

1999 SENATE GOVERNMENT AND VETERANS AFFAIRS
SCR 4023

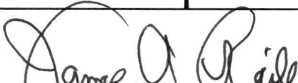
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR4023

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date February 5, 1999

Tape Number	Side A	Side B	Meter #
1	x		1971-2843
Committee Clerk Signature 			

Minutes:

SENATOR KREBSBACH opened the hearing on SCR4023: A CONCURRENT RESOLUTION FOR THE AMENDMENT OF SECTION 11 OF ARTICLE IV OF THE CONSTITUTION OF NORTH DAKOTA, RELATING TO THE FILLING OF VACANCIES IN THE LEGISLATIVE ASSEMBLY.

SENATOR SOLBERG explained this bill allows the Legislature to set up a method of filling vacancies in the Legislature. The Constitution now reads-method whereby the Governor calls an election after the death or resignation of a legislator. Those districts, whether it be House or Senate become disenfranchised, and are without proper representation. The Constitution needs to be changed to allow the people to vote on this. This resolution puts in place a mechanism to begin the process of streamlining our Legislative Assembly for the naming of successors. The successor would serve only until the next election. This is the first step in this process.

SENATOR DEMERS stated a concern is political parties are making the selection as opposed to an election where the people are permitted to vote on the replacement.

SENATOR SOLBERG replied the point is to have representation until the next election and this picks no favors. Now that we have gone to 4-year cycles with our House members, there is concern about holding our political parties together, whether democrat or republican. There is going to be a 2-year cycle where we do not have the electant in each district and it is going to be very difficult to keep that party active, moving and interesting in what is happening. We do need the party apparatus of precinct committeemen, the executive committee forming the district committee. It will keep both parties active and will make for better government for ND.

SENATOR KREBSBACH closed the hearing on SCR4023.

SENATOR DEMERS commented that the cost of an election may be the factor in the Governor appointing a replacement in the event of death or resignation.

SENATOR SOLBERG stated the cost of an election and the low turnout are deciding factors in calling an election.

SENATOR DEMERS stated in a death or resignation, at the next general election, that office is filled for the amount of time that is left in the term and that would be the same provision that Senator Solberg is suggesting that the appointment would serve only until that point in time.

SENATOR THANE moved for a DO PASS, seconded by SENATOR WARDNER. Roll call vote indicated 6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING. SENATOR WARDNER volunteered to carry the bill.

Date: 2/05/99
Roll Call Vote #:

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SCR 4023

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Sen. Thane Seconded By Sen. Wardner

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM					
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 6 No 0

Absent 1

Floor Assignment Sen. Wardner

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

REPORT OF STANDING COMMITTEE (410)
February 8, 1999 9:33 a.m.

Module No: SR-25-2143
Carrier: Wardner
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SCR 4023: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
SCR 4023 was placed on the Eleventh order on the calendar.

1999 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SCR 4023

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4023

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 3-11-1999

Tape Number	Side A	Side B	Meter #
2	X		0 - 12.2
Committee Clerk Signature			

Minutes: Some of the individuals testifying submit written testimony. When noted please refer to it for more detailed information.

Representative Klein, Chairman of the GVA Committee opened the hearing on March 11, 1999.

Summary of the Resolution: Amendment of section 11 of article IV of the constitution of North Dakota, relating to filling of vacancies in the legislative assembly.

Testimony in Favor:

Senator Solberg, Appeared before the committee to introduce the bill. Right now the only way we fill a vacancy in the legislature in North Dakota is by the call of the Governor to a special election. That takes a period of time, no sooner than 85 days and probably more like 90 to a 100 days. This would put in place the apparatus to keep the district party active and organized.

Representative Klein, Do you have language that you would like to amend or add to this?

Solberg, Maybe we could come up with something concrete so that the people voting would feel comfortable.

Representative Winrich, I would be more comfortable if we replaced it with some definite language that would spell it out.

Representative Cleary, I see this as taking away from the people the right to vote for the people they want.

