

2015 HOUSE JUDICIARY

HCR 3033

2015 HOUSE STANDING COMMITTEE MINUTES

Judiciary Committee
Prairie Room, State Capitol

HCR 3033
2/10/2015
Job #23583

- Subcommittee
 Conference Committee

Committee Clerk Signature

Kenneth M. Tolson

Explanation or reason for introduction of bill/resolution:

An HCR urging Congress to propose the Regulation Freedom amendment to the US Constitution.

Minutes:

Vice Chairman Karls: Opened the hearing.

Rep. K. Koppelman: Introduced this resolution. This resolution says that if 25 percent of the members of Congress were to sign a document saying, we have a concern about Regulation X, then that regulation would have to come before Congress and be approved by Congress before it could become effective. Will that touch all regulations? No. Will it touch the majority? I sincerely doubt it. It would only touch that rise to the level of concern that the people of the US and our elected representatives in Congress really begin to take notice of something that the regulators in government are doing that really threatens us, and threatens to injure the people in this country, free enterprise, whatever it might be around the nation. Through the representative government process that we have, it allows our elected representatives to raise the flag on some of those things and say, let's take a look at this. So it's really a rather modest proposal. It's a good idea. I think it's something we can join the bandwagon for here in ND, and it's one way to restore some balance in Washington.

Tape not running until now.

Rep. Mary Johnson: The agencies have been doing this for a long time. The control of Congress changes hands all the time. These agencies are not only legislating for Democrat congresses, they've been doing it for Republicans, Democrat, back and forth. They're just usurping that authority. Isn't that correct?

Rep. K. Koppelman: That is correct. They is not partisan in any way, shape or form. What I see as a concern is simply the balance of authority; the proper constitutional separation of powers that I would argue is really threatened today.

Rep. P. Anderson: So generally are you in favor of amending the Constitution?

Rep. K. Koppelman: I think the founders gave the states the authority to propose amendments to the constitution for a very good reason. It shouldn't happen often because it should be a major issue that bubbles up. This resolution is an appeal to Congress to simply say, please propose this kind of amendment to the states and allow us to ratify it to restore the balance of power, to restore the proper separation of power, the proper roles of government in Washington, and allow you, the Congress, the authority you should have over what functions as law.

Rep. K. Hawken: This is just us saying this should happen. I find it somewhat funny, as a number of bills that we have heard and passed are the Legislature usurping the power of the executive branch and/or the judiciary branch. So, is it the nature of the beast that it is going to go back and forth? Because we do it here, all the time.

Rep. K. Koppelman: I think this is an ebb and flow? I think that's what our founders intended. This could very easily been drafted as an article 5 call for a particular amendment. Instead, we've taken the approach to say, that's never happened. I think it may very well happen in our lifetimes, with what I see happening around the country. Because an article 5 convention has never occurred, why not do this? And simply urge Congress to say, please do this. It helps Congress, so I think it would be received positively by Congress.

Rep. K. Wallman: You are saying that is one step away from people that are elected. Should we elect agency heads? If a president has been elected twice; you are saying the states should be able to question the person that we've elected to put in places' leadership?

Chairman K. Koppelman: No; this resolution has nothing to do with the issue of states vs. Federal. This just deals with the executive-legislative relationship in Washington, at the Federal level. So it doesn't really deal with that state issue. The only involvement with the states is that we in the states are suggesting that Congress propose this amendment to the Constitution, and in order for that to be ratified, 38 states would have to ratify it. I don't think it would be a good idea for people to elect people to be the head of the EPA or the FBI or these other executive branch agencies. The issue is not so much the person making them, as it is the fact that they do make them, and the fact that law making is a legislative prerogative, not an executive prerogative. When something really gets out of hand, let's have a vehicle for Congress to be able to look at that regulation before it goes into effect.

Rep. K. Wallman: ND was the last state to comply with the Americans With Disabilities Act. Sometimes the federal government makes laws because states don't do the right thing. Who is to say that states wouldn't want to keep institutionalizing folks with disabilities even though I believe that is not in their best interest or the best interest of our communities. So I am reticent to put a check and balance in place when it might open the door for states not to do the right thing.

