

**2011 HOUSE CONSTITUTIONAL REVISION**

HCR 3042

# 2011 HOUSE STANDING COMMITTEE MINUTES

House Constitutional Revision Committee  
Prairie Room, State Capitol

HCR 3042  
March 16, 2011  
Job #15540

☐ Conference Committee

Committee Clerk Signature

*Mary Main*

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

A concurrent resolution for the amendment of section 3 of article IV of the Constitution of North Dakota, relating to the election of at least one member of each legislative district each biennial election.

## Minutes:

**Chairman Koppelman:** We'll open the hearing on HCR 3042.

**Vice Chairman Kretschmar:** I introduced HCR 3042 for the purpose of letting the electors of North Dakota decide whether they would like a legislative election in their districts at each biennial election rather than the current system whereby one half of our districts don't have a legislative election each election cycle. We've experienced this new system since the 1998 election so it's been in effect about 12 or 13 years. I've found in my district that when we don't have a legislative election, there is less interest in the political situation and in the body politic. I think it would be much better for our system of elections if there were legislative elections in each district each biennial election. It would seem to me that it would be a good thing for the people of North Dakota to have a chance to vote on that and see whether they thought the procedure that we have now is good or whether we could improve it by having legislative elections in each district every two years. I'm sure there will be arguments against a proposal like this but it just seems to me that would be better for our body politic to have a system like this put forth and see if the people would want to adopt it. Sometimes I think we who serve in the legislature are tempted we're the be all and end all of the political systems but actually we are the servants of the citizens of our good State. We should try to act in all ways as good servants rather than trying to be the boss. That's the reason I'm putting this forth. I'm not sure that our committee or our House of Representatives or our Senate would approve it but I think it would be a good thing to send out to let the people of our State make that decision to see how they would like to have legislative elections conducted. I'd be happy to field any questions.

**Representative Holman:** You probably were here when this was changed in 1988. I was opposed when we made that change. Was there discussion of this type of action at that time when the terms for the House members were changed to a four year term?

**Vice Chairman Kretschmar:** In my recollection, it was discussed and a vote was taken in our caucus and the current system was approved and then approved by the full legislature so it became law.

**Representative Winrich:** I was first elected to the house in 1998 which was the transition election. I had the privilege of running for a two year term when everyone else was running for a four year term or at least those in odd numbered districts. Could we arrange this so that only people who have always had four year terms would have to run for a two year term?

**Vice Chairman Kretschmar:** We could perhaps adopt the system that our sister state of South Dakota has in which every member of the legislative assembly has a two year term.

**Representative Winrich:** I was one who favored the old system when we did switch but we lost.

**Vice Chairman Kretschmar:** The notion of putting on the ballot a proposition for a four year term for members of our House of Representatives was debated in the legislature quite awhile. At one time I was quite opposed to changing the system from two years to four years but I finally relented. I did support the resolution in the legislature that was set forth for a four year term. Since then, many times I have kicked myself because I didn't get this type of sentence in that resolution. I'm trying to do it now and we'll see what happens.

**Representative Winrich:** If this does pass the House, I would predict that it would almost certainly be killed in the Senate because it would create a situation in every legislative district where there'd be at least one House member who could run against the Senator without giving up their seat in the House every time.

**Vice Chairman Kretschmar:** That would be possible.

**Representative Holman:** I have personally been involved in district politics for about 30 year. I have noticed that since 1998 the energizing of the either local party has gone downhill because of that four year break especially in rural districts. In urban districts, there is always something going on because of the number of separate districts but in a rural often times there is very little political activity going on and you are from a rural district so maybe that's part of this.

**Vice Chairman Kretschmar:** In 1998 general election in which we elected our congressmen and one public service commissioner on the statewide ballot and when there isn't much on the ballot, people aren't as prone to come out and vote. That was the election which I narrowly lost my race for the House of Representatives. I think this was one of the factors in my election defeat in that election. At one time not too many years ago, we elected just about every state official but the Public service commissioner on comes up each two years, at one election and later on the legislature put a Constitutional Amendment on the ballot dividing up when the election of State officials is done. Now, each two years there are 4 or 5 state officials elected rather than all in one election. I think that's a reflection of what the legislature saw and also the people of our state since they approve the Constitutional amendment that there is a lessening of interest and enthusiasm in

elections if there aren't more offices on the ballot. That is basically what my resolution would do but I have no doubt that it's an uphill battle.

**Chairman Koppelman:** Any further testimony in support of HCR 3042? Opposition? Neutral? Seeing none we'll close the hearing.