Solberg, I would be willing to try and work this out with your committee.

Representative Klemin, Maybe when you take a look at your amendments, you ought to take a look at how close we are to the next election. For example, if it was within 120 days what would be the point of going through the process of appointing somebody if we only have a few months to go until the election comes up?

Solberg, That's a good point. We don't want it to be too wordy so that it scares the people when they vote on it.

Representative Kliniske, In the amendment, why was the word "may" used instead of "shall"?

Solberg, Good point. I will work on this in a form of amendments.

Testimony in Opposition: None.

Representative Klein, Closed the hearing on SCR 4023.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4023

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 3-12-1999

Tape Number	Side A	Side B	Meter #
1	X		0.6 - 11.1
1	X		34.9 - 49.6
1		X	1.6 - 6.2
Committee Clerk Signature <i>David McWilliams</i>			

Minutes: Chairman Klein instructed the committee to look at SCR 4023.

Summary of the Resolution: Relating to filling of vacancies in the legislative assembly.

Senator Solberg, Submitted the amendments that he said he would yesterday 3-11-99. He proceeded to walk the committee through the amendments. The only thing that is different than what we talked about yesterday is they can fill the vacancy until the next election. Senator Krebsbach said you can make an amendment on that or work it out in a conference committee. This will give the voters a chance to look at what proposal is being made.

Representative Haas, Would it be acceptable if we said fill the vacancy until the expiration of the term of office or the next election whichever is earlier?

Solberg, I have no problem with that. I will accept anything within reason. I believe we are on the same wavelength.

Representative Klemin, Would that be the next election for what? For that office, or general election?

Solberg, I would say the next general election. Otherwise if you go to the next election of that office, you wouldn't need that. You would fill the unexpired term.

Representative Klemin, Situation where the position comes open within a short period of time before the next election. There would be a point in time where it may not be reasonable. Say 60 days away for example.

Solberg, I feel that can be worked on in future legislative sessions. I don't feel we can get a Constitutional amendment so wordy that the public will bypass it or not vote for it. It must be straight forward.

Representative Klein, If we put too much in it and it ends up on the ballot, people might think it is bad.

Representative Kliniske, I think the bulk of the amendment must contain "the procedure must provide", that would give the legislature some leeway.

Representative Klemin, We have a provision somewhere that merely repeats what the constitution says. If we have a constitutional amendment that says the legislature adopts a procedure which applies this, there is no point in having a statutory procedure that mimics the constitutional provision. Wouldn't it be more appropriate to just say the constitution provides that procedure.

Representative Hawken, I don't think we want the procedure in the constitution, we want it in the century code.

Representative Metcalf, I think if you put it before the people to give the legislature assembly the right to determine a law to fill these positions, it will be voted down. So we have to put a procedure in my opinion.

Representative Winrich, I don't like the idea that we are putting something into the constitution which everybody acknowledges isn't very clear and needs more work. We should do it before we put it in. I am inclined to just oppose the whole resolution.

Representative Thoreson, Are we making the assumption that we want to fill that term till the next election or can it be for filling the entire four year term. What's wrong with the logic of having that person replace me for four years.

Representative Klein, I really believe it should be until the next general election, so the people can vote for whoever they want.

Representative Klemin, We already have a procedure for filling vacancies on the Supreme Court. Maybe something similar could be used. *He's reading the century code relating to this*.

Representative Devlin, I think the political party to has elected their candidate has the right to appoint that candidate until the next election. I would rather have this to be very specific.

Representative Klein, Let's hold this until later in the day.

Representative Klein, I think we all agree we need to something. The basic procedure we concur on, it's how to put the wording together so we don't confuse the voters.

Representative Winrich, I don't agree that we have to do something. I think this is going to introduce more problems into the system than we have now.

Representative Devlin, What bothers me about the governor calling a special election in the rural areas is very expensive for just this one issue.

Representative Klemin, I suggest to amend the amendments. My concern is that the appointment would only last till the next general election and not for the remainder of the term of office.

