

2009 HOUSE CONSTITUTIONAL REVISION

HCR 3052

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3052

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 02/25/09

Recorder Job Number: 9738

Committee Clerk Signature *Loui Engelson*

Minutes:

(A portion of the testimony was inaudible.)

**Chairman Koppelman:** We'll open the hearing on HCR 3052.

**Rep. Kretschmar:** I introduced this resolution and also got Sen. Nothing to sign on from the senate side. One major portion of the constitution that was not adopted is HCR 3052. It is part of the executive branch. In the 1972 constitution, the executive branch provided for five elected state officials. The governor and lieutenant governor were reelected on a ballot. They amended that constitution to provide for the secretary of state, the attorney general and three public service commissioners to be elected officials. There was less than we elect now. After that constitution was approved by the convention, the convention people got the extension service throughout the state to put on public hearings on the new constitution. I went around with the county extension agents to these meetings. It was difficult to try to explain to the people that how will that government be better if we elect less people. As time went on everything was adopted except this second part, the executive part of it. Currently we elect ten state officials. A couple of times in the last couple of years there has been a constitutional amendment on the ballot to eliminate the state treasurer. Both times that was voted on by the people and defeated. In the original constitution, this article proposed setting up 15 state

departments. The one that I propose here sets up 21. The difference provides for the number of elected officials. It's basically the same as was proposed in 1972 other than the number of state departments. Those departments would be set up by legislation, and it also gives the governor the authority to make changes to those departments as he sees fit. I think it should be approved. I am certain that if this does become part of our constitution, it wouldn't be a resolution over night. It would probably take a number of years and legislative sessions to get this in place. I based that a little bit on the judicial end was adopted by the people of our state in 1976 and required a uniformed judicial system of the Supreme Court and the district courts. I think it's in place now, but it took probably 25 years to get all the changes in place that were required by that constitutional amendment. There's always difficulty in trying to change things. People sometimes like things the way they are. About the time of the country's bicentennial, the legislative council had a project and made this organizational chart of state government. (See attachment #1) There are, I think, good reasons for this resolution to try to get a little better organization of the state government. The constitutional convention proposed 15. This resolution would put it at 21 so there would be sufficient major agencies to cover all the things that are on that chart. I think as we see our state evolve over the hundred and some years the state of North Dakota has existed, some of the elected official departments are not very large. Over time other departments, like the Highway Department or Department of Transportation or Human Services Department, have become massive state departments and need some revision over time. The Highway Department and the Human Services Department are not elected officials. They are appointees by the governor. I suppose if you are starting out fresh, you may want to make those elected officials. But they are not today and probably will not be in the future. We could see over time the tenured department has evolved and grown in some

areas. In some of the state department's elected officials maybe are not as large maybe as they were when the state began.

**Rep. Griffin:** Was this based on the ballot in the full constitution or has this been tried?

**Rep. Kretschmar:** This was tried once and the provision in at that time said changes had to be made in about six months. That resolution was defeated on the ballot. I can't tell you the exact year. It was probably 15 to 20 years ago.

**Rep. Hatlestad:** Does this eliminate all of the elected officials?

**Rep. Kretschmar:** They stay. Elected officials are part of those 21 departments. The public service commission would be three, but that is considered one agency. So no, they all stay as they are.

**Rep. Conrad:** Did you ever count up how many departments we have now?

**Rep. Kretschmar:** No, but there are quite a few.

**Rep. Conrad:** How significant a change would this be?

**Rep. Kretschmar:** Over time, I think it would be a significant change because eventually you would get all these little commissions and agencies under one department.

**Chairman Koppelman:** What is the main purpose other than the fact that this kind of idea was proposed at the original constitution convention that you participated in. What beneficial change do you think it would make for the state? Would it be just streamlining and making the government more efficient? Is that what you're looking for?

**Rep. Kretschmar:** That certainly was one of the goals in the convention.

**Chairman Koppelman:** Any further testimony in support of HCR 3052? Any testimony in opposition to HCR 3052? Any neutral testimony to HCR 3052? If not we'll close the hearing on HCR 3052.

