

## LOWTHER INTERVIEW #12

Loren Pennington: This is the 12<sup>th</sup> in a series of Flint Hills Oral History Project interviews with Mr. James Lowther at his home at 1549 Berkeley Road in Emporia, Kansas. The interviewer is Loren Pennington, Emeritus Professor of History at Emporia State University, and today's date is May 15, 2012. As usual we remind the user of this tape that while Mr. Lowther and Mr. Pennington have never been close friends they have known each other for well over thirty years and consequently this interview is conducted on a totally informal basis. Jim, last time we talked about a great variety of things. We go on today to some new subjects. We're talking still of the bigger subjects; what would you like to talk about first?

James Lowther: Well, I think I can talk a little about the change in the Regent's University System from "open enrollment" to what was termed "qualified admissions," because this was a contentious issue in the Legislature that stretched over several sessions. I might briefly mention that the Kansas Legislature passed finally the "qualified admissions" legislation in 1996. And what "qualified admissions" did was to outline the undergraduate admission requirements for students applying at all the state universities in Kansas.

LP: Standards for undergraduates, you mean for students entering college?

JL: For students entering the universities from high school, yes.

LP: OK.

JL: And when it was implemented in '96 the first admissions criteria were to apply in 2001 in order to give the high schools some warning—that is some time to change some of their pre-college courses for students that were declaring their intention to go on to

college. And then those students that came in as freshmen in the 2001-2002 year, when they were admitted then what we call minimum standards applied. Prior to the passage of this legislation in '96 we had seventy some years—I'll talk about that—of open admissions, open enrollment.

LP: Anybody who graduated from a Kansas high school was entitled to go to any of the state universities.

JL: Yes, I'll get into that. I remember back in the fall of 1990 during—that was an election year—and I was at a forum, part of a Candidate's Awareness Week that was sponsored by the Associated Students of Kansas on the Emporia State University campus. We talked about the "Margin of Excellence" which was a multi-year program to enhance the compensation for the faculty at the universities in the state. But then the discussion turned to the "qualified admission" issue. My opponent in that election was a lady named Cindy Lane, who was a graduate, I believe, with both a BS and an MS from Emporia State University. When the discussion turned to this issue, I led off and I went over my arguments in support of the measure and I went so far as even to criticize the job that the public schools—the high schools—were doing in preparing students because the facts indicated that many of them were ill-prepared for higher education. They got their high school diploma, enrolled under the "open enrollment," and then it turned out they weren't able to handle some of the courses—the basic English and math courses. And in fact, I think Emporia State even implemented special remedial or tutorial classes on the basics of some of these like English and math.

LP: Students were ill-prepared and had to take remedial work in order to bring them up to par.

JL: Yes. Anyway, Miss Lane and all those others at the forum were in favor of maintaining open admissions. One of them argued, for example, that if “qualified admissions” were in place, her son might not be able to get into K-State and she was worried about that. Another person said that open admissions provided a chance for late-bloomers to be sure they could go to a university. And there was the tax issue, because if everybody, including all the parents, paid taxes, then they should be able to go to any [state] university of their choice.

LP: If they were paying for it, their children should be entitled to go.

JL: Yes. And another claimed that every student should have the right to fail. These arguments were some of those that resurfaced [among] legislators later on when the issue was debated on the House floor. I should explain here that this measure of establishing minimum admission standards was championed by the State Board of Regents, and they had tried to push it for quite a while. The open enrollment, at that time, had been in place seventy-nine years, according to my figures. And of course, as we mentioned earlier, that allowed all Kansas high school graduates to attend any of the state universities, regardless of their academic ability.

LP: Can I ask you a question here? Did any of the arguments turn to finances? That is, if you don’t have to admit as many students you would run the universities cheaper?

JL: No, I don’t recall that.

LP: You don’t recall that there was any financial argument going on?

JL: I don’t recall that.

LP: OK. I just wondered if that was in the back of some of the conservative minds that the universities would be cheaper if they didn’t admit everybody?

JL: No, I don't think so. I think basically the fiscal impact was not an issue. No, that's alright. But anyway, there were several House members, including myself, who were working on this during the 1993 and 1994 sessions. And I personally felt the Regents were correct in saying that high school graduates should be academically prepared before going on to a university.

