

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRSThe meeting was called to order by REPRESENTATIVE ROBERT H. MILLER at _____
Chairperson1:30 a.m./p.m. on March 1, 1988 in room 526S of the Capitol.

All members were present except:
 Representative Long -
 Representatives Peterson & Roper

Committee staff present:
 Mary Torrence, Revisor's Office
 Mary Galligan, Research Department
 Lynda Hutfles, Secretary

Conferees appearing before the committee:

Larry Montgomery, Kansas Lottery
 Jim Cobler, Accounts & Reports
 Spike Spiker, G-Tech
 David Gale, British Ameircan Bank Note
 Bob Gotcha, Kansas State Fair Board
 Reverend Richard Taylor, Kansans for Life at its Best
 Susan Selsam, State Treasurer's Office

The meeting was called to order by Chairman Miller.

Representative Rolfs made a motion, seconded by Representative Aylward, to approve the minutes of February 22 and February 23. The motion carried.

HB3023 - Amending the Kansas Lottery Act

Larry Montgomery, Executive Director of the Kansas Lottery, gave a summary of the proposed legislative changes in the Kansas Lottery Act. There are essentially five areas where changes are perceived necessary: who can play?, prize payment classification, termination of retailers, compensation for commission, and the prize payment fund. Additional proposed legislative changes include: Government agencies as retailers, set-off, unclaimed prize money. See attachment A.

There was discussion of the time it takes for a prize winner's check to be issued. Mr. Cobler of Accounts and Reports said that the Lottery gives them a tape each day of daily winners. Accounts & Reports runs the tape at night to check for setoff. Assuming there is money in the lottery fund, the check will be written the next morning.

Also discussed was the reason for the provision for non-monetary prizes. Mr. Montgomery said that they felt people would rather have the choice and that there is more public relations value.

There was discussion of the proposed legislative change which would permit governmental agencies to be certified as lottery retailers. The change would allow the State Fair Board to include ticket sales at the State Fair. Selling of lottery tickets by school boards, township boards, etc. could be permitted under this change.

The lottery prize fund was discussed. When asked how much money would be going through this fund, Mr. Montgomery said that in Game I there were 195 - \$5,000 winners, 1950 - \$500 winners and 19,000 - \$50.00 winners (about half of the \$50 winners were paid by the retailer); so it would be a substantial amount based on the first game.

When asked if there was any way the lottery could get a percentage for collecting set-off money, Mr. Cobler said that Accounts & Reports retains 15% except in the case of child support set-offs where there is a \$5.00 transaction fee. They would not be sharing this percentage with the Lottery.

Spike Spiker, G-Tech, supported the legislation. G-Tech is the vendor for Lotto America in Kansas.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

room 526S, Statehouse, at 1:30 a.m./p.m. on March 1, 1988, 19

David Gale, British American Bank Note, expressed support of the bill. He noted that the availability of cash award or merchandise develops a more unique game.

Bob Gotcha, Executive Director Kansas State Fair Board, expressed support of the bill. They are a fee fund agency and look for any opportunity to increase their receipts. Twenty-one state agencies participate in the State Fair. This would be an opportunity for the Fair Board (if Kansas Lottery could sell tickets). There was discussion on concessions at the Fair selling lottery tickets. Mr. Gotcha said they would have a different financial arrangement with the concession stands if they sold lottery tickets.

Reverend Richard Taylor, Kansans for Life at its Best, gave testimony in favor of the set-off program and suggested bankruptcy be added to set-off for lottery and lotto America.

Susan Selsam, State Treasurers Office, gave testimony in opposition to the legislation which exempts any state money from normal investment procedures.

Prize payments should be processed through Accounts & Reports. Mrs. Finney's Office suggested the bill be amended by striking all new language in Sec. 6 and inserting language to provide the lottery with the statutory authority for an imprest account of a specific dollar amount to be used for outlined purposes. See attachment B.

Hearings were concluded on HB3023.

HB2953 - Suspension and/or restriction of driving privileges

Mary Torrence distributed a balloon copy of the conceptual motion made at yesterday's meeting by Representative Roy. See attachment C.

Representative Roy made a motion, seconded by Representative Hensley, to report HB2953 favorably as amended. The motion carried.

HB2819 - Suspension of monor's driving privileges for any alcohol or drug-related offenses

Mary Torrence explained the amendment suggested by the Division of Vehicles in Sub. sec. c (2) and includes suggested amendments of Rep. Neufeld recommending that no restricted drivers license be reinstated during the order. See attached balloon. Attachment D.

Representative Roenbaugh made a motion, seconded by Representative Eckert, to amend the bill as per the balloon. The motion carried.

Representative Walker made a motion, seconded by Representative Roenbaugh, to report HB2819 favorably as amended. The motion carried.

SB283 - Real estate commission

Representative Aylward made a motion, seconded by Representative Ramirez, to update the cites as suggested by the Revisor's office and to report the bill favorably as amended. The motion carried.

