

MINUTES OF THE SENATE COMMITTEE ON WAYS AND MEANS

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

11:00 a.m./p.m./ on March 25, 1983, 19\_\_ in room 123-S of the Capitol.

All members were present except:

## Committee staff present:

Research Department: Marlin Rein, Sherry Brown, Mary Galligan, David Monical  
Lyn Goering

Revisor's Office: Norman Furse

Committee Office: Doris Fager

## Conferees appearing before the committee:

Representative Mike Meacham

Jamie Schwartz, Secretary, Kansas Department of Economic Development

Elizabeth Taylor, Institute of Electrical and Electronics Engineers

Bill Henry, Kansas Engineering Society

Gene Johnson, Alcohol Safety Action Program

Representative Bob Frey

Paul Klotz, Mental Health Association

Bruce Beale, Chairman, Kansas Commission on Alcoholic Safety Action

Project Coordinators

Chris McKenzie, Kansas League of Municipalities

Dennis Beitz, President, Kansas Alcohol and Drug Program Association

Ron Eisenbarth, Kansas Citizens Advisory Committee on Alcohol and Other

Drug Abuse

Judge Herb Rohleder, Great Bend

Glenn Leonardi, Kansas Alcoholism Counselors Association

Lorne Phillips, Commissioner of Alcohol and Drug Abuse

Don Pedroja, by written testimony *Mch. K*

HB 2311 - Kansas Advanced Technology Commission

Representative Meacham explained the proposal and the need for such a commission. He noted amendments to the original bill, and noted that a technical amendment should be added to allow institutions to accept and spend funds, as well as to allow the commission to transfer funds.

When asked about the fiscal note on the bill, Representative said it is \$80,000, and the Secretary has indicated that he can absorb that in his budget. There would be added expense of travel for commission members. He added that, at some point, there would be a fiscal impact.

Senator Hess asked if there was a reason why a person should be limited to a four-year term (line 85 of HB 2311). Representative Meacham said he would be agreeable to changing that language.

Secretary Schwartz presented written testimony (Attachment A). It is noted that he recommended consideration of HB 2442 in connection with this measure. Senator Doyen asked what Mr. Schwartz had in mind when he made reference to a technology center. He answered that there needs to be a focal point, and if there were unlimited resources there should be a separate department. At least there should be a Division of High Technology in some other department. There was a brief discussion concerning how this department is handled in the State of North Carolina.

Ms. Taylor appeared in support of the bill. She suggested such a proposal would enhance technology development and economic development in Kansas. She suggested that Kansas graduates might have more reason to remain in the state if this were done, and that new industry might be attracted to Kansas.

Mr. Henry presented written testimony (Attachment B). He appeared in support of the proposal. He noted that 33 states have spent \$70 million in the area of high technology, and Kansas has done nothing. He stressed

HB 2311 - Continued

that this is a measure that will have a fiscal impact on the state if it is passed. He suggested there would need to be \$1 million to \$1.5 million in the initial stages so there would be a matching grant system. He stressed that it will cost even more in the future, but if it is not done, there will be no return to the state. He said the university people think this is the most workable bill they have seen.

No action was taken on HB 2311.

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

Representative Frey appeared to explain the proposal. He distributed Attachment C for the committee's attention. It was noted that the proposal places more authority at the local level than has been done during the past year.

Mr. Johnson appeared as a proponent of HB 2132. He distributed his testimony (Attachment D) and a balloon of the bill suggesting certain amendments (Attachment E). Committee members were given opportunity to question him.

Mr. Klotz appeared briefly to state that his organization supports HB 2132.

Mr. Beale distributed a letter in support of HB 2132 (Attachment F). He noted that his organization supports the amendments suggested by Mr. Johnson.

Mr. McKenzie appeared in support of HB 2132. He said the local option features are a good compromise.

Mr. Beitz presented written testimony (Attachment G). He specifically stressed No. 7 on his statement, supporting the concept that unutilized monies be returned to the programs that provided the services. He said he does not feel that is clear enough in the bill, and the courts can do with the money as they please.

Ms. Van Buren, United Judicial Department, said if the bill is considered, it is important to give the Administrative Judge an option, rather than the way the bill was originally written. If, for some reason, there is a problem it can be handled at the state level. She further suggested that municipal judges be deleted from the bill in Lines 73 and 74.

Representative Frey said he objected to taking municipal judges out of the proposal, since they are the backbone of the law. Other proponents agreed with Representative Frey.

Mr. Eisenbarth appeared as an opponent to HB 2132 (See Attachment H). Following his presentation, committee members were given opportunity to question him.

