

# House Resolution 3

Sponsored by Representative KOTEK

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Resolves that Representative Mike Nearman engaged in disorderly behavior. Further resolves that, with concurrence of two-thirds of members of House of Representatives, Representative Nearman be expelled from House of Representatives.

## HOUSE RESOLUTION

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2       Whereas Article IV, sections 11 and 15, of the Oregon Constitution, direct the House of Repre-  
3       sentatives to determine its own rules of proceeding and to discipline its members; and

4       Whereas the House of Representatives adopted rules of proceeding when it convened in organ-  
5       izational session on January 11, 2021; and

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

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

10       Whereas House Rule 3.07 establishes safety and entrance protocols for the State Capitol build-  
11       ing; and

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

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

17       Whereas the Legislative Assembly was scheduled to convene in special session on December 21,  
18       2020; and

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

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

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

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

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

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 the Capitol; and

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

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

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

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

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

16 Whereas authorized personnel present in the Capitol described the events as "intense and  
17 stressful," "terrifying" and "distressing"; and

18 Whereas law enforcement officers were visibly injured and shaken due to the demonstrators'  
19 actions; and

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

22 Whereas the investigator reviewed security camera video footage and other relevant documen-  
23 tation, interviewed eight impacted parties and sought to interview Representative Nearman, who  
24 declined to be interviewed; and

25 Whereas the independent investigator determined that it is more likely than not that Represen-  
26 tative Nearman intentionally aided demonstrators in breaching Capitol security and gaining unau-  
27 thorized access to the Capitol, leading to injury and property destruction; and

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

30 Whereas the criminal prosecution against Representative Nearman is ongoing; and

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

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

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

38 Resolved, That, with the concurrence of two-thirds of the members of the House of Represen-  
39 tatives, Representative Nearman be expelled from the House of Representatives and that Represen-  
40 tative Nearman's seat be considered vacant.

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