the generation and distribution of such power, shall be considered to be machinery, equipment, tools, supplies and buildings used in the mining, quarrying, or production of taconite and taconite concentrates within the meaning of this section. If part of the power generated in such a plant is used for purposes other than the mining or concentration of taconite or the transportation or loading of taconite or the concentrates thereof, a proportionate share of the value of such generating facilities, equal to the proportion that the power used for such other purpose bears to the generating capacity of the plant, shall be subject to the general property tax in the same manner as other property; provided, power generated in such a plant and exchanged for an equivalent amount of power which is used for the mining, transportation, or concentration of such taconite or concentrates produced therefrom, shall be considered as used for such purposes within the meaning of this section. Nothing herein shall prevent the assessment and taxation of the surface of reserve land containing taconite and not occupied by such facilities or used in connection therewith at the value thereof without regard to the taconite or iron sulphides therein, nor the assessment and taxation of merchantable iron ore or other minerals, or iron-bearing materials other than taconite or iron sulphides in such lands in the manner provided by law, nor the assessment and taxation of facilities used in producing sulphur or sulphur products from iron sulphide concentrates, or in refining such sulphur products, under the general property tax laws. Nothing herein shall except from general taxation or from taxation as provided by other laws any property used for residential or townsite purposes, including utility services thereto.

History: 1941 c 375 s 3; 1947 c 93 s 3; 1955 c 729 s 1; 1957 c 363 s 1; 1961 c 450 s 1; Ex1971 c 31 art 30 s 2; 1977 c 423 art 10 s 13; 1987 c 268 art 9 s 38

NOTE: This section, as amended by Laws 1987, chapter 268, article 9, section 38, is effective for taxable years beginning after December 31, 1989. See Laws 1987, chapter 268, article 9, section 44.

298.26 TAX ON UNMINED TACONITE AND IRON SULPHIDES.

In any year in which at least 1,000 tons of iron ore concentrate is not produced from any 40-acre tract or governmental lot containing taconite or iron sulphides, a tax may be assessed upon the taconite or iron sulphides therein at the tax capacity rate prevailing in the taxing district and spread against the gross tax capacity of the taconite or iron sulphides, such gross tax capacity to be determined in accordance with existing laws. The amount of the tax spread under authority of this section by reason of the taconite and iron sulphides in any tract of land shall not exceed \$10 per acre.

History: 1941 c 375 s 4; 1947 c 93 s 4; 1977 c 423 art 10 s 14; 1988 c 719 art 5 s 84

298.27 COLLECTION AND PAYMENT OF TAX.

The taxes provided by section 298.24 shall be paid directly to each eligible county and the iron range resources and rehabilitation board. The commissioner of revenue shall notify each producer of the amount to be paid each recipient prior to February 8. The report required by section 298.05 shall be filed on or before February 1. A remittance equal to 90 percent of the total tax required to be paid hereunder shall be paid on or before February 15. On or before February 25, the county auditor shall make distribution of the payment received by the county in the manner provided by section 298.28. The balance due shall be paid on or before April 15 following the production year, and shall be distributed by the county auditor as provided in section 298.28 by May 15. Reports shall be made and hearings held upon the determination of the tax in accordance with procedures established by the commissioner of revenue. The commissioner of revenue shall have authority to make reasonable rules as to the form and manner of filing reports necessary for the determination of the tax hereunder, and by such rules may require the production of such information as may be reasonably necessary or convenient for the determination and apportionment of the tax. All the provisions of the occupation tax law with reference to the assessment and determination of the occupation tax, including all provisions for appeals from or review of the orders of the commissioner of revenue relative thereto, but not including provisions for refunds, are applicable to the taxes imposed by section 298.24 except in so far as inconsistent herewith. If any person subject to section 298.24 shall fail to make the report provided for in this section at the time and in the manner herein provided, the commissioner of revenue shall in such case, upon information possessed or obtained, ascertain the kind and amount of ore mined or produced and thereon find and determine the amount of the tax due from such person. There shall be added to the amount of tax due a penalty for failure to report on or before February 1, which penalty shall equal ten percent of the tax imposed and be treated as a part thereof.

If any person responsible for making a partial tax payment at the time and in the manner herein provided fails to do so, there shall be imposed a penalty equal to ten percent of the amount so due, which penalty shall be treated as part of the tax due.

In the case of any underpayment of the partial tax payment required herein, there may be added and be treated as part of the tax due a penalty equal to ten percent of the amount so underpaid.

If any portion of the taxes provided for in section 298.24 is not paid before the fifteenth day of April of the year in which due and payable, a penalty of ten percent of such unpaid portion shall immediately accrue, and thereafter one percent per month shall be added to such tax and penalty while such tax remains unpaid.

History: 1941 c 375 s 5; 1947 c 193 s 1; Ex1971 c 31 art 30 s 3; 1973 c 582 s 3; 1975 c 46 s 7; 1975 c 437 art 11 s 5; 1977 c 423 art 10 s 15; 1984 c 522 s 14; 1985 c 248 s 70; 1Sp1985 c 14 art 10 s 16; 1986 c 444

298.28 Subdivision 1. MS 1984 [Renumbered 298.28 subds 1-12]

Subd. 1a. MS 1976 [Repealed, 1977 c 423 art 10 s 30]

Subd. 2. MS 1984 [Renumbered 298.28 subd 13]

Subd. 3. MS 1984 [Renumbered 298.23 subd 14]

298.28 DIVISION AND DISTRIBUTION OF PROCEEDS.

Subdivision 1. Distribution. The proceeds of the taxes collected under section 298.24, except the tax collected under section 298.24, subdivision 2, shall, upon certification of the commissioner of revenue, be allocated under subdivisions 2 to 12.

Subd. 2. City or town where quarried or produced. 2.5 cents per gross ton of merchantable iron ore concentrate, hereinafter referred to as "taxable ton," must be allocated to the city or town in the county 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. The commissioner's 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.

Subd. 3. Cities; towns. (a) 12.5 cents per taxable ton, less any amount distributed under subdivision 8, and paragraph (b), must be allocated to the taconite municipal aid account to be distributed as provided in section 298.282.

(b) An amount must be allocated to towns or cities that is annually certified by the county auditor of a county containing a taconite tax relief area within which there is (1) an organized township if, as of January 2, 1982, more than 75 percent of the assessed valuation of the township consists of iron ore or (2) a city if, as of January 2, 1980, more than 75 percent of the assessed valuation of the city consists of iron ore.

(c) The amount allocated under paragraph (b) will be the portion of a township's or city's certified levy equal to the proportion of (1) the difference between 50 percent of January 2, 1982, assessed value in the case of a township and 50 percent of the January 2, 1980, assessed value in the case of a city and its current assessed value to (2) the sum of its current assessed value plus the difference determined in (1), provided that the amount distributed shall not exceed \$55 per capita in the case of a township or \$75 per capita in the case of a city. For purposes of this limitation, population will be determined according to the 1980 decennial census conducted by the United States Bureau of the Census. The county auditor shall extend the township's or city's levy against the sum of the township's or city's current assessed value plus the difference between 50 percent of its January 2, 1982, assessed value and its current assessed value in the case of a township and between 50 percent of its January 2, 1980, assessed value and its current assessed value in the case of a city. If the current assessed value of the township exceeds 50 percent of the township's January 2, 1982, assessed value, or if the current assessed value of the city exceeds 50 percent of the city's January 2, 1980, assessed value, this paragraph shall not apply.