Judge Rohleder appeared as an opponent of HB 2132. He suggested the issue is whether there are going to be 31 or 32 programs across the state or one program administrated by one agency. He said that SB 699, approved by the 1982 Legislature, was a great step forward, but has been in effect less than a year and there has not been opportunity to determine if it will work. He suggested the proposal might become a political football, because judges will make separate decisions. He suggested that this proposal would not help funds to be returned to local communities, because the Secretary of SRS would not receive the money any sooner under the proposal.

HB 2132 - Continued

Mr. Leonardi appeared as an opponent to Sub. for HB 2132. He distributed his prepared statement (See Attachment I). He suggested that representatives from local areas and those from the state get together and try to resolve any problems that may be unsolved.

Dr. Phillips appeared in opposition to the proposal. (See Attachment J) There was concern shown by members of the committee that Dr. Phillips had not been able to work out the problems of administration of the program in question.

No action was taken on Sub. for HB 2132, and the meeting was adjourned by the Chairman.

Testimony before the Senate Ways and Means Committee

House Bill 2311

Charles J. Schwartz, Secretary  
Kansas Department of Economic Development  
March 25, 1983

AAA  
3-25-83  
11:00

Mr. Chairman and Members of the Committee:

While the merits of House Bill 2311 are significant in establishing a state policy in support of high technology industrial development in Kansas, we recommend for your consideration that a slightly broader approach to the program be incorporated in this legislation. Our recommendation includes the following:

I. Creation of a High Technology Advisory Committee - already included in the bill.

II. Enactment of the High Technology Research Partnership Program.

The provisions of H.B. 2311 accommodate much of the substance of this concept but House Bill 2442 provides for a more clearly and thoroughly designed program which would facilitate its administration and we recommend your consideration of it in conjunction with the provisions of H.B. 2311. It is important that a substantial appropriation accompany the program in order to ensure its reliability.

III. Creation of a Kansas High Technology Center.

This concept would serve the state well in (a) providing a visible and tangible demonstration of the state's commitment to a high technology program, and (b) providing a vehicle for implementation of the recommendations of the Governor's Task Force on High Technology Industrial Development which will be forthcoming in July, 1983. We envision the Center as a framework for which substance is provided under the guidance of the High Technology Advisory Committee and which would be housed in KDED during its initial developmental phase and later "spun-off" as an independent organization with independent funding.

The attachment provided with these remarks provides further explanation of these three elements and we will be pleased to discuss them further with you.

Most importantly, we urge your consideration of a broader approach to the Kansas High Technology Program than is provided in H.B. 2311, as amended.

Thank you for your consideration.

I. Creation of a High Technology Advisory Committee

- A) to advise the Governor, the Legislature and the Kansas High Technology Center (below) as the high technology program is developed and the recommended strategy of the Governor's Task Force on High Technology Industrial Development is implemented.
- B) to function in an advisory capacity for the High Technology Research Partnership Program.

II. Enactment of the High Technology Research Partnership Act (with provisions as thoroughly provided as in H.B. 2442)

It is important that a substantial appropriation accompany the program.

III. Creation of the Kansas High Technology Center

The Center would serve as a structural "shell" within which to house and develop activities related to implementation of the High Technology Program. The primary value of such a framework is in its ability to exhibit a state policy commitment to development of high technology in Kansas. It would serve as a vehicle to focus on and emphasize public and private efforts related to high technology development and would significantly aid our efforts in promoting high technology.

We envision a two-phase life for such a center, an initial phase and a secondary phase.

A) The Initial Phase would:

- (1) for one to two years be housed in the Kansas Department of Economic Development.
- (2) include implementation of the recommendations of the Governor's Task Force on High Technology Industrial Development.
- (3) serve as a public relations tool with "status" of an independent entity reinforcing the state - public policy support of high technology. What is done to the end of high technology development will need to be publicized in order to be effective; it will need to be "sold" to both Kansans and to companies across the nation and abroad.

*Research Triangle  
Foundation  
Research Triangle  
Institute*



- 4) to carry out a number of activities from among a broad potential range including:
  - a) administration of the research partnership program,
  - b) sponsorship of a technology transfer conference,
  - c) coordination of a broad range of available services to small business and entrepreneurial firms,
  - d) focal point for information of use to high technology firms including venture capital and other financial assistance information (IRB's, tax increment financing, and enterprise zones),
  - e) programmatic support of educational centers of excellence (higher and secondary education).
  - f) coordination of available training resources in support of high technology industrial needs,
  - g) continuing research and development of elements of high technology strategy,
  - h) development of programs in support of small business firms which qualify to participate in Small Business Innovation Act of 1982 (federal research and development grants),
  - i) development of a programmatic framework for locally supported "Incubator space" programs,
  - j) to serve as state focal point in support of locally generated and/or initiated high technology programs (e.g., a research park in Lawrence, high technology recruitment in Wichita)

