

Approved

2-27-89

Date

MINUTES OF THE Senate COMMITTEE ON Elections

The meeting was called to order by Senator Don Sallee at _____
Chairperson

1:30 XX a.m./p.m. on February 21, 1989, 19____ in room 529-S of the Capitol.

All members were present except:

All members were present

Committee staff present:

Myrta Anderson, Research Department
Fred Carman, Revisor of Statutes' Office
Elizabeth Handke, Committee Secretary

Conferees appearing before the committee:

Douglas Merritt, Libertarian Party
Kent Snyder, Libertarian Party
Walter Myers, Informed Voters Alliance
Walter Lineburger, Libertarian Party
Rall Hall, State Chairman of the Conservative Party
Blake Huber
Ron Thornburgh, Secretary of States' Office
John Foster, Libertarian Party
Senator Ben Vidricksen
Gerald Cook, Salina Chamber of Commerce
Clay Edmands, President of Asbury-Salina Regional Medical Center
David Smith, M.D. of Salina
Nancy Macy, Kansas Medical Society Auxiliary Legislation Chairman
Adam Herrman, M.D. of Salina
Jeff Knox, OB/GYN of Salina
Frank Norton, Attorney of Salina

Others attending: see attached list (attachment 1).

The meeting was called to order by Chairman Sallee at 1:36 P.M.

Douglas Merritt, of the Libertarian party, appeared before the committee in support of S.B. 59 (attachment 2). He testified that the legislature voices concern of declining voter participation. Their selection is a presidential primary in which more people would be allowed to vote but only for the candidates of the two big parties. He believes that voter apathy is directly related to voter choices, or more correctly their lack of choices.

Kent Snyder of the Libertarian party appeared in support of S.B. 59; no written testimony was presented.

Walter Myers of the Informed Voters Alliance appeared in support of S.B. 59 (attachment 3). He stated that the Informed Voters Alliance considers it important to the political health of this nation that every political philosophy and party whose interest coincides with IVA's goal of helping to stabilize and restore the Constitution for the United States should have an equal opportunity to be heard and recognize in the political marketplace.

Mr. Walter Lineburger of the Libertarian party, appeared in support of S.B. 59; no written testimony was presented.

Mr. Ray Hall, State Chairman of the Conservative Party, appeared before the committee in support of S.B. 59 (attachment 4). His testimony stated the right of true expression is through voting and needs to be heard by the legislators.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Elections
room 529-S, Statehouse, at 1:30 ~~xx~~ xx p.m. on February 21, 1989, 19

Mr. Blake Huber also appeared in support of S.B. 59 (attachment 5). He stated benefits to lower signature requirements were to attract more participation and to send clearer signals to the voters.

Ron Thornburgh, Secretary of State office, appeared as an opponent to S.B. 59 (attachment 6). He stated that 1,000 signatures does not properly show a modicum of support to merit party status. With 1,000 signatures, virtually anyone could obtain ballot access by spending a few weekends at a busy shopping mall. Because ballot status could be obtained so easily, crowded ballots and voter confusion would surely be a problem.

John Foster, Libertarian party, appeared in support of S.B. 59; no written testimony was presented.

Gerald Cook of the Salina Chamber of Commerce appeared in support of SCR 1613; no written testimony was presented.

Chairman Sallee introduced Senator Ben Vidricksen who presented several doctors from Salina to testify in support of SCR 1613. Clay Edmands, President of Asbury-Salina Regional Medical Center, appeared in support of SCR 1613 (attachment 7). He respectfully asked the Senators to consider a constitutional amendment that would give the public an opportunity to decide whether to have a limits on awards for non-economic damages. He also asked that they additionally consider other efforts that might help solve this problem.

David Smith, M.D. of Salina, appeared in support of SCR 1613 (attachment 8). He stated that despite the efforts of the Legislature, Tort Reform measures have not been allowed to impact on the Malpractice Crisis because of the Supreme Court's ruling.

Nancy Macy, Kansas Medical Society Auxiliary Legislation Chairman, appeared in support of SCR 1613 (attachment 9). She stated that passing legislation calling for a special election for ratification of the Constitutional Amendment will help us obtain passage of the Amendment itself as it will negate arguments by the opposition that this process will take too long to hold the physicians who are currently making plans to leave, also, speedy action is necessary to keep many physicians here. She also presented testimony from her husband, Ted Macy, M.D., in support of SCR 1613 (attachment 10) and copies of their insurance liability policy (attachment 11). Senator Martin asked about other options available other than a Constitutional Amendment.

Adam Herrman, M.D. of Salina, appeared in support of SCR 1613. His written testimony stated that solving the problems facing the people of Kansas would be relatively easy, provided that our elected officials would only search their own consciences, and act in such a manner as to have no reservations in fully disclosing their convictions to the public. Attachment 12

Jeff Knox, OB/GYN of Salina, appeared in support of SCR 1613 (attachment 13). His testimony listed the increase of OB/GYN malpractice rates from last year to this year.

Frank Norton, an attorney in Salina, appeared in support of SCR 1613 (attachment 14). He urged the approval of a special election for the constitutional amendment to allow the Legislature to enact limits on non-economic damage awards.

The Chairman adjourned the meeting at 2:30 P.M.

GUEST LIST

COMMITTEE: Senate Elections

DATE: February 21, 1989

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Gennifer Howard	R.P. 2 Box 9 Fredonia	Close-Up
Sharon Johnson	R#1 Elvada, KS, Elvada	Close-Up
Paul Duke	432 N. 2nd Fredonia, KS	"
Mark Nordman	RR 4 Box 64 Fredonia, KS	" "
Forest Entace	RR Box 112 Elvada, KS	Close-up
Kent Sueda	7306 ^{107B} Battin Merwin, KS	
Amanda Sandberg	2127 Edgely Hill, Salina	close up
Emilia Roth	3 (V. Avenue)	Close-up
Walter Myers	P.O. 2 Baldwin, KS	IVA
Walter F. Frank	PO 2 Box 296, KS	self
Dorinda Merritt	1124 "U" Atchison	self
T. W. Moore	303 N Webster ^{Junction} city	Close-Up
John Davis	6121 SE 45	IVA
Jean Atchison	Topeka	KPAC
Carl William	Topeka	KPAC
Michael Wolf	"	Common Cause
Gerald Cook	120 W. Ash, Salina	Salina Area Conf.
FRANK A. NORTON	^{SALINA, KS} 215 S. SAUTAGE	NORTON, WASSERMAN JONES & KELLY
Dan Hess	605 W. Iron, Salina, KS	Salina Times
Blake Huber	Topeka, KS	Individual
Nancy Macy	Salina, Kansas	Kans. Red. Soc. Auxiliary
Denise Zurek	18118 "88" CH. D. Salina	elections February 21, Attachment 1
Ryan Seeger	14409 Locust Rd, KS	Close Up
BOBBY WILHELM	116013 W. 136 Terr. Olathe, KS	Close-up
Randy Burns	Fredonia, KS	Close-up, KS

Clay D. Edwards
David Smith MD
Jeffrey R. Green MD

Salina, Ks
Salina, Ks
" "

Asbury Hospital
Mowery Clinic
" "

SENATE BILL 59

Douglas N. Merritt
Proponent

I have three reasons in support of this bill.