Subd. 4. School districts. (a) 27.5 cents per taxable ton plus the increase provided in paragraph (d) must be allocated to qualifying school districts to be distributed, based upon the certification of the commissioner of revenue, under paragraphs (b) and (c).

(b) 5.5 cents per taxable ton must be distributed 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 distribution must be based on the apportionment formula prescribed in subdivision 2.

(c)(i) 22 cents per taxable ton, less any amount distributed under paragraph (e), 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 indexes as follows: for each school district, its pupil units determined under section 124.17 for the prior school year shall be multiplied by the ratio of the average adjusted gross tax capacity per pupil unit for school districts receiving aid

under this clause as calculated pursuant to chapter 124A for the school year ending prior to distribution to the adjusted gross 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.

(ii) Notwithstanding clause (i), each school district that receives a distribution under sections 298.018; 298.23 to 298.28, exclusive of any amount received under this clause; 298.34 to 298.39; 298.391 to 298.396; 298.405; or any law imposing a tax on severed mineral values that is less than the amount of its levy reduction under section 275.125, subdivision 9, for the second year prior to the year of the distribution shall receive a distribution equal to the difference; the amount necessary to make this payment shall be derived from proportionate reductions in the initial distribution to other school districts under clause (i).

(d) On July 15, in years prior to 1988, an amount equal to the increase derived by increasing the amount determined by paragraph (c) 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 paragraph (c) where a levy increase pursuant to section 124A.03, subdivision 2, is authorized by referendum, according to the following formula. On July 15, 1988, the increase over the amount established for 1987 shall be determined as if there had been an increase in the tax rate under section 298.24, subdivision 1, paragraph (b), according to the increase in the implicit price deflator. On July 15, 1989, and subsequent years, the increase over the amount established for the prior year shall be determined according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1, paragraph (a). Each district shall receive the product of:

(i) \$150 times the pupil units identified in section 124.17, subdivision 1, enrolled in the second previous year or the 1983-1984 school year, whichever is greater, less the product of 1-3/4 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 124A.03, subdivision 2, in the previous year, to the product of 1-3/4 mills times the district's taxable valuation in the second previous year.

If the total amount provided by paragraph (d) 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 paragraph (d) shall not be applied to reduce general education aid which the district receives pursuant to section 124A.23 or the permissible levies of the district. Any amount remaining after the payments provided in this paragraph shall be paid to the commissioner of iron range resources and rehabilitation who shall deposit the same in the taconite environmental protection fund and the northeast Minnesota economic protection trust fund as provided in subdivision 11.

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

Subd. 5. Counties. (a) 16.5 cents per taxable ton is allocated to counties to be distributed, based upon certification by the commissioner of revenue, under paragraphs (b) to (d).

(b) 13 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) 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 paragraph (b) and imposed on and collected from such taxpayer shall be paid to the county in which the power plant is located.

(d) 3.5 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 subdivision 2.

Subd. 6. Property tax relief. (a) Twelve cents per taxable ton, less any amount required to be distributed under paragraphs (b) and (c), must be allocated to St. Louis county acting as the counties' fiscal agent, 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, .1875 cent per taxable ton of the tax imposed and collected from such taxpayer shall be paid to the county.

(c) 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 school district other than a school district in which the mining and concentrating processes are conducted, .5625 cent per taxable ton of the tax imposed and collected from the taxpayer shall be paid to the school district.

Subd. 7. Iron range resources and rehabilitation board. Three cents per taxable ton shall be paid to the iron range resources and rehabilitation board for the purposes of section 298.22. The amount determined in this subdivision shall be increased in 1981 and subsequent years prior to 1988 in the same proportion as the increase in the steel mill products index as provided in section 298.24, subdivision 1, and shall be increased in 1989 and subsequent years according to the increase in the implicit price deflator as provided in section 298.24, subdivision 1. The amount distributed in 1988 shall be increased according to the increase that would have occurred in the rate of tax under section 298.24 if the rate had been adjusted according to the implicit price deflator for 1987 production. The amount distributed pursuant to this subdivision 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 subdivision 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.

Subd. 8. Range association of municipalities and schools. .20 cent per taxable ton shall be paid to the range association of municipalities and schools, for the purpose of providing an areawide 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.

Subd. 9. Minnesota economic protection trust fund. 1.5 cents per taxable ton shall be paid to the northeast Minnesota economic protection trust fund.

Subd. 10. Increase. The amounts determined under subdivisions 6, paragraph (a), and 9 shall be increased in 1979 and subsequent years prior to 1988 in the same proportion as the increase in the steel mill products index as provided in section 298.24, subdivision 1. The amount distributed in 1988 shall be increased according to the increase that would have occurred in the rate of tax under section 298.24 if the rate had been adjusted according to the implicit price deflator for 1987 production. Those amounts shall be increased in 1989 and subsequent years in the same proportion as the increase in the implicit price deflator as provided in section 298.24, subdivision 1.

The distributions per ton determined under subdivisions 5, paragraphs (b) and (d), and 6, paragraphs (b) and (c) for distribution in 1988 and subsequent years shall be the distribution per ton determined for distribution in 1987.

Subd. 11. Remainder. (a) The proceeds of the tax imposed by section 298.24 which remain after the distributions and payments in subdivisions 2 to 10, as certified by the commissioner of revenue, and paragraphs (b) and (c) have been made, together with interest earned on all money distributed under this section prior to distribution, 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: 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.

(b) There shall be distributed to each city, town, school district, and county the amount that it 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.

(c) There shall be distributed to the iron range resources and rehabilitation board the amounts it received in 1977 under section 298.22. The amount distributed under this paragraph shall be expended within or for the benefit of the tax relief area defined in section 273.134.

Subd. 12. Estimates. 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 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 provided in subdivision 13. The commissioner of revenue shall annually on or before October 10 report an estimated distribution amount to each taxing district and 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 or city in the year in which such estimate is made, and payable in the next ensuing calendar year, except that one cent per taxable ton of the amount distributed under subdivision 5, paragraph (d) shall not be deducted in calculating the permissible levy. In any calendar year in which a general property tax levy subject to sections 275.50 to 275.58 has been made, if the taxes distributable to any such county or city are greater than the amount estimated by the commissioner to be paid to any such county or city in such year, the excess of such distribution shall be held in a special fund by the county or city and shall not be expended until the succeeding calendar year, and shall be included in computing the permissible levies under sections 275.50 to 275.58, of such county or city payable in such year. If the amounts distributable to any such county or city after final determination by the commissioner of revenue under this section are less than the amounts by which a taxing district's levies were reduced pursuant to this section, such county or city 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 275.50 to 275.58 an amount sufficient to pay such certificates of indebtedness and interest thereon, or, if no certificates were issued, an amount equal to such shortage.

Subd. 13. Deduction for credits; payment. In determining the distributions and payments of the proceeds of the tax collected under section 298.24, the commissioner of revenue shall deduct the amount of any credits authorized under section 298.24, subdivision 3, against the tax imposed under subdivision 1 of said section, from the amount which would otherwise have been paid to the iron range resources and rehabilitation board for credit to the northeast Minnesota economic protection trust fund.

