

Transcript Prepared By the Clerk of the Legislature  
Transcriber's Office

Floor Debate  
January 21, 2009

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SENATOR LANGEMEIER PRESIDING []

SENATOR LANGEMEIER: Good morning, ladies and gentlemen. Welcome to the George W. Norris Legislative Chamber for this, the tenth day of the One Hundred First Legislature, First Session. Our chaplain for today is Senator Pete Pirsch from Omaha. Please rise. []

SENATOR PIRSCH: (Prayer offered.) []

SENATOR LANGEMEIER: Thank you. I call to order the tenth day of the One Hundred First Legislature into order. Senators, please record your presence. Mr. Clerk, please record. []

CLERK: Mr. President, I do have a quorum present. []

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Are there any corrections for the Journal? []

CLERK: I have no corrections, Mr. President. []

SENATOR LANGEMEIER: Thank you. Are there any messages, reports, or announcements? []

CLERK: Mr. President, I have a Reference report referring LB356-416, as well as LR7. I have hearing notices from the Revenue Committee, signed by Senator Cornett as

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Chair; and from the Government, Military and Veterans Affairs Committee, signed by Senator Avery as Chair. Mr. President, committee reports. Your Committee on Banking, Commerce and Insurance, chaired by Senator Pahls, reports LB11 to General File, LB29 to General File, LB30 to General File. Your Committee on Transportation, chaired by Senator Fischer, reports LB49 to General File and LB50 to General File. Those five reports all signed by the respective Chairpersons. That's all that I have, Mr. President. (Legislative Journal pages 219-221.) [LB11 LB29 LB30 LB49 LB50]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. Proceed to new bills introduced. []

CLERK: Mr. President, new bills. (Read LB501-515 by title for the first time, Legislative Journal pages 222-224.) [LB501 LB502 LB503 LB504 LB505 LB506 LB507 LB508 LB509 LB510 LB511 LB512 LB513 LB514 LB515]

SENATOR LANGEMEIER: Members of the body, as we proceed with bill introduction, I would ask that you keep your visiting to a little lower decibel so people can hear the introduction at this time, and we appreciate your respect to the introductions. Mr. Clerk, continue. []

CLERK: (Read LB516-519 by title for the first time, Legislative Journal pages 224-225.) [LB516 LB517 LB518 LB519]

SENATOR LANGEMEIER: Thank you, Mr. Clerk. (Doctor of the day and visitors introduced.) At this time we will stand at ease as the introduction of new bills continues. []

EASE []

SENATOR LANGEMEIER: Mr. Clerk, new bills. []

CLERK: Mr. President, further new bills. (Read LB520-523 by title for the first time, Legislative Journal page 225.) [LB520 LB521 LB522 LB523]

SENATOR LANGEMEIER: Members of the body, I remind us again to keep the level down so that everyone can hear what's going on within the proceedings of the body. Mr. Clerk, items for the record. []

CLERK: Thank you, Mr. President. I have hearing notices from the Judiciary Committee and by the Natural Resources Committee, signed by Senators Ashford and Langemeier. And committee reports: LB61 heard by the Education Committee, has reported to General File; and LB62 is reported to General File by the Education Committee with committee amendments attached. (Legislative Journal page 226.) That's all that I have at this time, Mr. President. [LB61 LB62]

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SENATOR LANGEMEIER: Thank you, Mr. Clerk. At this time we will proceed to the first item on the agenda: the adoption of permanent rules. Mr. Clerk. []

CLERK: Mr. President, yesterday, Senator Lautenbaugh, as Chair of the Rules Committee, moved the adoption of permanent rules. The body adopted a series of amendments to that motion. I have additional amendments remaining. Senator Lautenbaugh, I believe you had offered Rules Change 9 that amended Rule 3, Section 4. That proposed change is pending, Senator. []

SENATOR LANGEMEIER: Senator Lautenbaugh, you're recognized to reopen on the Proposed Rules Change 9 to the permanent rules. []

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. At this time, after consulting with the committee, we're of the opinion that Rule 9 should be withdrawn. There is a substitute Rule 12 that is being distributed that will address the same subject matter, addressing some of the concerns raised yesterday. So at this time we would move to withdraw Rule 9. []

SENATOR LANGEMEIER: Seeing no objection, Proposed Rules Change 9 is withdrawn. Mr. Clerk. []

CLERK: Mr. President, the next proposed rules change, as offered by the Rules Committee, Senator Lautenbaugh has Proposed Change 10. It involves an amendment to Rule 3, Section 18. []

SENATOR LANGEMEIER: Senator Lautenbaugh, you are recognized to open on Proposed Rules Change 10. []

SENATOR LAUTENBAUGH: Thank you, Mr. President. This rule deals with committee statements. The proposed change would encourage committees to verify the completeness of the committee statement. At this time I would urge approval of the rule. []

SENATOR LANGEMEIER: Senator Lautenbaugh, you are recognized. []