1. Kansas needs minor political parties.

In 1984 the legislature effectively abolished small parties in Kansas. In 1986, for the first time in history, there were but two parties on the ballot.

In 1984, their last opportunity, 27,000 Kansans voted for 4 small party candidates for the U.S. Senate. Today those voters are disfranchised or may vote only for a candidate not of their choice.

In elections since 1984 between 50 and 60 Kansas House seats have gone uncontested. The major parties are failing in their duty to run candidates while continuing rejection of small party participation.

The legislature voices concern of declining voter participation. Their solution is a presidential primary in which more people would be allowed to vote but only for the candidates of the two big parties. I believe that voter apathy is directly related to voter choices, or more correctly their lack of choices.

2. Your party suffers too.

A few years ago in Illinois Lyndon LaRoach advocates won the Democrat primary and destroyed Adlia Stevenson. Even as this is being written, in Louisiana David Duke, the Populist candidate for president and formerly Grand Wizer of the KKK is in a run-off election for a house seat as a REPUBLICAN. Both President Bush and Mr. Reagan are said to be campaigning against him.

So long as there are but two doors into the arena strange people will use those doors reserved for only you and that can only damage your party. Allowing dissent to be expressed openly is your only salvation.

3. I am fed up with being a second class citizen!

I raised the family, I paid the taxes, I obeyed the laws, I fought the war; now I want to vote. I don't want to vote for the candidate of your choice but rather I want to vote for my choice. Senate Bill 59, if made law, will allow me to.

Elections
February 21, 1989
Attachment 2



KANSAS CHAPTER

Box 4 USA Baldwin, KS 66006

State Steering Committee Members:

Mr. Walter L. Myers, Chair
RR 2, Box 157C
Baldwin, KS 66006
(913) 594-3367

Mr. Tim Benton, Vice-chair
Rt. 2
Garnett, KS 66032
(913) 448-6763

Mr. Esley Schmidt
RFD #3
Waverly, KS 66871
(913) 733-2476

Mr. David Horn
1112 Merchant, M-11
Emporia, KS 66801
(316) 342-1083

Mr. Jeff Spradling
P. O. Box 67393
Topeka, KS 66667
(913) 273-2405

Ms. Myrna Workman
2311 Tauromee, #17
Kansas City, KS 66102
(913) 321-3140

Mrs. Marian Jackson
102 N. Mulberry
Eureka, KS 67045
(316) 583-6168

Mr. Geo. Tishhauser
Rural Route
Carlton, KS 67429
(913) 949-2289

Mr. Fred Masters
1212 Frontier Way
Emporia, KS 66801
(316) 343-6075

Mr. Marvin Clayton
Rt. 1
Whitewater, KS 67154
(316) 799-2759

Mr. Warren Martin
1327 Shanrock
Junction City, KS 66441
(913) 238-7492

Mr. Richard Peckham
1610 Kerry Lynn Dr.
Wichita, KS 67230
(316) 682-8806

SENATE ELECTIONS COMMITTEE
SENATOR DON SALLEE, CHAIRMAN

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE

I AM WALTER MYERS OF RURAL BALDWIN. I AM REPRESENTING THE KANSAS MEMBERS OF THE INFORMED VOTERS ALLIANCE.

ON THEIR BEHALF, I THANK YOU FOR THE OPPORTUNITY TO COMMENT ON SB 59.

THE GOAL OF THE INFORMED VOTERS ALLIANCE IS SIMPLY TO DO WHAT WE CAN TO HELP STABILIZE AND RESTORE THE CONSTITUTION. AT THE STATE AND LOCAL LEVELS, WE NOT ONLY IMPLEMENT THE NATIONAL STEERING COMMITTEE PROGRAMS IN PURSUIT OF THEIR GOAL TO HELP INSURE THAT WE CONTINUE TO HAVE A NATION TO RUN, BUT WE ALSO ADDRESS ISSUES THAT WE THINK ARE IMPORTANT ON "HOW" TO RUN IT AT THE APPROPRIATE LEVEL.

THE INFORMED VOTERS ALLIANCE IS A NON PROFIT, NON PARTISAN ORGANIZATION. OUR INTEREST IN AND SUPPORT OF SB 59 RESTS WITH OUR INTEREST IN INSURING THAT VOTERS ARE WELL INFORMED. MINOR POLITICAL PARTIES - THOUGH HISTORICALLY OF LITTLE SIGNIFICANCE IN THE NATION'S POLITICAL POWER STRUCTURE - HAVE, -AND CONTINUE, TO PROVIDE ADDITIONAL INSIGHT AND CAREFULLY CONSIDERED ALTERNATIVES TO THE CHALLENGES THAT WE FACE.

THE INFORMED VOTERS ALLIANCE CONSIDERS IT IMPORTANT TO THE POLITICAL HEALTH OF THIS NATION THAT EVERY POLITICAL PHILOSOPHY AND PARTY WHOSE INTEREST COINCIDES WITH IVA'S GOAL OF HELPING TO STABILIZE AND RESTORE THE CONSTITUTION FOR THE UNITED STATES SHOULD HAVE AN EQUAL OPPORTUNITY TO BE HEARD AND RECOGNIZED IN THE POLITICAL MARKETPLACE. WE BELIEVE THAT VOTERS - LIKE CONSUMERS - SHOULD BE OFFERED SEVERAL OPTIONS FROM WHICH TO CHOSE. FOR THESE REASONS, THE INFORMED VOTERS ALLIANCE SUPPORTS A REDUCTION IN THE NUMBER OF SIGNATURES REQUIRED FOR A POLITICAL PARTY, AND FOR INDEPENDENT CANDIDATES, TO BE RECOGNIZED AND PUT ON THE BALLOT. WE CONSIDER THAT SIGNATURES REPRESENTING NOT MORE THAN .2% OF THE ELECTORATE FOR ANY GIVEN OFFICE IS AN ADEQUATE DISPLAY OF INTEREST IN THAT PARTICULAR POLITICAL PARTY'S CANDIDATES (OR INDIVIDUALS CANDIDACY) TO WARRANT BALLOT ACCESS.

