

**2015 HOUSE GOVERNMENT AND VETERANS AFFAIRS**

**HCR 3016**

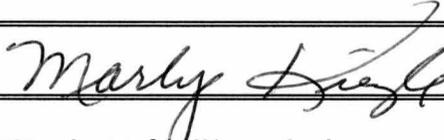
# 2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Fort Union, State Capitol

HCR 3016  
2/5/2015  
Job # 23360

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A concurrent resolution providing a method for states to appoint a delegate if a constitutional convention is called for the purpose of proposing an amendment to the Constitution of the United States to provide states a process to collectively countermand or repeal any law or ruling

## Minutes:

Attachment 1,2,3

**Chairman Kasper** opened the hearing on HCR 3016.

**Rep. Alan Fehr**, District 36, appeared in support. (Attachments 1 and amendments 2-3).

**Chairman Kasper:** Are you purposing that we amend 3 with amendment 2?

**Rep. Fehr:** Yes. Amend # 3 with the language "amendment convention", instead of "constitutional convention".

**Rep. Laning:** For clarification you have when the convention approves the amendment the convention is concluded. The choice of the convention may be to reject the amendment which would also conclude the convention assume. That would be the outcome isn't it?

**Vice Chair Rohr:** Heard the language has to be pretty tight and similar to what other states have done, so is this consistent to what other states have done?

**Rep. Fehr** Actual language from last amendment.

**Rep. Chuck Damschen District 19:** Appeared in support. He went over the (Attachment 3) amendment that was handed out earlier. We are not reinventing the wheel. It is a major decision that the legislature will take. It is not taking anything away from the constitution. It was government from the bottom up. It is kind of like national referral process.

**Rep. B. Koppelman:** Are those all new whereas or are they to replace other ones?

**Rep. Damschen:** These are all new ones.

**Chairman Kasper:** On page 1 Line 21 it read North Dakota must organize a Republican Convention. I don't think that is correct.

**Rep. Damschen:** You are correct.

**Chairman Kasper:** It needs to be corrected. I think it should be "amendment convention".

**Charles Kacprowicz, National Director of Citizen Initiatives:** I think the word would have been Republican form of Convention. The initiative is to say we are directing you to do something and to asking you to. Why we can do this is that we are a Nation of Republican form of government that is the reason for that insertion in there.

**Chairman Kasper:** So it should say "republican form of government"

**Rep. Damschen:** It definitely was not partisan reference.

**Chairman Kasper:** Read from the constitution article 4.

**Charles Kacprowicz, National Director of Citizen Initiatives,** appeared in support. Delegates go as ambassadors, according Article V, to constitutional convention simply for the purpose of making amendments. I want you to retain your sovereignty.

**Rep. B. Koppelman:** There is a conflict between these two amendments. Which is better language?

**Charles Kacprowicz:** I think the latter.

**Rep. B. Koppelman:** So you are saying that in the shorter version we should use attachment #2 version 01001.

**Rep. Wallman:** Are the states that are not going along with this are they losing their sovereignty? Are they disenfranchised if they do not participate?

**Charles Kacprowicz:** No because all states have the ability to respond and if they get 30 in favor it will pass if they have 29 it won't.

**Charles Kacprowicz** The states with this amendment will have a tool that they can't do right now and they will be able to use it to cooperate with one in other that they can't do right now. You cannot even have interstate agreements with one in other without congress say it is okay.

**Chairman Kasper:** Is 3016 pertaining only to your countermanded or does it pertain to any of the other Article V conventions.

**Charles Kacprowicz:** As it is written it would apply only countermand. But the concept could apply anywhere.

**Chairman Kasper:** If we did pass 3016 and passed 1441 they would not conflict with each other?

**Charles Kacprowicz:** They will be compatible with each other. You may have a committee that would decide exactly what the delegates should do.

No opposition or neutral

Closed.

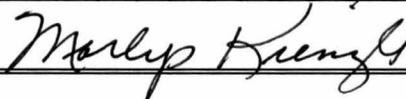
# 2015 HOUSE STANDING COMMITTEE MINUTES

## Government and Veterans Affairs Committee Fort Union, State Capitol

HCR 3016  
2/6/2015  
Job # 23440

- Subcommittee  
 Conference Committee

Committee Clerk Signature



### Explanation or reason for introduction of bill/resolution:

Providing a method for states to appoint a delegate if a constitutional convention is called for the purpose of proposing an amendment to the Constitution of the US to provide states a process to collectively countermand or repeal any law or ruling

### Minutes:

Attachment #1

**Chairman Kasper** opened the discussion on HCR 3016. He went over the amendments that were given on 2/5/15, 15.3072.01003 and 15.3072.01001, and reviewed the amendment Austin, the Intern, drew up (attachment #1).