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3052

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 03/02/09

Recorder Job Number: 9984

Committee Clerk Signature

*Lou Engelson*

Minutes:

**Chairman Koppelman** opened the hearing on HCR 3052.

**Chairman Koppelman:** HCR 3052 was the resolution that Rep. Kretschmar introduced regarding the reorganization of the executive branch. As he explained, this is something that the constitutional convention in 1972 proposed, and that constitution was voted down as he explained that most of it has been adopted since. This has not. Discussion on this resolution, or what are the committee's wishes? Is there a motion?

**Rep. Griffin:** I move for a do pass.

**Rep. Meier:** I'll second the motion.

**Chairman Koppelman:** Motion is made by Rep. Griffin, seconded by Rep. Meier for a do pass. Is there discussion on the motion?

**Rep. Uglem:** How big of a job would this be to reorganize?

**Chairman Koppelman:** From what Rep. Kretschmar indicated, I think he would see it as being a pretty large task and something that the legislature would take up in terms of filling in some of the blanks of how the organization would work. I'm sure with input from the executive branch, but I think if this passed in the constitution, there would be several statutory changes that would need to take place in order to make that all work and get it to fall into place. From

the organizational chart he handed out, it looks like there's a whole lot more than 21 departments.

**Rep. Meier:** I like the idea of this. The only issue I have with it is how do you explain it to the voters, and how are they going to understand it once it's on the ballot to vote on it.

**Chairman Koppelman:** And that brings up one point I should have brought up. All of the resolutions we have before us are slated for the general election. One of the things that our committee tries to do when we look at these, is it's a good idea to stagger these rather than having potentially 15 proposed constitutional amendments on a given ballot. It's a good idea to mix that up. Perhaps we should look at placing some of them on the primary ballot. We could amend this motion.

**Rep. Griffin:** I withdraw my motion.

**Chairman Koppelman:** Would you propose that amendment for the primary ballot.

**Rep. Meier:** And I will withdraw my motion as well.

**Chairman Koppelman:** In that case maker and seconder why don't we just call it an amendment to the original motion.

**Rep. Conrad:** Did I understand that by having this executive process, that's the way Rep. Kretschmar said we could phase into this. The goal would be to have this, how many constitutional offices do we have?

**Chairman Koppelman:** I think we currently elect ten. I don't know if they are all constitutional, but they are statewide elected officials.

**Rep. Conrad:** We could have 12?

**Chairman Koppelman:** Yes. One department has three elected officials.

**Rep. Conrad:** So are we looking at 12 departments?

**Chairman Koppelman:** 21. The question about the language is valid. It says, for more effective administration, the governor may make changes in the statutory allocation of functions, powers, and duties among and within the executive departments, other than those headed by constitutionally elected officials. I think it would be done by executive order. I think when Rep. Kretschmar introduced this in past sessions, as well, I think one of the comments he made was that North Dakota has a relatively weak governorship. This would strengthen the governorship in that regard.

**Rep. Conrad:** It's my experience people think the governor is in charge of everything which isn't necessarily true because we have all these boards. I think it's probably a good idea.

**Rep. Hatlestad:** Could this be done by statute?

**Chairman Koppelman:** I think we could.

**Rep. Conrad:** The reason it hasn't been done is because everyone has their own self-interest. The concept, as I remember the discussion in the past, is that without the constitutional change, it's not going to happen.

**Rep. Hatlestad:** Are we going to create a huge bureaucracy much greater than what we have?

**Chairman Koppelman:** Perhaps. Would it trim the bureaucracy or would it expand it?

**Rep. Conrad:** I would think it would streamline it because you would know who to go to. Now you don't know. You could have some board out there, and it's not responsible to anybody except itself. The governor can't get in there and say anything about what they do. And that's why the appointments. It's something that Shafer and Hoeven got involved in is getting more control over the acquaintances to those boards. Otherwise they are independent.