WE URGE YOU TO SUPPORT SB 59 AND REQUEST MR. CHAIRMAN, THAT THERE BE A ROLL CALL VOTE SO THAT WE IN THE INFORMED VOTERS ALLIANCE WILL KNOW THE POSITION OF EACH MEMBER ON THIS COMMITTEE.

I THANK YOU FOR YOUR TIME AND CONSIDERATION.

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Attachment 3

WALTER L. MYERS
CHAIR., KS CHAPTER
INFORMED VOTERS ALLIANCE

Hon. Sen. Salce et al:

While addressed to the House; surely the Senate is listening: "We do not want to wake up some morning and wonder why Kansas is stumbling."

Some four years ago the Kan. Sec. State complained of confusion in vote counting because the insignificant parties talked such low counts. Is the voting procedure for the convenience of the Sec. of State ?? Or is the right to vote (meaningful) by the individual to be a concern?

Actually our "small" voice has been heard.

Example: Some years ago our candidates (The Conservative Party) advocated that tax notices should be mailed ten days before the election. The other parties ignored this. But a couple of years later tax notices were mailed before election date. After a couple of years this was discontinued.

Example: years ago our Conservative Party candidates asserted clearly and without qualification

"Abortion from the moment of conception is murder". How much better it is for the individual to express his concerns, through constitutional channels than through picketing etc!

If the right to vote is curtailed, what other channels are open? - The Judicial?

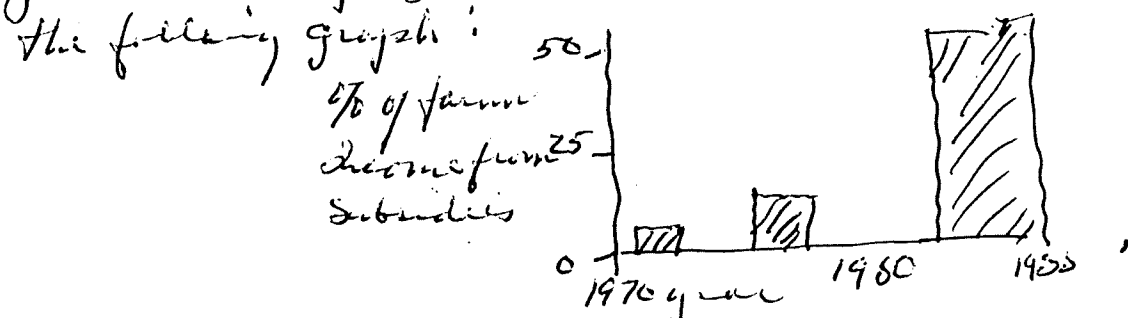
Foundation stones: The right of true expression through voting, to be heard by the legislators. Relief through the Judiciary. The Constitution of the U.S. -

Some years ago the Conservative Party recognized violations of the U.S. Const. as related to money. Legislators ignored and ridiculed us. What to do? Turn to the Judiciary, of course. How to get this before the courts?

To see: Knowledge of legal minds, commended to deliberately, with full disclosure, violate the law, defence was the Constitution of the U.S. The Judiciary refused to allow the U.S. Constitution to be admitted as evidence! - Guilty! Felony! Prison!!! A brutal attack of a vital foundation stone.

But the existing law does more than deprive.

In order to gain more numbers, the Conservative Party was forced to look for support from other groups. - And such was the farmer. We found farm organizations wanted to insist on greater farm subsidies. This violates basic concepts of the Conservative Party. Most of our members refuse government subsidies. This led to great turmoil, - about ten days ago I attended an Economic Seminar in Enysoria sponsored by govt. lending agencies. One speaker presented



The County Sentinel (Wed Feb. 7. 1984) reports "due to high income of the farmer the past couple of years, land prices are soaring." 20% in Iowa last year.

This is an example of how political parties are forced to vacate their principles in order "gain numbers" - "THE UMBRELLA MUST BE WIDE ENOUGH SUCH THAT ALL MAY BE COMFORTABLY SHELTERED" - Another foundation Electing 1-21-84 weakened. 4-1

Four years ago the Kan. Sec. State, in hearings on this subject complained of the confusion created by examples such as votes cast for Mickey Mouse, etc. What goes through the mind of the voter as he faces a slate (2 slates?) between which he can detect no viable difference? What can he do? Just not vote? ... Or vote for Mickey Mouse? -

That vote for Mickey Mouse should carry a loud and clear meaning: Foundation Stones are crumbling.

The conservative Party of Kansas made a desperate attempt to meet the requirements, or at least one case they were forbidden by local law to seek signatures on a city street! This can be asserted: The Conservative Party made absolutely no effort to buy signatures. I hope the inference is clear. Parties with money can be tempted when the obstacle is sure. Don't you hear another foundation stone cracking.

The National chairman of our effort to gain ballot position advised me that Kansas is one of the toughest states to work in.

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Attachment 4-2

with deepest sincerity of concern
for your attention to the Foundation Stones
of our Republic. -

Temp. address.
RRI B435
Alta Vista 66834
(913)(842) 3386

Ray Hall
State Chm. Cons. Party, Kan.
2101 Browning, Manhattan, Kan.

Blake Huber

1. Intro
2. Petitioning problems
 - a. Independant candidates must petition
no options
 - b. number of signatures needed vs.
number of signatures verified.
 - c. Policy concerning checking of petitions
3. Benefits to low requirement
 - a. attract more participation
(more democratic)
 - b. send clearer signals to voters
 - c. 1000 signatures - as few as 5 could form a party.
4. closing & answer questions.

Bill Graves
Secretary of State



2nd Floor, State Capitol
Topeka, KS 66612-1594
(913) 296-2236

STATE OF KANSAS

Testimony of Ron E. Thornburgh
Senate Elections Committee
February 21, 1989

SB 59

Thank you Mr. Chairman and members of the committee

The current requirements, 2% of the total votes cast for the office of Governor, are adequate to maintain a balance of parties in the state of Kansas. Since minor parties were removed from the ballot in 1984, no third party has attempted to gain the signatures necessary to obtain ballot access.

As you can see by the attached chart, it is very easy to obtain ballot access in Kansas compared to the party recognition requirements of the state of Oklahoma which have been upheld by the courts. The state of Oklahoma requires 5% of the total vote for Governor, 58,552.

1,000 signatures does not properly show a modicum of support to merit party status. With 1,000 signatures, virtually anyone could obtain ballot access by spending a few weekends at a busy shopping mall. Because ballot status could be obtained so easily, crowded ballots and voter confusion would surely be a problem.

