



STATE OF NORTH DAKOTA
OFFICE OF STATE TAX COMMISSIONER
Cory Fong, Commissioner

INTERIM NATURAL RESOURCES COMMITTEE
REPRESENTATIVE CHUCK DAMSCHEN, CHAIRMAN
Potash Taxation

February 22, 2012

Testimony from Deputy Tax Commissioner Ryan Rauschenberger

Chairman Damschen, members of the committee for the record my name is Ryan Rauschenberger with the Office of State Tax Commissioner.

Today I will be giving you a brief history of the potash taxation law and cover some potential tax revenue calculations based on potash output and assumed facility costs.

The Tax Department worked very closely with Senator Dwight Cook, John Walstad, Lynn Helms and other stakeholders, to include Dakota Salts, to craft the original draft of a potash taxation bill during the last interim process. The original bill draft presented to the interim taxation committee before last session taxed all potash production at 5% of the gross value of potash sold. All potash was to be valued on an annual index, similar to how natural gas production is currently taxed. Byproducts were taxed at a rate of 4% of the gross value of the products sold.

An important aspect of the original bill is that the tax was in-lieu of all local property taxes on potash production commercial property. Essentially, the tax was originally in-lieu of more property than it is now. Current law allows for the potash production commercial property to be locally assessed and taxed locally.

The original bill apportioned the tax proceeds 80% to the state and 20% to the county in which the potash is mined.

Finally, the bill was passed out of the interim taxation committee with a 4% tax rate and the state's 80% share of revenue devoted to reducing individual income taxes. At one point the interim committee discussed depositing the state's portion of the revenue into the Legacy Fund.

The House version of the bill kept the tax rate at 4% but was amended to have all of the potash production commercial property locally assessed and taxed. They also amended the bill to split the potash tax revenue between the county and state in a similar fashion to the oil gross production tax, with the first revenue in the door going to the potash producing county and shifting more revenue to the state as time passes. A county potash impact grant fund was also included in the house version.

The Senate version of the bill took a much different approach. The bill lowered the tax rate to one and one-half percent, and made the tax in lieu of property taxes on all potash production commercial property including the mining facility, pipelines and potash processing facility, resulting in a much lower overall tax liability. The revenue distribution was changed to allow the first one-million of tax collected be allocated to the county and the rest be split 10% county and 90% state.

The conference committee finally came to the agreement that the rate be set at 2%, and that the tax potash production commercial property be locally assessed, so as to provide for local taxing authority.

Finally, under the current law, if a one-million-ton potash processing facility were operating today at full capacity and selling the product for \$400 per ton, at a 2% tax rate the facility would generate \$8 million in taxes annually. This does not take into account any taxes generated from the sale of byproducts.

The average Consolidated Burke County mill rate is approximately 210 mills. If this is applied to potash production commercial property assessed at a market value of \$100 million, annually it would produce a tax revenue stream of approximately \$1,050,000 for the county and other political subdivisions.

Mr. Chairman, I would be happy to answer any questions.