

2013 HOUSE FINANCE AND TAXATION

HB 1223

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1223
January 22, 2013
Job #17509

Conference Committee

Committee Clerk Signature

Mary Brucher

Explanation or reason for introduction of bill/resolution:

A Bill relating to a refundable individual income tax credit to provide tax relief by refund of a portion of state and local taxes.

Minutes:

Attached testimony #1

Chairman Belter: Opened hearing on HB 1223.

Representative Glassheim: Introduced bill. See attached testimony #1.

Representative Dockter: So if a married couple files a return they would receive \$800, \$400 each towards their tax liability if they owed to the state, is that correct?

Representative Glassheim: That is correct.

Chairman Belter: Is that correct that it would be a one year residency requirement?

Representative Glassheim: I'm open to any amendments. I thought that would be sufficient. I wanted to prevent people from coming here just to get \$400 for a month or two months.

Chairman Belter: So how would college students be treated?

Representative Glassheim: They would have to show they lived here for one year. If they just came and went back for the summer that wouldn't qualify.

Representative Schmidt: In the case of a military individual how would this fit in?

Representative Glassheim: I can see where that would be a bit of a problem. Alaska has about 20 categories and they give \$1000 back if it's in the fund. I don't know if there's a simple way to do that but I would be willing to look at that.

Representative Schmidt: I lived in Alaska for 10 years and received a permanent dividend check for 10 years and I've seen a lot of benefit from that. The military issue was a huge issue there from 1992 to 2002 and how you accounted for those individuals. The

other part of it was that you had to be there from January 1 through December 31 in order to collect and then you didn't collect until the following October or November. Military is an extreme issue and it needs to be addressed and we can't lose those people in this.

Representative Glassheim: I would agree. If we can think of a way to amend this in there I think it is needed. They deserve to be in I just wasn't sure how to do it.

Chairman Belter: Any further testimony in support of 1223? If not, is there any opposition to 1223?

Bill Shalhoob, Greater North Dakota Chamber: We are in favor of tax relief and individual tax relief. I don't know if there's a constitutional issue. In 2007 the first property tax relief bill was given in the form of a credit. People applied then the treasurer's office replaced that money at the local property level. When we read the bill we felt that it fell under the same category. There was a lot of confusion over that tax credit, it allowed for \$1,000 a year. I think it was difficult to administer and there was a lot of questions about use and a number of the taxpayers weren't aware of it so they didn't get the credit. This tax credit is good when it's targeted to a veteran's preference, a homestead tax credit to people over sixty five, and things like that. I question the administrative problems that may arise if we did this as a general basis. We would prefer tax reductions that are ongoing rather than one time. We disagree with Representative Glassheim about the fund balance. We are not looking for a little bit we are looking for a lot and we think our fund can do that as evidenced by the general shape of it.

Vice Chairman Headland: Over the past few sessions we have provided relief by reducing the levels of the brackets in income for business and individual. I think we are starting to see the benefit of that. Can you give us any idea on how we would compute and how they might spend it. Is there anything we're missing here that would provide for growth of our tax base?

Bill Shalhoob, Greater North Dakota Chamber: I think on the federal level the model is made to do this. The stimulus package was designed to put money into the economy based on income of the people and the money got spent. It provided a boost and in this case it's a boost in the general economy. I don't know that this economy needs that kind of stimulus right now. The economy in North Dakota is pretty good in terms of sales and things like that. We prefer to take a long term picture by reducing rates as much as we can across categories and provide as much property tax relief we can to the residents.

Vice Chairman Headland: I'm just trying to see if I'm missing anything because the only benefit I can see from doing this is the possible increase of sales tax.

Bill Shalhoob, Greater North Dakota Chamber: I would agree. There is going to be a benefit from the one time spending. We could do this better.

Representative Froseth: We have a lot of money but there are needs in the state. Wouldn't it be as much benefit if we would take care of these needs first? We have the opportunity now to fix the state for decades and still put aside money for future generations.

Bill Shalhoob, Greater North Dakota Chamber: We agree with you completely. Our priority is the infrastructure bill as proposed by the governor. We understand the water problems and we are also supporting those. We just want to make sure the tax deductions have a fair place in the conversation.

Chairman Belter: Any other opposition to 1223?

Sandy Clark, North Dakota Taxpayers Association: We stand in opposition on this bill.

Chairman Belter: Any other testimony in opposition to 1223? We have a question for the tax department.

Vice Chairman Headland: Could you provide us with the number of taxpayers whose tax obligations will be wiped out with the passage of this bill?

Donnita Wald, Legal Counsel for the tax department: Not on this bill but a bill on this in the Senate the average tax liability for 2011 was \$885 so deduct \$400 from that so for the most part you wouldn't have a refund check.