Just some background information on this. In 1995 legislative session we passed a resolution which placed on the ballot this constitutional change to give the House four year terms versus two year terms which we'd had since statehood or the time the legislature was created. The Senate had always defeated it before. The scuttlebutt that session was that the Senate thought we'll throw the House a bone and the people are going defeat this anyway. It got on the ballot in 1996 and not only did the people overturn actually defeated a term limits measure which was the height of the term limits movement. Many states including South Dakota actually approve a measure to limit terms and they were aimed at limiting the terms of congress. That's how that wave swept the nation. The Supreme Court later ruled that states cannot limit the terms of Federal officials and so that became mute. The organizers of that effort had tacked state legislatures on as king of a tagalong item so what a lot of states ended up with were term limited legislatures. In my experience as chairman of the Council of State Governments, I had the opportunity to visit with a lot of legislators from around the country who lament that fact because you might feel how you do about term limits especially on the federal level, but on the state level, particularly for states like ours where we have citizen legislatures, it really creates some problems. South Dakota has a system where people who have been in the House can run for the Senate after their House term limit is up and vice versa so some hop back and forth. Others just do their time and that's it. I think we have a wonderful system in North Dakota where we have some long serving members that really have some wonderful institutional memory that helps the rest of us. At the same time we have a lot of new members. The last I heard was something around 30% in the North Dakota legislature every session. We really have term limits almost built in. In that same election in 1996, the people of North Dakota approve the measure that we're speaking about; this gave the House four year terms instead of 2 year terms. I can assure you that people in other states marvel at that. Defeating a term limits measure, giving the House twice the length of term that we had before at a time when the rest of the country was moving in the opposite direction so it really set our state apart in many ways. Vice Chairman Kretschmar is correct that in the '97 session is when the legislature was charged to implement that Constitutional change and we debated a lot of options. One was having the Senate run one cycle and the House members run two years later. Another was having the Senator run with one House member as this would do and the other House member run two years later. What we ended up was the system we have now where each district runs in a four year rotation and the prevailing thought at the time was that it was better to have the Senator and the two Representatives run together every four years. The thinking for a state like ours which meets only every other year was a four year term makes a lot of sense and maybe not having elections every cycle. I'm not trying to influence the result of the resolution but I wanted to give you a little background. We have looked at it before and vote as you wish when we take this up but that's the history of the matter.

**Representative Holman:** Personally I support this action but I see one downside. There's always a movement out there to set up sub districts and with the House members running

at opposite times, it would lend itself to establishing sub districts for House members. That would be a logical approach to handling that.

**Chairman Koppelman:** In some states, if you look at how their legislature is divided, the senate districts bear no resemblance to the house districts. There completely different. In North Dakota and South Dakota they are the same. In Minnesota, the district is the same but a senate district is twice the size of a house district and its carved in half so you have the house districts that Representative Holman is talking about, for example senate district 9A and 9B. That's how they do it. There is really quite an interesting patchwork across the country about how this is handled.

# 2011 HOUSE STANDING COMMITTEE MINUTES

## House Constitutional Revision Committee Prairie Room, State Capitol

HCR 3042  
March 22, 2011  
Job #15822

☐ Conference Committee

Committee Clerk Signature

*Mary Maier*

### Minutes:

**Chairman Koppelman:** HCR 3042 resolution deals with election of one member of the legislature from each district each biennial district. This is not a new idea but it's one that we've visited and revisited and Vice Chairman Kretschmar has brought it before us.

**Representative Kasper:** I have the benefit of being able to run for the first time when we combined the Senate and House members into one four year term. Over my political career, I've been involved in my district politics since 1980 as chairman, vice chairman, finance committee member, member of the board, on the state board of the Republican Party and an election judge many times in Cass County so I have some political experience behind the scenes. By combining the one four year term with the three people, I think has accomplished the following:

- 1 Savings in campaign costs.
- 2 The people of North Dakota, being we're only in session every other year, are happy that they don't have to have more elections in district.
- 3 The ability to simply serve four years without having to worry about reelection.
- 4 Running as a team which I found to be very valuable.

Going toward one member of each legislative district running every other year is a move backwards.

I'd like to move a do not pass on HCR 3042.

**Representative Owens:** Second

**Representative Owens:** I agree with everything that Representative Kasper said and while I recognize that the proposal is mathematically feasible very easily, it is the destruction of the running as a team in a district and the people getting to know the whole team that bothers me the most. For that reason, I seconded the motion.

**Vice Chairman Kretschmar:** I introduced this resolution knowing that there would be considerable opposition, probably majority opposition. It would seem to me that it is better for our body politic in North Dakota if there is a legislative election in every district every biennial election. I have found in the 10 or 12 years that we have used the system that in rural districts in which there isn't a legislative election, there isn't as much political activity for State candidates generally. The state set an example when we changed the Constitution to divide the state offices among two biennial elections every gubernatorial or presidential term. This past election we elected five state officials and in the 2012 election

there will be election for four or five more including our governor and the presidential candidate will be on the ballot also. It seems to me that it is better from the standpoint of a political process to have system like this. I realize that it's not as popular with legislators. In 1996, people authorized four year terms for members of the House of Representatives. The legislature then decided on how this should be. If by chance the legislature would approve this constitutional amendment, that's not the final story. It would go before the people of our state and they would have the last word. It seems to me that it would be a valid question to present to the people of North Dakota to see what they would want to do with it. Vote as you will and I'm going to vote against the motion for a do not pass.

**Representative Winrich:** I think there are a lot of problems with this proposal but I also think that we would be better served if there was an election every two years in each district. Unfortunately the best way to do that is to go back to the system where the House of Representatives has two year terms but I suspect there might be even more opposition to that than there is to this. I will vote for the do not pass.

