

**SUBSTITUTE FOR  
HOUSE BILL NO. 6008**

A bill to levy specific taxes on certain nonferrous metallic minerals on certain taxpayers in this state; to provide for the levy, collection, and administration of the specific tax; to provide certain reporting requirements; to provide for certain penalties; to provide certain exemptions, credits, and refunds; and to provide for the distribution of the specific tax.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 1. This act shall be known and may be cited as the  
2 "nonferrous metallic minerals extraction severance tax act".

3           Sec. 2. As used in this act:

4           (a) "Beneficiation" means milling, processing, grinding,  
5 separating, concentrating, pelletizing, and other processes  
6 necessary to prepare nonferrous metallic mineral ore for sale or

1 transfer.

2 (b) "Deductible costs" means, subject to approval by the  
3 department, for the first 3 years in which a producing mine is  
4 subject to the minerals severance tax, not more than 40% of the  
5 amount of the minerals severance tax levied in that year for  
6 environmental obligations assumed by, or actual costs incurred by,  
7 the taxpayer that would otherwise be incurred by this state or a  
8 local governmental unit of this state in order to comply with state  
9 or federal environmental laws or regulations. The deduction allowed  
10 under this subdivision is limited to the obligations assumed or  
11 actual costs incurred by the taxpayer in the 3 years immediately  
12 preceding the year the producing mine became subject to the  
13 minerals severance tax and the first 3 years that the producing  
14 mine is subject to the minerals severance tax. The amount of the  
15 obligations assumed or actual costs incurred that exceed the  
16 allowable deduction in this subdivision may be carried forward only  
17 for the first and second year in which a producing mine is subject  
18 to the minerals severance tax. The deduction allowed under this  
19 subdivision shall not be available to a taxpayer for any costs for  
20 which the taxpayer has been reimbursed, for which the taxpayer is  
21 entitled to claim a credit or other deduction against any other tax  
22 levied by this state, or which have been paid for on behalf of the  
23 taxpayer from any source other than the taxpayer.

24 (c) "Department" means the department of treasury.

25 (d) "Gross mineral value" means the total value received by a  
26 taxpayer for the sale or transfer of taxable minerals, whether or  
27 not in a beneficiated state, including premiums, bonuses,

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1 subsidies, or noncash consideration, with no deductions. There is a  
2 rebuttable presumption that the purchase price of a taxable mineral  
3 under a bona fide arm's-length contract of sale between unrelated  
4 persons reflects the gross mineral value. In determining the gross  
5 mineral value of a taxable mineral for contracts of sale or  
6 transfer between related persons, there is a rebuttable presumption  
7 that gross mineral value for related party sales shall be based on  
8 the average daily price of the mineral as quoted on published  
9 market indices. The gross mineral value of taxable minerals sold or  
10 transferred by a taxpayer following beneficiation shall reflect the  
11 total value of the taxable mineral in its beneficiated state. For  
12 taxable minerals which are to be shipped or transported outside  
13 this state for beneficiation outside this state or otherwise  
14 removed by a taxpayer from this state and which are considered to  
15 have been sold as provided in section 4(1), the gross mineral value  
16 shall reflect the total value of the minerals immediately prior to  
17 the shipment or removal based on the average daily price of the  
18 mineral as quoted on published market indices in accordance with  
19 rules promulgated by the department under section 8 or guidelines  
20 published by the department.

21 (e) "Interim minerals severance tax" means the interim  
22 minerals severance tax imposed under section 3.

23 (f) "Mineral" means a naturally occurring solid substance that  
24 can be extracted from the earth in this state primarily for its  
25 nonferrous metallic mineral content for commercial, industrial, or  
26 construction purposes. Mineral does not include [gypsum, lime, limestone,  
salt, dolomite, basalt, granite, sandstone, shale, clay, stone, gravel,  
marl, peat, sand, gemstones, coal, substances extracted from potable  
water or brine, substances extracted from oil or natural gas,] low-grade  
iron ore

27 that is defined and taxed under 1951 PA 77, MCL 211.621 to 211.626,

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[ ] any property that is defined and taxed under 1963 PA 68, MCL 207.271 to 207.279[, or any other substance not extracted primarily for its nonferrous metallic mineral content].