SB424 - Law Enforcement Training Act

Representative Roenbaugh made a motion, seconded by Representative Barr, to change in line 202 "fo" to "of", in line 216 change "compliant" to "complaint" and in line 234 to change "proveded" to "provided" and in line 123 delete "within one year later from" and insert in lieu of "by the date". The motion carried.

Representative Barr made a motion, seconded by Representative Sughrue, to report SB424 favorably as amended. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FEDERAL & STATE AFFAIRS

room 526S, Statehouse, at 1:30 a.m./p.m. on March 1, 1988, 19

HB2994 - Establishment of a Criminal Justice System

Representative Roy made a motion, seconded by Representative Walker, to strike sec. 1 (1)(5)-(11) which would reduce the size of the commission to a 7 member commission.

Representative Ramirez opposed the motion saying he felt that community corrections should be left in the bill. They should be able to represent their particular programs.

Representative Miller related problems he and Representative Gjerstand had on liquor review commission which had a similar make up. The commission could have accomplished a lot more without the turf battles had it been a smaller commission.

Representative Hensley said he felt the make-up of the commission needed to include a minority.

The motion carried.

Representative Sebelius made a motion, seconded by Representative Gjerstad, to delete on page 2 line 70 all after "guidelines". The motion carried.

Representative Sebelius made a motion, seconded by Representative Barr, to report HB2994 favorably as amended.

HB2810 - Prohibiting carrying a firearm while intoxicated

Representative Ramirez made a motion, seconded by Representative Roenbaugh, to report HB2810 favorable for passage. The motion carried.

HB2811 - Crime to carry firearm concealed in land, water or air vehicle

Representative Gjerstad made a motion, seconded by Representative Aylward, to delete in line 0046 "concealed" and "where such firearm would be accessible to the operator or any passenger of such vehicle" and insert in lieu of "transporting any firearm" and "unless such firearm is unloaded and in a gun case". The motion carried.

Representative Walker made a motion, seconded by Representative Roenbaugh, to report HB2811 favorably as amended. The motion carried.

Representative Roy asked that the minutes of the February 23 meeting be corrected. Representative Roy made the motion and Representative Rolfs seconded the motion to amend SB366. The minutes stand as corrected.

The meeting was adjourned.

TESTIMONY BY
 LARRY MONTGOMERY, KANSAS LOTTERY
 BEFORE THE
 HOUSE FEDERAL AND STATE AFFAIRS COMMITTEE
 MARCH 1, 1988

SUMMARY OF PROPOSED LEGISLATIVE CHANGES

This represents a summary of the proposed legislative changes to the Kansas Lottery Act (K.S.A. 1987 Supp. 74-8701 et seq.) There are essentially five areas where changes are perceived to be necessary. We will address them in the order that they first appear in the act.

I. WHO CAN PLAY?

- K.S.A. 1987 Supp. 74-8702
- K.S.A. 1987 Supp. 74-8719

The proposed legislation: first, takes the burden off those paying prizes from being forced to determine whether payment of a prize to a winner is lawful. (K.S.A. 1987 Supp. 74-8719{a}); second, determines more clearly those persons who are specifically prohibited from participation in lot-

tery games (K.S.A. 1987 Supp. 74-8719{a}{2}); and third, permits the Kansas Lottery, by rule and regulation, to preclude participation by certain other persons who could be perceived to jeopardize the integrity of the Lottery (K.S.A. 1987 Supp. 74-8719(d)).

A literal interpretation of K.S.A. 1987 Supp. 74-8719(a) raises serious questions about who can participate in the various Lottery games in view of the numbers of people involved with vendors doing business with the Lottery. In view of the numerous inquiries from officers and employees of those businesses, asking whether or not they could play, the Lottery requested an interpretation of the law by the Attorney General. Although the Attorney General's opinion was helpful in determining the eligibility of certain persons to participate, it is imperative that we have additional legislative assistance to clarify the intention of the legislature about those for whom participation is unlawful.

A definition of "gaming equipment" at subparagraph (c) of K.S.A. 1987 Supp. 74-8702 is necessary in view of the new language in K.S.A. 1987 Supp. 74-8719(a)(2).

The addition of K.S.A. 1987 Supp. 74-8719(d) provides a vehicle for precluding certain classes of persons from participating in Lottery games to avoid any appearance of impropriety without imposing criminal sanctions. An example of persons who should not be permitted to play Lottery games would include those drawing tickets from a drum for a "Grand Prize Drawing" or "Gala Event."

The fiscal impact of the proposed changes is completely subjective since there is no way to determine persons who have not participated in the Lottery games. Because of the serious criminal penalties for violation of K.S.A. 1987 Supp. 74-8719, participation by persons who are employed by businesses doing business with the Kansas Lottery, and certain of their relatives, has been seriously questioned. A limitation and clarification of those who cannot lawfully participate in Lottery games could substantially increase revenues for the state of Kansas and enhance the enforceability of the law. As the statute is currently worded, enforcement is extremely difficult. Any fiscal impact from changes in this section would be positive to the Kansas Lottery and the state of Kansas.