Rep. K. Koppelman: This resolution simply allows Congress the authority that it constitutionally already owns to oversee the making of law. So, if Congress passes the ADA, the states need to comply. If the agency responsible for drafting rules to enforce that

act goes far afield and does something Congress didn't contemplate, then Congress should have the authority to say, Wait a minute. That's not what we meant." And have the ability to insure that the rules made to enforce a law, which carry the force and effect of law, should have the authority Congress delegates, and also the meaning and the purpose that Congress intended.

Rep. Brabandt: You talk about the REINS Act; what does that stand for?

Rep. K. Koppelman: The intent of the REINS Act was similar; to try get a handle on Federal regulation; but its methodology is much different.

Rep. D. Larson: It seems that Congress already has that authority. I am thinking of the Keystone Pipeline. That was determined by an agency that they didn't want it, and so it was brought up in Congress as something they wanted to regulate. But in either case the president still has veto power? Correct?

Rep. K. Koppelman: Yes Congress has the authority to make law. It is really about process. You could look at this and say whichever party is in the minority could have some standing here. It strengthens the constitutional legislative authority, which we think is important.

Rep. D. Larson: The president would still have veto power against this?

Rep. K. Koppelman: Yes, I think he would, but the way this is crafted, a regulation would have to come up as a bill.

Rep. D. Larson: Would this prevent a chairman from keeping this bill in a drawer, and not bringing it to the floor for a vote, as sometimes, we know, happens, because they don't agree with what's going on?

Rep. K. Koppelman: I am glad we can't do that in ND. I don't think it would have any affect. Depending on how the amendment was written, and how it was actually implemented in Congress, perhaps they would have a rule that would say, anything that falls in this category must come to a vote. But I don't think there's anything explicit either way.

Rep. K. Wallman: Do we have a copy of the regulation freedom amendment? Or is that what this is?

Rep. K. Koppelman: That's what this is. It's basically the bottom of the bill.

Rep. K. Wallman: Getting back to my ADA example, if this group got together and said, "It's awfully expensive to provide ramps and automatic doors, and we shouldn't require states to do that," that could be changed by this mechanism?

Rep. K. Koppelman: An example is: If you told your child to go out and play and they went 20 miles away, that might be exceeding what you intended for your child to do. You may have meant, in our yard or the neighbors. I didn't mean that you could go 20 miles

away. And so, the whole idea here, when Congress passes a law that says, go and do this, and the executive branch creates a regulation that turns the intent on its head, Congress can say, hold the phone, that's not what we meant. That's all this allows.

Rep. K. Wallman: (NOT AUDIBLE)

Rep. K. Koppelman: You are right and I think it should be open, because the Constitution is very general. It doesn't get into specifics. Bills and laws are more specific. Regulations are more specific than bills. What this says simply is, yes, it is focused upon the mood of Congress and their desire to have control over what functions as law, and I think that's appropriate.

Rep. Maragos: You are asking us to urge Congress to propose this amendment and this amendment would go out to the states for ratification. 38 states would have to ratify it. I don't believe that can be vetoed by the President of the United States. But I firmly believe that the thresholds are way too low. Usually I like the two-thirds myself. It should have to be two-thirds of both the House and the Senate of Congress. Would the states have to take this resolution straight up or down or could they change it in the states? And if that happens, how do we reconcile it?

Rep. K. Koppelman: I didn't mean to imply that the President could veto a proposed amendment to the Constitution. What I was speaking to about veto authority was, if this were part of the constitution, and Congress said, we want to look at whatever the measure might be that Agency X has promulgated. Once that measure was before Congress; whatever Congress did with it would be subject to a Presidential veto. I don't think anything in this resolution binds Congress to exact language. Congress would choose the exact language it would put out to the states for potential ratification.

Rep. G. Paur: I can see this process working more to address the rules and regulations made up in previous administrations rather than the current administration.

