

2013 HOUSE JUDICIARY

HCR 3036

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HCR 3036
February 25, 2013
Job 19440

Conference Committee

Jacelyn Gallagher

Explanation or reason for introduction of bill/resolution:

A concurrent resolution to amend and reenact section 18 of article X of the Constitution of North Dakota, relating to constitutional authorization for the legislative assembly to provide by law for direct payments to North Dakota residents.

Minutes:

Handout 1

Chairman Koppelman: Called committee back to order and opened hearing on HCR 3036.

Rep. Steiner: (0.55) (Handout 1) provided information/explanation on HCR 3036.

Rep. Larson: Have you talked with anyone in government from Alaska regarding the current trust fund?

Rep. Steiner: I have not.

Rep. Boehning: Where would the money come from to fund this?

Rep. Steiner: Where does the money come to backfill the property taxes?

Rep. Boehning: Is it going to come from the oil extraction tax, how we going to fund it or an appropriation we automatically put in through the general fund into this to build it?

Rep. Steiner: I wasn't looking at telling the legislature at how they would set up the parameters. I was looking at giving the voters a chance to see if they wanted a direct check versus seeing it on their property tax statement.

(7:30) Discussion

Rep. Delmore: (9:20) Can we cut a check or direct deposit. Did you look at what our laws say about issuing a direct check to someone?

Rep. Steiner: I remember legislation for businesses if the employer wanted to have direct deposit it would be allowed. You could put in language that said its direct deposit, if you don't sign up on the website by the deadline, you don't get the check.

Rep. Delmore: Would your intent for every man, woman, and child from the state to have this money or those people that are of age?

Rep. Steiner: I don't. It could go just to property tax owners as well, just leave the legislative assembly to set the parameters.

Chairman Koppelman: Closed hearing HCR 3036.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HCR 3036
JOB 20037
DATE March 18, 2013

Conference Committee

Carmen Hecke

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Chairman Kim Koppelman: Opens HCR 3036 for committee work. We have had these in the past and the Constitutional Revision committee has grappled with this idea. I have never heard the Alaska twist that we have this year. Their idea was when ND had a surplus the discussion was is it better to lower taxes or to send people a check? I wonder if there a conflict with the new language and the current language in Section 18. The current language in Section 18 says the state may not lower or give it credit or make donations to or in aid of any individual, association or corporation except for reasonable support of the poor. We go on to say the Legislature may provide by law for direct general allocations of state funds to ND resident individuals. So I think it is a different approach the ones we have seen before deal with the current language in the Constitution by amending it. This one adds that new section but the first part says we can't and then add this parts that says we can. I don't know how courts or the Legislature would deal with that. If this would pass it would be a carve out and say you could do this.

Rep. Vicky Steiner: As I read Section 18 I am surprised they can do the economic development or the Reissuance zone because it does benefit certain business over others. So are we following the Constitution?

Chairman Kim Koppelman: The Supreme Court says yes. On the previous resolution that was the point and that's why I say it makes sense to sponsor a bill if that is the intent because what the Supreme Court is relying on is case law.

Vice Chairman Larry Klemin: If this was approved I wonder if we would get people to move here for 30 days to vote on this to see if it passes, then if it does stick around for the year to get the money.

Rep. Lois Delmore: We keep talking about it is the people's money and I like this concept. I have heard from people what Rep. Steiner said give me the money I will decide where I want to put it.

Rep. Gary Paur: I like Rep. Steiner's idea and it is a much better idea, I think your intent was it would go back to the people who are paying property taxes. I think it would also restrict the counties and school districts because you would be paying the full taxes for that. If you took our refund out of that equation then if they raise the taxes the people would see it.

Rep. Randy Boehning: I checked with Alaska and one year they get a thousand and the next year they get eight hundred and ask why are not getting their two hundred back. I think it's a good idea but on the other hand we have so much surplus we need to be cutting taxes and let the people have their money all year around instead of waiting for the first of the year to get a check back. Are people going to move here just to get their one check? Our problem is if we have too much money we are collecting to many taxes.

Vice Chairman Larry Klemin: I don't think we could establish by law a provision that says we are only going to apply it on property taxes and people that don't pay property taxes get nothing. There are other provisions taxes have to treat everybody uniformly. So we would have to end the situation like Alaska does. Does every man, woman and child get a check?

Rep. Roger Brabandt: It's like getting bonuses, once you start this you never stop. You can't stop.

Rep. Vicky Steiner: I think we have to recognize that we have started back filling something we can't control. We cannot control local property tax and we are back filling it. I was not a Legislature when that started but I would have opposed it and now I am forced into voting for it because it is the option we have. It is under the local control how they set the property taxes and if you don't like how they do it then don't elect those people. We are protecting the same people that could increase those local property taxes by back filling. This way we say that we can support for everybody across the state and we set the rules. We establish the terms. We can say are we going to send that check back or just have a minus on their property tax statement on something you can't control?

Vice Chairman Larry Klemin: In determining eligibility in terms and conditions Legislature would have to be cognizant of other provisions of the Constitution that talk about treating people equally and uniformly. So you couldn't have it for property owners and not for non-property owners.

Rep. Randy Boehning: When Governor Venture gave back in MN when they had a billion dollar surplus they are still blaming him because they are having deficient problems and it has been 12 years ago.

Chairman Kim Koppelman: We should remember when we first started doing this, the Legislature was always blamed for high property taxes, we did not collect property taxes, except for the medical school, and the question was how do we relieve something that we do not collect? We first looked at income tax therefore if you pay property taxes you can

get this reduction on you income tax. Then we went to the plan we have now, I would much rather restrict the growth in property taxes and find other ways to deal with it. We are talking this session those other property tax entities and whether we should do something to restrict growth or give you money. Line 18 and 19 of the current language say except for refund of taxes collected or reasonable support of the poor. I think that is how other provision measures we looked at read. I think the language here gets convoluted. If this is seen as a rebate to everybody it does not solve the problem of property tax and those burdened with high property tax a check because it would go to everybody.