The committee worked on getting these two amendments combined into one.

**Rep. B. Koppelman:** The language on amendment .01001 was preferred over the language on .01003 by the speakers at the hearing.

**Chairman Kasper:** Let's start with page two on amendment .01003 by entering .01001 into page two.

**Rep. B. Koppelman:** I propose that on page 2 line 7 we enter " after "ruling" insert "and to provide a method for the states to appoint a delegates to the amendment convention".

**Chairman Kasper:** Then we would strike and for each state to appoint a delegate.

**Rep. B. Koppelman:** On page line 4, I would like to add after "ruling" insert "and to provide a method for the states to appoint a delegate to the amendment convention".

**Chairman Kasper:** Does this mean that there would only be 1 delegate is that correct? As read it, it states a delegate.

**Rep. Seibel:** I don't know if I am the person to answer this. I would say that is the process of appointing a delegate but I don't know that it necessarily means that only 1 delegate can be appointed.

**Chairman Kasper:** I don't think it should be limited to just one delegate.

**Rep. Seibel:** On page 1 on the amendment .01003, the second set of, "Where as", Page 1 after line 21 insert it says North Dakota delegation must organize a Republican convention with at least 26 other state delegations with at least each state having one vote. So it does state at least meaning it could be plural.

**Chairman Kasper:** Could we just add delegates.

**Rep. Seibel:** That is correct.

**Rep Rohr:** Which amendment are you going to add page 2, line 2 changing it to amendment convention.

**Rep. Seibel:** Page 1 line 1 do we need to change that to delegates?

**Chairman Kasper:** That is correct and remove a

**Rep. B. Koppelman:** On page 1 line 7 where it states constitutional convention did we already change that one.

**Rep. Seibel:** I find constitutional convention on line 7, 9, 12 and 14. These need to be removed.

**Rep. Seibel:** Moved to adopt the amendment with all the corrections.

**Rep. B. Koppelman:** Seconded the motion.

Voice vote to adopt the amendment carried.

**Rep Steiner:** Made a motion of **Do pass as amended.**

**Rep Seibel:** Seconded the motion.

**Do pass as amended Yes 9 No 4 Absent 1.**

**Rep B. Koppelman is the carrier.**

February 6, 2015

sk  
2/6/15  
1/2

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3016

Page 1, line 1, replace "a delegate" with "delegates"

Page 1, line 1, replace "a constitutional" with "an amendment"

Page 1, line 4, after "ruling" insert "and to provide a method for the states to appoint delegates to the amendment convention"

Page 1, line 7, replace "a constitutional" with "an amendment"

Page 1, after line 7, insert:

**WHEREAS**, the countermand amendment restores state sovereignty in the constitutional republic by providing state legislatures countermand authority; and

**WHEREAS**, state legislatures shall have the authority to countermand and rescind any congressional statute, judicial decision, executive order, treaty, government agency's regulatory ruling, or any other government or nongovernment mandate, including excessive spending and credit, imposed on them when sixty percent of state legislatures determine the law or ruling adversely affects the state's interest. When the countermand threshold has been reached, the law or ruling shall be immediately and automatically nullified and repealed; and

**WHEREAS**, the initial countermand is issued by a state legislature, the other legislatures have eighteen months to complete the countermand process. If the countermand process is not completed in eighteen months, then the law or ruling in question shall remain enforceable; and

**WHEREAS**, each state legislature must complete their countermand affidavit and deliver a certified copy to the Chief Justice of the United States Supreme Court, the leaders of the Congress of the United States, the President of the United States, and when applicable to the government agency or body being challenged; and

**WHEREAS**, any elected or nonelected government official, or any nongovernment individual or organization, who intentionally obstructs or prevents the implementation of any provision in this resolution is guilty of a criminal offense and is subject to impeachment and criminal prosecution; and

**WHEREAS**, individual states shall have the authority to prosecute violators of this resolution under state laws in the absence of federal prosecution after ninety days from the date of the alleged violation, however multiple prosecutions for the same offense by multiple states is prohibited; and