SENATOR LAUTENBAUGH: Thank you, Mr. President. At this time, after consultation with the committee, the committee desires that we withdraw 10, as well, and so I would move that we withdraw 10. []

SENATOR LANGEMEIER: Thank you. Are there any objections? Seeing no objections, Proposed Rules Change 10 is withdrawn. Mr. Clerk. []

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CLERK: Mr. President, Senator Lautenbaugh, as Chair of the Rules Committee, would offer Proposed Rules Change 11 that affects and amends Rule 3, Section 7. []

SENATOR LANGEMEIER: Thank you. Senator Lautenbaugh, you are recognized to open on Proposed Rules Change 11. []

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. Proposed Rules Change 11 states that it is to allow the flexibility in citing of the Chair of a committee for legislative purposes. Simply put, this allows the Chair of a committee to be addressed as Chair, Chairman, Chairwoman, at the option of the Chair, Chairman, or Chairwoman of the committee. This is relatively straightforward. It is my hope that some of you will discuss this while we sort out the next rule that is just being introduced, so I would be interested today in hearing what you all have to think about this. So I would urge your approval after a few minutes of discussion here. []

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. You have heard the opening on the Proposed Rules Change 11 to be adopted to our permanent rules. The floor is now open for discussion. Seeing no lights on, Senator Lautenbaugh, you're recognized to close on Proposed Rules Change 11. []

SENATOR LAUTENBAUGH: I will waive closing, Mr. President. []

SENATOR LANGEMEIER: Senator Lautenbaugh waives closing. The question before the body is, shall Proposed Rules Change 11 be adopted to the permanent rules? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: 34 ayes, 0 nays, Mr. President, on the adoption of the proposed rules change. []

SENATOR LANGEMEIER: It is adopted. Mr. Clerk, next item. []

CLERK: Mr. President, the final proposed rules change I have, Senator, is the version that amends Rule 3, Section 4, that you provided to me this morning. I would share with the membership that copies are on your desk; they have been distributed. []

SENATOR LANGEMEIER: Thank you. Senator Lautenbaugh, you're recognized to open on Proposed Rules Change 12. []

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. This proposed rule is a reiteration of number 9 from yesterday. It basically can be summarized as follows. The way it is designed to work, the committees must make a report. The committee report may be to approve an appointment. Then there is a motion

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to adopt the report. It needs 25 votes. The committee report on a nominee could be to reject an appointment. There is a motion to adopt the report. You need 25 votes or the appointment is...the appointment is rejected, but (inaudible) less than 25 votes for adoption. With 25 no votes, the appointment is approved. If it's fewer than 25 votes for adoption and fewer than 25 no votes, the appointment is rejected. The third scenario is where the report makes no recommendation. The report can be considered within five legislative days but not before we adjourn sine die. The motion will be to approve the appointment. Twenty-five votes will approve the appointment. Fewer than 25 votes to approve, and the appointment is rejected. It was the hope of the committee that this would address some of the concerns raised by Senator Friend yesterday, and I would urge your approval of this rule. []

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. You have heard the opening on Proposed Rules Change 12 to our permanent rules. The floor is now open for discussion. Those wishing to speak, we have Senator Friend and Hansen. Senator Friend, you're recognized. []

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. This change, I actually got a chance to talk to Speaker Flood a little bit about it earlier. I know that I showed probably an overzealous attitude toward the language yesterday, and I guess I wanted to let the members of the Legislature know that it wasn't necessarily a show-stopper with me. The changes that were made in this amendment I think are appropriate. I would have actually made, today, a...I would have made an amendment that removed a piece of language that I felt conflicted with existing language in that subsection (v). Anyway, the language I guess that I liked, the new language that I like, in the event a motion on a report fails to receive, either in the affirmative or negative, a majority vote of the elected members, then such appointment shall be deemed rejected. The language that I wanted out is not necessarily out; it's different. I think it's appropriate, and for what it's worth, I would ask for adoption of the proposed rules change. Thank you, Mr. President. []

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Hansen, you're recognized. []

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I would like to ask Senator Lautenbaugh a question if I could, please. []

SENATOR LANGEMEIER: Senator Lautenbaugh, would you yield to a question from Senator Hansen? []

SENATOR LAUTENBAUGH: Yes, I will. []

SENATOR HANSEN: Thank you. Senator, on the second page, the first complete

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sentence there, there's...it says members for approval, period. And then it starts, and it states--and it's the same sentence that was in the rules change yesterday: If the Legislature fails to approve the motion, the appointment is thereby rejected. Isn't that what we're here for, is to hear all appointments? To confirm all appointments made by the committees? It seemed redundant that it should have an out for the Legislature that if we fail to act, that the appointment is rejected. []

SENATOR LAUTENBAUGH: I believe, as this reads at this point, there's a motion to approve--and I want to make sure you're on the third page, right? (Inaudible) language. It's a two-sided copy on (inaudible). []

SENATOR HANSEN: Oh, I'm sorry. It's the second page; yes. []