Rep. Diane Larson: Made a do not pass motion.

Rep. Randy Boehning: Second the motion.

Rep. Gary Paur: It's probably too late but I would have proposed to adopt your suggested amendment.

7-5-2

Rep. Randy Boehning: Will carry the bill.

Time on Tape 37:40

Rep. Gary Paur: The bill as it is written I'm against. If we would reconsider it I would change my vote. I don't know if there would be enough other support for that.

Chairman Kim Koppelman: Stated there would need to be a vote to reconsider. No other motions. He also stated they could think about it and discuss in later in the day also.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HCR 3036
JOB 20104
DATE March 18, 2013

Conference Committee

Carman Hicks

Explanation or reason for introduction of bill/resolution:

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

Minutes:

Started at time mark 1:32:32 on recording 20104

Chairman Kim Koppelman: Asked if there was any reconsideration from morning for HCR 3036.

Rep. Vicky Steiner: Stated it was to allow the state to send a direct check to residents by statue of law. Perhaps there should be part of a sentence that say "except for tax refunds" so there would be no confusion on the paragraph ahead of it. John Walstad was working on an amendment.

Rep. Vicky Steiner: Made a motion to reconsider action on HCR 3036.

Rep. Gary Paur: Second the motion.

Chairman Kim Koppelman: What you have before you is to delete lines 22 through 24 on page 1 and lines 1 and 2 on page 2.

Rep. Vicky Steiner: Between lines 18 and 19 support of the poor (comma) insert "except for refunds of taxes".

Chairman Kim Koppelman: This is not correct then. What we had before I think after "poor" instead "or refunds of taxes paid" and the rest of it can be deleted as it would allow a check back to the tax payers.

Vice Chairman Larry Klemin: I'm going to object to reconsider because we are shifting things two of the people who voted no previously are now absent and two of the people who didn't vote are now present. The point to reconsider is to put in the amendment we

would have to vote again. The result could be completely different and not because of the amendment.

Motion and second was withdrawn.

Chairman Kim Koppelman: We had a do not pass 7-5-2 and Rep. Boehning is the carrier. That will stand.

Ended at time mark 1:37:11 on recording 20104

Date: 3-18-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3036

House Judiciary 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. Larson Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore		/
Vice Chairman Lawrence Klemin	/		Rep. Ben Hanson		
Rep. Randy Boehning	/		Rep. Kathy Hogan		/
Rep. Roger Brabandt	/				
Rep. Karen Karls	/				
Rep. William Kretschmar	/				
Rep. Diane Larson	/				
Rep. Andrew Maragos					
Rep. Gary Paur		/			
Rep. Vicky Steiner		/			
Rep. Nathan Toman		/			

Total (Yes) 7 No 5

Absent 2

Floor Assignment Rep. Boehning

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

Date: 3-18-13
Roll Call Vote #: _____

**2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3036**

House Judiciary 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. Steiner Seconded By Rep. Paur

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

Withdrawn

REPORT OF STANDING COMMITTEE

HCR 3036: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **DO NOT PASS** (7 YEAS, 5 NAYS, 2 ABSENT AND NOT VOTING). HCR 3036 was placed on the Eleventh order on the calendar.

2013 TESTIMONY

HCR 3036

2-25-13

HCR 3036

handout 1

Mr. Chairman, Members of Judiciary, for the record my name is Vicky Steiner. I represent District 37, Dickinson.

This constitutional amendment speaks to a request I had from a constituent.

With all the property tax proposals that essentially subtract debt, why not reverse that and just send a check?

The legislative assembly may provide by law for direct general allocations of state funds to North Dakota resident individuals upon eligibility terms and conditions established by law. An allocation authorized under this section must be in a uniform amount for each eligible individual. The legislative assembly shall establish a minimum period of continuous residency in this state immediately preceding eligibility for an allocation, but that residency period may not be less than one year.

If approved, this language would allow the legislature to decide if they would rather send a check to residents than backfill school property tax as is proposed in HB 1319. This bill would go beyond just property tax payers. It would most likely include residents which would include the renter population.

Alaska has a system we can look at for example. It's the only state that currently sends residents a check. In 2012, Alaskans received \$878. 2011, it was \$1,174. The largest check was \$2,069 in 2008. They established this system in 1982. Alaskans must establish a one year of residency and sign up on their state website by the deadline listed to qualify for the check. Their oil fund is about \$40.1 billion.

There's also no state income tax in Alaska but they do pay federal income tax on the check.

They have a website where residents sign up for the check. Most of them do a direct deposit but the state will also send a check. They use the 5 year smoothing to determine the amount of money eligible for distribution. Alaskans watch their Governor rip open an envelope each year and the amount of refund is announced.

One of the critics of this approach is that our citizens will be upset if the check decreases over time. I think that's the beauty of it. We are currently backfilling local property tax which as state legislators we don't have direct control on. This would be a simpler approach. They can use the check to pay their property taxes and we could organize it to arrive with their property tax statement.

We can send a check and they can pay their property tax with it but the amount is easily adjusted by the legislature depending on what happens with the state revenues.

When residents receive this check, it's also likely some will spend it and it will generate sales for some of the ND businesses.

Please consider support for HCR 3036.

13.3088.01001
Title.

Prepared by the Legislative Council staff for
Representative K. Koppelman
March 18, 2013

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3036

Page 1, line 19, after "poor" insert "or direct general allocations as permitted in this section"

Renumber accordingly