B) The secondary phase would:

- 1) be "spun-out" of state government as an independent organization with independent funding sources which may range from federal grants to private contributions to "earned" income.
- 2) activities could be from a broad range of possibilities including:
  - a) a corporate form vehicle to a broad range of funding program such as those envisioned under Representative Fox's bill for an innovation development corporation,
  - b) housing revolving loan funds,

- c) raising capital by selling stock,
- d) housing research, owning patents, earning royalties, etc. or
- e) serving a function similar to the Research Foundation concept of the 1960's.



TESTIMONY BEFORE THE SENATE WAYS AND MEANS COMMITTEE

RE: H.B. 2311

DATE: March 25, 1983

Mr. Chairman, Members of the Committee, I am Bill Henry, Executive Vice-President of the Kansas Engineering Society and appear today before you in support of H.B. 2311.

High Technology has become a familiar buzz word to many of us both in the legislative arena and in economic development. Exactly what is high technology?

The Kansas Engineering Society would tend to accept the Scientific American Magazine's description of high technology industries as those industries involved in the areas of pharmaceuticals, communications, aircraft, control instruments, computers, semi-conductors, scientific instruments and medical instruments. (SEE: Attachment A)

The same magazine also concluded that there are a variety of characteristics found in high technology companies, including — (a) advanced technologies that are used in the manufacturing process and the final product, (b) a large percentage of revenue is spent on research and development, (c) the products produced have high growth rates and rapid obsolescence, (d) the value added to the product is high, (e) the companies have a tendency to cluster around brain power and air transportation, (f) scientists and engineers comprise at least 10% of the work force and (g) the executives often are trained in technical fields.

The most obvious question that is posed in the high technology area is — What can a state do to draw high technology companies within its borders?

It is the opinion of the Kansas Engineering Society, based upon research we have done in this area, that high technology and the opportunities it offers begins with a particular state's institutions of higher education. For a company that is working in this area, the most valuable resource is trained personnel and researchers. In discussing this phenomenon with members of our Society, particularly the Deans of the Engineering Schools at Kansas State University, Wichita State University and the University

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3-25-83  
11:00 a.m.

of Kansas, we have found that many firms seeking to move to Kansas or studying a possible move to this State make initial trips to our universities. The questions they ask when they visit are what type of courses our universities offer; the number of faculty, as well as the qualifications and particular fields of interest of those faculty; the number of graduates that are coming forth from that institution and finally, but not least, the state of the laboratory equipment that is available for research at the university.

This latter area is one that has concerned the Kansas Engineering Society for some time. Indeed, the seriousness of the lack of up-to-date, state of the art equipment at our university engineering schools is such that our Board of Directors this year recommended that we include that as one of our three top priorities, along with highways and water.

In a preliminary study done last summer, it was determined that our Schools of Engineering alone at WSU, K-State and KU could justify an expenditure of \$3,000,000 per year for the next four years to bring the lab equipment of those schools up to date.

Of course the State's fiscal condition certainly is not in its healthiest period. As a result the thoughts of our Board of Directors were that the State probably, at this point in time, could not afford such an additional demand on its general fund resources. The need is still there and must be answered, but we felt in good faith that we simply could not come forth to you and demand that we receive an allocation of \$3,000,000 for equipment for the Schools of Engineering for four years.

What we do feel that we can urge you to do today is to support H.B. 2311 because of the many features it has that will increase the quality of the equipment that eventually can be brought to our engineering and other science departments at our institutes of higher education.

H.B. 2311 does several things that we think are improvements both in terms of economic development and in terms of enhancing our universities' laboratory needs.

1. This bill would avoid duplication, a problem that we always run into. The Commission that is created in H.B. 2311 would choose those programs for matching funds that would have the best opportunity to succeed in terms of potential jobs, as well as for the development of new business in the State.
2. The provisions of H.B. 2311 would draw business and education closer into a cooperative effort from which both would benefit.
3. The measure establishes a clear set of priorities.  
(SEE: Section 1(c))
4. The measure also gives definite direction to the Commission on its mission. (SEE: Section 3(a)) In addition, this measure goes beyond the basic grant concept and broadens the approach that can be taken to pursue high technology industry.
5. It establishes the basic concept of Centers of Excellence, as well as state research parks.
6. It assigns the responsibility of administrating and coordinating development of high technology to a state agency, i.e., the Kansas Advanced Technology Commission.
7. Simultaneously and immediately, this measure sets out a determination of priority areas, as we discussed earlier for high technology development, based on the potential of attracting industry, and of course, jobs to Kansas, while initiating the development of Centers of Excellence at our universities.