SENATOR LAUTENBAUGH: Okay. Are you reading the language as it continues over from the back of the first page onto the front of the third page? Because I think that might address your concern. []

SENATOR HANSEN: Would you repeat that, please? []

SENATOR LAUTENBAUGH: The first page of the proposed rule is two-sided. []

SENATOR HANSEN: Yes. []

SENATOR LAUTENBAUGH: So the sentence that you're referring to comes after language on the back of page 1, I think might address your concern if you're reading them in conjunction with each other. []

SENATOR HANSEN: But still, the underlying part is added rule change, correct? []

SENATOR LAUTENBAUGH: Yes, that's correct. []

SENATOR HANSEN: Okay. So it's the top of page 3. []

SENATOR LAUTENBAUGH: Yes. []

SENATOR HANSEN: Isn't that redundant to say that if the Legislature fails to approve the motion, the appointment is rejected? Isn't that what we're here for? That's my question. Why wouldn't we act? Why would we not act one way or the other, and if we don't get a majority approval, it's rejected; if we do, it's confirmed? []

SENATOR LAUTENBAUGH: I don't see it as redundant, because I can see a scenario where that might happen, where for whatever reason the body doesn't act. []

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SENATOR HANSEN: I think that's taking the easy way out. In your certain situation, I don't know what that situation would be. Could you give an example of that situation? []

SENATOR LAUTENBAUGH: Honestly, that's the best example I can come up with: If the body does not bring it up. []

SENATOR HANSEN: And my question again: Isn't that what we're here for? []

SENATOR LAUTENBAUGH: I would argue, yes. But if you're asking me, do we always do what we should do, I would point out, sometimes yes, sometimes no. This is dealing with a circumstance where we don't, for whatever reason, act on it, as I interpret it. []

SENATOR HANSEN: Okay. I think I will have an amendment to this to strike that particular sentence. []

SENATOR LANGEMEIER: Thank you, Senator Hansen and Senator Lautenbaugh. Senator Dubas, you're recognized. []

SENATOR DUBAS: Thank you, Mr. President. Would Senator Lautenbaugh yield to a question, please? []

SENATOR LANGEMEIER: Senator Lautenbaugh, would you yield to a question from Senator Dubas? []

SENATOR LAUTENBAUGH: Yes, I will. []

SENATOR DUBAS: Thank you, Senator Lautenbaugh. I guess I apologize for not being up to speed on this, but what is the difference between what was just handed out to us this morning and what was discussed and approved in the Rules Committee meeting? []

SENATOR LAUTENBAUGH: Well, that becomes a relatively involved question because we had a version that was approved after the rules meeting that addressed concerns that were raised therein. And there are several changes. This was meant...what you have today was introduced to address a concern raised by Senator Friend yesterday. So I may actually defer to Senator Friend on this, in why he sees this as making a difference. []

SENATOR DUBAS: Well, when was this change...? Was this change, from yesterday, discussed in a Rules Committee meeting? []

SENATOR LAUTENBAUGH: Very informally this morning. Not in an actual committee hearing. []

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SENATOR DUBAS: Okay. So are the rest of the...where is the rest of the Rules Committee on these changes? Have they been consulted with the changes? []

SENATOR LAUTENBAUGH: I did speak to the...I'll represent to the rest of the Rules Committee and advised them that this proposed change was coming. But the committee, as a whole, has not voted to say, yes, this is the change. []

SENATOR DUBAS: Okay. []

SENATOR LAUTENBAUGH: I'm the one who is offering this change... []

SENATOR DUBAS: Okay. []

SENATOR LAUTENBAUGH: ...to address the discussion yesterday. []

SENATOR DUBAS: All right. Okay. So I guess then I would direct my question, if Senator Friend would yield to a question? []

SENATOR LANGEMEIER: Senator Friend, would you yield to a question from Senator Dubas? []

SENATOR FRIEND: Yes, I will. []

SENATOR DUBAS: Thank you, Senator Friend. I guess I would ask you the same question I asked Senator Lautenbaugh: the difference between what was originally introduced by the Rules Committee and what we have handed out to us today. []

SENATOR FRIEND: There is a difference, and let me read the difference right now if you can...and I'll give you some of my time if you need it. I was going to strike that language that Senator Hansen was talking about. So, in other words, it says, if the Legislature fails to approve the motion, the motion is thereby rejected. I was going to strike that out because I think people could play politics with that language. I'm afraid...an unpopular Governor, Democrat, Republican, I don't care; I felt people could play politics with that language. The next paragraph is different than what is in the proposed change from yesterday. The proposed change from yesterday said if the report coming from the committee is to reject the appointment and the Legislature fails to adopt the report by a majority vote of the elected members, then the appointment is thereby approved. This stuff was all mixed around. For me, it was hard to read. What we have now is, in this new proposed language, if the Legislature fails to approve the motion, the motion is thereby rejected, period. In the event--the next paragraph--in the event that a motion on a report fails to receive, either in the affirmative or a negative, a majority vote of the elected members, then such appointment shall be deemed rejected, period. Then that next paragraph, at the end--what I was afraid of--in the last ten