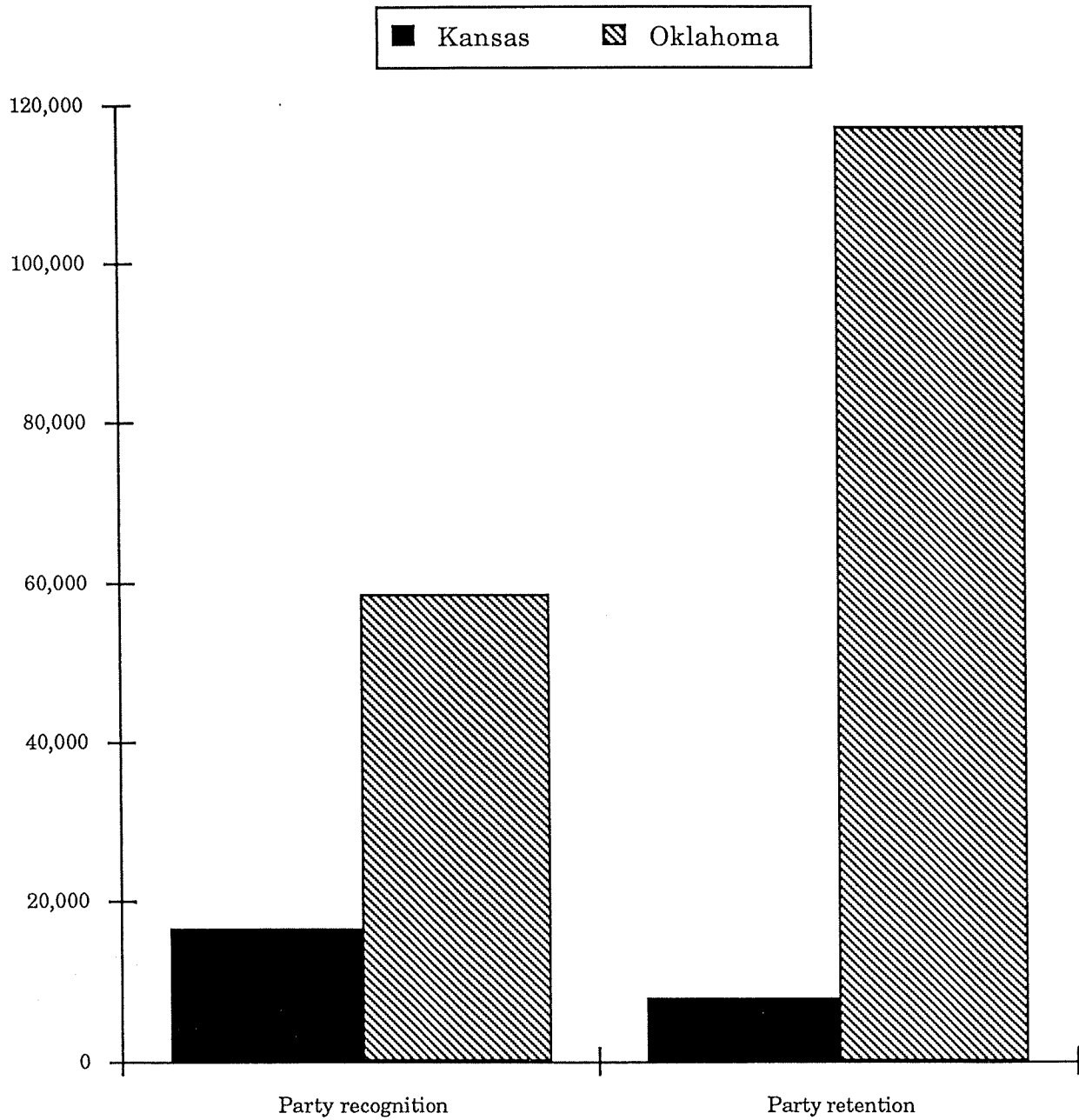
Signers of the petition are not saying they intend to join the organization or even that they support the organization, all they are saying is that they think the organization should become a recognized political party. Therefore, we are not asking too much in asking the potential party to find 16,813 registered voters to support their ballot status.

I ask that you report SB 59 unfavorable for passage.

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Attachment 6

Senate Bill 59

Comparison of Kansas with Oklahoma



K.S.A. 25-302a was originally amended in 1984 to conform with Oklahoma's party recognition statutes because Oklahoma's statutes had passed judicial review.

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Thank you, Senator Vidricksen, distinguished committee members, and guests. My name is Clay Edmands. I am the President of Asbury-Salina Regional Medical Center, a hospital licensed for 212 beds in Salina, Kansas. I would like to thank the Legislature and this committee for allowing me to discuss the malpractice issue with you.

Today the healthcare industry is faced with a number of concerns. On a national basis we are facing problems of inadequate reimbursement and labor shortages--especially for professional staff. In Kansas, we are faced with a serious malpractice insurance crisis. The malpractice issue is part of a broader issue of "tort reform" which affects all Kansans, not just the healthcare industry.

Asbury has been designated by the Health Care Financing Administration, as a rural referral center. To qualify as a rural referral center, over half of our medical staff had to be specialists, we had to have over 6,000 inpatient discharges and the acuity level of the patients we serve had to be greater than the average hospital in rural America. In simple terms, that means that most patients we serve are critically ill. Our medical community is highly interdependent, primary physicians and specialists caring together for the critically ill. Many of these specialists have much higher malpractice insurance premiums. Today Salina is faced with a prospect that physicians may leave the state because of these high malpractice insurance

rates. Hays, Kansas, has already lost eight physicians. In Salina we have lost two physicians. I have had seven other physician specialists state they prefer to remain in Salina, but if the malpractice crisis doesn't change, they may leave the state. Physician recruiters from other states are actively recruiting Kansas physicians, because they are aware that we have a problem. It is time for urgent action to prevent the exodus of physicians.

In the last four years, the malpractice premiums at the hospital have quadrupled. Testimony from actuaries addressing the legislature state that in the next five years the malpractice rates will be growing at an alarming rate. Therefore, the problem is growing at an increasing rate, rather than improving in Kansas.

What I think is at stake is the overall quality of life in Kansas. The impact of not resolving the malpractice crisis in the state will be very significant. I submit the following for your consideration:

- o We have already lost physicians from the state. If the situation is allowed to go unchecked, we will undoubtedly lose more.
- o It is extremely difficult if not impossible now to recruit physician specialists, with high malpractice premiums, to rural Kansas.
- o If the services of these specialists are not available, access to healthcare for Kansans will be significantly

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impaired. This will require Kansans to drive even longer distances for healthcare either to large metropolitan areas or maybe even out of the state.