**Rep. Schatz:** I think I'm going to oppose this. The centralization of power and that very statement, line 21 and 22, the governor may make changes in the statutory allocation of

function, powers, and duties. That kind of sounds like it's our job. We're giving away part of our own power, and I'm not so sure I want to. There is a reason why this is the last section that was part of that 72 constitution that didn't get passed. Probably because the people weren't in favor of giving up that power.

**Rep. Conrad:** In response to that, if you go down to [line 23] any changes must be set forth in an executive order and submitted to both houses on the first day of the next regular session of the legislative assembly. We still keep control. It would be very hard for legislatures to come up with a proposal as to how to organize the executive branch. This would require the governor to look at it.

**Chairman Koppelman:** It appears to be sort of a veto power for the legislature.

**Rep. Griffin:** I do think that when you look at the chart, we elect more people, we appoint more people than any other state in the country which is positive but it also can lead to inefficiencies. I do think that this would make it more streamlined and could be more efficient.

**Rep. Uglem:** Has this been voted on in the past?

**Chairman Koppelman:** I don't believe it's ever gone to the people. It's been voted on in the legislature as a resolution like in the past. I don't know if it's ever gotten a do pass. Further discussion? Seeing none I'll ask the clerk to call the roll on a do pass as amended recommendation on HCR 3052.

The roll was called by the clerk.

**4 yes, 4 no, 1 absent and not voting. Rep. Koppelman was assigned to carry the bill.**

**The bill was sent out without committee recommendation.**

## 2009 HOUSE STANDING COMMITTEE MINUTES

Bill/Resolution No. HCR 3052

House Constitutional Revision Committee

Check here for Conference Committee

Hearing Date: 03/05/09

Recorder Job Number: 10210

Committee Clerk Signature

*Lou Engleson*

Minutes:

**Chairman Koppelman** opened the hearing on HCR 3052.

**Chairman Koppelman:** I think Rep. Kretschmar has a motion he would like to make regarding one of the bills that we acted upon the other day. It is number HCR 3052.

**Rep. Kretschmar:** Chairman, I would like to move that we reconsider action when we passed down 3052.

**Rep. Meier:** I'll second.

A voice vote was taken and the amendment carried.

**Rep. Kretschmar:** Chairman, I move a do pass on 3052.

**Rep. Griffin:** I'll second it.

**Chairman Koppelman:** Further discussion. This is the one we had the other day on the reorganization of the executive branch of government. We tried a do pass motion that tied, and we ended up sending it out without recommendation that day.

The roll was called by the clerk.

**6 yes, 3 no, 0 absent and not voting. Rep. Griffin was assigned to carry the bill.**

March 2, 2009

YR  
3/2/09

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3052

Page 1, line 9, replace "general" with "primary"

Renumber accordingly

Date: 03/02/09  
 Roll Call Vote #: 1

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
 BILL/RESOLUTION NO. 3052

**HOUSE CONSTITUTIONAL  
 REVISIONS COMMITTEE**

Check here for Conference Committee

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

Action Taken  DP  DNP  DP AS AMEND  DNP AS AMEND

Motion Made By Griffin Seconded By Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman		✓	Rep. Conrad	✓	
Vice Chairman Kretschmar			Rep. Griffin	✓	
Rep. Hatlestad		✓	Rep. Schneider	✓	
Rep. Meier	✓				
Rep. Schatz		✓			
Rep. Uglen		✓			

Total Yes 4 No 4

Absent 1

Floor Carrier: Koppelman

If the vote is on an amendment, briefly indicate intent:  
 on primary ballot fails w/ tie  
 send w/o recom.  
 w/o comm recom.  
 WCR

library

**REPORT OF STANDING COMMITTEE**

**HCR 3052: Constitutional Revision Committee (Rep. Koppelman, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **BE PLACED ON THE CALENDAR WITHOUT RECOMMENDATION** (4 YEAS, 4 NAYS, 1 ABSENT AND NOT VOTING). HCR 3052 was placed on the Sixth order on the calendar.

