

Approved 5-21-90  
Date

MINUTES OF THE House COMMITTEE ON Appropriations

The meeting was called to order by Bill Bunten at  
Chairperson

1:05 ~~am~~/p.m. on May 2, 1990 in room 514-S of the Capitol.

All members were present except: Representative Hensley (excused)

Committee staff present: Ellen Piekalkiewicz, Debra Duncan, Laura Howard  
Legislative Research Department  
Jim Wilson, Revisor of Statutes  
Sharon Schwartz, Administrative Aide  
Sue Krische, Committee Secretary

Conferees appearing before the committee:

Gene Johnson, Kansas Alcohol and Drug Addiction Counselors Assn.  
Tom Skinner, Division of Vehicles, Department of Revenue

Others attending: See attached list.

SB 770 - Examination and reinstatement fees for drivers' licenses.

Gene Johnson, Kansas Alcohol and Drug Addiction Counselors Association, testified in support of SB 770 (Attachment 1). Mr. Johnson explained that SB 770 provides that an individual who is required to submit to a driver's license examination following a conviction of driving under the influence of alcohol or drugs pay an examination fee of \$5 and, at the time of examination, a reinstatement fee of \$25. All reinstatement fees would be credited to the Community Alcoholism and Intoxication Programs Fund. SB 770 also increases the reinstatement fee collected by district courts for failure to comply with a traffic citation from \$25 to \$50. The amount collected under this section would be equally divided between the Community Alcoholism and Intoxication Programs Fund and the Motor Vehicle Operating Fund.

Bruce Kinzie, Revisor of Statutes, explained the amendment on the Senate floor to SB 770 pertaining to the extension of the Dealer Review Board. SB 770 was amended to include those provisions of Sub SB 529 extending the Dealer Review Board for one year, which was scheduled to sunset 7-1-90. The Department actually wanted all of Sub SB 529 amended into SB 770 which would repeal the sunset provision and include a listing in New Sec. 5 of the duties and functions of the Dealer Review Board. A balloon of these proposed amendments to SB 770 was distributed (Attachment 2). Sub SB 529 died in the House Governmental Organization Committee.

Representative Chronister moved that SB 770 be amended as proposed in the balloon with the addition of a Section stating the Dealer Review Board would continue to exist after July 1, 1990. Representative Hoy seconded. Several members oppose removing the sunset review provision. Tom Skinner, Division of Vehicles, Department of Revenue, stated the Division of Vehicles is under the sunset review of the Department of Revenue and he believes that is the rationale for removing the sunset provision. Mr. Skinner advised that the Dealer Review Board meets four times a year and that there is a plan to reconstitute this Board next year. On a voice vote on Representative Chronister's motion to amend, the motion carried.

Representative Vancrum moved to further amend SB 770 to restore the language in Sec. 6(h) and Sec. 7 (lines 23-30) thereby placing the Dealer Review Board under the sunset provision. Representative

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Appropriations,  
room 514-S, Statehouse, at 1:05 ~~xxx~~ p.m. on May 2, 1990

Kline seconded. Motion carried.

Representative Francisco moved to further amend SB 770 to state that no member shall be paid compensation or allowances for more than 15 days in any calendar year. Representative Chronister seconded. Motion carried.

Staff advised that the money raised by this bill for alcohol programs would go to local community programs. Representative Goossen moved to further amend SB 770 by striking all the references to alcohol and drug programs, but leaving intact the license reinstatement fee increases to be credited to the Motor Vehicle Operating Fund. Representative Shriver seconded. Representative Goossen feels this bill is an attempt to circumvent the budgeting process in which he feels alcohol and drug programs were adequately funded. It was noted the increased fee will encourage better compliance with notices to appear in court. On a show of hands on Representative Goossen's motion, the motion carried.

Representative Chronister moved that SB 770, as amended, be recommended favorably for passage. Representative Vancrum seconded. Motion carried. Representative Francisco asked Mr. Skinner of the Division of Vehicles to furnish him copies of the minutes of last year's meetings of the Dealer Review Board.

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

Representative Chronister distributed a balloon of proposed amendments to SB 180 (Attachment 3), along with an explanation of the balloon (Attachment 4). Staff advised the amendments inserting the term "physician" will not be needed, and so will not be part of the balloon. Representative Chronister stated the question to be resolved by the study mandated by the bill is whether or not an open formulary will effect savings in other areas of the medical budget such as hospitalization or physician visits. Representative Chronister moved adoption of the amendments proposed in the balloon. Representative Vancrum seconded. Representative Goossen believes the cost of an open formulary will be prohibitive and he opposes this bill. The motion carried.