- o Jobs will be lost.
- o Costs of services will increase.
- o New businesses will be less inclined to settle in Kansas, if the availability or quality of healthcare services is not equal to other states.
- o Businesses that are currently in Kansas may choose to leave the state to locate out of state where quality health care services are more readily available.
- o Loss of jobs means less tax revenue. Less tax revenue means problems in funding our schools, our healthcare, our roads, our prisons and many other domestic programs that lead to a positive quality of life in Kansas.
- o Other industries (in addition to the healthcare industry) are impacted by the high tort liability costs.
- o Hospitals can't leave and, therefore, they may be faced with a choice to curtail services or to close.

The bottomline is this: If we don't find a way to solve the malpractice crisis, then the quality of life in Kansas will be in jeopardy--not only the healthcare for people, but the health of the entire economy.

Obviously, this problem is complex. It appears to me that no one solution will be the total answer. However, I think one piece to solving this puzzle is finding a way to limit awards on

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non-economic damages, but in a way that is fair to those that may have been adversely affected. This has worked in other states.

The public must be given the opportunity to be informed on the issue and make the decision as to whether they feel that limits on non-economic damages are a part of the solution. Previous efforts have failed to solve this problem. We need to send a message to all Kansans that we want our doctors to stay, we want to preserve jobs, we want to have access and ready availability of specialized services in addition to the primary care services. We need an economic climate in which we can afford to have strong schools, and other services that lead to a high quality of life for the people living in Kansas.

The problem is real, not imagined. We must do something now. 1990 will be too late for many of the physicians that are thinking about leaving the state. So I respectfully ask you to consider a constitutional amendment that would give the public an opportunity to decide whether to have a limits on awards for non-economic damages. I would also ask that you additionally consider other efforts that might help solve this problem. I think the time has come to put aside partisanship. The time has come to put our best minds in Kansas together to find a way to deal with this serious problem. There are not many other issues that impact so many people from the standpoint of access to healthcare, jobs, loss of physicians and quality of life in this state. I hope that you sense the urgency of this. It is time to rally together, instead of pointing fingers. Collectively we

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Legislative Presentation
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Page 5

must work to solve this critical problem. Lives, jobs and access to healthcare are at stake.

Thank you very much for your interest. I hope that together we can solve this problem. Thank you for the opportunity to express my views.

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TESTIMONY BEFORE THE SENATE COMMITTEE ON ELECTIONS
February 21, 1989

TOPIC: Necessity for urgent action to stabilize the medical liability climate

I. Salina is losing physicians.

Since August 1988 -

- Anesthesiologist - - - retires
- Orthopedic surgeon - - - relocates to another state
- Pediatrician - - - insurance industry
- ENT surgeon - - - relocates to another state
- Internist, cardiologist - - - relocates to another state
- OB-Gyn - - - discontinues obstetrics
- OB-Gyn - - - discontinues patient care; to assist in surgery only
- ENT surgeon - - - retires
- Family practitioner - - - discontinues deliveries and surgical care

All cite insurance rates and malpractice climate as overriding factors in their decisions.

II. Despite the efforts of the Legislature, Tort Reform measures have not been allowed to impact on the Malpractice Crisis because of the Supreme Court's ruling.

III. Medical liability premiums virtually double each year.

IV. Affordability of medical liability has reached the "palpable" stage (analogy to cancer). Few physicians will be able to tolerate additional "doublings". Predictable events in response to continued premium escalations

- A. Premature retirement
- B. Decrease in services
- C. Relocation

V. Personal experience

Native Kansas educated for 25 years in Kansas schools.

Active general surgery practice.

Malpractice premiums -

July 1981 - - - \$ 3,500.00

Nov 1988 - - - 34,800.00

Feb 1989 - - - 39,200.00

Nov 1989 - - ??\$50-60,000.00

Unable and unwilling to absorb the increasing expense.

Practice opportunities elsewhere.

VI. A special election to vote on the proposed Constitutional Amendment is needed this year.

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Attachment 8

David E. Smith, M.D.
Salina, Kansas

February 21, 1989

To the Senate Election Committee:

I am the Kansas Medical Society Auxiliary Legislation Chairman. In that capacity I have talked with Physicians and Auxiliaries State wide. Emotions are high and I believe that the passage of Senate Concurrent Resolution no.1610 is the only thing at this point that will insure health care availability in Kansas.

The Legislature has worked long and hard to address the crisis but the Kansas Supreme Court has chosen to overrule all of the Legislation passed in 1985 and 1986. For Physicians and their families it has been like a sophisticated form of torture as hope was raised and then dashed and the result has been anger and disillusionment with the system.

I believe that passing legislation calling for a special election for ratification of the Constitutional Amendment will help us obtain passage of the Amendment itself as it will negate arguments by the opposition that this process will take too long to hold the physicians who are currently making plans to leave, also, speedy action is necessary to keep many physicians here. It is our belief that a cap will bring stability to the situation and with a cap in sight many of us will hold on. I believe that all of the physicians who are currently seeking practices out of State wish to stay or they would have left already. There are many attractive practices available and other States are actively recruiting Kansas physicians because they know that they are unhappy with the mal-practice situation in Kansas.

Very Truly Yours,


Nancy Macy

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February 21,
Attachment 9

W MOWERY, M.D., F.A.C.S., Chartered
Surgery
HENRY S. DREHER, M.D.
Internal Medicine
STEVEN G. SEBREE, M.D., F.A.C.O.G.
Chartered
Obstetrics - Gynecology
JEFFREY B. KNOX, M.D.
Obstetrics - Gynecology
TED L. MACY, M.D., F.A.C.S., Chartered
General Surgery
JODY ANDERSON, M.D., Chartered
Internal Medicine - Hematology
JONELL BYERS, M.D.
Dermatology
THOMAS J. COVERT, M.D., F.A.A.P.
Chartered
Pediatrics To Senate Election Committee:

MOWERY CLINIC, INC.

737 E. Crawford
Post Office Box 260
SALINA, KANSAS 67402-0260
Phone (913) 827-7261

February 21, 1989

W.F. CATHCART-RAKE, M.D. C.P.
Internal Medicine
BRAD R. STUEWE, M.D.
Internal Medicine-Nephrology
DAVID E. SMITH, M.D., F.A.C.S.
General Surgery
EDGAR ROSALES, M.D., F.A.A.P.
Pediatrics
ROBERT D. SEATON, M.D.
Internal Medicine-Nephrology
DAVID T. DENNIS, M.D.
Internal Medicine
WILLIAM R. ALSOP, M.D.
Gastroenterology
UNITED RADIOLOGY GROUP
Radiology
ROBERT J. BLAIR
Administration

I am one of the busiest General Surgeons in Salina, I am part of a Multi-specialty Group that includes two additional General Surgeons. I could not handle more surgery on a regular basis even if I desired to do more.