Subd. 14. [Repealed, 1987 c 268 art 9 s 43]

Subd. 15. **Distribution of delayed payments.** Notwithstanding any other provision of this section or any other law, if payment of taxes collected under section 298.24 is delayed past the due date because the taxpayer is a debtor in a pending bankruptcy proceeding, the amount paid shall be distributed as follows when received:

(1) 50 percent to St. Louis county acting as the counties' fiscal agent, to be distributed as provided in sections 273.134 to 273.136;

(2) 25 percent to the northeast Minnesota economic protection trust fund; and

(3) 25 percent to the taconite environmental protection fund.

History: 1941 c 375 s 6; 1947 c 193 s 2; 1955 c 728 s 1; 1959 c 158 s 26; 1959 c 677 s 1; 1965 c 698 s 1; 1969 c 399 s 49; 1969 c 1156 s 2; 1971 c 736 s 1,2; Ex1971 c 31 art 35 s 2; 1973 c 123 art 5 s 7; 1973 c 582 s 3; 1973 c 631 s 6; 1975 c 46 s 8; 1976 c 134 s 78; 1977 c 307 s 29; 1977 c 423 art 10 s 16; 1978 c 721 art 9 s 3; 1978 c 764 s 113; 1978 c 793 s 70; 1980 c 607 art 7 s 5; 1981 c 358 art 1 s 43; 1Sp1981 c 1 art 10 s 15,16; 1982 c 523 art 41 s 1; 1982 c 548 art 1 s 15; 2Sp1982 c 2 s 2,3; 1983 c 216 art 1 s 50; 1983 c 314 art 1 s 22; 1984 c 463 art 1 s 12; 1984 c 502 art 7 s 16; 1984 c 522 s 15; 1985 c 300 s 23; 1Sp1985 c 12 art 1 s 33; 1Sp1985 c 14 art 10 s 17,18; 1986 c 441 s 12; 1986 c 444; 1Sp1986 c 1 art 4 s 44; 1Sp1986 c 3 art 2 s 38; 1987 c 268 art 9 s 39-42; 1988 c 486 s 91; 1988 c 719 art 5 s 45,84; art 19 s 19

NOTE: The amendment to subdivision 4, clause (c)(ii) by Laws 1987, chapter 268, article 9, section 39 is effective for taxable years beginning after December 31, 1989. See Laws 1987, chapter 268, article 9, section 44.

298.281 [Repealed, 1977 c 423 art 10 s 30]

298.282 DISTRIBUTION OF TACONITE MUNICIPAL AID ACCOUNT; TACONITE MUNICIPAL AID; PAYMENT.

Subdivision 1. The amount deposited with the county as provided in section 298.28, subdivision 3, shall be distributed as provided by this section, among the municipalities comprising a tax relief area under section 273.134, as amended hereby, each being herein referred to as a qualifying municipality.

Subd. 2. (a) Each year following the final determination of the amount of taxes payable under section 298.24, the commissioner of revenue shall determine the amount in the taconite municipal aid account as of July 1 of such year and the amount to be distributed to each qualifying municipality during such year. The amount to be distributed to each qualifying municipality shall be determined by determining an index for each qualifying municipality by subtracting its local effort tax capacity rate, multiplied by its equalized gross tax capacity, from its fiscal need factor. For the purposes of this subdivision, the following terms have the meanings given them herein. A municipality's "local effort tax capacity rate" means its fiscal need factor per capita divided by \$17 per capita per mill for the first \$350 of its fiscal need factor per capita; plus its fiscal need factor per capita divided by \$15 per capita per mill on that part of its fiscal need factor per capita, if any, in excess of \$350. In no case shall a municipality's local effort tax capacity rate be less than eight mills. A municipality's "equalized captured gross tax capacity" means its previous year tax capacity, less the tax capacity in any tax increment district, divided by the municipality's aggregate sales ratio covering the period ending two years prior to the year of aid distribution. A municipality's "fiscal need factor" means the three-year average of the sum of its municipal levy, taconite aids received under section 298.28, subdivisions 2, 11, paragraph (b), and this section and its local government aid distribution amount, for taxes payable and distribution amounts receivable in the three years immediately preceding the aid distribution year.

The ratio of the resulting index for each qualifying municipality to the sum of all qualifying municipalities' indexes shall be multiplied by the total amount in the taconite municipal aid account less the amount distributed pursuant to subdivision 5. For the distribution made in 1987, one-third of the distribution shall be distributed pursuant to this subdivision and two-thirds pursuant to Minnesota Statutes 1984,

section 298.282, subdivision 2. For the distribution made in 1988, two-thirds shall be distributed pursuant to this subdivision and one-third pursuant to Minnesota Statutes 1984, section 298.282, subdivision 2.

(b) If the distribution under this section, sections 273.138, 298.26 and 298.28, and chapter 477A, to any municipality would exceed that municipality's levy limit base for that year, computed pursuant to sections 275.50 to 275.58, the amount in excess of the levy limit base for that year shall reduce the amount distributed to the municipality under this section and this excess amount shall be distributed to the other qualifying municipalities in the same manner as the distribution made pursuant to subdivision 2, except that the qualifying municipality receiving an initial distribution when added to that received pursuant to sections 273.138, 298.26, 298.28, and chapter 477A in excess of the qualifying municipality's levy limit base, shall not receive a distribution nor shall its index be used in computing the distribution pursuant to this clause. The distributions to be received in the year in which the taxes are payable shall be compared to the levy limit base for that same year. Upon completion of such determination, the commissioner of revenue shall certify to the chief clerical officer of each qualifying municipality the amount which will be distributed to such municipality from the taconite municipal aid account that year.

Subd. 3. If the amount certified by the commissioner of revenue as distributable to any qualifying municipality is greater than the amount previously estimated to have been distributable to such qualifying municipality in such year, the excess distributed to such municipality shall be held in a separate fund by the qualifying municipality and shall not be expended until the succeeding calendar year. If the amount distributable to any qualifying municipality, after final determination by the commissioner of revenue is less than the amount estimated to have been distributable to such qualifying municipality, such municipality may issue certificates of indebtedness in the amount of the shortage and may include in its next tax levy in excess of the limitations under sections 275.50 to 275.56, an amount sufficient to pay such certificates of indebtedness and interest thereon or, if no certificates were issued, an amount equal to such shortage.

Subd. 4. On or before September 15 of each year, the county auditor shall issue a warrant in favor of the treasurer of each qualifying municipality in the amount determined by the commissioner of revenue to be due and payable to such qualifying municipality in such year.

Subd. 5. The county auditor shall annually on September 15 make a payment from the taconite municipal aid fund to cities and towns for the purpose of replacing the revenue loss to them resulting from Laws 1975, chapter 437, article XI, section 7. The amount of aid to be paid annually to each city and town is the amount they were entitled to receive for 1975 under the provisions of Minnesota Statutes 1974, section 298.32.

