

2013 HOUSE JUDICIARY

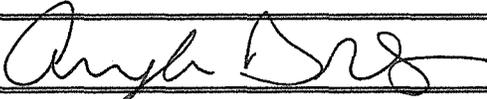
HCR 3044

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HCR 3044
March 6, 2013
Job 19507

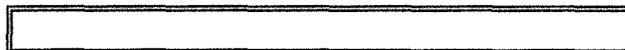
Conference Committee



Explanation or reason for introduction of bill/resolution:

Relating to referral of actions of the state board of higher education.

Minutes:



Rep Maragos introduced and explained the resolution.

Rep Klemin: The constitution provides provisions for recall of elected officials. I don't remember there being anything for recalls of members of the state board of higher education who are appointed by the Governor and confirmed by the Senate. Should the same theory apply to recall as it does to referral of their actions?

Rep Maragos: I wasn't so concerned with recalling them unless there was malfeasance. If they establish a policy, the most important thing is that the policy can be vetted by the people of ND, if they so choose.

Rep Hogan: Can you give some examples of things you might think would be used using this tool?

Rep Maragos: I prefer not to air that. I'm not sure they are appropriate to this venue. I'm speaking to a decision to what our policy should be.

Rep Hogan: But if this went to a vote of the people, don't you think those policy discussions would also be part of it so people understand what policy decisions the board is making that they might want to address?

Rep Maragos: I think that would be out of line. This is strictly a policy issue. I don't think they should be distracted.

Rep Klemin: Article 8, section 6, subsection 3 states the members of the state board of higher education may only be removed by impeachment.

Rep Maragos: I assume the impeachment would take place in the Senate.

Chairman: The House impeaches; the Senate does the trial.

Rep Kretschmar: How do you envision this petition getting started?

Rep Maragos: Exactly like the referral process is set up.

Rep Kretschmar: How long would the people have to gather signatures?

Rep Maragos: They would have the same requirements as any referral, same time lines and same number of signatures. The policies would be viewed as statutory policies.

Rep Hanson: How in the weeds could this possibly go if it was passed? Could it potentially give them the ability to disapprove them? How far down can they go in disapproving actions of the board?

Rep Maragos: There are no restrictions; whatever the voters find egregious, they would be able to address. I can't imagine anybody wasting a lot of time to get 12,000 signatures on a voice vote for the minutes. We make no parameters. My intent is to make them subject to the vote of the people, just like the legislature is, for any action or policy.

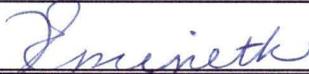
Chairman closed the hearing.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

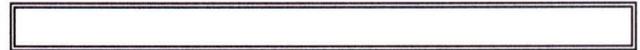
HCR3044
Job19800 time 1645-
DATE March 12, 2013

Conference Committee



Concurrent resolution relating to referral of actions of the state board of higher education.

Minutes:



Rep. Koppelman: This is Rep. Maragos resolution regarding the board of education. There is a motion on the floor for a do pass on HCR 3044 by Rep. Toman and a second Rep. Boehning.

Rep. Klemin: I am going to vote no on the motion. The action required on the roll call vote must be referred to the electors for approval or rejection. It is going to make it difficult to manage a 3 million dollar activity if we have to wait until we have a vote to see if it is going to be approved or rejected.

Rep. Boehning: We hear all of this stuff about the Higher Board of Education, the governor can't remove them so what recourse do we have. This gives the public some recourse all with the people of the state.

Rep. Koppelman: This would bring the action of the board of the higher education into the same status as the actions of the legislature. It is not that if we make a vote that vote would be held until we find out if the voters are going to refer to something.

Rep. Maragos: You are right that is the intent of this resolution that if the board takes an action many citizens find egregious they have the right to bring it to the vote of the people.

Rep. Kretschmar: I agree with Rep. Klemin this is not a good way to go forward I think this is impractical. In the referral part of the constitution for laws that are passed by the legislature; you have 60 days to get the signers. If a group gets the petitions out they have to form a committee and get the secretary to approve what they want to refer and gather signatures. All of this would take some time.

Rep. Brabandt: Do we need to vote on this today?

Rep. Koppelman: If the committee would like more time.

Rep. Brabandt: I would like to wait for a day.

Rep. Koppelman: That is fine.

Rep. Klemin: On line 18 it says "this referral of action of the State Board of Higher Education is not subject to the 90 day provision" so they could do this anytime.

