

Approved 6-7-89
Date

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS

The meeting was called to order by SENATOR AUGUST "GUS" BOGINA at
Chairperson

11:10 a.m. ~~XX~~m. on MARCH 20, 1989 in room 123-S of the Capitol.

All members were present except:

All Present

Committee staff present:

Research Department: Diane Duffy, Kathy Porter, Karen DeViney, Laura Howard
Revisor: Norman Furse
Committee Staff: Judy Bromich, Pam Parker

Conferees appearing before the committee:

Henry, Pharmaceutical Manufacturers Associations
Myrle Myers, Governmental Affairs Representative, Lederle Laboratories
William A. Dean, Merrell Dow Pharmaceuticals, Inc.
Harold Riehm, Executive Director, Kansas Association of Osteopathic Medicine
Robert R. Williams, Executive Director, Kansas Pharmacists Association
Tom Brown, Executive Director, Arthritis Foundation of Kansas
Bob Cochrane, Executive Director, American Diabetes Association-Kansas
Nadine Burch, Senior Advocate, Kansas Coalition on Aging
Winston Barton, Secretary, Department of Social and Rehabilitation Services
Darrell Bencken
Walter L. Myers, Baldwin
Betty Jones, Eagle Forum
Jane Hammer, DAR
Tim Benton, Informed Voters Alliance
Gordon Risk, American Civil Liberties Union of Kansas
Sheila Macdonald, National Taxpayers Union
Ed Bruske, KCCI
J. D. Spradling
Carson Crawford
Douglas Merritt, Atchison

INTRODUCTION OF BILLS

Senator Feleciano moved, Senator Doyen seconded, the introduction of bill draft 9 RS 1267, an act concerning public assistance; relating to assignment of support rights; providing for support enforcement services. The motion carried.

SB 180 - Use of restrictive drug formularies by state agencies prohibited

The first conferee of the day was William M. Henry, Attorney at Law, on behalf of the Pharmaceutical Manufacturers Association. (Attachment 1) Mr. Henry noted that a Statement from the PMA had been distributed and he introduced the Director of the State Governmental Affairs for the Association from Washington. (Attachment 1a)

Mr. Henry introduced Myrle Myers, Governmental Affairs Representative for Lederle Laboratories who had formerly been the director of the Pharmacy and Ambulatory Care Program in Colorado. She spoke about how the bidding in the multisource areas has presented some problems and showed with overhead slides some examples of how that program is costing the state of Kansas unnecessary expenses. (Attachment 2) In answer to questions, Ms. Myers stated that each one of the pharmaceutical companies has sales people in place in Kansas in addition to representatives in regional offices and some research facilities. There are about 3,000 families directly effected by the pharmaceutical industry. The industry also provides grants for research and funds

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS,
room 123-S, Statehouse, at 11:10 a.m./~~PXX~~ on MARCH 20, 1989

educational grants to many professional associations.

William A. Dean, Merrell Dow Pharmaceuticals, Inc., presented testimony. (Attachment 3)

Harold Riehm, Executive Director, Kansas Association of Osteopathic Medicine, was the next conferee (Attachment 4), and was followed by Robert R. Williams, Executive Director, Kansas Pharmacists Association. (Attachment 5)

Tom Brown, Executive Director, Arthritis Foundation of Kansas, testified on behalf of the 374,000 Kansans who have Arthritis. He wanted to impress on the Committee the suffering people experience when they cannot get certain drugs that they need. He stated that the physicians with whom he has spoken have expressed concern regarding being restricted in prescribing certain types of drugs to people. Many patients he has talked with have indicated that the first drugs they have taken have not worked and sometimes the second or third or fourth drug has not worked.

Bob Cochran, Executive Director, American Diabetes Association-Kansas, appeared next (Attachment 6), and was followed by Nadine Burch, Senior Advocate, Kansas Coalition on Aging. (Attachment 7)

Winston Barton, Secretary, Social and Rehabilitation Services, was the last conferee on the bill. (Attachment 8) Secretary Barton stated that their fiscal note on SB 180 is \$18 million with about \$9 million being state dollars. In answer to questions, Secretary Barton stated that he feels the bidding process is valid and it saves the state money. He stated that he feels that the drug utilization program is as good or better than any other state. There is a need to study the subject of drug utilization in nursing homes. He stated that his office would supply information regarding savings being realized in other states from the drug utilization program. The Secretary briefly described the formula used in Oklahoma.

The Chairman announced that written testimony regarding SB 180 had been distributed from the Kansas Medical Society (Attachment 9), as well as copies of the Governor's Budget Amendment dated March 17, 1989.

SCR 1615 - Revoking a 1978 SCR requesting a United States Constitutional Convention

The first conferee presenting testimony for SCR 1615 was Darrell Bencken. (Attachment 10) Walter L. Myers, Baldwin, presented testimony. (Attachment 11) In answer to questions, Mr. Myers stated that the Informed Voters Alliance is a non-partisan organization organized October, 1988 for the purpose of addressing the most urgent issues facing the people of this state and across the state and country. There are people on the state steering committee from as far west as Salina, as far east as Kansas City. They chose not to put people in the western part of the state because of the logistical problems in trying to meet. The total membership is just over 300.

The next conferee was Betty Jones, Eagle Forum. (Attachment 12) The Daughters of the American Revolution was represented by Jane Hammer. (Attachment 13) Representing the Informed Voters Alliance was Tim Benton. (Attachment 14) Gordon Risk, President of the American Civil Liberties Union of Kansas, spoke next. (Attachment 15) Appearing next was Sheila Macdonald, Director, Government Relations, National Taxpayers Union. (Attachments 16, 17 and 18)

Ed Bruske, Kansas Chamber of Commerce and Industry, stated he was appearing in opposition to SCR 1615. He said the Chamber supported the action taken in

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS,
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1978 and they feel it is important to keep applying pressure on the U.S. Congress to balance the national budget. The result of a recent survey indicates that the most important federal issues facing the U.S. and Kansas business community is the federal deficit.

J. D. Spradling spoke next. (Attachments 19 and 20) Mr. Spradling stated, in answer to a question, he is a member of the Informed Voters Alliance. Carson Crawford appeared next. (Attachment 21) Douglas Merritt, Atchison, stated that he supported expungment of SCR 1615. He urged sending a message to the nation that Kansans consider the U.S. Constitution as non-negotiable.

A representative of the John Birch Society stated that the Society is in favor of rescinding the constitutional convention.

Copies of written testimony were distributed from the Kansas Livestock Association and Kansas Farm Bureau. (Attachment 22 and 23)

The meeting was adjourned.

GUEST LIST

COMMITTEE: SENATE WAYS AND MEANS

DATE: 3-26-89

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Thomas J. Brown	Wichita ks 67215 340 S. Crestway	Anthracite Foundation KANSAS Chapter
Bette RINGLE	Topeka 1667 SW 28th Ter 66611	"
Madison Bueck	Topeka 1195 Buchanan	Ks. Coalitions
Bill Henry	Topeka	PMA
Myrtle Myers	1520 Leigh Boulder, Co 80303	Lederle Labs
Bill Dean	Overland Park	Merrell Dees
Gordon Risk	Topeka	ACLU
J. D. SPRADLING	TOPEKA	I.V.A.
MARVIN CLAYTON	WHITEWATER	I.V.A.
Jeffery Labarge	Aurora	
John LaBarge	Aurora	I.V.A.
Jason LaBarge	SALINA KS	I.V.A. + KCT STUDENT
Kathleen Wagner	K.C. KS	
Leis D. Cook	Wamego ks 66547	VFW Aux 1258
James B. Nummer	Emporia, Kans	Empire Forum
Maryna M. Workman	Kansas City, Kansas	I.V.A.
Betty Jones	Shawnee ks	Eagle Forum
WART FORST	Boulder CO	Pfizer Inc
Ronal LaBarge	Cloud County	I.V.A.
John Davis	621 SE 45 Jecumsh	I.V.A.
Chris Walker	R. 2 Box 6A Mauetta ks 66509	Kans NFD
DAN W. HINSON	RT 1 Box 131 B 66423 ESKridge KS	CHRISTIAN PATRIOT
Eleanor Hentzler	RR1, Box 107 Eskridge, ks. 66423	
Esley E. Schmidt	RFD 30 Waverly, Kans 66871	I.V.A.
SWED SWENSON	Topeka ks	Private Citizen
Kevin Kelly	OP	Sen
Raymond H. Kersh	1338 Grand Emporia ks 66801	I.V.A.
Fred A. Masters	Emporia ks.	I.V.A.
Nana Quinner	3351 Arnold Topeka, ks 66614	I.V.A. Club of Retired Police
Peter H. Freeman	Independence, Mo	ks I.V.A.
Tim Benton	Garnett KS	Informed Voters Alliance

Testimony for the
Senate Ways & Means Committee
March 20, 1989
on S.B. 180

William M. Henry, Attorney at Law,
on behalf of the Pharmaceutical Manufacturers Association.

Chairman Bogina, members of the Ways & Means Committee I am Bill Henry and I appear before you today on behalf of my client, the Pharmaceutical Manufacturers Association, in support of S.B. 180.

The Pharmaceutical Manufacturers Association is an association of approximately 100 research-oriented manufacturing drug companies. These companies through research develop prescription-only drugs which are protected by patent for the American public. A few of these companies also produce generic or multi-source prescription drugs but discovery and development of new technology and making it widely available to advance the state of medical treatment is the number one mission of the companies which make up my client's association.

In 1970 these companies spent more than \$600 million in research. That figure grew to \$1.1 billion in 1975 and \$2 billion in 1985 and \$4.6 billion in 1986. In 1988 that figure grew to \$6.5 billion.

The interest of my client today in S.B. 180 is based upon its member companies' knowledge of cost effectiveness in the single-source pharmaceutical area as well as the general marketing of pharmaceuticals including multi-source or generic drugs.

First I would like to cover briefly for the committee what S.B. 180 provides for the Kansas Medicaid client of the Department of Social & Rehabilitation Services and for the physicians practicing in the state of Kansas.

The bill disallows the current procedure which the Department of Social & Rehabilitation Services uses to discriminate against certain FDA approved pharmaceuticals by not allowing reimbursement for drugs Kansas physicians choose to prescribe for Medicaid recipients.

If enacted this bill would allow practitioners (lines 32-34) to "prescribe prescription-only drugs... that in the professional judgment of the practitioner and within the lawful scope of the practitioner's practice the practitioner considers appropriate for the diagnosis and treatment of a patient."

Secondly (at lines 36-40) the Department of Social & Rehabilitation Services would not be able to maintain a restrictive drug formulary that "restricts a physician's ability to treat a patient with a drug that has been approved and designated as safe and effective by the Federal Food & Drug Administration, except for drugs for cosmetic purposes."

Third, the department would still be allowed to use price controls authorized by the federal government on multi-source prescription-only drugs in generic form. (lines 40-44)

Why is there a need for S.B. 180 and a need for a policy change in the pricing area of pharmaceuticals under the Kansas Medicaid program?

Perhaps the House subcommittee on Appropriations decided the best test for why there is a need for change in the way the Department of Social & Rehabilitation Services is conducting its pharmaceutical medicaid funding program.

In its subcommittee report in 1988 the subcommittee found:

"Whatever method that is used to contain costs, the subcommittee believes that it is imperative that physicians be allowed to prescribe the exact drug the client needs."

Ladies and gentlemen of the committee I submit to you that while a physician wishes to prescribe the exact drug that a welfare client needs the Department of Social & Rehabilitation Services will not reimburse for that drug because of its closed drug formulary.

One of the reasons that this reimbursement no longer continues is because of a bid-rebate program attempted and conducted by the department since the spring of 1987.

This bid-rebate program had been tried by two other states, California and Michigan, in the early 1980's and was abandoned due to high administrative costs and insignificant or no reductions in drugs costs.

Indeed, the department's own drug utilization review committee, an advisory committee consisting of Kansas physicians and pharmacists, on September 9, 1987 found no cost savings in this bid-rebate program and recommended a statewide education program educating physicians, pharmacists and nursing homes on appropriate dosages in cooperation with pharmaceutical manufacturers' assistance.

PMA companies had agreed to provide that assistance and even fund seminars on the subject in the area of anti-ulcer drugs but the department said it was not interested in enlisting the cooperation of the drug companies and further announced it would not place two well known anti-ulcer drugs of two PMA companies back on the formulary.

The department had removed two of these drugs after the companies did not volunteer to enter into the bid-rebate program in 1987. The only drug that was left on in the anti-ulcer category at that time did not offer a bid either but the department chose to pick that drug simply because of its "apparent" lower cost. A year after making that decision my client learned, based upon the department's own figures, that not only had the department not made any savings on single-source pharmaceuticals but the costs actually went up in the area where the two companies' drugs had been on the formulary.

What occurred with the bid-rebate program in the single source area was a classic case of **cost shifting not cost savings**. There are other problems with this bid-rebate program as well.

First, any savings in this program have to be shared with the federal government based upon a 55-45 percentage basis. The federal government provides 55 percent of the funding for Kansas medicaid programs. The Department of Social & Rehabilitation Services has been requested on several occasions to reveal how much money that the department saved was returned to the federal government since the program started. The department has never answered that question.

A second query, perhaps more difficult to answer, is why should the Department of Social & Rehabilitation Services add to its administrative costs when the department already has federal pricing standards available to it that allow for reduced payments for multi-source generic drugs. The answer to this question I suggest would be embarrassing for the department because they have not completely utilized these federal pricing standards--until recently--even though the standards were mandated more than 2 years ago by the Health Care Finance Administration (HCFA).

HCFA has the authority by the way to come back to the department, audit the period of time these standards should have been in effect, and retain the loss in savings from current federal funds reimbursed to the Kansas medicaid program.

A third defect in the program readily apparent to those knowledgeable in industry is that the department has announced and repeated on several occasions that it wishes to expand this bid-rebate program to all drug categories under medicaid regardless of the bio-chemical differences in drugs, the difference in treatment regimen, or the side effects incurred.

If the committee recommends S.B. 180 favorable for passage the bid-rebate program of SRS would not be allowed to continue. More significantly, new drugs that come on the FDA approval list would find their way into the treatments of Kansas physicians more rapidly. For example, a new drug has been approved by the FDA which would allow gallstones to be eliminated in certain cases without surgery. Using Colorado medicaid figures for surgery for gallstone operations and anticipating 318 surgeries are done each year the total cost of

the surgery for a year amounts to \$1,098,540.00. If only 30 percent of the surgeries were treatable with medication then the total gallstone surgery costs could have been reduced by approximately \$330,000.00.

