

MINUTES OF THE House COMMITTEE ON Elections

The meeting was called to order by Representative Richard L. Harper at  
Chairperson

9:00 am a.m./p.m. on Tuesday, March 5, 1985 in room 521-S of the Capitol.

All members were present except: All present

Committee staff present: Myrta Anderson, Legislative Research Department  
Ramon Powers, Legislative Research Department  
Mary Hack, Revisor of Statutes Office  
Eric Rucker, Secretary of State's Office  
Dottie Musselman, Committee Secretary

Conferees appearing before the committee:

Representative David Heinemann  
Representative Brady  
Larry Magill, Independent Ins. Agents (Opponent)  
Eric Rucker, Secretary of State's Office  
Harriet Lange, Exec. Dir., Kansas Association of  
Broadcasters (Supplied written testimony for the  
Committee Members as she had to be out of town at  
time of meeting.)

Chairperson Harper called the meeting to order and noted that HB 2371 was first on the agenda for hearing. HB 2371, An Act relating to elections; concerning withdrawal from nomination, was sponsored by Representatives Heinemann, Guldner and Mainey. At this time, the Chairperson called upon Representative Heinemann to give the committee a briefing on this bill. It was noted that this bill was drafted in an attempt to stop the abuse of the process of withdrawal from nomination that is currently law. After a short period of discussion and questioning, the hearing was closed on HB 2371.

HB 2410, An Act concerning certain elective state offices; restricting the number of successive terms for which a person may be elected thereto, was next on the agenda for hearing. At this time, Chairperson Harper recognized Representative Brady to give the committee background on this bill. This bill restricts the state treasurer and the commissioner of insurance from being elected to more than two successive terms, commencing after July 1, 1985. Representative Rolfs was co-sponsor of this bill, and he strongly supports the bill.

Larry Magill, Independent Insurance Agents of Kansas, was now recognized by the Chairperson. Mr. Magill appeared before the committee in opposition to HB 2410. (Attachment 1).

After a discussion period, the hearing was closed on HB 2410.

HB 2476, An Act concerning improperly filed petitions for recall of elected officials, was next up for hearing. Eric Rucker, Secretary of State's Office, was recognized by Chairperson Harper. This bill is an attempt to bring into conformity the petitions for recall of elected public officials. Reference was given the 1983 testimony of the Scott County local sheriff. Following a discussion period, the hearing was closed on HB 2476.

HB 2486, An Act relating to elections; concerning disorderly election conduct, was next up for hearing. The Chair recognized Eric Rucker, who at this time gave the committee a briefing on this bill. This bill is an attempt by the Secretary of State to address a reoccurring problem experienced by more and more voters and election officials. The problem is the activities in and around the voting place on election day are interfering with the administration of elections. This bill would establish a place around the voting place which is free from any other activity. This bill does establish a 250 foot line of demarcation inside which the voting process will proceed without impediment, free from distraction and outside interference.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Elections,  
room 521-S, Statehouse, at 9:00 am a.m./p.m. on Tuesday, March 5, 1985

Attention was drawn to the written testimony of the Kansas Association of Broadcasters. (Attachment 2).

Next Mr. Rucker ask that the members read over the handout material from ABC News and CBS News, both of which were addressed to the Secretary of State. (Attachments 3 and 4). Secretary of State Brier urges approval of this bill.

Following a lengthy discussion period, the hearing was closed on HB 2486.

HB 2371, An Act concerning withdrawal from nomination, was now brought before the committee for final action.

Representative Knopp made a motion to table HB 2371. Seconded by Representative Justice. At this time, the motion failed.

Following discussion on HB 2371, Representative Crumbaker moved to report HB 2371 favorably out of committee. Seconded by Representative Guldner. By a show of hands vote, this motion failed by 6 yes, and 9 voting no. Representative Blumenthal suggested that HB 2371 be taken up again later this week for more discussion, and perhaps adding amendments to it.

HB 2476, An Act concerning improperly filed petitions for recall of elected officials was next on the agenda for action.

