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*10/16/03*  
Date

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2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HCR 3033

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10/16/03  
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3033

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 2-13-03

Tape Number	Side A	Side B	Meter #
1	x		36.6-end
1		x	0
Committee Clerk Signature <i>Joseph Runkle</i>			

Minutes: Vice Chairman, Representative Grande: called the hearing to order on HCR 3033. All committee members were present.

Representative Klein: was present and gave testimony in favor of HCR 3033. The resolution came about as many of you recall we had a bill in this committee HB 1177. Which make some majors changes in the original set up of the National Guard, for the militia as originally defined. Part of the problem is there is a constitutional revision required and that bill will be acted on in the next election hopefully, after that we were kind of putting the cart before the horse on HB 1177. So what we have before us know is the resolution to the interim, that after the election that we hopefully is successful, then sit down and make the revisions that are required. What happened after they defeated that bill is the attorney came to us and said, we need to put in a resolution.

Representative Sitte: I thought that resolutions we suppose to be, shall study and you say that concurrent resolution directing the legislative council to study.

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House Government and Veterans Affairs Committee

Bill/Resolution Number HCR 3033

Hearing Date 2-13-03

Representative Klein: I believe in this case this needs to be done if that election is successful, its just one of the things we are going to change.

Representative Sitte: can you give some rational on why we need to study it?

Representative Klein: I think over the years, and this goes way back to when the militia was formed when we became a state, for the first time the regiment was called into active duty was during the Spanish American War. I believe a large number of North Dakotans received the Congressional Metal of Honor, which was very unusual for the amount of people involved. When that originally got set up, there were many rules and guidelines, one of the little ones that I remember was that you had to be a male between the ages of 19 and 44. The world has changed I think we need to go along with that.

Representative Winrich: I'm the carrier of 3005 from the Constitutional Revisions Committee, which is scheduled for action in tonights session, and that Constitutional Amendment will eliminate several sections of Article 11 of the Constitution relating to the militia and military forces, Representative Klein eluded to one of those, some of the other sections refer to the Legislature establishing the various arms of military service, we don't do that, it is done at the national level. They refer to legislature appointing officers or providing for the election of officers in the militia and that is not done anymore. So basically what we are doing is updating several sections of the Constitution, and also need to update the Century Code in order to comply with those changes and that is what those resolutions address. I don't think there is any intention to change the nature of allegience that the National Guard owes to the state of North Dakota, but simply a recognition that these organizations do bear a relationship to the national military

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House Government and Veterans Affairs Committee

Bill/Resolution Number HCR 3033

Hearing Date 2-13-03

organizations as well. And as a state in the union, our laws and constitution need to reflect that as much as any other state.

Major General, Mike Haugen, Adjutant General, National Guard of North Dakota: appeared in favor of HCR 3033. And presented written testimony, **(SEE ATTACHED TESTIMONY)**. We have been studying this and believe in changing of the constitution for quite a while, and it is time to update and remove the gender, residency, and age restriction that will then allow us to fall in line with federal government mandate on who can be in the military of the United States. We have many of the answers to the questions can be handled by our office.

Representative Sitte: My question is why do we need a study?

Major General, Mike Haugen: I think the study should be as much as an education process and develop new areas.

Col. Al Dormann, Jag, North Dakota, National Guard: appeared in favor of HCR 3033. I can clear up and explain on this militia issue a little bit more. We thee proposed constitutional amendment before us, I think we will bring our Constitution in line with the Federal Constitution and the number of other states, the Federal Constitution provides for militia that comes from each state. The militia is military forces with in a state. The change we are recommending for our Constitution will state the legislative assembly will provide for the military forces of this state and it is up to the legislative assembly to decide what those military forces should be.

