

2015 HOUSE JUDICIARY

HCR 3013

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HCR 3013
2/23/2015
24258

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to constitutional authorization for the legislative assembly to provide by law for direct payments to ND residents.

Minutes:

Testimony #1

Chairman K. Koppelman: Opened the hearing with testimony in support.

Rep. M. Nelson, District 9: Introduced the bill. (See testimony #1) (2:21- 9:21)

Rep. D. Larson: I did contact some people from Alaska to see how that worked for them. Have you contacted anyone from there?

Rep. Nelson: I have not talked to people in the state legislature. I know it is very popular in Alaska. At this point with their budgets collapsing again and they have kind of painted themselves into the wall. That is why I am not that big on having the annual payment from the Legacy Fund.

Rep. D. Larson: Are you looking at this being an annual or onetime payment?

Rep. Nelson: What is the price of oil going to be two years from now? My idea is that this would be a budgeting tool one option that the legislature could have. I don't think normally the state is going to be in that sort of budgetary situation.

Rep. D. Larson: So were you thinking of establishing a separate fund or the Legacy Fund?

Rep. Nelson: That would be a possibility; but not a certainty. I am certain there would be people that would say let's tap the earnings of the Legacy Fund and just send it out to the people. That isn't really my thought. That would have to pass the legislature. Alaska limits how many months you are out of the state. If you go to Arizona for six months you are not going to get a payment.

Rep. Lois Delmore: What level would you think we would have to reach before this would kick in?

Rep. Nelson: Let's say we had \$7 Billion is \$1000 per individual. Let's say we had \$10 billion extra so it would be easy to take half and send it back out to the people and then we won't do a bunch more spending.

Rep. Lois Delmore: Would it be something then that each legislative assembly could provide for? Would we take legislation one session at a time and sunset it; how would we handle that part?

Rep. Nelson: It would be handled like any other law is handled. Each time we would meet the law is subject to change. You can put all the sunsets or whatever you want on it and the next session shows up and they do whatever they want with it. You could set up a framework if this happened we should do some specific things. To run this efficiently you need to upgrade your data; like who is a resident. Alaska keeps very close eyes on who is a resident or not. We need to keep track better here.

Rep. L. Klemin: This part about the legislature may establish continuing eligibility residency, but that residency period may not be less than one year so we have a situation for example where a baby is born that baby could not collect until it was over one year old. Is that right?

Rep. Nelson: My intention would not be to exclude a child. We could amend this slightly to include them, but there has to be a cutoff date of some kind.

Rep. L. Klemin: What about a person that died? How would that work?

Rep. Nelson: I don't visualize it being a particular 12 months, but if a person died after that date they would be qualified. If a person died after that date even though they weren't there a full year; they are going to be qualified. If the cutoff is going to be the end of the year and they are not alive at that time their estate for part of the year isn't going to get the payment.

Rep. L. Klemin: I said the life spectrum because this last clause causing some problems with that issue. What if we took that clause out of there?

Rep. Nelson: I think if we took that out it would be OK. Of all the different part of it the one year is the most problematic and probably the most unnecessary.

Rep. P. Anderson: So even if the legislature decided we wanted to send \$100 to everybody we can't unless we change the constitution. Is that what you are trying to do?

Rep. Nelson: There is some dispute whether we can or can't. This goal would be to eliminate that dispute.

Rep. P. Anderson: Even if we passed this it doesn't mean anybody is getting anything, but they could?

Rep. Nelson: Yes this in and of itself does not distribution or the amounts of guidelines. That would still have to come from law.

Rep. Mary Johnson: My individual I assume you mean natural person.

Rep. Nelson: Yes, no corporations.

Rep. K. Wallman: We always have new initiatives and there are always more needs than there is money. Even if they go with an even budget if we don't raise our expenditures there is always something the state can spend it on. Do you believe the legislature would say we are going to put off all these other needs and give people the cash?

Rep. Nelson: The fact that there is always something the legislature would spend it on seems to be the problem. We are probably better off returning the money rather than spending it on something we can't sustain.

Rep. D. Larson: Where would the money come from and where would it be directed?

Rep. Nelson: I mentioned oil because it is a big player now. Say we had a big surplus at the end of a biennium we could distribute it to the citizens of ND. You could take it out of whichever funds you could legally take it out of. You couldn't touch the constitutional funds, but you could take from all the funds. It would be however you want to construct it.

Rep. Kretschmar: Other than Alaska do you know of any other states that have a provision to pay back money to their citizens?

Rep. Nelson: I don't think any other states have that capability. I think only Alaska has.