Representative Gatlin moved to further amend SB 180 by striking the word "not" in line 37 which, in effect, would mandate a restrictive drug formulary. Representative Wisdom seconded. Motion failed. Representative Pottorff moved to further amend SB 180 to change the effective date of the bill to April 15, 1992. Representative Lowther seconded. Motion carried. Representative Chronister moved that SB 180, as amended, be recommended favorably for passage. Representative Teagarden seconded. Motion carried.

**INTRODUCTION OF BILLS**

Chairman Bunten announced that Speaker Braden has requested introduction of an across-the-board rollback bill identical to SB 799 so that it will be available on the Floor as a time-saving measure. Representative Moomaw moved introduction of the bill. Representative Teagarden seconded. Motion carried. Representative Teagarden stated he does not support across-the-board cuts as the method of reducing the budget.

Representative Helgerson requested introduction of a bill regarding residents at KUMC in Wichita and service to the hospitals. HB 3090 dealing with this issue was passed by the House and now may not come out of conference, so a new bill may be needed. Representative Helgerson moved introduction of the bill. Representative Fuller seconded. Motion carried.



TESTIMONY

Senate Ways and Means Committee

SENATE BILL NO. 770

April 5, 1990

Mr. Chairman and Members of the Committee:

I represent the Kansas Alcohol and Drug Addiction Counselors Association, the Kansas Association of Alcohol and Drug Program Directors and the Kansas Community Alcohol Safety Action Project Coordinators Association. These individuals and organizations crisscross our State to offer professional assistance for those persons who are afflicted with that fatal illness of alcoholism and drug addiction. We support Senate Bill No. 770 as another measure to raise needed funds for the alcohol and drug treatment field in the year when funds are not too readily available. This source of revenue comes from those people who fail to recognize the privileges of driving in the State of Kansas. In addition, 22,000 of these individuals each year, more or less thumb their nose to the Court and fail to appear for a Court hearing or pay a traffic fine.

It is time that these individuals who become our chronic law breaking citizens realize that driving a vehicle in the State of Kansas is a privilege. Once they understand the penalties which will hurt their pocketbooks are in place, it is hoped that they will adhere with our traffic laws in the State of Kansas.

The funds that this proposed legislation would raise would offset some loss of budget funds in House Bill No. 2618. The House in 2618, adjusted the shift of \$452,977 alcohol abuse portion of the block grant to the mental health block grant and towards mental health's reform. This committee restored \$163,420 of those funds. However, I am not sure where the remaining \$289,557 fits into the picture. In addition, House Bill No. 2618 changed the general assistance formula for the year of 1991. Under the present formula, those alcohol and drug addicted persons who are now receiving general assistance while under treatment for their disease would be exempt. This is estimated by the Commissioner on Alcohol and Drug Abuse Section as a loss of approximately \$500,000.

This very committee saw this as a primary concern in Senate Bill No. 413 and reinstated those general assistance grants for the balance of fiscal year 1990 in excess of \$132,000.

The Alcohol and Drug Abuse Services allocate their money by grant methods. If the money is not in their budget, they can not allocate any money. At the present time, the indigent and working poor of the State of Kansas must wait over 30 days for a bed in a community based alcohol treatment program. Some of those individuals must spend this time incarcerated at a cost to the local taxpayers. Then there are those individuals who give up on treatment and continue to drink and drug until they show up at our hospitals as a medical patient, costing this State thousands of more dollars.

HA  
5-2-90  
Attachment 1

It is our belief that even though this legislation will raise less than 3/4 of a million dollars, that any little bit will help in a year where funds are quite scarce. Again, the organizations that I represent totally support this bill as another measure in our fight against alcoholism and drug addiction.

Respectfully,

*Gene Johnson*  
Gene Johnson  
Lobbyist

Kansas Alcoholism and Drug Addiction Counselors Association  
Kansas Association of Alcohol and Drug Program Directors  
Kansas Community Alcohol Safety Action Project Coordinators Association

[As Amended by Senate on Final Action]

As Amended by Senate Committee

Session of 1990

SENATE BILL No. 770

By Committee on Ways and Means

3-13

11 AN ACT [concerning the department of revenue; relating to the  
12 division of vehicles; concerning the dealer review board;] con-  
13 cerning drivers' licenses; relating to examination and reinstatement  
14 fees; amending K.S.A. 8-241 [and 8-2412] and K.S.A. 1989 Supp.  
15 8-240, 8-267[, ] and 8-2110[, 8-2411 and 74-7276] and repealing  
16 the existing sections. and

