

MINUTES OF THE HOUSE ETHICS AND ELECTIONS COMMITTEE:

The meeting was called to order by Chairperson Representative Tony Powell at 3:30 p.m. on January 31, 2001 in Room 521-S of the Capitol.

All members were present except: Representative Melany Barnes, Excused
 Representative Gwen Welshimer, Excused
 Representative John Toplikar, Excused

Committee staff present: Theresa Kiernan, Revisor
 Dennis Hodgins, Research
 Shirley Weideman, Secretary

Conferees appearing before the committee:

HB 2110 Proponents: Representative Jim Morrison
 Brad Bryant, Deputy Assistant Secretary of State

 Opponent: Harriet Lange, Kansas Association of Broadcasters

Others attending: See attached list.

Chairman Powell asked for any corrections or changes of the committee minutes for January 17 and January 22 that the committee had received. Without objection, the minutes were approved.

Chair Powell announced that he would not be working **HB 2129** as previously announced, however, since there is a possible amendment being drafted, that bill will be worked Monday, February 5.

Hearing was opened on **HB 2110 - Release of election results.**

Representative Jim Morrison was recognized by the chair as a proponent of **HB 2110**. He related how calling the election before all the polls were closed could change the results of the elections, and in his case he probably won because his first election was called for the opponent three hours before the close of the election, therefore voters in the other time zone in his district didn't bother to go out and vote against him. Representative Morrison suggested that his bill would not allow election results to be released until polls in both time zones in Kansas CST and MST had closed and likewise in national elections, election results would not be released on elections in Kansas until polls had closed in all time zones, for example, Hawaii. Representative Morrison answered questions from committee members. He explained that only those districts that are affected by that election will not be reported until the polls in that district are closed. He also indicated that the area involved in western Kansas includes five counties that are in the Mountain Standard Time zone with a population of approximately 18,000.

Theresa Kiernan, revisor, responded to questions about district, state and national elections She explained that the bill defines the voting area involved and if the voting is for a representative, the voting area is that district, if it is for a U.S. Senator, the entire state would be the voting area and in a presidential election the voting area is all fifty states.

Representative Findley suggested that the committee may need to consider a resolution memorializing congress on this issue because it would become a federal matter in the end, if the committee really wanted to solve this problem.

Theresa Kiernan, revisor, responded to questions on the penalty for releasing election results. She indicated that the election officer who released results before all the polls closed would be liable and if the media found a leak and reported the results prematurely, they also would be liable.

Chairman Powell suggested a change in voting time in the mountain time zone; changing from: 7 a.m. to 7 p.m. and changing to: 6 a.m. to 6 p.m. He indicated that this would allow the polls to be open the same amount of time and for the same number of hours in each time zone.

CONTINUATION SHEET

Minutes for the Ethics and Elections Committee, January 31, 2001

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Chairman Powell recognized Brad Bryant, the Deputy Assistant Secretary of State, as a proponent for **HB 2110**. Mr. Bryant said that the Secretary of State's office supports the concept of not disclosing election results until the polling places are closed. He said their office wants the election process to go on as it has that when polls close, the vote counts are released to county offices and they can release the results. He indicated that everything election night is unofficial. Mr. Bryant said that the hope of their office is that Kansas can have election results from the national election before midnight (7 p.m. in Hawaii). He asked if it would be impossible for precinct-based poll watchers representing candidates or news media to report results of their exit polls until the polls are closed, i.e. midnight in a presidential election? (attachment#1) Mr Bryant responded to questions from committee members. He indicated that extending the voting time to 13 hours in one time zone and not in the other time zone would not allow voters equal opportunity to cast their vote. He also said that the statute on allowing workers time off for going to the polls is rather unclear. Mr. Bryant indicated that in the event of the death of a voter after they had used an advanced ballot and before the election ended, the vote would be counted only if the ballot could not be retrieved, that is if it was already in the official ballot box and not in a sealed envelope at the time the election office was notified of the death.

Representative Ray asked if the Kansas polls could be open from 6 a.m. to 7 p.m. Central Standard Time and 7 a.m. to 8 p.m. in Mountain Standard Time.

Mr. Bryant responded that there would need to be a fiscal note regarding the cost of an extra hour since polls are required to be open 12 hours, not 13 hours.

Chair Powell indicated that we need uniform polling times throughout Kansas.