If 50 percent of such surgery costs were treatable with medication instead of surgery, the total surgical costs might be reduced by as much as \$549,477.00. To gain the most accurate savings the cost of medication should be subtracted from the surgery savings to obtain the net savings.

We have been unable to obtain the number of gall stone surgery figures from the Department of Social & Rehabilitation Services in Kansas but the Drug Utilization Review Committee recommended that this drug be placed on the formulary. The Department of Social & Rehabilitation Services denied that recommendation.

Such denials are not good examples of good fiscal management or fair treatment of Kansas medicaid recipients.

Respectfully submitted,

William M. Henry
Attorney at Law
on behalf of the
Pharmaceutical Manufacturers
Association

KANSAS MEDICAID

DRUG VENDOR PROGRAM

TERMINOLOGY

- FORMULARY: A list of drug products available for the treatment of illnesses, conditions or relief of pain and suffering. Generally consists of drugs available on prescription only basis.
- RESTRICTIVE FORMULARY: A formulary, limited in scope, with certain products or classes of products omitted or severely limited by administrative procedures such as prior approval.
- MEDICAID PROGRAM: State administered, state and federally funded medical care program for the categorically eligible which includes: AFDC, blind, disabled and elderly who fall under the state's definition.
- MEDICARE: Administered and 100% funded by the federal government. Eligibility restricted to persons 65 years and older and some disability groups (example--Hemophilias)
- JOINT FUNDING: Federal/state proportional funding for Medicaid. Federal/state ratio in Kansas is 55% federal and 45% state.
- GENERIC DRUG MULTI SOURCE: A drug product available from two or more manufacturers which is sold and distributed by generic name, after the brand name product patent expires.
- SINGLE SOURCE: A drug product covered by patent, distributed by a single manufacturer.
- MAC (MAXIMUM ALLOWABLE COST): A cap imposed on generic multi-source drugs by either the state or federal government.
- SMAC (STATE MAXIMUM ALLOWABLE COST): A maximum allowable cost imposed on generic drugs by the state government. Often used interchangeably with "MAC".
- UPPER LIMITS: Another definition of MAC as imposed by Health Care Finance Administration (HCFA).

Statement

Pharmaceutical
Manufacturers
Association

STATEMENT OF THE
PHARMACEUTICAL MANUFACTURERS ASSOCIATION
KANSAS SENATE BILL 180
WAYS AND MEANS COMMITTEE
MARCH 20, 1989

The Pharmaceutical Manufacturers Association (PMA) is a non-profit trade association representing more than 100 companies that research and develop nearly all new drugs used in this country. We appreciate the opportunity to offer our support for SB 180 before this Committee.

This bill would increase Medicaid patients' access to pharmaceuticals, allowing the physician to choose the most medically appropriate drug to treat each patient's individual condition.

While we fully understand the limited resources available to Kansas, we believe that appropriate pharmaceutical therapy plays a vital role in cost containment. Significant restrictions in prescription drug coverage not only deny patients the assurance of quality health care, but also increase the demand for more expensive treatment alternatives, resulting in larger overall state expenditures.

Pharmaceuticals are the most cost-effective component of the Medicaid program -- yet drugs account for only about 7% of total Medicaid expenditures. Continued access to pharmaceuticals promotes cost savings by reducing the need for more expensive services such as physician visits and hospitalization.

Numerous studies of state Medicaid drug programs have documented the negative consequences of restrictive formularies as a cost containment device. These analyses indicate that restrictive formularies are not effective in controlling costs, lead to higher expenditures in non-pharmacy program areas, and may deny patients the most appropriate and cost-effective medical treatment.

A newly published (Health Affairs, Winter 1988) study by Professor Henry Grabowski of Duke University's Program in Pharmaceuticals and Health Economics draws some noteworthy conclusions about how formularies affect the availability of drugs to patients. The results show that access to new drugs for Medicaid patients was curtailed significantly when formularies

ATTACHMENT 1A
SWAM 3-23-89

were instituted. Medicaid patients had a difficult time getting new drugs of medical importance, or they faced significant time delays in receiving the drugs their doctors determined they needed.

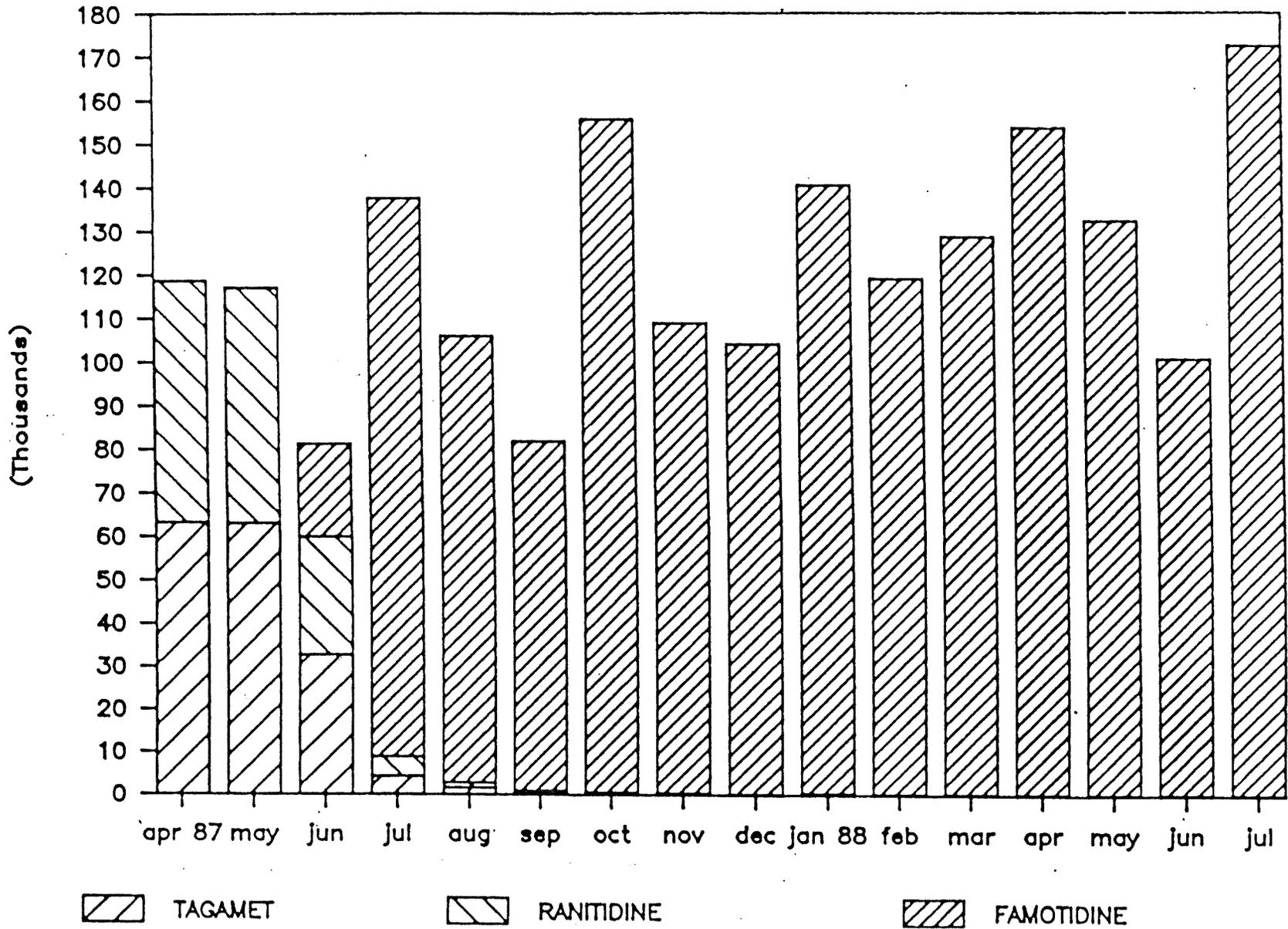
Finally, budgetary pressures on all state Medicaid programs are realities that must be dealt with. It is our belief that this bill takes an important step toward identifying and implementing the most efficient programs for the maximum good for the health of Kansas citizens.

Thank you for your attention.

This graph demonstrates that the decision to save money by restricting the H₂ antagonist category to one drug from this category failed. No longer able to choose among three H₂ antagonists, physicians simply shifted to the one available product. A savings was not realized and as a result of this decision one company benefitted while the other two companies suffered the consequences.

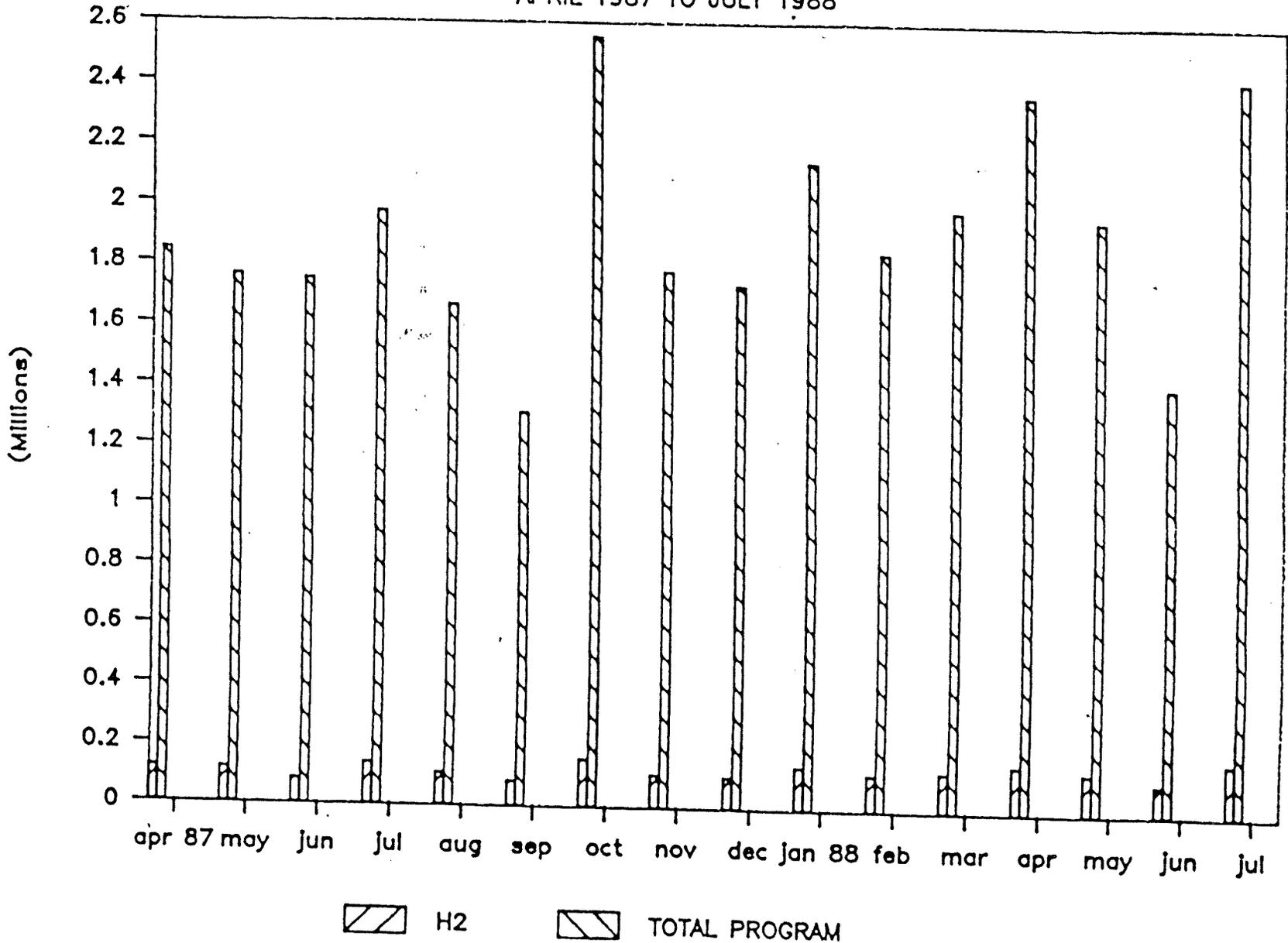
ATTACHMENT 2
SWAM 3-20-89

KANSAS MEDICAID H2 \$ SPEND



KANSAS MEDICAID TOTAL PROGRAM \$ SPEND

APRIL 1987 TO JULY 1988



DRUG

CEPHALEXIN 250 MG

STATE ESTIMATED YEARLY USE 2,700 bottles of 100

BID AWARD

Rugby

Bid Price = \$20.95/100

AWP = 47.38/100

BRAND AND PRICES COMMONLY PURCHASED

(arranged in descending order according to acquisition cost including bid brand)

<u>MANUFACTURER</u>	<u>AWP*</u>	<u>NET OR DIRECT</u>	
Biocraft	47.00	13.78 (fiche)^	
Squibb	62.50	17.90 (fiche)^	
Barr	33.08	18.90	
Bioline	34.11	19.99	
Lemmon	45.40	20.19	
<u>RUGBY</u>	<u>47.38</u>	<u>20.95</u>	bid award
Qualitest		22.74	
Goldline	43.50	28.99	
Schein	26.04		
Zenith	30.06		

CALCULATIONS

STATE PAYMENTS TO PHARMACIES 2,700 X 47.38 = \$127,926
CALCULATION USING BID PRICE 2,700 X 20.95 = 56,565
OVEREXPENDITURE (rebate) 71,361

Average price of drugs under bid = \$18.15
Difference between bid and average \$20.95- 18.15 = \$2.80

POTENTIAL LOSS BY OMISSION
OF LESS EXPENSIVE DRUGS 2,700 x \$2.80 = \$7,560

*AWP from 1988-89 Blue Book

^Fiche price is from Bergen Wholesalers 8/02/88.

DRUG Triamterene/Hydrochlorothiazide 75/50

STATE ESTIMATED YEARLY USE 2,200 bottles of 500

BID AWARD Rugby
Bid Price = 99.99/500
AWP = 138.50/500

BRAND AND PRICES COMMONLY PURCHASED

<u>MANUFACTURER</u>	<u>AWP*</u>	<u>NET OR DIRECT</u>
American Therapeutics	59.61	33.00
W/C	78.03	43.65
Bioline	64.00	39.99
Barr	155.98	67.88 (fiche)^
Bolar	126.36	66.50
Squibb	148.30	90.20
Goldline	142.45	94.95
Geneva	129.30	97.40
<u>Rugby</u>	<u>138.50</u>	<u>99.99</u> (bid award)

CALCULATIONS

STATE PAYMENTS TO PHARMACIES 2,200 X 138.50 = \$304,700
CALCULATION USING BID PRICE 2,200 X 99.99 = 219,978
OVER EXPENDITURE (rebate) \$84,722

Average price of drug under bid = \$66.70
Difference between bid and average \$99.99 - 66.70 = \$33.29

POTENTIAL LOSS BY OMISSION
OF LESS EXPENSIVE DRUGS 2,200 x 33.29 = \$73,238

*AWP from 1988-89 Blue Book

^Fiche price from Bergen Wholesalers 8/02/88

M. Myers

SUMMARY OF COST DATA
for four drugs

If SRS would have set a maximum allowable cost (MAC) on the multiple source drugs instead of limiting some to a single source in their bid-rebate scheme, over payments to pharmacies would not have been made. The funds would have stayed in the state treasury and drawn interest.