By passing this measure the Legislature will confirm and establish strong commitments to high technology development that have already been made by the Executive Branch and can now be made by the Legislative Branch, in conjunction with our business sector and the universities.

There are now 33 other states that have created high technology developments, committees, commissions or staffs. We cannot duplicate a lot of those efforts. We do not have the geography in Kansas to re-create the situation that exists in North Carolina -- the so-called University Triangle, where three universities are within thirty miles of each other and centered in the middle of those universities is an international airport. Nor can we look to create a Silicon Valley approach with our current industry, as it exists in California. Nor do we have the

situation that exists in Massachusetts, where the so-called High Technology Strip has been located emanating from Boston, that is checkerboarded by universities and high technology operations. But Kansas can create Centers of Excellence whereby the universities could probably devote their focus to one or two particularly strong areas within that university. One need only look to Wichita and the aircraft industry and the opportunities there. As many of you who are familiar with Wichita know, one of the chief areas that Boeing has increased its business in is not the aircraft industry, but its computer processing systems. Indeed, company-wide, it's my understanding that division has taken credit for a growing percentage of the profits of the total company for the last four to five years.

This is the type of industry that we are talking about that should be encouraged and this is the type of industry that is a natural partner for our higher educational institutions to work with.

How much money will this cost the State? For a mere beginning we would recommend the State consider an expenditure of from \$1,000,000 to \$1,500,000 to establish the Commission and to set up a matching grant system, similar to that which was proposed in H.B. 2442. As progress on this grant system continues, the State should move in with further future funding in the areas of developing Centers of Excellence, as well as creating special professorships to draw the so-called "superstars" of high technology to our State.

The costs in this area can be staggering and the competition is keen. We estimate that the bare minimum to establish a Center of Excellence would be \$200,000 the first year, with an additional outlay of another \$200,000 the second year and \$100,000 in the third year.

That would be the minimal amount. Some states, depending on the type of technology, are devoting \$10-20 million. In the long range, half a million is the cost the State would have to consider to develop a Center of Excellence program in Kansas.

It is proven that once Centers of Excellence are created and faculty members of wide renown are drawn to the state, there is an accompanying influx of industry, funds in the form of grants and equipment bequests.

We are now looking at the beginning, and, if we delay further, it will not be necessary to make a beginning in this area for the State of Kansas, because it will simply be too late.

Therefore, the Kansas Engineering Society would recommend the passage of H.B. 2311, as well as the funding, in the amount of from \$1,000,000 to \$1,500,000 to initiate the important beginnings necessary to bring and foster high technology development in this State.

William M. Henry  
Executive Vice President  
Kansas Engineering Society

March 25, 1983

## Definition of High Technology

Scientific American magazine identifies the following industries as high technology: pharmaceutical; communications; aircraft; control instruments; computers; semi-conductors; scientific instruments; and medical instruments. Scientific American concludes that the following characteristics exist in high technology companies: (a) advanced technologies are used in the manufacturing process and the final product, (b) a large percentage of revenues is spent on research and development, (c) their products have high growth rates and rapid obsolescence, (d) the value added to the product is high, (e) the companies tend to cluster around brain power and air transportation, (f) scientists and engineers comprise at least 10 percent of the workforce, and (g) the executives are trained in technical fields.

The products and processes of high technology companies are on the edge of knowledge and where the distinction between research and manufacturing blurs. The high technology industries also concentrate in engineering and the sciences - such as computers, communications, bioengineering, space technology, and electronics. Technology, innovation, and new product developments are the primary consideration of the executives.

### Technological Hierarchy\* (Engineers and Scientists as a Percentage of Total Employment)

Leading Edge 25% + Engineering	High Tech 15% + Engineering	Base Industries 10% + Engineering
Custom Biologicals	Pharmaceuticals	Chemicals
Micro Computers	Computing & Office	Machinery,
Super Computers	Equipment	Electrical
Space Satellite	Communication	Transportation
VLSI, ULSI	Equipment	Equipment
Circuits	Aircraft Parts	Instruments
Missiles/New	Medical Instruments	
Aircraft	Controlling and	
Advanced	Scientific	
Prosthetics	Instruments	
Auto Analyzers		

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\*Source: Scientific American - Marketing to the high growth, high technology segments of the U.S. Economy. Spring 1982





