

February 20, 1991

CLERK: Mr. President, as you know, the Legislature began discussing the adoption of the minority report yesterday. At that time Senator Landis offered an amendment to the proposal. That amendment was ruled out of order. The Chair was subsequently overridden, consequently the amendment is appropriately before the body this morning. I do, however, have a priority motion and that priority motion is that...refer the minority report back to the Executive Board. That referral motion is offered by Senator Withem, Mr. President.

SPEAKER BAACK: Senator Withem, on your motion to refer back to the Executive Board.

SENATOR WITHEM: Mr. Speaker, members of the body, this is a motion I filed yesterday as we were getting to the point where we had voted not to accept the report of the Executive Board which I interpreted to be one which the Legislature made a judgment, admittedly by a very slim margin, but made a judgment that it was going to favor the concept of voter intent over the concept of strict compliance with the statute as written. I am prepared to go along with the majority feeling at this point, if that is, in fact, remains the majority view of the Legislature that that is the proper way to go in this case. But I was stuck very strong by Senator Landis's arguments and other arguments in here that if we are going to do that, we need to assure ourselves that we do, in fact, have as accurate a picture of what voter intent is as is humanly possible. At this point in my mind we do not have that. At this point what we have before us is an action by the canvassing board, the State Canvassing Board, that took one set of votes that had been counted and recounted and certified by Gage County and the other counties in the 30th Legislative District and referred those on to the canvassing board. They accepted those. In addition they added into that a group of absentee ballots that the district judge had said could not be counted. They went ahead and counted those. Those that only received one counting, they had not received the second counting, they had not been recounted. Mr. Forslund has not been afforded, at this time, his opportunity to have those particular 500 plus ballots recounted. In addition to that I think Senator Landis's contention, a stronger contention on his part, was that there were 95 ballots for which we could determine clear voter intent from individuals that had walked into the polling place on election day and had marked their ballots and because of election official error, those ballots had not been counted. And I believe Senator