II. PRIZE PAYMENT CLASSIFICATION

K.S.A. 1987 Supp. 8702(i)

K.S.A. 1987 Supp. 8706(a)

K.S.A. 1987 Supp. 8720(b)

Since the current instant games and the on-line games involve the payment of certain low-tier prizes by retailers, and not by the Lottery, we believe it imperative that "prize" be defined. Thus, the definition at subsection (i) of K.S.A. 1987 Supp. 74-8702 eliminates possible confusion. Additional changes clarifying this point should be made at K.S.A. 1987 Supp. 74-8706(a) and at 74-8720(b). These changes should make it clear that the Kansas Lottery is not responsible for the payment of all prizes.

We are satisfied that the current and planned Lottery games follow the legislative mandate, although the subsections cited in 1987 Supp. 74-8706 and 74-8720 speak solely to prizes paid by the Kansas Lottery. The proposed changes concerning prize payment classification merely represent a clarification and will have no fiscal impact.

III. TERMINATION OF RETAILERS

K.S.A. 1987 Supp. 74-8708(1)

The proposed addition to 1987 Supp. 74-8708 at subsection (1) will provide a statutory basis for terminating Lottery retailers. The current language applies only to the selection of retailers.

The purpose of this addition is to give the Lottery a statutory basis for terminating a retailer which mirrors the standards for selection. Although it will be necessary to promulgate rules and regulations to afford due process, and specific standards to follow should termination appear necessary, we anticipate no perceptible fiscal impact. Currently there is no statutory provision for the termination of a retailer.

IV. COMPENSATION FOR COMMISSIONERS

K.S.A. 1987 Supp. 8709(h)

Subsection (h) of K.S.A. 1987 Supp. 74-8709 authorizes commissioners attending meetings in performance of their statutory duties a subsistence allowance, mileage and expenses as set forth in subsection (e) of K.S.A. 75-3223. Deletion of the restriction to subsection (e) of K.S.A. 75-3223 would also permit the commissioners to receive per

diem compensation of \$35. With three of the five current commissioners traveling in excess of 140 miles each way to attend meetings, and a fourth traveling a total of over 140 miles per meeting, lifting the current restriction appears just and reasonable.

The fiscal impact of this proposed change for the four required meetings if all commissioners attended would be \$700. Special meetings could increase the total to a sum which would probably not exceed \$1,500.

V. PRIZE PAYMENT FUND

K.S.A. 1987 Supp. 74-8712(a)

K.S.A. 1987 Supp. 74-8712(b)

K.S.A. 1987 Supp. 74-8712(c)

At the present time only low-tier payments of \$1 and \$2 are made out of an imprest fund established pursuant to K.S.A. 75-3074 because the Director of Accounts and Reports cannot issue warrants for less than \$5 from the State Treasury.

With an understanding of the need for a change in the Lottery prize payment fund, the Department of Administration assisted in drafting the proposed changes in K.S.A. 1987 Supp. 74-8712 which would permit the Lottery to establish a bank account for the Lottery prize payment fund, from which it would be able to issue checks for the payment

of prizes to the holders of valid winning Lottery tickets or shares, for the payment of non-monetary prizes, for the reimbursement of retailers who have paid holders of winning tickets or shares, or as otherwise authorized by law.

Under the current system, prizes of \$5 and over are being paid from the Lottery prize payment fund on warrants from the State Treasurer, issued by the Division of Accounts and Reports -- although K.S.A. 1987 Supp. 75-3732(c), when read with K.S.A. 1987 Supp. 74-8712, anticipated that payments of up to \$5,000 would be made in the field by designees of the Director of Accounts and Reports and the Executive Director. Going through the voucher and warrant procedure for payments from the Lottery prize payment fund takes several days at best. The proposed prize payment fund would allow the Lottery and its four regional offices to make immediate payments following verification. It would also provide a vehicle for payments which the Lottery is legally obligated to make (state and federal taxes and other statutorily required set-offs), but currently doesn't have statutorily prescribed means of accomplishing. It would also permit the purchase of non-monetary prizes which is currently impossible in view of the requirement in K.S.A. 1987 Supp. 74-8712 that monies in the prize payment fund shall only be expended for the payment of prizes to the holders of valid winning Lottery tickets or shares and K.S.A. 1987 Supp. 74-8720(b) which mandates that prizes shall be paid only to a "natural person" who is the holder

of a winning ticket or share. In actuality there is currently no statutory means for paying anyone else from the prize payment fund although subsection (e) of K.S.A. 1987 Supp. 74-8720 requires that all prizes shall be subject to state and federal income taxes.

The fiscal impact to the Kansas Lottery in making the changes in the Lottery prize payment fund would involve obtaining checks, handling payments and service charges which would appear to be minimal. It would permit the regional offices to function basically as intended by the Kansas Lottery Act. Any fiscal impact would be substantially offset by the reduction in the number of claims currently being handled by the Division of Accounts and Reports. Any claims for state or federal taxes or other set-offs would be determined by the Lottery and routed through the Division of Accounts and Reports for appropriate handling.