LP: How do you think the universities themselves stood on these issues? Take Emporia State; did they want to go with the "qualified admissions?"

JL: I think the universities were in favor of "qualified admissions." They wanted the high school students to be better prepared and there were warnings issued by various state universities that the [public] schools needed to do a better job. And the fact that Emporia State implemented a tutorial program was an expense to the University that they shouldn't have to bear. And I remember that the university people would say, we're picking up—we're educating students here so they can continue. It's an expense that really should have been at the public school level. Now I do remember that. But I think they [the universities] were basically in favor of it.

LP: The state universities themselves backed the Board of Regents?

JL: Yes, I don't remember any [university] negative or opposition at all. Now there may have been some administrators that were quiet, [but] I didn't hear them.

LP: Nobody in the universities got up and said, "Look, if this happens we'll get fewer students and."

JL: I don't think they were worried about that. The one thing, as I started to say, we had the community colleges in place. So if [the universities] had less freshmen maybe for a year or two, then if students were successful at the community college level they could go

on for their final two years, and so then you would eventually balance out. And I know when I was on the Legislative Educational Planning Commission we made a great effort to encourage the community colleges to make sure their courses were transferable. In other words, if somebody went to a community college for two years, then those courses should count, should transfer or whatever the word is, towards credit at their university when the student enrolled.

LP: So the universities would have to accept the junior college credits at face value?

JL: Well, they did not have to if they felt the course was not preparatory. If a course at Colby Community College was inadequate they could say so and refuse to give that student [credits].

LP: The universities still had the right of refusal.

JL: It wasn't refusal, it was whether that credit or those hours would count towards the student's requirement for graduation, yes.

LP: In other words, there is always a certain amount of contention between the four year universities and the two year colleges as to whether the two year college classes are the same as those in the four year colleges.

JL: That's right. They were trying to make the university level and sometimes the courses were inadequate—sometimes the instructors were inadequate, etc. So we tried on our LEPC to—and I think we did get progress—we put pressure statewide on community colleges to do a better job and certainly we put pressure on the high schools. In that we had the State Board of Education as an ally. They were in favor of establishing courses in the high schools that were college prep courses. And so the way that law was drafted there was a period of about four years, I believe it was, that high schools had to

implement pre-college or college prep courses and starting with their freshmen year, so that by the time that freshman was a senior and going on he would be under the “qualified admissions,” the minimum standards. He would have four years of high school under the newer requirements. We thought it was a fair way to go.

LP: It sounds to me from what you’re telling me that the real opposition to “qualified admissions” came from the public, rather than from the Board of Regents or the State Board of Education.

JL: Yes, I’m glad you made that clear.

LP: People who were actually involved in education were for it.

JL: I believe so, yes. And I know in 1993 twice the issue was rejected in the House. Once was on a 61-61 tie vote with some people absent.

LP: Of course, the Legislature, particularly the House, represents public opinion more than the Board of Regents represents public opinion. You’ve got to get the public in favor of it to get it through the Legislature.

JL: That’s true. The second time in ’93 it failed on a 59 for, 65 against. Then in 1994 it was voted down. It was offered as an amendment to another bill and the amendment was voted down 56 to 69.

LP: This was a multi-year fight?

JL: Yes. So in the ’93 session we had the budget on the floor of the House—the budget for the Board of Regents—and I tried to restore a million dollars that had been cut. And the motion failed and it turned out a lot of the members of the House said they voted against my amendment to restore the million dollars because of their unhappiness with the Regents pushing to end the state’s open enrollment policy. That was one of the

reasons they were giving anyway, whether that's the true reason. But anyway then in the '94 debate it was argued by proponents [of qualified admission] that the records showed that there was a big drop off in academic performance between the freshman and sophomore years because they were not prepared. Anyway, we argued that the biggest problem, or one of the biggest problems, was the open enrollment policy that we'd had for many years which allowed hundreds of students to enroll with no chance of succeeding. They were like someone that got put at the plate in a baseball games with hardly any skills and they struck out every time. You knew they were not going to be successful when they went to the plate. They didn't have the basic math and language, etc. necessary. So at the time that it was defeated in '94 I remember asking the question and I was refreshed by this because it was in a newspaper article. I said, "Why are we the only state that says we don't care?" Apparently we were the last state to have an open enrollment policy. It was a populist policy.