**WHEREAS**, this resolution shall immediately be part of the Constitution of the United States upon ratification by three-quarters of the state legislatures; and

**WHEREAS**, the provisions of this article are enforceable within the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States; and"

Page 1, line 9, replace "constitutional" with "amendment"

Page 1, line 12, replace "a constitutional" with "an amendment"

Page 1, line 14, replace "a constitutional" with "an amendment"

2/2

Page 1, line 20, after "convened" insert "amendment"

Page 1, after line 21, insert:

**WHEREAS**, North Dakota's delegation must organize a republican convention with at least twenty-six other state delegations, with each state having at least one vote and a simple majority at all roll call votes; and

**WHEREAS**, North Dakota's delegation must follow the directives in this resolution and is bound by this resolution to vote at all state delegation roll call votes consistent with directives given to the chairman, including sending the countermand amendment to the states for ratification by the Congress of the United States; and

**WHEREAS**, North Dakota's delegate must attend all assigned business sessions at the amendment convention and report the results of work with other state delegates to the chairman; and"

Page 2, line 2, replace "constitutional" with "amendment"

Page 2, line 5, replace "urges" with "directs"

Page 2, line 7, after "ruling" insert "and to provide a method for the states to appoint delegates to the amendment convention"

Renumber accordingly

Date: 2-6-15  
 Roll Call Vote #: 1

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 3016**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 15.3072.01004

- 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 Seibel    Seconded By Koppelman

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper			Rep. Bill Amerman		
Vice Chair Karen Rohr			Rep. Gail Mooney		
Rep. Jason Dockter			Rep. Mary Schneider		
Rep. Mary C. Johnson			Rep. Kris Wallman		
Rep. Karen Karls					
Rep. Ben Koppelman					
Rep. Vernon Laning					
Rep. Scott Louser					
Rep. Jay Seibel					
Rep. Vicky Steiner					

*Voice vote motion carried*

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

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

Date: 2-6-15  
 Roll Call Vote #: 2

**2015 HOUSE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 3016**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: 15-3072.61004

- 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 Steiner    Seconded By Seibel

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman		X
Vice Chair Karen Rohr	X		Rep. Gail Mooney		X
Rep. Jason Dockter	X		Rep. Mary Schneider		X
Rep. Mary C. Johnson	X		Rep. Kris Wallman	A	
Rep. Karen Karls		X			
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Jay Seibel	X				
Rep. Vicky Steiner	X				

Total (Yes) 9 No 4

Absent 1

Floor Assignment B. Koppelman

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

**REPORT OF STANDING COMMITTEE**

**HCR 3016: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (9 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HCR 3016 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "a delegate" with "delegates"

Page 1, line 1, replace "a constitutional" with "an amendment"

Page 1, line 4, after "ruling" insert "and to provide a method for the states to appoint delegates to the amendment convention"

Page 1, line 7, replace "a constitutional" with "an amendment"

Page 1, after line 7, insert:

**"WHEREAS**, the countermand amendment restores state sovereignty in the constitutional republic by providing state legislatures countermand authority; and

**WHEREAS**, state legislatures shall have the authority to countermand and rescind any congressional statute, judicial decision, executive order, treaty, government agency's regulatory ruling, or any other government or nongovernment mandate, including excessive spending and credit, imposed on them when sixty percent of state legislatures determine the law or ruling adversely affects the state's interest. When the countermand threshold has been reached, the law or ruling shall be immediately and automatically nullified and repealed; and

**WHEREAS**, the initial countermand is issued by a state legislature, the other legislatures have eighteen months to complete the countermand process. If the countermand process is not completed in eighteen months, then the law or ruling in question shall remain enforceable; and

**WHEREAS**, each state legislature must complete their countermand affidavit and deliver a certified copy to the Chief Justice of the United States Supreme Court, the leaders of the Congress of the United States, the President of the United States, and when applicable to the government agency or body being challenged; and

**WHEREAS**, any elected or nonelected government official, or any nongovernment individual or organization, who intentionally obstructs or prevents the implementation of any provision in this resolution is guilty of a criminal offense and is subject to impeachment and criminal prosecution; and

**WHEREAS**, individual states shall have the authority to prosecute violators of this resolution under state laws in the absence of federal prosecution after ninety days from the date of the alleged violation, however multiple prosecutions for the same offense by multiple states is prohibited; and