**Representative Holman:** I'm going to vote with Vice Chairman Kretschmar on this. My reasons might be a bit different. I remember when it was up for vote in the 90's and the discussions that I had with Representatives Kaldor, Neameyer, and Aarsvold. They all felt that getting the four year term was a good deal. What I've noticed in the time since is the activity within the district party suffers with the four year term. I'm from a district where we have our team and we've had a very successful team for 21 years and my friends in the opposition party find it difficult to get organized. So getting closer to the people is one of the benefits to having an election every two years. The other major downside of the system we have right now is that those who run in an odd numbered district are running in a non presidential year so that means the energy in the election nationwide and statewide is much less. Likewise if you're running when there's a governor on the ballot, it does energize more. People come out in a presidential year and we've seen that very clearly in the last two presidential elections. There is a higher turnout. I always think that's humorous because in North Dakota all but one or two times in history has one party not won the presidential election. People do vote on that basis and so the electorate, since I'm running in an even numbered district, I'm running in a presidential year. If you're running in an odd numbered district like some of you, then it's not the case and so I see that as a major downside along with the lack of keeping the party and the people involved in the process. I'm going to not support the motion for that reason. I don't know if this is perfect either but it's a move in a direction that I have always favored is every two year elections.

**Representative Owens:** Basically what everybody here is saying is how do we get more people actively involved in the political process. Not a single person here has talked about how we alienate people. That's not our point. I've had the luxury of running both in odd and even numbered districts. Trust me, even number didn't help me much, I was against Representative Winrich there. That's not the point. I appreciate all the comments and I value the comments because the focus is how we keep people involved and engaged in something that we all love and believe is very important to the average person. The point is, there's a fine line between getting them to show up and become more involved and irritating them. Some of these people really just don't want to be involved and we don't understand that and I appreciate that we don't understand it and it aggravates us to a

certain degree. I appreciate the comments and the focus of everybody but I will still support the motion.

**Vice Chairman Kretschmar:** Some historical information. The proposition to increase House member's terms to four years had been going around in the legislature for quite a while and there were two or three times that I opposed it to keep the House of Representatives to two year terms. In 1995, I supported the concept and it got on the ballot. Many times since then I've kicked myself because I didn't get this language from 3042 in that resolution because it would have been in the Constitution and we wouldn't be here arguing today.

**Representative Kasper:** I would point out that in regards to Representative Holman observation, this bill wouldn't change the fact that there will still be even numbered districts running and odd numbered districts running in the off year. We would just have two out of three running and the other one would run in the even numbered district with the president. One person would be the lucky person, if you would call it that, and the other two would be running in the off presidential year.

**Representative Holman:** It's probably another downside but I guess I would hope if one person is running and the other two are not running I would expect if you had any team concept, everybody's running every two years. That would probably not be very popular with most in the legislature. You would have to raise money and run for office even if you're not on the ballot.

**Chairman Koppelman:** I did run for a few two year terms and have run for four year terms since this change was made. I appreciate this discussion as well and I have great respect for Vice Chairman Kretschmar and I know this has been an issue dear to his heart for many years. Most of our discussion has really centered on political parties and political activity. All of us are involved in that and I'm not opposed to that. I don't think that the purpose of elections is for the sake of political parties. When the people in 1996 passed a Constitutional amendment to give the House four year terms, they didn't expect us to show up at their door every two years. That was the discussion in the 1997 session when the legislature dealt with this issue that I think carried the day. We talked about do we have the two House members run in one cycle and the Senators in the other. Do we have one House member run with the Senator and one run in the off cycle and do it every two years and stagger it that way. The decision to go with the odd/even and the three member team concept in each district is appreciated by the people. I understand that it does make things difficult for political parties to ramp up every four years. When I did run every two years, I had people say "are you back here again, didn't we just elect you?" I'm sure all of you recognize that. I intend to support the motion.  
Let's call the roll on a do not pass on HCR 3042.

**6 Yes, 2 No, 3 Absent**

**Do Not Pass**

**Carrier: Representative Owens**

Date: March 22, 2011  
Roll Call Vote # 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. HCR 3042

House Constitutional Revision Committee

☐ Check here for Conference Committee

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

Action Taken: ☐ Do Pass ☒ Do Not Pass ☐ Amended ☐ Adopt Amendment  
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Representative Kasper Seconded By Representative Owens

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman	✓		Representative Conklin	AB	
Vice Chairman Kretschmar		✓	Representative Holman		✓
Representative Kasper	✓		Representative Winrich	✓	
Representative Louser	✓				
Representative Meier	AB				
Representative Owens	✓				
Representative Schatz	AB				
Representative Streyle	✓				

Total (Yes) 6 No 2

Absent 3

Floor Assignment Representative Owens

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

**REPORT OF STANDING COMMITTEE**

**HCR 3042: Constitutional Revision Committee (Rep. Koppelman, Chairman)**  
recommends **DO NOT PASS** (6 YEAS, 2 NAYS, 3 ABSENT AND NOT VOTING).  
HCR 3042 was placed on the Eleventh order on the calendar.