One of my General Surgery Associates is in his 30's. With the current liability insurance instability my young associate fears malpractice insurance will soon become unaffordable. He is currently considering an offer to move his practice to Palm Springs, California. The other General Surgery Associate is 65 years old and doesn't have to work any more.


All eyes in the Medical Community are on the Kansas Legislature. We are waiting to see if the Legislature will have the resolve to solve the problem. If we see no concrete action, soon, attractive options will be exercised.

With no visible support from the Legislature it will be obvious that the future for Medicine in Kansas is bleak. The expected scenario in my situation would be the loss of one associate to California, and the loss of the other to retirement, as has occurred with a dozen other physicians in Salina, because of continued escalation of mal-practice insurance rates.

If mal-practice insurance premiums continue to increase, my own ability to continue practice in Kansas will be in jeopardy. I do not want to leave Kansas but there is a price that I will be unwilling to pay in order to stay, both monetarily for insurance and in an excessive work load. Recruitment of new General Surgeons will be impossible. I am sure my situation is duplicated in many practices and communities across the State.

The Kansas Legislature has worked hard over the past several years addressing tort reform issues, only to have their work undermined by the Kansas Supreme Court. The most meaningful legislation, a cap on non-economic damage awards was declared unconstitutional. Since the efforts of the legislature were thwarted by the court it is now time for the people to be allowed to decide the issue. The people should be allowed to vote on Senate Concurrent Resolution # 1610, a constitutional amendment which would permit the legislature to place a cap on non-economic awards.

Sincerely,


Ted L. Macy, M.D., F.A.C.S.

Elections
February 21, 1989
Attachment 10

1976
Professional

Retrospective Date: 7/01/78
Policy No. 526020
The Premium \$2035
Fund Surcharge \$915
TOTAL \$2950

The Insured:
TED LEE MACY MD
737 EAST CRAWFORD
SALINA, KANS. 67401

Minimum Amount \$100,000 Maximum Amount \$300,000

The term of this policy shall begin and end at 12:01 a.m., standard time, at the place where the insured resides and be from 7/14/77 to 7/14/78

In Witness Whereof, The Medical Protective Company has caused this policy to be signed by its President and its Secretary and countersigned by its duly authorized representative.

BA McCondy
COUNTERSIGNED

Robert H. Rohman
PRESIDENT

William J. Davey
SECRETARY

IN THE EVENT OF CLAIM, THREATENED OR FILED, IMMEDIATELY NOTIFY THE MEDICAL PROTECTIVE COMPANY, FORT WAYNE, INDIANA

Elections
February 21, 1989
Attachment

PROFESSIONAL LIABILITY POLICY
Continuous service to the profession since 1899

1988 Personal

MEDICAL PROTECTIVE COMPANY

THE
FORT WAYNE, INDIANA

The Company and the Insured hereby agree that the policy is amended to provide for installment payment by the Insured and that the policy does not acknowledge receipt of total premium payment. It is further agreed that the policy may be cancelled for nonpayment of premium should the Insured fail to remit in accordance with the terms and schedule provided for by the installment agreement, a copy of which has been provided to the Insured.

60

issued, it is hereby amended to conform with such statutes. Any person or his legal representative who is a party to a written agreement shall thereafter be entitled to recover under the terms of this policy in the same manner and to the same extent as the Insured. Nothing contained in this policy shall give any person or organization any right to join the Company as a codefendant in any action against the Insured to determine the Insured's liability. Bankruptcy or insolvency of the Insured shall not relieve the Company of any of its obligations hereunder.

6 The interest of the Insured under this policy shall not be assignable to any other person.

7 This policy may be cancelled by the Insured by mailing to the Company or any of its authorized representatives, written notice, stating when thereafter the cancellation shall be effective. This policy may be cancelled by the Company by mailing, postage prepaid, to the Insured at the last address on record with the Company written notice stating when, not less than 30 days thereafter, such cancellation shall be effective. If the Insured cancels, earned premium shall be computed in accordance with the standard short rate tables and procedure. If the Company cancels, earned premium shall be computed pro rata. Premium adjustments shall be made within a reasonable period of time after cancellation, but payment of or tender of such unearned premium shall not be a condition of cancellation.

8 By acceptance of this policy the Insured agrees that this policy embodies all agreements existing between himself and the Company or any of its agents relating to this insurance.

9 The following space is intended for waivers, exceptions and endorsements. If any, they shall become part of this policy.

Retroactive Date: 7/01/76
Policy No. 526020
The Premium \$ 14267
Fund Surcharge \$ 17834
TOTAL \$ 32101

Insured's Profession: MEDICINE
The Insured: TED LEE MACY MD
737 EAST CRAWFORD
SALINA, KANS. 67401

One Occurrence \$ 200,000
Annual Aggregate \$ 600,000

The term of this policy shall begin and end at 12:01 a.m., standard time, at the place where the Insured resides and be from MO. 07 DAY 14 YEAR 88 to MO. 07 DAY 14 YEAR 89

In Witness Whereof, The Medical Protective Company has caused this policy to be signed by its President and its Secretary and countersigned by its duly authorized representative.

W. Hale
PRESIDENT

T. Meierant
COUNTERSIGNED
Se-11-86-Ka

D. D. May
SECRETARY

IN THE EVENT OF CLAIM, THREATENED OR FILED,
IMMEDIATELY NOTIFY THE MEDICAL PROTECTIVE COMPANY, FORT WAYNE, INDIANA

FOR SERVICE CALL: MR. MEIERANT a 913-381-4222

PROFESSIONAL LIABILITY POLICY
Continuous service to the profession since 1899

2-21-89

8 By acceptance of this policy the Insured agrees that this policy embodies all agreements existing between itself and the Company or any of its agents relative to this insurance.
9 The following space is intended for waivers, exceptions and endorsements. If any, they shall become part of this policy.

1976
Corporation

Retroactive Date: 4/01/78
Policy No. C22405
The Premium \$ 716
Fund Surcharge \$
TOTAL \$ 716

The Insured:
TED L MACY MD CHARTERED
737 EAST CRAWFORD
SALINA, KANS. 67401

One Occurrence \$ 100,000 Annual Aggregate \$ 300,000

The term of this policy shall begin and end at 12:01 a.m., standard time, at the place where the Insured resides

and be from MO. DAY YEAR to MO. DAY YEAR
04 01 83 to 04 01 84

In Witness Whereof, The Medical Protective Company has caused this policy to be signed by its President and its Secretary and countersigned by its duly authorized representative.