Cephalexin 250 mg	71,361
Cephalexin 500 mg	92,700
Triam/HCTZ 50/25	59,125
Triam/HCTZ 75/50	<u>84,772</u>
 Total overpayment	 307,958

Assume the interest rate is 10%, then the loss would be

$$\$307,958 - 2(\text{average}) \times .1$$

TOTAL LOST INTEREST = \$15,398

By setting a MAC on the four drugs, pharmacists would purchase and dispense other brands besides the SRS designated drug and show more potential savings. This method would allow the market place to function and could create savings as estimated below.

Cephalexin 250 mg	7,560
Cephalexin 500 mg	8,028
Triam/HCTZ 50/25	5,753
Triam/HCTZ 75/50	<u>73,238</u>

LOSS DUE TO LIMITATION \$94,579

TOTAL LOSS ON FOUR DRUGS
DUE TO LIMITATIONS \$109,977

March 20, 1989

Comments on Fiscal Note of SB 180

Bill Dean

The Department of Social and Rehabilitation Services estimates that the fiscal impact of SB 180 for FY 1990 would be \$20,346,446. Of this amount, \$9,969,679 would be expenditures from the State General Fund. Expenditures resulting from the passage of this bill would be in addition to amounts contained in the FY 1990 Governor's Report on the Budget.

In October 1988, I contacted Commissioner of Administration of SRS, Mr. Sandy Duncan, requesting the Department's estimate of what a Non-restrictive (Open) Drug Formulary would cost vs the Drug Formulary currently in place. After a week's time interval, he came back with a \$6,000,000. figure as the increase needed to provide an open drug formulary.

The attached page compares our Kansas Restrictive Drug Formulary with three nearby states who have a non-restrictive drug formulary which has been in place many years. If Kansas SRS ran the Drug Program as efficiently as these states, it would cost the following:

Nebraska's Open Formulary costs \$232. a year per recipient vs Kansas \$218. a year. Difference of \$14. per person. Kansas has 92,797 recipients X \$14. = \$1,299,158. additional costs for Kansas Medicaid a year, than at present.

Iowa's Open Formulary cost \$194. a year per recipient vs. Kansas \$218. a year. A difference of \$24. per recipient. Kansas had 92,797 recipients X \$24 = \$2,227,128. savings a year should Kansas Medicaid adopt the procedures followed in Iowa.

Texas's Open Formulary costs \$161. a year per recipient vs. Kansas \$218. a year. A difference of \$57. per recipient. Kansas has 92,797 recipients X \$57. = \$5,289,429. savings a year should Kansas adopt their procedures.

How SRS can predict a cost of \$20,246,446. additional costs in FY 1990 is hard to believe in light of what near by states with Open Drug Formularies are doing.

What are they doing that Kansas isn't doing? It is my observation in working with the Medicaid Departments in these states, that their Medicial Services programs are run in a more professional, business-like manner. For example they have various forms of surveillance and review (Drug Utilization Review Programs) which are very effective, and they don't hesitate to punish offenders and abusers of the Medicaid Program.

For example, Nebraska DSS related they save over a million dollars for each \$100,000. in costs of their Drug Utilization Review Program.

Iowa's DUR related in their report to the DSS, that with expenditures of \$200,000. last year, they saved the state over \$3,000,000.

Texas has Regional Medicaid Surveillance Review Managers, in the field to follow up any questionable claims, processes and/or procedures.

WAD/ld
3/20/89
code: Ks. SB 180

ATTACHMENT 3
JWAM 3-20-89

March 20, 1989

Comparison - Kansas Restrictive Medicaid Drug Formulary Costs
vs. States with Non-restrictive Drug Formularies Costs

Medicaid Prescription Drug Expenditures for 1987

	<u>Type Formulary</u>	<u>Est. Total Recipients</u>	<u>Pharmacy Exp. FY 87</u>	<u>Expend. per Eligible</u>
Kansas	<u>Restrictive Drug List</u> Rx fee: \$2.46 to \$4.67 Co-pay: \$1.00 No limit of Rx's/month	92,797	\$20,223,958	\$218.
=====				
Nebraska	<u>Non-restrictive Formulary</u> No drug list, Rx fee, \$4.30 - \$5.12 No Co-pay No limit of Rx's/month Over-the-counter drugs reimbursed	78,758	\$18,284,744	\$232.
=====				
Iowa	<u>Non-restrictive Formulary</u> No drug list, Rx fee, \$3.78 \$1.00 co-pay No limit of Rx's/month Some Over-the-Counter drugs reimbursed	174,376	\$33,777,984	\$194.
=====				
Texas (59.04)	<u>Non-restrictive Formulary</u> No drug list No co-pay Rx fee, \$3.26 3 Rx's/month per recip. limit Some Over-the-counter drugs reimbursed	765,858	\$123,297.059	\$161.

code: Ks.SB 180

WAD/ld

3/20/89

Committee on Ways and Means
Senate Chambers
Third Floor, Statehouse

Dear Senator Bogina:

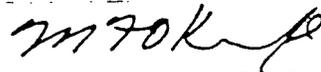
SUBJECT: Fiscal Note for SB 180 by Committee on Ways and Means

In accordance with KSA 75-3715a, the following fiscal note concerning SB 180 is respectfully submitted to your committee.

SB 180 would amend existing state law to prohibit the Department of Social and Rehabilitation Services from maintaining a restrictive drug formulary that restricts a physician's ability to treat a patient with a drug that has been approved and designated as safe and effective by the federal Food and Drug Administration. Current state law, and rules and regulations adopted by the Department of Social and Rehabilitation Services, allow the Department to restrict the use of prescription drugs to types that are approved by the Department. The bill will become effective on July 1, 1989.

The Department of Social and Rehabilitation Services estimates that the fiscal impact of SB 180 for FY 1990 would be \$20,346,446. Of this amount, \$9,969,679 would be expenditures from the State General Fund. Any expenditures resulting from the passage of this bill would be in addition to amounts contained in the FY 1990 Governor's Report on the Budget.

The fiscal impact estimated by the Department of Social and Rehabilitation Services includes \$19,854,446 as the direct increase in the cost of prescription drugs financed by the State Medical Assistance Program. The lifting of restrictions on the type of prescription that can be prescribed by a pharmacist will result in increased cost per prescription. The Department estimates that the lifting of restrictions on the cost and type of prescription will increase expenditures by \$18,014,446. In addition, the removal of restrictions on prescriptions will increase the number of prescriptions in an amount equal to \$1,840,000. The Department estimates that additional administrative costs of \$492,000 will be required. Of this amount, \$32,000 would be for one additional position to monitor the provisions of this bill. The remaining administrative costs would be for a drug utilization contract, \$50,000, and \$410,000 for changes to the Medicaid expenditure system.



Michael F. O'Keefe
Director of the Budget

MFO:REK:meh

6376

cc: Ben Coates, Social and Rehabilitation Services

Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

1260 S.W. Topeka
Topeka, Kansas 66612
(913) 234-5563

March 20, 1989

To:  Chairman and Members, Senate Committee on Ways & Means
From: Harold E. Riehm, Executive Director, KAOM
Subject: Support of S.B. 180

I appear today in support of S.B. 180. Printed below is a Resolution of The Kansas Association of Osteopathic Medicine, adopted at a meeting of it's House of Delegates, in April, 1988. It states our position on the restrictive drug formulary now in place in SRS for Medicaid prescriptions, and proposed to be expanded.

Be it resolved that physician members of the Kansas Association of Osteopathic Medicine are unalterably opposed to rules and regulations of state agencies that limit the therapeutic options available to physicians in treating patients under the Medicaid and MediKan programs of the State of Kansas. Further, KAOM member physicians are specifically opposed to the policies of SRS to restrict prescription drug formularies by requiring a bidding process among pharmaceutical manufacturers.

KAOM physician members do not concur with the statement of SRS that there are no therapeutic differences among prescription drugs within given classes. Experience and evidence suggest the contrary. Furthermore, such therapeutic prescription drug restrictions have not been shown to affect substantial savings or any savings at all.

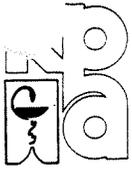
The primary concern in already restricted programs should be the well being of the Medicaid and MediKan patients. Such restriction policies negatively affect physician prerogatives in seeking this end.

There are, we think, two key issues: (1) Will the program save money for the State, and, if so, how much? and, (2) Is there a further declination of quality health care for persons on Medicaid as a result of such formulary restriction?

The evidence we have seen suggests that the dollar savings frequently suggested by SRS is exaggerated.

More important, we think this is one more instance of lessening the choice of physicians in treating Medicaid patients. Numerous physicians who have expressed support of this Bill have commented on the fact that all drugs within a category (subject to restriction) do not act the same on all patients. What works well for one patient may not be the drug of choice for another, even though their illnesses appear similar. Frequently trial and error is necessary to determine what works best. While the physician may not be restricted in prescribing, the fact that only one drug is subject to reimbursement for its purchase, for all practical purposes limits the prescribing prerogative of the physician to that drug. We oppose such restriction.

ATTACHMENT 4
SWAM 3-20-89



THE KANSAS PHARMACISTS ASSOCIATION

1308 WEST 10TH

PHONE (913) 232-0439

TOPEKA, KANSAS 66604

ROBERT R. (BOB) WILLIAMS, M.S., C.A.E.
EXECUTIVE DIRECTOR

TESTIMONY

SENATE BILL 180

Committee on Ways and Means

Monday, March 20, 1989

Mr. Chairman, Committee Members, thank you for this opportunity to address the committee concerning SB 180. I am Bob Williams, Executive Director of the Kansas Pharmacists Association.

The Kansas Pharmacists Association has a long standing policy in support of non-restrictive drug formularies for both public and private drug benefit programs.

Open formularies are good for the prescriber because they have the freedom to prescribe the most effective therapeutic agent for the patient. With a restrictive formulary the patient receives the "covered" drug which may or may not be the best drug for the patient.

Open formularies are good for the pharmacists because he/she does not have to make therapeutic judgments if a prescribed drug in a given therapeutic class is not on the formulary. It also eliminates the possibility of the pharmacist being placed in the awkward position of having to substitute a generic because the brand name drug, which was prescribed, is not a covered drug on the formulary.

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Prescription drugs are the least expensive health care treatment available. For the most part every time a patient is denied access to a given drug a cost shift will occur whereby costs will increase in other areas. For example, antianxiety drugs are not covered for out-patients but are covered for patients residing in our State Hospitals. Once a patient's behavior has stabilized they are released. However, because the antianxiety drugs are not covered for out-patients and if the patient cannot afford to purchase the medication, their behavior deteriorates and they end up back in the hospital. The cost is shifted from money saved in the drug program to money spent for an additional stay at the hospital.

Another example is the drug "Actigall," a gallstone dissolving medication, which is a non-covered drug. This results in Medicaid recipients having to utilize a more costly procedure such as surgery or lithotripsy.

Perhaps the best argument for a non-restrictive formulary is that it allows for the optimum treatment of the patient.

We encourage your support of SB 180.

Thank you.

BOB COCHRANE, EXECUTIVE DIRECTOR, AMERICAN DIABETES ASSOCIATION-KANSAS
AFFILIATE, INC.

TESTIMONY BEFORE THE SENATE WAYS AND MEANS COMMITTEE

MARCH 20, 1989

Mr. Chairman, Members of the Committee, my name is Bob Cochrane. I am the Executive Director of the Kansas Affiliate of the American Diabetes Association. As an organization, we support the proposal before you today, and I would like to share our reasoning with you.

At the last meeting of our Board of Directors, the board voted to support Senate Bill 180. Presently, the restrictive formulary does not affect the treatment of diabetes. None of the prescription medications used to treat diabetes are restricted. However, we are concerned that they will be added if this bill is not passed.

It is our position that an individual's health care team is in the best position to know exactly what treatment is required for that individual. A physician should not feel pressure to prescribe the second or third best drug for a case simply because that drug has been selected by the state for special preference. Without this bill, such pressure could easily be applied.

We are also concerned about the effect on new drugs. Medical research into diabetes is producing advances in treatment. However, these advances do no good if they are not available to patients. Restrictions which make some drugs available to some patients but not to others will keep many from receiving the treatment they need.

Mr. Chairman, restricting the availability of single source drugs is bad medicine. The volunteer leadership of the American Diabetes Association trusts the committee will see this and recommend passage of Senate Bill 180.

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TESTIMONY IN SUPPORT OF SB 180
Presented by Nadine Burch, Senior Advocate
Kansas Coalition on Aging
To the Senate Ways and Means Committee
March 20, 1989

My name is Nadine Burch. I am the Senior Advocate for the Kansas Coalition on Aging. I appear before you today to support SB 180.

I support SB 180 because it addresses the issue of access to appropriate medical treatment for persons who are enrolled in the Medicaid program. SB 180 would prohibit the Department of Social and Rehabilitation Services from restricting the types of drug therapies that are available to people who depend on Medicaid to pay for their medications.

Appropriate use of medications is a matter of great importance for older Kansans. KCOA has conducted a series of workshops entitled "You and Your Medications" in which we present information about the appropriate use of prescription and non-prescription drugs. We have found that there are a large number of people who want information about the medications they are taking. Unfortunately, there are too many older persons who are taking several different prescriptions without knowing the effect of the interactions of those drugs.

An older person goes to their family physician. The family physician refers him to a specialist. Each doctor prescribes medications. The older person does not remember to tell the physicians about other medications he is taking. Two weeks ago this happened to me. For my arthritis, my family physician had prescribed Darvon. A specialist, who I saw to treat an acute episode, had prescribed a muscle relaxant. The interaction between the two drugs blew me away. If this can happen to someone who has been working on providing education about appropriate use of medications, it is likely to happen to other older people.

Another area of concern is the way prescription drugs are used in nursing homes. A federal study recently found that there is serious misuse or overuse of drugs in nursing homes. The study found that 40% of nursing home residents were being given drugs developed to treat acute mental illness, but that most of the patients receiving the drugs are not mentally ill.

