

February 20, 1991

to. We could go right up here like we do on our first day of the Legislature and have a vote if we wanted to or in Denny's office or whatever, that the Legislature then add the number of votes as appears on the recount abstract of Gage and Jefferson County, and here are the numbers: Byars, 55-85, Korslund, 55-99, plus the Gage County absentee ballot totals and this comes to us from the letter of a transmittal from the Board of Canvassers, Byars, 269; Korslund, 216; plus then the numbers that we would generate from ourselves plus the totals from the in person ballots which show a single set of initials or no initials and a final report of the vote total be given on the floor that morning. Basically you then have a total of everybody who voted in Gage and Jefferson County, whether they met the standard of the Gage County Election Officers or not in the performance of their duties. You'd have the entire body of voter intent at your disposal for a decision on the floor. A couple of problems with this. First, although the method is acceptable to the Byars camp, they also have their own agenda and the language I think is acceptable to them, it is not their agenda, but they don't disagree with it. The Korslund camp says, well, if you're going to do it this way, this is not an unfair way to do it, but remember this is not our theory, we shouldn't count illegal ballots. We're not going to agree to something that it is antithetical to our perspective which is, these are illegal ballots. These are ballots with no initials on them. These are slicks. We can't agree to that necessarily. Although if you were to do that, this would be a pretty fair way to do it. Senator Conway raised a good point after our meeting yesterday, said, you know, there's no court that would authorize the counting of slick ballots with no initials. If we were to go to court, no court would do that. There is no mechanism in this idea, says Gerry, to make those weighings of substantial compliance, and if we are a court we probably ought to apply that substantial compliance rule and sift through these ballots, and pick the ones that meet substantial compliance and the ones that don't. And at that point my head broke open and I got a headache because there is no way all of those ideas can get on the same piece of paper. Okay?

SPEAKER BAACK: One minute.

SENATOR LANDIS: This is the best I could do. Don't have consensus. It's a tool but it's not an agreed to tool. Therefore, when this comes up after the Withem motion, I will rise, first to substitute this language for the one that is up