(g) "Mineral-producing property" means real and personal property in this state that is part of a producing mine or utilized directly in association with a producing mine on a parcel on which the shaft, incline, or adit is located, or a parcel contiguous or appurtenant to a parcel on which the shaft, incline, or adit is located. As used in this section, contiguity is not broken by a road, an easement, a right-of-way, or property occupied by power transmission lines or buffer zones. Mineral-producing property also includes all the following within this state:

(i) Mineral rights in mineral-producing property.

(ii) Mineral leases, options, and mining rights on mineral-producing property.

(iii) Mineral stockpiles and mineral inventories that are owned, leased, or controlled by a taxpayer.

(iv) Leach pads, waste rock repositories, and tailings impounds that are owned, leased, or controlled by a taxpayer.

(v) Buffer lands that are owned, leased, or controlled by a taxpayer and are contiguous to mineral-producing property.

(vi) Buildings, improvements, fixtures, and nonmobile equipment located upon, beneath, or appurtenant to a mine, including administrative and support facilities appurtenant to a mine provided that such property is located upon, beneath, or on a parcel that is a mineral-producing property.

(vii) Property owned and primarily used by the taxpayer in the transportation of minerals from a producing mine to the point where

1 beneficiation activities begin.

2 (viii) Property used for beneficiation of extracted minerals if  
3 the person that owns or controls the property is a taxpayer.

4 (h) "Mineral-producing property" does not include real and  
5 personal property that is used for transportation of minerals  
6 between any locations, unless it is specifically described in  
7 subdivision (g).

8 (i) "Minerals severance tax" or "severance tax" means the  
9 specific tax levied under section 4.

10 (j) "Open mine" means a mine at which a shaft, incline, or  
11 adit has been started or overburden has been stripped.

12 (k) "Person" means an individual, firm, limited partnership,  
13 limited liability partnership, copartnership, partnership, joint  
14 venture, corporation, association, subchapter S corporation,  
15 limited liability company, receiver, estate, trust, or any other  
16 legal entity or combination of legal entities acting as a unit.

17 (l) "Producing mine" means a mineral mine in this state at  
18 which a taxpayer is producing 1 or more minerals. Producing mine  
19 does not include a mine operated primarily for tourism purposes or  
20 a mine in which the minerals produced are used for artistic  
21 purposes and are incidental to the business operation of the owner.

22 (m) "Rural development fund" means the rural development fund  
23 created in section 5 of the rural development fund act.

24 (n) "Taxable mineral" means the first marketable mineral or  
25 mineral product sold or transferred by the taxpayer that is taxable  
26 under this act. Taxable mineral also includes a mineral which has  
27 been sold or transferred by a taxpayer following beneficiation in

1 this state and a mineral which is otherwise taxable under this act.

2 (o) "Taxable mineral value" means gross mineral value less  
3 deductible costs.

4 (p) "Taxpayer" means a person subject to a specific tax levied  
5 under this act.

6 (q) "Transfer" means an in-kind exchange or other disposition  
7 of an interest in minerals, whether or not beneficiated, other than  
8 through a sale.

9 Sec. 3. (1) Beginning December 31, 2012, minerals located at  
10 an open mine are exempt under section 7pp of the general property  
11 tax act, 1893 PA 206, MCL 211.7pp.

12 (2) Beginning January 1, 2013 and through December 31 in a  
13 year in which the department declares property at that open mine to  
14 be mineral-producing property, an interim minerals severance tax is  
15 levied on all minerals that were valued by the state geologist  
16 under section 24(2) of the general property tax act, 1893 PA 206,  
17 MCL 211.24, for open mines opened beginning January 1, 2011 through  
18 June 30, 2013.

19 (3) The amount of the interim minerals severance tax is equal  
20 to 50% of the general ad valorem taxes levied on that open mine in  
21 2012 attributable to those minerals valued by the state geologist  
22 under section 24(2) of the general property tax act, 1893 PA 206,  
23 MCL 211.24, for 2012. The interim minerals severance tax levied  
24 under this section is in addition to any general ad valorem taxes  
25 levied on the mine's surface property, surface improvements, and  
26 personal property.