**WHEREAS**, this resolution shall immediately be part of the Constitution of the United States upon ratification by three-quarters of the state legislatures; and

**WHEREAS**, the provisions of this article are enforceable within the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States; and"

Page 1, line 9, replace "constitutional" with "amendment"

Page 1, line 11, remove "a"

Page 1, line 12, replace "constitutional" with "an amendment"

Page 1, line 14, replace "a constitutional" with "an amendment"

Page 1, line 20, after "convened" insert "amendment"

Page 1, after line 21, insert:

**WHEREAS**, North Dakota's delegation must organize a republican convention with at least twenty-six other state delegations, with each state having at least one vote and a simple majority at all roll call votes; and

**WHEREAS**, North Dakota's delegation must follow the directives in this resolution and is bound by this resolution to vote at all state delegation roll call votes consistent with directives given to the chairman, including sending the countermand amendment to the states for ratification by the Congress of the United States; and

**WHEREAS**, North Dakota's delegate must attend all assigned business sessions at the amendment convention and report the results of work with other state delegates to the chairman; and"

Page 2, line 2, replace "constitutional" with "amendment"

Page 2, line 5, replace "urges" with "directs"

Page 2, line 7, after "ruling" insert "and to provide a method for the states to appoint delegates to the amendment convention"

Renumber accordingly

**2015 SENATE GOVERNMENT AND VETERANS AFFAIRS**

**HCR 3016**

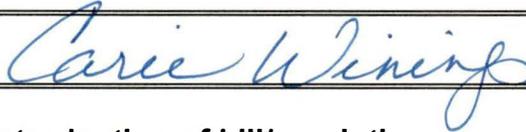
# 2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

HCR 3016  
3/19/2015  
Job # 25151

- Subcommittee  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A concurrent resolution providing a method for states to appoint delegates if an amendment convention is called for the purpose of proposing an amendment to the Constitution of the United States to provide states a process to collectively countermand or repeal any law or ruling and to provide a method for the states to appoint delegates to the amendment convention.

## Minutes:

Attachments 1

**Chairman Dever:** Opened the hearing on HCR 3016.

**Representative Fehr, District 36:** See Attachment #1 for testimony as sponsor and in support of the resolution. We are trying to follow what other states are doing and there is a template that we have been working off of. The appointment of the delegates is not real clear and the language may need to be amended.

**(4:27) Chairman Dever:** Wouldn't line 16 there take care of that?

**Representative Fehr:** Perhaps, although specifically the delegate resolution is to us for appointing delegates. It is not to Congress to appoint delegates.

**Chairman Dever:** Or to provide a method for the states to appoint delegates. That is up to the state.

**Representative Fehr:** It perhaps requires some fresh eyes to look at it and see if we got it right. When it came out of the House we thought we had it right.

**Chairman Dever:** It seems to me that in a resolution the action is in the resolve not in the whereas. It appears that we are placing directives on the delegates through the whereas.

**Representative Fehr:** That is perhaps correct. Again, we were following a template that was heavy on the "whereas" and light on the "therefore it be resolved". It may be that it needs to be massaged and we would be open to that.

**Senator Larsen, District 3:** Testified in support of the resolution. Ditto on what you all have been hearing today. Just one thought that these bills I believe will do. Just a few

weeks ago the President of the United States with the stroke of a pen took land away from the state of Alaska. It took less than a day. If we do this right, we will be able to expediently rescind those that are encroachments on our state. We hardly heard a peep about the state of Alaska and those folks having to fall under that rule. I think to myself how often it can be that the federal government is doing the same thing - picking off other states. In this vehicle that we have, if we can get 30 states together to agree that something is not good for our country, then I feel that the federal government will really think long and hard about the encroachment of what they are doing to our sovereign states.

**(8:05)Chairman Dever:** It appears HCR 3016 lays out the directives to the delegates as a companion to HCR 3017, both seem to call for a convention. Does HB 1441 satisfy the same purpose?

**Senator Larsen:** I have not looked in depth to that. If they are mirrored I am in support of that as well. My thought would be that a resolution would be better because we have to have the resolutions and the other states in line with it. If it goes into a bill and the other states do not follow suite it just kind of sits there.

