

## MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE.

The meeting was called to order by Chairperson Representative Tony Powell at 3:30 p.m. on February 19, 2001 in Room 521-S of the Capitol.

All members were present.

Committee staff present: Theresa Kiernan, Revisor  
Dennis Hodgins, Research  
Shirley Weideman, Secretary

Conferees appearing before the committee:

**HB 2350:** Proponent: Representative Lisa Benlon

Opponents: Vic Miller, Topeka Attorney  
Brad Bryant, Deputy Assistant Secretary of State

Others attending: See attached list.

Chairman Powell opened the hearing on **HB 2350 - Elections; recounts; provisional ballots.**

Representative Lisa Benlon appeared as a proponent of **HB 2350**. She gave the example of an election in Kansas for a state representative where the winner was declared, then after a count of the provisional ballots the results changed, and after a recount, that decision was reversed. Rep. Benlon said she wants to avoid the problem in a close race only in those elections that encompass a portion of more than one county. She believes that all counties should be consistent in their methods of counting ballots and that HB 2350 will resolve this problem. (attachment #1) Representative Benlon answered questions asked by committee members.

Brad Bryant, Deputy Assistant Secretary of State, addressed the committee as an opponent of **HB 2350**. He said that the recount is not the place to decide what votes to count. He indicated that Kansas statute provides that the county board of canvassers make the decision on provisional ballots between the time the polls close and the date (Friday) that the counties certify the results. Mr. Bryant said that provisional ballots are sealed in envelopes when they are cast on election day and the county canvassers are charged by law with the responsibility of determining which ballots are valid and which are not. He indicated that the laws already tells canvassers which ballots should count. He also said that the problem encountered in the 2000 election was that those laws were not consistently read, interpreted and applied by those counties. Mr. Bryant said that this bill appears to authorize the special recount board to review provisional ballots, which could result in their reversing decisions already made by the county canvassers. He indicated that a recount is, and should be limited to, re-counting ballots that were counted in the first tabulation and there is an opportunity for provisional ballots to be reviewed in an election contest in court.

(attachment #2)

Vic Miller, Topeka attorney, testified in opposition to **HB 2350**. He said the bill has good intentions, but does not clear up the problem it tried to solve. He indicated that by having the involved county representatives meet prior to a board of canvassers, they cannot contemplate the possible thousands of sets of circumstances that could be faced when determining whether a particular ballot should be counted. Mr. Miller said that the law is clear as to which provisional ballots should be counted and several errors were made in the counties involved in the election that was the reason this bill was drafted. His suggestion was for better education of the of the county clerks, canvassers and county counselors in ways of protecting the sanctity of the ballots and following the law in determining which ballots to count. Mr. Miller answered questions asked by committee members.

The hearing was closed on **HB 2350.**

Consideration was opened on **HB 2299 - Advisory committees; open meetings.**

Chairman Powell moved conceptual amendment to **HB 2299** to include a definition of subordinate groups

Continuation of February 19 Meeting of the House Ethics and Elections Committee. Page 2 of 2

as any entity including any committee, sub-committee, council or other entity, excluding staff meetings, which is created by a public body subject to provisions of the open meeting act would be included in those covered by the act. Representative Powers seconded the motion. The motion passed.

Representative Alldritt moved that **HB 2299** be reported favorable for passage as amended. Representative Hermes seconded the motion. The motion passed.

The meeting was adjourned at 4:35 p.m. by Chairman Powell. The next scheduled meeting is February 28 at 3:30 p.m.