MICROFILM DIVIDER

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SFN 2053 (2/85) 5M

ROLL NUMBER

DESCRIPTION

3050

2007 HOUSE JUDICIARY

HCR 3050

2007 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3050

House Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: 2/21/07

Recorder Job Number: 3536, 3540

Committee Clerk Signature

Minutes:

Chairman DeKrey: We will open the hearing on HCR 3050.

Rep. Bill Kretschmar: Sponsor, introduced the bill. This resolution asked for a study of how legislative vacancies are filled. I don't think our present system is a good one. I think most of the people of our state would like to elect their legislators. They do it at each biennium election. When the constitution was changed to allow the Legislature to set up the system of how vacancies in the Legislature were filled, the Legislature adopted the system that we now have in law of appointing persons to fill legislative vacancies. Prior to that, legislative vacancies were filled by special elections or elections. They were to be called by the Governor and then you go through the election process. I can remember in one of the sessions in which I served, an elected legislator was accused of corrupt practices and buying all the drinks for the boys, that was the allegation. The evidence was strong and that person probably before the organizational session, resigned as legislator-elect. There was a vacancy in that district and it was filled at an election in January, probably before the first half of January was over and a new legislator then came into the House of Representatives. That's how things worked back then. Under present law, the district committee of the party of the vacated position picks a successor. Just in this last election cycle, in November, when Sen. Trenbeath, who was a

holdover senator even, accepted a position in the AG's office and resigned from the State Senate, and their district party then appointed Sen. Olson to fill that position. I think the system can work in that timeframe so that those appointments could be made. However, now if a vacancy occurs this year, say in the middle of June, I don't think it would be necessary to appoint someone to fill that position, unless the Governor would call a Special Session of the Legislature, they could wait until that position, at the election in 2008. It would then be filled by the vote of the people of the district. That is even more pronounced if the vacancy occurred in April of 2008. The election process is under way and somebody could get on the ballot in those districts and there would be no need in my judgment at least, for appointing someone to fill the spot in the meantime. There have been instances where the appointed person didn't win the election. I think once it was even in the primary election. I think the Legislature would be wise for a study of our system to see if there are times/framework in which an appointment need not be made, because of the timing of the vacancy and when it occurred. I think there is a temptation if someone is going to resign from the legislature to wait until the opportune time to do it so that the party can choose someone who they think can win the election. That basically is what HCR 3050 would be if chosen for study and approved by this committee and legislature.

Rep. Meyer: What is the timeframe, what happens when someone dies and they are running for office, and the election is in November. Let's say they died in September or October.

Rep. Kretschmar: I believe there is provision in the law for the party organization of that district to get someone else on the ballot to run in the election. If a vacancy occurs, say toward the end of Thanksgiving and we're going to have an organizational session in December, there I think the appointee system may have a claim to have something done, because the legislature is coming up. But in the interims, it just seems to me that it would be far better to

set up a system that would require an election, in the next successive election rather than

appointing someone in that interim period.

Chairman DeKrey: Thank you. Further testimony in support. Testimony in opposition. We

will close the hearing.

(Reopened later in the same session)

Chairman DeKrey: What are the committee's wishes in regard to HCR 3050.

Rep. Griffin: I move a Do Pass.

Rep. Meyer: Second.

9 YES 1 NO 4 ABSENT   DO PASS/CONSENT   CARRIER: Rep. Kretschmar

2007 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 3050

House   JUDICIARY _____ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken _____ Do Pass _____

Motion Made By _Rep. Griffin_____ Seconded By _Rep. Meyer_____

Representatives	Yes	No	Representatives	Yes	No
Chairman DeKrey	✓		Rep. Delmore		
Rep. Klemin	✓		Rep. Griffin	✓	
Rep. Boehning	✓		Rep. Meyer	✓	
Rep. Charging		✓	Rep. Onstad	✓	
Rep. Dahl		✓	Rep. Wolf	✓	
Rep. Heller	✓				
Rep. Kingsbury	✓				
Rep. Koppelman	✓				
Rep. Kretschmar	✓				

Total   (Yes) _____ 9 _____ No _____ 1 _____

Absent _____ 4 _____

Floor Assignment _____ Rep. Kretschmar _____

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

Consent Calendar

REPORT OF STANDING COMMITTEE (410)
February 21, 2007 4:05 p.m.

Module No: HR-33-3639
Carrier: Kretschmar
Insert LC: .   Title: .

REPORT OF STANDING COMMITTEE

HCR 3050: Judiciary Committee (Rep. DeKrey, Chairman) recommends **DO PASS** and **BE PLACED ON THE CONSENT CALENDAR** (9 YEAS, 1 NAY, 4 ABSENT AND NOT VOTING). HCR 3050 was placed on the Tenth order on the calendar.

2007 SENATE JUDICIARY

HCR 3050

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3050

Senate Judiciary Committee

☐ Check here for Conference Committee

Hearing Date: March 7, 2007

Recorder Job Number: 4597

Committee Clerk Signature	*Maria Lsoltry*

Minutes: Relating to a study in filling vacancies in the Legislative Assembly.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present except for Sen. Olafson. The hearing opened with the following:

Rep. Bill Kretschmar, Dist. #28 introduced the resolution stating that he believes vacancies should be by an election only unless time is of an "essence". Spoke of using dates to establish when to use what process. It is better to use the electoral process, please put this forward to the legislative council to study.

Testimony in Opposition of the Resolution:

None

Testimony Neutral to the Resolution:

None

Senator David Nething, Chairman closed the hearing.

2007 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No. **HCR 3050**

Senate **Judiciary Committee**

☐ Check here for Conference Committee

Hearing Date: March 12, 2007

Recorder Job Number: 4898

Committee Clerk Signature	*[signature]*

Minutes: Relating to a study in filling vacancies in the Legislative Assembly.

Senator David Nething, Chairman called the Judiciary committee to order. All Senators were present. The hearing opened with the following committee work:

Sen. Nething brought the bill forward stating that the bill was brought fourth by Re. Kretschmar and no one appeared in opposition.

Sen. Lyson made the motion to Do Pass HCR 3050 and **Sen. Nelson** seconded the motion. All members were in favor and the motion passes.

Carrier: **Sen. Marcellais**

Senator David Nething, Chairman closed the hearing.

Date: 3-12-07

Roll Call Vote # 1

2007 SENATE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. 3050

Senate _____ Judiciary _____ Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken _____Do Pass_____

Motion Made By _Sen. Lyson_ Seconded By _Sen. Nelson_

Senators	Yes	No	Senators	Yes	No
Sen. Nething	✓		Sen. Fiebiger	✓	
Sen. Lyson	✓		Sen. Marcellais	✓	
Sen. Olafson	✓		Sen. Nelson	✓	

Total Yes ___6___ No ___0___

Absent ___0___

Floor Assignment _Sen. Marcellais_

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

REPORT OF STANDING COMMITTEE (410)
March 12, 2007 1:55 p.m.

Module No: SR-46-4995
Carrier: Marcellais
Insert LC: .   Title: .

REPORT OF STANDING COMMITTEE

HCR 3050: Judiciary Committee (Sen. Nething, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HCR 3050 was placed on the Fourteenth order on the calendar.