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calendar days, that acknowledgement of the receipt of the appointment shall be deferred until the next regular or special session of the Legislature. I'm afraid, in the last ten days if the Governor appoints somebody; we wait; that language up on top means the person is automatically rejected if you didn't have that existing language. This is different. It's redundant. Senator Hansen is right; we don't need it. But I don't think it creates the problem, based on the new draft that we had before. That's the best way I can explain it. I understood this when I read it. Yesterday's language I didn't understand. But, thank you, Senator Dubas. []

SENATOR LANGEMEIER: One minute. []

SENATOR DUBAS: I thank you for that clarification and I guess, you know, having not fully read through these changes yet, I may still have some questions. But this is a very important duty that the Legislature has in confirming or rejecting appointments, so I think we need to be very, very careful about the language that we do put in. And as a member of the Rules Committee, I'm just feeling I guess a little bit flustered here because we're making some changes to, again, to a very important duty, and I want to make sure that everybody is crystal-clear on exactly what we're doing. So I thank you for your time. []

SENATOR LANGEMEIER: Thank you, Senator Dubas. Senator Carlson, you're recognized. []

SENATOR CARLSON: Mr. President and members of the Legislature, I, too, would like to address a question or two to Senator Lautenbaugh if he would yield. []

SENATOR LANGEMEIER: Senator Lautenbaugh, would you yield to a question from Senator Carlson? []

SENATOR LAUTENBAUGH: Yes, I will. []

SENATOR CARLSON: With the flurry of activities here on submitting bills and so forth, I'm asking a question in the open. And I guess I would say if Senator Chambers were still here, I would have gone and asked him and had the answer, but I'm going to ask it out in the open. Normally speaking, if a committee approves an appointment, it comes to the body; the body probably approves the appointment and that takes care of it. Now, to help me out here, a majority vote of the elected members, whenever we see that statement, "majority vote of the elected members," is that 25 votes? []

SENATOR LAUTENBAUGH: Yes. []

SENATOR CARLSON: Okay. Then if the committee has a "no recommendation," that would be a tie vote in the committee, correct? []

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SENATOR LAUTENBAUGH: Yes. []

SENATOR CARLSON: They would vote. They wouldn't just say we have no recommendation. It would be a tie vote. Don't they have an obligation to vote? The committee? []

SENATOR LAUTENBAUGH: I believe so, yes. []

SENATOR CARLSON: I think so; I think so. So I think that would come out as a tie vote, and that's no recommendation. Then if 25 members of the Legislature vote to approve that appointment, it becomes an appointment. []

SENATOR LAUTENBAUGH: Yes. Under the rule that is proposed today, that is correct. []

SENATOR CARLSON: Okay. Now the other possibility then is if the committee votes to not approve the appointment by a majority vote. []

SENATOR LAUTENBAUGH: Yes. []

SENATOR CARLSON: And then it comes out to the floor and the Legislature will vote, but then there has to be 25 votes to approve that rejection, correct? []

SENATOR LAUTENBAUGH: Yes. []

SENATOR CARLSON: And if there are not 25 votes to approve that rejection, the appointment is approved. []

SENATOR LAUTENBAUGH: Yes. []

SENATOR CARLSON: Okay. That clarifies it for me. Thank you, Senator Lautenbaugh; thank you, Mr. President. []

SENATOR LANGEMEIER: Thank you, Senator Carlson. Senator Friend, you're recognized. []

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I'll be brief, and then if Senator Dubas would like some time I'd be happy to deliver the remainder of my time to her. I mentioned earlier that to me this is not a show-stopper. Members of the Legislature, if this were statutory language...and again, I believe I was a tad overzealous yesterday, okay? I know that's never happened before; I'm sure everybody is shocked by that. It is important, but we're not changing statutory language.

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What I was concerned about, just to repeat again, was playing politics or people getting with the Speaker and trying to do something or keep something off the agenda. I believe this language provides us, for the next two years, to me, enough of a comfort zone that I don't think that will happen. The other thing is I have enough faith in this Legislature, I don't think that's going to happen either. If that faith is diminished by action, then we all have an opportunity to take advantage of, you know, the time that we have on the floor to deal with that. This is not statutory language. It's important but I don't think it's a show-stopper, and I think that the changes that have been made alleviated some of my concerns. One more time though, if Senator Hansen wanted to strike that language that he was talking about earlier, I would have been fine with that. It is redundant. He's absolutely right. It's not necessary. I had an amendment all drafted up and ready to distribute to get rid of it. The idea now is that this new language is just, to me, easier to understand. I read that old language three times. I read it to my staff. I couldn't figure it out. I'm stupid but not that stupid. That language yesterday was hard to understand. I don't think this is that way. Senator Dubas, if you'd like the rest of my time, you're more than welcome to it. Thank you, Mr. President. []