History: *Ex 1971 c 31 art 30 s 6; 1973 c 492 s 14; 1973 c 582 s 3; 1973 c 631 s 7-9; 1975 c 46 s 10; 1976 c 328 s 1,2; 1977 c 423 art 10 s 17,18; 1978 c 767 s 35; 1984 c 522 s 16; 1Sp1985 c 14 art 10 s 19-21; 1986 c 441 s 13; 1986 c 444; 1987 c 384 art 2 s 1; 1988 c 719 art 5 s 84*

298.283 CHANGE OF STATUS OF MUNICIPALITY; DATE FOR DETERMINING STATUS.

If any qualifying municipality as defined in section 298.282, is consolidated with another municipality or part thereof, the secretary of state shall certify that fact to the commissioner of revenue, who shall determine the amounts payable to the consolidated municipality according to the combined population resulting, for the purpose of determining aid payable under the provisions of section 298.282. The determination of amounts payable under the provisions of section 298.282 shall however be based on the status of the municipality on January 1 of each year.

History: *Ex 1971 c 31 art 30 s 7; 1973 c 582 s 3; 1973 c 631 s 10*

298.29 [Renumbered 117.46]

NORTHEAST MINNESOTA ECONOMIC PROTECTION TRUST FUND ACT

298.291 CITATION.

Sections 298.291 to 298.294 shall be known as the "northeast Minnesota economic protection trust fund act."

History: 1977 c 423 art 10 s 25; 2Sp1982 c 2 s 4

298.292 POLICY.

Subdivision 1. **Purposes.** 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:

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

(2) 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; and

(3) projects and programs for which technological and economic feasibility have been demonstrated.

Subd. 2. **Use of money.** Money in the northeast Minnesota economic protection trust fund may be used for the following purposes:

(1) to provide 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 the lesser of eight percent or an interest rate three percentage points less than a full faith and credit obligation of the United States government of comparable maturity, at the time that the loan is approved;

(2) to fund reserve accounts established to secure the payment when due of the principal of and interest on bonds issued pursuant to section 298.2211;

(3) to pay in periodic payments or in a lump sum payment any or all of the interest on bonds issued pursuant to chapter 474 for the purpose of constructing, converting, or retrofitting heating facilities in connection with district heating systems or systems utilizing alternative energy sources; and

(4) to invest in a venture capital fund or enterprise that will provide capital to other entities that are engaging in, or that will engage in, projects or programs that have the purposes set forth in subdivision 1. No investments may be made in a venture capital fund or enterprise unless at least two other unrelated investors make investments of at least \$500,000 in the venture capital fund or enterprise, and the investment by the northeast Minnesota economic protection trust fund may not exceed the amount of the largest investment by an unrelated investor in the venture capital fund or enterprise. For purposes of this subdivision, an "unrelated investor" is a person or entity that is not related to the entity in which the investment is made or to any individual who owns more than 40 percent of the value of the entity, in any of the following relationships: spouse, parent, child, sibling, employee, or owner of an interest in the entity that exceeds ten percent of the value of all interests in it. For purposes of determining the limitations under this clause, the amount of investments made by

an investor other than the northeast Minnesota economic protection trust fund is the sum of all investments made in the venture capital fund or enterprise during the period beginning one year before the date of the investment by the northeast Minnesota economic protection trust fund.

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: 1977 c 423 art 10 s 26; 2Sp1982 c 2 s 5; 1983 c 46 s 1; 1983 c 357 s 2; 1Sp1985 c 14 art 10 s 22; 1987 c 386 art 8 s 2

298.293 EXPENDING FUNDS.

The funds provided by section 298.28, subdivision 11, 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: 1977 c 423 art 10 s 27; 1978 c 721 art 9 s 4; 2Sp1982 c 2 s 6; 1983 c 46 s 2; 1Sp1985 c 14 art 10 s 23

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: 1977 c 423 art 10 s 28; 3Sp1981 c 2 art 7 s 6; 2Sp1982 c 2 s 7; 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. Supplemental projects must be submitted to the members of the legislative advisory commission for their review and recommendations of further review. If a recommendation is not provided within ten days, no further review by the legislative advisory commission is required, and the governor shall approve or disapprove each project or return it for further consideration. If the recommendation by any member is for further review the governor shall submit the request to the legislative advisory commission for its review and recommendation. Failure or refusal of the commission to make a recommendation promptly is a negative recommendation.

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, and earnings on other investments made under section 298.292, subdivision 2, clause (4), 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: 2Sp1982 c 2 s 9; 1983 c 46 s 4; 1984 c 654 art 2 s 121; 1987 c 386 art 8 s 3

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: 2Sp1982 c 2 s 10; 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: *2Sp1982 c 2 s 11; 1983 c 46 s 6*

298.30 [Renumbered 117.47]

298.31 [Private]

298.32 [Repealed, 1975 c 437 art 11 s 7]

SEMITACONITE TAXATION

298.34 SEMITACONITE, TAXATION, DEFINITIONS.

Subdivision 1. Semitaconite. For the purposes of sections 298.34 to 298.39, "semitaconite" is defined as altered iron formation, altered taconite, ferruginous chert or ferruginous slate which has been oxidized and partially leached and in which the iron oxide is so finely disseminated that substantially all of the iron-bearing particles of merchantable grade are smaller than 20 mesh and which is not merchantable as iron ore in its natural state, and which cannot be made merchantable by simple methods of beneficiation involving only crushing, screening, washing, jigging, heavy media separation, spirals, cyclones, drying or any combination thereof.

Subd. 2. Semitaconite deposit. For the purposes of sections 298.34 to 298.39, a "semitaconite deposit" is a deposit of altered iron formation, altered taconite, composites of iron-bearing and other minerals that exist either in mass as altered iron formation, or as intermingled masses of altered iron formation and other iron-bearing materials, from which, and in accordance with good mining practice, the concentrates or equivalent must be produced in an operation involving the beneficiation of the semitaconite. Such deposits include stockpiles of semitaconite. They also include rejects or tailings that in themselves are of semitaconite type (as defined in subdivision 1), produced from mining or beneficiation operations. Not included is any separable portion of merchantable iron-bearing material if this separable portion is of such size and so situated that in accordance with good practice it can be mined and shipped. Also not included is any separable portion of iron-bearing material that can be made merchantable by simple methods of beneficiation (as defined in subdivision 1), if this separable portion is of such size and so situated that in accordance with good practice it can be mined, beneficiated, and shipped in a separate commercial operation.

Subd. 3. Semitaconite facility. For the purposes of sections 298.34 to 298.39, a semitaconite facility is: (a) a beneficiating plant or a section or part thereof used solely in the process of beneficiating semitaconite, including buildings, machinery, tools, equipment and supplies used in connection therewith; (b) machinery, tools, equipment and supplies used solely in the mining of semitaconite or semitaconite deposit; (c) in the case of a part or section of a mining or beneficiating facility or buildings, machinery, tools, equipment or supplies used to a substantial extent, but not solely, in the mining or beneficiating of semitaconite or a semitaconite deposit, such proportionate part of the valuation of the part of the facility or the buildings, machinery, tools, equipment or supplies that the use for mining or beneficiation of semitaconite or semitaconite deposit bears to the whole use thereof shall be considered a semitaconite mining or beneficiation facility, and the remaining proportionate part shall remain subject to taxation in the same manner as other property, such proportion to be determined, and redetermined from time to time, by the commissioner of revenue upon application of the assessing officer or the owner of such facility.