LP: That's interesting. It goes back to Kansas populism.

JL: Yes, I think so.

LP: I think you're right.

JL: Well, you subtract seventy-nine years, whatever that is, from this is 1996 and you get way back there.

LP: To the Progressive Era?

JL: But anyway, when we failed to establish [qualified] admissions that session we didn't really give up. We said, well we're sending the message that we're just sending students unprepared into colleges as usual and this is fine; that's what we're going to do

in Kansas. We kept harping on this and they would come back and say well, you're [elitist], you know. And we pay the taxes, we ought to be able to go.

LP: This is Kansas anti-elitism showing?

JL: Yes. They said it would affect poor kids. If you put in this, it would be unduly adverse for poor kids, which I couldn't figure out, because in Kansas some of the poorer students do have stipends and scholarships available. I thought that was a bogus argument.

LP: You mean, by poorer you mean financially poorer?

JL: Yes, financially poor. But at any rate, I'm not going to spend time on the tape to say what all the standards were, like four units of English, etc., etc. But I really was just bringing up the fact that to try to get that change made, the longstanding, populist position, it was very difficult in this State to do.

LP: The requirements as you spelled them out here, were mostly about English and math, and I believe there were requirements on those two subjects.

JL: Yes. There were requirements for English, there was natural science as it was termed, which included three units, one of the three must be chemistry or physics, and then there's biology, earth-based principles, technology, etc. So it included that three plus three approved units in algebra I and II and geometry and any math courses.

Algebra II was a prerequisite and then there were social sciences, three units had to be in social sciences.

LP: A well balanced program?

JL: Yes. One of the arguments at the time—we that we finally got it through [by] compromise; we had to give up on foreign language as one of the minimum



requirements. The reason for that was, for example, one of my cohorts from Colby or Brewster, Kansas, out in Thomas County, [Representative Don Crumbaker] argued that it was very difficult for those small rural districts to employ a foreign language student to be able to offer say Spanish or French on a regular basis and this would be an undue requirement on them. They would have to pay extra to get somebody out there; it cost more to get teachers to teach out in some of those small rural districts. So in order to try to get the vote of the [representatives from] rural and small schools, the foreign language requirement was dropped out. But I think it's been in place, well actually it's been in place since 2001-2002. I think [qualified admissions has] proved to be helpful, not only for managing higher education, but helpful for those students to get better educated in their four years of high school so that they're not set up to fail when they enroll at Emporia State University or Kansas University, etc. And I think that pretty well covers that topic, if you want to move on to something else.

LP: Are there any other major topics that you want to talk about?

JL: KPERS, of course, is a major topic.

LP: Well, ok, let's talk about that.

JL: I can't get into too much detail here, and I won't, because I don't have the records, but I will say this: that during my time there I was eventually put on the Appropriations Committee, which is comparable to the Ways & Means Committee in the Senate; in the House we changed the name. I was sub-committee chairman for all the time I was on the committee and I would be assigned the KPERS budget. Well, I think I mentioned earlier that when you set budgets you're setting policy to a great degree for any state agency. You can earmark even and allocate funds within an agency for certain programs. But in

dealing with KPERS we would review the budget that the head of KPERS—the director would come over and maybe some of the trustees and they would present their budget. They'd go over their staffing, how they were investing funds, etc. and really we didn't make any major changes, enhancements, or any undue reductions in the budget. But it did surface back there in the 90s that the unfunded liability of Kansas Public Retirement System, which is KPERS, was building every year.

LP: Now, let me make sure—when you talk about the budget that the House and Senate appropriate, that is the budget for. . . .

JL: The operations.

LP: The operations of KPERS. The money for actually paying the pensions comes from a fund that has been built up.

JL: Yes.

LP: That is not an annual appropriation of the Legislature.

JL: No sir. No, now wait a minute. In a way it is. Let me continue.

LP: Okay.

JL: For one thing, we did deal with some other issues like double-dipping and we won't get into all that with KPERS and benefits.