SENATOR LANGEMEIER: Senator Dubas, three minutes. She waives your time. Thank you, Senator Friend. Senator Hansen, you are recognized, followed by Senator Lautenbaugh. []

SENATOR HANSEN: Thank you, Mr. President and members of the Legislature. I did go up and talk to Patrick about the language that I was worried about, and as Senator Friend says, this is not a show-stopper. It takes us six months to do 90 days' work; I guess that bothers me, number one, and Senator Friend is going to fix that too, in his world anyway. So we're here. We're to...if the committees either reject or forward a confirmation to us, we have the responsibility to act upon that, and this line just says that we need to act on it. It's part of our responsibility. That's why we're here. That's why we're elected, to give an up or down vote on these confirmations. So there will be no floor amendment from me. Thank you. []

SENATOR LANGEMEIER: Thank you, Senator Hansen. Senator Lautenbaugh, you're recognized, followed by Senator Carlson. []

SENATOR LAUTENBAUGH: Thank you, Mr. President and members of the body. And to Senator Hansen, I apologize if I wasn't tracking with your concern earlier. I would concede it's probably redundant, that bit of language, and this rule has not developed as we would have liked on the committee. I apologize to Senator Dubas because we tried to address concerns yesterday with something on the fly for today. And this wasn't meant to blindside anyone; it was just trying to address concerns as they developed. Believe me, we struggled with this rule in committee too. It was to address an imperfection, to say the least, from last year. And what we had in committee wasn't perfect, and we tweaked it after the committee meeting; and we talked about it

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yesterday and still had obvious problems with it. So this is a difficult thing; a difficult thing to explain, obviously, as you've noticed from time to time when I've tried to do it. But we were not trying to blindside any of you. We were just trying to be responsive to the concerns raised by members yesterday. So I would again urge your approval. I think this is a needed clarification, and I think we do finally have language that accomplishes what we set out to accomplish. []

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. Senator Carlson, you're recognized. []

SENATOR CARLSON: Mr. President and members of the Legislature, there is one other possibility here that I'm thinking about, and I would like to ask a question. I would like to address Senator Friend if he would yield, and then I would ask Senator Lautenbaugh to listen carefully to our conversation. []

SENATOR LANGEMEIER: Senator Friend, would you yield to a question from Senator Carlson? []

SENATOR FRIEND: Yes, I will. []

SENATOR CARLSON: Senator Friend, if I'm understanding this right--and I'd like to see if you would agree with me--we have a committee that votes to reject an appointment, and then that comes to the floor. And we've had some difficult days of weather before, and I recall a day when we certainly didn't have a full complement of members in the Legislature. So let's say that we have 30 members present in the Legislature to vote on this appointment, and the committee rejected it. Okay. Are you with me? []

SENATOR FRIEND: Yes. []

SENATOR CARLSON: And of these 30 that are present, 20 of them vote to accept the rejection by the committee, but 10 vote not to. Now, by what I'm reading, there were not 25 votes to accept the rejection of the committee. The person becomes appointed and was really appointed by 10 votes in the Legislature. Would that be your understanding? []

SENATOR FRIEND: No, I don't think so. Look, correct me if I'm wrong though. According to this language--let's go through your scenario again--the person is rejected by the committee. The Speaker decides to put it on the agenda for the entire Legislature to vote on. With the new language, if the Legislature fails to adopt a report to approve an appointment by a majority vote of the elected members, the appointment is thereby rejected. I think I lost you. []

SENATOR CARLSON: Okay. The committee voted to reject the appointment. The

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committee is recommending to the Legislature, reject the appointment. []

SENATOR FRIEND: Right. []

SENATOR CARLSON: It takes 25 votes to reject the appointment. That's okay. []

SENATOR FRIEND: Right. []

SENATOR CARLSON: That's the way it is. But sometimes we don't have 49 people here. We've got 30 people here and it still takes 25 votes... []

SENATOR FRIEND: But... []

SENATOR CARLSON: ...out of the 30 to reject that appointment. []

SENATOR FRIEND: But Senator, that could happen no matter what the committee decides so... []

SENATOR CARLSON: I know it could happen. []

SENATOR FRIEND: ...you know, I don't know that we're changing the scenario that much. []

SENATOR CARLSON: No, I'm not even asking for a change. I'm just saying the reality of it is, there could be circumstances where somebody is appointed; the committee rejects the appointment. It needs 25 votes to accept that rejection. And because...you don't get the 25 votes, but a situation where there were 30 people present and 20 of them... []

SENATOR FRIEND: So then the person is not rejected, is what you're saying. So we need that language that we were thinking about striking, is that your point? []

SENATOR CARLSON: I don't really have a point, other than I can see a circumstance come up here that nobody wanted. But because of the way we proceed, we would have the possibility of 10 or fewer people voting, actually for an appointment, because the rejection wasn't accepted. And not very many people wanted this appointment, but because of the way the rule is written they become automatically appointed. []

SENATOR FRIEND: I think I...I think, in a scary way, I think I know exactly what you're talking about. []