Chairman K. Koppelman: Looking at the section of the constitution you are amending; there previous paragraph is the one you are speaking of. Do you feel this language coming a paragraph later would conflict with the first?

Rep. Nelson: I think it is the specific having control over the general. The paragraph ahead of it is a general statement and then this is a more specific statement that says under these conditions the state can do this.

Chairman K. Koppelman: The paragraph before talks about the only option for distributing state dollars directly to individuals is for the reasonable support of the poor.
Rep. Nelson; No, that is where the general allocation comes from. This is saying we can distribute back to the people and it has to be a broad circumstance.

Chairman K. Koppelman: does that imply that it would only be used for poverty programs only?

Rep. Nelson: No because that is where the general allocation comes. When you look at the preceding one it is talking about the small groups or the individual, the corporation and

giving credit or giving aid. You can give money to an individual, but it is supposed to be in relief of poverty. It is two different circumstances so I don't believe one does conflict with the other.

Chairman K. Koppelman: Do you have any concern that should we pass this measure and should it be approved by the people, that we are opening a door to things perhaps none of us can imagine right now in terms of once you have this kind of provision in a constitution that says you can give state money to people the creativity probably will never end in terms of coming up with ways to propose that. If we had had that provision 4 or 6 years ago would we be in the strong financial position we are in now at the time of a huge drop off now.

Rep. Nelson: It is always tough to predict the future; but not fear it. I was always raised it is the government of by and for the people and I don't fear that. If we have taken those \$350 million in property tax relief and instead distributed in a onetime distribution as a \$500 payment to the people we would probably actually be in a better situation right now as a state because we wouldn't have an unfunded property tax relief hanging over our heads that we are not really sure how we are going to fund. It is just a different thought process on how you run the budget.

Rep. G. Paur: I believe Alaska does not distribute tax money. They distribute the income off their Heritage Fund there.

Chairman K. Koppelman: They are wringing their hands in Alaska how to balance their budget. This has a positive and negative side to it.

Rep. Lois Delmore: Do you think this would be fairer to residence in ND than property tax relief, income tax relief and some of the things we are talking about doing and have done in the past sessions?

Rep. Nelson: I think it is fairer to distribute to each person than it is to pay the property tax of one person and the other person hasn't got property to not give him something. Part of this tax is more of a royalty than a tax and it would be better and fairer distributed to the individuals of the state rather than providing tax relief.

Rep. L. Klemin: You mentioned you couldn't take money from other constitutional funds. One of the biggest is the Common Schools Trust fund where the royalties mostly go. When the land department rents out land it goes there.

Rep. Nelson: You are right. What we treat as royalties goes into our Common Schools Trust Fund for places where the state owns the mineral rights. This doesn't remove the protections from the constitutional funds. You couldn't just pass a law and take money out of the Common Schools Trust Fund.

Rep. L. Klemin: I am wondering how much money you could distribute under this kind of proposal with all these other funds that money has to go to.

Opposition: None

Neutral: None

Hearing closed.

Do Not Pass Motion Made by Rep. D. Larson: Seconded by Rep. Brabandt:

Discussion:

Rep. D. Larson: I think if we were to set something up like this it is awfully vague as far as where the money would come from; where the money would be taken from to pay out; but if we had something in statue like this I think that people would expect that the legislature would be giving them money and pretty angry if we didn't come through with that. Mr. Leman, that man that wrote the legislation for Alaska is the one I spoke to and he said that It really changed the demographic of their state as more people moved in just to get some free money. I think we have even seen that in western ND that more people are moving in for opportunity and some of those people are a criminal element that are moving in for that so we have changed somewhat too. This doesn't seem to be well thought out. I don't like the idea.

Chairman K. Koppelman: Alaska probably doesn't have a lot to spend it on since most of the state doesn't have roads or the things that require maintenance and infrastructure we do.

Rep. Mary Johnson: I am going to disagree with that position. The actual mechanics of how this would be distributed would will be decided at some future date. I don't think it is such a bad deal to give people of ND something back since they are paying taxes in ND. I kind of like the idea.

Rep. L. Klemin: I think this would be unwise to adopt as public policy. There would be considerable pressure on members of the legislature to pay their constitutions to give them money every session and I don't see how it would be workable in taking care of the priorities that we have. We would always have to be looking for what surplus we would have at the end and how much of that are we going to give to every man, woman and child in the state. I would support the motion.

Rep. P. Anderson: I think I like the idea. I think I look at it like it is Christmas and you want to give your kids \$500 now and maybe not next year if it is not such a good year.

Rep. Brabandt: With flood control projects needed in the state that total possibly as much as \$10 billion we can't be giving money away. Let's take care of that first.

