

Enrolled

House Resolution 3

Sponsored by Representatives KOTEK, HOLVEY

Whereas Article IV, sections 11 and 15, of the Oregon Constitution, direct the House of Representatives to determine its own rules of proceeding and to discipline its members; and

Whereas the House of Representatives adopted rules of proceeding when it convened in organizational session on January 11, 2021; and

Whereas House Rule 3.07 is among the rules adopted by the House of Representatives during its organizational session; and

Whereas House Rule 3.07 was also in effect for the three special sessions conducted in 2020, including the special session held on December 21, 2020; and

Whereas House Rule 3.07 establishes safety and entrance protocols for the State Capitol building; and

Whereas these safety and entrance protocols were adopted by the House of Representatives to combat a novel coronavirus pandemic that, as of the date of this resolution, has taken the lives of more than 2,600 Oregonians and more than 590,000 Americans and that has sickened millions; and

Whereas House Rule 3.07 and other legislative rules limit entry to the Capitol to authorized personnel in order to minimize the risk of transmission of the virus; and

Whereas the Legislative Assembly was scheduled to convene in special session on December 21, 2020; and

Whereas on December 16, 2020, a video was posted on an online website that shows Representative Mike Nearman describing a scenario where demonstrators could break into the Capitol and obtain unauthorized access to the Capitol with assistance from someone already inside the Capitol; and

Whereas, in describing this scenario, Representative Nearman supplied a cell phone number and instructions on where to stand and what to text in order to obtain entrance to the Capitol; and

Whereas the cell phone number Representative Nearman supplied was his own; and

Whereas on December 20, 2020, a group named Patriot Prayer posted a sign on its Twitter account calling for a demonstration at the Capitol the next day and stating, in relevant part, "WE NEED TO HAVE 1,000 PEOPLE THERE AND MAKE OUR VOICES HEARD!!! NONPERMITTED FLASH MOB!!!"; and

Whereas on December 21, 2020, Capitol security camera video footage shows Representative Nearman opening a locked exterior door of the Capitol while the House was in session and exiting the Capitol; and

Whereas the security camera video footage shows that when Representative Nearman exited, he pushed the door open and stepped around a demonstrator, who rushed past him into the building, followed closely by a second demonstrator who held the door open for numerous other demonstrators, who also rushed in; and

Whereas none of the demonstrators were authorized personnel under House Rule 3.07 and therefore the demonstrators' breach of the doorway and occupancy of the Capitol was a violation of House Rule 3.07; and

Whereas the demonstrators were heard chanting "enemies of the state" and "arrest Kate Brown" inside the building; and

Whereas law enforcement officers attempted to push the demonstrators out of the Capitol, but demonstrators repeatedly dispersed chemical irritants against the officers before officers were able to regain control and repel the demonstrators; and

Whereas demonstrators damaged Capitol property prior to and during the confrontation with law enforcement; and

Whereas authorized personnel present in the Capitol described the events as “intense and stressful,” “terrifying” and “distressing”; and

Whereas law enforcement officers were visibly injured and shaken due to the demonstrators’ actions; and

Whereas an independent investigator unaffiliated with the legislative branch conducted an investigation of the conduct of Representative Nearman on December 21, 2020; and

Whereas the investigator reviewed security camera video footage and other relevant documentation, interviewed eight impacted parties and sought to interview Representative Nearman, who declined to be interviewed; and

Whereas the independent investigator determined that it is more likely than not that Representative Nearman intentionally aided demonstrators in breaching Capitol security and gaining unauthorized access to the Capitol, leading to injury and property destruction; and

Whereas Representative Nearman was arraigned on two misdemeanor charges stemming from his actions on December 21, 2020; and

Whereas the criminal prosecution against Representative Nearman is ongoing; and

Whereas Article IV, section 15, of the Oregon Constitution, vests the House of Representatives with the authority to determine whether the conduct of a Representative is disorderly behavior and to punish a Representative for disorderly behavior; now, therefore,

Be It Resolved by the House of Representatives of the State of Oregon:

That we, the members of the House of Representatives of the Eighty-first Legislative Assembly, find that Representative Mike Nearman has engaged in disorderly behavior within the meaning of Article IV, section 15, of the Oregon Constitution; and be it further

Resolved, That, with the concurrence of two-thirds of the members of the House of Representatives, Representative Nearman be expelled from the House of Representatives and that Representative Nearman’s seat be considered vacant.

Adopted by House June 10, 2021

Timothy G. Sekerak, Chief Clerk of House

Tina Kotek, Speaker of House