

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS

The meeting was called to order by Senator Paul Hess at _____
Chairperson

1:00 a.m./p.m. on March 25, 1983, 19__ in room 123-S of the Capitol.

All members were present except:
Senators Bogina and Steineger

Committee staff present:
Research Department: Marlin Rein, Sherry Brown, Mary Galligan, David Monical, Ed Ahrens
Revisor's Office: Norman Furse
Committee Office: Mark Skinner, Doris Fager

Conferees appearing before the committee:

HB 2086, Appropriations FY 1984, KPERS and Department of Revenue
HB 2135, Appropriations FY 1983, KPERS and Department of Revenue

HB 2135, Section 17 - KPERS

Senator Doyen presented the subcommittee report on this section, and committee members were given opportunity to question him.

HB 2086 - Section 2 - KPERS

There was a brief discussion concerning contribution rate of the state for KPERS, following Senator Doyen's presentation of the subcommittee report on this section. It was agreed that any adjustments needed may be made in the omnibus bill.

Motion was made by Senator Doyen and seconded by Senator Gaines to adopt the subcommittee reports for KPERS. The motion carried by voice vote.

Sub. for HB 2132 - Alcohol and Drug evaluations, etc.

A ballon of the proposal containing suggested amendments was distributed to members of the committee. There was discussion concerning the amendments.

Motion was made by Senator Doyen and seconded by Senator Gaines to amend Sub. for HB 2132 as proposed in the balloon. Senator McCray and Senator Steineger expressed concern that the law be changed less than a year after its effective date. The motion carried by voice vote.

Motion was made by Senator Talkington and seconded by Senator Bogina to report Sub. for HB 2132 favorably as amended. The motion carried by roll call vote.

Systemwide Issues - Board of Regents' Institutions

The following items were not acted upon at this time, but were left for decisions during consideration of the omnibus bill or during conference committee deliberations at the end of the session:
(1) Faculty salaries, classified salaries, and student salaries; (2) Utilities; (3) Funds for High Technology. Senator Hess appointed a subcommittee to deal with HB 2311 and HB 2442. Subcommittee members are Senators Doyen, Steineger and Hein. They were asked to make a recommendation concerning the proposed \$1.5 million for high technology, suggested amendments to HB 2311 and HB 2442.

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.

Systemwide Issues - Board of Regents' Institutions, Continued

Other Operating Equipment

Senator Hess reminded the committee that the House Ways and Means Committee had deleted the University of Kansas Medical Center from HB 2148, so that it could be studied more thoroughly.

Motion was made by Senator Doyen and seconded by Senator Werts that O.O.E. be increased by 7% as recommended by the Governor.

A substitute motion was made by Senator Steineger and seconded by Senator McCray to appropriate \$1.4 million for equipment, computers, etc., but not to include that amount in the base. Following a brief discussion, the substitute motion lost on a voice vote.

There was a vote on the original motion, and it carried, with Senator Steineger voting "No." His reason for voting against it was that he has no assurance equipment and library needs are going to be addressed.

Reduction in base budgets of approximately \$14 million

Motion was made by Senator Steineger and seconded by Senator McCray to approve the Governor's recommendation on this item.

A substitute motion was made by Senator Hein and seconded by Senator Doyen to use a pro-rata reduction approach rather than 50-50; but to leave the University of Kansas Medical Center and Kansas State University Veterinary Medical Center as recommended by the Governor (See page 12 of Budget Analysis, Legislative Research Department). Following a brief discussion, the substitute motion lost on a voice vote.

The motion to approve the Governor's recommendation on this item carried by voice vote.

Enrollment Adjustments

Following a brief discussion on enrollment adjustments, it was decided to agree with the Governor and the House.

Release of Fees

There was a brief explanation from staff concerning this item. It was the concensus of the committee that this should be addressed in individual subcommittee reports.

Work-Study Programs

Motion was made by Senator Hein and seconded by Senator McCray to introduce a bill to establish a framework for work-study programs at all four year public institutions in the state. Senator Hein noted that \$562,000 is included in HB 2148 for this purpose by action of the House. The motion carried by voice vote.

The meeting was adjourned by the Chairman.