Representative Kline made a motion that HB 2476 be passed favorably from committee and be placed on Consent Calendar. Seconded by Representative Knopp. Motion carried.

Representative Knopp moved to accept the minutes of the February 28, 1985, meeting. Seconded by Representative Guldner. Motion carried.

It was announced to the committee that a meeting would be held on Friday morning, March 8, 1985.

Meeting adjourned.



(attachment)

Testimony on HB 2410  
Before the House Elections Committee  
By: Larry W. Magill, Jr., Executive Vice President  
Independent Insurance Agents of Kansas

We appreciate the opportunity to provide testimony in opposition to HB 2410 which calls for a two-term limit on both the State Treasurer and Commissioner of Insurance after July 1, 1985. We would like to state at the outset that we oppose this legislation regardless of who occupies either of these state-wide elected positions.

At the present time, to our knowledge, only the President of the United States and the Governor, in the case of Kansas, are limited in the number of terms they can serve. There is no comparable limit to that proposed in HB 2410 on state legislators or U. S. congressmen. For example, Representative Winn represented the third congressional district roughly from the end of World War II until the last election. No one is suggesting those offices be limited; why apply limitations to other elected officials merely because they are elected statewide?

We are concerned that a limitation on terms would create lame duck problems, where the incumbent would no longer be particularly concerned with Kansas consumers needs or desires.

What is more, placing a limitation on terms creates automatic or built-in turnover in a position that, in the case of the Insurance Commissioner, requires substantial expertise. Not only expertise, but the position also requires consistent interpretation of statutes and regulations to avoid market dislocations, confusion among insurance consumers and the industry and needless bureaucratic problems.

The argument often advanced that this is a question of power versus experience, we feel overlooks the importance of experience and overemphasizes the importance of power. Neither of these two elected officials have the power to veto, neither of them propose a statewide budget and neither of them set statewide policy on broad ranging issues as does the Governor.

We feel the experience of the legislature in placing limits on the terms of county treasurers and sheriffs should be an important consideration on HB 2410. Apparently, those limitations were found not to work and not to be desirable and have since been removed. It is our understanding that often times people would trade offices back and forth, for example, defeating the supposed purpose of the limitation on terms.

To our knowledge, there has been no public outcry for any kind of limitation on the terms of either the State Treasurer or the State Insurance Commissioner. Further, there has been no demonstrated need for this legislation. In the absence of either, we urge the committee not to act favorably on this legislation.

H. Elect. 3/5/85  
(attachment # 1)

(attachment 2)



818 Merchants Nat'l Bank Bldg., Topeka, Kansas 66612 913/235-1307

March 5, 1985

TO: House Committee on Elections

FROM: Harriet J. Lange  
Executive Director *HJL*

RE: HB 2486; Concerning Disorderly Election Conduct/  
Written testimony submitted for your consideration.

The Kansas Association of Broadcasters appreciates this opportunity to submit our views on HB 2486. I would have appeared personally had it not been for a meeting in Washington, D.C. that required my attendance.

We are in agreement that orderly conduct should be maintained at voting places on election days. However, we take issue with a definition of "disorderly election conduct" that would include "inquires concerning voting" or "solicitation of opinions" near polling places during an election.

As we understand it, one of the reasons for the introduction of HB 2486, is to prohibit exit polling in Kansas, thus preventing the television networks from projecting or characterizing races in Kansas before our polls close.

Exit polling is an issue which has received Congressional attention as well; and since the last General Election in November, 1984, the networks have agreed to not broadcast any of the data from their exit polls within states before the polls close. Congress, in turn, will examine uniform poll closings and "any other potential changes in our current election laws that will prevent the election results from being announced before all polls are closed."

Attached for your review is a news release on the subject issued by the U.S. House of Representatives, and copies of letters or statements from ABC, CBS and NBC concerning their commitment not to broadcast exit poll data prior to a state's poll closing.