Rep. K. Koppelman: This is trying to get at the issue, and the 25 percent threshold is being proposed by several folks around the country. I think the bill talks about proposed regulations, so I think it would be going forward. Anything that's being contemplated.

Rep. Karls: Is there any more testimony in favor of this House Concurrent Resolution?

Roman Buhler, Madison Coalition: For 14 years, I was a committee counsel for the U.S. Congress. During that tenure, I observed two things. One is that Congress is not very much concerned with what states thought. The other was that I noticed that the executive branch was not very much concerned with what Congress thought. They get an appropriation every year, and the President and his administrative agencies, as much as they possibly can, do what they want. There has always been over the last 200 years, kind of an informal sense that there needs to be comedy between the branches. What has happened in recent years, there is a growing imbalance of power between the executive and the legislative branches. I think the founders understood that legislators job was to legislate. What's been happening is that the rules that govern us are increasingly not the laws that Congress passes, but the interpretation of those laws that agencies make. Unfortunately the Supreme

Court has ruled that if there are 100 possible interpretations of what Congress meant when it passed a law, and they all have some rationals, agencies are free to pick the least reasonable explanation with the least reasonable regulation, the least reasonable interpretation. So there is now a style of governing where, if you decide you want a new rule, where you can find somebody or even imprison them, you go to a law that was passed 50 years ago, you issue a new set of regulations reinterpreting that law; You don't have to answer to anybody, unless the courts determine they're completely out of bounds. Those rules become the rules of the country. We live in what we call a republic, a representative democracy, and fundamental to that representative democracy is that laws and rules that govern us have the consent of the governed. And that process is eroding, and there are very thoughtful members of Congress who are worried that Congress' role in the constitutional process is being undermined by this imbalance of Executive and legislative power. In 2013, every single Republican member of the U.S. House and a number of Democrats voted for the REINS Act, which would require that Congress approve major new Federal regulations. It was never even brought to a vote in the Senate. And it's probably questionable it could get 60 votes in the Senate today because, in Washington, these issues tend to be viewed in the short term perspective. People don't want to vote against the president of their own party. But we don't know who's going to be President in 2017 or 2021. So the impact of this proposed change is not a partisan impact. It is an impact of the balance between legislative and executive, and the accountability that we expect from government officials. My involvement began when I heard what ND had done back in 1995. And there were quite a number of other states that require that administrative branch regulations be approved by the legislature. That seemed like a process reform that made sense. The problem with the REINS Act is, first of all, very difficult to get two-thirds of Congress to over-ride a presidential veto, because Congress tends to divide along partisan lines. The second problem is that courts have ruled on a doctrine called separation of powers. That is the doctrine that regulators from the executive branch have responsibility for regulations, and Congress deals only with legislation. Some legal scholars believe a law that gives Congress the ability to approve major new federal regulations might be challenged. The third problem is that you can't predict what the political environment in Congress might be in two years or five years, and so, even if, some of you may remember that Congress passed a law banning unfunded federal mandates back in the 90s. That law somehow never seems to stop unfunded federal mandates because it's always waived, or it's modified, or there's an opinion issued that it doesn't really have an impact. So, a constitutional amendment, unlike a law, is a permanent restoration of the balance between state and federal power. Why couldn't we do a law; why do we need a constitutional amendment? It's precisely because Washington is too divided to pass a law, and because constitutionally, it's at least subject to challenge, and a constitutional amendment solves the problem. They should be considered carefully and many feel in this case it is warranted. The Regulation Freedom Amendment says, whenever one-quarter of the members of the US House or the US Senate transmit to the President their written declaration of opposition to a proposed Federal regulation, it shall require a majority vote of the House and Senate to adopt that regulation. So, in other words, regulations, like laws, need the consent of the governed. There were some questions that came up that I thought were worth answering. There was a good question about what prevents a committee chairman or the leadership of either branch from burying a resolution, so one-quarter of the members have objected, and now the resolution is never coming to a vote. In the House, there is a procedure called a Discharge Petition. If a majority of the members of the House want a measure to come to