STATE OF KANSAS

JOHN CARLIN, GOVERNOR

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

ALCOHOL AND DRUG ABUSE SERVICES

ROBERT C. HARDER, SECRETARY

2700 WEST 6TH STREET  
TOPEKA, KANSAS 66604  
(813) 296-3925  
KANS-A-N 561-3025

December 15, 1982

Gene Johnson  
Sunflower Alcohol Safety Action Project  
1301 Topeka Ave.  
Topeka, Kansas 66612

RE: ADSAP Contracts

Dear Mr. Johnson:

Enclosed is a copy of a Contract for ADSAP Services which will need to be agreed upon should your agency desire to be reimbursed for presentence alcohol and drug, and diversion evaluations, under the provisions of Chapter 144 of the 1982 Session Laws of Kansas.

Please sign the contract (page 7), and the Contractual Provisions Attachment, form DA-1469, and return it to us as soon as possible.

You will note that Provider Section 8, page 2, requires that you submit a proposal which details the type of services to be delivered, a proposed budget for the contract period, organizational charts for your agency, and position descriptions for staff who will be performing services under the contract. This data will be utilized to justify subsequent increases in the assessment fee. To expedite approval, those documents should be returned with the signed contract.

Also enclosed is a supply of Request for Funds forms. These forms will need to be completed and submitted in duplicate for each reimbursement being claimed. Leave the Contract Number space blank until such time as you are provided with a number from us. Requests for reimbursement for evaluations performed prior to the signing of this contract may be

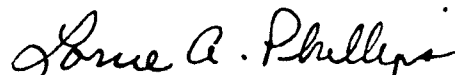
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submitted at any time. Please be sure that all information requested on that form is provided. Payments on the contract should reach you within three to four weeks from receipt of the Request for Funds forms.

Should you have any questions regarding the contract or reimbursement procedures, please let us know.

Sincerely,



Lorne A. Phillips, Ph.D.  
Commissioner

LAP:DP:kr

enc.

## CONTRACT FOR ADSAP SERVICES

This agreement entered into this 1st day of July, 1982 by and between the Secretary of Social and Rehabilitation Services (SRS), hereinafter referred to as the "Purchaser", and Sunflower Alcohol Safety Action Project, Topeka, Kansas, hereinafter referred to as the "Provider";

WHEREAS, the Purchaser is authorized by Chapter 144 of the 1982 Session Laws of Kansas to enter into this contract for services, and;

WHEREAS, the Provider is capable and desirous of entering into this contractual relationship;

NOW THEREFORE, the parties agree to the terms and conditions as hereinafter set forth, to-wit:

The Purchaser agrees;

1. To pay the Provider a sum not to exceed seventy dollars (\$70) for each offender-paid evaluation performed by the Provider pursuant to Provider Section, of this contract.

The Provider agrees;

1. To obtain, prior to the implementation of services, a license or certification (provisional or otherwise) from the Alcohol and Drug Abuse Services of SRS, hereinafter referred to as ADAS, as an Alcohol and Drug Safety Action Program, hereinafter referred to as ADSAP, to provide presentence evaluation and sentence monitoring and supervision of persons whom the courts refer to Provider, who plead "nolo contendere" to or are convicted of a violation of Chapter 144 of the 1982 Session Laws of Kansas.
2. To provide presentence alcohol and drug evaluations for persons who plead "nolo contendere" to, or are convicted of, violation of Chapter 144 of the 1982 Session Laws of Kansas, prior to sentencing for such violations.
3. That the presentence alcohol and drug evaluation report shall be made available to the court prior to sentencing.
4. That the presentence alcohol and drug evaluation report shall contain:
  - a. An evaluation concerning the defendant's prior traffic record;
  - b. Characteristics and history of alcohol and/or drug problems;
  - c. Amenability to education and rehabilitation; and
  - d. A recommendation concerning the alcohol and drug driving safety education and treatment for the defendant.

5. The duties of persons who prepare the presentence alcohol and drug evaluation report may include:
  - a. Appearing at sentencing and probation hearings in accordance with the orders of the court;
  - b. Monitoring defendants in the treatment and education programs;
  - c. Notifying the probation department and the court of any defendant failing to meet the conditions of probation or referrals to treatment;
  - d. Appearing at revocation hearings as may be required; and
  - e. Providing assistance and data reporting and program evaluation.
6. To provide alcohol and drug evaluations as required by the district attorney or county attorney under the provisions of Chapter 144 of 1982 Session Laws of Kansas, for those persons entering into a diversion agreement:
  - a. After a complaint has been filed charging such person with any offense involving operating a motor vehicle under the influence of alcohol and other drugs and prior to the conviction thereof.
  - b. Reimbursement of alcohol and drug evaluations under this section shall be allowed only if the prosecuting attorney has determined that the offender is eligible for diversion and that the offender has agreed to participate in diversion.
7. Maintain records to show court finding of indigence where clients have not been required to pay the established fee for pre-sentence evaluation and sentence supervision and monitoring.
8. Acquire approval by the Purchaser of a proposal, which details the services to be delivered, a proposed budget to cover the contract period, organizational charts, and position descriptions for staff.
9. Maintain licensing or certification requirements set forth in the Alcohol and Drug Safety Action Program Standards, throughout the contract year.
10. Contract funds may be expended only for the purposes and activities set forth in Provider Section, of this contract. Any change in contract fund use must have prior written approval by the Purchaser.