LP: Drawing a pension and still drawing a salary?

JL: But what had happened was there was legislation passed in '93 that enhanced benefits on a prospective basis for state employees who eventually would receive these benefits under KPERS. Of course this increased the cost and the fact is that over time the state reneged, you might say, to fund its share. In other words, the employee, state employee, had 5% of his pay deducted to go into the retirement system and the state was

to put in, I believe it was 4%. Now that was the initial [plan]; I think I'm correct on that, and that was the initial agreement and contract.

LP: The state has an [annual] contribution to make.

JL: Yes, and to correct the problem you could not legally go in and say, we're going to change something retroactive. You couldn't impose a reduction in benefits on retirees to help correct the problem because legally under the Constitution, the State Constitution, you could not make those changes. Any changes had to be prospective for the future, we had testimony from actuaries, like a Denver company came in and explained that in order to reduce the unfunded liability, what it would take as far as input of dollars by the state to do this. In effect, in layman's terms, what was happening for years was that because the state wasn't putting in enough, employees were still putting in [only] 5%, there wasn't enough money going in, and you also have to take into consideration earnings that the KPERS investment returned to the system. But the earnings on the investments and the contributions made by the employees and by the State, were not enough to pay the outlying years ahead, what was due.

LP: KPERS was eventually going to run out of money?

JL: It would be the same as if you didn't pay quite enough on your mortgage each month or each year. Gradually that mortgage would grow, right? And so it was the same sort of situation. There wasn't enough money in there to handle it.

LP: The longer you wait the bigger the problem gets?

JL: I think if I'm correct the figure then was around a million and a half, and it's grown now; I'm sorry, a billion and a half and it's grown to 8 billion dollars today. But at any rate, we wrestled with this issue session after session. I worked with the Senate, Senator

Bogina was chair of the sub-committee in the Senate and we finally would get a bill out and get debate on it to where the State would increase its contribution a quarter of a one percent, .25 % each year for like four years to bring it up to the full 4% to help retire this unfunded liability. But a lot of times this was difficult to get the votes for because it was an expense to the State General Fund. And here we have KPERS system covering all state employees, covering many local county and city employees and the State actually pays, still does, every year the entire liability for the entire number—all teachers, let's put it that way, are paid by the State. What the school systems and the teachers owe is covered by the State annually in an appropriations measure. It's part of the budget. So we still were short of trying to get these funds, and this went on and on and needless to say, it was never really solved because it's grown to a tremendously larger proportion if you look at the situation as we're recording this today in 2012. I was trying my best at the time to help some of those people who had retired before KPERS because they got just a pittance as a retirement and a lot of older retired teachers that I knew here in Emporia were after me, but I really never was successful in doing more than getting what was called the 13<sup>th</sup> check. Sometimes we'd get the House or the Senate together to vote appropriations to cover one more payment than the normal twelve.

LP: Now this is to retired teachers?

JL: This was retired teachers.

LP: When you say the State is paying, we're talking about paying retired teachers, we're not talking about paying teachers who are still on the job.

JL: We're trying to make it up for those who were teaching when KPERs went into effect. But that's about all I could get done. Then I came up with an idea that was called

“Lowther’s Diet Cola.” The thing was that for a couple of years in a row KPERS had been quite successful in the return on their investments. Their earnings back in ’96, for example, one year, was 12.4% and then in ’95 I think it was 17.6%, a quite healthy return. Their goal was 8% every year. So I came up with an idea that if KPERS investments earned 10% or over, that a portion of that would be skimmed off. In other words, a shared earnings; the KPERS beneficiaries would get a share of the earnings and the money would be an annual—it wouldn’t be on-going, it would be on an annual basis. And those getting retirement checks would get that money.

LP: Would get a temporary increase?

JL: It was just a one-shot deal.

LP: Yes.

JL: We couldn’t get a cost of living increase—I tried to get cost of living in there, called COLA (cost of living).

LP: That’s why when you talk about Diet-Cola you mean you couldn’t get it completely through?

JL: Yes.

[End of Side A]

[Side B]

LP: You were talking about the operations of the system and how if the investment year went well you would give an additional payment to the retirees. Is that correct?