Chairman Powell introduced Harriett Lange, National Association of Broadcasters. She appeared in opposition to **HB 2110**. She has concerns that the media could not release the results of presidential elections in eastern states until all the polls had closed in the west; or to prohibit disclosure of statewide election results in eastern counties in Kansas while waiting for a few polls to close in the Mountain Time Zone in western Kansas. Ms. Lange indicated that the local stations cannot control the broadcast network news to cover a news "black-out" in Kansas or in specific regions of Kansas. She said the bill would also raise serious constitutional questions as they relate to the First Amendment and the viewers' and listeners' "right to know". She believes the answer is establishing a uniform poll closing time across the country, which she hopes Congress will address. (attachment #2)

Ms. Lange responded affirmatively to Chairman Powell's question if her concerns were for whether the government could stop the broadcasters from speaking, while the bill's intent is to stop the poll workers from speaking and if the information gets into the broadcaster's hands, the government has no right to stop the broadcasters from speaking.

Chairman Powell closed the hearing on **HB 2110**.

Chair Powell announced that today is the last day to hear committee bills. He also said he would like to introduce an ethics bill with the contents to be decided later.

Representative Alldritt indicated that he would like to introduce a bill to change the time allowed on advanced vote carrying from 48 to 72 hours on the law that was passed last year. He said it would give the voter more time between the time the application was picked up and it's need to be returned to the county elections officer.

Without objection, these two bills will be introduced.

The meeting was adjourned by Chairman Powell at 4:15 p.m. Next meeting will be Feb. 5, 2001.

House Ethics and Elections

GUEST LIST Date Jan 31, 2001

Your Name	Representing
John Milburn	Associated Press
Brad Bryant	Sec. of State
Chris Smith	House Min. Leader
Harriet Lange	Ks Assn of Broadcasters

RON THORNBURGH
Secretary of State



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STATE OF KANSAS

House Committee on Ethics and Elections

Testimony on House Bill 2110

Brad Bryant, Deputy Assistant Secretary of State
Elections and Legislative Matters

January 31, 2001

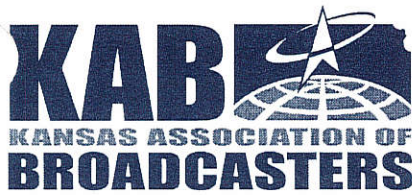
Mr. Chairman and Members of the Committee:

Thank you for the opportunity to testify in support of HB 2110. In addition, we would like to pose questions in an attempt to clarify the intent of the bill.

The Secretary of State's office supports the concept of not disclosing election results until the polling places are closed. However, as an agency that will be involved in administering the statutes, we request clarification of the following points.

1. In Section 1(1), the bill includes all of the United States in the definition of the voting area for the offices of president and vice president. This would include Alaska and Hawaii, meaning election results for most of Kansas could not be publicly disclosed until midnight central time, assuming Hawaii's voting hours end at 7:00 p.m.
2. Is it intended that the bill affect precinct election board workers? In those counties where the original canvass of ballots is done in the precinct, would those precinct election board workers be prohibited from reporting their results to the county election office?
3. Is it intended that precinct-based poll watchers representing candidates or news media be prohibited from reporting results of their exit polls until the polls are closed, i.e., midnight in a presidential election?

Thank you for the opportunity to present our thoughts to the committee. We hope our input will contribute to effective legislation.



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Testimony

RE: HB 2110

Before House Committee on Ethics and Elections

January 31, 2001

Mr. Chairman and Members of the Committee, I am Harriet Lange representing the Kansas Association of Broadcasters. KAB serves a membership of radio and television stations in Kansas.

We appreciate the opportunity to appear before you today to express concerns we have with HB 2110.

The bill would attempt to put Kansas in a "black-out" zone during a presidential election, prohibiting the disclosure of presidential election results in states to our east while we wait for the polls to close in the west; or to prohibit disclosure of statewide election results in eastern counties in Kansas while we wait for a few polls to close in the Mountain Time Zone in western Kansas.

Our local stations which broadcast network news, are at the mercy of those networks, whether they are state, regional or national networks. A local station cannot control what the network broadcasts. Nor would the networks adapt their coverage to satisfy this "black-out" in Kansas or specific regions of Kansas.

Aside from the fact the bill would be impossible to enforce, it raises serious constitutional questions as they relate to the First Amendment and our viewers' and listeners' right to know.

The answer is not restricting or prohibiting the disclosure of election information, but establishing a uniform poll closing time across the country... a solution which Congress hopefully will address.

Thank you for your consideration.

House Ethics and Elections
1-31-01
Attachment 2