the floor, they have the power to bring a measure to the floor regardless of whether a committee chairman or leadership doesn't want it to happen. In the Senate, it takes 60 votes to bring something to the floor. But in the same way that a proposed law can be brought to the floor by determined majorities of both houses, a regulation review could be brought to the floor under this amendment. So we preserve the power of the majority to approve regulations that it thinks are necessary. One of the things that happens is, you've seen the appropriations process. The pressure to make sure that the government is funded has been overwhelming. For 225 years, every year Congress has passed an appropriations bill. If there were a regulation dealing with a politically sensitive subject like the ADA, any member of Congress that tried to block the implementation of such an act would have a very big problem with their constituents. What would actually happen would be more support for the right kind of regulation. Under the approach envisioned in this resolution, three things have to happen: Enough states have to urge Congress to propose this amendment that Congress decides it is in their interest to do so. Two-thirds of the House and two-thirds of the Senate have to propose the amendment. That is another check to make sure that the amendment in its final form is properly worded. Then, finally, three quarters of the states have to ratify the amendment or it does not go into effect. ND has really pioneered a path here. Bringing the ND way to Washington is long overdue.

Rep. K. Wallman: I am a North Dakotan who thinks regulators should listen better, especially when it comes to the levels of PNORM that we're potentially going to allow to be disposed of in North Dakota. Is there anything that would prevent one fourth of either body to vote against something because they think the regulations are too minimal?

Roman Buhler: The President proposes a set of regulations that individuals think are a sellout to the industry in question. The agencies, technically, propose regulations. The President's job is to manage the Executive Branch and design rules under which that agency functions and enforces. We're saying the rules it enforces should have the consent of Congress. Your question was what happens if an agency proposes a regulation that some people think is too weak. Members of Congress would have to make a judgment. Is it better to let weak regulations go into place, and then push for stronger regulations. Or to highlight the inadequacy of the regulations, is it better to object to those, vote them down, and demand that the President enforce stronger regulations. The goal here is to bring regulations under scrutiny. Because right now, I suspect there are some regulations that are proposed that are never even read by Congress.

Chairman K. Koppelman: What other states have acted on it?

Roman Buhler: There are six legislative chambers that have passed similar resolutions urging Congress to propose the Regulation Freedom Amendment. In South Dakota, both the House and the Senate voted by overwhelming bi-partisan majorities to urge Congress to propose this amendment. The Wyoming House just acted, the Indiana house and senate have proposed it, the Georgia senate has proposed it. There are now over 300 legislators who have endorsed it. Two governors, the American Farm Bureau, the National Taxpayers Union. This resolution is likely to be introduced in more than 30 states this year.

Chairman K. Koppelman: Are all these resolutions that same proposed one-quarter threshold?

Roman Buhler: Yes. The pressure on Congress to act is strongest when states propose the same amendment.

Opposition; None

Neutral: None

Chairman K. Koppelman: The hearing on 3033 is closed. Is the committee prepared to act?

Rep. Klemin: I move a Do Pass on HCR 3033.

Rep. Brabandt: Second.

Chairman K. Koppelman: Will the clerk please call the roll on a Do Pass motion on HCR 3033.

ROLL CALL VOTE TAKEN:

YES: 9 NO: 4 ABSENT: 0

MOTION CARRIES

Chairman K. Koppelman will carry HCR 3033 on the floor.

Date: 2-10-2015
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 3033**

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 L. Klemin 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 ⊙

Floor Assignment Rep. K. Koppelman

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

REPORT OF STANDING COMMITTEE

HCR 3033: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends DO PASS (9 YEAS, 4 NAYS, 0 ABSENT AND NOT VOTING). HCR 3033 was placed on the Eleventh order on the calendar.

2015 SENATE JUDICIARY

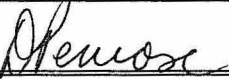
HCR 3033

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HCR 3033
3/24/2015
25340

- Subcommittee
 Conference Committee

Committee Clerk Signature 

Minutes:

1

Ch. Hogue: We will open the hearing on HCR 3033.