We must have a militia available for the federal governments use as needed. We will still be able to do that under statutory law. One of the problems we have is we have a National Guard that is never going to go away, that is a federally funded organization available to both the government and the state of North Dakota and the President of the United States, he calls us up. In addition

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Yolanda Rickford  
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10/16/03  
Date

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House Government and Veterans Affairs Committee

Bill/Resolution Number HCR 3033

Hearing Date 2-13-03

we have in the state of North Dakota right now a reserve militia, and we also have a state defense force that was established in 1983 to 1986, when you look at all of these organizations I'm not sure how they all inter-relate. Why do you need a state defense force and a reserve militia? We need a reserve organization like the reserve militia, or a state defense force available to the Governor, I don't think we need both. I think the legislative council can study this figure out what the best vehicle is to have this reserve organization and just have the one. When I look to what the other states have done, they have stayed with the reserve militia. The reason we need a study is, we need a lot of sets of eyes on this. We need a set of laws that will serve this state well into the future. Under our current statutory law, if fifty percent of our units are outside the state the Governor can send up his defense force, National Guard officers and enlisted persons, and then we could start pulling in the militia so to speak and that would be men ages 18-45, and those who would want to volunteer.

John Jacobson, Legislative Committee, North Dakota Veterans Coordinating Council: appeared in favor of HCR 3033. The council has asked me to ask you to support this piece of legislation in its fullest.

Representative Devlin: made a **DO PASS** motion on HCR 3033.

Representative Haas: **SECOND** the motion.

**VOTE: 13 YES 0 NO 1 ABSENT.**

**Motion carried.**

Representative Winrich: will carry the bill to the floor.

Meeting adjourned.

LR

Date: 2-13-03  
Roll Call Vote #: HCR 3033

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO.

House GOVERNMENT AND VETERANS AFFAIRS Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Pass

Motion Made By Rep. Devlin Seconded By Rep. Haas

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	X		B. Amerman	X	
Vice Chairman B.B. Grande	X		L. Potter	X	
W.R. Devlin	X		C. Williams	X	
C.B. Haas	X		L. Winrich	X	
J. Kasper	A				
L.R. Klemin	Y				
L. Meier	X				
M. Sitte	X				
W.W. Tieman	X				
R.H. Wikenheiser	X				

Total (Yes) 13 No 0

Absent (1) Rep Kasper

Floor Assignment Rep. Winrich

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

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Ja Costa Richardson 10/16/03  
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)  
February 13, 2003 2:36 p.m.

Module No: HR-28-2628  
Carrier: Winrich  
Insert LC: . Title: .

**REPORT OF STANDING COMMITTEE**  
**HCR 3033: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman)**  
recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR (13 YEAS,**  
**0 NAYS, 1 ABSENT AND NOT VOTING)**. HCR 3033 was placed on the Tenth order  
on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-28-2628

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Richard A. Costa  
Operator's Signature

10/16/03  
Date



2003 SENATE POLITICAL SUBDIVISIONS

HCR 3033

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La Costa Rickford  
Operator's Signature

10/16/03  
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3033

Senate Political Subdivisions Committee

Conference Committee

Hearing Date March 13, 2003

Tape Number	Side A	Side B	Meter #
1		X	1215 - 2012
Committee Clerk Signature <i>L. Shirley Long</i>			

Minutes:

**CHAIRMAN COOK** called the committee to order. All members (6) present.

**CHAIRMAN COOK** opened the hearing on HCR 3033 to revise references to the militia and the National Guard.

**REPRESENTATIVE KLEIN**, District 40 out of Minot, introduced HCR 3033 which was brought to them by the National Guard to update the language in the code that has existed for some fifty years and some of the things in there are no longer applicable. For instance it talks about to belong to the guard you have to be a male between the ages of eighteen and forty five. The whole thing needs to be updated. Originally when they came to us there was another resolution involved with this one. They had a partial solution to it but it depended on that resolution changing the constitution and that resolution failed in the Senate. So now we are back to updating or recreating this. We need to move ahead and get the language corrected and come

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*Jo Costa Rickford*  
Operator's Signature

*10/16/03*  
Date

Page 2  
Senate Political Subdivisions Committee  
Bill/Resolution Number HCR 3033  
Hearing Date March 13, 2003

in line with what is happening from the federal level with some new guide lines that come down, addressing some of the old issues such as who can belong to the guard and so forth.