Substitute for HOUSE BILL No. 2132

By Committee on Ways and Means

3-2

0016 AN ACT relating to alcohol and ~~drug safety action programs;~~
0017 ~~amending K.S.A. 8-1008 and repealing the existing section.~~

0018 *Be it enacted by the Legislature of the State of Kansas:*

0019 Section 1. K.S.A. 8-1008 is hereby amended to read as fol-
0020 lows: 8-1008. (a) ~~The secretary of social and rehabilitation ser-~~
0021 ~~vices shall establish a state alcohol and drug safety action pro-~~
0022 ~~gram. As a part of the program, the secretary shall certify~~
0023 Community-based alcohol and drug safety action programs
0024 ~~which may certified in accordance with subsection (b) shall~~
0025 provide:

0026 (1) Presentence alcohol and drug evaluations of any person
0027 who pleads *nolo contendere* to or is convicted of a violation of
0028 K.S.A. 8-1567 and amendments thereto, *or the ordinance of a*
0029 *city in this state which prohibits the acts prohibited by that*
0030 *statute;*

0031 (2) supervision and monitoring of all persons who plead *nolo*
0032 *contendere* to or are convicted of a violation of K.S.A. 8-1567 and
0033 amendments thereto, *or the ordinance of a city in this state*
0034 *which prohibits the acts prohibited by that statute,* and whose
0035 sentences or terms of probation require completion of an alcohol
0036 and drug safety action program, as provided in this section, or an
0037 alcohol and drug abuse treatment program, as provided in this
0038 section; ~~or (3) any combination of (1) and all or part of (2). An~~
0039 alcohol and drug safety action program may include such com-
0040 ponents as are provided by the secretary of social and rehabili-
0041 tation services;

0042 (3) alcohol and drug evaluations of persons whom the pros-
0043 ector considers for eligibility or finds eligible to enter a diver-
0044 sion agreement in lieu of further criminal proceedings on a

drug-related crimes; providing for the establishment of alcohol and drug safety action programs; amending K.S.A. 8-1008 and 8-1567 and repealing the existing sections

Atch. A

0045 complaint alleging a violation of K.S.A. 8-1567 and amendments
0046 thereto, or the ordinance of a city in this state which prohibits
0047 the acts prohibited by that statute;

0048 (4) supervision and monitoring of persons required, under a
0049 diversion agreement in lieu of further criminal proceedings on a
0050 complaint alleging a violation of K.S.A. 8-1567 and amendments
0051 thereto, or the ordinance of a city in this state which prohibits
0052 the acts prohibited by that statute, to complete an alcohol and
0053 drug safety action program, as provided in this section, or an
0054 alcohol and drug abuse treatment program, as provided in this
0055 section; or

0056 (5) any combination of (1), (2), (3) and (4).

0057 (b) The presentence alcohol and drug evaluation shall be
0058 conducted by a community-based alcohol and drug safety action
0059 program certified by the secretary of social and rehabilitation
0060 services in accordance with the provisions of this subsection to
0061 provide evaluation and supervision services as described in
0062 subsection (c). In establishing the qualifications for the pro-
0063 grams, the secretary shall give consideration to those programs
0064 which have had practical experience in diagnosis and referral in
0065 alcohol and drug abuse subsections (c) and (d). A community-
0066 based alcohol and drug safety action program shall be certified
0067 either by the administrative judge of the judicial district to be
0068 served by the program or by the secretary of social and rehabil-
0069 itation services for judicial districts in which the administrative
0070 judge declines to certify a program. Certification of a program
0071 by the administrative judge shall be done with consultation and
0072 approval of a majority of the judges of the district court of the
0073 district and municipal judges of cities lying in whole or in part
0074 within the district. If within 60 days after the effective date of
0075 this act the administrative judge declines to certify any program
0076 for the judicial district, the judge shall notify the secretary of
0077 social and rehabilitation services, and the secretary of social
0078 and rehabilitation services shall certify a community-based
0079 alcohol and drug safety action program for that judicial district.
0080 The certification shall be for a four-year period. Recertification
0081 of a program or certification of a different program shall be by

In establishing the qualifications for programs, the administrative judge or the secretary shall give consideration to those programs which have had practical experience prior to July 1, 1982, in diagnosis and referral in alcohol and drug abuse.