JL: Yes, I had a bill to do that for those KPERS retirees who retired prior to July 1, 1993.

There was a general agreement in the House and Senate [among] people who were involved and knew about this, and those people were shortchanged. We had passed

enhanced pension benefits in 1993 that they didn't get. So anyway, with my bill if it would pass, they could expect an extra check of about at least I think, a half months [pay] for that one year. And then it would go on if we actually appropriated the money; it could be another year, but it would be subject to an annual appropriation.

LP: What happens to this program, however, when the stock market tanks?

JL: Well, if the earnings weren't 10% or better, then this would not trigger. It was the excess. The goal was 8% and I had it at 8% but they were concerned so I set it at 10%. If it was above 10% then we'd skim off one-half and that would go towards the 13<sup>th</sup> check or at least a partial 13<sup>th</sup> check.

LP: Now it's not anywhere near 10%.

JL: Oh, no. But anyway, somewhere along the line it got dubbed Diet Cola because previously the Senate that year had rejected giving any retirees a permanent cost of living increase. I think it was 1½% was what they wanted to do, and of course you get that in your Social Security; but usually you get a cost of living increase. But in the House, I mean in the Senate, all 27 Republicans voted against the proposal that was offered by Senator Jerry Karr from Emporia. When I tried this idea in the House, I thought he would support it and try to get it through. [The bill] had shortcomings, there's no question about it, but at least it was a one-shot deal with potential for further benefits down the road. And with the earnings going pretty high, as they were back then, I thought it was worth a try. The value of the fund in July 1 of 1995 was right at 15 million, so if my bill had gone in based on that they would have got about half a monthly benefit instead of a full 13<sup>th</sup> check. But anyway, the unfunded liability was still there and it was really [the elephant] in the room or something, and so my amendment was shot

down in the Senate and it didn't pass. I did get editorial support from various newspapers about it. But the Senate Ways and Means chairman at that time was Dave Kerr and he just felt that the State needed to put more money into KPERS. If we're going to put money in, it should go to retiring the unfunded liability, and we should not be taking more out.

LP: In other words, if you're not going to pay it to the people who are already retired you're going to pay it into the fund to cover the future.

JL: Yes. The unfunded liability. So anyway the wrestling match with KPERS over the years was tough and we never could come up with a permanent solution that was satisfactory, and I believe I can say that they never did and never have come up with a solution.

LP: Is the unfunded liability still there?

JL: As I mentioned earlier, I think it's over 8 billion.

LP: The pension is \$8 billion short of meeting the future?

JL: Yes. I forget the year but they needed 8 billion in order to cover what everybody would have coming to them by 2023 or 2025, I forget the year.

LP: Of course this is a problem which affects practically every pension system and affects Social Security today.

JL: Yes.

LP: The unfunded liability.

JL: And my argument at the time was that the unfunded liability was not [just] our system, which rated nationwide was pretty good compared to California and a lot of other states. It wasn't percentage-wise a huge problem. But it continued to grow to where it is

a huge problem and we could never get the vote to remedy it. Either the State was going through a time of revenue shortfalls or in a recession or whatever reason, they never would commit the State to put in enough every year.

LP: To make up the unfunded liability?

JL: That's still true. Yes.

LP: Now, we have talked about some of the big issues. As you and I, in informal conversations, have noted some of the big issues are the thing, but lots of your time goes to some smaller issues.

JL: A couple or three examples. I was approached by several Emporia policemen about the way the gun law of Kansas was drawn up—the statutes covering handguns and what have you. It seems that a trooper, I believe it was a female trooper in Johnson County, pulled over a car and a guy reached into his shoulder holster in his coat and pulled a handgun out and shot this trooper. And they were scared; [this] was I-35 you know, and they were kind of scared to stop cars, especially at night out there, and maybe they were by themselves. They wanted the law changed so that it wasn't legal to carry a weapon in a vehicle. Make it illegal. What was happening is if a person had a gun illegally in a holster or concealed, they could pull it out and throw it on the seat. Then they could put a magazine over it, but that wasn't illegal. People could have gun racks and carry rifles in the back of their pickups and what have you. So they wanted to make it illegal to conceal a gun under a newspaper on the seat or in a glove box in a car.