SENATOR CARLSON: Okay. []

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SENATOR FRIEND: And my point is, no matter what we've done here, I think that that is still the scenario. You're bringing up a scenario that could occur. It could have occurred the last ten years and it could occur ten years from now, no matter what we do, whether this language is adopted or not. So I think I understand what you're saying. []

SENATOR LANGEMEIER: One minute. []

SENATOR CARLSON: Okay. If I have one minute and the Speaker would like to address this, I would yield time. []

SENATOR LANGEMEIER: Speaker Flood, 54 seconds. []

SPEAKER FLOOD: Thank you, Mr. President and members. Senator Carlson raised an important question, and that is what happens if you don't have 25 votes to approve a report that says they reject the appointment, or 25 votes to reject the report from the committee. It's a complicated issue. Our rule does handle this. And, in fact, I have, yesterday, worked with Laurie in my office, and we'll have the pages go ahead and hand those sheets out right now. This is a cheat sheet that explains how the rule works and the mechanics of it. And I think my time is coming up here in a moment, so as that gets passed out I'll go ahead and give back the rest of Senator Carlson's time, and I believe I'm up next. []

SENATOR LANGEMEIER: Thank you, Speaker Flood. And Senator Carlson, 10 seconds. []

SENATOR CARLSON: Thank you. []

SENATOR LANGEMEIER: Thank you, Senator Carlson. (Visitors introduced.) Returning to floor discussion on proposed rules change, Senator Flood, your light is on and you're recognized. []

SPEAKER FLOOD: Thank you, Mr. President and members. This, let's all concede, is a difficult logistical issue to address in the rules, and we wouldn't have endeavored upon this unless we had the problem we did last year where a committee felt so strongly they wanted to reject, by committee, the appointment and send that recommendation to the floor. Because of that situation and the odd position Senator Cornett, who was Chairman of the committee, and members of the committee found themselves in, we set out to change it. You have in front of you, and if you could all grab it, this sheet that I just passed out. I don't know if you've had a chance to look at it. Grab it and let's follow through on this. The first one obviously says, number one, to approve an appointment, the motion is to adopt the report. The committee sends that motion to the floor. If there are 25 green votes, the appointment is confirmed; less than 25 green votes, the

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appointment is rejected. That's pretty straightforward. That's how it's going to happen, I would predict, in 98 percent of the situations that you find during your service in the Legislature. It gets a little bit more difficult when we go to a committee recommendation to reject the appointment. The motion that would come from the committee to the floor is to adopt that report to reject the appointment. If there are 25 votes for the committee's report, green votes, the appointment is rejected. If there are less than 25 votes for adoption with 25 red "no" votes on the rejection motion from the committee, the appointment is approved. So if the Legislature wanted to approve an appointment and the committee said no, you would have to have at least 25 red "no" votes. Senator Carlson brings up the situation: What happens if you get less than 25 votes for the adoption and you get less than 25 no votes? What happens in that situation? The appointment is rejected. This, I think, spells out what the rule says and addresses the point that Senator Carlson very importantly pointed out to the rest of us, that he was concerned about. What happens when a report makes no recommendation? There was some discussion on the floor earlier that it has to be a tie. We took that language out because it could be 4 votes for, 2 votes no, and 2 not voting or not present or whatever...you know, they have the right to abstain. So we didn't want to say this only applies in the situation of a tie. The report shall be considered within five legislative days before we adjourn for the year, sine die. The motion will be on the floor to approve the appointment, like it would be in situation number one: 25 green votes, appointment confirmed; less than 25 green votes, appointment rejected. This is complicated. It's important that we understand it. If it happens again where we have an appointment rejected by the committee, we now have a process, thanks to Senator Lautenbaugh's work, to get through this process, and I think this cheat sheet here explains the mechanics of the rule that's in front of you. Thank you, Mr. President. []

SENATOR LANGEMEIER: Thank you, Senator Flood. Continuing with discussion, Senator Nelson, you're recognized. []

SENATOR NELSON: Thank you, Mr. President. Would Speaker Flood accept a question or two? []

SENATOR LANGEMEIER: Senator Flood, would you yield to a question from Senator Nelson? []

SPEAKER FLOOD: Yes, I will. []

SENATOR NELSON: Thank you, Mr. Speaker. I'm looking at number 3 on your cheat sheet here, and it says if the report makes no recommendation, the report must be, as I assume, considered within five legislative days. Why is it we're imposing that five days in that circumstance but we don't, you know, under items 1 and 2, depending on the motion from the committee? Why is there no...there doesn't seem to be any time requirement there. And I'm wondering if, in those cases, they could just wait until the

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end of the session and we'd never be able to consider their motion. []