0267 alcohol and drug safety action fund of the court an amount of
0268 money determined by multiplying the number equal to the
0269 unencumbered balance in the alcohol and drug safety action
0270 program fund on the effective date of this act by the number
0271 equal to the percent of the total amount of money credited to the
0272 alcohol and drug safety action program fund which was remit-
0273 ted by the clerk of the court to the state treasurer and credited to
0274 that fund during the period from July 1, 1982, to the effective
0275 date of this act. Prior to the payment the state treasurer shall
0276 certify to the director of accounts and reports the amount
0277 remitted by each sentencing court and credited to the alcohol
0278 and drug safety action program fund during the period from
0279 July 1, 1982, to the effective date of this act. After such payment
0280 the director of accounts and reports shall transfer all the money
0281 which remains in the alcohol and drug safety action program
0282 fund to the state general fund and at the time of the transfer all
0283 liabilities of the alcohol and drug safety action program fund
0284 are imposed on the state general fund. After such transfer, the
0285 alcohol and drug safety action program fund is hereby abol-
0286 ished.

0287 (g) The secretary of social and rehabilitation services shall
0288 remit all moneys received by the secretary under this section to
0289 the state treasurer at least monthly. Upon receipt of the remit-
0290 tance, the state treasurer shall deposit the entire amount in the
0291 state treasury and credit it to the certification of community-
0292 based alcohol and drug safety action programs fee fund, which
0293 is hereby created. All expenditures from such fund shall be
0294 made in accordance with appropriation acts upon warrants
0295 issued pursuant to vouchers approved by the secretary of social
0296 and rehabilitation services or a person designated by the secre-
0297 tary.

0298 Sec. 2. K.S.A. 8-1008 ~~is hereby repealed.~~

0299 Sec. 3. This act shall take effect and be in force from and
0300 after its publication in the Kansas register.

Insert

and 8-1567 are

"Sec. 2. K.S.A. 8-1567 is hereby amended to read as follows: 8-1567. (a) No person shall operate any vehicle within this state while under the influence of alcohol.

(b) No person shall operate any vehicle within this state if the person is a habitual user of or under the influence of any narcotic, hypnotic, somnifacient or stimulating drug or is under the influence of any other drug to a degree which renders such person incapable of safely driving a vehicle. The fact that any person charged with a violation of this subsection is or has been entitled to use the drug under the laws of this state shall not constitute a defense against any charge of violating this subsection.

(c) Upon a first conviction of a violation of this section, a person shall be sentenced to not less than 48 hours' imprisonment or at the discretion of the court, 100 hours of public service nor more than ~~6~~ six months' imprisonment and fined not less than \$200 nor more than \$500, ~~or by both such fine and imprisonment~~. The person convicted shall not be eligible for

release on probation or suspension or reduction of sentence until the minimum sentence has been satisfied. In addition, the court shall enter an order which (1) restricts the person convicted to operating a motor vehicle on the highways of this state only in going to or returning from the person's place of employment in the course of the person's employment ~~or~~ during a medical emergency or in going to or returning from the place such person is required to go to attend an alcohol and drug safety action program as provided in K.S.A. 8-1008 and amendments thereto or a treatment program as provided in K.S.A. 8-1008 and amendments thereto for a period of time of at least 90 days and not to exceed one year and (2) requiring that the person enroll in and successfully complete an alcohol and drug safety action program as provided in K.S.A. 8-1008 and amendments thereto or a treatment program as provided in K.S.A. 8-1008 and amendments thereto, or both such education and treatment programs. ~~in--the event~~ If the person convicted has a suspended or revoked driver's license, the court shall not make the restricted license, provided under this subsection, applicable until ~~any--such~~ the suspension or revocation is terminated. No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or any ordinance of a city in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this subsection or the ordinance. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, shall not constitute plea bargaining.

(d) On a second conviction of a violation of this section, a person shall be sentenced to not less than 90 days' nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000. The person convicted shall not be eligible for release on probation or suspension of sentence until the minimum sentence has been satisfied, but the sentence may be reduced, but

not to less than five days' imprisonment, if the convicted person enters into and completes a treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008 and amendments thereto. In addition, the court shall suspend the driver's license of the convicted person for one year or until the person completes the treatment program approved by the court, whichever is directed by the court. No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or any ordinance of a city in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this subsection or the ordinance.