Page 1, line 9, replace "general" with "primary"

Renumber accordingly



Reconsidered

Date: 03/04/09  
Roll Call Vote #: 2

2009 HOUSE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 3052

**HOUSE CONSTITUTIONAL  
REVISIONS COMMITTEE**

Check here for Conference Committee

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

Action Taken  DP  DNP  DP AS AMEND  DNP AS AMEND

Motion Made By Kretschmar Seconded By Schneider

Representatives	Yes	No	Representatives	Yes	No
Chairman Koppelman		✓	Rep. Conrad	✓	
Vice Chairman Kretschmar	✓		Rep. Griffin	✓	
Rep. Hatlestad		✓	Rep. Schneider	✓	
Rep. Meier	✓				
Rep. Schatz		✓			
Rep. Uglem	✓				

Total Yes 6 No 3

Absent \_\_\_\_\_

Floor Carrier: Griffin

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

REPORT OF STANDING COMMITTEE (410)  
March 6, 2009 10:14 a.m.

Library

Module No: HR-39-4190  
Carrier: Griffin  
Insert LC: 93101.0101 Title: .0200

**REPORT OF STANDING COMMITTEE**

**HCR 3052: Constitutional Revision Committee (Rep. Koppelman, Chairman)**  
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends  
**DO PASS** (6 YEAS, 3 NAYS, 0 ABSENT AND NOT VOTING). HCR 3052 was placed  
on the Sixth order on the calendar.

Page 1, line 9, replace "general" with "primary"

Renumber accordingly

2009 SENATE GOVERNMENT AND VETERANS AFFAIRS

HCR 3052

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.3052

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/19/09

Recorder Job Number: 11305

Committee Clerk Signature

*Kate Diver*

Minutes:

Chairman Dever opened the public hearing on HCR3052. Representative Bill Kretschmar was there to introduce the bill.

**Representative Kretschmar:** A number of years ago North Dakota had a second constitutional convention. The convention came up with a product for our state; it has been 80 years since the last constitution was altered and there was some need for revision and modernization. About 95% of the convention delegates voted and approved the new constitution and then it was presented to the people of the state for their vote on it, about 37% of North Dakotans voted for it. Since the vote in 1972 then the people have adopted just about all of the new constitution over the years. The one major remaining part of that proposed constitution that has not been adopted by the people of our state is what is contained in 3052 and that is a revamp of the executive branch. Part of the 1972 constitution regarding the executive branch has been adopted but this part has not yet been adopted. What is does is set up the executive branch in 21 departments, that follows from the '72 constitutional provision which allowed for 15 executive branch departments. That constitution only had 4 elected officials. Governor and lieutenant governor running as a team, secretary of state, attorney general, and public service commissioners, so there were only 4 elected officials in that

proposed constitution. Of course the constitution that we have there are 10 elected state officials and departments in our government. The proposal was to set up 15 departments. Now we have 10 other elected officials that would be the 11 that were allowed. Under the proposal the governor and legislature can set up the departments and get them into the 21 spots. This proposal would try and get them into a more logical situation, if it can be done, the governor has the right to propose changes in departments and those would be presented to the legislature and they would have to approve them. I would envision if this proposal is approved that it is not going to happen overnight. It would take a number of sessions to get it in the shape it should be. I think it would be a start to get the ex branch into a more efficient system than we have today. This does give the governor, additional powers to set up these branches of the government. I think that this would be a good thing for our state and improve the efficiency.

**Senator Horne:** I am curious about the 21 state departments, has someone identified who this would be?

**Bill Kretschmar:** 10 are the existing departments, the elected officials would each of them be one of those, and 11 others could be set up for executive branch functions. That is similar to what was proposed in 1972.

**Senator Nelson:** At that 2<sup>nd</sup> constitutional convention what did you do with higher education?

**Bill Kretschmar:** Higher education was a separate proposal. Wasn't changed much in that proposal, it wouldn't be part of this.

**Senator Dever:** Measure 3 on the ballot in November set up a tobacco commission, they refer to themselves as a state agency. Looking through the Century Code there are references to state agencies, boards, and commissions. You are recommending that state agency would absorb the boards and commissions.

**Bill Kretschmar:** We would still have boards, commission, and agencies but the governor would have to fit them into one of the departments that is created.