27 (4) Each year, the interim minerals severance tax shall be

1 paid in 2 installments. Fifty percent of the interim minerals  
2 severance tax shall be paid when the summer levy is due and 50% of  
3 the interim minerals severance tax shall be paid when the winter  
4 levy is due under the general property tax act, 1893 PA 206, MCL  
5 211.1 to 211.155.

6 (5) The local tax collecting unit shall collect the interim  
7 minerals severance tax as provided in this section and collect the  
8 same collection charges as general property taxes under the general  
9 property tax act, 1893 PA 206, MCL 211.1 to 211.155. Minerals taxed  
10 under this section shall be subject to return and sale for  
11 nonpayment of taxes in the same manner, at the same time, and under  
12 the same penalties as property returned and sold for nonpayment of  
13 taxes levied under the general property tax act, 1893 PA 206, MCL  
14 211.1 to 211.155.

15 (6) If minerals taxed under this section are located in more  
16 than 1 local tax collecting unit, the department, or a person  
17 designated by the department, shall determine the portion  
18 attributable to each local tax collecting unit.

19 (7) Sums collected under this section shall be distributed by  
20 the local tax collecting unit to school districts, this state, and  
21 local governmental units in the same proportion as the general ad  
22 valorem property taxes are distributed. The amounts distributed may  
23 be used by the receiving entities for any use for which such entity  
24 is permitted to use general ad valorem property tax revenues.

25 Sec. 4. (1) The minerals severance tax is levied on taxable  
26 minerals that a taxpayer extracts from the earth in this state or  
27 that a taxpayer beneficiates in this state. A mineral extracted

1 from the earth in this state by a taxpayer which is shipped outside  
2 this state for beneficiation outside this state or otherwise  
3 removed from this state prior to actual sale or transfer is  
4 considered to have been sold by the taxpayer immediately prior to  
5 the shipment or removal and is subject to the minerals severance  
6 tax levied under this section. A taxpayer subject to the minerals  
7 severance tax is exempt from all of the following as provided in  
8 this act:

9 (a) The collection of taxes under the general property tax  
10 act, 1893 PA 206, MCL 211.1 to 211.155, as provided in section 7qq  
11 of the general property tax act, 1893 PA 206, MCL 211.7qq.

12 (b) The tax levied under part 2 of the income tax act of 1967,  
13 1967 PA 281, MCL 206.601 to 206.699, as provided in sections 31b  
14 and 623 of the income tax act of 1967, 1967 PA 281, MCL 206.31b and  
15 206.623.

16 (c) The tax levied under the general sales tax act, 1933 PA  
17 167, MCL 205.51 to 205.78, as provided in section 4dd of the  
18 general sales tax act, 1933 PA 167, MCL 205.54dd.

19 (d) The tax levied under the use tax act, 1937 PA 94, MCL  
20 205.91 to 205.111, as provided in section 4aa of the use tax act,  
21 1937 PA 94, MCL 205.94aa.

22 (2) Except as otherwise provided in this section, the minerals  
23 severance tax required to be paid by each taxpayer each year shall  
24 be 2.75% of the taxable mineral value for the immediately preceding  
25 calendar year.

26 (3) The taxable mineral value of all minerals shall be  
27 computed as of the time of sale or transfer. Except as otherwise



1 provided in this subsection, each taxpayer shall pay the minerals  
2 severance tax to the local tax collecting unit on or before  
3 February 15 beginning on February 15 in the calendar year  
4 immediately following the second year in which the department  
5 declares the property to be mineral-producing property under  
6 section 6. In the first calendar year immediately following the  
7 year in which the department determines the property is mineral-  
8 producing property under section 6, the taxpayer shall pay not  
9 later than July 15 a partial mineral severance tax equal to the  
10 summer levy of the ad valorem taxes levied on that mineral-  
11 producing property in the immediately preceding calendar year under  
12 the general property tax act, 1893 PA 206, MCL 211.1 to 211.155.