In light of the fact that exit polling has received Congressional attention, and the fact that a similar bill was vetoed by our Governor in 1983, we feel that passage of HB 2486 serves no useful purpose.

Thank you for your consideration.

HJL/Attachments

**PRESIDENT**  
Russell Gibson  
KINA AM, Salina

**SECRETARY-TREASURER**  
John Mileham  
KWCH TV, Wichita

**EXECUTIVE DIRECTOR**  
Harriet Lange  
KAB, Topeka

Cliff Shank  
KSKU/KLEO  
Hutchinson/Wichita

Hank Booth  
KLWN/KLZR, Lawrence

Lynn Higbee  
KTPK FM, Topeka

**PRESIDENT-ELECT**  
Sam Elliott  
KULY/KHUQ  
Ulysses/Hugoton  
KU, Lawrence

**PAST PRESIDENT**  
George Logan  
WIBW TV, Topeka

**DIRECTORS**  
Tony Jewell  
KIUL/KWKR  
Garden City/Leoti

Steven Roesler  
KJCK AM/FM, Junction City

Lance Armer  
KLFO FM, Lyons

Ed Hundley  
KLEY/KZED, Wellington

Lowell Jack  
KMAN/KMKF, Manhattan

*H. Elect. 3/5/85  
(attachment 2)*

# Congress of the United States

House of Representatives

Washington, D.C. 20515

FOR IMMEDIATE RELEASE

FOR INFORMATION CALL:

Sarah Lee (Mr. Swift)

(202) 225-2605

Allan Krauter (Mr. Thomas)

(202) 225-2915

## NETWORKS SAY THEY WILL NOT BROADCAST EXIT POLL DATA BEFORE POLLS CLOSE

(Washington, D.C.)—The three television networks will not broadcast any of the data from their exit polls within states before the polls close, they told two congressmen Thursday. This differs from their current policy in that while they have refrained from "projecting" election results, they have made extensive use of the data to "characterize" election results on the air while polls are still open.

The presidents of NBC, CBS, and ABC news revealed the policies in letters to Chairman of the House Task Force on Elections, Congressman Al Swift (D-Wa), and Congressman Bill Thomas (R-Ca), ranking minority member on the committee.

Swift noted that the networks' actions provide the assurance necessary for Congress to examine uniform poll closing as a means of solving the problem of early election projections.

"We have felt that changes in our election laws—such as a uniform poll closing time, to recognize the fact that this is a big country spanning several time zones—were potentially part of a solution," Swift explained. "However, as long as the networks declined to provide a firm commitment not to short-circuit such a change in the law with their exit polling data, we felt it was useless to pursue any such possibilities. But now, in short, the networks have given their word that they will not short-circuit a uniform poll closing time."

Thomas added that the task force will begin a detailed series of hearings on the matter.

"We will examine uniform poll closings, and any other potential changes in our current election laws that will prevent the election results from being announced before all polls are closed," Thomas said.

Swift and Thomas emphasized that a voluntary approach by the networks toward participating in a solution was preferable to efforts by Congress to legislate in an area close to first amendment protections. Toward this end the last Congress overwhelmingly adopted Swift's resolution urging voluntary restraint by the news media.

Both congressmen agreed that as technology develops, real vote totals will be available before all polls close across the nation, so a uniform poll closing may be the final solution to the problem.

*H. Elect 3/5/85*  
*(attachment 3)*

NBC

National Broadcasting Company, Inc.

30 Rockefeller Plaza  
New York, N.Y. 10112 212-664-4611

Lawrence K. Grossman  
President  
News Division

December 12, 1984

The Honorable Al Swift  
The Honorable William M. Thomas  
Congress of the United States  
House of Representatives  
Washington D.C. 20515

Dear Congressmen:

This is in response to your letter of December 6 requesting a "commitment" from NBC News regarding the use of our exit poll data during elections if there were "a uniform poll closing time or modified voting day or similar solution" to the problem we have discussed.

NBC News policy currently requires that we not make an election projection until state election officials begin the release of actual votes.