The Medicaid program plays an integral role in assuring access to health care for Kansans with limited incomes. While we support the Department's goal of attempting to contain the cost of prescription drugs, we oppose the attempt to achieve this goal by restricting the types of drug therapies which are available to

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Medicaid patients. Instead, we believe that it may be more appropriate to conduct a review of the utilization of medications provided to patients through the Medicaid program. If, there is overuse of medications in nursing homes or by other Medicaid recipients, a drug utilization review could improve the health of those covered by Medicaid and reduce the cost of the program.

In closing, I want to reaffirm my support for SB 180 and urge the committee to consider the advisability of continuing the practice of restricting drug therapies available to Medicaid patients.

Department of Social and Rehabilitation Services
Winston Barton, Secretary

Statement Regarding Senate Bill 180

Title: An act concerning reimbursement by the department of social and rehabilitation services for certain drugs; prohibiting the use of certain restrictive drug formularies.

Purpose: (1) To prohibit the practice of limiting the drugs for which the Kansas Medicaid/MediKan program will pay; and (2) to require that the prescriber be allowed to override, at his/her discretion, program limitations such as the State Maximum Allowable Cost (SMAC) ceilings.

Background: Most, if not all, state Medicaid programs have restrictions of some form on the medications for which reimbursements are made for Medicaid recipients. Other third party prescription drug programs and Health Maintenance Organizations (HMOs) frequently make similar restrictions. Many of these restrictions help to promote rational therapeutic drug use in the same manner as does the restricted formulary in acute care hospitals and long term care facilities. The primary reason for restrictions, however, is the overriding need to keep expenditures within the limits of a budget.

One restriction, used by almost all health care facilities and agencies to contain pharmaceutical costs, is to require that lower cost equivalent drugs be used when they become available after the patent protection period has expired. While the original brand name products continue to be promoted after their patent expires, other manufacturers can obtain Food and Drug Administration (FDA) approval to market identical (or generically equivalent) products that will compete by offering lower prices. The pharmaceutical manufacturers, thru their brand name divisions and thru their trade associations, are promoting open formulary legislation since they will be the primary beneficiary of the extra dollars that must be expended by the Medicaid Programs.

Restrictions take various other forms, such as (1) a recipient dollar limit, (2) a recipient prescription order limit, (3) prior authorization limits by criteria, (4) product cost limits by source of supply, (5) recipient eligibility limits for certain drugs, or (6) simply limits on what drugs are covered. Kansas uses the last four of these types of limitations. We publish a drug list to define exactly what drugs are covered, and which restrictions apply.

As examples of Kansas Limitations, the general purpose vitamins, or cough and cold preparations are not covered, whether these medications legally require a prescription or not. The antihistamines are covered only for children who are Kan Be Healthy participants. Antianxiety drugs are covered only in certain diagnoses with prior authorization. Such limitations would not be allowed if Senate Bill 180 were implemented.

Many generically available drugs have a State Maximum Allowable Cost (SMAC) or a Federal Upper Limit (FUL) cost. Senate Bill 180 allows the prescribing practitioners to waive or override this ceiling. In other words, the prescriber could require the state to pay more money for the drug than has been set as the

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Statement Regarding Senate Bill 180

Page 2

ceiling price when a lower cost drug approved by the FDA, and rated as equivalent equivalent, is available. The drug manufacturers would control the Kansas purse strings and not the Governor and legislators of the state.

The sole exception to a totally open prescription-only drug formulary that is allowed in Senate Bill 180 is stated as "except for drugs for cosmetic purposes." In some instances this could be a judgement call subject to different interpretations.

Senate Bill 180 refers to prescription only drugs. This apparently refers to the federal legend drug terminology that prohibits administration or dispensing of drugs without an authorized prescription order. The bill does not mention non-federal legend drugs, which are generally known as over-the-counter drugs, or OTCs. This bill would apparently not require coverage of all OTCs as it does for prescription only drugs. Apparently the manufacturers promoting this legislation would prefer to expand usage of prescription pharmaceuticals, rather than OTC drugs, due to the greater profit potential.

Effect of Passage: (1) The concept of an unrestricted formulary is a good example of the freedom of choice we all like to enjoy. That freedom is expensive! A non-restricted formulary generates higher drug expenditures due to the additional utilization. (2) The Bill allows the prescriber to utilize any available FDA approved prescription only drug in any manner he or she sees fit. (3) This bill also requires the State, at the prescriber's option, to pay for the most expensive of the drugs rated by the F.D.A. as therapeutic equals. (4) It requires, in fact, that the state pay for drugs for Medicaid recipients that many self paying patients cannot afford to buy for themselves. (5) This legislation would increase Kansas Medicaid/MediKan reimbursement for drugs to at least \$9,625,381 or 32.9% annually.

Recommendation: If proof were available that "cost shifting" to an open formulary (involving more drug payments and less hospitalization reimbursements) would keep overall cost level down, Kansas Medicaid/MediKan would have an open formulary today. This cannot be done. If Kansas money reserves allow for the reimbursements of an open formulary, this bill should be recommended. If, however, such proof or funding is not available, this bill would allow sharply escalating costs and be a financial boon to the brand name pharmaceutical industry while reducing all other Medicaid/MediKan services including hospitals and nursing homes. SRS opposes Senate Bill 180.

Winston Barton
Secretary
March 17, 1989

Fiscal Effect -

	Medical Assistance (3100)		Medical Administration (7010)	
	All Funds	SGF	All Funds	SGF
FY 1990	\$19,854,446	\$9,728,679	\$82,000	\$41,000
FY 1991	8,646,170	4,236,623	82,000	41,000
FY 1992	9,625,381	4,716,437	82,000	41,000

	Medicaid Managment Information System (7098)		Total	
	All Funds	SGF	All Funds	SGF
FY 1990	\$410,000	\$200,000	\$20,346,446	\$9,969,679
FY 1991	110,000	55,000	8,838,170	4,332,623
FY 1992	110,000	55,000	9,817,381	4,812,437

Calculations -

FY 1990 -

(3100) 548,893 projected recipients x \$86.13 cost per recipient = \$47,276,154
 Less FY 1990 projected pharmacy expenditures without open formulary = 29,261,708
 Projected FY 1990 increase due to open formulary \$18,014,446
 Plus 460,000 prescriptions x \$4.00 per prescription + 1,840,000
 Total Increase = \$19,854,446

(7010) \$32,000 for Staffing + \$50,000 for drug utilization contract = \$ 82,000

(7098) \$110,000 for SURS Staff + \$300,000 for system changes = \$ 410,000

FY 1991 -

(3100) 570,849 projected recipients x \$94.74 cost per recipient = \$54,082,324
 Less FY 1990 projected open formulary cost = 47,276,154
 Projected FY 1991 increase due to open formulary \$ 6,806,170
 Plus 460,000 prescriptions x \$4.00 per prescription + 1,840,000
 Total Increase = \$ 8,646,170

(7010) and (7098) Same as FY 1990.

FY 1992 -

(3100) 593,683 projected recipients x \$104.21 cost per recipient = \$61,867,705
 Less FY 1991 projected open formulary cost = 54,082,324
 Projected FY 1992 increase due to open formulary \$ 7,785,381
 Plus 460,000 prescriptions x \$4.00 per prescription + 1,840,000
 Total Increase = \$ 9,625,381

(7010) and (7098) Same as FY 1990.



KANSAS MEDICAL SOCIETY

1300 Topeka Avenue • Topeka, Kansas 66612 • (913) 235-2383
Kansas WATS 800-332-0156 FAX 913-235-5114

March 20, 1989

TO: Senate Ways and Means Committee

FROM: Kansas Medical Society *Chip W. Swam*

SUBJECT: Senate Bill 180, As Introduced

The Kansas Medical Society appreciates this opportunity to offer brief comments pertaining to SB 180. The purpose of this bill is, of course, to allow physicians to exercise medical judgment in those instances when it is perceived to be necessary that a departure be made from the approved formulary. The Kansas Medical Society has maintained a long-standing position that while cost consciousness is an important aspect of providing medical care to our patients, there are times when appropriate medical treatment requires that we afford somewhat greater expense in order not to jeopardize the quality of health care.

If the Committee takes action on SB 180, we would respectfully request that the word "practitioner" be replaced by the word "physician" at lines 32, 34, 35 and 44 of the bill. Thank you for considering our concerns.

CW:nb

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SWAM 3-20-89

CHAIRMAN BOGINA - MEMBERS OF THE COMMITTEE, I AM D. F. BENCKEN. SOME OF US THAT WILL TESTIFY TODAY - AND PERHAPS SOME OF YOU ON THE COMMITTEE, EXCHANGED OUR "CIVVIES" AND YOUTHFUL YEARS FOR A UNIFORM AND A WEAPON. WE ALSO TOOK AN OATH; "SO HELP ME GOD, TO PROTECT THE UNITED STATES OF AMERICA FROM ALL ENEMIES" ... "FOREIGN AND DOMESTIC."

MANY OF OUR COMRADES PAID THE SUPREME SACRIFICE IN CARRYING OUT THAT OATH. OTHERS CANNOT BE WITH US TODAY BECAUSE OF CRIPPLING WOUNDS OR HELD HOSTAGES ON FOREIGN SOIL, BUT LIKE THE VETERANS HERE, THEY RECOGNIZED THAT "WAR IS HELL" AND THAT FREEDOM IS NOT FREE. BUT WE ALSO RECOGNIZE THE ALTERNATIVE TO DEFENDING OUR CONSTITUTIONAL REPUBLIC IS TO CAPITULATE; TO DISHONOR OUR FOREFATHERS AND FELLOW COUNTRYMEN BY LETTING THEIR SACRIFICES HAVE BEEN IN VAIN; AND TO COMMIT NOT ONLY OUR POSTERITY BUT PERHAPS ALL OF THE WORLD'S PEOPLE TO A TYRANNY MORE ENCOMPASSING AND LESS LIKELY TO BE DISSOLVED THAN ANY IN THE HISTORY OF MANKIND.

WE NOW KNOW THAT WHILE WE WERE SACRIFICING TO DEFEND AMERICA, OUR GOVERNMENT WAS BEING INFILTRATED AND DESTROYED FROM WITHIN BY ACTS OF BOTH OMISSION AND COMMISSION FROM THOSE ELECTED AND APPOINTED TO OFFICES OF PUBLIC TRUST. THIS MUST BE STOPPED! AND STOPPING IT MUST BEGIN WITH PREVENTING A CONSTITUTIONAL CONVENTION. I KNOW EACH OF YOU ON THIS COMMITTEE, UNDER ARTICLE VI OF OUR CONSTITUTION, ARE ALSO BOUND "BY OATH OR AFFIRMATION" TO SUPPORT THE CONSTITUTION. I HAVE NEVER RESCINDED MY OATH. I HOPE THAT YOU HAVEN'T! ON BEHALF OF EVERY MAN AND WOMAN THAT HAS SERVED IN OUR ARMED FORCES, I PLEAD WITH YOU TODAY TO DEMONSTRATE YOUR SINCERITY TO OUR COUNTRY BY CHAMPIONING THE CONSTITUTION WITH YOUR VOTE IN FAVOR OF SCR 1615.

I THANK YOU FOR YOUR TIME AND ATTENTION.

ATTACHMENT 10
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Testimony of Walter L. Myers on SCR 1615

Chairman Bogina - Ladies and Gentlemen of the Committee. I am Walter L. Myers of rural Baldwin. I hope you will agree that the information contained in previous correspondence on this issue and today's testimony support three major conclusions:

1. Congressional prerogative and PL 95-435 negate any need for a balanced budget amendment; only for a responsible Congress.

2. The target of those promoting the Constitutional Convention intend to use it as a vehicle to formally destroy what remains of our nation's founding documents which have already been largely dismantled by hypocritical and anti-American acts by people elected and appointed to high positions of public trust.

3. The foreign enemies of our REPUBLIC are less threatening to its future than those subverting it from within.

Congress has consistently demonstrated its inability and/or unwillingness to address the fundamental issues that underly the symptoms that we tend to perceive as "problems." If these issues are to be recognized and our Nation restored upon its only legitimate foundation and to its traditional Christian values; it will be by those of you in our STATE legislatures unemotionally and objectively analyzing the facts behind three questions and choosing the answer that will logically lead to actions to restore our Constitution and its Cornerstone - the Declaration of Independence.

Though I have underlined my position on these three questions, time constraints prohibit any attempt at a detailed presentation of my rationale.

Question #1 - Can you find anything in the Constitution that gave Congress the authority to take any rightful power from you and I and most importantly the power to indirectly coin our money and control our Nation's monetary policy, and give it to a privately owned banking institution? Yes No

Question #2 - Do you think that our founding fathers intended for the provision on Treaties found in Article VI of the Constitution to be used to ratify Charters, other Constitutions etc. in order to dismantle with a pen the Nation for which they fought the Revolutionary War and "with a firm reliance on the protection of Divine Providence," pledged to each other their Lives, Fortunes and sacred Honor to create? Yes No

Question #3 - As the Agent of the States, and under the Law of Agency, did and/or does the Federal Government have the legal authority to bind this State and our Sister States to the unauthorized, unwanted and self destructing acts covered by questions 1 and 2? Yes No

I suggest that if a majority of our State legislatures answer "yes" to any one of these three questions, then there is no need to try to prevent a Constitutional Convention as:

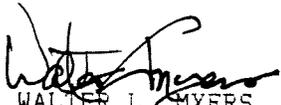
a. The Federal Reserve Act of 1913 provided the international owners of that system and the multi-national corporations that have grown up around it, to economically enslave us. Today, Americans owe more than the Nation's gross worth as represented by our farms, homes, businesses, etc. Collectively, WE ARE BROKE! If we consider the reason for it to be legal, then let us work with those who own, and should therefore control, everything in hopes of finding comfortable shackles.

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b. If a majority of our State Legislatures conclude that the Treaty Power found in the Constitution was indeed intended to permit other Constitutions, Treaties and Charters designed to destroy the Sovereignty and independence of America and the unalienable God given Rights and Liberty of Americans to be legally ratified, then we should again shift our concern to outfitting ourselves with comfortable shackles.

c. If, however, a majority of our State Legislatures agree that these acts in which our visible "problems" are rooted were not authorized by the States and that it is they, as principles to the Constitutional Compact, who must take the initiative to restore the spirit and intent of that document, then they must begin by preventing its formal destruction.