CMA:ms

ADDITIONAL PROPOSED LEGISLATIVE CHANGES

VI. GOVERNMENTAL AGENCIES AS RETAILERS

K.S.A. 1987 Supp. 74-8702(d)

K.S.A. 1987 Supp. 74-8708(a)

K.S.A. 1987 Supp. 74-8719(e)

We propose legislation which would permit governmental agencies to be certified as lottery retailers in accordance with rules and regulations promulgated by the Lottery Commission. Currently, governmental agencies are not specifically precluded from becoming lottery retailers by the Kansas Lottery Act however, the Lottery does not feel that issuance of retailer certificates is permissible under the existing enactment.

There is interest by appropriate governmental agencies in becoming lottery retailers which would allow them to sell lottery tickets or shares at events such as fairs. Where the governmental agency sponsored such events they, as retailers, would be in a position to promote sales and to benefit from fees derived therefrom.

In the proposed amendment to permit governmental agencies to become retailers, it would appear consistent with subsection (a) of K.S.A. 1987 Supp. 74-8708 that in many situa-

tions governmental agencies are in a much better position "to serve the public convenience and promote the sales of tickets or shares in accordance with marketing plans developed by the Kansas lottery."

The fiscal impact of this proposed change would be positive. Additional expenses would be minimal.

The addition to Subsection (e) of K.S.A. 1987 Supp. 74-8719 is merely to prevent employees of the Lottery, should the Lottery Commission determine the Lottery should become a retailer, from playing lottery games which is permissible for other retailers.

VII. SET-OFF

K.S.A. 1987 Supp. 74-8712(b)

The addition of the phrase authorizing the payment of prizes from the prize payment fund to be directed to the Division of Accounts and Reports where the prize winner owes money to the state which may be set off pursuant to K.S.A. 75-6201 et seq., will allow the Director of Accounts to follow the statutory procedures for making the set-off. To make this procedure workable, the Lottery will be given a tape containing the list of debtors which will be updated regularly allowing the Lottery to identify the debtors.

This identification will be performed in conjunction with the validation process. When a debtor is identified the Lottery will pay the sum due as a prize directly to the Division of Accounts for processing under the set-off statutes.

To date, since all payments of \$5 and over are made by the Division of Accounts and Reports, set-offs have occurred on all prizes of \$50 and above.

The fiscal impact of this proposal will be substantial initially because of the programming necessary to get the list of debtors on the computer. Thereafter, costs should be relatively minor.

VIII. UNCLAIMED PRIZE MONEY

K.S.A. 1987 Supp. 74-8720(f)

This proposed change reflects the distinction between instant game retailers and on-line retailers. Since instant game retailers are required to pay low-tier GLEPS of \$90 for each book of tickets, the retailers themselves benefit if those prizes aren't claimed. On-line retailers receive a percentage of sales, and prize payments they make or don't make have no bearing on what they receive for commis-

sion. Thus, unclaimed GLEPS prizes cannot be added to the prize pool.

This is a cleanup proposal which will have no fiscal impact.

CMA:ms

**RESPONSE TO BILLS PRESENTED BY THE
COMMITTEE ON JUDICIARY (S.B. # 699)
AND
REPRESENTATIVE WAGNON (H.B. # 2834)**

These bills ask that the names and tax identification numbers of persons awarded prizes of \$500 to \$5,000 be forwarded by the Kansas Lottery to the Child Support Enforcement Program of the Department of Social and Rehabilitation Services within five days after the prize is awarded.

Currently the Division of Accounts and Reports is setting off debts owed to the state of Kansas as authorized by K.S.A. 75-6201 et seq., on all prizes of \$50 or more.

Although set-offs are currently being applied to all prizes of \$50 or more, the Lottery would be willing to provide the requested information on a voluntary basis to the Department of Social and Rehabilitation Services.

Since set-offs are being applied and the requested names and identification numbers will be provided voluntarily, it would appear that there is no need for this bill in its present form.

CMA:ms

Joan Finney

TREASURER



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STATE OF KANSAS

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March 1, 1988

House Federal and State Affairs Committee

RE: HB 3023

Mr. Chairman:

I will address my remarks to Page 8, Sec. 6 of the bill, which amends K.S.A. 74-8712a to provide that the "Lottery Prize Payment Fund" be kept in a bank account at a bank that is designated as the state's active account bank.

If a separate bank account is to be established for the lottery to use in making prize payments and other expenditures, the bank designation should be at the discretion of the Pooled Money Investment Board, as is the case with all other special and fee bank accounts. Additionally, I object to the terminology of "prize payment fund" being used for a bank account. The word, "fund," as used in state accounting language, denotes money in the treasury.

In a review of this bill, I fail to find any "cap" or maximum amount of money that can be maintained in this prize payment account outside the treasury.

