

MAINE STATE LEGISLATURE

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Date: 4/15/24 MAJORITY

(Filing No. H-969)

TAXATION

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
131ST LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1445, L.D. 2251, "An Act to Amend the Mining Excise Tax Laws"

Amend the bill in section 2 in subparagraph (2) in the last line (page 1, line 6 in L.D.) by striking out the following: "2856-A" and inserting the following: '2856'

Amend the bill by striking out all of section 5 and inserting the following:

'Sec. 5. 36 MRSA §655, sub-§1, ¶S, as amended by PL 2019, c. 440, §1, is repealed.

Sec. 6. 36 MRSA §655, sub-§1, ¶S-1 is enacted to read:

S-1. Unextracted minerals. For purposes of this paragraph, "minerals" has the same meaning as in section 2855, subsection 9.

Sec. 7. 36 MRSA §656, sub-§1, ¶I, as enacted by PL 1983, c. 555, §3, is repealed.

Sec. 8. 36 MRSA §656, sub-§1, ¶I-1 is enacted to read:

I-1. Unextracted minerals. For purposes of this paragraph, "minerals" has the same meaning as in section 2855, subsection 9.

Sec. 9. 36 MRSA §2013, sub-§1, ¶B-2 is enacted to read:

B-2. "Commercial mining" means the commercial extraction or removal of metallic minerals or overburden or the preparation, washing, cleaning or other treatment of metallic minerals and includes the bulk sampling, advanced exploration, extraction or beneficiation of metallic minerals within a mining area.

"Commercial mining" does not include:

- (1) Exploration;
- (2) The physical extraction, crushing, grinding, storage or heating of calcium carbonate or limestone to produce cement;

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(3) The exploration for or physical extraction, crushing, grinding, sorting or storage of borrow, topsoil, clay or silt; or

(4) The exploration for or physical extraction, crushing, grinding, sorting or storage of gemstones, aggregate, dimension stone or other construction materials from a quarry.

As used in this paragraph, "advanced exploration," "beneficiation," "exploration" and "metallic mineral" have the same meanings as in Title 38, section 490-MM.

Sec. 10. 36 MRSA §2013, sub-§1, ¶C, as amended by PL 2019, c. 7, §2, is further amended to read:

C. "Depreciable machinery and equipment" means, except as otherwise provided by this paragraph, that part of the following machinery and equipment for which depreciation is allowable under the Code and repair parts for that machinery and equipment:

(1) New or used machinery and equipment for use directly and primarily in commercial agricultural production, including self-propelled vehicles; attachments and equipment for the production of field and orchard crops; new or used machinery and equipment for use directly and primarily in production of milk, maple syrup or honey, animal husbandry and production of livestock, including poultry; new or used machinery and equipment used in the removal and storage of manure; and new or used machinery and equipment not used directly and primarily in commercial agricultural production, but used to transport potatoes from a truck into a storage location;

(2) New or used watercraft, nets, traps, cables, tackle and related equipment necessary to and used directly and primarily in commercial fishing;

(3) New or used watercraft, machinery or equipment used directly and primarily for commercial aquacultural production, including, but not limited to: nets; ropes; cables; anchors and anchor weights; shackles and other hardware; buoys; fish tanks; fish totes; oxygen tanks; pumping systems; generators; water-heating systems; boilers and related pumping systems; diving equipment; feeders and related equipment; power-generating equipment; tank water-level sensors; aboveground piping; water-oxygenating systems; fish-grading equipment; safety equipment; and sea cage systems, including walkways and frames, lights, netting, buoys, shackles, ropes, cables, anchors and anchor weights; ~~and~~

(4) New or used machinery and equipment for use directly and primarily in commercial wood harvesting, including, but not limited to, chain saws, skidders, delimiters, forwarders, slashers, feller bunchers and wood chippers; and

(5) New or used machinery and equipment for use directly and primarily in commercial mining.