**Chairman Dever:** Doesn't HCR 3017 serve that purpose.

**Senator Larsen:** I am not sure. It might.

**Representative Damschen, District 10:** Testified in support of the resolution. I do believe the approach that this resolution takes is not only for our state to lay down parameters, but for other states to adopt the same type of resolution. For a countermand amendment it would be identical so in a sense the state is calling on Congress for a convention of states would be in agreement before they would come to the convention and there would be no argument about what they were going to discuss. I want to remind us too that we are not talking about a constitutional convention. It is a convention of the states for an amendment. I think the fear of a runaway convention is a fear that we are going to try to be founding fathers again. We are not. The founding has been done but we can be patriots and we can use the means that the forefather provided for amending the Constitution.

**Senator Dever:** I am always inspired by your wisdom.

**(11:50) Senator Nelson:** Quite often the legislature passes constitutional measures and they then have to be voted on by the people. And the legislature had to give it a majority vote to get it on the ballot. When it gets to the people and they decide they don't want it, what is to say that just because a certain legislature does not like something that the sitting president did or the sitting congress did that the people don't approve of it?

**Representative Damschen:** That is a good point. The safety measure that is taken there is that it requires 60% of the state legislatures to issue a countermand before it would be effective and undo anything that has been done by the federal government. It can be very difficult to get others to change their mind on something.

**(13:50) Charles Kacprowicz, Executive Director, Citizen Initiatives and The Countermand Amendment:** Testified in support of the resolution. I have been working on

amendments to the US Constitution for 40 years either through Congress or state legislatures under Article V. I probably have the longest longevity in this area and my education goes back to my college years. It is not like I am smart; it is just that there are some things that fit together. Common sense and reasoning are some of them. Everything I do in regards to Article V is always centered on the word "Sovereignty". Sovereignty trumps everything. If you are sovereign under Article V as state legislatures then the Supreme Court has to listen when you ratify an amendment to the constitution. Then they have to obey it. Everyone has to obey it. I am emphasizing that we do not want to surrender or abdicate the legislative sovereignty under Article V. Back in 1787 the biggest issue was sovereignty and when they finally figured it out with the assistance of George Wythe, a notable attorney, professor, and delegate of the convention. They figured out that they needed to have one vote per state. Had that not happened we all would be in a mess today and it all be based on the popularity of things and the majority. They put a republican form of government together with checks and balances so that in fact the states can retain their identity. There are excellences in the states that the federal government is trying today to do away with. That is very seriously a problem that we need to address. I think that the amendment itself is pretty straight forward. There are a couple of sections that I would like to reiterate a little bit. The purpose of the amendment is to make certain that the legislatures are in a position to restore our constitutional republic. I do not think we can do that peacefully if the legislators surrender their sovereignty. I am convinced that we will lose this nation. Anything that interferes with your sovereignty I am against. Whether it is surrendering to a delegate at a convention or whether it is surrendering to Congress and asking their permission to convene a convention. It does not matter. Personally, I do not want anyone to tell you guys what to do because you are sovereign. When you make a decision it applies to everyone in the country. (18:30 - Proceeds to go through the bill and point out parts of the bill that take away the states sovereignty and gives examples of situations that would apply to.) The federal government is the child of the states. You created the federal government. They did not create you. All of the sudden we got this thing backwards today and we concluded somehow we are answerable to the federal government. We are not. We are answerable to what is right for our people because we are the representatives of the people who elected us to office. Why a delegate resolution? Article V allows the legislatures to an awful lot. You can advocate your authority to anyone you want. It means that you have surrendered some of your sovereign authority to Congress and personally I do not want that. Article V is yours. It is not Congress. When you look at it that way you have to conclude that if you surrender a little here and there you don't have much left and you are not as sovereign as you used to be. We have decided that we would do it through a delegate resolution that we have proposed to many states. The delegate resolution, although it is not clearly defined in the documents that you have, as the template that we have proposed basically says that the delegates are ambassadors of their legislatures, they are not free agents. They are not equivalent to the founders. Everyone in the groups conclude that the delegates somehow have control like the founders had control in the constitutional convention. They do not because Article V did not exist then. It is for proposing amendments and that means they have a limitation automatically as to what they can do. They are there to do the will of the legislature they represent. As long as they do that we have a safe convention. Our delegate resolution provides for the delegates under your direction to organize that convention safely so it is definitely a republican form of convention. We need 26 states to agree to that delegate resolution and we are on our way. Once 26 states or more have agreed to it, then that convention will be controlled by the will