; also repealing K.S.A. 1989 Supp. 74-7276

17  
18 *Be it enacted by the Legislature of the State of Kansas:*

19 Section 1. K.S.A. 1989 Supp. 8-240 is hereby amended to read  
20 as follows: 8-240. (a) Every application for an instruction permit shall  
21 be made upon a form furnished by the division of vehicles and  
22 accompanied by a fee of \$2. Every other application shall be made  
23 upon a form furnished by the division and accompanied by an ex-  
24 amination fee of \$3, unless a different fee is required by K.S.A. 8-  
25 241 and amendments thereto, and by the proper fee for the license  
26 for which the application is made. If the applicant is not required  
27 to take an examination the examination fee shall not be required.  
28 The examination shall consist of three tests, as follows: (1) Vision;  
29 (2) written; and (3) driving. If the applicant fails the vision test, the  
30 applicant may have correction of vision made and take the vision  
31 test again without any additional fee. If an applicant fails the written  
32 test, the applicant may take such test again upon the payment of  
33 an additional examination fee of \$1.50. If an applicant fails the driving  
34 test, the applicant may take such test again upon the payment of  
35 an additional examination fee of \$1.50. If an applicant fails to pass  
36 all three of the tests within a period of six months from the date of  
37 original application and desires to take additional tests, the applicant  
38 shall file an application for reexamination upon a form furnished by  
39 the division, which shall be accompanied by a reexamination fee of  
40 \$3. Upon the filing of such application and the payment of such  
41 reexamination fee, the applicant shall be entitled to reexamination  
42 in like manner and subject to the additional fees and time limitation  
43 as provided for examination on an original application. If the applicant

5-2-90  
H/A  
Attachment 2

1 imposed or (2) otherwise comply with a traffic citation as provided  
2 in K.S.A. 1984 1989 Supp. 8-2118 and amendments thereto. Failure  
3 to comply with a traffic citation is a misdemeanor, regardless of the  
4 disposition of the charge for which such citation was originally issued.

5 (b) In addition to penalties of law applicable under subsection  
6 (a), when a person fails to comply with a traffic citation, except for  
7 illegal parking, standing or stopping, the district or municipal court  
8 in which the person should have complied with the citation shall  
9 mail notice to the person that if the person does not appear in  
10 district or municipal court or pay all fines, court costs and any  
11 penalties within 30 days from the date of mailing, the division of  
12 vehicles will be notified to suspend the person's driving privileges.  
13 Upon the person's failure to comply within such 30 days, the district  
14 or municipal court shall notify the division of vehicles. Upon receipt  
15 of a report of a failure to comply with a traffic citation under this  
16 subsection, pursuant to K.S.A. 8-255, and amendments thereto, the  
17 division of vehicles shall notify the violator and suspend the license  
18 of the violator until satisfactory evidence of compliance with the  
19 terms of the traffic citation has been furnished the informing court.  
20 Upon such compliance the informing court shall notify the division  
21 of vehicles and the suspension or suspension action shall be  
22 terminated.

23 (c) When the district or municipal court notifies the division of  
24 vehicles of a failure to comply with a traffic citation pursuant to  
25 subsection (b), the court shall assess a reinstatement fee of \$25 \$50  
26 for each charge on which the person failed to make satisfaction  
27 regardless of the disposition of the charge for which such citation  
28 was originally issued. Such reinstatement fee shall be in addition to  
29 any fine, district or municipal court costs and other penalties. The  
30 court shall, at least monthly, remit all reinstatement fees to the state  
31 treasurer who shall credit 1/2 of such moneys to the motor vehicle  
32 operating fund and 1/2 to the community alcoholism and intoxication  
33 programs fund created by K.S.A. 41-1126 and amendments thereto.

34 *[Sec. 5. K.S.A. 1989 Supp. 8-2411 is hereby amended to read*  
35 *as follows: 8-2411. (a) When any licensee is found to be allegedly*  
36 *violating any of the applicable provisions of this act, or any order*  
37 *or rule or and regulation adopted pursuant thereto, the director*  
38 *upon the director's own motion or upon complaint may commence*  
39 *a hearing against the licensee, which hearing shall be conducted in*  
40 *accordance with the provisions of the Kansas administrative pro-*  
41 *cedure act.*

42 *[(b) Any person who is found to have violated any applicable*  
43 *provisions of this act, any rule and regulation adopted pursuant*

New Sec. 5. (a) The dealer review board created by K.S.A. 8-2412 and amendments thereto shall:  
(1) Confer with the director on matters related to regulations relating to improved vehicle dealer practices;  
(2) serve to make suggestions and recommendations for changes in current law relating to vehicle sales and trade;  
(3) act as a resource for vehicle industry problems; and  
(4) provide expertise to uncover operating problems created by current law, while balancing problems against the greater public interest.  
(b) The provisions of this section shall not require any action prior to adoption of any rules and regulations by the secretary of revenue.

thereto or any applicable order of the director shall be subject to a civil penalty of not less than \$50 nor more than \$1,000 for each violation or such person's license may be suspended or revoked or both civil penalty and license suspension or revocation.