13 (4) If a taxpayer sells the minerals to another taxpayer, the  
14 seller shall add to the sales price, or to the value of the  
15 consideration with respect to a transfer, the minerals severance  
16 tax the seller paid under this act and itemize the minerals  
17 severance tax paid under this act on the invoice.

18 (5) A taxpayer that purchases taxable minerals from another  
19 taxpayer may claim a credit against the minerals severance tax  
20 imposed under this act for the minerals severance tax paid under  
21 this act by the seller that is itemized on the invoice.

22 (6) If a producing mine begins operation in 2014 or 2015,  
23 then, for the first 5 years in which the producing mine is subject  
24 to the minerals severance tax, the taxpayer may claim a credit of  
25 not more than 20% of the amount of the ad valorem property tax  
26 levied on that open mine in 2012 attributable to those minerals  
27 valued by the state geologist under section 24(2) of the general

1 property tax act, 1893 PA 206, MCL 211.24, in 2012 plus the amount  
2 of the interim minerals severance tax paid for each year through  
3 the end of the year in which the department determines the property  
4 to be mineral-producing property plus interest. Interest shall  
5 accrue to the taxpayer at the rate provided for in section 37 of  
6 the tax tribunal act, 1973 PA 186, MCL 205.737. However, if the  
7 taxpayer is delinquent on any ad valorem property taxes on the  
8 producing mine, then the taxpayer is not eligible to claim a credit  
9 under this subsection.

10 (7) In the first year that a minerals severance tax is levied  
11 on a taxpayer under this act, the total minerals severance tax for  
12 that year is equal to the greater of the following less the amount  
13 of the partial minerals severance tax described in subsection (3)  
14 that was paid by the taxpayer:

15 (a) The minerals severance tax calculated under subsection  
16 (2).

17 (b) The amount of general ad valorem property tax that was  
18 levied on the mineral-producing property in the immediately  
19 preceding year.

20 Sec. 5. Each year, a taxpayer shall prepare and submit to the  
21 department and to the local tax collecting unit a report in the  
22 time, form, and manner required by the department, showing the  
23 total amount of minerals sold, transferred, or beneficiated during  
24 the preceding year, the taxable mineral value of the minerals sold,  
25 transferred, or beneficiated, a schedule of all deductible costs,  
26 and any other information required by the department for valuation  
27 purposes and to substantiate a taxpayer's deductible costs.

1           Sec. 6. (1) The department shall determine when property is  
2 classified under this act as mineral-producing property. Upon  
3 making this determination, the department shall notify all local  
4 assessing authorities of those properties that are classified as a  
5 mineral-producing property and are subject to the minerals  
6 severance tax under this act. Beginning on December 31 in the  
7 calendar year in which property is determined by the department to  
8 be mineral-producing property, that property is exempt from taxes  
9 collected under the general property tax act, 1893 PA 206, MCL  
10 211.1 to 211.155. The property shall be subject to the minerals  
11 severance tax beginning January 1, the calendar year immediately  
12 following in which the property is determined to be mineral-  
13 producing property by the department.

14           (2) If the department determines that property previously  
15 determined to be a mineral-producing property is no longer mineral-  
16 producing property, the department shall notify the taxpayer and  
17 the local assessing authorities that the property is no longer  
18 subject to the minerals severance tax under this act beginning  
19 December 31 in the year that determination is made and that  
20 property shall be subject to the collection of taxes under the  
21 general property tax act, 1893 PA 206, MCL 211.1 to 211.155. The  
22 local tax collecting unit in which the property is located is  
23 responsible for assessment of that property as of the date of the  
24 department's notification to the local assessing authority. Ten  
25 days after the date of the department's notification to the  
26 taxpayer shall be the date on which the minerals severance tax  
27 shall cease and all related tax exemptions described in section 4

1 shall cease.

2 (3) On or before February 10 of each year, the state geologist  
3 shall provide a list of all mineral-producing properties as of the  
4 end of the previous calendar year to the department.