"Depreciable machinery and equipment" does not include a motor vehicle as defined in section 1752, subsection 7 or a trailer as defined in section 1752, subsection 19-A.

Sec. 11. 36 MRSA §2013, sub-§2, as amended by PL 2015, c. 481, Pt. B, §1 and affected by §2, is further amended to read:

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1 **2. Refund authorized.** Any person, association of persons, firm or corporation that
2 purchases electricity or fuel, or that purchases or leases depreciable machinery or
3 equipment, for use in commercial agricultural production, commercial fishing, commercial
4 aquacultural production ~~or~~, commercial wood harvesting or commercial mining must be
5 refunded the amount of sales tax paid upon presenting to the State Tax Assessor evidence
6 that the purchase is eligible for refund under this section.

7 Evidence required by the assessor may include a copy or copies of that portion of the
8 purchaser's or lessee's most recent filing under the ~~United States Internal Revenue~~ Code
9 that indicates that the purchaser or lessee is engaged in commercial agricultural production,
10 commercial fishing, commercial aquacultural production ~~or~~, commercial wood harvesting
11 or commercial mining and that the purchased machinery or equipment is depreciable for
12 those purposes or would be depreciable for those purposes if owned by the lessee.

13 In the event that any piece of machinery or equipment is only partially depreciable under
14 the ~~United States Internal Revenue~~ Code, any reimbursement of the sales tax must be
15 prorated accordingly. In the event that electricity or fuel is used in qualifying and
16 nonqualifying activities, any reimbursement of the sales tax must be prorated accordingly.

17 Application for refunds must be filed with the assessor within 36 months of the date of
18 purchase or execution of the lease.

19 **Sec. 12. 36 MRSA §2013, sub-§3**, as amended by PL 2015, c. 481, Pt. B, §1 and
20 affected by §2, is further amended to read:

21 **3. Purchases made free of tax with certificate.** Sales tax need not be paid on the
22 purchase of electricity, fuel or a single item of machinery or equipment if the purchaser has
23 obtained a certificate from the assessor stating that the purchaser is engaged in commercial
24 agricultural production, commercial fishing, commercial aquacultural production ~~or~~,
25 commercial wood harvesting or commercial mining and authorizing the purchaser to
26 purchase electricity, fuel or depreciable machinery and equipment without paying Maine
27 sales tax. The seller is required to obtain a copy of the certificate together with an affidavit
28 as prescribed by the assessor, to be maintained in the seller's records, attesting to the
29 qualification of the purchase for exemption pursuant to this section. In order to qualify for
30 this exemption, the electricity, fuel or depreciable machinery or equipment must be used
31 directly in commercial agricultural production, commercial fishing, commercial
32 aquacultural production ~~or~~, commercial wood harvesting or commercial mining. In order
33 to qualify for this exemption, the electricity or fuel must be used in qualifying activities,
34 including support operations.'

35 Amend the bill by inserting after section 12 the following:

36 '**Sec. 13. 36 MRSA §2855, sub-§8**, as amended by PL 1983, c. 776, §4, is repealed.'

37 Amend the bill by inserting after section 17 the following:

38 '**Sec. 18. 36 MRSA §2855, sub-§15**, as enacted by PL 1981, c. 711, §10, is repealed
39 and the following enacted in its place:

40 **15. Tax year.** "Tax year" means an accounting period that is the same as the taxpayer's
41 taxable year for federal income tax purposes.'

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1 Amend the bill in section 20 in §2856 in the first indented paragraph in the last line
2 (page 2, line 22 in L.D.) by striking out the following: "0.35" and inserting the following:
3 '0.05'

4 Amend the bill by striking out all of section 25 and inserting the following:

5 '**Sec. 25. 36 MRSA §2862-A** is enacted to read:

6 **§2862-A. Distribution of revenues**

7 Revenue from the excise tax imposed pursuant to this chapter must be distributed as
8 follows:

9 **1. Mining Excise Tax Trust Fund.** Seventy-five percent of the revenue must be
10 deposited in the Mining Excise Tax Trust Fund established in Title 5, section 452. Such
11 revenue is subject to the provisions of the Constitution of Maine, Article IX, Section 20;
12 and

13 **2. General Fund.** Twenty-five percent must be deposited in the General Fund.'