**LTC Alan Dohrmann**, attorney for the Adjutant General's Office, appeared to lend the support of the National Guard for HCR 3033. (See attached testimony)

**SENATOR COOK** asked if there is an effort and if for some reason that effort was successful, and you said we could do it this way, there is still a possibility that this might not be needed but that the court is still open, is that correct?

**LTC Dohrmann** answered that that was correct. He spoke with the legislative council, and he is struggling with some of the same issues.

**Jim Coats**, District 34, Mandan, ND, Veteran of World War II and Korea and a member of the subcommittee of the Veterans Coordinating Council which is made up of all veteran's services. The Coordinating Council voted one hundred per cent to support this resolution. There are ten chapters in the century code that are very outdated and so this is a housecleaning and updating resolution.

No further testimony.

**CHAIRMAN COOK** closed the hearing on HCR 3033

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3033

Senate Political Subdivisions Committee

Conference Committee

Hearing Date March 27, 2003

Tape Number	Side A	Side B	Meter #
2	X		149 - 230
Committee Clerk Signature <i>Shirley Long</i>			

Minutes:

CHAIRMAN COOK called the committee to order. All members (6) present.

CHAIRMAN COOK said he didn't think we need this bill.

SENATOR JUDY LEE moved a DO NOT PASS on HCR 3033.

SENATOR GARY LEE seconded the motion.

Roll call vote: Yes 6 No 0 Absent 0

Carrier: SENATOR COOK

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*Yolanda Richardson* 10/16/03  
Operator's Signature Date

Date: 3-27-03  
Roll Call Vote #: 1

**2003 SENATE STANDING COMMITTEE ROLL CALL VOTES**  
**BILL/RESOLUTION NO. HCR 3033**

Senate Political Subdivisions \_\_\_\_\_ Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken Do Not Pass

Motion Made By Senator Judy Lee Seconded By Senator Gary Lee

Senators	Yes	No	Senators	Yes	No
Senator Dwight Cook, Chairman	X				
Senator John O. Syverson, V C	X				
Senator Gary A. Lee	X				
Senator Judy Lee	X				
Senator Linda Christenson	X				
Senator Michael Polovitz	X				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Senator Cook

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

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Salvatore Riccardi \_\_\_\_\_ 10/16/03  
Operator's Signature Date

REPORT OF STANDING COMMITTEE (410)  
March 27, 2003 2:51 p.m.

Module No: SR-55-5959  
Carrier: Cook  
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE  
HCR 3033: Political Subdivisions Committee (Sen. Cook, Chairman) recommends DO  
NOT PASS (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3033 was  
placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-55-5959

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*10/16/03*  
Date

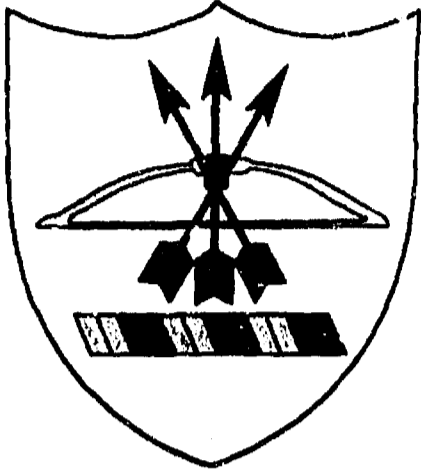
2003 TESTIMONY

HCR 3033

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10/16/03  
Date



*Army National Guard*  
*"The Straight Arrows"*



*Air National Guard*  
*"The Happy Hooligans"*

*The*  
***North Dakota***  
***National Guard***

***Testimony of***  
***Colonel Jerald Engelman***  
***before the***  
***Government and Veterans Affairs Committee***  
***February 13, 2003***  
***9:00 a.m.***  
***HOUSE CONCURRENT RESOLUTION 3033***

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Operator's signature

*10/16/03*  
Date



TESTIMONY OF  
COL. JERALD ENGELMAN, THE DEPUTY ADJUTANT GENERAL  
NORTH DAKOTA NATIONAL GUARD  
BEFORE THE  
GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

February 13, 2003

9:00 a.m.