Representative Devlin, I still have a problem with the fact that I don't really think we should be filling the whole unexpired term.

Representative Cleary, Seems to me we are taking away the right of the voters. I like it the way it is now.

Representative Metcalf, This has to go to the voters to be approved and they will decide this. Unless this is really promoted or pushed by somebody, this will never pass.

Representative Devlin, We have to do this constitutionally instead of politically. In the Senate there would be no representation. On the House side at least one of the two representations would be here.

Representative Klein, You have the amendments before you, there were two changes and would Representative Klemin go over them for us.

Representative Klemin, The two changes to what you have before you know deal with timing changing 96 hours to 10 days and then continuing on that same line, change governor to secretary of state.

Representative Kliniske, I would like it to say if the executive committee doesn't make an appointment. This is at the end of line 3.

Representative Klemin, So what do you do in the event of an independent candidate?

Representative Devlin, There's a big difference between an executive committee and a campaign committee. I don't know how many independent candidates have a regional executive type of group.

Representative Winrich, The executive committee of a political party is defined in statute. So unless there's an organized political party, an independent candidate can't have an executive committee.

Representative Klein, Your reading of this is correct, it will cover all interests?

Representative Klemin, I think so, we've got to cover the situation of the independent candidate.

Committee Action:

Representative Thoreson, Made a motion for a Do Pass on the amendment.

Motion Passes: Yes (vocal).

Representative Thoreson, Made a motion for a Do Pass as amended.

Representative Brekke, Seconded the motion.

Motion Passes: Do Pass as Amended **10-3-2**.

Representative Klemin, Is the carrier for the bill.

March 12, 1999

VK
3/12/99

HOUSE AMENDMENTS TO SENATE CONCURRENT RESOLUTION NO. 4023 GVA 3-15-99

Page 1, line 4, replace "allow" with "require" and replace the second "the" with "a specific"

Page 1, line 15, replace "may" with "shall"

Page 1, line 17, after the period insert "The procedure must provide that the district executive committee of the political party of the member whose position becomes vacant select a person to fill the vacancy until the next general election, at which time the office must be filled by election for the remainder of the term. If the former member was elected as an independent candidate or if the executive committee does not make an appointment within ten days after receiving the notice of the vacancy from the secretary of state, the governor shall appoint a resident of the district to serve until the next general election, at which time the office must be filled by election for the remainder of the term."

Renumber accordingly

Date: 3-12-99

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 4023

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS AMENDED

Motion Made By THORESON Seconded By BREKKE

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP. WINRICH		✓
VICE-CHAIR KLINISKE	✓				
REP. BREKKE	✓				
REP. CLEARY		✓			
REP. DEVLIN	✓				
REP. FAIRFIELD		✓			
REP. GORDER	✓				
REP. GRANDE					
REP. HAAS	✓				
REP. HAWKEN	✓				
REP. KLEMIN	✓				
REP. KROEBER					
REP. METCALF	✓				
REP. THORESON	✓				

Total (Yes) 10 No 3

Absent 2

Floor Assignment KLEMIN

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

REPORT OF STANDING COMMITTEE

SCR 4023: Government and Veterans Affairs Committee (Rep. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (10 YEAS, 3 NAYS, 2 ABSENT AND NOT VOTING). SCR 4023 was placed on the Sixth order on the calendar.

Page 1, line 4, replace "allow" with "require" and replace the second "the" with "a specific"

Page 1, line 15, replace "may" with "shall"

Page 1, line 17, after the period insert "The procedure must provide that the district executive committee of the political party of the member whose position becomes vacant select a person to fill the vacancy until the next general election, at which time the office must be filled by election for the remainder of the term. If the former member was elected as an independent candidate or if the executive committee does not make an appointment within ten days after receiving the notice of the vacancy from the secretary of state, the governor shall appoint a resident of the district to serve until the next general election, at which time the office must be filled by election for the remainder of the term."