of the legislatures that have agreed to that delegate resolution. That is a democratic process but within a republican form of government. The other issue is if it is going to be by simple majority or is it going to be some super majority. That has to be settled to. The last issue is the amendment itself. If you send your delegates to the convention with a pre-approved text (in our case it is the countermand amendment) and you instruct them that there is no other amendment that you can vote on at this convention they will be required to vote for this amendment. You won't even be able to alter the text for the amendment unless your legislature gives you permission. I want to cover two other things in the amendment itself that will help to put teeth into it when the ratification process begins. Remember you can address almost any issue of encroachment by the federal government with a countermand amendment. You need 60% but it allows the federal government to be able to function in the meantime and if you don't get the 60% within 18 months the countermand is dropped. Then you have to start all over again. Personally I think some of these countermands will be done in a few weeks simply because of the urgency that is connected with them. Remember it is a non-partisan amendment. It goes both ways. We are encouraging the state legislatures to recognize that they are the deliberative body representing their constituents and I want them to retain that authority and not give it to the delegate. We put in here a provision of enforcement. We know that the federal government does not enforce many of the laws that are to protect our constitutional right. Immigration is one of them. They are very selective especially if it has an adverse effect on them politically. If the government won't prosecute intentional violators then the state has to. That is where the impeachment and criminal prosecution comes in and you will have to decide how you control the delegates and what type of enforcement you have. This does not change anything in the Constitution and it does not make any of the other provisions in the Constitution less effective. It just gives the states a way in which to make certain that we do not lose the Constitution through terrible interpretations but secondly that it is used and applied in a way that it protects our civil liberties and states' rights. If a legislator in Congress decides to not take up a countermand they would also be subject to prosecution not only by the federal government but they would also be subject to the possibility of prosecution of any one of 50 states.

**(32:10)Chairman Dever:** The thing that I struggle with in this resolution is that it is a resolution that directs action on the delegates which more appropriately it seems it should be statutory.

**Charles Kacprowicz:** You are right that the penalty part of it is statutory on the delegates. This particular bill when it is finally settled by the committee the fact remains that the enforcement of criminal prosecutions is a statutory thing. It is not to be part of the amendment just those penalties will be.

**Chairman Dever:** That is true but HB 1441 directs the delegates what their responsibility is in statute and it seems to me that needs to be in statute.

**Charles Kacprowicz:** I would not deny that. Some states have done that along with a delegate resolution that has specific instructions. I would say that no matter how you write it we have to make sure that those delegates know exactly what they are to do when they get there so that there is no possibility that the adversaries will have a way in which to control the convention. They will do it by trying to get the delegates to vote one vote at a time

rather than one state at a time. When we have a convention, Congress will summon delegates to come to this convention reflecting the members in that state who are in that Congress. So when you look at it that way you can see the imbalance. You have to get past that right away. That is the first issue that has to be dealt with at the convention. One of the safest ways to do that is Mr. Dranias' approach. He has a contract that will make everything happen automatically. It does eliminate the problem of mayhem at the convention.

**Chairman Dever:** Closed the hearing on HCR 3016.

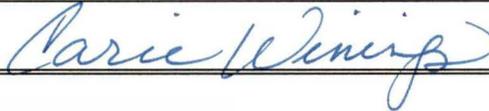
# 2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

HCR 3016  
3/20/2015  
Job # 25161

- Subcommittee  
 Conference Committee

Committee Clerk Signature



Minutes:

Attachments 1

**Chairman Dever:** Opened HCR 3016 for committee discussion. The committee reviewed the amendments brought to the committee. Asked Representative Fehr why a simple majority of 26 states.

**(2:49) Representative Fehr, District 36:** See Attachment #1 for proposed amendments. I believe you found another error. It takes 34 to call for a convention and that is what we were talking about. Somehow we had 26 in mind but that is to conclude the convention. I believe that should be 34 states that have made application.

**Committee Discussion:** The committee had a brief discussion on the amendments and the issue of 26 states verses 34 states.

**Chairman Dever:** I am not sure that this resolution does what the proponents are hoping that it would as far as directing the actions of the delegates and I am not sure that you can do that by resolution.

**Senator Nelson:** I found it interesting that it was stated to us that they followed a template and not all states operate the same way and we do not operate by resolution. We operate that it has to be in a law. This template just doesn't fit us.