[Signature]

PRESIDENT

[Signature]

SECRETARY

[Signature]
COUNTERSIGNED

R-4-81-PC-Ka

IN THE EVENT OF CLAIM, THREATENED OR FILED,
IMMEDIATELY NOTIFY THE MEDICAL PROTECTIVE COMPANY, FORT WAYNE, INDIANA

PROFESSIONAL LIABILITY POLICY
Continuous service to the profession since 1899

Elections
2-21-84
11-2

1988 - Corporation

Upon the following conditions:

1 The Insured shall notify the Company, at its General Offices, Fort Wayne, Indiana, or its agent, as soon as possible, of any threatened claim, with full information relative to the services rendered; and in event such claim is filed in court shall immediately forward any and all summons or process served together with the original or a copy of any and all other papers relating to said claim.

2 The Insured shall not (a) make any hold harmless agreements or contract any expense nor voluntarily assume any liability in any situation nor (b) make or contract any settlement of a claim hereunder, except at its own cost and responsibility, without the written authorization of the Company. The Insured shall at all times fully cooperate with the Company in any claim hereunder and shall attend and assist in the preparation and trial of any such claim.

3 The Insured shall be authorized to practice its profession under the laws of the State or States in which it operates.

4 Other insurance—The insurance afforded by this policy is primary insurance, except when stated to apply in excess of or contingent upon the absence of other insurance. When this insurance is primary and the Insured has other insurance which is stated to be applicable to the loss on an excess or contingent basis, the amount of the Company's liability under this policy shall not be reduced by the existence of such other insurance.

When both this insurance and other insurance apply to the loss on the same basis, whether primary, excess or contingent, the Company shall not be liable under this policy for a greater proportion of such loss than the applicable limit of liability under this policy for such loss bears to the total applicable limit of liability of all valid and collectible insurance against such loss.

5 No action shall be maintained against the Company to recover a loss covered by this policy unless brought after the amount of such loss shall have been fixed either by a final judgment against the Insured by the court of last resort after trial of the issue or by agreement between the parties with the written consent of the Company and unless brought within two years and one day after such judgment or written agreement, except that, if such period is in conflict with the statutes of the state wherein this policy is issued, it is hereby amended to conform with such statutes. Any person or his legal representative who has secured such judgment or written agreement shall thereafter be entitled to recover under the terms of this policy in the same manner and to the same extent as the Insured. Nothing contained in this policy shall give any person or organization any right to join the Company as a codefendant in any action against the Insured to determine the Insured's liability. Bankruptcy or insolvency of the Insured shall not relieve the Company of any of its obligations hereunder.

6 The interest of the Insured under this policy shall not be assignable to any other person.

7 This policy may be cancelled by the Insured by mailing to the Company or any of its authorized representatives, written notice, stating when thereafter the cancellation shall be effective. This policy may be cancelled by the Company by mailing, postage prepaid, to the Insured at the last address on record with the Company written notice stating when, not less than 30 days thereafter such cancellation shall be effective. If the Insured cancels, earned premium shall be computed in accordance with the standard short rate tables and procedure. If the Company cancels, earned premium shall be computed pro rata. Premium adjustments shall be made within a reasonable period of time after cancellation, but payment of or tender of such unearned premium shall not be a condition of cancellation.

8 By acceptance of this policy the Insured agrees that this policy embodies all agreements existing between itself and the Company or any of its agents relating to this insurance.

9 The following space is intended for waivers, exceptions and endorsements. If any, they shall become part of this policy.

Insured's Profession: MEDICINE

Retroactive Date: 4/01/78
Policy No. C 22 405
The Premium \$ 1747

The Insured:
TED L MACY MD CHARTERED
737 EAST CRAWFORD
SALINA, KANS. 67401

Fund Surcharge \$ 2184
TOTAL \$ 3931

One Occurrence \$ 200,000 Annual Aggregate \$ 600,000

The term of this policy shall begin and end at 12:01 a.m., standard time, at the place where the Insured resides

and be from MO 04 DAY 01 YEAR 89 to MO 04 DAY 01 YEAR 90

In Witness Whereof, The Medical Protective Company has caused this policy to be signed by its President and its Secretary and countersigned by its duly authorized representative.

[Signature]
PRESIDENT

[Signature]
SECRETARY

[Signature]
COUNTERSIGNED

8a-11-88-PC-Ka

IN THE EVENT OF CLAIM, THREATENED OR FILED,
IMMEDIATELY NOTIFY THE MEDICAL PROTECTIVE COMPANY, FORT WAYNE, INDIANA

FOR SERVICE CALL: MR. MEIERANT @ 913-381-4222

PROFESSIONAL LIABILITY POLICY

Continuous service to the profession since 1899

Election
2-21-89
11-3

4

"OH, TOTO!
I DON'T THINK WE'RE IN KANSAS ANYMORE!"

.... Dorothy
The Wizard of Oz

I have been asked to address the Kansas State Senate to discuss the malpractice crisis which is forcing many of our doctors to leave this state. But the problem to be dealt with involves much more than the issue of medical care. It involves the very fabric of our society. The problem is not with our doctors. Finding ways to keep our doctors in Kansas will not solve the urgent threat now facing all of us. We Kansans are no longer the same people we once were. Our expectations have changed. We have become an intolerant people; indignant, self-centered and demanding. The problem is not with our constitution, the problem is with us!

Anyone who has reared a child is familiar with the natural selfishness of primal man. A child who is given a bottle too early, soon becomes lazy and will not put forth the effort to suckle at a breast. Similarly, very few adults could be expected to refuse a gift of effortless wealth. Indeed, many people dream of living in prosperity without having to work. The Kansas lottery takes advantage of this craving. It is only by the elaborate disciplines of social behavior that any of us can claim to be civilized. Many of these rules of conduct have had to be enforced upon the less trustworthy members of society through our laws. Make no mistake, if it were not for our legal system, some members of our culture would behave much like the undisciplined child, with the sky being no limit to their demands.

Even good people can be exploited by a corrupt government. We have only to look to Germany under Hitler, or the USSR, South Africa, Iran, Nicaragua, Cuba, or a dozen other modern third world nations to understand the fundamental necessity of proper representation of the needs of the common people by their governments. Democracy is not the natural order of human relationships. The preservation of sovereignty was well recognized by our founding fathers to require constant effort. Democracy, by definition, requires the most rigid enforcement of protectionist legislation than any other form of rule. The rights of equality were meant to provide for uniform treatment under the law. They were not meant to guarantee unlimited compensation to a few clever manipulators of the system.

Elections
February 21, 1989
Attachment 12

The most serious problem which I perceive to the people of this great country is one of "attitude". We have lost faith in our own legal system. The very laws which we depend upon to protect us have become an obstacle to progress. The individual citizen is held to be accountable for his actions, yet there is no similar accountability on the part of judges, juries, or attorneys to insure that their conduct is rational and prudent. When illegitimate claims cannot be handled with reasonable dispatch, while legitimate grievances are left unresolved, then all of us are harmed.

