

MINUTES OF THE SELECT COMMITTEE ON CONTESTED ELECTIONS

The meeting was called to order by Chairman Mike O'Neal at 7:30 A.M. on February 7, 2007 in Room 241-N of the Capitol.

All members were present.

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department
Martha Dorsey, Kansas Legislative Research Department
Mary Torrence, Revisor of Statutes
Gordon Self, Assistant Revisor of Statutes
Cindy O'Neal, Committee Assistant

Conferees appearing before the committee:

Brian Newby, Johnson County Elections Commissioner

Johnson County Elections Commissioner Brian Newby was sworn in. He transferred Mrs. Blickhan's ballot to the committee, who will now retain custody of it.

The committee was concerned that K.S.A. 25-2908(e) was not followed with regard to the handling of provisional ballots. That statute provides that the county election officer present copies of identification of those voting by provisional ballots to the county board of canvassers. The Board of Canvassers determines if the voter's identification is valid or not and then if the provisional ballot was properly cast. Mr. Newby did not provide those identifications to the board and further determined, by himself, if the ballots should be counted or not.

Mr. Newby testified that this was the first election he had overseen and he was not aware of K.S. A. 25-2908 (e). He was simply doing what the previous commissioner had done. He did say that the Secretary of State does provide a rather large binder with lots of guidelines listed as to how to look and consider provisional ballots. He thanked the committee for making him aware of this statute.

The committee was also interested in the fact that individuals are not allowed to speak during the canvas, since it is suppose to be an open process. Individuals saw that the statute was not being followed and were not allowed to address the board until after the fact.

Mr. Newby stated that the board has this policy, which was adopted in 2004. He was not sure if the Secretary of State suggested it or if it was completely up to the commissioner at the time. He believed that other large counties follow a similar procedure.

The committee recommended that the House Elections and Governmental Organization Committee review the law to determine if the requirements are too strict and need to be modified. Also, that they make recommendation on whether to allow the public input and comment regarding procedural concerns during a recount.

Chairman O'Neal asked staff to open the envelope and read the ballot as to who Mrs. Blickhan voted for. The vote was for Mr. Kreighauser. Making Mr. Rardin wining by a two vote margin.

The committee meeting adjourned.