11. a. To maintain fiscal books, records, documents, and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this contract.
  - b. That the records shall be subject at all reasonable times for inspection, review or audit by personnel duly authorized by the Purchaser.
  - c. To collect statistical data of fiscal nature on a regular basis, and to make fiscal statistical reports at times prescribed by, and on forms furnished by, the Purchaser.
12. a. To maintain records required by the Purchaser; and,
  - b. That a program and facilities review, including meetings with consumers, review of service records, review of service policy and procedural issuances, review of staffing ratios and job descriptions, and meetings with any staff directly or indirectly involved in the provision of services may be conducted at any reasonable time by state personnel and other persons duly authorized by the Purchaser.
  - c. To maintain program statistical records required by the Purchaser and to produce program narrative and statistical data at times prescribed by, and on forms furnished by, the Purchaser.
13. To retain all books, records, and other documents relevant to this contract for three years after final payment, and any persons duly authorized by the Purchaser shall have full access to and the right to examine any of said materials during said period.
14. That no contract or agreement may be entered into by the Provider for achievement of program activities or provision of services with a contractor, other than purchases of supplies or standard commercial or maintenance services.
15. a. That Provider shall not assign this contract without prior written approval of the Purchaser and subject to such conditions and provisions as the Purchaser may deem necessary.
  - b. No approval by the Purchaser of an assignment shall be deemed to provide for the incurrence of any obligation on the part of the Purchaser.

Purchaser and Provider mutually agree:

1. The terms of this contract shall commence on the 1st day of July, 1982, and terminate on the 30th day of June, 1983.

2. For the purposes of this contract, a presentence alcohol and drug evaluation is defined as an evaluation which occurs after an offender has been found guilty of, or has plead "nolo contendere" to, a violation of Chapter 144 of 1982 Session Laws of Kansas, and prior to a sentence by the courts.
3. For the purposes of this contract, an evaluation performed for those persons entering into a diversion agreement is defined as an evaluation which;
  - a. Occurs after a complaint has been filed charging such person with any offense involving operating a motor vehicle under the influence of alcohol or other drugs and prior to the conviction thereof;
  - b. The prosecuting attorney has determined that the offender is eligible for diversion; and,
  - c. That the offender has agreed to participate in diversion.
4. It is further agreed that, in the event fees have not been remitted to the State Treasurer, by the referring court, on behalf of the recipient(s) of Provider services; the obligations of the parties shall thereupon be terminated or reduced; provided that any termination of this contract shall be without prejudice to any obligations or liabilities of the parties already accrued prior to such termination.
5. Representatives of the Purchaser are authorized to make periodic monitoring visits to all projects. The overall purpose of any such visit will be to aid in the success of the project. As a part of this overall purpose, project programs will be assessed, and successes and problems will be noted. Problems will be discussed with project personnel to determine appropriate corrective action.
6. The use or disclosure by any party of any information concerning a recipient for any purpose not directly connected with the administration of the Purchaser's or the Provider's responsibilities with respect to purchased services hereunder is prohibited except on written consent of the recipient, his responsible parent or guardian, or upon the order of an appropriate court. Violations of 42 CFR, Part 2, and Chapter 268 of 1982 Session Laws of Kansas, shall be grounds for termination of this contract.
7. For reimbursement purposes under this contract, paid evaluations are defined as:
  - a. Presentence alcohol and drug evaluations performed pursuant to Provider Section, item 2, and Mutual Section, item 2;