SPEAKER FLOOD: Well, the reason that's in there, Senator Lathrop, on the Rules Committee, was concerned that a future Legislature with a Speaker that didn't schedule these appointments...you know, the way the...what we operate under is if the Legislature fails to act, the entire body, and we adjourn, it is presumed that we are waiving our right to confirm and the person is confirmed. The reason we put this in there is to make sure that if the committee does provide no recommendation, it comes out that it does get scheduled and the Legislature has to act on that. And we pushed the days back to 10 when we had to act on it that year--the 10 final last days of session, calendar days. And so this makes the Speaker schedule that so that it's all handled and everybody has their chance to vote so that the Speaker doesn't sit on something in his office or her office and refuse to let the body consider it, knowing that the person will be confirmed notwithstanding the Legislature's advice and consent. Does that answer your question? []

SENATOR NELSON: Well, I guess. But what keeps the Speaker from not scheduling it for consideration in items number 1 and number 2? []

SPEAKER FLOOD: Well, technically, nothing, and I just checked that with Laurie in my office. But when there's clear direction from the committee, you know exactly what's going on. What this does is it forces the committee to send something out. If the committee says approve it, if the committee says don't approve it, I know exactly what the committee is thinking; I'll schedule it. The other thing is, I don't have...you know, in my short time as Speaker the last two years, I've scheduled every one of these without regard to, you know, any deadline. I've always made sure the Legislature has had its say, notwithstanding what my personal feelings have been about the appointments. And 98 percent of the time, these aren't a big deal. This was something that Senator Lathrop felt strongly about in committee. I agreed with him that we could put that safeguard in there. I'm not concerned about the Speaker's office not doing what it's supposed to do. I understand why you're wondering why it's not uniform on the other two. If you're dissatisfied that I'm not scheduling an appointment in a reasonable amount of time, the rules do provide that the members have the ability to (a) change the agenda, and (b) remove the Speaker. So there are safeguards to ensure that the Speaker is doing the Legislature's business. []

SENATOR NELSON: Thank you, Mr. Speaker. I don't have any concern about your future actions or scheduling. It's just I wondered why a special provision was put in there under number 3, and I think you've explained it satisfactorily so I'm satisfied with that, and thank you for your explanation. []

SENATOR LANGEMEIER: Thank you, Senator Nelson. Seeing no other lights on, Senator Lautenbaugh, you are recognized to close to Proposed Rules Change 12. []

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SENATOR LAUTENBAUGH: For once, I won't waive the close on one of these. I do appreciate all of your attention to this. This has been a difficult rule from start to finish but I think it's a necessary rule. I thank the Speaker for his familiarity with the rules and his attempts to explain this. I appreciate the questions from Senator Nelson, Senator Friend, Senator Hansen, I guess even Senator Carlson back there--yes, I'll acknowledge you--and I would urge you all to vote to approve this rule. Thank you. []

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. You have heard the closing on Proposed Rules Change 12 to be adopted to the permanent rules. The question before the body is, shall Rule Change 12 be adopted? All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: 39 ayes, 0 nays, Mr. President, on the adoption of Senator Lautenbaugh's amendment. []

SENATOR LANGEMEIER: The amendment is adopted. Returning now to discussion on the adoption of permanent rules, the rules themselves. The floor is now open. Senator Friend, you are recognized. []

SENATOR FRIEND: Thank you, Mr. President and members of the Legislature. I wouldn't...I don't know if this a pet peeve or not, but you be the judge. When you sit up in that chair up there where Langemeier is residing--and I don't know if he's trying to call me right now; he's on the phone...to tell me to shut up. When you are sitting up there and somebody yields back time to the Chair, we can't collect your time. So you can't yield any time to the Chair. You can yield it to other people. We're not collecting time out there and distributing it. So you can say it if you want but if you give time to Langemeier, there's nothing he can do with it. I just thought you'd like to know that. Thank you, Mr. President. []

SENATOR LANGEMEIER: Thank you, Senator Friend. Senator Lautenbaugh, your light is on, however there are no other lights on so you can choose to talk on your time or you can close. You're recognized. []

SENATOR LAUTENBAUGH: At this point, we are...a point of order; are we moving the amendments at this point or moving the rules? []

SENATOR LANGEMEIER: You are recognized to close on the adoption of the permanent rules. []

SENATOR LAUTENBAUGH: Thank you, Mr. President, members of the body. I do again appreciate this debate and I'll be very brief. I think the committee worked hard on these rules. I think they are not earth-shattering changes but, in a lot of times, modest

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clarifications. I would urge your approval. Keep in mind, we're approving them for this calendar year, including any special sessions, so it is possible we can revisit these next year or during the session under some circumstances. I don't know if there's going to be a lot of enthusiasm for that. I hope not. But that said, I would urge your approval and I will yield the rest of my time back to the Chair. []

SENATOR LANGEMEIER: Thank you, Senator Lautenbaugh. Mr. Clerk, please read the motion. []

CLERK: Mr. President, the motion pending is to adopt the permanent rules for the One Hundred First Legislature, First Session, and any special sessions held during the 2009 calendar year. []

SENATOR LANGEMEIER: Members, you have heard the motion. All those in favor vote yea; all those opposed vote nay. Have all those voted that wish to? Record, Mr. Clerk. []

