

**25-1451. Final determination of contest of state representatives and senators; procedure before legislative body.** (a) When a contest of election is for the office of state senator or member of the house of representatives, the only question to be tried by the court, notwithstanding any other provision of law, shall be the question of what number of legally cast votes each of the candidates to the contested office received. The judge trying the proceedings shall make findings of fact upon the question so tried. Further evidence upon the points specified in the notice, including but not limited to the question as to the eligibility of any person to office, shall be taken and preserved by the judge trying the contest, but the judge shall make no finding or conclusion thereon. The clerk of the district court shall transmit all the files and records of the proceedings with all the evidence taken to the president of the senate or the speaker of the house of representatives, as the case may be.

(b) In judging the election, returns and qualifications of any member of the house of representatives or senate, in the absence of rules providing otherwise, the speaker or president shall appoint a select committee of equal numbers of members of the two parties having the greatest number of members of the entire senate or house of representatives as the case may be, and shall also appoint the chairperson and vice chairperson of the select committee. The select committee shall consider the files, records and evidence transmitted from the court and shall hear the contestant and contestee and their respective counsel. Such select committee shall have powers of compulsory process and laws applicable thereto shall apply, except that all hearings shall be open. The select committee shall report to the full house of representatives or senate not later than ten days after its appointment. Such report shall be set for the special order of business within five legislative days from the date the report is made. All members shall have access to files, records and evidence transmitted from the court at such reasonable times as determined by the full house of representatives or senate. When the time of the special order of business arrives the full house of representatives or senate except the contestee shall determine, after debate thereon, the person who is the elected member.

**History:** L. 1978, ch. 138, § 18; July 1.