As I said in a recent talk to the Radio and Television News Directors' Association, "If polls in all 50 states close simultaneously, then NBC News would effectively and realistically be able to hold all the information we gather from our election day polling until after the election is over across the nation."

In short, NBC News policy enables us to go on record with our commitment that we shall not use the exit poll data we gather "to suggest the probable winner in any state until polls in that state have closed." I hope this will give you the reassurance you seek that the results of our exit polls would not be used to "short circuit" a proposed solution along the lines that you have suggested in your letter.

Like you, we hold the conviction that the integrity of the election process is most important to our

The Honorable Al Swift  
The Honorable William M. Thomas  
December 12, 1984  
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democracy. I personally believe, as the attached copy of my recent talk in San Antonio indicates, that there are considerable "advantages of a uniform poll closing time" in helping to resolve this issue. As I also pointed out, however, there may well be news releases, interviews or statements by candidates, high campaign officials or others that provide newsworthy information which should be reported in a timely manner. But I do believe your initiative will go a long way to help resolve the basic network news reporting dilemma we all face.

Best regards,

*Lawrence K. Grossman*

enc.



JANUARY 17, 1985

STATEMENT BY ROONE ARLEDGE, PRESIDENT OF ABC NEWS

ABC NEWS FULLY SUPPORTS THE INITIATIVE OF REPRESENTATIVES SWIFT AND THOMAS. I AM PARTICULARLY PLEASED THAT THE OTHER NETWORKS HAVE JOINED ABC NEWS AND AGREED WITH US THAT EXIT POLLS SHOULD NOT BE USED TO "CHARACTERIZE" OR SUGGEST THE OUTCOME OF ELECTIONS UNTIL POLLS IN A GIVEN STATE ARE CLOSED. CONGRESS SHOULD NOW SOLVE THE PROBLEM CREATED BY VARIOUS TIME ZONES BY LEGISLATING A UNIFORM CLOSING HOUR FOR NATIONAL ELECTIONS. IF CONGRESS WILL ACT SWIFTLY, WE NEED NEVER AGAIN HAVE AN ELECTION IN THIS COUNTRY WHERE CONTROVERSY ARISES OVER ELECTION RESULTS FROM ONE SECTION POSSIBLY INFLUENCING VOTERS IN ANOTHER SECTION. A NATIONWIDE UNIFORM POLL CLOSING TIME IS THE ANSWER.

# CBS NEWS

A Division of CBS Inc.  
524 West 57 Street  
New York, New York 10013  
(212) 975-1003

Edward M. Joyce, President

January 17, 1985

Dear Congressmen Swift and Thomas:

We are delighted to learn that you will be considering legislation establishing a uniform poll closing time in federal elections.

As you know, CBS has long advocated such a step as the best means of alleviating the problems caused by the patch-quilt of multiple poll closings across several time zones. We also see this solution as the least intrusive to First Amendment rights.

You have noted in the past that the intent of such a uniform poll closing law would be defeated if the networks characterized or projected the likely outcome of races before the polls closed.

And you have accordingly asked us whether we would pledge not to engage in such characterizations or projections, based on election day exit poll results, prior to the time the polls close.

As you know, our policy in 1984 and in prior years has been to project the outcome of races one state at a time, but not before the polls in each of those states have closed, or in those states with multiple closings, until the vast majority of polls have closed.

This policy is entirely consistent with your request.

However, in recent years we have developed the capability of using our exit polls to arrive at characterizations of the likely outcome prior to the time the polls have closed.

We understand that these characterizations would defeat the very purpose of the legislation you are considering.

Since we agree with you that a uniform poll closing law is the only realistic solution to the issue that

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January 17, 1985

modern technology has produced, and in furtherance of the realization of such legislation, CBS News will no longer use election day exit polls to characterize races before the polls close in the states involved.

We trust that this letter, which you are free to make part of the record, will be helpful in removing barriers to early and earnest consideration by the Congress of uniform poll closing time legislation. We wish you success in your endeavors.

