

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

2-832

DESCRIPTION

3001

2005 HOUSE HUMAN SERVICES

HCR 3001


2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3001

House Human Services Committee

☐ Conference Committee

Hearing Date 1/05/05

Tape Number	Side A	Side B	Meter #
Blank			
Committee Clerk Signature 			

Minutes:

Attendance: 12 members present 0 absent

Chairman Price: We will open the hearing on HCR 3001

Mr. Allen Knudson, Legislative Council: I received information on this bill in regards to Lake Region Council Support Enforcement. In regards to the need of \$215,000.00 to assist funding program concerns, worker child support, discussion and testimony led to the resolution. I feel there is a need for an in depth look.

Chairman Price: Does anyone have any other questions of Mr. Knudson? Is there any more testimony in favor or in opposition?

Mr. Charles Carvell, North Dakota Attorney General Office: In reading the bill, amendments included, I have some concerns in regards to the 2nd "Whereas" section.

Chairman Price: Do you have any recommendations on a time frame on speeding up the process with favorable results?

Mr. Knudson: Not at this time.

Chairman Price: Is there any other testimony in favor or opposition on HCR 3110? If none, I will close this hearing.

Chairman Price: We will open discussion on HCR 3001.

Chairman Price: Are there other recorded changes for this bill? The intention of this bill is for Native American children to receive child support. the amended resolution was distributed.

Representative Weisz: I have a problem with "Whereas" (new version) contained in the 3rd line. There are no figures, regarding Tribal orders, this problem did not stem from this.

Representative Devlin: In the new language, "Reports" unit said - that is what the new language indicates.

Representative Weisz: Thank you for clarifying that.

Representative Kaldor: Are there any other subtle changes or terms we should be aware of?

Chairman Price: Look at what the A. G.'s office has presented - we want to resolve issues and make the children receive the money and to work toward a common goal.

Representative Weisz: In support resolution, was #14 (line H of the original bill) it seems to have no bearing on this.

Representative Kaldor: Is there any penalty?

Chairman Price: There is no funding, there is discussion ongoing, if the State of ND does not have the tools in place.

Representative Devlin: Other changes of the original 5-7 combined on #2 in the new bill, there may be a possible delay 4-6, before money is dispersed.

Representative Nelson: Is it a problem because Lake Region unit is only one mentioned, does this cause under performance?

Chairman Price: It seem that it is who you ask, there seems to be some staff issues.

Chairman Price: There was an issue concerning deleting funding.

Representative Porter: How many court orders?

Chairman Price: We don't know how many - regarding court orders, nothing gets done, member aren't there. It could be some issues on both sides - State and Tribe.

Representative Nelson: Does it follow better in other counties where reservation exist?

Chairman Price: It is my understanding Lake Region is the biggest problem right now.

M. Schwindt, Director of Child Support Division: These are similar problems state wide.

Chairman Price: Can we make headway in enforcement?

M. Schwindt: Yes, Lake Region in March of 2004, the Federal people visited and did show interest in assisting tribes in some ways. But the tribes have to help.

Chairman Price: I understand it is 90% funding.

M. Schwindt: It has been proposed \$500,000.00. 3 years at 90%/10%; after that 80%/ 20%.

Chairman Price: Are there any other benefits in the Resolution?

M. Schwindt: Bottom line can be an issue. It would have value.;

Chairman Price: Is there any other discussion? If not, the discussion is closed.

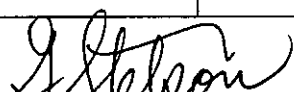
2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. **HCR 3001**

House Human Services Committee

☐ Conference Committee

Hearing Date January 10, 2005

Tape Number	Side A	Side B	Meter #
#2	x		
Committee Clerk Signature 			

Minutes: Chairman Price reopened the hearing on HCR 3001.

Rep. Weisz: It seems to justify this action.

Rep. Devlin: Motion to amend as discussed.

Chairman Price: All in favor? Voice vote 12-0-0.

Rep. Damschen: On lines 5 & 6, couldn't the wording be more simple and say has "limited restrictions" on Indian reservations and seeks to resolve problem between ...

Rep. Damschen motion to accept amend. **Rep Kaldor:** second

Chairman Price: All in favor? Voice vote: 12-0-0.

Rep. Devlin: I have a question on lines 8 & 9.

Rep. Porter: Motion to accept Rep. Devlin's motion.

Rep. Uglem: Second.

Chairman Price: We have an amended bill, what are your wishes?

Rep. Porter: Do Pass as amended.

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House Human Services Committee

Bill/Resolution Number HCR 3001

Hearing Date January 10, 2005

Rep. Uglem: second.