5 (4) If a taxpayer ceases operation of a producing mine for 30  
6 or more consecutive days, the taxpayer shall notify the department,  
7 in writing, that it has ceased operations within 7 business days.

8 Sec. 7. (1) Each taxpayer shall prepare, keep, and preserve a  
9 full and complete record for each tax year of all minerals  
10 extracted from the earth in this state or beneficiated in this  
11 state, and that record shall be open at all times to the inspection  
12 of the department.

13 (2) Annually, the department shall publish the value of all  
14 minerals reported under this act.

15 Sec. 8. The department may promulgate rules to implement this  
16 act pursuant to the administrative procedures act of 1969, 1969 PA  
17 306, MCL 24.201 to 24.328.

18 Sec. 9. (1) The department shall allocate the minerals  
19 severance tax and determine all deductible costs against the  
20 property, and the local tax collecting unit shall collect the  
21 minerals severance tax as provided in this act and collect the same  
22 collection charges as general property taxes under the general  
23 property tax act, 1893 PA 206, MCL 211.1 to 211.155. Property  
24 listed and taxed under this act shall be subject to return and sale  
25 for nonpayment of taxes in the same manner, at the same time, and  
26 under the same penalties as property returned and sold for  
27 nonpayment of taxes levied under the general property tax act, 1893

1 PA 206, MCL 211.1 to 211.155.

2 (2) If mineral-producing property is located in more than 1  
3 local tax collecting unit, the department, or a person designated  
4 by the department, shall determine the portion attributable to each  
5 local tax collecting unit.

6 (3) Except as provided in subsections (5) and (6), the  
7 minerals severance tax collected under this act shall be  
8 distributed as follows:

9 (a) 65% by the local tax collecting unit to school districts,  
10 this state, and local governmental units in the same proportion as  
11 the general ad valorem property taxes are distributed. The amounts  
12 distributed may be used by the receiving entities for any use for  
13 which such entity is permitted to use general ad valorem property  
14 tax revenues.

15 (b) 35% to the department for deposit into the rural  
16 development fund.

17 (4) The local tax collecting unit shall report all collections  
18 and distributions under this act to and remit the portion of the  
19 minerals severance tax described in subsection (3)(b) to the  
20 department for deposit in the rural development fund no later than  
21 30 days after a payment is received from the taxpayer. If the local  
22 tax collecting unit fails to make any distribution or remittance  
23 required under this act to another entity, the department shall  
24 deduct an equivalent amount from any revenues the local tax  
25 collecting unit would otherwise be entitled to receive under the  
26 Glenn Steil state revenue sharing act of 1971, 1971 PA 140, MCL  
27 141.901 to 141.921, and distribute the amount deducted to those

1 entities entitled to receive that distribution under this act.

2 (5) In determining the distribution under subsection (3), the  
3 department shall modify the distributions so all minerals severance  
4 tax revenue lost due to the deduction of deductible costs does not  
5 reduce the distributions to local units of government under  
6 subsection (3)(a).

7 (6) In determining the distribution under subsection (3), the  
8 department shall modify the distributions so all minerals severance  
9 tax revenue lost due to the credit described in section 4(6) does  
10 not reduce the distributions to the rural development fund under  
11 subsection (3)(b).

12 Sec. 10. Upon an action being filed under the direction of the  
13 attorney general in the circuit court for the county of Ingham,  
14 that court shall have power to restrain by injunction any taxpayer  
15 or person that has failed to comply with this act and in the same  
16 manner to restrain any taxpayer or person from continuing to  
17 extract minerals while delinquent in the filing of any report or  
18 the paying of any tax, penalty, or cost required under this act.

19 Sec. 11. The specific taxes levied under this act shall be  
20 administered by the department pursuant to 1941 PA 122, MCL 205.1  
21 to 205.31, and this act. If the provisions of 1941 PA 122, MCL  
22 205.1 to 205.31, and this act conflict, the provisions of this act  
23 shall control.

24 Enacting section 1. This act does not take effect unless House  
25 Bill No. 6007 of the 96th Legislature is enacted into law.