It is the prerogative of the legislature to provide the lottery a means with which to make payment for prizes, payment for non-monetary prizes and payment for the reimbursement of retailers, outside the state accounting system if it determines that method to be in the best interest of the state. However, if payments for prizes and other miscellaneous expenditures are made outside the state's accounting system, they will not be reflected in the state's annual financial reports, nor will they be run against existing set-off files which are maintained by the Division of Accounts and Reports. Currently, payments made through the state accounting system are subject to the existing file of debts owed to the state.

If it is the committee's decision to give lottery their own bank account, may I propose that this bill be amended by striking all new

BB
Attach B

language in Sec. 6 and instead, insert language to provide the lottery with the statutory authority for an imprest account of a specific dollar amount to be used for outlined purposes. Such language could be similar to that found in Chapter 75, Article 30 of the K.S.A.'s. Several advantages of an imprest account are that it will minimize the amount of money maintained outside the treasury which is not available for investment purposes; additionally, the imprest account would have to be reconciled at least monthly and the reconciliation would be subject to review and audit by the Division of Accounts and Reports.

We have no further concerns with the bill and, in fact, would support it if the amendments are made as we have proposed.

Written Statement of State Treasurer Joan Finney Before
House Federal and State Affairs Committee Regarding
HB 3023

March 1, 1988

As currently written, HB 3023 calls for the Kansas Lottery to establish a special bank account for prize payments. The special account, as proposed, would have no "cap" amount and would not be subject to the investment policies of the Pooled Money Investment Board or the auditing of the Division of Accounts and Reports.

Money derived from the Lottery is the people's money just the same as money derived from taxes. I object to legislation which exempts any state money from normal investment procedures. Prize payments and other Kansas Lottery expenditures should be processed through the state's established accounting system so the State Treasurer and the Division of Accounts and Reports can give them proper scrutiny.

For the most part, HB 3023 is a good bill. I suggest that the following proposed amendment would continue proper accountability in the handling of the people's money, while giving Lottery officials the flexibility they need to operate efficiently.

2

0016 or drug-related conviction, or any combination thereof arising
0017 from one arrest, occurring in the immediately preceding five
0018 years, including prior to the effective day of this act.

0019 (d) "Other competent evidence" includes: (1) Alcohol con-
0020 centration tests obtained from samples taken two hours or more
0021 after the operation or attempted operation of a vehicle; and (2)
0022 readings obtained from a partial alcohol concentration test on a
0023 breath testing machine.

0024 (e) "Samples" includes breath supplied directly for testing,
0025 which breath is not preserved.

0026 (f) "Test failure" or "fails a test" refers to a person's having
0027 results of a test administered pursuant to this act, other than a
0028 preliminary screening test, which show an alcohol concentration
0029 of .10 or greater in the person's blood or breath.

0030 (g) "Test refusal" or "refuses a test" refers to a person's
0031 failure to submit to or complete any test, other than a preliminary
0032 screening test, in accordance with this act.

0033 New Sec. 2. (a) Except as provided by ~~subsections (d) and~~ subsection (d)
0034 ~~(e)~~, if a person refuses a test, the division shall, pursuant to K.S.A.
0035 8-2002 and amendments thereto:

0036 (1) On the person's first occurrence, suspend the person's
0037 driving privileges for 90 days, then restrict the person's driving
0038 privileges as provided by K.S.A. 8-292 and amendments thereto
0039 for an additional 90 days; and

0040 (2) on the person's second or a subsequent occurrence, sus-
0041 pend the person's driving privileges for one year. _____ subsection (d)

0042 (b) Except as provided by ~~subsections (d) and (e)~~, if a person
0043 fails a test, the division shall, pursuant to K.S.A. 8-2002 and
0044 amendments thereto:

0045 (1) On the person's first occurrence, ~~suspend the person's~~ 60
0046 driving privileges for ~~30~~ days, then restrict the person's driving
0047 privileges as provided by K.S.A 8-292 and amendments thereto
0048 for an additional 90 days; and

0049 (2) on the person's second or a subsequent occurrence, sus-
0050 pend the person's driving privileges for one year. _____ subsection (d)

0051 (c) Except as provided by ~~subsections (d) and (e)~~, if a person
0052 has an alcohol or drug-related conviction, the division, on receipt

Attach C

0083 of a report of such conviction, shall:

0084 (1) On the person's first occurrence, suspend the person's
 0085 driving privileges for ~~30~~ days, then restrict the person's driving
 0086 privileges as provided by K.S.A. 8-292 and amendments thereto 60
 0087 for an additional 90 days; and

0088 (2) on the person's second or a subsequent occurrence, sus-
 0089 pend the person's driving privileges for one year.