- 1) For which an \$85 fee has been paid to the court;  
and
- 2) Such fee has been credited to the Alcohol and Drug  
Safety Action Program fund by the State Treasurer;
- b. Diversion alcohol and drug evaluations performed  
pursuant to Provider Section, item 7, and Mutual  
Section, item 3;
  - 1) for which an \$85 fee has been paid to the court;  
and,
  - 2) Such fee has been credited to the Alcohol and Drug  
Safety Action Program fund by the State Treasurer.
8. Requests for reimbursement under the provisions of this  
contract must be submitted on the forms and in the manner  
prescribed by Alcohol and Drug Abuse Services (ADAS).
9. Requests for reimbursement for paid evaluations for any  
preceding calendar month must be submitted to ADAS by the  
10th day of each month. Requests received after that date  
will not be processed until the 10th day of the following  
month.
10. Separate requests for reimbursement must be submitted by  
the Provider for each court.
11. Requests for reimbursement will not be processed for  
payment unless sufficient funds exist in the state alcohol  
and drug safety action program fund for the actual  
evaluation performed.
12. Any alterations, variations, modifications, or waivers of  
provisions of this contract shall only be valid when they  
have been reduced to writing, duly signed, and attached to  
the original of this agreement. This contract shall be  
subject to renegotiation upon changes in federal or state  
laws or revisions to said laws or regulations.
13. Neither party hereto shall be held responsible for delay or  
failure to perform hereunder when such delay or failure is  
due to fire, flood, epidemic, strikes, acts of God or the  
public enemy, unusually severe weather, legal acts of the  
public authorities, or delays or defaults caused by public  
carriers, which cannot reasonably be forecast or provided  
against.
14. Unless the Provider's default is excused under the  
provisions of this agreement, the Purchaser may, by written  
notice of default to the Provider, terminate the whole or  
any part of this contract only where the Purchaser has  
reason to believe, in any of the following circumstances,  
that the Provider:

- a. Is mishandling contract funds;
  - b. Is unable to carry out the project properly, or on schedule;
  - c. Fails to comply with corrective action plans within 10 days;
  - d. Violates the provisions contained in the Contractual Provisions Attachment (Form DA-146a);
  - e. Fails to submit proper reports on schedule;
  - f. Fails to obtain and/or maintain licensing and/or certification; or
  - g. Where the anticipated continuation funds become unavailable.
15. In the event that the contract is terminated, the Purchaser will notify the Provider in writing:
- a. Of its decision;
  - b. Specify the reason(s); and
  - c. Allow the Provider a reasonable time to terminate the project operations, provided that reasonable time shall not exceed ten (10) days.
16. A contract which is terminated prior to the contract ending date will be subject to the same requirements regarding audit, record-keeping, and submission of reports and other materials as a contract which continues until the duration of a contract period.
17. This contract may be cancelled by either party at any time, with or without cause, upon 30 days notice, in writing, and delivered by mail or in person.
18. This contract may be renewed and continued for subsequent annual periods by written acknowledgment of both parties.
19. The provisions found in Contractual Provisions Attachment (Form DA-146a), which is attached hereto and executed by the parties to this agreement, are hereby incorporated in this contract and made a part hereof.
20. This contract contains all the terms and conditions agreed upon by the parties. All items incorporated by reference are to be attained no other understandings, oral or otherwise, regarding the subject matter of this contract, shall be deemed to exist or to bind any of the parties hereto.



21. The Provider agrees to assume responsibility for and to indemnify, protect, save and hold harmless Purchaser from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, costs and expenses (including attorney fees), and negligence of whatsoever kind in nature, imposed on, incurred by, or asserted against Provider which are in any way related to or arise out of the terms and conditions of this contract, unless caused by the sole negligence of Purchaser or its agents.
22. This agreement constitutes the whole agreement between the parties and it is mutually understood and agreed that no alternative or variation to the terms of this agreement shall be valid unless amendments hereto are made in writing and agreed to by both parties.

IN WITNESS WHEREOF, the parties hereto have affixed their signatures the date first above written.

\_\_\_\_\_  
Secretary, SRS

\_\_\_\_\_  
Provider

## CONTRACTUAL PROVISIONS ATTACHMENT

**Important.** This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

*"The provisions found in Contractual Provisions Attachment (form DA-146a), which is attached hereto and executed by the parties to this agreement, are hereby incorporated in this contract and made a part hereof."*

The undersigned parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being dated the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

### 1. TERMS HEREIN CONTROLLING PROVISIONS

It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.

### 2. AGREEMENT WITH KANSAS LAW

All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.

### 3. TERMINATION DUE TO LACK OF FUNDING APPROPRIATION

If, in the judgment of the Director of Accounts and Reports, State Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.

### 4. DISCLAIMER OF LIABILITY

Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor for any liability whatsoever.

### 5. ANTI-DISCRIMINATION CLAUSE

The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and to not discriminate against any person who performs work hereunder, because of race, religion, color, sex, physical handicap unrelated to such person's ability to engage in this work, national origin or ancestry; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 1978 Supp. 44-1031; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such act by the Kansas Commission on Civil Rights, shall constitute a breach of the contract and it may be cancelled, terminated or suspended in whole or in part by the Director of Purchases, State Department of Administration.