HOUSE CONCURRENT RESOLUTION 3033

Mr. Chairman, Members of the Committee, good morning.

I would like to lend the National Guard's support to House Concurrent Resolution 3033. As this Committee is aware, this Resolution was filed in response to this Committee's concerns with HB 1177, which was designed to update the military forces sections of the Century Code, but did not pass the House of Representatives.

As we stated during the hearing for House Bill 1177, the military forces section of Title 37 is in need of updating. Most of the sections were written in the 1940's and have had very few substantive changes since that time. As written, we restrict membership based on age, gender and residency. In addition, we have many statutes with obsolete or outdated language, definitions that need updating, and statutory provision that may need to be harmonized.

An interim study will also allow us to proactive in making needed changes if our proposed Constitution Amendment—House Concurrent Resolution 3005—passes both houses of this Assembly and is approved by the voters of this State. This resolution proposes to simplify our military articles by removing provision that are also contained in statutory law, and removes restrictions based on aged, gender, and residency. Even if this Resolution fails, we still need to update our statutes and make them as consistent as possible with both federal and state law.

Finally, I would like to offer the assistance of the Adjutant General's office to the Legislative Council in reviewing these statutes and drafting Bills for next session. We have already given a lot of thought to changes that need to be made, and should be able to expedient the process. This would also remove the possibility of competing Bills attempting to do the same thing.

I would be pleased to respond to any questions, Mr. Chairman.

LR

TESTIMONY OF  
LTC ALAN DOHRMANN, JOINT JUDGE ADVOCATE  
NORTH DAKOTA NATIONAL GUARD  
BEFORE THE  
POLITICAL SUBDIVISION COMMITTEE  
March 13, 2003  
9:30 a.m.  
HOUSE CONCURRENT RESOLUTION 3033

Mr. Chairman, Members of the Committee, good morning.

I would like to lend the National Guard's support to House Concurrent Resolution 3033. This Resolution was filed in response to the House Government and Veterans Affairs Committee's concerns with HB 1177, which was designed to update the military forces sections of the Century Code, but did not pass the House of Representatives. Based on the concerns raised during the House hearing, we believe the main reason the Bill failed is because its enactment into law was contingent on the passage of HCR 3005 (a Resolution to amend our Constitution by providing this Legislative Assembly with the power to establish the military forces of this state, and removing constitutional provisions that are also contained in statutory law). Not knowing if the Resolution would pass the Senate, and be approved by the qualified electors of this state, the House was reluctant to pass a contingent Bill.

As this Committee is aware, HCR 3005 was defeated in the Senate. We continue to work with the Senate leadership and the Attorney General's office to see whether the need for this Resolution can be replaced by a statutory change, and, if not, what type of amendment could be made to HCR 3005 that would be acceptable to the Senate. With that said, the fact remains that we need to update our statutes and make them as consistent as possible with both federal and state law.

As we stated during the hearing for House Bill 1177, the military forces section of Title 37 is in need of updating. Most of the sections were written in the 1940's and have had very few substantive changes since that time. As written, we restrict membership in the National Guard based on age, gender and residency [N.D.C.C. § 37-02-02]. In addition, we have many statutes with obsolete or outdated language, definitions that need updating, and statutory provision that may need to be harmonized.

Finally, I would like to offer the assistance of the Adjutant General's office to the Legislative Council in reviewing these statutes and drafting Bills for next session. We have already given a lot of thought to changes that need to be made, and should be able to expedient the process. This would also remove the possibility of competing Bills attempting to do the same thing.

I would be pleased to respond to any questions, Mr. Chairman.