Rep. Toman: I think we can leave the motion on the floor and recess our discussion on measure and come back to it.

Rep. Maragos: I want to respond to Rep. Kretschmar he may be correct in his assessment if the State Board of Higher Education wanted to mess around but there is nothing that would force them to make the change and they could have some people that would want to leave it as it is. I don't think the Board would mess around I think they would because they would do themselves a disservice.

Rep. Koppelman: The actions of the board are not referable and they may not be able to be negated by the legislature constitutionally I think they could be.

Rep. Maragos: In relationship to Rep. Boehning's comment if the only authority is in the constitution is to impeach they can be removed through impeachment; I am going to look into that.

Rep. Kretschmar: In session we have the opportunity to change the rules by law.

Rep. Koppelman: I sponsored that bill in my freshman session. Nobody expected a freshman to know what an administrative rule was. We will close the meeting.

2013 HOUSE STANDING COMMITTEE MINUTES

House Judiciary Committee
Prairie Room, State Capitol

HB 3044
DATE March 13, 2013
JOB 19838

Conference Committee

Carman Hechler

Explanation or reason for introduction of bill/resolution:

Concurrent resolution relating to referral of actions of the state board of higher education.

Minutes:

Chairman Kim Koppelman: Opens for committee work. This is Rep. Maragos resolution referral idea on the actions of the board of higher education. We do have a do pass motion on the floor.

Vice Chairman Larry Klemin: I have a problem with language in line 18 that the referral is not subject to a petition being submitted within 90 days. This leaves it open ended

Rep. Nathan Toman: Withdrew his motion from 3-12-13.

Vice Chairman Larry Klemin: Made a motion to amend HCR 3044 line 17 after the word education remove the comma and the rest of the sentence to the period on line 19.

Rep. Ben Hanson: Second the motion.

Voice vote carried.

Rep. Ben Hanson: Made a do pass motion as amended.

Rep. Randy Boehning: Second the motion.

8-5-1

Rep. Ben Hanson: Will carry the resolution.

March 13, 2013

YR
3/13/13

PROPOSED AMENDMENTS TO HOUSE CONCURRENT RESOLUTION NO. 3044

Page 1, line 17, remove "except the referral of an action of the state board of higher"

Page 1, remove line 18

Page 1, line 19, remove "adoption or filing of the action"

Page 1, line 19, replace "However, the" with "The"

Renumber accordingly

Date: 3-12-13
 Roll Call Vote #: 1

**2013 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. HCR 3044**

House Judiciary 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 Rep. Toman Seconded By Rep. Boehning

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment Rep.

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

Withdrawn

Date: 3-13-13
Roll Call Vote #: 6

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3044

House Judiciary 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 Rep. Klemin Seconded By Rep. Hanson

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman			Rep. Lois Delmore		
Vice Chairman Lawrence Klemin			Rep. Ben Hanson		
Rep. Randy Boehning			Rep. Kathy Hogan		
Rep. Roger Brabandt					
Rep. Karen Karls					
Rep. William Kretschmar					
Rep. Diane Larson					
Rep. Andrew Maragos					
Rep. Gary Paur					
Rep. Vicky Steiner					
Rep. Nathan Toman					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

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

voice vote carried

Date: 3-13-13
Roll Call Vote #: 1

2013 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HCR 3044

House Judiciary 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 _____ Seconded By _____

Representatives	Yes	No	Representatives	Yes	No
Chairman Kim Koppelman	/		Rep. Lois Delmore		/
Vice Chairman Lawrence Klemin		/	Rep. Ben Hanson	/	
Rep. Randy Boehning	/		Rep. Kathy Hogan	/	
Rep. Roger Brabandt	/				
Rep. Karen Karls		/			
Rep. William Kretschmar		/			
Rep. Diane Larson	/				
Rep. Andrew Maragos					
Rep. Gary Paur		/			
Rep. Vicky Steiner	/				
Rep. Nathan Toman	/				

Total (Yes) 8 No 5

Absent 1

Floor Assignment Rep. Hanson

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

REPORT OF STANDING COMMITTEE

HCR 3044: Judiciary Committee (Rep. K. Koppelman, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (8 YEAS, 5 NAYS, 1 ABSENT AND NOT VOTING). HCR 3044 was placed on the Sixth order on the calendar.

Page 1, line 17, remove ", except the referral of an action of the state board of higher"

Page 1, remove line 18

Page 1, line 19, remove "adoption or filing of the action"

Page 1, line 19, replace "However, the" with "The"

Renumber accordingly