**Chairman Dever:** Suspended discussion on HCR 3016.

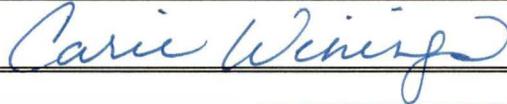
# 2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee  
Missouri River Room, State Capitol

HCR 3016  
3/20/2015  
Job # 25164

- Subcommittee  
 Conference Committee

Committee Clerk Signature



Minutes:

No Attachments

**Chairman Dever:** Reopened HCR 3016 for committee discussion.

**Senator Larsen, District 3:** In looking at the resolution and the confusion that it makes between the bill that we just currently passed and the work that continues to need to be done on this to fine tune it, in the effort of saving time I think this would be better to put it to rest.

**Senator Flakoll:** Noted the hard work that has gone into the resolution and **Moved a Do Not Pass.**

**Senator Cook: Seconded.**

**A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.**

**Motion Carried.**

**Senator Poolman will carry the bill.**

Date: 3/20  
 Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 3016**

Senate Government and Veterans Affairs 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 Flakoll Seconded By Cook

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	✓	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Poolman

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

**REPORT OF STANDING COMMITTEE**

**HCR 3016, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman)** recommends **DO NOT PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3016 was placed on the Fourteenth order on the calendar.

**2015 TESTIMONY**

**HCR 3016**

# 1 3016  
2-5-15

## Testimony on HCR 3016 Rep Alan Fehr, District 36

Mr Chairman and members of the Government and Veteran Affairs Committee, I am Representative Alan Fehr of District 36.

This morning you heard me talk about HCR 3017 and the Countermand Amendment.

This afternoon I am introducing HCR 3016, a companion resolution to HCR 3017. This resolution relates to the appointment of delegates to a convention.

Whereas HCR 3017 calls for a single issue convention to produce wording for a countermand amendment, HCR 3016 authorizes the binding of delegates and specifies that a delegate can only work on this specified amendment. Delegates to the convention are required to perform duties as directed, are prohibited from voting on any other amendment, and can be removed or replaced if needed.

When the convention approves an amendment, the convention is concluded. The amendment will then come back to the state to be ratified.

Here are the benchmarks:

- 34 state legislatures are needed to call for a convention of states
- 26 states must approve the amendment to conclude the convention
- 38 states must ratify the amendment for it to become law
- 30 states -- once ratified, the Countermand Amendment will require action by 30 states to rescind any specific federal law

Thank you for your consideration of HCR 3016. I welcome your questions.

1

15.3072.01001  
Title.

Prepared by the Legislative Council staff for  
Representative Fehr

January 20, 2015

# 2 3016

2-5-15.

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3016

Page 1, line 4, after "ruling" insert "and to provide a method for the states to appoint a delegate to the constitutional convention"

Page 2, line 7, after "ruling" insert "and to provide a method for the states to appoint a delegate to the constitutional convention"

Renumber accordingly

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3016

Page 1, line 1, replace "a constitutional" with "an amendment"

Page 1, line 7, after "constitutional" insert "amendment"

Page 1, after line 7, insert:

**"WHEREAS**, the countermand amendment restores state sovereignty in the constitutional republic by providing state legislatures countermand authority; and

**WHEREAS**, state legislatures shall have the authority to countermand and rescind any congressional statute, judicial decision, executive order, treaty, government agency's regulatory ruling, or any other government or nongovernment mandate, including excessive spending and credit, imposed on them when sixty percent of state legislatures determine the law or ruling adversely affects the state's interest. When the countermand threshold has been reached, the law or ruling shall be immediately and automatically nullified and repealed; and

**WHEREAS**, the initial countermand is issued by a state legislature, the other legislatures have eighteen months to complete the countermand process. If the countermand process is not completed in eighteen months, then the law or ruling in question shall remain enforceable; and

**WHEREAS**, each state legislature must complete their countermand affidavit and deliver a certified copy to the Chief Justice of the United States Supreme Court, the leaders of the Congress of the United States, the President of the United States, and when applicable to the government agency or body being challenged; and

**WHEREAS**, any elected or nonelected government official, or any nongovernment individual or organization, who intentionally obstructs or prevents the implementation of any provision in this resolution is guilty of a criminal offense and is subject to impeachment and criminal prosecution; and

**WHEREAS**, individual states shall have the authority to prosecute violators of this resolution under state laws in the absence of federal prosecution after ninety days from the date of the alleged violation, however multiple prosecutions for the same offense by multiple states is prohibited; and

**WHEREAS**, this resolution shall immediately be part of the Constitution of the United States upon ratification by three-quarters of the state legislatures; and