Vice Chairman Headland: Do you have any idea how many taxpayers that would entail?

Donnita Wald, Legal Counsel for the tax department: There are about 300,000 and some filers in the state. Whether or not those could be claimed is a question because they could be claimed on their parents' return which is an exception or they don't have their primary residence in the state. Particularly those that are 18 years are probably still being claimed on their parents return.

Vice Chairman Headland: I don't know how many taxpayers file married and jointly but this bill would wipe out their tax liability.

Donnita Wald, Legal Counsel for the tax department: That is correct.

Chairman Belter: Is the \$885 per capita or those filing?

Donnita Wald, Legal Counsel for the tax department: That would be based on our filing records, not per capita. Taking everybody together the averages are \$885.

Chairman Belter: Any other questions of the tax department? If there's no further questions I will close HB 1223.

2013 HOUSE STANDING COMMITTEE MINUTES

House Finance and Taxation Committee
Fort Totten Room, State Capitol

HB 1223
February 5, 2013
Job 18340

Conference Committee

Kristi Hetzler

Explanation or reason for introduction of bill/resolution:

A Bill relating to a refundable individual income tax credit to provide tax relief by refund of a portion of state and local taxes.

Minutes:

Representative Drovdal: Made a motion for Do Not Pass.

Chairman Belter: I'm sorry we have an amendment for this.

Representative Headland: Move to Amend. .02001.

Representative Owens: Just for the committees information and the record, an individual that is a resident and joins the military that is their home of record until they formally change it.

Representative ?: If we pass this and that person chosen to change their residence he would still qualify as a resident.

Representative Headland: Withdraws his motion to amend.

Representative Drovdal: Motion a Do Not Pass.

Representative Dockter: Second

Yes: 10

No: 4

Absent: 0

Carried by: Representative Trottier.

FISCAL NOTE
Requested by Legislative Council
01/15/2013

Bill/Resolution No.: HB 1223

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(212,000,000)			
Expenditures						
Appropriations			\$1,000,000			

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

HB 1223 creates a refundable income tax credit.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

HB 1223 creates a one-time, refundable, individual income tax credit of \$400 for every resident aged 18 or older, provided the resident cannot be claimed as a dependent on another person's tax return.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

HB 1223, if enacted, is expected to reduce state general fund revenues by an estimated \$212 million in the 2013-15 biennium.

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

Section 2 of HB 1223 provides an appropriation of \$1 million from the state general fund to the tax commissioner for the purpose of providing information about, and administering, the provisions of this bill.

Name: Kathryn L. Strombeck

Agency: Office of Tax Commissioner

Telephone: 328-3402

Date Prepared: 01/21/2013

Date: 2-5-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1223**

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Drockter ^{Drovdal} Seconded By Withdrawn

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovdal			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Drockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-5-13
 Roll Call Vote #: 2

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1223**

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment ²⁰⁰¹
 Rerefer to Appropriations Reconsider *W. Johnson*

Motion Made By Rep. Headland Seconded By Rep.

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter			Rep. Scot Kelsh		
Vice Chairman Craig Headland			Rep. Steve Zaiser		
Rep. Matthew Klein			Rep. Jessica Haak		
Rep. David Drovda			Rep. Marie Strinden		
Rep. Glen Froseth					
Rep. Mark Owens					
Rep. Patrick Hatlestad					
Rep. Wayne Trottier					
Rep. Jason Dockter					
Rep. Jim Schmidt					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Date: 2-5-13
Roll Call Vote #: 3

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1223

House Finance and Taxation Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: Do Pass Do Not Pass Amended Adopt Amendment
 Rerefer to Appropriations Reconsider

Motion Made By Rep. Drovdal Seconded By Rep. Dockter

Representatives	Yes	No	Representatives	Yes	No
Chairman Wesley Belter	✓		Rep. Scot Kelsh		✓
Vice Chairman Craig Headland	✓		Rep. Steve Zaiser		✓
Rep. Matthew Klein	✓		Rep. Jessica Haak		✓
Rep. David Drovdal	✓		Rep. Marie Strinden		✓
Rep. Glen Froseth	✓				
Rep. Mark Owens	✓				
Rep. Patrick Hatlestad	✓				
Rep. Wayne Trottier	✓				
Rep. Jason Dockter	✓				
Rep. Jim Schmidt	✓				

Total (Yes) 10 No 4

Absent 0

Floor Assignment Rep. Trottier

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

REPORT OF STANDING COMMITTEE

HB 1223: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO NOT PASS (10 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HB 1223 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HB 1223

#1

NDLA, H FIN - Brucker, Mary

From: Glassheim, Eliot A.
Sent: Thursday, January 24, 2013 2:49 PM
To: NDLA, H FIN - Brucker, Mary
Subject: \$400 Rebate

Mary,
Here's what I was reading at the hearing. I'm sending it from my iPad, hope it gets there.
Eliot Glassheim

\$400 Rebate

House Bill 1223 provides for a one-time \$400 rebate of taxes to every adult over the age of 18 who has lived in the state during the January 1-december31, 2014taxable year.