**Senator Dever:** We established boards and they have regulatory over different practitioners, this would take away the independence.

**Bill Kretschmar:** Depend on the governor as to where they would be placed.

**Senator Nelson:** Would we only have 21 budgets to be concerned with?

**Bill Kretschmar:** That might be, but it could be other things too.

**Senator Oehlke:** So the governor could assign different boards, could the next session he change it?

**Bill Kretschmar:** Under the proposal he could but he would have to present the plan to the legislature and they would both have to approve it.

**Senator Horne:** How would this appear on the ballot? Unless you listed the 11 department that would be created then we would be asking them to vote on the concept. How would that play out?

**Bill Kretschmar:** I hope if it makes it was to the ballot that it would be exclamations by interested persons and organizations there is a provision already in the constitution that sets forth the elected officials of this state, right now there are 10, 11 more could be added. This is something that will not happen overnight. If this appears on the ballot it would take a number of years to get everything lined up.

**Al Jager:** Secretary of State. The resolution brought forth would be one that says that the secretary of state, if the legislature approved it, would send copies to whomever is listed in that resolution for consideration by the United States Congress. This resolution would be placed on the ballot and be a vote of the people. I am not sure if I am neutral or against. The law requires that whatever we get that I will in a concise manner write something about the proposal.

Whatever I do has to be blessed by the attorney general. Anything that goes on the ballot we write it but the attorney general has to agree with it.

**Senator Nelson:** Line 8 implies that the new section has to be exactly written. Word for word what is on the sheet of paper has to be on the ballot

**Al Jager:** No the law says that if it is too long it doesn't go on the ballot. We do have the entire text is online and at the polling location. Everything that is in there the governor or the legislature can do without it being in the constitution.

**Senator Horne:** If that is true then whoever supports it we are saying that we must do it as opposed to give them the voluntarily.

**Al Jager:** Doesn't it say that the governor has to initiate it first? The consolidation of the boards and commissions has been studied through several interims and it seems to me that they are all the same as they were.

There was no further discussion and Chairman Dever closed the hearing on HCR3052

## 2009 SENATE STANDING COMMITTEE MINUTES

Bill/Resolution No.3052

Senate Government and Veterans Affairs Committee

Check here for Conference Committee

Hearing Date: 03/19/09

Recorder Job Number: 11665

Committee Clerk Signature

*Kate Owey*

Minutes:

**Senator Dever:** I think that some see this as a shift in power from legislative branch to the executive branch.

**Senator Dever:** I think that this is a serious resolution.

**Senator Nelson:** I think it should remain.

Senator Nelson made a motion for a do not pass with a second by Senator Horne. There was no discussion and the motion passed 5-0 with Senator Oehlke carrying the bill to the floor.

Date: 4-2-09  
Roll Call Vote #: 1

Carried  
Oehlke

2009 SENATE STANDING COMMITTEE ROLL CALL VOTES  
BILL/RESOLUTION NO. 3052

Senate Government and Veteran's Affairs Committee

Check here for Conference Committee

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

Action Taken Do Not Pass

Motion Made By Nelson Seconded By Holme

Representatives	Yes	No	Representatives	Yes	No
Dick Dever	X		Dwight Cook	X	
Dave Oehlke	X		Carolyn Nelson	X	
Robert M. Horne	X				

Total Yes 5 No 0

Absent \_\_\_\_\_

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

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

**REPORT OF STANDING COMMITTEE**

HCR 3052, as engrossed: Government and Veterans Affairs Committee (Sen. Dever, Chairman) recommends **DO NOT PASS** (5 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HCR 3052 was placed on the Fourteenth order on the calendar.

2009 TESTIMONY

HCR 3052

TO SEE A COPY OF THE 1989 ORGANIZATIONAL CHART, ASK THE  
LEGISLATIVE COUNCIL LIBRARIANS. CHARTS ARE IN THE LEGISLATIVE  
COUNCIL STORAGE VAULT: THEY ARE WAY TOO LARGE TO REDUCE FOR  
FILING HERE AS TESTIMONY ON HCR 3052.

March 2, 2009