Subd. 4. Taconite. The term "taconite" is used herein as defined in section 298.23.

History: *Ex1959 c 81 s 1; 1973 c 582 s 3*

298.35 IMPOSITION OF TAX; AMOUNT.

There is hereby imposed upon semitaconite and semitaconite deposits, and upon the mining and quarrying thereof, and upon the production of concentrate or equivalent therefrom, and upon the concentrate or equivalent so produced, a tax of (a) in the case of concentrates agglomerated or sintered in Minnesota or to be agglomerated or sintered in Minnesota, five cents per gross ton of merchantable concentrate as produced therefrom, plus one-tenth of one cent per gross ton for each one percent that the iron content of such product exceeds 55 percent, when dried at 212 degrees Fahrenheit, or (b) in the case of all other concentrates or equivalent ten cents per gross ton of merchantable concentrate or equivalent as produced therefrom, plus one-tenth of one cent per gross ton for each one-half percent that the iron content of such product exceeds 55 percent, when dried at 212 degrees Fahrenheit. If any part of the ore materials from a semitaconite deposit, beneficiated in connection with or incidental to the beneficiation of semitaconite therefrom, is made merchantable by simple methods of beneficiation referred to in section 298.34, the tax hereunder upon the portion of merchantable concentrate so beneficiated shall be at the rate of ten cents per gross ton plus one-tenth of one cent per gross ton for each one-half of one percent that the iron content of such product exceeds 55 percent, when dried at 212 degrees Fahrenheit.

History: *Ex1959 c 81 s 2*

298.36 NATURE OF TAX.

Such tax shall be in addition to the occupation tax imposed upon the business of mining and producing iron ore and in addition to the royalty tax imposed upon royalties received for permission to mine and produce iron ore. Except as herein otherwise provided, it shall be in lieu of all other taxes upon such semitaconite and semitaconite deposits, or the lands in which contained, or upon the mining or quarrying thereof, or the production of concentrates therefrom, or upon the concentrate produced, or upon semitaconite mining and beneficiation facilities used in connection therewith, or upon the lands occupied by such semitaconite mining or beneficiation facilities. If electric or steam power for the mining, transportation or concentration of such semitaconite or the concentrates produced therefrom is generated in plants principally devoted to the generation of power for such purposes, the plants in which such power is generated and all machinery, equipment, tools, supplies, transmission and distribution lines used in the generation and distribution of such power, shall be considered to be machinery, equipment, tools, supplies and buildings used in the mining, quarrying or production of semitaconite and semitaconite concentrates within the meaning of this section. If part of the power generated in such a plant is used for purposes other than the mining or concentration of semitaconite or the transportation or loading of semitaconite or the concentrates thereof, a proportionate share of the value of such generating facilities, equal to the proportion that the power used for such other purpose bears to the whole amount of power generated therein, shall be subject to the general property tax in the same manner as other property; provided, power generated in such a plant and exchanged for an equivalent amount of power which is used for the mining, transportation or concentration of such semitaconite or concentrates produced therefrom, shall be considered as used for such purposes within the meaning of this section. Nothing herein shall prevent the assessment and taxation of the surface of reserve land containing semitaconite and not occupied by such facilities or used solely in connection therewith at the value thereof without regard to the semitaconite therein, nor the assessment and taxation of merchantable iron ore or other minerals, or iron-bearing materials other than semitaconite in such lands in the manner provided by law, nor the assessment and taxation of facilities used in producing sulphur or sulphur products from iron sulphide concentrates, or in refining such sulphur products, under the general property tax laws. Nothing herein shall except from general taxation or from taxation as provided by other laws any property used for residential or townsite purposes, including utility services thereto.

History: *Ex1959 c 81 s 3*

298.37 ASSESSMENT AT TAX CAPACITY RATE.

In any year in which at least 1,000 tons of iron are concentrate is not produced from any 40-acre tract or governmental lot containing semitaconite, a tax may be assessed upon the semitaconite therein at the tax capacity rate prevailing in the taxing district and spread against the gross tax capacity of the semitaconite; such gross tax capacity shall not exceed the greater of: (a) the gross tax capacity specifically assigned to the semitaconite material in said land in the assessment for the year 1958, or, (b) an amount sufficient to yield a tax of \$1 per acre less the amount of any tax assessed against such land under the authority of section 298.26.

History: *Ex1959 c 81 s 4; 1988 c 719 art 5 s 84*

298.38 PAYMENT AND COLLECTION.

The tax provided in section 298.35 shall be collected and paid in the same manner and at the same time as provided by law for the payment of the occupation tax. Reports shall be made and hearings held upon the determination of the tax at the same times and in the same manner as provided by law for the occupation tax. The commissioner of revenue shall have authority to make reasonable rules as to the form and manner of filing reports necessary for the determination of the tax hereunder, and by such rules may require the production of such information as may be reasonably necessary or convenient for the determination and apportionment of the tax. All the provisions of the occupation tax law with reference to the assessment, determination, and collection of the occupation tax, including all provisions for penalties and for appeals from or review of the orders of the commissioner of revenue relative thereto, are hereby made applicable to the tax imposed by section 298.35, except insofar as inconsistent herewith.

History: *Ex1959 c 81 s 5; 1973 c 582 s 3; 1985 c 248 s 70*

298.39 DISTRIBUTION OF PROCEEDS.

The proceeds of the tax collected under section 298.35 shall be distributed by the state treasurer, upon certificate of the commissioner of revenue to the general fund of the state and to the various taxing districts in which the lands from which the semitaconite was mined or quarried were located in the following proportions: 22 percent thereof to the city or town; 50 percent thereof to the school district; 22 percent thereof to the county; six percent thereof to the state. If the mining 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 or towns among such subdivisions, and the part going to school districts among such districts, and the part going to counties among such counties, upon the basis of attributing 40 percent of the proceeds of the tax to the operation of mining or quarrying the semitaconite, 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. The commissioner's 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. The amount so distributed shall be divided among the various funds of the state, or of the taxing districts in the same proportion as the general ad valorem tax thereof. If in any year the state shall not spread any general ad valorem tax levy against real property, the state's proportion of the tax shall be paid into the general fund. The amount distributed to any city shall be included in computing the permissible levies of such city under section 275.11, but shall not be included in computing tax capacity rate limitations, including cost of living adjustments thereof, so long as the levies do not exceed the limitations provided by section 275.11. On or before October 10 of each calendar year each producer of semitaconite subject to taxation under section 298.35, 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 or city 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 such 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 on deeming it improper, notice of such correction being given by the commissioner 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, pursuant to section 275.11, the permissible tax levy of such city in the year in which such estimate is made, and payable in the next ensuing calendar year. Such taxpayer shall then pay, at the times payments are required to be made pursuant to section 298.36, as the amount of tax payable under section 298.35, 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 298.35, 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 chapter 124 or 124A or section 275.11 or 275.125 has been made, if the taxes distributable to any such city or school district are greater than the amount estimated to be paid to any such city or school district in such year, the excess of such distribution shall be held in a special fund by the city or school district and shall not be expended until the succeeding calendar year, and shall be included in computing the permissible levies under chapter 124 or 124A or section 275.11 or 275.125 of such city or school district payable in such year. If the amounts distributable to any such 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 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 chapters 124 and 124A and sections 275.11 and 275.125 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 appropriated to such taxing districts as are stated herein, from any fund or account in the state treasury to which the money was credited, an amount sufficient to make the payment or transfer.