[(c) Any party aggrieved by the decision of the board director may appeal the same to the district court in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

nine

[Sec. 6. K.S.A. 8-2412 is hereby amended to read as follows: 8-2412. (a) The governor shall appoint ~~eight~~ members to serve on the dealer review board with the individual terms of office for each appointee to run as follows: One new vehicle dealer, one used vehicle dealer and one salvage vehicle dealer, each to serve for three consecutive years; one new vehicle dealer, one used vehicle dealer, and two additional members both of whom shall be appointed from the public at large, each to serve for two consecutive years; and one representative of a first or second stage manufacturer to serve for a period of one year. Upon the expiration of their respective terms, board members shall be appointed by the governor to serve for three consecutive years.

, and one representative of manufactured homes to serve for a period of three years

[(b) The board shall elect a chairperson from among its members. The chairperson shall serve for a period of one year. The board shall elect successors each subsequent year.

[(c) Any proceeding conducted by the board shall be construed to be a meeting of the board under this section for each day the proceeding is conducted. To constitute a meeting of the board within the meaning of this section, a quorum of the board must be present and participating. ~~Four~~ Five members of the board shall constitute a quorum. All final orders shall be in writing and shall be signed by the chairperson and approved by the board.

[(d) Members of the board attending meetings of such board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. In no event shall any member be paid compensation or allowances for more than 90 days in any calendar year.

[(e) Meetings of the board may be called by the director, the chairperson of the board or any three members of the board, after first giving notice, in writing, at least 10 days prior to such meeting. The notice of any meeting of the board shall state the time and place of such meeting which special meeting may be held at any place within the state of Kansas. Additionally, such notice of the meeting shall state the purpose thereof.

[(f) The director of vehicles may either appoint or designate a

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60



1 secretary for the board. The secretary shall perform, among other  
 2 things, the following duties: Prepare the agenda for the meetings of  
 3 the board; prepare notice of all meetings and cause the same to be  
 4 mailed to all board members; take minutes of all meetings of the  
 5 board and thereafter cause copies thereof to be distributed to all  
 6 board members; arrange for meeting places within the state of Kansas  
 7 at the direction of the chairperson; prepare vouchers for each board  
 8 member to submit for expense of attendance at meetings; and, such  
 9 other duties as requested by the board.

10 [(g) All records of the dealer review board established by  
 11 K.S.A. 8-2311 shall be and are hereby transferred to the board  
 12 created by this section.

13 [(h) (g) The board shall be attached to the department of revenue  
 14 and shall be within the department of revenue as a part thereof.  
 15 All budgeting, purchasing and related management functions of the  
 16 board shall be administered under the direction and supervision of  
 17 the secretary of revenue. The division shall serve as the adminis-  
 18 trative and enforcement agency of the board in all respects and shall  
 19 perform such services and duties as it may be legally called upon  
 20 to perform. In the event the board fails to perform any of its official  
 21 duties within the time prescribed herein, the division may perform  
 22 such duties and certify its action to the board for review.

23 ~~[(h) The provisions of the Kansas sunset law apply to the dealer~~  
 24 ~~review board provided for by this section, and the board is subject~~  
 25 ~~to abolition under that law.~~

26 ~~{Sec. 7. K.S.A. 1989 Supp. 74-7276 is hereby amended to read~~  
 27 ~~as follows: 74-7276. Except as provided in K.S.A. 74-7246, and~~  
 28 ~~amendments thereto, the dealer review board established provided~~  
 29 ~~for by K.S.A. 8-2412, and amendments thereto, shall be and hereby~~  
 30 ~~is abolished on July 1, 1990-1991.}~~

31 Sec. 5 [8]. K.S.A. 8-241 [and 8-2412] and K.S.A. 1989 Supp.  
 32 8-240, 8-267[, ] and 8-2110[, 8-2411 and 74-7276] are hereby  
 33 repealed.