0090 ~~(d) Except as provided by subsection (e), if a person under 18~~
 0091 ~~years of age refuses a test, fails a test or has an alcohol-related~~
 0092 ~~conviction, the division shall suspend the person's driving priv-~~
 0093 ~~ileges for one year or until the person reaches 18 years of age,~~
 0094 ~~whichever is longer.~~

0095 ~~(e)~~ If a person's test refusal, test failure or alcohol-related
 0096 conviction, or any combination thereof, arises out of one arrest,
 0097 such person's driving privileges shall be subject to suspension,
 0098 or suspension and restrictions, for the longest period applicable. (e)

0099 ~~(f)~~ If the division has taken action under subsection (a) or (b)
 0100 and such action is stayed pursuant to K.S.A. 8-259 and amend-
 0101 ments thereto or if temporary driving privileges are issued pur-
 0102 suant to subsection (j) of K.S.A. 8-1002 and amendments thereto,
 0103 the stay or temporary driving privileges shall not prevent the
 0104 division from taking the action required by subsection (c).

0105 Sec. 3. K.S.A. 1987 Supp. 8-247 is hereby amended to read as
 0106 follows: 8-247. (a) All original licenses shall expire on the fourth
 0107 anniversary of the date of birth of the licensee which is nearest
 0108 the date of application. All renewals thereof, shall expire on
 0109 every fourth anniversary of the date of birth of the licensee. No
 0110 driver's license shall expire in the same calendar year in which
 0111 the original license or renewal license is issued, except that if the
 0112 foregoing provisions of this section shall require the issuance of a
 0113 renewal license or an original license for a period of less than six
 0114 calendar months, the license issued to the applicant shall expire
 0115 at midnight on every fourth anniversary of the date of birth of the
 0116 applicant.

0117 (b) If the driver's license of any person shall ~~expire~~ expires
 0118 while such person is outside of the state of Kansas and on active
 0119 duty in the armed forces of the United States, the license of such

0305 rescind its order of suspension or, good cause appearing therefor,
0306 extend the suspension of the ~~driver's license~~ *person's driving*
0307 *privileges*, modify the terms of the suspension or revoke the
0308 ~~driver's license~~ *person's driving privileges*. If the licensee per-
0309 *son* fails to request a hearing within the time prescribed or if,
0310 after a hearing, the order of suspension or revocation is upheld,
0311 the ~~licensee~~ *person* shall surrender to the division, upon proper
0312 demand, any ~~Kansas~~ driver's license in the ~~licensee's~~ *person's*
0313 possession.

0314 (e) (d) In case of failure on the part of any person to comply
0315 with any subpoena issued in behalf of the division or the refusal
0316 of any witness to testify to any matters regarding which the
0317 witness may be lawfully interrogated, the district court of any
0318 county, on application of the division, may compel obedience by
0319 proceedings for contempt, as in the case of disobedience of the
0320 requirements of a subpoena issued from the court or a refusal to
0321 testify in the court. Each witness who appears before the director
0322 or the director's duly authorized agent by order or subpoena,
0323 other than a ~~state~~ *an officer or employee of the state or of a*
0324 *political subdivision of the state*, shall receive for the witness'
0325 attendance the fees and mileage provided for witnesses in civil
0326 cases in courts of record, which shall be audited and paid upon
0327 the presentation of proper vouchers sworn to by the witness.

0328 (d) (e) The division, in the interest of traffic and safety, may
0329 establish driver improvement clinics throughout the state and,
0330 upon reviewing a ~~person's driving record~~ *who is the driving*
0331 *record of a person whose driving privileges are* subject to sus-
0332 pension under ~~paragraph (2)~~ *of subsection (a)(2)*, may permit
0333 the person to retain such person's driving ~~privilege~~ *privileges* by
0334 attending a driver improvement clinic. A person who is required
0335 to attend a driver improvement clinic shall pay a fee of \$15.
0336 Amounts received under this subsection shall be remitted at
0337 least monthly to the state treasurer who shall deposit the same in
0338 the state treasury and shall be credited to the division of vehicles
0339 operating fund.

0340 Sec. 6. K.S.A. 1987 Supp. 8-259 is hereby amended to read as
0341 follows: 8-259. (a) Except in the case of mandatory revocation

0379 court may enter an order restricting a person's privilege of
0380 operating a motor vehicle the person's driving privileges to
0381 driving only under the circumstances enumerated in subsection
0382 (c).

0383 (b) Whenever a statute requires the division to place re-
0384 strictions on a person's driving privileges, the division shall
0385 restrict the person's driving privileges to driving only under the
0386 circumstances enumerated in subsection (c).

0387 (c) When a person's driving privileges are restricted pursu-
0388 ant to this section, such person shall be restricted to driving
0389 only under the following circumstances: (1) In going to or re-
0390 turning from the person's place of employment or schooling; (2)
0391 in the course of the person's employment; (3) during a medical
0392 emergency; (4) in going to and returning from probation or
0393 parole meetings, drug or alcohol counseling or any place the
0394 person is required to go to attend an alcohol and drug safety
0395 action program as provided in K.S.A. 8-1008 and amendments
0396 thereto; (5) at such times of the day as may be specified by the
0397 order; and (6) to such places as may be specified by the order.

0398 (d) Restrictions imposed pursuant to this section shall be
0399 for a period of not less than 90 days nor more than one year, as
0400 specified by the court order.