History: *Ex1959 c 81 s 6; 1965 c 641 s 1; 1965 c 698 s 1; 1969 c 399 s 49; Ex1971 c 31 art 35 s 4; 1973 c 123 art 5 s 7; 1973 c 582 s 3; 1976 c 134 s 78; 1977 c 307 s 29; 1978 c 764 s 114; 1983 c 314 art 1 s 22; 1986 c 444; 1988 c 486 s 92; 1988 c 719 art 5 s 84*

298.391 AGGLOMERATING FACILITIES DEFINITIONS.

Subdivision 1. When used in sections 298.391 to 298.396, the following terms have the meaning assigned to them in this section, unless the context otherwise requires.

Subd. 2. "Agglomerates" means the merchantable iron ore aggregates which are produced by agglomeration.

Subd. 3. "Agglomerating facility" means a plant or plants, other than taconite plants or semitaconite facilities for the production of agglomerates and other merchant-

able iron ore products not less than 80 percent of the total annual productive capacity of which is designed and used for the production of agglomerates, together with all lands, except iron ore and iron bearing material therein; all structures, buildings, machinery, equipment, tools and supplies which are used or to be used in connection with such plant or plants or in connection with the mining of agglomerate reserves; mined iron ore, iron bearing materials and concentrates stockpiled at said plant or plants for processing therein and stockpiles of the merchantable iron ore products which have been produced therein.

Subd. 4. "Agglomeration" means the application of a process either of pelletizing, sintering, nodulizing, briquetting, extruding or mechanical pressure to iron ore and iron bearing material, other than taconite and semitaconite, at temperatures in excess of 900 degrees Fahrenheit.

Subd. 5. "Commissioner" means the commissioner of revenue of the state of Minnesota.

History: 1965 c 893 s 1; 1973 c 582 s 3

298.392 QUALIFICATION OF AGGLOMERATING FACILITIES; PROCEDURE AND ORDER.

An agglomerating facility shall be or become subject to taxation under sections 298.391 to 298.396 after it shall have been approved as such by order of the commissioner. Request for such approval shall be in writing and shall contain a description of the facility, together with such additional information and supporting data as the commissioner may require. The commissioner may make reasonable rules not inconsistent herewith prescribing the form of such requests. On determining that the facility, which may include existing structures, buildings, machinery, equipment, tools and supplies, qualifies as an agglomerating facility under sections 298.391 to 298.396, the commissioner shall by order approve the same as such and the facility shall thereupon become subject to the provisions of sections 298.391 to 298.396.

History: 1965 c 893 s 2; 1985 c 248 s 70; 1986 c 444

298.393 IMPOSITION OF TAX; AMOUNT.

There is hereby imposed upon agglomerating facilities and upon the production of agglomerates and other merchantable iron ore products therein and upon the agglomerates and other products so produced, a tax equal to five cents per gross ton of agglomerates and other merchantable iron ore products which shall have been produced in the agglomerating facility during the calendar year plus one-tenth of one cent per gross ton for each one percent that the iron content of such products exceeds 55 percent, when dried at 212 degrees Fahrenheit.

History: 1965 c 893 s 3

298.394 NATURE OF TAX.

Such tax shall be in addition to the occupation tax imposed upon the business of mining and producing iron ore and in addition to the royalty tax imposed upon royalties received for permission to mine and produce iron ore. Except as herein otherwise provided, it shall be in lieu of all other taxes upon the agglomerating facility or upon the production of agglomerates and other merchantable iron ore products therein, or upon the agglomerates and other products so produced.

History: 1965 c 893 s 4

298.395 PAYMENT AND COLLECTION.

The tax provided in section 298.393 shall be collected and paid in the same manner and at the same time as provided by law for the payment of the occupation tax. Reports shall be made and hearings held upon the determination of the tax at the same times and in the same manner as provided by law for the occupation tax. The commissioner of revenue shall have authority to make reasonable rules as to the form and manner

of filing reports necessary for the determination of the tax hereunder, and by such rules may require the submission by taxpayer of such information as may be reasonably necessary or convenient for the determination and apportionment of the tax. All the provisions of the occupation tax law with reference to the assessment, determination and collection of the occupation tax, including all provisions for penalties and for appeals from or review of the orders of the commissioner of revenue relative thereto, are hereby made applicable to the tax imposed by said section 298.393, except insofar as inconsistent herewith.

History: 1965 c 893 s 5; 1973 c 582 s 3; 1985 c 248 s 70

298.396 DISTRIBUTION OF PROCEEDS.

The proceeds of the tax collected under section 298.393 shall be distributed by the state treasurer, upon certificate of the commissioner to the general fund of the state and to the various taxing districts in which the agglomerating facility is located in the following proportions: 22 percent thereof to the city or town; 50 percent thereof to the school district; 22 percent thereof to the county; 6 percent thereof to the state. If the agglomerating facility is located in more than one tax district, the commissioner shall apportion equitably the proceeds of the part of the tax going to cities or towns among such subdivisions, and the part going to school districts among such districts, and the part going to counties among such counties, giving due consideration to the relative extent of the facilities located in each such taxing district. The commissioner's 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. The amount to be distributed among the several taxing districts of the state shall be divided by such districts among the funds of such districts in the same proportion as the general ad valorem tax thereof. The amount distributed to any city shall be included in computing the permissible amount of the levies of such city under section 275.11, but shall not be included in computing tax capacity rate limitations, including cost of living adjustments thereof, so long as the levies do not exceed the limitations provided by section 275.11.

History: 1965 c 698 s 3; 1965 c 893 s 6; 1969 c 399 s 49; Ex1971 c 31 art 35 s 5; 1973 c 123 art 5 s 7; 1976 c 134 s 78; 1977 c 307 s 29; 1978 c 764 s 115; 1986 c 444; 1988 c 719 art 5 s 84

298.40 TACONITE AND SEMITACONITE, LIMITATIONS ON TAXATION.

Subdivision 1. The combined occupation, royalty, and excise taxes imposed upon or required to be paid with respect to the mining, production, or beneficiation of taconite or semitaconite by any person or corporation engaged in such mining, production, or beneficiation, shall not be increased so as to exceed the greater of (a) the amount which would be payable if such taxes were computed under the laws in existence as of July 1, 1963, or (b) the amount which would be payable if such person or corporation were taxed with respect to such mining, production, or beneficiation under the income, franchise, and excise tax laws generally applicable to manufacturing corporations transacting business within the state, as such laws may be enacted or amended from time to time, except that for the purpose of the computation under this clause (b), (1) income shall be apportioned to Minnesota in the manner which may be otherwise specified by law; (2) operating losses shall be carried forward from one taxable year to another only to the extent which may be otherwise permitted by law; and (3) the market value of the taconite or semitaconite, or the beneficiated product thereof, at the point where the beneficiation processes within this state are completed may be treated by law as gross receipts for the purpose of determining gross income from the business of mining, producing, or beneficiating taconite or semitaconite, provided that if such market value is so used, to the extent that federal income taxes are deductible in computing taxes of manufacturing corporations generally, deductions shall be computed and allowed as if such taxes had been computed, assessed, and paid under the federal income tax laws with the market value of the taconite or semitaconite or the

beneficiated product thereof constituting the gross receipts for the purpose of determining gross income from the business of mining, producing, or beneficiating taconite or semitaconite.

