

Testimony to the
INTERIM NATURAL RESOURCES COMMITTEE
Prepared February 22, 2012 by the
North Dakota County Commissioners Association
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CONCERNING POTASH TAXATION

Mr. Chairman and members of the committee, thank you for the invitation to provide testimony regarding future potash production taxation. I am Doug Graupe, President of the North Dakota County Commissioners Association and a Divide County Commissioner. From this dual perspective, I am particularly interested in this important issue.

County officials watched the developments during the last interim and throughout the previous session with some concern. While I understand that the focus of your current study is primarily that of revenue distribution, there are a number of issues that county officials believe are closely related.

Some of the concerns that I am aware of are:

1. Production and processing facility sites must be required to post a reclamation bond. As I understand it, the test well in Burke County has not been cleaned up and is quite a mess. In Canada there are horror stories about dust, corrosion and crop loss from the dust and spillage.
2. Zoning or siting for production and processing facilities remains unclear. The Industrial Commission preempts local zoning for oil production – is it the Legislature's intent to model potash mining after oil regarding well siting?
3. Possibly a regulatory issue, but spacing units for the wells is a question being asked – and it of course can alter the impacts.

4. While I understand that the method of taxation was addressed last Session and may not be the focus of your study, counties remain convinced that local taxation of potash processing facilities and gathering pipelines, similar to the taxation of the natural gas industry would be more appropriate than the complete exemption approved last session. The “gas plant model” is what the last interim committee recommended and counties agreed with that approach.

5. Additionally, counties are concerned with the “point-of-sale” method of taxation. Again, this is a dramatic change from the interim proposal of “production taxation” as used for the oil industry – a more immediate taxation that benefits both state and local government.

6. Regarding the distribution of the tax revenue collected by the state in-lieu of property taxes, counties were also generally in favor of the strategy advanced by the last interim committee. We support the concept of 100% of the first \$1 million of tax revenue remaining in the county, and a stepped down allocation to no less than a 30% local /70% state. The State reaps virtually all of the benefit of the increased sales and income tax collections this plant will generate, it is only appropriate that the initial property tax replacement revenue accrue to the local jurisdictions facing dramatically increased costs.

With the same counties projected to have potash mining alongside significant oil production, there are a concerns for housing, eating establishments, police, fire, and ambulance needs, as well as the additional impact to roads, the need for rail loading facilities, schools, and likely other unforeseen impacts. Some suggest that the potash industry could have an equal or greater impact to us than oil.

We appreciate the “impact fund” created by the last Legislature, as we are certain some jurisdictions will have experienced impacts long before the first tax dollar is distributed – some may have already.

Thank you again for this opportunity, I will gladly try to answer any questions.