Rep. K. Koppelman: Sponsor, support. HCR 3033 is interesting. This is a movement that has begun sweeping the nation. It has already passed in several states and it was inspired by ND. We passed legislation about 20 years ago, basically to affect regulatory reform in ND. We dealt, on a state level, as some other states have, but I think we were leaders in this with an issue that plagues states and also plagues the federal government. That is regulation that has run amok. It's one the executive branch agencies in government, the bureaucracy starts to enact regulations that basically that usurps legislation and carries and force and effect of law, like our administrative rules do here in ND. As many you know, we have a check and balance in place in ND with that system whereby the administrative rules committee of the legislature oversees those rules as they come into place; and have authority if the rules stray from legislative intent, if they are arbitrary and capricious, etc. we can overrule them. We can void the rule, we can agree with the agency to compromise, change the rule. That has been a tremendous check and balance in that process over the years. The reason that is important is that regulations, because they carry the force of law, they are law. The last time I checked my state or US constitution it is the legislative branch of government that makes law, not the judicial or executive branches. If the legislature or Congress gives some of its authority away, lends it, or delegates to another branch of government, I think they have not only the authority but the obligation to oversee that process; to make sure that those regulations don't stray far. In ND, before we enacted that law, I talked with some of the legislators who were around prior to that and they said it was awful. They said we used to see bills fail in the legislature, and then six months later it would become a rule, or we would hear the scuttlebutt of

agencies of government whispering, we don't even want to bring this before the legislature, because it will never pass, so we'll just do it as a rule instead. We put a stop to all that. I think even the agencies would tell you, that it has really worked well, because we haven't abused that authority. We've exercised it with caution, care and responsibility. This does not take exactly the same approach on the federal level but it seeks the same kind of remedy. Some of you may recall that former congressman Berg used to talk about something called the "Rains Act" that congress was looking at to try and deal with federal regulation run amok. That's fine as far as it goes. Even that would have been a piece of legislation and maybe not as powerful as an amendment to the constitution. HCR 3033 asks congress to propose an amendment to the US Constitution to the states for ratification. I know we have all seen a lot of article 5 resolutions this session. They are basically resolutions that come before the legislature that actually call for an Article 5 convention to amend the US constitution. That certainly is a provision in our constitution, in article 5, to allow the states to call for such a convention. This resolution does not do that. This resolution takes a different approach and simply appeals to congress to propose what's called the regulation freedom amendment. The reason this path has been chosen because there is a lot of controversy around article 5, if you like it, don't like it, hate it, love it, etc. but it does raise other issues. The fact of the matter is the US Constitution has been amended this way every time it's been amended. Congress has proposed an amendment to the states and they've ratified the amendment. That has been how our constitution has been amended over history. We certainly have the ability in the constitution to do it through convention. It's always been done by the initiative of congress. That sometimes happen, on three momentous occasions throughout history it's happened because the states have held congresses feet to the fire on a particular issue and have threatened to convene an article 5 convention and congress, when critical mass starts to assemble says, here's your lousy amendment, see if you can get it ratified. The greatest example of that was the Bill of Rights. On a couple of other occasions, the amendments that like it or not, that call for popular election of US senators and the amendment that called for limits on terms of our presidents were all enacted that way. The states put pressure on congress, congress puts the measure out and the states ratified it. That's the methodology that HCR 3033 uses. Essentially the bill says that when 1/4 of the members of the US House of Representatives or US Senate transmit to the president their written declaration of opposition to proposed federal regulation it shall require a majority vote of the House and Senate to adopt that regulation. It goes about it in a different way than the way we've dealt with this in ND through the administrative rules committee, but it does restore

some authority back to congress. Now some would argue that you can do this anyway because congress makes the law, they could decide that they are going to withdraw some of their authority that they delegated to the executive branch for regulations. We believe this would be an effective way to make the changes like we have done in ND and said this was the way we need to start to control this in Washington DC. When we look at how this affects our state, we look at the EPA and how they are regulating; a few years ago they were threatening to regulate dust. Washington regulation is clearly out of control. We can't control it from the ND legislature, but our members in congress can. This is a way we can do this.