0401 (e) Upon entering an order restricting a person's license
0402 under this section driving privileges under subsection (a), the
0403 court shall require that the license be surrendered to the court
0404 the person surrender to the court any ~~Kansas~~ driver's license in
0405 the person's possession. The court shall transmit the any such
0406 license to the division of vehicles of the department of revenue,
0407 together with a copy of the order. Upon its receipt, the division of
0408 vehicles shall issue without charge a driver's license which shall
0409 indicate on the face of the license that restrictions have been
0410 imposed on the person's privilege of operating a motor vehicle
0411 driving privileges and that a certified copy of the order imposing
0412 the restrictions is required to be carried by the person for whom
0413 the license was issued any time the person is operating a motor
0414 vehicle on the highways of this state. If the person is a nonresi-
0415 dent, the court shall transmit a copy of the order to the division.

0490 enforcement officer requests a person to submit to a test of urine
0491 under this section, the collection of the urine sample shall be
0492 supervised by persons of the same sex as the person being tested
0493 and shall be conducted out of the view of any person other than
0494 the persons supervising the collection of the sample and the
0495 person being tested, unless the right to privacy is waived by the
0496 person being tested. The results of qualitative testing for drug
0497 presence shall be admissible in evidence and questions of accu-
0498 racy or reliability shall go to the weight rather than the admissi-
0499 bility of the evidence.

0500 (e) No law enforcement officer who is acting in accordance
0501 with this section shall be liable in any civil or criminal proceed-
0502 ing involving the action.

0503 (f) (I) Before a test or tests are administered under this
0504 section, the person shall be given oral and written notice that: (A)
0505 *Kansas law requires the person to submit to and complete one or*
0506 *more tests of breath, blood or urine to determine if the person is*
0507 *under the influence of alcohol or drugs, or both; (B) the oppor-*
0508 *tunity to consent to or refuse a test is not a constitutional right;*
0509 *(C) there is no constitutional right to consult with an attorney*
0510 *regarding whether to submit to testing; (B) refusal (D) if the*
0511 *person refuses to submit to and complete any test of breath,*
0512 *blood or urine hereafter requested by a law enforcement officer*
0513 *will result in six months' suspension of the person's driver's*
0514 *license; (C), the person's driving privileges will be suspended*
0515 *for at least 90 days; (E) if the person submits to and completes*
0516 *the test or tests and the test results show a blood or breath*
0517 *alcohol concentration of .10 or greater, the person's driving*
0518 *privileges will be suspended for at least 30 days; (F) if the*
0519 *person ~~is under 18 years of age,~~ has been convicted or granted*
0520 *diversion on a charge of driving under the influence of alcohol*
0521 *or drugs, or both, or has refused or failed a test, the person's*
0522 *driving privileges will be suspended for at least one year; (G)*
0523 *refusal to submit to testing may be used against the person at any*
0524 *trial on a charge arising out of the operation or attempted opera-*
0525 *tion of a motor vehicle while under the influence of alcohol or*
0526 *drugs, or both; (D) (II) the results of the testing may be used*

0084 department of health and environment; (B) the testing proce-
0085 dures used were in accordance with the requirements set out by
0086 the Kansas department of health and environment; and (C) the
0087 person who operated the testing equipment was certified by the
0088 Kansas department of health and environment to operate such
0089 equipment.

0090 (b) For purposes of this section, certification shall be com-
0091 plete upon signing, and no additional acts of oath, affirmation,
0092 acknowledgment or proof of execution shall be required. The
0093 signed certification or a copy or photostatic reproduction
0094 thereof shall be admissible in evidence in all proceedings
0095 brought pursuant to this act, and receipt of any such certifica-
0096 tion, copy or reproduction shall accord the department author-
0097 ity to proceed as set forth herein. Any person who signs a
0098 certification submitted to the division knowing it contains a
0099 false statement is guilty of a class B misdemeanor.

0100 (c) When the officer directing administration of the testing
0101 determines that a person has refused a test or determines that a
0102 person has failed a test, the officer shall serve upon the person
0103 notice of suspension of driving privileges pursuant to section 2.
0104 If the determination is made while the person is still in custody,
0105 service shall be made in person by the officer on behalf of the
0106 division of vehicles. In cases where a test failure is established
0107 by a subsequent analysis of a breath or blood sample, the officer
0108 shall serve notice of such suspension in person ~~or by mailing the~~ or by another designated officer
0109 notice to the person at the address provided at the time of the
0110 test.

0111 (d) The notice shall contain the following information: (1)
0112 The person's name, driver's license number and current address;
0113 (2) the reason and statutory grounds for the suspension; (3) the
0114 date notice is being served and the effective date of the suspen-
0115 sion, which shall be the 15th day after the date of service; (4) the
0116 right of the person to request an administrative hearing; and (5)
0117 the procedure the person must follow to request an administra-
0118 tive hearing and obtain an extension of the temporary license
0119 and a stay of the order of suspension. The notice of suspension
0120 shall also inform the person that all correspondence will be

0047 appropriate.

