

MINUTES OF THE SELECT COMMITTEE ON CONTESTED ELECTIONS

The meeting was called to order by Chairman Mike O'Neal at 5:00 P.M. on January 30, 2007 in Room 313-S of the Capitol.

All members were present except Representative Michael Peterson.

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

Chairman O'Neal stated that the committee would meet the following day to put in place a set of rules. Staff provided a copy of the rules from the 2001 Select Committee on Election Contest. The Chairman asked that the committee look over them and be ready to discuss if they could adopt those rules or if there would need to be changes made.

The committee also received the following, which the Chairman requested the committee review:

- Memorandum from Norm Furse, dated 1/3/1995 regarding election contest procedures including legislative, constitutional and legal background. (Attachment 1)
- A copy of K.S.A. 25-1435 through 25-1452 regarding who may contest an election and the process which is to be used.
- Copies of the following Supreme Court Cases cited by the Johnson County District Court regarding elections:
 1. *Lambeth v. Levens*; addressed whether illegal ballots were cast and if votes that counted should be subtracted from the total number of certified votes for that specific candidate.
 2. *Cure and Aistrup v. Board of County Commissioners of Hodgeman County*; addressed the issue an election contest based on alleged violations of the statutory provisions governing advance voting.
 3. *The Legislative Coordinating Council v. The Secretary of Department of Administration and The Director of Accounts and Reports*; the case dealt with payment of court costs and attorney fees in an election contest for a seat in the Kansas House of Representatives.

The committee decided that reasonable access to the court file should be allowed by the members of the House of Representatives after the report of the committee is submitted.

The Chairman reminded the committee that the statutory purpose of the committee was to review the evidence and facts in the case and determine who the winner of the election should be and forward that recommendation to the full House of Representatives.

Representative Ward requested that the committee be limited to considering only evidence that was presented to the court and not consider any new evidence. Chairman O'Neal stated that he did not know what, if any, other type of information the committee might come across that it would need to review when trying to determine the outcome and decided against limiting what the committee could actually receive.

The committee requested a copy of the court transcript and actual exhibit file.

The committee agreed that there would be no communications with the contestee, contestant or their attorneys, so to limit any inappropriate outside pressure.

The committee meeting adjourned at 5:40 p.m. The next meeting was scheduled for January 31, 2007.