**WHEREAS**, the provisions of this article are enforceable within the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States; and"

Page 1, line 9, after "constitutional" insert "amendment"

Page 1, line 14, after "constitutional" insert "amendment"

Page 1, after line 21, insert:

**"WHEREAS**, North Dakota's delegation must organize a republican convention with at least twenty-six other state delegations, with each state having at least one vote and a simple majority at all roll call votes; and

**WHEREAS**, North Dakota's delegation must follow the directives in this resolution and is bound by this resolution to vote at all state delegation roll call votes consistent with directives given to the chairman, including sending the countermand amendment to the states for ratification by the Congress of the United States; and

**WHEREAS**, North Dakota's delegate must attend all assigned business sessions at the amendment convention and report the results of work with other state delegates to the chairman; and"

Page 2, line 5, replace "urges" with "directs"

Page 2, line 7, after "ruling" insert "and for each state to appoint a delegate"

Renumber accordingly

Attachment A 3016  
2-6-15

15.3072.01004  
Title.02000

Adopted by the Government and Veterans  
Affairs Committee

February 6, 2015

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3016

Page 1, line 1, replace "a delegate" with "delegates"

Page 1, line 1, replace "a constitutional" with "an amendment"

Page 1, line 4, after "ruling" insert "and to provide a method for the states to appoint delegates to the amendment convention"

Page 1, line 7, replace "a constitutional" with "an amendment"

Page 1, after line 7, insert:

**"WHEREAS**, the countermand amendment restores state sovereignty in the constitutional republic by providing state legislatures countermand authority; and

**WHEREAS**, state legislatures shall have the authority to countermand and rescind any congressional statute, judicial decision, executive order, treaty, government agency's regulatory ruling, or any other government or nongovernment mandate, including excessive spending and credit, imposed on them when sixty percent of state legislatures determine the law or ruling adversely affects the state's interest. When the countermand threshold has been reached, the law or ruling shall be immediately and automatically nullified and repealed; and

**WHEREAS**, the initial countermand is issued by a state legislature, the other legislatures have eighteen months to complete the countermand process. If the countermand process is not completed in eighteen months, then the law or ruling in question shall remain enforceable; and

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**WHEREAS**, any elected or nonelected government official, or any nongovernment individual or organization, who intentionally obstructs or prevents the implementation of any provision in this resolution is guilty of a criminal offense and is subject to impeachment and criminal prosecution; and

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**WHEREAS**, the provisions of this article are enforceable within the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States; and"

Page 1, line 9, replace "constitutional" with "amendment"

Page 1, line 12, replace "a constitutional" with "an amendment"

Page 1, line 14, replace "a constitutional" with "an amendment"

Page 1, line 20, after "convened" insert "amendment"

Page 1, after line 21, insert:

**WHEREAS**, North Dakota's delegation must organize a republican convention with at least twenty-six other state delegations, with each state having at least one vote and a simple majority at all roll call votes; and

**WHEREAS**, North Dakota's delegation must follow the directives in this resolution and is bound by this resolution to vote at all state delegation roll call votes consistent with directives given to the chairman, including sending the countermand amendment to the states for ratification by the Congress of the United States; and

**WHEREAS**, North Dakota's delegate must attend all assigned business sessions at the amendment convention and report the results of work with other state delegates to the chairman; and"

Page 2, line 2, replace "constitutional" with "amendment"

Page 2, line 5, replace "urges" with "directs"

Page 2, line 7, after "ruling" insert "and to provide a method for the states to appoint delegates to the amendment convention"

Renumber accordingly

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When the convention approves an amendment, the convention is concluded. The amendment will then come back to the state to be ratified.

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Thank you for your consideration of HCR 3016. I welcome your questions.

3/20

HCR 3014

# 1

### Proposed Amendments

1. Page 1, line 5, replace "VI" with "IV."
2. Delete all text from line 20 on page 2 through the end of the resolution. Replace it with the following:

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

That the Sixty-fourth Legislative Assembly authorizes Legislative Management to summon and appoint delegates to an amendment convention when twenty-six states have made application on Congress for the Countermand Amendment.

BE IT FURTHER RESOLVED, that delegates are ambassadors of this legislature and are required to fulfill the commission assigned to them in this resolution, and must organize a republican convention with at least twenty-six state delegations, with each state having one vote, and a simple majority will prevail at all roll call votes.