Vote: 12-0-0. **Carrier:** Rep. Devlin

VR
1/11/05

HOUSE AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3001 HHS 1-11-05

Page 1, line 5, replace "does not have legal" with "has limited"

Page 1, line 6, after "reservations" insert "and seeks to resolve problems and issues between the two governments in a respectful and trusting manner"

Page 1, line 7, replace "many" with "some"

Page 1, line 9, after the comma insert "separate child support payment records may be maintained by the State of North Dakota and a sovereign Indian Nation, creating the potential for unnecessary collection activities and" and remove "can occur"

Page 1, line 11, replace "the Lake Region Child Support Enforcement Unit's performance has" with "federal regulations recently have"

Page 1, replace line 12 with "adopted providing for direct funding of tribal child support enforcement programs; and"

Renumber accordingly

Date: 1/5/05
1/10/05

Roll Call Vote #: 1)
2)

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 300

House Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number 53009.0101 - 0200

Action Taken Do Pass As Amd

Motion Made By 1) Rep Damschen
2) Rep Porter Seconded By 1) Rep Kaldor
2) Rep Uglem

Am DP			Am DP		
Representatives	Yes	No	Representatives	Yes	No
Chairman C.S. Price	\	'	Rep.L. Kaldor	\	'
V Chrm.G. Kreidt	\	'	Rep.L. Potter	\	'
Rep. V. Pietsch	\	'	Rep.S. Sandvig	\	'
Rep.J.O. Nelson	\	'			
Rep.W.R. Devlin	\	'			
Rep.T. Porter	\	'			
Rep.G. Uglem	\	'			
Rep C. Damschen	\	'			
Rep.R. Weisz	\	'			

Total 1) 12
(44) 2) 12 No 1) 0
2) 0

Absent 1) 0
2) 0

Floor Assignment Rep Devlin

on an amendment, briefly indicate intent:

See attached

REPORT OF STANDING COMMITTEE

HCR 3001: Human Services Committee (Rep. Price, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3001 was placed on the Sixth order on the calendar.

Page 1, line 5, replace "does not have legal" with "has limited"

Page 1, line 6, after "reservations" insert "and seeks to resolve problems and issues between the two governments in a respectful and trusting manner"

Page 1, line 7, replace "many" with "some"

Page 1, line 9, after the comma insert "separate child support payment records may be maintained by the State of North Dakota and a sovereign Indian Nation, creating the potential for unnecessary collection activities and" and remove "can occur"

Page 1, line 11, replace "the Lake Region Child Support Enforcement Unit's performance has" with "federal regulations recently have"

Page 1, replace line 12 with "adopted providing for direct funding of tribal child support enforcement programs; and"

Renumber accordingly

2005 SENATE HUMAN SERVICES

HCR 3001

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HCR 3001

Senate Human Services Committee

☐ Conference Committee

Hearing Date March 8, 2005

Tape Number	Side A	Side B	Meter #
1		x	35-740
Committee Clerk Signature <i>Cathy McNeil</i>			

Minutes:

Chairman Lee opened the public hearing on HCR 3001. All members were present. This house concurrent resolution directs the legislative council to study the legal and enforcement issues relating to child support collections on Indian reservations.

Allen Knutson of Legislative Council introduced the bill. He stated he was neutral on the bill and was appearing merely to give information on it.

Testimony in favor of the bill

Written testimony was submitted for Tex Hall, Chairman of the Mandan, Hidatsa and Arikara Nation. (Attachment 1)

There was no further testimony on this bill. Chairman Lee closed the public hearing.

Senator Warner moved DO PASS on HCR 3001, seconded by Senator Dever.

VOTE: 5 yeas, 0 nays, 0 absent Carrier: Senator Judy Lee

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Senate Human Services Committee

Bill/Resolution Number HCR 3001

Hearing Date March 8, 2005

Chairman Lee reopened the hearing after Kurt Luger arrived and asked to testify, however it appeared he testified on the wrong bill.

Date: 3-8-01
Roll Call Vote #: 1

2005 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HER 3001

Senate Human Services Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen Warner Seconded By Sen Dever

Senators	Yes	No	Senators	Yes	No
Sen. Judy Lee - Chairman	✓		Sen. John Warner	✓	
Sen. Dick Dever - Vice Chairman	✓				
Sen. Richard Brown	✓				
Sen. Stanley Lyson	✓				

Total (Yes) 5 No 0

Absent 0

Floor Assignment Sen. J. Lee

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

REPORT OF STANDING COMMITTEE (410)
March 8, 2005 1:08 p.m.

Module No: SR-42-4390
Carrier: J. Lee
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HCR 3001, as engrossed: Human Services Committee (Sen. J. Lee, Chairman)
recommends DO PASS (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HCR 3001 was placed on the Fourteenth order on the calendar.

2005 TESTIMONY

HCR 3001

House Concurrent Resolution 3001

Human Services Committee, January 5, 2005

Testimony of Charles Carvell, Asst. Attorney General

The Attorney General's Office has no position on the merits of the bill, but it is concerned about the first "Whereas" clause, which states: "the state of North Dakota does not have legal jurisdiction on Indian reservations."