Rep. Lois Delmore: I like the idea for fairness sake. Every kit gets it. Not just the two favorites. It may never be used, but it is a question that I think our citizens have asked as well and if we don't come up with our resolution it may very well be on the ballot anyway so I am going to support it.

Chairman K. Koppelman: We have had this resolution back to most sessions in recent history. Because we do have this provision in the constitution that says essentially that government is not going to give money to individuals except for reasonable support of war so our founders had some wisdom there. My personal opinion is that it is better to let people keep a little bit of what is theirs rather than the state collecting it and then devising some method for returning some of it.

Rep. Mary Johnson: When I prepare tax returns and there is a laundry list of 12-14 tax credits to which you have to answer yes or not if you are eligible. That is the government giving money back and it is not all poor. I don't think this will open any sort of flood gates.

Chairman K. Koppelman: I think the legislature of ND has done and the people of ND have done a wonderful job wisely and we have demonstrated a great wisdom in setting up the Legacy Fund for example and the common schools trust fund and the foundation aid stabilization aid fund and some of the things that came as a result of that. I think the Legacy Fund is the way to put money away and provide for the future when the downturn comes and of course at the same time we have reduced taxes and have provided people to keep more of their own.

Rep. K. Hawken: I think not being able to do it is a marvelous cop out for the legislature. I do not know if this is a good idea or not. Most of the things I think should get funded don't get funded. I think we should bond and pave highway 85. The one piece about that I do like is the fact that it doesn't set up a payment plan it just says you could at some point if you wanted to.

Rep. Maragos: Under initiative and referendum if we pass this law and change the constitution then we would have little groups out there running around putting these things on the ballot and I don't think I like that so I am going to support the do not pass motion.

Roll Call Vote: 9 Yes 4 No 0 absent; Carrier; Rep. Maragos

Date: 2-23-15
Roll Call Vote #: /

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 3013

House JUDICIARY Committee

☐ Subcommittee ☐ Conference Committee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☐ Do Pass ☒ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep. Larson Seconded By Rep. Brabandt

Representative	Yes	No	Representative	Yes	No
Chairman K. Koppelman	✓		Rep. Pamela Anderson		✓
Vice Chairman Karls	✓		Rep. Delmore		✓
Rep. Brabandt	✓		Rep. K. Wallman		✓
Rep. Hawken	✓				
Rep. Mary Johnson		✓			
Rep. Klemin	✓				
Rep. Kretschmar	✓				
Rep. D. Larson	✓				
Rep. Maragos	✓				
Rep. Paur	✓				

Total (Yes) 9 No 4

Absent 0

Floor Assignment Rep. Maragos

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HCR 3013: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO NOT PASS** (9 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HCR 3013 was placed on the Eleventh order on the calendar.

2015 TESTIMONY

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#1
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Pg 1

Chairman Koppelman, members of the Committee, I am Marvin Nelson Representative District 9.

HCR3013 calls for changing the ND Constitution to allow a distribution of money to the people of ND.

There are some conditions, it is to be a general, meaning the vast majority of the people. There could be some exceptions, there may for instance be some who for whatever reason do not want to receive the money, but the idea is that it not be a select class.

Some of the things the distribution cannot be based on are one's property or income as well as age.

A period of residency can be established so there is not an influx just to get the payment.

Now a lot of people instantly jump to the idea of annual payments such as Alaska. I guess we could do that, though the Legacy Fund would need to grow substantially before it would support such a distribution, but my primary idea is one of the state budgeting.

The collapse of tax money due to the reduction in prices of grain and now oil shows what can happen on the flip side. Tax income as well can grow very rapidly. The question becomes what do you do when you have billions in extra money. My idea is to keep taxes stable and if the state receives substantially more than it needs, there could be a distribution to bring it into balance, because if you reduce taxes and then get rid of that surplus then you are spending more than you are taking in. That means you need to readjust taxes again. I remember what happened in the 70's and 80's, if people are not paying a tax when times are booming, they certainly don't want to start when things are collapsing.

Instead of doing that, I would argue that a distribution much like a co-op distributes excess earnings would make more sense.

We could expand this so that instead of doing things like buying down property tax we could have gone to a distribution and you pay your own property tax. Instead of doing what we are doing now, we could instead have been distributing several thousand per person per biennium and you pay whatever you want out of that.

The idea behind it is that the oil is really owned collectively by the people of ND, and while there is certainly a tax to pay for things like infrastructure, there is also what we call a tax that is more of a royalty. What we are currently doing unevenly distributes that royalty. Result is that there are a lot of people in ND who would tell you that the oil boom has done nothing for them but raise their costs. If they were at least occasionally receiving a payment, you would not hear such statements.