14 Amend the bill by striking out all of section 28 and inserting the following:

15 '**Sec. 28. 36 MRSA §2866**, as amended by PL 2011, c. 653, §6 and affected by §33
16 and amended by c. 682, §38, is repealed.

17 **Sec. 29. Appropriations and allocations.** The following appropriations and
18 allocations are made.

19 **ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF**

20 **Revenue Services, Bureau of 0002**

21 Initiative: Provides one-time funding for computer programming, testing and
22 implementation of changes to mining excise taxes.

23	GENERAL FUND	2023-24	2024-25
24	All Other	\$0	\$157,380
25			
26	GENERAL FUND TOTAL	<u>\$0</u>	<u>\$157,380</u>

27 '
28 Amend the bill by relettering or renumbering any nonconsecutive Part letter or section
29 number to read consecutively.

30 **SUMMARY**

31 This amendment makes the following changes to the bill.

32 1. It removes the sales tax exemption for products used in commercial mining and
33 instead provides for the refund of sales tax on depreciable machinery and equipment
34 purchases in the Maine Revised Statutes, Title 36, section 2013.

35 2. It exempts unextracted minerals from the property tax.

36 3. It repeals the definition of "mineral products."

37 4. It requires that 75% of mining excise tax revenues be deposited in the Mining Excise
38 Tax Trust Fund and 25% be deposited in the General Fund and specifies that revenue

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1 deposited in the Mining Excise Tax Trust Fund is subject to the Constitution of Maine,
2 Article IX, Section 20, which requires expenditures from that fund to be approved by a 2/3
3 vote of the Legislature and by the Governor.

- 4 5. It clarifies the definition of "tax year" for mining excise tax accounting purposes.
5 6. It changes the annual mining excise tax rate from 35%, as in the bill, to 5%.
6 7. It corrects a cross-reference.
7 8. It repeals the Mining Oversight Fund.

8 **FISCAL NOTE REQUIRED**

9 (See attached)



131st MAINE LEGISLATURE

LD 2251

LR 3119(02)

An Act to Amend the Mining Excise Tax Laws

Fiscal Note for Bill as Amended by Committee Amendment "A" (H-969)

Committee: Taxation

Fiscal Note Required: Yes

Fiscal Note

Potential current biennium revenue decrease - General Fund
 Potential current biennium revenue decrease - Other Special Revenue Funds
 Potential future biennium revenue increase - General Fund
 Potential future biennium revenue increase - Other Trust Funds

	FY 2023-24	FY 2024-25	Projections FY 2025-26	Projections FY 2026-27
Net Cost (Savings)				
General Fund	\$0	\$157,380	\$0	\$0
Appropriations/Allocations				
General Fund	\$0	\$157,380	\$0	\$0

Fiscal Detail and Notes

This bill makes changes to the mining excise tax and distribution of mining excise tax revenue and provides a sales tax exemption for products used in commercial mining. The Department of Administrative and Financial Services, Bureau of Revenue Services has indicated that the timing and magnitude of the revenue impacts of these changes are uncertain. The changes to the mining excise tax may increase revenue to the General Fund and the Mining Excise Tax Trust Fund beginning in fiscal year 2025-26, depending on how long it takes to approve new mining projects. The sales tax exemption may decrease General Fund and Local Government Fund revenue beginning in fiscal year 2024-25. This fiscal note does not reflect revenue changes to these funds.

The bill includes a one-time General Fund appropriation to the Department of Administrative and Financial Services, Bureau of Revenue Services in fiscal year 2024-25 for computer programming, testing and implementation costs associated with changes to the mining excise tax and the sales tax exemption.