I put the bill in for a constituent of mine who was aware that we were well on our way to having a surplus of \$1.5 Billion, beyond what we anticipated and beyond what we thought we needed.(roughly a 41 percent error in budget projectiopppp

Many of my friends opposed the idea because they believed we had urgent needs on which to spend the surplus. As you may know, in general I favor government spending for good purposes. But with the surplus so large, I found myself in the odd position of adopting a portion of Tea Party recommendations, that is, put some of the surplus back in the pockets of the people.

Now we all came down here knowing that some portion of the surplus would have to be given back. The fight of the session will be how much and how? Some want to permanently lower or do away with the income tax; some want to permanently replace 82 percent of school property taxes; some want to lower or do away with the corporate income tax; my last bill took a shot at modestly lowering sales tax by eliminating the tax on clothing.

Let me give you the argument for giving money back to taxpayers in the method I propose in 1223. All the other methods are permanent. Once you commit to lowering income or corporate tax rates, it will be almost impossible to go back. We've seen this at the national level; they cut tax rates when they were flush and then when they needed the money, they couldn't raise them. Who among you will be the prime sponsor of a bill to raise taxes even if the state finds itself short of revenue? And who among you will vote to reduce state funding of schools, thus causing an increase in local property taxes, once we have committed to them?

As cautious North Dakotans, we are very careful to distinguish between one-time expenditures and on-going expenditures. But we need to apply the same caution in distinguishing between one-time and on-going tax reductions. In the plan to increase state funding of education by over \$300 million a biennium we're committing to renounce that money forever. To me, this is reckless.

Lynn Helms, the most knowledgeable oil manager in the state, has warned: "it's not all roses and sunshine. There are some serious risk factors." In briefing the House appropriations committee, he spelled out some of the risk factors: new federal regulations, increased competition from oil fields throughout the US and around the world, a struggling world economy.

A recent story in the Bismarck Tribune said that "ample oil supplies and weak US demand (for gasoline) will keep a lid on prices.the lows will be lower and the highs won't be so high compared to a year ago....US gasoline consumption is back down to 2002 levels because of more fuel-efficient cars and the tepid economy."

p. 2 #1

I don't mean to sound negative, but let's not gamble with so many unknowns. Over the next three to ten years, we don't know what rules will govern fracking; we don't know what new Bakken will be discovered; we don't know when or if the electric engine will replace the gasoline engine; we don't know if new technologies will make other geologic deposits more attractive; we don't know if Middle Eastern countries will undercut the price of oil to regain market share. All I'm saying is, give the people back money you have in the bank but don't give away money you don't yet have.

While we do not require each individual to calculate how much of each tax he or she paid into the state, we base the refund on the presumption that all citizens will pay at least \$400 into state coffers in a year in sales taxes, income taxes, cigarette, liquor, gasoline and gaming taxes, as well as license fees, car registration fees and other taxes and fees.

There is likely to be some discussion of the Constitutionality of this bill, since the North Dakota Constitution (article X, Section 18) prohibits the state from making "donations to or in aid of any individual ...except for reasonable support of the poor."

I would make three points about the Constitutionality: (1) the words "any individual" suggest to me one or a few individuals who might be getting favored treatment or payola from legislators, but not 500,000 individual North Dakotans; (2) other states with anti-gift language in their constitutions do not prohibit gifts when they serve a broad public purpose; (3) all laws we pass are deemed constitutional and require four of five justices to find them unconstitutional.

Let me conclude with a brief word about why we should distribute some of our oil surplus to everyone. Many people are making a great deal of money from the development of oil put below the western part of our state by God and nature. By skill, by chance, by hard work, by investment, oil company owners, drillers, mineral rights owners, oil field workers, truck drivers, attorneys, CPAs, engineers, car dealers, construction contractors and many others are reaping the rewards of oil development. I have no problem with that. But might not the state of North Dakota share just a little bit of the fruits of God's bounty with every adult? We are enjoined to let others glean the remnants of the harvest from our fields. Let this bill for a \$400 refund be thought of as The Gleaning Bill.

Let me go quickly through the bill:

\$400 goes to adults who have lived in North Dakota for all of 2014; It is a credit against taxes owed or a refund; the estimated cost is \$212 Million; it is alone time credit--if there is a surplus in 2015 the next legislative session can decide to do it again; there is a penalty which i hope will deter most improper applications; and there is \$1 Million appropriated for administering the tax credit, which is I think is very low cost of about one half of one percent to administer the refund.