Sen. Armstrong: By using a 1/4 minority, a minority can't hold it up, they could just force a vote.

Rep. Koppelman: Yes. The idea is that they have selected this course of action. The idea would be if there is enough consternation over a particular regulation that a quarter of the members of congress don't like it and want to force it to a vote, they can do that.

Sen. Armstrong: Thank you. Further testimony in support.

Ralph Muicke from Gladstone, ND: Anytime you talk about the possibility of a constitutional convention, or to make application for one too, if I understand that right.

Sen. Armstrong: No, all this bill does is that we send a resolution to congress asking them to do it. This doesn't call for us putting anything on the ballot or a convention. This is a resolution to congress.

Ralph Muicke: Okay, I guess I'm not prepared to talk about it.

Sen. Armstrong: Thank you. Further testimony in support.

Dave Beudoin, Dickinson: I'm probably against this because I don't think it will be effective. There has to be something more substantial because a bill like this in the US Congress could be ignored and not do what we intend to do. States need to get together with other states and be more aggressive in our action towards the federal government to get our point across. I'm for this resolution but I don't think it goes far enough. It's not going to get our voices heard as citizens of this state. This is the last stronghold to defend the rights of American people or people of this state. We're counting on you to get the

job done to protect us from the intrusion of the federal government, DOT, CSA laws, and other rules and regulations. In 2008, there were 1500 dairy farms taken out of business on the west coast: California, Washington and Oregon because of the rules and regulations that were imposed on them by the EPA. Even though milk prices have risen, if you went to California right now, dairy farmers are teeter tottering on trying to get the job done, as far as producing milk. We need to be on the offense and get the job done.

Ch. Hogue: Thank you. Further testimony in support. Testimony in opposition. Neutral testimony. We will close the hearing.

Glen Baltrusch submitted testimony by email (see attached #1).

2015 SENATE STANDING COMMITTEE MINUTES

Judiciary Committee
Fort Lincoln Room, State Capitol

HCR 3033

3/25/2015

25390

Subcommittee

Conference Committee

Committee Clerk Signature



Minutes:

Ch. Hogue: Let's take a look at HCR 3033. What are the committee's wishes?

Sen. Grabinger: I move a Do Not Pass on HCR 3033.

Sen. Nelson: Second the motion.

Sen. Armstrong: I am not going to support the Do Not Pass recommendation and the reason is, I understand where everybody came down on the state constitutional amendment. I think that federal agencies, particularly, have become quite frankly the most powerful form of government that we have. They are run by unelected people in agencies and they impose way too much authority, in my opinion, and take away more legislating from the executive branch than was ever intended. All this resolution does is to urge Congress to say, if a quarter of either the House or Senate says we don't like that regulation, we want our elected officials on the record voting for or against that election. The minority cannot hold something up. What they can do is put the elected officials on record of supporting an agency action and I think that's reasonable.

Sen. Casper: I'm not going to support the Do Not Pass as well. In my personal experience, unfortunately, in this country, it seems like the country has a great deal of distaste for Congress for many reasons. However, I think we fail to recognize sometimes that the members of Congress they are our voice. Particularly in the House, they represent the people. We send them there to do that and it has gotten to be a game in Washington, DC. I don't even see it as a partisan issue. It's more of a constitutional issue between one branch and the other. We have members of congress that have a staff

and a budget of \$1.5 million, 8 people working for them in Washington, and they are fighting an agency with 70,000 employees. After the 2010 election, the Representatives got rid of the earmarks. No more earmarks. Everyone thought it was a good idea, let's get rid of earmarks because they are evil and we are spending too much money. Instead of the members of Congress deciding where funds were going to get appropriated; they are more generally appropriated to the agencies. Now you have congressmen writing letters to agencies asking them to spend money on important items in their district. I think there is an improper balance there. If you can get a 25% of the congress to get on board with this, and call some of them back for a vote, I think it's worth doing. There are issues that are important on both sides of the aisle where this could be of interest.