I suggest that your answer to these questions will be the basis for your vote on SCR 1615. I pray that you can agree with my position on them and that you will act to support our Constitution by passing SCR 1615. I am enclosing a letter that I received from Senator Kassebaum expressing her opposition to a Constitutional Convention. I thank you for the privilege and opportunity to address this Committee. I would be happy to answer any questions.



WALTER L. MYERS
RR 2, Box 157C
Baldwin, KS 66006
(913) 594-3367

PETE V. DOMENICO NEW MEXICO TEXAS
 BY MEMORANDUM OF UNDERSTANDING
 SOUTH CAROLINA
 MISSISSIPPI
 MISSOURI
 MONTANA
 NEBRASKA
 NEVADA
 NEW HAMPSHIRE
 NEW JERSEY
 NEW YORK
 NORTH CAROLINA
 NORTH DAKOTA
 OHIO
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 TENNESSEE
 TEXAS
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 WASHINGTON
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 WISCONSIN
 WYOMING

United States Senate

COMMITTEE ON THE BUDGET
 WASHINGTON, DC 20510-6100

November 14, 1986

Dear Mr. Myers:

Thank you for your letter regarding my position on a Constitutional Convention and my service on the Committee on the Constitutional System. I apologize for the delay in responding but the busy Senate schedule at the end of the session caused me to fall behind in my correspondence. I understand, however, that you had extensive telephone discussions in September with both Mike Harper, my administrative assistant in Kansas, and Dave Bartel, my administrative assistant in Washington.

While I am sure that Mike and Dave attempted to answer your questions, I wanted to respond in writing so that there would be no misunderstanding about my views on the questions you raised.

As you noted, I am a co-chairman of the Committee on the Constitutional System, which is the correct name, along with Douglas Dillon and Lloyd Cutler. The committee was formed to study our constitutional system of government, to analyze its strong and weak points and to debate possible changes.

From all of the discussions I have been involved in during the committee's meetings, I can tell you that the strong points of our present system far outweigh the weak ones and that it would be extremely difficult to improve on our Constitution as it now stands. In fact, I do not support any of the various constitutional amendments that have been proposed by any party over the past two years. The only change that I might support in our Constitution would be an amendment to try to limit the amount of time and money spent in political campaigns.

You asked specifically whether the committee supported calling a Constitutional Convention. While our Founding Fathers included this as an option for constitutional change, neither I nor the committee support such a convention. In fact, the committee is on record in "strong support" of the traditional means of amending the Constitution, which requires that an amendment be approved by two-thirds majorities in both the House and the Senate and ratification by three-fourths of the state legislatures. While this is an extremely difficult route to follow, I believe that any amendment to the Constitution should be fully debated and carefully considered by both Congress and the states before it can be enacted.

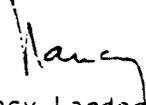
Mr. Walter L. Myers
November 14, 1986
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You also asked whether the "reforms" proposed by the committee would negate our republican form of government and move us closer to the parliamentary system. Only one of the proposals discussed by the committee appears to move in this direction and that is one that would permit members of Congress to serve in the President's cabinet. While I understand the arguments in favor of this proposal, such as improving relations between the executive and legislative branches, I personally do not support it. In my view, this idea not only probably would not work it might well create even greater problems by weakening the separation of powers, which is a fundamental part of our present system, and by opening up new ways to cause political mischief. I also find it hard to believe that any one person could adequately manage an executive agency and serve in the Congress at the same time.

Finally, you asked several questions about the Council on Foreign Relations and the Trilateral Commission. I am not a member of either group, and I can say unequivocally that I do not support "a new international order" or a "one world government."

I hope that all of this is helpful to you. Since next year is the 200th anniversary of the signing of our Constitution, I expect that there will be a great deal of discussion and debate about our form of government. I look forward to this time because I believe that the more each of us understands our constitutional system, the stronger our nation will be.

Warmest regards,


Nancy Landon Kassebaum
United States Senator

NLK:dw

I tried to reach you by phone several times when I was in Dope - I do not support a Constitutional Convention - in fact, spoke against the calling of one in Michigan - The Constitution is a magnificent document - part of my interest is just seeing that people are better informed during this Bicentennial celebration -

An Open Letter to our Honored Kansas Legislators
The Statehouse
Topeka, Kansas 66612

FEB. 07 1989

Dear Legislator:

You have an opportunity to help protect our constitution from those who would use the proposed Constitutional Convention regarding a balanced budget amendment as a tool to transform our REPUBLIC into a Parliamentary system of Government; A system which our forefathers rejected. We consider a Constitutional Convention ~~as unnecessary for many reasons:~~

1. In 1978, public law P.L. 95-435 (enclosure) was passed that has required a balanced budget since FY 81. This, and other facts to follow, clearly show that it is the Constitution, and not the budget, that is the target of those promoting the Constitutional Convention.

2. Our Constitution already has twenty-six amendments. All were obtained by Congress submitting the proposed amendments to the States for ratification. This method is efficient and harbors no risk to our entire Constitution.

A Constitutional Convention is extremely risky! We live in perilous times! Our citizens and elected representatives (particularly those in county and state government) must be vigilant and protect our nation from all enemies; both foreign and domestic. The intentions of the Committee on the Constitutional System (CCS) and a few extremely well financed and highly influential people to use the proposed Convention to change the structure of our Government is clear. In the CCS's book "REFORMING AMERICAN GOVERNMENT", they say that "Consideration of structural changes should be part of the bicentennial of the Constitution", (emphasis added). They also state that their desires "can only be remedied by a truly significant shift - a change to some form of parliamentary government that would eliminate or sharply reduce the present division of authority between the executive and legislative arms of government".

Mr. Richard Thornburg, now the U.S. Attorney General, Co-chairman of Citizens for a Balanced Budget Amendment and a Director of the CCS has said, "The executive and legislative branches at the federal level are, in truth, caught up in a system badly in need of STRUCTURAL ADJUSTMENT. THE BALANCED BUDGET AMENDMENT IS THE KEY ELEMENT IN SUCH AN ADJUSTMENT (emphasis added). In his book "The Power To Lead", James MacGrégor Burns, another CCS director wrote: "Let us face reality. The framers (of the Constitution) have simply been too shrewd for us. They (the Founding Fathers) have outwitted us. They designed separate institutions that cannot be unified by mechanical linkages, frail bridges, tinkering. If we are to TURN THE FOUNDERS UPSIDE DOWN - to put together what they put asunder (the Separation of Powers) - we must directly confront the constitutional structure they erected".

It is precisely the "division of authority" or "separate institutions" which were so skillfully designed into our Constitution that protects us from tyranny! This "division" is the key to our liberty and of America being the envy of the World. Our history is clear! So long as America adhered to her foundation; i.e., the Declaration of Independence, Constitution, christian ethics and the intent of her governing documents as provided in The Federalist Papers, America flourished.

Our problem began when we abandoned our founding principles and the spirit and intent of the documents that constitute our only legal government. Our problems will continue to grow until enough Americans - and particularly a majority of those in public office - accept that the systematic distortion of these

documents, the unlawful seizure of power by various elements of government and the abandonment of our founding principles was a mistake.

To solve our problems, we must: a) recognize our past mistakes, b) reverse our course to anarchy, c) live our national motto of "In God We Trust", and d) return to the principles and values upon which America was founded. The road back is our Constitution. Without it, we are lost! So please don't entrust our posterities future to those who admit they want to destroy our REPUBLIC! Help save our precious Constitution! Please expunge the Kansas resolution (SCR 1661) urging Congress to call the Constitutional Convention.

For those who believe that a Constitutional Convention can be held to a single issue and therefore presents no risk, we ask that you consider the following:

1. Article V of the Constitution, in addressing this issue states that "The Congress...on the Application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing Amendments..." Amendments is plural. Any number of them, or a single "amendment" to replace everything after "We the People" is possible.

2. President Reagan stated: "Well, Constitutional Conventions are prescribed as a last resort because once it's open, they could take up any number of things."

3. Melvin Laird, former Secretary of Defense said that "The concept that a Constitutional Convention would be harmless is not Conservative, Moderate or Liberal philosophy. That concept is profoundly RADICAL, born either of naiivete or the opportunistic thought that the end justifies the means."

Please give this issue your careful and prayerful consideration. It could be that our future as a "free and independent state" and a free people rest upon your decision.

Sincerely,



Darrell Bencken
State Adjutant
Veterans of Foreign Wars
Box 1008
Topeka, Kansas 66601
913-272-6463



Walter Myers
Chairman: Kansas Chapter
Informed Voters Alliance
Baldwin, Kansas 66006
913-594-3367

PUBLIC LAW 95-435—OCT. 10, 1978

92 STAT. 1053

Sec. 7. Beginning with fiscal year 1981, the total budget outlays of 31 USC 27. the Federal Government shall not exceed its receipts.

Approved October 10, 1978.

T E S T I M O N Y

Senate Concurrent Resolution 1615

Mr. Chairman and members of this committee, thank you for the opportunity to appear before you today. My name is Betty Jones and I represent the Eagle Forum, a grassroots organization dedicated to the preservation of our rights and freedom guaranteed each of us by that magnificent document, The United States Constitution, which is being assaulted as never before.

This is a battle of We, the people against those who ^{would} reduce our nation to that of the Soviet Union and the third world countries. Under the guise of balancing the budget the true motivation behind a constitutional convention is to rewrite the present constitution. The Fund for the Republic and the Center for the Study of Democratic Institutions launched a nationwide campaign on January 4, 1971, for a new U. S. Constitution. They had already written one which they called a "model" constitution. This constitution identified as Tugwell's model constitution has a 25 year limitation and is to make way for the same group's "Constitution for the World" which abolishes the United States and merges it into a world government.

Mr. Chairman and members of this committee, you are in this battle with us. You, too, are part of WE, THE PEOPLE. This is not republicans vs. democrats, liberals vs. conservatives, black vs. white, christians vs. aetheists. It is WE THE PEOPLE against those who would reduce us to serfdom. If this sounds extreme, study history. Why did America reach such greatness and become the most prosperous nation in the world? Because our wonderful constitution guaranteed us the freedom to pursue our dreams. Are we going to let them take it away from us?

We urge you to vote to rescind Kansas call for a constitutional convention.

We must be ever mindful that "Eternal Vigilance is the Price of Liberty."

Betty Jones 913.631-3952

ATTACHMENT 12
SWAM 3-20-89

FROM ----
JANE HAMMER
EMPORIA, KANSAS

I am speaking for our Revolutionary Ancestors, yours and mine, who helped create our great 200 hundred year old Constitution! One Nation Under God!

*But my
Ancestors
Straddled
at York Town
Valley Forge*
King George was the first who would have destroyed it if he could -- today we have a group of 33 persons - the elite power-hungry, moneyed, Some are members of CFR (Council of Foreign Relations), who call themselves a committee for a new Constitutional System! C.C.S! They are also called the Parliamentary Government Group! Under the pretext of calling for a Budget Amendment, they have a Parliamentary System Package of 12 changes, ready for a new Constitution! It would do away with the checks and balances of our House and Senate, and remove the Senate's power to ratify treaties, which would certainly be most dangerous for our Nation!

A Parliamentary Democracy is a form of dictatorship! Many of our so-called "Crisis" are pre-planned! Our Nation has really been weakened, "No Nation Is Stronger Than It's Spiritual Foundation". Our dangers today are not Nuclear Fall-out, but SELL-OUT! Is Kansas going to stand for our Constitution as Kansas always has (in the days of Slavery or Freedom) ? Or will we SELL OUT to Slavery of Europe?

Many States believe they can recall their vote if they have a runaway Convention -- NOT SO -- there are rules to prevent that . A recall must come 60 days before the Convention. I ask you to vote YES on bill #1615, to recall Kansas 1978 vote

Jane Hammer

ATTACHMENT 13
SWAM 3-20-89

Testimony to Kansas Senate Ways and Means Committee.

Senator Bogina, members of the Ways & Means Committee:

I am Tim Benton, I'm a rancher and purebred cattle breeder from Garnett. I'm testifying on behalf of approximately _____ Kansans who have signed petitions or who are members of the Informed Voters Alliance, and who are opposed to the calling of a Constitutional Convention for any purpose.

In 1978, the Kansas legislature was encouraged to pass a Resolution (SCR 1661) stating "A CONCURRENT RESOLUTION requesting and applying to the Congress of the United States to propose, or to call a convention for the purpose of proposing, an amendment to the Constitution of the United States which would require that, in the absence of a statutorily defined national emergency, total federal appropriations shall not exceed total estimated federal revenues in a fiscal year."

A study of the writings of those promoting the Convention, specifically: "A New Constitution Now" by Henry Hamlett; "The Power to Lead" by James McGregor Burns; "Presidential Power and Accountability" with a sub-title "Toward a New Constitution" by Charles M. Harding; "Reforming American Government" edited by Donald L. Robinson; "Constitutional Reform" by James L. Bundquist; the "Report and Recommendations of the Committee on the Constitutional System" published by the Committee and the "Proposed Constitution for the "NEWSTATES" of America" leave no doubt that the target of the Constitutional

Convention
/that they and their associates are promoting is not the budget but the Constitution itself.

While every perceptive American recognizes that our nation faces some major challenges and a turbulent future, far too few understand the genesis of these challenges. For the most part our people have been propagandized into believing that these challenges are the result of our Constitution being outmoded and ill conceived. This is of course a faulty supposition. If the Constitution were a set of laws to control the citizens, this argument might have some basis in truth. However, as I'm sure the members of this committee realize, the Constitution of the United States is a set of rules to govern the government and insure individual freedom from the oppression of unlimited and uncontrolled government power such as existed in England when American colonists decided to revolt.

The challenges and problems we face in this country are largely the result of Constitutional distortions and usurpations by those who would like to expand the size and the power of our federal government beyond the bounds of the Constitution. This has been accomplished for years by acts of omission and commission on the part of elected and appointed officials who are in some cases just ill-informed, but in far too many cases, anti-American and/or at least lacking the courage to stand against the forces that would increase the size and scope of government in this country.

James McGregor Burns, a director of the afore mentioned Committee on the Constitutional System, and author of the anti-constitution essay, "The Power to Lead", summarized the problem of overcoming our governments separation of powers this way:

"Let us face reality. The framers have simply been too shrewd for us. They have outwitted us. They designed separated institutions that cannot be unified by mechanical linkages, frail bridges, tinkering. If we are to turn the founders upside down ---- to put together what they put asunder ---- we must directly confront the constitutional structure they erected."

This Committee on the Constitutional System has been innocuously referred to in the major media and establishment press of this country as a "citizens group" as if it were some grass roots movement to reform our system. The list of committee members is virtually a who's who of elitist Washington establishmentarians and big government "think tank" members who seek to legalize the dismantling of our constitution in favor of a system that would vastly increase the scope and effect of governments control over we the
people.