Subd. 2. Taxes imposed upon the mining or quarrying of taconite or semitaconite and upon the production of iron ore concentrates therefrom, which are in lieu of a tax on real or personal property, shall not be considered to be occupation, royalty, or excise taxes within the meaning of this section.

Subd. 3. For the purpose of this section "taconite" and "semitaconite" shall have the meaning given to them by laws in existence at the time of the adoption of this section.

Subd. 4. There is appropriated, effective July 1, 1985, to the commissioner of revenue from the general fund an amount equal to any credits due as a result of a recomputation of occupation taxes for production year 1977 and previous years based on the limitations prescribed in section 298.40, subdivision 1, and established by the commissioner as an account payable on or before March 25, 1984. The commissioner shall refund to the taxpayers the amount of overpayment plus six percent interest per annum from the date of the overpayment.

History: 1963 c 81 s 1-3; 1984 c 502 art 7 s 17

NOTE: This section is repealed by Laws 1987, chapter 268, article 9, section 43, clause (c) effective for iron ore and taconite concentrates mined after December 31, 1989. See Laws 1987, chapter 268, article 9, section 44.

298.401 APPORTIONMENT OF INCOME.

All imputed income determined pursuant to section 298.40, subdivision 1, clause (b) is and shall be apportioned to Minnesota.

History: 1980 c 607 art 7 s 10

NOTE: Section 298.401 is a restatement of the intent of section 298.40, as originally enacted. See Laws 1980, chapter 607, article 7, section 12.

NOTE: This section, as repealed by Laws 1988, chapter 719, article 2, section 56, paragraph (a), is effective for ores mined after December 31, 1989. See Laws 1988, chapter 719, article 2, section 57.

298.402 NET OPERATING LOSSES.

For purposes of the computation under section 298.40, subdivision 1, clause (b), a net operating loss incurred in a taxable year beginning after December 31, 1986, is a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss, in accordance with section 290.095. A net operating loss incurred in a taxable year beginning after December 31, 1981, and before January 1, 1987, is a net operating loss carryover to taxable years beginning after December 31, 1986, not to exceed the five taxable years following the taxable year of the loss, in accordance with section 290.095. No net operating loss carryback is allowed for a net operating loss incurred in a taxable year beginning after December 31, 1986.

History: 1988 c 719 art 2 s 53

NOTE: This section is effective for ores mined after December 31, 1986, and before January 1, 1990. See Laws 1988, chapter 719, article 2, section 57.

298.405 IRON ORE BEARING MATERIAL OTHER THAN TACONITE AND SEMITACONITE; TAXATION.

Subdivision 1. **Imposition of tax.** In any year in which iron bearing material other than taconite and semitaconite as defined by law, having not more than 46.5 percent natural iron content on the average, produced from any 40 acre tract or governmental lot, but not from more than three such tracts or lots by an individual producer, is finer than or is ground to 90 percent passing 20 mesh and is treated for the purpose of separating the iron particles from silica, alumina, or other detrimental compounds or elements unless used in a direct reduction process, and is treated in Minnesota:

(a) By either electrostatic separation, roasting and magnetic separation, or flotation or

(b) By a direct reduction process or

(c) By any combination of such processes or

(d) By any other process or method not presently employed in gravity separation plants employing only crushing, screening, washing, jigging, heavy media separation, spirals, cyclones, drying or any combination thereof, the production of such ore shall be taxed in the manner and at the rates provided for the taxation of semitaconite under section 298.35 provided that the amount of concentrates or final product so produced each year from any one 40 acre tract or governmental lot exceeds 100,000 tons or exceeds 25,000 tons from any one 40 acre tract or governmental lot where the average phosphorus content exceeds .125 percent dry analysis or .10 percent sulphur dry analysis. Such tax shall be in addition to the occupation and royalty taxes but shall be in lieu of all other taxes upon the said 40 acre tract or governmental lot, the iron ore contained therein, the concentrates produced, and the mining and beneficiating facilities used in such production. The determination as to what materials will qualify under this law will be made by the commissioner of revenue who may use the services of the ore estimate division of the University of Minnesota, department of civil and mineral engineering, which is hereby established as a technical consultant to the commissioner for the purposes of this act. The tax imposed shall be collected, paid, and the proceeds thereof distributed in the same manner and at the same time as the tax imposed upon semitaconite by section 298.35 is collected, paid, and distributed.

The tax imposed by this section is not an occupation, royalty or excise tax imposed upon or required to be paid with respect to the mining, production, or beneficiation of taconite or semitaconite within the provisions of section 298.40, and the provisions of said section 298.40 have no application to the provisions of this section.

Subd. 2. Producer; annual report. On or before October 1 of each calendar year each producer of the iron bearing material described above in this section subject to taxation under section 298.35 (hereinafter called "taxpayer") shall file with the commissioner of revenue a report in the form prescribed by the commissioner of revenue. Such report shall show, with such other facts as the commissioner may require, by months the number of tons of such iron bearing material produced in each 40 acre tract or governmental lot, with a description thereof and of the number of concentrates produced therefrom, all during the current calendar year; the estimated number of tons of such material and of concentrates which will be produced in each such tract or governmental lot during the remainder of the current calendar year and the name and location of the beneficiating facilities used in such production; and a description of the 40 acre tract or governmental lot and a description of the real property which it is claimed is exempt from taxation under the in lieu provisions of subdivision 1 by virtue of the removal of iron ore bearing material from such 40 acre tract or governmental lot. From such report, the commissioner of revenue shall tentatively determine the descriptions of real estate which it appears will not be subject to general ad valorem taxation under the in lieu provisions of subdivision 1, and certify the same to the appropriate county auditor. As soon as possible after each March 1, the commissioner of revenue shall make a final determination of the descriptions of the real estate which will not be subject to general ad valorem taxation under the in lieu provisions of subdivision 1, and certify the same to the appropriate county auditor.

Subd. 3. Producer; final report; payment. On or before February 15 of each calendar year the taxpayer shall file with the commissioner of revenue a final report in such form as the commissioner of revenue may prescribe setting forth the description of each 40 acre tract or governmental lot from which such iron bearing material was processed, and the number of tons of concentrate produced from such iron bearing materials from each 40 acre tract or governmental lot. The taxpayer shall pay the tax due on or before the March 1 next following.

Subd. 4. Commissioner of revenue; certification of nonexempt real property. If less than 100,000 tons of concentrates are produced from a 40 acre tract or governmental subdivision which was listed in the report required by subdivision 2 in a calendar year, the commissioner of revenue shall certify such fact to the county auditor of the

county in which the affected lands are located. If any of such lands and mining and beneficiating facilities have been treated as exempt from taxation under the provisions of this section, the county auditor shall treat such lands and facilities as omitted property and proceed with collection of the taxes thereon.