(e) On the third or subsequent conviction of a violation of this section, a person shall be sentenced to not less than 90 days' nor more than one year's imprisonment and fined not less than \$1,000 nor more than \$2,500. The person convicted shall not be eligible for release on probation or suspension or reduction of sentence. The court may also require as a provision of the person's release upon completion of the term of imprisonment that such person enter into and complete a treatment program for alcohol and drug abuse as provided by K.S.A. 8-1008 and amendments thereto. In addition, the court shall revoke the driver's license of the convicted person for the period of time specified for the revocation of a driver's license under subsection (j) and in accordance with the procedure for revoking a driver's license under subsection ~~(j)~~ (k). No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section, or any ordinance of a city in this state which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this subsection or the ordinance.

(f) The court may establish the terms and time for payment of any ~~fine~~ fine, fines, fees, assessments and costs imposed pursuant

to this section, ~~but full amount of the fine~~ any assessment and costs shall be required to be paid not later than 90 days after ~~the fine is~~ imposed, ~~subject to the provisions of subsection (h)~~ and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(g) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(h) The court shall report every plea of guilty or conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings or a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor-vehicle laws of this state.

(i) For the purpose of determining whether a conviction is a first, second or third or subsequent conviction for the purpose of sentencing under this section, the term "conviction" includes pleading guilty to a violation of this section, pleading nolo contendere to a violation of this section, being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section. For such purpose "conviction" also includes pleading guilty to an ordinance which prohibits the acts that this section prohibits, being convicted of such an ordinance

or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such an ordinance. For the purpose of this section, only convictions occurring in the next preceding five years shall be taken into account.

(j) In addition to any fine or imprisonment imposed under this section and in lieu of any restrictions on or suspension of a driver's license under this section, the judge of any court in which any person is convicted of violating this section or of violating any city municipal ordinance which ~~declares to be unlawful any act which is declared unlawful by subsection (e) or (e) of~~ prohibits the acts prohibited by this section may revoke the person's driver's license or privilege to operate a motor vehicle on the public highways of this state. Whenever a license or privilege to operate a motor vehicle is revoked pursuant to this section, the person whose license or privilege has been revoked shall not be entitled to have such license or privilege restored until the expiration of one year from the date of revocation. On conviction of a third or subsequent violation of this section, revocation pursuant to this subsection shall be mandatory for a period set by the court at not less than one year.

(k) Upon revoking any license pursuant to this section, the court shall require that such license be surrendered to the court. The court shall transmit the license to the division to be retained by the division until further order of the court. Whenever the court restores the privilege to operate a motor vehicle on the public highways of this state to any person whose license was revoked pursuant to this section, the court shall notify the division, and if the person has successfully completed the examination required by K.S.A. 8-241 and amendments thereto, and the other conditions established by law have been met, the division shall issue the appropriate license to the person upon proper application and payment of the required fee.

(l) Upon entering an order restricting a person's license

under subsection (c), the court shall require that the license be surrendered to the court. The court shall transmit the license to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on the face of the license that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted pursuant to this section is a nonresident, the court shall transmit a copy of the order to the division. The division shall forward a copy of the order to the motor vehicle administrator of such person's state of residence. The judge shall furnish to any person whose driver's license has had conditions imposed on it hereunder a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division issues the restricted license as provided in this section.

(m) Upon expiration of the period of time for which conditions are imposed pursuant to subsection (l), the licensee may apply to the division for the return of the license previously surrendered by the licensee. In the event the license has expired, the person may apply to the division for a new license, which shall be issued by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless the person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person violates any of the conditions imposed, the person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

(n) Nothing contained in this section shall be construed as

preventing any city from enacting ordinances declaring acts prohibited or made unlawful by this act as unlawful or prohibited in such city and prescribing penalties for violation thereof, but the minimum penalty in any such ordinance shall not be less than nor exceed the minimum penalty prescribed by this act for the same violation, nor shall the maximum penalty in any such ordinance exceed the maximum penalty prescribed for the same violation.";