One way or the other life will go on. The question to be considered is: "Will the challenges of our nation be confronted and corrected by those duly elected to represent us re-instituting and pursuing the spirit and intent of our Constitution as conceived by our founding fathers; ^{to protect us} or will our future be dictated to us by the elitist eastern establishment whose stated goal is to integrate the United States into a New World Order without the present illusion of a republican form of government guaranteed to us by our Constitution."

We certainly recognize the concern and need for a balanced federal budget. We do not question the intent of those who voted for SCR 1661 in 1978. However, the adage that hindsight is 20/20 is quite applicable here. It was only after SCR 1661 was passed that the true intentions of those promoting it became clear.

The future existence of what we have known as the United States of America and the American system is what is really at stake. We in the Informed Voters Alliance ask that the Kansas legislature to do its' part to protect our marvelous Constitution by not aiding in this effort to destroy it. This should be done by the legislature withdrawing its' call for a constitutional convention through the passage of SCR 1615.

I would like to suggest that if it would not jeopardize the passage of the resolution, that it be amended slightly to replace the words revoked, rescinded, and nullified in lines 38 and 39 by the word expunged and the words "and any and all other acts by the Kansas legislature that may call for a Constitutional Convention for any purpose are" be inserted between No. 1661 and hereby in line 38.

On behalf of those who have expressed their concern and position on these issues by signing petitions and of the members of the Informed Voters Alliance, I again thank you for the honor and opportunity to testify in support of SCR 1615.

I would like to close with two short quotations from two of our founding fathers and early presidents.

"George Washington said, "Government is not reason, it is not eloquence, it is force. Like fire it is a dangerous servant and a fearful master."

Thomas Jefferson said, "In questions of power, then let no more be said of confidence in man, but bind him down from mischief by the chains of the Constitution."

Members of the committee. Please help stop this usurpation & dismantling of our unique con system
~~PLEASE:~~ Help ^{put} our government back under chains of restraint and protect our Constitution.

I am Gordon Risk, president of the American Civil Liberties Union of Kansas, here to speak in favor of S.C.R. #1615

A balanced budget may or may not be in the country's best interest at any particular moment, a decision that can be made by Congress and the President in consultation with economic advisers. This resolution would contribute to undoing one of the stranger moments in U.S. history, when there was considerable public support for an economic policy written in stone.

It would also contribute to moving us back from the brink of a constitutional convention and crisis. There is no end of real problems in the world currently demanding our attention and money. Species and the ozone are disappearing from the planet, and the water table in Kansas is dropping. We need to do something with all of our prisoners. With real problems to deal with, we do not need the problems and uncertainties a constitutional convention would bring, because this would not be some sideshow that one could choose to ignore. It would be the main event for as long as it remained in session and for as long as its business remained before us. Difficult preliminary problems, requiring considerable deliberation, would need to be settled: How are the delegates selected? Are the states represented proportionally or equally? Do the petitions for a convention have to be exactly the same or only generally similar? Are the procedures or issues open to court review? How will these questions be settled? Then on to the big issue: Can a constitutional convention decide only the subject for which it was called or can it then propose other amendments as well? The weight of legal opinion says the convention cannot be limited to just the issue for which it is called, although this opinion is certainly not unanimous. The only previous constitutional convention occurred in 1787 and threw out the entire system of government it was supposed to improve. As U.S. Senator Heyburn noted in 1911, "When the people of the United States meet in a constitutional convention there is no power to limit their action. They are greater than the Constitution, and they can repeal the provision that limits the right of amendment. They can repeal every section of it, because they are the peers of the people who made it."1 Despite scholarly disagreement over whether the convention would be limited, there is no way to guarantee a limited convention. In the event of a runaway convention, everything would be on the block. Additional, unanswerable questions would be whether the convention could choose to remain in session indefinitely or whether it might agree to reconvene as the need arises.

Respect for the history of this country, for James Madison, Thomas Jefferson, George Washington, Abraham Lincoln, Martin Luther King, for the men who have died defending it, requires that their efforts and sacrifices not be lightly placed in jeopardy. A call for a constitutional convention within the present constitutional framework doesn't send a message to Washington, so much as it sends a message to previous generations that we place no value on their contributions to us. The ACLU doesn't like that message.

1. 46 Cong. Rec. 2769 (Feb. 17, 1911)



A NONPARTISAN, NONPROFIT ORGANIZATION DEDICATED TO THE PUBLIC INTEREST

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TESTIMONY

by Sheila Macdonald

Director, Government Relations
National Taxpayers Union

before
the

Kansas Senate Ways and Means Committee

on

SCR 1615

(measure to rescind Kansas's 1978
balanced budget-convention call resolution, SCR 1661)

March 20, 1989

TESTIMONY
by Sheila Macdonald
Director, Government Relations,
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before
Kansas Senate Ways and Means Committee
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(measure to rescind Kansas's 1978
balanced budget-convention call resolution, SCR 1661)
March 20, 1989

Chairman Bogina and members of the Committee, thank you for the opportunity to present the views of the National Taxpayers Union on the important issue of the States retaining a power specifically granted them by the U.S. Constitution. I am director of government relations of the National Taxpayers Union, a non-profit, non-partisan group that represents the interests of 170,000 American taxpayers, including over 1,800 in Kansas.

Kansas in 1978 recognized the need to use Article V to place pressure on the U.S. Congress to take action on the balanced budget amendment. If there was a need to take that action then, there is an even greater need to maintain that resolution now. Last year's deficit was \$177 billion, far above the Gramm-Rudman-Hollings statutory ceiling of \$136 billion. The national debt has climbed from \$1.2 trillion in 1978 to \$2.7 trillion today. Interest payments on that debt amount to \$150 billion annually, enough to pay for the entire federal deficit.

It is clear to all Americans that Federal spending is out of control, that the budget process in the U.S. Congress has completely broken down. That being the case, it is extremely difficult for me to understand why a fiscally conservative state would back away from its earlier decision. Thirty-three states are needed to force congressional action. And you and I know that the only resolutions that work are ones that retain the convention call. No one counts balanced budget memorials to Congress, certainly not this organization.

Opponents Would Eliminate a Vital Constitutional Check

But, something is happening today before this committee. A few well-intentioned people in Kansas are poised to fire a shot in the dark at the U.S. Constitution. They think they are protecting the Constitution, but they could be dealing it a fatal blow. Despite 13 years of runaway deficits that have added \$2 trillion to the national debt, a vocal minority wants the Kansas Legislature to withdraw its call for reform of the budget process. Why?

The opponents of budget reform claim they are "protecting" the Constitution by preventing the States from exercising their amendment authority under Article V. Some say that the people cannot be trusted. Or that it is unsafe to "tamper with the Constitution." Others claim that there is a conspiracy underfoot to abolish the Bill of Rights, or even merge the United States with the Soviet Union in "one-world government." As silly as that seems, some extremist groups are animated by such fears, and are putting pressure on this legislature. Curiously, you will find that all the opponents of the balanced budget convention call seem to agree that it would be a terrible thing for the States to actually force a showdown with the Congress over the deficit. They usually say, "I'm for balancing the budget, I just don't want to go the State route."

Anyone who believes this is making not one, but several mistakes. The assumption that the alternative amendment process is somehow an enemy rather than the friend of our Constitution is simply wrong. It is easy to be confused about an Article V convention because no one has ever seen one. The right of the States to initiate amendments is the least familiar part of our system. But that does not mean it is an unimportant part. To the contrary, as Thomas Jefferson pointed out numerous times, the right to call constitutional conventions is a crucial guarantee of freedom.

The Only Way to Reform Congress

Those who feel otherwise seem to think that the purpose of the convention mode of amendment is to re-write the whole Constitution. This is wrong. As James Madison's Notes of Debates in the Federal Convention of 1787 makes clear, the purpose of the convention process is to police the Congress. The Framers of the Constitution saw that a time might come when the Congress would fail the people. They saw that it would be dangerous to give the Congress a monopoly over the amendment process because Congress could abuse its powers and would never consent to reform its own abuses. That is why they added a method of amendment that does not depend on Congressional action.

Who could argue today that the Framers were wrong? Consider the spectacle of an unaccountable Congress trying to grab a 50% pay hike out of an empty Treasury. There could be no better evidence that where its own interests are at stake, Congress ignores the public and does what it pleases. For 20 straight years, Congress has steadfastly refused to pass a balanced budget amendment, despite overwhelming popular support. What can anyone do about it? Write a letter? Say a prayer? Members of the House of Representatives have a tighter lock on their jobs than even the legislatures of one-party states. Over 98% of incumbents seeking re-election to the House in 1988 were returned to office. Based on recent statistics, a House member now has 20 times more job security than a member of the Politburo in Moscow.

Dangers of a Runaway Congress

The danger of a runaway Congress is far greater than any other defect of our system of government. Presidents can be impeached. So can judges. But - if we once give up the States' power to propose constitutional reform through the convention process - there is no remedy for a Congress gone out of control.

Thirty-eight States Must Ratify Any Proposed Amendments

The idea that the convention could "run away" and destroy liberties is a false impression that is not supported by the facts. In the first place, there is no reason to believe that in the unlikely event a convention ever were called, the delegates elected would be any less responsible than the Congress. Secondly, the convention could not change the Constitution. Like the Congress, it could only propose. The Constitution clearly states that any proposed amendment, whether from the convention or the Congress, must be ratified by 38 States. Those who are spreading alarms about the convention process cannot name even one State, let alone 38, that would ratify repeal of the Bill of Rights, or endorse the other evil things they say would happen.

That's fine, the opponents of reform say, "but the convention may decide to change the method of ratification, the way they did in 1787." Those who say that never explain how this could happen. Would the President, the Supreme Court, the Congress, and millions of federal employees, including the most powerful armed forces in the world, simply agree to be fired by the illegal order of 535 unarmed delegates sitting somewhere in a hall? The idea is silly. A check of the Constitution reveals that the Congress has at least 20 specific powers that the convention lacks. Congress can raise taxes, spend money, impeach presidents, strip State and municipal securities of tax exemption, and more. If one wants to worry about far-fetched possibilities, it is more likely that Congress could usurp the Constitution than the convention could usurp Congress. The Congress has real powers to induce people to go along with its desires. All that a convention could do is talk.

1989 is not 1787

Furthermore, there is utterly no comparison between the federal government today, and the system that existed under the Articles of Confederation. When George Washington convened the constitutional convention in 1787, the U.S. government was in collapse. The national debt was in default. U.S. Treasury securities were selling for 15 cents on the dollar. Armed mobs of impoverished debtors were closing down courthouses throughout the Northeast. Thousands of men, commanded by continental army veterans and current officers of the Massachusetts state militia, had joined in a military uprising - what is now known as Shays's Rebellion.

The U.S. government could do little about it. Boston merchants had to take up a private collection to finance the militia sent to fight the rebels. The army had been virtually disbanded. Its commander, General Henry Knox, had written to inform Washington that revolution was underway. Knox said that rebels planned to pillage Boston, loot the Bank of Massachusetts, and "then march southward with the intention of redistributing all property." Knox asked, "What is to give us security against the violence of lawless men? Our government must be braced, changed or altered to secure our lives and property." Washington agreed. He wrote "Something must be done, or the fabric must fall, for it certainly is tottering."

The convention of 1787 did not betray the Articles of Confederation. They were already dead. The convention revived the American experiment in popular government at a time when many doubted that it could be done. There is nothing in this experience that argues against taking action under the Constitution to reform the runaway Congress.

Bankrupt Governments Don't Last Long

To the contrary, the real lesson of 1787 is that financial instability leads to political instability. Bankrupt governments don't last long. Today, our government is not yet bankrupt, but Congress is courting economic collapse by its policy of reckless finance. Deficits over the past 20 years have given foreign creditors the power to bring this nation to its knees.

Congress Responds to Pressure

Having considered and, I hope, disposed of these groundless fears, there is this final point to be made about an Article V convention. It will never happen.

Before convening a convention, Congress will vote to propose its own version of a balanced budget amendment. Letting a convention do it would almost certainly result in a much more restrictive amendment, possibly including penalties for failing to balance the budget. Therefore, as the number of State calls approaches 34, Congress will be forced to act. There is another reason Congress will be sure to act. Sitting members would never want competing politicians to gain fame and media exposure at a convention, the very tools a challenger might use to replace an ineffective incumbent.

This is exactly what happened with the 17th amendment. At the beginning of the century, the Senate repeatedly refused to vote for an amendment requiring the direct election of Senators. It wasn't until 31 states, one short of the necessary two-thirds at that time, approved limited convention calls that the Senate caved in and voted for the 17th amendment.

Conclusion

It would be a serious blow to the prospects of fiscal reform if Kansas's Senate voted to repeal its call for a Balanced Budget Amendment. The best way to insure the survival of our Constitution and the guarantees of basic liberty that we cherish is for the States to use the Constitution as the Founders intended — to pass enough resolutions to force congressional action. Unless you have the courage to use the tools the Founders in their wisdom gave us, we are in danger of becoming a second-rate economic power and will surely beggar our children.

Thank you for your attention to my views. I would be pleased to answer any questions.

ee7:38

ARTICLE V AS IT APPEARS IN THE U.S. CONSTITUTION

(as written by James Madison and the Founding Fathers)

ARTICLE V

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendments to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

ARTICLE V AS EXTREMISTS WANT IT REWRITTEN

Extremists scare people about the word "Amendments," saying a convention would be required to consider more than one amendment at a time.
HOGWASH!

1. The word "Amendments" applies to Congress as well. Of the 26 amendments approved to date, Congress, except for the 10-part Bill of Rights, has always addressed one subject area at a time.

2. An amendment convention, if one were convened, would be expected to follow the precedents set by Congress, and stand on the topic prescribed by the States' convention calls.

3. Furthermore, if the word "Amendments" had been singular, then only one amendment would have been allowed to the Constitution. Historical documents indicate clearly that the Founders expected more than one change to be made to the Constitution over the course of the nation's history.

ARTICLE V

The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose Amendment to this Constitution, or, on the Application of the Legislatures of two thirds of the several States, shall call a Convention for proposing Amendments, which in either Case, shall be valid to all Intents and Purposes, as Part of this Constitution, when ratified by the Legislatures of three fourths of the several States, or by Conventions in three fourths thereof, as one or the other Mode of Ratification may be proposed by the Congress; Provided that no Amendment which may be made prior to the Year One thousand eight hundred and eight shall in any Manner affect the first and fourth Clauses in the Ninth Section of the first Article; and that no State, without its Consent, shall be deprived of its equal Suffrage in the Senate.