LP: In other words, they wanted to expand what was a concealed weapon?

JL: Yes. Well, I got the bill through committee—I forget what committee it was—but I got the bill out of committee and got it to the floor and we were debating it and all of a



sudden the opponents began to go to the microphone one after the other. A lot of them were rural western legislators and they wanted to be able to carry those rifles in their pickup trucks.

LP: Well that could hardly be a concealed weapon, though.

JL: No, they have gun racks, but the way the bill was drafted you couldn't carry a weapon.

LP: Couldn't carry a weapon in the car, period?

JL: Yes. It's hard to remember the details. Basically it was to prevent carrying concealed weapons in the car, but they were afraid that this would be a step toward an amendment would then make it illegal to carry your rifle in a gun rack, and they didn't want to have any movement towards more restrictions. They wanted to be able to drive along and see a jack rabbit and stop and shoot. Anyway, I wasn't getting anywhere.

When the vote came up in the preliminary vote, they called for a division of the House so that you had to press your yes or no button and the lights came on. On the first round you had to have at least a majority vote to pass it over to final action. Then on the final action you had to have a constitutional majority of 63 votes. But any bill on the floor had to have at least a majority to pass over to final action so when this gun bill came up to a vote it had 26 in favor. So I backed off. But there was another issue came up. . . .

LP: Did you ever hear from the National Rifle Association on that?

JL: Yes, oh, I was on their blacklist for years. Yes.

LP: What do you mean by their blacklist?

JL: Well, they would lobby against me. If I had a candidate that was running against me that was an NRA supporter, they'd support the other candidate, etc. Yes.

LP: They tried to defeat you in the primary?

JL: If they could, yes. If the opportunity was there. But at any rate, well, I want to mention another bill called “The High Rollers.” It seemed that there was a lady at 12<sup>th</sup> & Commercial [in Emporia] who had stopped, or didn’t stop, I forget; either she ran into the back of this vehicle or it ran into the back of hers, and it was one of these jacked-up pickups that were way up, had huge wheels and tires and were way up in the air. Of course the bumper then went right into the vulnerable parts of her vehicle, either the windshield or whatever, I think it was the back of her car. And she felt like the fact that they jack it up so that it’s not a bumper to bumper, one car bumper hitting another car bumper. So I did some checking on that and the Department of Transportation said well, they [would] support [a bill to restrict the height of vehicles]. There was also some question about the stability of these high rollers; because they’re high, they were out of balance.

LP: Just what were you going to do about their height?

JL: Well I introduced a bill that got out of the Transportation Committee with flying colors, and the requirements were basically that the maximum height could be 24 inches (2 feet); if they’re going to jack one up, it couldn’t be over 2 feet. And the bill came out with no problem. Legislators could see that this was probably a prudent move and I got it to the floor and it passed the House in flying colors. A friend of mine, a Senator, had a hearing coming up in the next week or so and I went over one afternoon to testify before his committee in favor of the bill before the Senate Transportation Committee. The room wasn’t very big, and it was packed wall to wall. You could hardly open the door to get in due to the opponents. I guess if I’d taken time to look outside around the

Statehouse that day, I'd have seen nothing but these "high-rollers" parked all over the place because they'd found out about this legislation and they got in gear, you might say, and appeared against it. I was standing there talking in favor of it in this Committee Room, and they were standing behind me. I could feel the breathing down the back of my neck. And I thought boy, I'm not going to get anywhere so I tried to make it short and just demonstrate that this was a safety issue that we were trying to remedy here, and to cut this short, the bill did pass finally. There were some modifications to it in the Senate, but it passed and went to Governor Carlin at that time. Governor Carlin vetoed it. He said it wasn't fair to those who spent all this money to get a car modified, or a pickup modified. It cost a lot of money, and it wasn't fair to those people who'd spent all that money, to make them have to then spend more money to lower it back down. And so he vetoed it. I dropped it there. I don't think it ever surfaced again.