Renumber accordingly

1999 SENATE GOVERNMENT AND VETERANS AFFAIRS

SCR 4023

CONFERENCE COMMITTEE

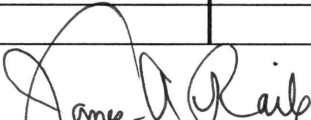
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SCR 4023

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date March 25, 1999

Tape Number	Side A	Side B	Meter #
1			0-794
Committee Clerk Signature 			

Minutes: **Conference Committee SCR 4023**

SENATOR WARDNER chairman of the conference committee called the committee to order. The clerk called the roll. All members of the committee were present. **CHAIRMAN WARDNER** indicated that the committee would like to visit with the house members of the committee in regard to the amendments which the house had added to the resolution. He indicated that the senate was wondering why these amendments were added and questioned if they were really necessary. Putting these guidelines into the constitution would not lend themselves to flexibility. **REPRESENTATIVE L. THORESON** indicated that the house thought they were really doing a good thing and we thought we were really doing a service to our community and our state and everything. Then, at least, and we had a lot of discussion about the amendment we had put on. There was a lot of discussion about that persons selection and that type of thing. I guess since the committee dealt with

this, I have had some discussion with the secretary of state and came to the conclusion that we probably made a mistake by putting that on there. Because we wanted to I guess try and do something that would help the voters kind of clarify what they are voting on. But then putting an amendment on, and Kathy mentioned this in committee and nobody listened to her, putting it into the constitution went right over their head. After careful consideration we decided that it probably wouldn't be a good idea. REPRESENTATIVE KROEBER, I guess mine is just on two different areas of this. First of all if you are going to take and put in the constitution that they may provide by law procedure are the people going to be satisfied with that? Aren't they going to want a little more than that other than the fact that the legislative assembly will provide a procedure by which this will happen. I don't know. I think that that's where the amendment came in. I did not put in this amendment or no one from our side put in this amendment. I don't think. But, what they could be trying to do is be able to tell the people on how they are going to take and handle this. This will be the procedure. So you aren't voting, just for a, we're not really sure what we are going to get but we're going to have the ability now to appoint rather than to elect. My big point on voting against the whole resolution is what I did and on the basis that I really think they should remain elected. I don't think you should be appointed. Discussion continued with comments from Representative Thoreson and Senator Stenehjem. A short discussion involving what happened when a Representatives seat became vacant in the last session. It was noted that the time frame for elections makes it difficult to fill seats in a timely manner. Appointment is a better alternative than a vacant seat would be.

REPRESENTATIVE HAWKEN, indicated that right now if something happened between

the election and when the session starts, not so much the interim, but the actual time that we are here, I think was probably the impetus to this. And I don't know how you could do that. SENATOR DEMERS indicated we didn't talk about changing the election laws to accommodate a special election. Could we hoghouse a constitutional amendment and write a new law so we can have the best of both worlds sort of a quick election? SENATOR STENEHJEM, I don't think we can take a resolution and make a bill out of it. I think it's fine to put this on the ballot and give the legislature the option in the future to look at additional ways but I do think there is one other thing we should have done this session is to at least in an emergency situation where you've got one issue on the ballot, one race, you don't need all of that notification, and publication. You could have an election in two to three weeks. SENATOR WARDNER, Am I hearing a consensus then. The house will recede from their amendments. REPRESENTATIVE L. THORESON moved that the House Recede from the House Amendments on Senate Journal pages 752-753. The motion was seconded by SENATOR DEMERS. ROLL CALL VOTE indicated 6 YEAS, 0 NAYS, 0 ABSENT OR NOT VOTING. SENATOR WARDNER adjourned the committee.

Insert LC: .

REPORT OF CONFERENCE COMMITTEE

SCR 4023: Your conference committee (Sens. Wardner, W. Stenehjem, DeMers and Reps. L. Thoreson, Hawken, Kroeber) recommends that the **HOUSE RECEDE** from the House amendments on SJ pages 752-753 and place SCR 4023 on the Seventh order.

SCR 4023 was placed on the Seventh order of business on the calendar.