History: 1963 c 735 s 1; 1963 c 841 s 1; 1973 c 582 s 3

298.41 [Repealed, Ex1971 c 31 art 12 s 1]

298.42 [Repealed, Ex1971 c 31 art 12 s 1]

298.43 [Repealed, Ex1971 c 31 art 12 s 1]

298.44 [Repealed, Ex1971 c 31 art 12 s 1]

298.45 [Repealed, Ex1971 c 31 art 12 s 1]

298.46 EXPLORATORY DRILLING FOR IRON ORE.

Subdivision 1. It is hereby declared to be in the public interest of this state as a whole, and in particular with respect to counties or other political subdivisions, to encourage the location of all deposits of iron ore hitherto unknown to such political subdivisions, that may be susceptible of economic exploitation.

Subd. 2. When in the opinion of the duly constituted authorities of a taxing district there are in existence reserves of unmined iron ore located in such district, these authorities may petition the iron range resources and rehabilitation board for authority to petition the county assessor to verify the existence of such reserves and to ascertain the value thereof by drilling in a manner consistent with established engineering and geological exploration methods, in order that such taxing district may be able to forecast in a proper manner its future economic and fiscal potentials.

Subd. 3. If the fee owner of the land on which the unmined iron ore is believed to be located, or the owner of a mineral interest therein, refuses to permit the county assessor to ascertain the value of unmined iron ore believed to be located on such land, the county attorney, acting in the name of the county may institute proceedings under chapter 117, for the express purpose of being granted an easement which would permit the county assessor to verify whether or not such land does, in fact, contain reserves of unmined iron ore.

Subd. 4. When the county assessor has verified the existence of reserves of iron ore and has ascertained the value of such reserves, or in the alternative has failed to locate any reserves susceptible of being economically exploited, the assessor shall notify the county attorney, and the county attorney shall then, by appropriate means, request the district court to discharge the easement secured for the purpose stated above.

Subd. 5. The cost of such exploration or drilling plus any damages to the property which may be assessed by the district court shall be paid by the iron range resources and rehabilitation board from amounts appropriated to that board under section 298.22. The iron range resources and rehabilitation board shall be reimbursed for one-half of the amounts thus expended. Such reimbursement shall be made by the taxing districts in the proportion that each such taxing district's levy on the property involved bears to the total levy on such property. Such reimbursement shall be made to the iron range resources and rehabilitation board in the manner provided by section 298.221.

Subd. 6. If any taxing district refuses to pay its share of the reimbursement as provided in subdivision 5, the county auditor is hereby authorized to reduce payments required to be made by the county to such taxing district under other provisions of law. Thereafter the auditor shall draw a warrant, which shall be deposited with the state treasury in accordance with section 298.221, to the credit of the iron range resources and rehabilitation board.

Subd. 7. The provisions of this section shall not apply in the boundary waters canoe area.

History: 1974 c 365 s 1; 1975 c 271 s 6; 1986 c 444

298.47 NOTIFICATION OF COMMISSIONER OF REVENUE OF UNMINED IRON ORE.

On ascertaining that there are in existence reserves of unmined iron ore previously unreported, the county auditor shall transmit all the relevant information to the commissioner of revenue as soon as expedient.

History: 1974 c 365 s 2; 1986 c 444

298.48 MINERAL RIGHTS; EXPLORATION DATA; FILING REQUIREMENTS; PENALTIES.

Subdivision 1. Annual filing. Every owner or lessee of mineral rights who, in respect thereto, has engaged in any exploration for or mining of taconite, semitaconite, or iron-sulphide shall, within six months of June 3, 1977, file with the commissioner of revenue all data of the following kinds in the possession or under the control of the owner or lessee which was acquired prior to January 1, 1977:

(a) Maps and other records indicating the location, character and extent of exploration for taconite, semitaconite, or iron-sulphides;

(b) Logs, notes and other records indicating the nature of minerals encountered during the course of exploration;

(c) The results of any analyses of metallurgical tests or samples taken in connection with exploration;

(d) The ultimate pit layout and the supporting cross sections; and

(e) Any other data which the commissioner of revenue may determine to be relevant to the determination of the location, nature, extent, quality or quantity of unmined ores of said minerals. The commissioner of revenue shall have the power to compel submission of the data. The clerk or court administrator of any court of record, upon demand of the commissioner, shall issue a subpoena for the production of any data before the commissioner. Disobedience of subpoenas issued under this section shall be punished by the district court of the district in which the subpoena is issued as for a contempt of the district court. By April 1 of each succeeding year every owner or lessee of mineral rights shall file with the commissioner of revenue all such data acquired during the preceding calendar year.

Subd. 2. Use of data. Notwithstanding any other law to the contrary, the commissioner of revenue may use any data filed pursuant to subdivision 1 and any similar data otherwise obtained to the extent and in the manner the commissioner deems necessary to project the future availability, value, and utilization of the metallic mineral resources of this state. In making such projections the commissioner of revenue may consult with, and provide data as deemed appropriate to, the commissioner of natural resources.

Subd. 3. Penalties. Any owner or lessee of mineral rights who fails, neglects or refuses to make any filing required by this section is guilty of a gross misdemeanor.

Subd. 4. Confidential nature of information. The data filed pursuant to subdivision 1 shall be considered confidential for three years from the date it is filed with the commissioner. Nothing herein contained shall be construed to prohibit the commissioner from disclosing information or publishing statistics so classified as not to disclose the identity of particular data.

Notwithstanding the other provisions of this subdivision, the commissioner may furnish any information supplied under this section to the commissioner of natural resources, the commissioner of trade and economic development, or a county assessor. Any person violating the provisions of this section shall be guilty of a gross misdemeanor.

History: 1977 c 423 art 10 s 29; 1978 c 767 s 36; 1981 c 356 s 193; 1983 c 289 s 115 subd 1; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 312 art 1 s 26 subd 2

298.51 [Repealed, 1987 c 268 art 9 s 43]

- 298.52 [Repealed, 1987 c 268 art 9 s 43]
- 298.53 [Repealed, 1987 c 268 art 9 s 43]
- 298.54 [Repealed, 1987 c 268 art 9 s 43]
- 298.55 [Repealed, 1987 c 268 art 9 s 43]
- 298.61 [Repealed, 1987 c 268 art 9 s 43]
- 298.62 [Repealed, 1987 c 268 art 9 s 43]
- 298.63 [Repealed, 1987 c 268 art 9 s 43]
- 298.64 [Repealed, 1987 c 268 art 9 s 43]
- 298.65 [Repealed, 1987 c 268 art 9 s 43]
- 298.66 [Repealed, 1987 c 268 art 9 s 43]
- 298.67 [Repealed, 1987 c 268 art 9 s 43]

AGGREGATE MATERIAL TAX

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, Carver, Scott, Dakota, Le Sueur, Kittson, Marshall, Pennington, Red Lake, Polk, Norman, Mahnomon, Clay, Becker, Wilkin, Big Stone, Sibley, 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 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.

It is a misdemeanor for the operator or importer who is required to file a report to file a false report with intent to evade the tax.

Subd. 7. All money 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: 1980 c 607 art 19 s 5; 1Sp1981 c 1 art 10 s 17-19; 1982 c 523 art 13 s 1; 1983 c 342 art 14 s 1; 1984 c 652 s 1; 1986 c 403 s 1,2

298.76 [Repealed, 1982 c 523 art 13 s 3]