CLERK: 42 ayes, 0 nays, Mr. President, on adoption of permanent rules. []

SENATOR LANGEMEIER: The permanent rules are adopted. Mr. Clerk, new bills. []

ASSISTANT CLERK: Mr. President, new bills. (Read LB524-593 by title for the first time.) And that's all that I have at this time, Mr. President. (Legislative Journal pages 231-242.) [LB524 LB525 LB526 LB527 LB528 LB529 LB530 LB531 LB532 LB533 LB534 LB535 LB536 LB537 LB538 LB539 LB540 LB541 LB542 LB543 LB544 LB545 LB546 LB547 LB548 LB549 LB550 LB551 LB552 LB553 LB554 LB555 LB556 LB557 LB558 LB559 LB560 LB561 LB562 LB563 LB564 LB565 LB566 LB567 LB568 LB569 LB570 LB571 LB572 LB573 LB574 LB575 LB576 LB577 LB578 LB579 LB580 LB581 LB582 LB583 LB584 LB585 LB586 LB587 LB588 LB589 LB590 LB591 LB592 LB593]

SENATOR STUTHMAN PRESIDING []

SENATOR STUTHMAN: We will stand at ease at the present time, and I would urge each and every one of the senators to get your bills in as soon as possible. And we want to make sure that we have adequate time to go over these bills, so I urge everyone to make sure that you get your bills in. Thank you. []

EASE []

SENATOR STUTHMAN: Mr. Clerk, would you continue reading the bills. []

CLERK: Thank you, Mr. President. (Read LB594-619 by title for first time, Legislative Journal pages 242-247.) [LB594 LB595 LB596 LB597 LB598 LB599 LB600 LB601 LB602 LB603 LB604 LB605 LB606 LB607 LB608 LB609 LB610 LB611 LB612 LB613]

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LB614 LB615 LB616 LB617 LB618 LB619]

SENATOR FRIEND PRESIDING []

SENATOR FRIEND: Thank you, Mr. Clerk. Now I do recognize Speaker Flood for an announcement. []

SPEAKER FLOOD: Thank you, Mr. President and members. We just spoke with Joanne Pepperl, Revisor of Statutes in the Bill Drafters Office, and she advised that all of the bills that they had, have been distributed to the senators. If any senators, for some reason, believe they're still waiting on a draft, they should contact the Bill Drafters Office immediately. It is our intention to adjourn on or after 11:45 a.m. this morning, so if you have bills to get in, please take them up front, have them introduced. If possible, we'd like to be adjourned by 11:45. Obviously, that's also dependent upon the Clerk's Office and staff getting all the bills appropriately numbered and read into the record. Thank you, Mr. President. []

SENATOR FRIEND: Thank you, Speaker Flood. The Legislature now continues with introduction of new bills. Mr. Clerk, new bills to be read into the record. []

ASSISTANT CLERK: Mr. President, new bills. (Read LB620-660 by title for the first time.) And that's all I have at this time, Mr. President. (Legislative Journal pages 247-253.) [LB620 LB621 LB622 LB623 LB624 LB625 LB626 LB627 LB628 LB629 LB630 LB631 LB632 LB633 LB634 LB635 LB636 LB637 LB638 LB639 LB640 LB641 LB642 LB643 LB644 LB645 LB646 LB647 LB648 LB649 LB650 LB651 LB652 LB653 LB654 LB655 LB656 LB657 LB658 LB659 LB660]

SENATOR FRIEND: Thank you, Mr. Clerk. Mr. Clerk, new bills to read into the record. []

ASSISTANT CLERK: Mr. President. (Read LB661-679 by title for the first time.) Mr. President, new resolutions. LR10, by Senator Price, relating to card check legislation. A notice of committee hearings from Health and Human Services. A report from Banking, Commerce and Insurance that LB31 be placed on General File with amendments. A series of name adds: Senator Giese to LB53, Senators Pirsch and Harms to LB92, Senator Schilz to LB153, Senator Dubas to LB286 and LB287, Senator Giese to LB300, Senator Dubas to LB300, Senator Flood to LB334, Senator Wallman to LB410, Senator Cornett to LB418, and Senator Nantkes to LB503. (Legislative Journal pages 253-258.) [LB661 LB662 LB663 LB664 LB665 LB666 LB667 LB668 LB669 LB670 LB671 LB672 LB673 LB674 LB675 LB676 LB677 LB678 LB679 LR10 LB31 LB53 LB92 LB153 LB286 LB287 LB300 LB334 LB410 LB418 LB503]

Mr. President, a priority motion. Senator Wallman would move to adjourn until Thursday, January 22, 2009, at 9:45 a.m. []

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SENATOR FRIEND: Thank you, Mr. Clerk. Members of the Legislature, you have heard the motion to adjourn until Thursday, January 22, 2009, at 9:30 a.m....pardon me, 9:45 a.m. The motion is. All those in favor please signify by saying aye. All those opposed say nay. The ayes have it. We are adjourned. []