Extremists want to prevent the States from retaining a power specifically granted to the States under Article V.

If extremists are successful, they will deliver monopoly power over the amendment process to the U.S. Congress.

That is exactly what the Founding Fathers did not want and that is why they allowed either the States or Congress to initiate amendment language.

Don't let extremists destroy this fundamental check in the Constitution. States must retain the opportunity to put pressure on Congress to act.

The U.S. Constitution is not protected by eliminating one of the essential safeguards it provides.

YOU CAN SAVE ARTICLE V; YOU CAN PROTECT ARTICLE V'S FUNDAMENTAL CHECK AND BALANCE; YOU CAN SUPPORT A BALANCED BUDGET AMENDMENT TO THE U.S. CONSTITUTION.

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The National Taxpayers Union
325 Pennsylvania Ave, SE
Washington, DC 20003

ATTACHMENT 17
SWAM 3-20-89

Many who oppose a constitutional amendment for a balanced federal budget fear a “runaway” constitutional convention.

What the opponents seldom say, however, is that most impartial experts see nothing to fear from a convention. A two-year commission of the American Bar Association, which included the Dean of the Harvard Law School and other leading experts, unanimously concluded that a convention could be limited.

There Are Eight Checks on a Constitutional Convention.

The eight checks on a limited constitutional convention would ensure that it stays on the balanced budget amendment topic.



1. Congress could avoid the convention by acting itself.

If 34 states called for a constitutional convention on the balanced budget amendment, the Congress would have the option of proposing such an amendment itself. The odds are overwhelming that the Congress would prefer to do so. Why? Because the Congress would rather live with an amendment which its members drew up themselves than one which was drafted by others. Furthermore, if a convention were successfully held, it would weaken the powers of the Congress. This is something which few of the members of Congress want. They also do not want to see convention delegates elected from their home districts—delegates who might later decide to challenge the congressmen for reelection.

2. Congress establishes the convention procedures.

Any confusion about how a convention would operate would be the fault of Congress. Congress has the power to determine exactly under what conditions the delegates would be chosen, when the election of delegates would be held, where they would meet, and how they would be paid. Congress can and will limit the agenda of the convention. All 32 state convention calls on the balanced budget issue are limited to that topic and no other.

3. The delegates would have both a moral and legal obligation to stay on the topic.

There is a long history in the United States of individuals doing their actions to the job for which they were chosen. Members of the Electoral College could, if they wished, elect anyone to be the President of the United States, even someone

who was not a candidate and had received no popular votes. Yet this has never happened. There have been 19,180 electors since 1798 and only seven have voted for a candidate other than the one for whom they were elected. The odds against delegates to a convention behaving differently would be astronomical.

Also, legislation unanimously approved by the Senate Judiciary Committee in 1984 would enforce this limit by requiring that each delegate swear to an oath to limit the convention to the topic for which it was called. Similar legislation has been passed by the Senate twice on unanimous votes.

4. Voters themselves would demand that a convention be limited.

Many groups say they oppose an unlimited constitutional convention. So do advocates of the balanced budget amendment. If this is the majority opinion, as it seems to be, it is reasonable to expect that delegates elected to a convention would reflect that view. Certainly if a convention were to be held, every candidate would be asked whether he favored limiting the convention to the subject of the call. Even if the voters in some areas did favor an open convention, or some candidates lied and were elected, it is still improbable that a majority of delegates would be elected who favored opening the convention to another issue when the majority of voters do not.

5. Even if delegates did favor opening the convention to another issue, it is unlikely that they would all favor opening it to the same issue.

Opponents of the constitutional convention call on the balanced budget amendment have listed dozens of issues which they allege might be brought up at a constitutional convention. There have been allegations that the Bill of Rights would be tampered with, that amendments would be inserted banning abortion, or doing other things which polls show a majority of citizens oppose. Yet those who raise these fears have never offered any analysis of from where support for such propositions would come. Consequently, even if it were true that some delegates to a convention would favor reviving the ERA, and others might favor banning abortion, that does not mean that either group would be likely to control a convention. The odds are against it.

6. Congress would have the power to refuse to send a nonconforming amendment to ratification.

As the American Bar Association indicated in its study of the amendment by the convention mode, the Congress has yet another way of preventing a runaway amendment. It could

simply refuse to send such an amendment to the states for ratification.

7. Proposals which stray beyond the convention call would be subject to court challenge.

Leaders in legislatures which have petitioned for a constitutional convention on the balanced budget issue have indicated that they would institute court challenges to any proposal which went beyond their original call. According to the American Bar Association, such challenges are possible to convention-proposed amendments, but not to those which originate in the Congress. There is an excellent chance that the Supreme Court would prohibit a stray amendment from being sent to the states for ratification.

8. Thirty-eight states must ratify.

The final and greatest check against a “runaway” convention is the fact that nothing a convention would propose could become part of the Constitution until it was ratified by 38 states. It is by no means easy to obtain 38 states to ratify any controversial proposition. The fate of the ERA and the proposed amendment granting voting representation in Congress for the District of Columbia proves this point. If there are even 13 state legislatures in the country that are not convinced that any amendment proposed by a convention represents an improvement in our Constitution, that amendment would not be ratified. It would mean nothing.



One Hundred Million To One

The odds against many of these events are remote. Even if you assume the odds of all eight of these possibilities are 50-50, the chance that all eight could happen and produce a runaway convention are only four in a thousand. But the odds against many of these events are remote. Even if you assume average odds of just 10-1, the chance of a runaway convention would fall to one in one hundred million.

However you calculate the odds, the danger of a convention “running away” is slight. Much less remote is the danger to our country of continued, runaway deficit spending. Staggering deficits stretch out on the horizon as far as the eye can see. Deficits which mean high interest rates. More high inflation. Or both. We would be fools if we attempted to prove that America would be the exception to the rule that protracted financial turmoil weakens and eventually destroys free institutions. The best way to preserve our constitutional order which we all cherish is a constitutional amendment to bring runaway federal deficits under control.

Why You Must Lead The Congress: The Limited Constitutional Convention

The founding fathers had no way of predicting the current irresponsible spending policies of Congress. Yet although they could not foretell the future, they were men of great wisdom. They did foresee the possibility that Congress might fail the people. It is for that reason that Article V of the U.S. Constitution enables states to amend the Constitution—if Congress fails to act—by calling a limited convention. When 34 state legislatures call for a limited constitutional convention, Congress must propose an amendment or call a limited convention.

Today, through the efforts of the National Taxpayers Union, 32 states have officially called for a limited constitutional convention to consider a balanced federal budget amendment.

As the drive for a convention nears success Congress will probably propose the amendment on its own, and no conven-

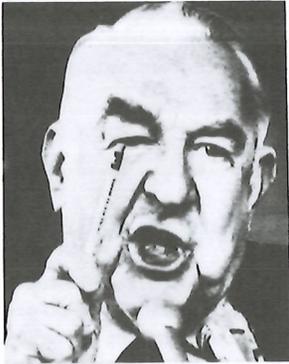
tion will be necessary. This has happened before. Congress proposed an amendment to provide for the direct election of U.S. senators only after enough states had called for a convention. Today it's clear that Congress will not propose a balanced budget amendment unless the states again call for a limited convention.

When two more states act, and if Congress still has not acted, a limited convention will be called to write an amendment to restore order to federal finances.

The delegates to a convention would be elected for one purpose only—to draft a balanced budget amendment. They would not have any other powers which Congress has. This convention can only propose a balanced budget amendment.

This amendment would become law only after it is ratified by 38 states.

Here's What The Experts Say About The Convention Method



"I think that the fear of a runaway convention is just a nonexistent constitutional ghost conjured up by people who are opposed to balancing the budget, because they want to be able to promise special groups something for nothing out of an empty pocket."

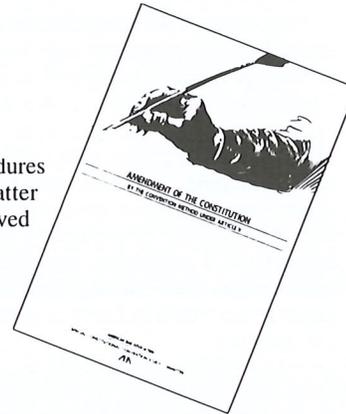
—former U.S. Senator Sam Ervin
Constitutional Law Scholar

"Congress has the power to establish procedures limiting a convention to the subject matter which is stated in the applications received from the state legislatures."

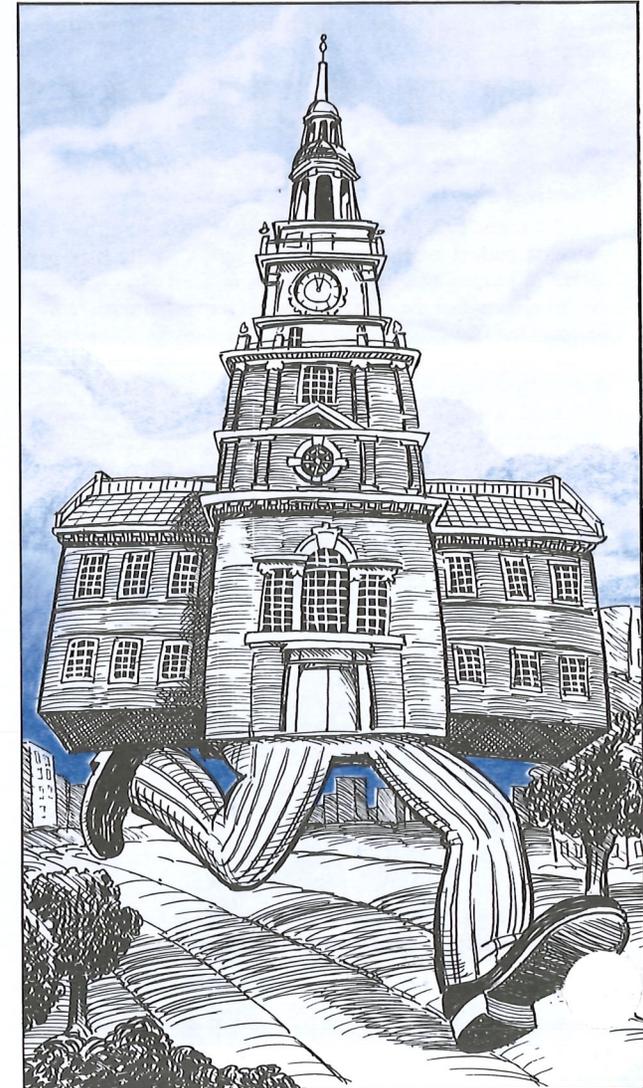
—official position of the American Bar Association

"I think the convention can be limited . . . the fact is that the majority of the scholars in America share my view. The view that you can't do this among scholars is a minority view."

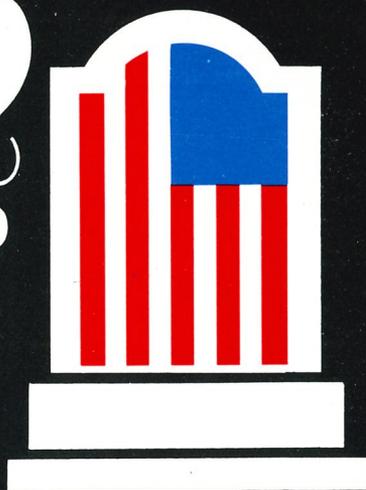
—former U.S. Attorney General Griffin B. Bell



The Hoax of a "Runaway" Constitutional Convention



WHEN
DOES A
NATION
DIE?



WHEN ITS CONSTITUTION FAILS.

It's like when a dam breaks. Often the erosion started months, even years, before. A drop here. A trickle there. A rivulet. A few stones washed away. All out of sight. Down deep in the foundation.

So with our Constitution. Two hundred years old. Stronger in some respects than when it was written. A track record second to none. The proud words of promise still there on the aging document.

But the Constitution is not just paper. It is people. And when people change — when their understanding dulls, when their resolve weakens, when self-evident truths and “unalienable” rights are no longer perceived — words on paper lose their power.

They may still be there. No Constitutional Convention has altered them. No Amendments have nullified them.

It is the people who change. And a heritage of freedom is lost.

And a nation dies.

WAYS & MEANS
Comm

CONVENTION OR FREEDOM

1987 marks the 200th anniversary of the signing of the constitution. Now before congress are over sixty (60) amendments from a balanced budget to gun control, for congress to consider, designed for a push by legislators to have a constitutional convention. We are one or two states shy of the two-thirds needed to have the convention.

The Nation, September 22, 1984 entitled: If You Think It Can't Happen Here, Think Again, states: supporters argue that the convention could be limited to a single topic. That view is challenged by opponents, who cite the language of Article V "congress shall call a convention for proposing amendments" according to Stanford law professor Gerald Gunther, "once a convention is called, it is an autonomous body, and it can discuss anything it damn well pleases if it has popular support." Pressure groups and issue advocates would be attracted to a convention like metal filings to a magnet, citizens lobbying congress for amendments on issues from equal rights, gun control and right to life surely will seize the chance to accomplish in one stroke what years of effort had failed to achieve. If we have this convention, the American people will not know freedom as you and I know it today. At the end of the process in 1787, James Madison issued a warning about future conventions that resonates two centuries later.

U.S. News and World Report, May 14, 1984's article entitled Amend The Constitution, states: "opponents raise the specter of a convention with a potential to get out of control and launch a general assault on the constitution ratified in 1789."

Time's March 19, 1984 article entitled, Mixing Politics With Prayer states, Religion and Government are two mighty forces that the founders of American Republic decided must be kept separate for the sake of a free society.

A book entitled, National Sunday Law, states on page 58; "In order to pass a National Sunday Law, the constitution has to first be changed. The grand principle of separation of church and state, which has made our country great must first be undermined (especially the first amendment)."

National Review, September 7, 1984 entitled, The Unmentionable Convention states; "you would have thought there might be more interest in this, but the media have somehow maintained an almost complete blackout on the topic. To this day, it is still a very low keyed event, it is only the 200th anniversary of the signing of the constitution, which gave us freedom!"

This constitutional "bait and switch" scheme should be treated by congress as a scam not as a serious call for a constitutional convention.

Common sence tells you if you take something away, you have to replace it with something. Is our constitution doomed, to be replaced by this document which will signal the death of our free republic?

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PAGE TWO

This proposed New Constitution for the Newstates of America has already been drafted and is in existence today, and would turn this country into a dictatorship! Get a copy of it from your congressman and read it for yourself.

The American people as a whole are still in the dark about it and this situation is deliberate. It is therefore truly a "secret constitutional convention." Is that why we have a media blackout? The U.S. government has a tendency to create a problem, and then are forced to fix it.