0048 (6) Commit the juvenile offender, if 13 years of age or older,
0049 to a state youth center if the juvenile offender:

0050 (A) Has had a previous adjudication as a juvenile offender
0051 under this code or as a delinquent or miscreant under the Kansas
0052 juvenile code; or

0053 (B) has been adjudicated a juvenile offender as a result of
0054 having committed an act which, if done by a person 18 years of
0055 age or over, would constitute a class A, B or C felony as defined
0056 by the Kansas criminal code.

0057 (b) (1) In addition to any other order authorized by this
0058 section, the court may order the juvenile offender and the
0059 parents of the juvenile offender to attend counseling sessions as
0060 the court directs.

0061 (2) Upon entering an order requiring a juvenile offender's
0062 parent to attend counseling sessions, the court shall give the
0063 parent notice of the order. The notice shall inform the parent of
0064 the parent's right to request a hearing within 10 days after entry
0065 of the order and the parent's right to employ an attorney to
0066 represent the parent at the hearing or, if the parent is financially
0067 unable to employ an attorney, the parent's right to request the
0068 court to appoint an attorney to represent the parent. If the parent
0069 does not request a hearing within 10 days after entry of the order,
0070 the order shall take effect at that time. If the parent requests a
0071 hearing, the court shall set the matter for hearing and, if re-
0072 quested, shall appoint an attorney to represent the parent. The
0073 expense and fees of the appointed attorney may be allowed and
0074 assessed as provided by K.S.A. 38-1606 and amendments thereto.

0075 (3) The costs of any counseling may be assessed as expenses
0076 in the case. No mental health center shall charge a fee for
0077 court-ordered counseling greater than that the center would have
0078 charged the person receiving the counseling if the person had
0079 requested counseling on the person's own initiative.

0080 (c) (1) ~~In addition to any other order authorized by this~~
0081 ~~section,~~ if a respondent has been adjudged to be a juvenile
0082 offender by reason of an act involving possession, use or abuse
0083 of any alcoholic beverage or controlled substance, or both, the

0084 court shall ~~enter an order suspending the driving privileges of~~
 0085 ~~the juvenile offender. Upon entering such order, the court shall~~
 0086 require the juvenile offender to surrender to the court any
 0087 ~~[Kansas]~~ driver's license in such offender's possession. The court
 0088 shall transmit any such license, together with a copy of the ——— adjudication
 0089 order, to the division of vehicles of the department of revenue. ——— revoke
 0090 Upon receipt thereof, the division shall ~~suspend~~ the driving
 0091 privileges of the juvenile offender. ~~(A) For one year or until such~~
 0092 ~~offender reaches the age of 17 years, whichever is longer, if it is~~
 0093 ~~the first order entered under this subsection (c)(1) with respect~~
 0094 ~~to such offender; or (B) for one year or until such offender~~
 0095 ~~reaches the age of 18 years, whichever is longer, if it is the~~
 0096 ~~second or a subsequent such order.~~

0097 ~~(2) The court may withdraw an order entered under subsec-~~
 0098 ~~tion (c)(1) at any time the court deems appropriate except that~~
 0099 ~~the court may not withdraw such order: (A) For 90 days follow-~~
 0100 ~~ing entry of the order, if it is the first order entered under~~
 0101 ~~subsection (c)(1); or (B) for one year following entry of the order,~~
 0102 ~~if it is the second or a subsequent such order. Upon receipt of~~
 0103 ~~notice from the court that the order has been withdrawn, the~~
 0104 ~~division shall promptly reinstate the driving privileges of the~~
 0105 ~~juvenile offender.]~~

0106 (d) Whenever a juvenile offender is placed pursuant to sub-
 0107 section (a)(1) or (2), the court, unless it finds compelling circum-
 0108 stances which would render a plan of restitution unworkable,
 0109 shall order the juvenile offender to make restitution to persons
 0110 who sustained loss by reason of the offense. The restitution shall
 0111 be made either by payment of an amount fixed by the court or by
 0112 working for the persons in order to compensate for the loss. If the
 0113 court finds compelling circumstances which would render a plan
 0114 of restitution unworkable, the court may order the juvenile
 0115 offender to perform charitable or social service for organizations
 0116 performing services for the community.

0117 Nothing in this subsection shall be construed to limit a court's
 0118 authority to order a juvenile offender to make restitution or
 0119 perform charitable or social service under circumstances other
 0120 than those specified by this subsection or when placement is

(2) No Kansas driver's license shall be issued to a juvenile offender whose driving privileges have been revoked under subsection (c)(1) until such privileges have been restored. The juvenile offender may petition the court to have such privileges restored if the juvenile offender is 16 or more years of age and: (A) Ninety days have elapsed since the offender's driving privileges have been revoked, upon the first offense for which such privileges have been revoked pursuant to subsection (c)(1); or (B) one year has elapsed since the offender's driving privileges have been revoked, upon the second or a subsequent offense for which such privileges have been revoked. Upon such petition and for good cause shown, the court, in its discretion, may restore the offender's driving privileges, subject to the completion of a driver's license examination as required for the issuance of an original driver's license.