I do not wish to be misinterpreted. I am not here to request special legislation to protect doctors. Doctors are not asking for immunity from prosecution. My interest is to protect the rights of my own patients, my friends, and my family, to receive appropriate and equitable treatment under our system of justice. I respect the insight and dedication of this legislative body, and appeal to you to respond to the needs of the people. It has now become impossible for me to continue to practice orthopedic surgery in this state. I have been financially unable to pay my current malpractice premium, and cannot justify obtaining a loan to do so when such an indebtedness would only result in my financial insolvency.

Many other doctors are faced with this same dilemma. Some have chosen to retire. Others are restricting their medical practice in order to eliminate certain high risk services such as obstetrics, anesthesia, and elective surgery. Still others, like myself, have no desire to stop providing the medical services for which we have been trained, and thus are forced to relocate. Unfortunately, with any one of these alternatives the people of Kansas will lose very important medical services. Hospitals will be forced to close, never again to be reopened. Many other jobs will be lost, including nurses, therapists, medical technicians, laboratory chemists, ambulance services, pharmacies, brace and limb shops, accountants, possibly even some lawyers. People will migrate from small towns to the larger cities. Many homes and farms will be vacated. A large number of these people will have become disenchanted with Kansas, and will leave this state entirely, depriving us of our future generations of citizens.

The loss of our doctors will impoverish this entire state. Along with the devastating economic losses, will follow an even more serious loss of peace of mind. Would you wish to raise your family under these circumstances? Would you remain behind? How can you allow this tragedy to occur?

I was born in Kansas. I received my medical training here, much of it through the taxes paid by your constituents. I have deep roots in Kansas. I love this state. My grandparents were Volga Germans, who recognized the opportunities to better themselves here, and settled as homesteaders on our western plains. I live here to be nearby my elderly parents, who are in failing health. I do not wish to leave my home. But I have no choice.

I have watched Kansas change. It is not the same state which attracted my ancestors. The opportunities that brought them here have long since vanished. The farm which we cherished, and held in our family for three generations, was sold at public auction last year. The family farmer in Kansas is confronted with his own crisis. The children they have raised are now finding that their education is of little use to them in this state. My father made his living as a highway engineer, but today we are building no highways. What need do we have for architects and craftsmen, when there is no construction work. What jobs are there for our geologists, our chemical engineers, our petrochemical industry, when we have closed the majority of our oil fields? What career would you suggest for your children that would not have far greater opportunities outside of this state? Our people have not failed Kansas. Kansas has failed us!

I have no intention of remaining in a culturally desolate wilderness. You cannot entice me by idle promises, nor force me by threat of legal sanction to remain as another victim of any form of oppressive and tyrannical rule. Like my forefathers, I have found a better opportunity. I have found a state which has already enacted the very legislation we have come here to discuss. These resolutions have been tested and upheld by that state's supreme court, allowing effective resolution of the majority of their product liability and medical malpractice claims without costly litigation. Furthermore, that state has the lowest crime rate in the country. Incidentally, murderers are put to death. In that state there is no urgent need to build more prisons, even hardened criminals avoid committing crimes against these wrathful but God-fearing people. Very few convicts choose to live there. State taxes have been put to much more beneficial use to serve the needs of the populace.

The legislative body of my new home state is mindful of the necessary incentive which fuels the human engine, and has taken every precaution to maintain individual motivation. There is no state run lottery or horse racing. Gambling is perceived as an abomination, and is in no way sanctioned by the legislature. The citizens of this state seem to display the pride and self respect which I recall from my childhood, and thought had disappeared.

Elections
2-21-89
12-1

There is very little "welfare," most assistance coming more properly from the family and the church. Many work projects, including civic centers, parks, schools, and tourist attractions have been the recipients of a well managed (accountable) system of state aid, much to the benefit of all of the citizens. This should serve as an example to the less inspired legislature of such states as Kansas, who continue to believe that having less is better.

Solving the problems facing the people of Kansas would be relatively easy, provided that our elected officials would only search their own consciences, and act in such a manner as to have no reservations in fully disclosing their convictions to the public. Unfortunately, even now, the members of the Kansas legislature would prefer to maintain anonymity, hiding their true intentions behind voice votes and secret ballots. How can the citizens of this state ever trust such officials. How are we to believe that our best interests are being served when your very methodology is deceitful. I have no illusions as to the honorability of politicians. I have seen the results of your interpretation of progress. I wish to have no part of the future you have determined for Kansas. But, make no mistake, very soon you will be held accountable for what you have done today.

Several people have asked me where I am going. Apparently, the state I have described has some appeal to many others. If so, I urge you to join with me and "Toto". We are going to Topeka. We are going to try to make it happen right here!

Adam L. Herrman, M.D.

- 8/5 1989
1. OB/GYN malpractice rate
 - 42,000 last year
 - 70,000 this year
 - What will it be next year?
 2. At some point, physicians will leave the state.
 3. At this time, we can't recruit needed physicians.
 - How can we in the future?
 4. Cap is constitutional in 20 states.
 - Why not Kansas?
 - Why do Kansans have to suffer?
 - Let the voters decide the issue.

Tort reforms that have worked in other states:

1. Total Cap/Non-economic Cap.
2. Collateral source rule.
3. Periodic payment of awards.
4. Review panels to screen non-meritorious suits.
5. Modification of punitive damages.

An important point to remember is that, with these reforms, a victim of of malpractice is still provided for.

Elections
2-21-84
13-2

12
Doris L. Fowler

SPECIAL ELECTION
CONSTITUTIONAL AMENDMENT
SENATE COMMITTEE

2-21-89

1. Introduction.
2. Not group representative.
3. Salina native - 33 years of law practice in Salina.
4. Nature of practice. Some may consider part of the problem.
5. Effect of loss of doctors and related services:
 - a. Medical services provided have become a key to the quality of life in Central Kansas.
 - b. The medical community's roll is more than health care. The medical community is keenly involved in all community activities from the arts to meals-on-wheels.
 - c. The medical community is an economic resource drawing general business trade and activity from an expanded trade territory.
 - d. The medical community is a way for small communities to entice their bright young products to return rather than going elsewhere. In Salina, we are blessed with several of these bright young people, two whom are here today, Dr. Gary Harbin and Dr. Jeff Knox.

Elections
February 21, 1989
Attachment 14

6. Problem is critical. Timing is essential. We cannot say to ourselves that we should preserve the most productive medical malpractice system available at the expense of destroying medical services and all that the medical people provide in community leadership and services. We need to permit the voters to speak by way of a constitutional amendment in order to break the log jam and make progress toward a solution. Time is of the essence, delay will mean disaster. We urge that you approve a special election for the constitutional amendment to allow the Legislature to enact limits on non-economic damage awards.