This is an exceptionally broad statement. It is untrue.

The concept of jurisdiction is itself broad, and can concern the jurisdiction exercised by state courts, the regulatory jurisdiction of state and local agencies, and criminal jurisdiction exercised by county prosecutors. In each of these areas the state does have jurisdiction, to some degree, on reservations. But I won't bother you with specifics.

The broad statement that the state has "no" jurisdiction on reservations, could be used against the state in a jurisdictional dispute with a tribe, a tribal member, and even a non-Indian. I don't, some day, want the awkward duty of explaining to a court why the state is asserting on-reservation jurisdiction when the 59th Legislature passed a resolution stating that the state has no jurisdiction.

Attached is an amendment suggesting that the clause read: "WHEREAS, the state of North Dakota's jurisdiction on Indian reservations has limits." This won't change the substance of the bill, but will correct a misstatement of law.

PROPOSED AMENDMENT TO HOUSE CONCURRENT
RESOLUTION NO. 3001

Page 1, line 5, replace "Dakota" with "Dakota's", delete "does not have legal"

Page 1, line 6, after "reservations" insert "has limits"

HOUSE CONCURRENT RESOLUTION NO. 3001

1 A concurrent resolution directing the Legislative Council to study the legal and enforcement
2 issues relating to child support collections on Indian reservations, including state and tribal
3 court jurisdictions, recognition of income withholding orders, and logistics involved in
4 transferring child support collected to custodial parents

5 WHEREAS, the state of North Dakota recognizes the state does not have legal jurisdiction
6 within the sovereign Indian Nations and seeks to resolve problems and issues between the two
7 governments in a respectful and trusting manner; and

8 WHEREAS, some tribal entities do not recognize child support income withholding orders
9 unless issued from a tribal court causing possible delays in transferring child support collected
10 to custodial parents; and

11 WHEREAS, the Lake Region Child Support Enforcement Unit reports its performance has
12 been below expectations due in part to the location of two Indian reservations within the
13 region; and

14 WHEREAS, counties with Indian reservations have difficulty providing their share of
15 regional child support enforcement unit costs in part because reservation and other tribal land
16 within the county is not taxable; and

17 WHEREAS, the Supreme Court's Committee on Tribal and State Court Affairs, which
18 includes representatives of both state and tribal courts, is reviewing issues relating to
19 recognition of income withholding orders; and

20 WHEREAS, some regional child support enforcement units no longer attempt to file child
21 support income withholding orders in tribal courts due to past failed experiences and staff
22 time involved:

23 NOW, THEREFORE, BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES
24 OF NORTH DAKOTA, THE SENATE CONCURRING THEREIN:

25 That the Legislative Council study the legal and enforcement issues relating to child
26 support collections on Indian reservations, including state and tribal court jurisdictions,
27 recognition of income withholding orders, and logistics involved in transferring child support
28 collected to custodial parents; and

29 BE IT FURTHER RESOLVED, that the Legislative Council report its findings and
30 recommendations, together with any legislation required to implement the recommendations,
31 to the Sixtieth Legislative Assembly.



MANDAN, HIDATSA & ARIKARA NATION
Three Affiliated Tribes • Ft. Berthold Reservation
404 Frontage Road • New Town, ND 58763-9402

**59th LEGISLATIVE ASSEMBLY
HUMAN SERVICES COMMITTEE
HONORABLE JUDITH LEE, CHAIRMAN & COMMITTEE MEMBERS**

**TESTIMONY OF TEX G. HALL, CHAIRMAN
MANDAN, HIDATSA & ARIKARA NATION
ON HOUSE CONCURRENT RESOLUTION NO. 3001**

Chairman Lee and Committee Members my name is Tex Hall and I am the Chairman of the Mandan, Hidatsa & Arikara Nation. Thank you for allowing me to testify before you today.

House Concurrent Resolution No. 3001 requires the Legislative Council to study the legal and enforcement issues relating to child support collection on Indian reservations including state and tribal court jurisdictions. This resolution is a product of the Budget Committee on Human Services' meeting on September 22, 2004. A representative of the Mandan, Hidatsa and Arikara Nation was present at that meeting and testified that the legislature should study these issues rather than attempt to address these matters in the State's gaming compacts with North Dakota's tribes.

I believe that there is some misunderstandings concerning recognition of child support enforcement orders by our tribal courts. I also recognize the difficulty the State has in working with our Tribal courts in its efforts to collect child support. The State and North Dakota's tribes need to take a look at these issues and determine what can be done to ensure that everyone is held accountable with respect to child support payments. The Mandan, Hidatsa & Arikara Nation will work with the legislative council in this effort.

I respectfully urge this committee to recommend a DO PASS on House Concurrent Resolution No. 3001.