But I did have one bill that was a successful. At the time the district judges here in Emporia were concerned about juveniles—juvenile crime and the way that juveniles were handled. It seemed that juvenile offenders would sometimes be involved in a criminal activity that would cause damage, whether it was graffiti or maybe broken windows or who knows what it might have been. And so the idea here from the judges was we needed to put some teeth into the statutes so that there'd be some restitution for crime victims. And I worked on this and helped get it through the Senate. The measure that went out of the House was a measure that included several changes in [various] statutes and my bill was amended into it. It would have required juvenile offenders to be held liable for restitution when they were released from court supervision or when they hit age 21. That was to remedy the problem that under the current law a victim couldn't

recover from a juvenile when they were released or not even when they were age 21. So Judge Merlin Wheeler and Magistrate Judge Francis Tolle wanted a law passed that would allow victims of juvenile crime to file civil suits, to recover losses that they sustained.

LP: You could sue the juvenile then?

JL: Yes.

LP: You couldn't sue the juvenile, but when he reached age 21 or was released you could sue him at that point.

JL: Yes. And I'm not sure if that particular bill ended up passing but we did eventually get some modifications to allow some sort of recovery or restitution for victims of juvenile crime.

LP: Do you think that has worked out okay?

JL: Well, I can't answer that without doing some spade work. I haven't followed up on that. I thought it was an example of another thing to get involved in terms of small issues. But a lot of times the smaller issues affect people. They may not affect a large mass, but affect a segment of people—they may be constituents of yours as a legislator—and so it's oftentimes these things that don't make the headlines are still important to people. And it does take time to work to revise statutes to get a bill drafted to do what you're trying to do and not have some unknown effect and unwanted result. So you have to be careful with bill drafting when you're either drafting new or amending old statutes. And that takes time. Fortunately the House and the Senate, the Kansas Legislature, has a very strong division of Reviser Statutes. I guess they call it the Office of Reviser of Statutes. And a lot of times the revisers will have an area of expertise and

carry on in that area, that division, for years at a time so they become quite knowledgeable about it.

LP: They give you assistance, I take it, on how to draft a bill.

JL: Oh, yes. Yes, like talking with Judge Wheeler and Magistrate Judge Tolle at that time, they could type out or I could type out, what it is we had in mind we wanted to do. I could have it drafted and introduced, but that would have been foolhardy, so you take your idea to the Reviser's Office. They can see what you want to do and talk it over and then see what you have; then they would proceed to research the current law. Oftentimes there would be laws on the books for years that people had overlooked that still applied, and so if you wanted to make a change it was going to change another one. And it sometimes got a little complex. So fortunately any legislator elected had the benefit of the Reviser's Office. And I remember spending hours with one lady who was an education expert because a bill was so complex that one change would cause a change somewhere else. Fortunately that lady knew the statutes almost by heart. She had an institutional memory. She remembered why and how it came about that the Amish didn't have to go to school like all the other students, for example. Or she knew that certain things were unconstitutional that you were going to try to do because the Constitution stated this or that.

LP: She was there to keep you from making a fool of yourself—doing something that couldn't be done.

JL: If you were elected as a legislator and you wanted to make a fool of yourself, there were plenty of ways to do that. Yesterday and today, that doesn't change. But anyway, that Reviser's Office was a big help and that came into play, especially when you were

trying to do something on your own or it wasn't a big issue. If I was Chairman of the Education Committee, I could be representing the Committee and working with the Reviser's Office. And I might even take the Minority Leader of the Committee, so it's not going to be a partisan problem, etc. But as an individual on one of those small bills like I've mentioned, you pretty well were working on your own.

I should mention here that then and today a legislator has the support of the Kansas Legislative Research Department. They would staff all the committees. Education Committee, for example, would have a certain staffer who would be at all the meetings, monitor all that was going on and the legislation that was being considered by that committee, etc. The Research Department was split into two sections. One was staffing of the committees I mentioned, and the other was the fiscal division, the fiscal research division. These people staffed the Appropriations Committee. They would take the budget as it came from the governor and go over it and see what the state agency . . . they would analyze it—break it down into small parts and sections so that the Appropriations Sub-Committee could then go over this and understand exactly what, for example, the Department of Wildlife and Parks was doing with what kind of money, with state money or fee money. They were the experts on the fiscal side of the legislation.