2 YES 4 NO 0 ABSENT MOTION FAILED

Sen. Casper: I move a Do Pass on HCR 3033.

Sen. Armstrong: Second the motion.

4 YES 2 NO 0 ABSENT DO PASS CARRIER: Sen. Casper

Date: 3/25/15

Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 3033

Senate JUDICIARY Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation:
- Adopt Amendment
 - Do Pass Do Not Pass Without Committee Recommendation
 - As Amended Rerefer to Appropriations
 - Place on Consent Calendar
- Other Actions: Reconsider _____

Motion Made By Sen. Grabinger Seconded By Sen. Nelson

Senators	Yes	No	Senators	Yes	No
Chairman Hogue		✓	Sen. Grabinger	✓	
Sen. Armstrong		✓	Sen. C. Nelson	✓	
Sen. Casper		✓			
Sen. Luick		✓			

Total (Yes) 2 No 4

Absent φ

Floor Assignment _____

Motion Failed.

Date: 3/25/15

Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTE

BILL/RESOLUTION NO. 3033

Senate JUDICIARY Committee

Subcommittee

Amendment LC# or Description: _____

- Recommendation:
- Adopt Amendment
 - Do Pass Do Not Pass Without Committee Recommendation
 - As Amended Rerefer to Appropriations
 - Place on Consent Calendar

Other Actions: Reconsider _____

Motion Made By Sen. Casper Seconded By Sen. Armstrong

Senators	Yes	No	Senators	Yes	No
Chairman Hogue	✓		Sen. Grabinger		✓
Sen. Armstrong	✓		Sen. C. Nelson		✓
Sen. Casper	✓				
Sen. Luick	✓				

Total (Yes) 4 No 2

Absent 0

Floor Assignment Sen. Casper

REPORT OF STANDING COMMITTEE

HCR 3033: Judiciary Committee (Sen. Hogue, Chairman) recommends **DO PASS**
(4 YEAS, 2 NAYS, 0 ABSENT AND NOT VOTING). HCR 3033 was placed on the
Fourteenth order on the calendar.

2015 TESTIMONY

HCR 3033

1-1

Before the 64th Legislative Assembly

Senate Judiciary Committee

House Concurrent Resolution No. 3033

Tuesday, March 24, 2015 at 9:30 A.M.

By Glen E. Baltrusch

Mr. Chairman and Committee Members,

Good morning! My name is Glen Baltrusch, and I reside at Harvey, ND; which is in District 14. I unable to stand before you this morning due to prior scheduled appointments. I do however, find myself in opposition to House Concurrent Resolution No. 3033 for a number of reasons.

In reviewing House Concurrent Resolution No. 3033, I find myself questioning the reasoning that the North Dakota Legislature has continuously proposed amendments to, and / or proposed Constitutional Conventions in regards to the United States Constitution over the past several Legislative Sessions. While HCR 3033 refers to the First, Second, Fourth, and Fifth Amendment to the Bill of Rights to the Constitution of the United States; it is my humble opinion, probably the only amendment that has not been abused, violated, and cast aside, would be the Third Amendment in the Bill of Rights to the Constitution of the United States. Does not the United States Constitution delegate the powers of the federal government which few and defined? And aren't the powers which remain in State governments numerous and indefinite?

Mr. Chairman, and Committee Members, I believe the answers to these problems already exist; they are known as the Ninth and Tenth Amendments respectively. What is required is that the Several States enforce these rights. While I do fundamentally agree with the idea of the language proposed in House Concurrent Resolution No. 3033; I firmly believe that no one, and I do mean no one, has proposed any amendment to the United States Constitution that improves what the Founders and Ratifiers have provided us. It is up to us to protect it and too enforce it. After all, we are a Republic, are we not? Or are we a democracy? Or a monarchy? Or an oligarchy?

Mr. Chairman, and Committee Members, I respectfully request that you seriously consider your decision of House Concurrent Resolution No. 3033 and that this committee vote for a "**DO NOT PASS**" recommendation to the floor of the Senate.

Thank you for your time and consideration of this pertinent matter.