In 1986, the state of Kansas applied to congress to call for a constitutional convention to amend the 16th amendment of the constitution of the U.S. - Why?

U.S.A. Today, Thursday, January 22, 1987 stated regarding the constitution; "If it ain't broke, don't fix it!"

Voice From Across U.S.A., asked the question, "Do you think the constitution needs to be changed?" Six out of seven said "No" to a convention!

Lockheed came up with a good statement that says, "Those who expect to reap the blessings of freedom must, like men undergo the fatigues of supporting it!"

Are you supporting freedom by voting on House Bill 5009?!

*Is our Constitution doomed, to be replaced
by this document which will signal
the death of our Free Republic?*

Proposed New Constitution for
**THE NEW STATES
OF AMERICA**

PREAMBLE

... endeavors, welcome the future in good order, and create an adequate
... the New States of America, herein provided
... prescribed for it.

A Review and Commentary on Rexford G. Tugwell's book
"THE EMERGING CONSTITUTION"

COL. CURTIS B. DALL
E. STANLEY RITTENHOUSE

What you are about to read is true. It can happen, unless we stop it. To be aware is to care, and to care is to act.

In 1964, the writing of a new constitution for America began, at a tax-exempt foundation with the misleading name, Center for the Study of Democratic Institutions.

The people who took it upon themselves to write this new constitution on our behalf were, of course, not elected representatives, or in any other way our representatives. As a tax-exempt foundation, they were able to do political work on what amounts to a subsidy taken from your taxes, but you and I were never asked if we wanted a new constitution written. Indeed, only a very tiny fraction of the people of the United States even know that it exists: it has been made known to practically no one except a select category of influential people whose views and interest generally coincide with those of the people who wrote it. The American people as a whole are still in the dark about it, and this situation is deliberate. It is therefore truly a "secret" constitution.

This model constitution took ten years to write, drawing upon the efforts of more than 100 people. A preliminary version was published in 1970 and given exposure in limited circles. But, in 1974, an essentially final version was quietly published in a book entitled "THE EMERGING CONSTITUTION" by Rexford G. Tugwell (Harper & Row, \$20), the man who directed the formulation of the new constitution. It is the fortieth draft. During most of the time that their constitution was being written, the Center for the Study of Democratic Institutions was lavishly funded to the tune of \$2,500,000 annually.

Judge the product for yourself, based not only on the reading of the document itself, but also on the review and commentary.

CENSORED
CONSTITUTIONAL OR FREEDOM

CONSTITUTIONAL CONVENTION

WAYS AND MEANS
BUD BURKE, CHAIRMAN

NOW, WITH ONLY TWO STATES NEEDED FOR A MANDATORY CONSTITUTIONAL CONVENTION, AND WITH A NEARLY COMPLETED AGENDA. TAKING OVER 13 YEARS TO CARRY OUT AND HARDLY ANYONE KNOWS ABOUT IT. DO YOU FEEL THAT THE AMERICAN PEOPLE HAVE BEEN KEPT IN THE DARK, BY OUR NOT SO TRUSTWORTHY MEDIA? THERE IS NO DOUBT IN MY MIND IT HAD BEEN KEPT SECRET. IT IS NOT SURPRISING WHEN YOU DISCOVER WHO CONTROLS AND STAFFS THE LARGER MEDIA AND NETWORKS.

IT IS AMAZING THAT THERE ARE PEOPLE WHO WOULD TAKE ADVANTAGE OF A PUBLIC MISCONCEPTION TO GET SUPPORT FOR A PLOT TO REWRITE THE CONSTITUTION.

NOW THE CCS IS RIDING PIGGY-BACK ON THE BICENTENIAL. CAN YOU IMAGEN ANYTHING SO INCREDIBLE? WHILE THE AMERICAN PEOPLE ARE BEING ASKED TO CELEBRATE THEIR CONSTITUTION, THE BEHIND-THE-SCENES ONE-WORLDEERS ARE SCHEMING TO BURY IT!

CCS COMMITTEE CHAIRMAN BURNS STATED IN THE 1985 CCS BOOK REFORMING AMERICAN GOVERNMENT, "I DOUBT THAT AMERICANS UNDER NORMAL CONDITIONS WOULD AGREE ON THE PACKAGE OF RADICAL CONSTITUTIONAL CHANGES, THAT WOULD BE REQUIRED." "THEY WOULD DO SO ONLY IN A NATIONAL CRISIS OR POLITICAL FAILURE."

WHAT DOES THAT SOUND LIKE TO YOU? ARE THEY PLANNING A CRISIS? WHAT WILL IT BE ... COMMUNIST TROOPS IN PANAMA... OR A FLOOD OF TERRORISTS COMING IN WITH THE ILLEGAL ALIANS ON OUR SOUTHWEST BORDERS...ANOTHER STOCK MARKET CRASH? HOW ABOUT A FOOD SHORTAGE AFTER MANIPULATING THE FARMERS OUT OF BUSINESS?

IT HAS BEEN SAID BY PROPONANTS OF AN OPEN CONSTITUTIONAL CONVENTION: IT IS HOWEVER URGENT TO ADOPT A FULL PARLIMENTRY FORM OF GOVERNMENT. THE AMERICAN PEOPLE MAY BE QUICKLY BROUGHT TO RECOGNIZE A NEED FOR SUCH A CHANGE. HOW DO YOU THINK THE AMERICAN PEOPLE WILL BE CONDITIONED FOR SUCH A CHANGE?

HAVE YOU HEARD ABOUT THESE ON ABC, NBC, OR CBS? DID YOU READ ABOUT THEM IN THE NEW YORK TIMES, WASHINGTON POST? NO, WE HAVE NOT. IT GIVES YOU THE FEELING THAT ITS A SECRET PLOT. YOU CAN SEE WHY THE PROPONANTS WOULD NOT WANT TO GIVE IT ANY PUBLICITY, WHEN OUR RIGHTS ARE CONVERTED OVER PRIVELAGES GRANTED BY THE STATE UNDER THE PROPOSED NEW CONSTITUTION.

THERE IS A CONSPIRITORIAL WAR BEING WAGED AGAINST A FREE AMERICA. A WAR OF WORDS, IDEAS, PHILOSOPHIES, PROMOTED THROUGH THE ORGANIZATIONS TO CHANGE THE MIND SET OF THE PEOPLE, SO THEY WILL SUPPORT GOOD SOUNDING PROGRAMS THAT ARE DESIGNED TO BRING ABOUT THE ELIMINATION OF A SOVERGN AND FREE AMERICA.

OUR FOUNDING FATHERS WERE TRULY BRILLANT WHEN THEY WROTE OUR CONSTITUTION. SO THEY GAVE US TWO METHODS FOR MAKING SUCH CHANGES WHICH MAY BECOME NECESSARY WITH THE DEVELOPMENT OF OUR NATION. FIRST, THEY PROVIDED FOR AN OPEN CONSTITUTIONAL CONVENTION, WHERE THE ENTIRE DOCUMENT WOULD BE ON THE TABLE FOR RADICAL SURGERY OR ELIMINATION. SECONDLY, OUR FATHERS PROVIDED FOR A SLOW, SAFE, ONE-AMENDMENT-AT-A-TIME METHOD, THE CONGRESSIONAL AMENDMENT PROCESS. THE AMERICAN PEOPLE HAVE WISELY INSISTED THAT TO THROW THE WHOLE CONSTITUTION ON THE CONVENTION TABLE AT ONCE WOULD PUT THE ENTIRE DOCUMENT AT RISK.

WE KNOW THAT THE BALANCED BUDGET AMENDMENT IS A RUSE AFTER CONGRESS PASSED A BALANCE BUDGET LAW. PUBLIC LAW 95435 MANDATED A BALANCED FEDERAL BUDGET BEGINNING WITH FISCAL YEAR 1981. CONGRESS, PRESIDENT CARTER AND PRESIDENT REAGAN HAVE IGNORED THE LAW...SO WHAT MAKES ANYONE THINK THAT CONGRESS WOULD FOLLOW ANY OTHER BALANCE BUDGET LAW?

Mr. Chairman and Members of the Committee: I thank you for the opportunity to speak in support of Senate Concurrent Resolution 1615, which would revoke the legislature's call for a constitutional convention to secure a balanced-budget amendment to our U. S. Constitution. I am Carson Crawford from Florence, Kansas.

There are several groups that are planning to use such a constitutional convention as an occasion to drastically change our form of government, replacing it with a government without checks and balances, with power concentrated in the hands of a very few individuals who could rule without regard to God-given rights.

A spokesman for one of these groups has stated their position this way, "Let us face reality. The framers of the Constitution have simply been too shrewd for us. They have outwitted us. They designed separated institutions that cannot be unified by mechanical linkages, frail bridges, tinkering. If we are to 'turn the founders upside down'--to put together what they put asunder--we must directly confront the constitutional structure they erected."

Zbigniew Brzezinski wrote in his book, BETWEEN TWO AGES, "The approaching two-hundredth anniversary of the Declaration of Independence could justify the call for a national constitutional convention to re-examine the nation's formal institutional framework. Either 1976 or 1989--the two-hundredth anniversary of the Constitution--could serve as a suitable target date for culminating a national dialogue on the relevance of existing arrangements, the workings of the representative process, and the desirability of imitating the various European regionalization reforms and of streamlining the administrative structure. More important still, either date would provide a suitable occasion for redefining the meaning of modern democracy--a task admittedly challenging..." Mr. Brzezinski has taken the oath to support the Constitution and one thing he should know for sure is that we are a Republic, not a Democracy. The implication that we are a democracy reveals that our federal Constitution has been subverted by our elected representatives, as many of us have believed for years. If Mr. Brzezinski and the other individuals, many of whom are present and former members of the Senate and House, Cabinet and White House Staff members, and Governors, all

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aving taken the oath to support the Constitution, get their way, then we can expect James Madison's observation to come to pass, "...such democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the right of property; and have in general been as short in their lives as they have been violent in their deaths."

Rexford Tugwell's book, THE EMERGING CONSTITUTION, includes the proposed new constitution for the "Newstates" of America, and is a blueprint for the destruction of individual freedom.

History teaches us that, nearly always, those who seek to exercise the power of government do so to exploit, control and manipulate mankind. And it explains why our founding fathers sought to "bind them with the chains of the Constitution."

It is unfortunate that our elected leaders have lost sight of that which President Lincoln so clearly stated in his Gettysburg Address, "...that this Nation, under God, shall have a new birth of freedom; and that government of the people, by the people, for the people, shall not perish from the earth."

Refugees from around the world make abundantly clear the blessing our Constitution is to mankind for many of them risk their lives to get here. We have lost our appreciation for the freedom our Constitution provides.

As to the possible effectiveness of a balanced budget amendment in restricting federal spending, I call to your attention that in 1935, the Supreme Court, in a unanimous decision, ruled the National Recovery Act unconstitutional because the Constitution did not permit government to intervene in setting wages and hours in private industry--today it is considered constitutional with no constitutional change in that area. In 1936, the Supreme Court found the Agricultural Adjustment Act unconstitutional. Today the government is actively involved on a vast scale in agriculture without a constitutional change in that respect.

So with any budget-balancing amendment. What is proposed today to restrain government spending will be viewed tomorrow as an authorization to spend. Please don't play Russian Roulette with our U. S. Constitution. Please vote favorably on SCR 1615 and revoke Kansas' call for a constitutional convention.



2044 Fillmore • Topeka, Kansas 66604 • Telephone: 913/232-9358
Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

TO: Members of the Senate Ways and Means Committee
From: Dee Likes, Executive Vice President
RE: SCR 1615

First of all, I apologize for being unable to appear personally before the committee due to an unalterable out-of-state travel schedule. The purpose of this letter is to express the opposition of the Kansas Livestock Association to SCR 1615 which would revoke 1978 Senate Concurrent Resolution 1661 placing Kansas on record as requesting the U.S. Congress to call a constitutional convention for purposes of balancing the federal budget.

For many years - nearly a decade - the members of the Kansas Livestock Association have expressed support for implementing limitations on federal government spending. They believe that the policy of federal deficit spending has caused interest rates to be higher than they would otherwise be. Agricultural enterprises are capital intensive and most farmers and ranchers operate with a large amount of borrowed capital. Obviously, their operations are negatively effected by higher interest rates. Our association, along with our national affiliate, the National Cattlemen's Association have consistently urged the congress and the administration to work toward a balanced budget by cutting government spending and/or freezing federal budgets. Unfortunately, congress has not shown the discipline necessary to accomplish this goal. Therefore, the Kansas Livestock Association supports the adoption of constitutional limitations on federal government spending to require a balanced federal budget. We believe that passage of SCR 1615 is a step in the wrong direction and we respectfully ask that you not give it favorable consideration.

DL:crb

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PUBLIC POLICY STATEMENT

March 20, 1989

TO: Sen. August "Gus" Bogina, Jr., Chairman
Senate Committee on Ways and Means

FROM: Paul E. Fleener, Director
Public Affairs Division, Kansas Farm Bureau

SUBJ: **Our Opposition To S.C.R. 1615**

Chairman Bogina, we sincerely request you make a copy of our memo to you available to members of your committee on Ways and Means. We want each member of your committee to know of our strong opposition to 1989 Senate Concurrent Resolution 1615.

Senator Bogina, we **worked with** members of the Legislature in 1978 to bring about adoption of the concurrent resolution (SCR 1661) which put Kansas on record as calling on the Congress of the United States to call a convention, a constitutional convention for the purpose of proposing an amendment to the Constitution of the United States to require a balanced budget ... to require that appropriations not exceed estimated revenues.

Now, in 1989 comes a proposal (SCR 1615) to revoke that 1978 resolution ... to rescind the action taken which called on the Congress to operate with fiscal responsibility. We believe that would be a serious error. Congress is not operating with fiscal responsibility. The message is still appropriate, the call is still appropriate for a constitutional convention for the purpose of drafting an amendment to require Congress to operate within its means.

At the Annual Meeting of the American Farm Bureau, in January, 1989, the policy position on "**Monetary and Fiscal Policies**" was reworked and strengthened greatly. One of the things it continues to do is to call for a constitutional amendment. We want to share just the one paragraph from the policy position with you and the members of your committee.

We support a constitutional amendment to require the federal government to operate on a balanced budget each year. A constitutional convention should be limited to the subject of requiring a balanced federal budget.

Chairman Bogina, we continue to believe in fiscal restraint, fiscal responsibility. We continue to believe the resolution approved by the Kansas Legislature in 1978 is appropriate. We would oppose rescinding that language, that call for a constitutional convention to develop language to submit back to the states for ratification. We oppose S.C.R. 1615 and ask that it be adversely reported.

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