On the Tax Committee, I never was chair, but I was vice-chair several times. We would have our staffer there who was a PhD. We also would have every day in there a member of the Revisers of Statutes in the committee meeting to follow the legislation that's being discussed and advising the committee [on amendments]. And oftentimes if a fiscal vote involved, we might have a member of the staff from Legislative Research. So we could have three staffers sometimes. So it was a well-thought-out and well-

implemented support system for the Legislature in Kansas. And I remember the National Conference of State Legislatures, CSL. One time we had a commendation for the efficient type of government and the way we were running things under the dome. Some of the speakers [of the House] at the time were anxious to feather their nest a little by making sure that they were doing a good job and the state was getting recognition for it. A lot of legislators never introduce a bill. I think that most of them do, eventually. They'll have a request from a constituent so they will get a bill introduced. But it varies from individual to individual. Some legislators get to where they are concentrating on one thing or one area . . . might be taxes, things to do with taxes. It might be education, for example, and they get so absorbed that they're not aware of what all is going on in the other areas. I always felt like on some of the more complex issues only a handful of the House members would really understand the bill. On any particular bill, only a handful would be cognizant of the contents of the bill and understand why or the workings of it and a lot of them then would just take the word of the Speaker. The Republicans were voting against this or the Democrats were voting for that or we want your vote on this amendment that Jim Lowther is going to introduce. So they wouldn't understand it necessarily, but they'd follow instructions. And I felt that was going on to a great extent back in the 80s and 90s, and I'm sure it's going on today. But my contention was, and some of the Speakers I worked with, we didn't like that and we wanted to make sure that the staffers wrote up a explanation of legislation that was [up for debate] in a booklet so when a bill came up they could go there and read a summary of it and get the gist of it. We called it a "peanut of it." So they would know what it was that they were voting on without maybe having the necessity of actually laboriously taking on the job of reading a

25 or 35 page bill—reading all the fine print. But gradually, if you're in the Legislature you get to where you can look at a bill and you can tell right off if it's amending an existing statute, then the new language is in italic or boldface, I forget exactly, but by one or the other, you can go down through—you can pick out the new language. And the strikethroughs show what existing language is going out so you can scan it.

LP: That's crossed out.

JL: Yes. So you can scan a bill, and if it's no change you can leaf through it and get down to the section that's being modified. You have to put the whole statute in the bill, but then you get down to the part that's being modified or amended and you can see what's been stricken and what's been added and what the changes are. So that helps a great deal in reading bills, because most legislation is amending old statutes on the books. Now there are some times it's all new language, and that's a different ball game. But the Senate had their code and the House had their code. In other words, the House would use a light italic and boldface, the Senate would use bold italic and boldface italic to show their lines so you knew whether it was the Senate language or the House language. So we had all those tricks, and then gradually computers came into play; they were just coming into play there during the end of my tour of duty. But now, legislators can sit there on the computer or with laptops on their desks and pull up bills, scan them, read them, pick it out. I'm not familiar with it, but it's a whole new ball game in terms of ways they can handle things. It used to be everything was paper, of course, and the amendments sometimes were huge. But I think a lot of things have changed, but I don't know so I can't talk about it. You mentioned that you wanted to visit about the governors?



LP: I do but we're almost to the end of the tape here. I really think we'll make that a subject for our next one—looking at the various governors. I believe you served under five of them, correct?

JL: That's correct.

LP: And starting with Governor Bennett.

JL: Right.

LP: What about the governors since then? Do you have any opinions on them too?

JL: Since I've been in?

LP: Since you've been out.

JL: Since I've been out, yes, right. Well, sure. I think everybody has opinions of the governors.

LP: We'll spend next time then talking about governors.

JL: OK.

LP: And I'd like to see what you think of them. By the way, I think I mentioned this to you before. To me it's always a wonder that I looked up the governorship for the last 54 years and I find that the Democrats controlled the governorship 32 of the 54 years.

That's in [what is supposed to be] a Republican state?

JL: Yes.

LP: The Democrats aren't completely out of it.

JL: Well, a lot of that was topical issues and sometimes Republicans would shoot themselves in the foot.

LP: Well, we'll talk about that next time. OK?

JL: Alright.

End of tape 12.