VARIOUS TAXES
Mining and Refining
of Nonferrous Ores

April 22, 2003

	Yes	No
Separate Official Fiscal Note Requested	X	
Fiscal Impact		
DOR Administrative Costs/Savings		X

Department of Revenue
Analysis of H.F. 1556 (Abrams)

	Revenue Gain or (Loss)			
	F.Y. 2004	F.Y. 2005	F.Y. 2006	F.Y. 2007
	(000's)			
General Fund	$0	$0	$0	$0

Various effective dates

EXPLANATION OF THE BILL

Current Law:

Property tax:
Nonferrous mining real property, other than mineral resources, is subject to both the local and state general property tax. Because most nonferrous mineral resources mined or extracted (other than sand, gravel, etc.) are subject to a net proceeds tax, the mineral resources are exempt from property tax. Thus the surface land and buildings of a nonferrous mining property would be subject to property tax, while the mineral deposits under the land and ore extracted from the land would be subject only to the net proceeds tax. All personal property of a nonferrous mining operation is exempt from a personal property tax.

Corporate franchise tax / occupation tax:
If the activities of producing or mining ore are subject to the occupation tax, they are exempt from the corporate franchise tax and the unitary method of determining income. Activities associated with refining of ore are not subject to the occupation tax, and they are subject to the corporate franchise tax and the unitary method of determining income.

Sales and use tax:
Mill liners, grinding rods, and grinding balls that are substantially consumed in the production of taconite are exempt from tax. Mill liners when used for protective purposes where they are not substantially consumed in production are taxable. Construction materials, supplies, and equipment incorporated into a new mine or minerals plant for any mineral subject to net proceeds

EXPLANATION OF THE BILL (Cont.)

tax under M.S. §298.015 are exempt. (The Department of Revenue considers a new operation at an existing plant to be "new".) Freestanding capital equipment used in mining is also exempt.

Net proceeds tax:
A nonferrous mining operation is subject to a net proceeds tax equal to two percent of the net proceeds from mining in Minnesota. Exceptions to this rule include certain sand, gravel, stone and similar resources. If a nonferrous mining operation is located in the taconite tax relief area, the proceeds from the tax are distributed within the taconite area by local officials.

Proposed Law:

Sales and use tax:
The bill exempts mill liners, grinding rods, and grinding balls that are substantially consumed in the production of other (than taconite) ores, metals, or minerals by persons taxed under the in-lieu provisions of chapter 298. It also exempts construction materials, supplies, and equipment incorporated into the improvement, construction, or expansion of an existing taconite facility in order to extract nonferrous ores, metals, and minerals, including the construction, improvement, or expansion of a hydrometallurgical processing facility.

Property tax:
All property used in the business of mining that is subject to the net proceeds tax is exempt from real property tax. The exempted property includes deposits of ores, metals, and minerals and the lands in which they are contained; all real property used in mining, quarrying, or producing ores, minerals, or metals, including lands occupied by or used in connection with the mining, quarrying or production facilities; and concentrates or direct reduced ore. Thus, all surface land and buildings or other real property used in nonferrous mining operations subject to the net proceeds tax would be exempt from both the local and state general property tax. This exemption is effective for taxes payable year 2004 and thereafter. Although the LTV site is currently owned by Cleveland Cliffs and that company will pay property tax on the LTV site beginning this year, the proposed exemption will not apply to the property for taxes payable 2004 to 2006 because the site will not be in the business of mining or refining subject to the net proceeds tax until 2006 or 2007, taxes payable 2007 or 2008.

Corporate franchise tax / occupation tax:
The bill expands the activities subject to the occupation tax to include the refining or producing of metals and minerals from the ore. Activities from the refining or producing metals and minerals from the ore are exempted from the corporate franchise tax and the unitary method of determining income. The unitary income method measures the average profitability of

EXPLANATION OF THE BILL (Cont.)

an entire enterprise. In contrast, the occupation tax measures the profits of one isolated section of an enterprise. The exemption of refining and producing of metals and minerals from the corporate franchise tax, and expansion of the occupation tax to include metals and ores is effective for taxable years beginning after December 31, 2002. The alternative minimum tax for the occupation tax is repealed, effective for tax years beginning after December 31, 2002.

Net proceeds tax:
Revenue collected from the net proceeds tax will be deposited in the state general fund and a portion will be distributed to local governments each year on July 15. A portion of the net proceeds tax revenue, calculated by finding the share that the state general tax rate bears to the average property tax rate in the area, will remain in the general fund. A portion equal to 40% of the proceeds less the general fund share will be distributed to the fiscal disparities fund if the mining operation is in a fiscal disparities area. The remainder will be distributed to the county auditor or auditors in which the nonferrous mining or processing operation is located, to be distributed to local districts based on share of property taxes. If the mining or processing facility is located in two or more unique taxing areas, the commissioner of revenue shall allocate tax proceeds based on relative shares of the market value of the mining or processing facility. For state aid purposes, an adjusted net tax capacity equivalent amount will be determined based on annual distributions of net proceeds tax revenue to local taxing districts.

REVENUE ANALYSIS DETAIL

Sales and use tax:

- Of the items exempted in the bill, only mill liners used for protective purposes and not consumed in production would be taxable under current law. Since actual production is not likely to start until the last half of 2007 at the earliest, there would be no impact during the four fiscal years under analysis. The revenue loss for the plant under consideration is likely to be between $25,000 and $50,000 a year.
- The construction materials, supplies, and incorporated equipment are already exempt under the provisions of M.S. §297A.71, Subd. 14. Therefore, the provision would have no revenue impact.

Property tax:

- Construction and renovation of nonferrous mining and refining structures by Teck Cominco may begin in 2005 at the old LTV mining site, but construction will not begin in earnest until 2006. The construction and renovation is estimated to total about $86 million for the real property portion of the project. The proposed improvements would not appear in full on the tax roll until January 2007 for property taxes payable in 2008. Thus, the tax shift on other property owners created by the exemption would not affect state payment of homeowner

REVENUE ANALYSIS DETAIL (Cont.)

property tax refunds until F.Y. 2009, which is outside the forecast period. The impact would be about $30,000 per year beginning in F.Y. 2009.

- Exemption of nonferrous mining and refining operations if obligated to pay the net proceeds tax will not affect state revenue from the state general levy because the tax rate will be adjusted to raise the total levy required in statute.

Corporate franchise / Occupation tax:

- It is difficult to determine whether the bill will change the amount of tax revenue from its level under current law. The law change may generate more revenue than current law if the isolated section of an enterprise that is subject to the occupation tax is more profitable than the average profitability of the entire enterprise. The opposite situation may be true. Given the lack of data about the profitability of the isolated segments of the mining industry versus the profitability of its overall associated enterprise, it cannot be determined whether the law change will produce more or less revenue under current law.
- Given the proposed construction schedule, nonferrous mining and refining operations at the LTV site will not begin until at least 2007, so revenue impacts, if any, of the proposed changes to corporate franchise and occupation tax would not apply in the forecast period.
- The repeal of the alternative minimum tax would affect existing companies subject to the occupation tax. In recent years, the amount of alternative minimum tax has been generally less than $100,000. In any given year, the exemption could have a small or zero impact on the general fund.

Net proceeds tax:

- Because nonferrous mining and refining operations will not begin at the LTV site until 2006 or 2007, and start-up costs are likely to postpone positive net proceeds for three to five years after mining and refining are commenced, there will be no net proceeds tax distributed within the taconite tax relief area within the forecast period.

Number of Taxpayers Affected: To date, one company is considering nonferrous mining.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/polic.html#analyses

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