Sincerely,

*Edward M. Joyce*

The Honorable Al Swift  
Member of Congress  
The House of Representatives  
Congress of the United States  
Washington, D.C. 20515

(Attachment # 3)

ABC News 7 West 66th Street New York, New York 10023 Telephone 212 887-4000

Roone Arledge, President

Dear Mr. Secretary:

Mr. Leonard H. Goldenson, Chairman of the Board of American Broadcasting Companies, Inc., has asked me to reply to your letter of January 23rd.

It is the basic policy of ABC News to make an election projection only after the polls have closed in any given state.

However, we do make exceptions in a few split-closing states when the vote in the late-closing area is so small as to be both politically and statistically inconsequential.

Kansas is such a state. Of the 106 counties in Kansas, 101 close the polls at 8:00 PM EST and only five close at 9:00 PM EST. Taking previous elections as a guide, we know that 99.2 percent of the state's total vote is cast in the counties which close at eight and only 0.8 percent of the vote is cast in counties which close at nine (and even most of that 0.8 percent is cast before eight o'clock since few voters wait until the last hour).

Observing those figures, there is no practical reason to withhold the count of the 99.2 percent for a full hour. No ordinary election result would be changed by the remaining 0.8 percent. Furthermore, officials in the 101 eight o'clock counties begin announcing the results as soon as the polls close, so any election result would become obvious to the public at large before the 9:00 PM closings even if we did withhold a formal projection.

As I have stated, all of this reasoning is based on an ordinary election. If, on the other hand, we were faced with an unusually close race which could conceivably be affected by the 0.8 percent of the vote in the nine o'clock counties, we would certainly delay a projection until these final votes were tallied.

(Attachment # 3)

The Honorable Jack H. Brier  
February 19, 1985  
Page 2

Our policy has two goals. The first is to make certain that no individual election is projected until it is virtually over. The second is to assure the accuracy of our projections by never making premature judgments. We are confident that the policy now achieves both goals.

Sincerely,

A handwritten signature in cursive script, appearing to read "Rose DeLodge". The signature is written in black ink and is positioned below the word "Sincerely,".

The Honorable Jack H. Brier  
Secretary of State  
State of Kansas  
Capitol  
Topeka, Kansas 66612

February 19, 1985

cc: Mr. Leonard H. Goldenson

**CBS  
NEWS**

A Division of CBS Inc  
524 West 57 Street  
New York, New York 10019  
(212) 975-2787

Robert Chandler  
Senior Vice President, Administration

(attachment #4)

Dear Mr. Brier: January 29, 1985

Thank you for your letter of January 23rd.

I am afraid you are not correct in your interpretation of Mr. Joyce's letter to Congressmen Swift and Thomas.

What Mr. Joyce pledged to do on behalf of CBS News is no longer to use exit polls to characterize the likely outcome of races before the polls close in a state. This has to do essentially with our characterizations nationally in the Presidential race or in Presidential Primaries, although it will extend to all races.

He further indicated to the Congressmen that our policy on projections remains unchanged, i.e., we do not project the outcome in a state until all the polls have closed in that state, or in states with more than one closing time, until the vast majority of polls in that state have closed.

As this policy relates to the State of Kansas, our research indicates that 97% of the state's voters reside in the Central Time Zone, and 3% in the Mountain Time Zone. Of those 3%, we estimate that at least 80% have voted before the final hour of balloting for the Mountain Time Zone. Therefore, since returns are being made available from the vast majority of the state's polling places during the last hour of balloting in the Mountain zone, and since a conservative estimate is that only six-tenths of one percent of the state's electorate vote during that hour, we think it perfectly appropriate to project the outcome of a race if the trends are clear after the majority of polls have closed.

The same reasoning is true of other states with multiple closing times where the vast majority of polls close earlier than the rest.

I trust this clarifies our position.

Sincerely,



The Honorable Jack H. Brier  
Secretary of the State of Kansas  
Topeka Kansas 66612

H. Elect. 3/5/85  
(attachment #4)