34 Sec. 6 [9]. This act shall take effect and be in force from and  
 35 after its publication in the statute book.

RENUMBER ACCORDINGLY

7-6

# SENATE BILL No. 180

By Committee on Ways and Means

2-7

15  
16 AN ACT concerning reimbursement by the department of social and  
17 rehabilitation services for certain drugs; prohibiting the use of  
18 certain restrictive drug formularies.

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

20 Section 1. (a) As used in this section:

21 (1) "Restrictive drug formulary" means a list of prescription-only  
22 drugs established by the department of social and rehabilitation serv-  
23 ices which excludes in whole or in part reimbursement by the de-  
24 partment of social and rehabilitation services for such drugs under  
25 a program administered by the department of social and rehabilitation  
26 services.

27 (2) The words and phrases used in this section shall have the  
28 same meanings as are ascribed to such words and phrases under  
29 K.S.A. 65-1196 and amendments thereto.

30 (3) "Physician" means a person licensed to practice medicine and  
31 surgery.

32 (b) A practitioner may prescribe prescription-only drugs in ac-  
33 cordance with this section that, in the professional judgment of the  
34 practitioner and within the lawful scope of the practitioner's practice,  
35 the practitioner considers appropriate for the diagnosis and treatment  
36 of a patient. The department of social and rehabilitation services  
37 shall not maintain a restrictive drug formulary that restricts a phy-  
38 sician's ability to treat a patient with a drug that has been approved  
39 and designated as safe and effective by the federal food and drug  
40 administration, except for drugs for cosmetic purposes. The depart-  
41 ment of social and rehabilitation services may reimburse for multi-  
42 source prescription-only drugs in the generic form, in accordance  
43 with state and federal law, unless an exception has been made by  
44 the prescribing practitioner.

45 Sec. 2. This act shall take effect and be in force from and after  
46 its publication in the statute book.

65-1626

(4) "Department" means department of social and rehabilitation services.

physician  
physician  
physician's  
physician

under the medicaid program

that the department may limit reimbursement for a prescription-only drug upon the recommendation of the drug utilization review committee and only upon a finding that the drug is unsafe or is being prescribed contrary to the federally approved guidelines. Drugs used for cosmetic purposes, fertility drugs, anorexic drugs, non-legend (over the counter) drugs, and drugs for which there is no federal financial participation (DESI) shall be exempt from the provisions of this section, except that the department is authorized to include drugs from these categories for reimbursement based upon recommendations of the drug utilization review committee which may include prior authorization requirements to control use.

(c) Nothing in this section shall limit the authority of the department to reimburse for multisource prescription-only drugs in accordance with state and federal law, including State Maximum Allowable Cost and HCFA Federal Upper Limits requirements.

(d) The department shall implement a drug utilization review program with the assistance of a committee of qualified health care providers to assure the appropriate utilization of drugs by patients receiving medical assistance under the medicaid program. The review program shall include: 1) monitoring of prescription information including overutilization of prescription-only drugs; 2) making periodic reports of findings and recommendations to the department; 3) providing advice and recommendations to the department regarding deletions from the formulary and any other matters relating to use or control of prescription-only drugs; 4) monitoring provider and recipient compliance with program objectives; and 5) providing information on state program objectives to private and public sector health care providers.

(e) In addition, the department shall supervise and participate in a privately-funded study on the costs and effects of the open medicaid drug formulary, as herein provided, to be completed on or before October 1, 1991.

April  
February 15, 1992.

Attachment 3  
5-2-90  
HA

BALLOON EXPLANATIONS ON SB 180

<u>Balloon No.</u>	<u>Explanation</u>
1	-technical-corrects statute citation
2	-technical-defines department of SRS
3-6	-technical-uses term "physician" as defined
7	-limits open formulary to medicaid-responds to SRS concern about cost effects of open formulary on Medikan.
8	-authorizes SRS to deny drug payment for patient safety or abuse-but only after recommendation of DUR Committee. Responds to SRS concerns about improper prescribing by physicians. -limits open formulary to medically necessary drugs-excludes less important drugs unless SRS wants them included. -subparagraph (c) authorizes SRS to use MACS and FUL's to control costs. -subparagraph (d) creates statutory Drug Utilization Review Committee; specifies duties. SRS still has flexibility about who serves on DUR committee and how it operates. -subparagraph (e) authorizes SRS to supervise and participate in a study of the cost effectiveness of the open drug formulary to be paid for from private sources and completed at least 3 months prior to the 1992 Session.
9	-delays effective date until February 15, 1992.

HA

5-2-90

Attachment 4