Parties to this contract understand that subsections (b) through (e) of this paragraph number 5 are not applicable to a contractor who employs fewer than four employees or whose contract with this agency of the Kansas state government total less than \$5,000 during this fiscal year.

### 6. ACCEPTANCE OF CONTRACT

This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.

### 7. ARBITRATION, DAMAGES, WARRANTIES

Notwithstanding any language to the contrary, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges; and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.

### 8. REPRESENTATIVE'S AUTHORITY TO CONTRACT

By signing this document, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this document on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.

### 9. RESPONSIBILITY FOR TAXES

The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.

### 10. INSURANCE

The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the state to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 1979 Supp. 75-6101 *et seq.*), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.

Provider  
Vendor/Contractor.

Social & Rehabilitation Services  
Agency Head/Authorized Representative:

Date

Signature

Date

Signature

Title

Title

## SUBSTITUTE HOUSE BILL 2132

by Gene Johnson

Mr. Chairman and members of the Committee, my name is Gene Johnson. I am the legislative liaison for the Kansas Community Alcohol Safety Action Project Coordinators, the Project Coordinator of the Sunflower Alcohol Safety Action Project located in Topeka and I also represent the interests of the National Council on Alcoholism - Topeka Division. My comments are based on nine years of experience of handling D.W.I. cases, before and after the new legislation brought about by the Kansas Legislature during the 1982 session. A major change in the D.W.I. legislation was accomplished by the 1982 legislature and the legislature should be applauded for taking such a positive step forward in an attempt to reduce the number of alcohol related accidents. Prior to July 1, 1982, most ASAP programs were funded through the Kansas Department of Transportation or received their funding from local sources, such as the alcohol tax on private clubs. The Alcohol and Drug Abuse Section of the Social Rehabilitation Services became involved after July 1, 1982, as a result of the House of Representatives amending Senate Bill 699 making them the state agency responsible for the certification and the contracting the \$85 assessment fee paid by the defendant collected by the court and forwarded to the State Treasury. At this point, it would appear on the surface that a quick efficient way could be designed to return a major portion of this \$85 assessment to the program who initially did the alcohol and drug evaluation. However, during the six month interim from July 1 to December 31, 1982, we have been confronted with new regulations, more paperwork, different guidelines and general bureaucratic nonsense. It must be remembered, these suggestions and guidelines are being developed from an agency who had not been involved in the D.W.I. problem prior to July 1, 1982.

Some of the areas of concern of our organizations are the seven page contract that was mailed to each local ASAP program on or about December 15, 1982. Many of the local contracts found this to be completely unacceptable and to this date refuse to approve those and return those to the Alcohol and Drug Abuse Section. Another area of concern is that in December we were informed by the staff of the Alcohol and Drug Abuse Section that their legal staff had determined some five months passed the effective date of the law that the \$85 collected for the evaluation for those people who were placed on diversion could not be returned to the local programs who performed the evaluation due to some technical language problems in the law. On December 31, 1982, the legal department of SRS did write and request from the Attorney General an opinion concerning this problem. The Attorney General replied late in January that technically the position of SRS was correct and the law probably needed to be changed. He also indicated that it was not the intent of the law or the legislature to have SRS keep those monies collected by the court and it was the responsibility of the SRS staff to devise contracts to return that money

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to those people who provided the evaluations. In his opinion, he made definite statements in the wording that SRS could have used in releasing these funds to the local agencies. To date, we have not been informed of any effort on the part of the Social Rehabilitation Services to return those funds collected by the court to the local agencies performing the evaluation.

Other areas of concern is the requirement of the Alcohol and Drug Abuse Section to give the offender arrested for D.W.I. at least two acceptable screening tests at the time of interview. One of these tests is quite lengthy and will take from 30 to 45 minutes to administer. Based on my own program knowledge of my own agency, it would be necessary for me to increase my staff at least 30 percent to accomplish this testing mechanism. Also, the Alcohol and Drug Abuse Section is informing us that it is necessary for our programs to pre-test each individual going into our educational schools and then post-testing after they have completed that course. We feel that if we were operating an adequate ASAP program with a good quality education course that our recidivist rate would remain under 15 percent. This to us would be an accurate mechanism to evaluate our programs.

The state association of the ASAP programs met in Salina, Kansas, on December 2 and 3, 1982, and approved six recommendations to be considered by the 1983 legislature. Substitute House Bill 2132 will solve the number one and number two priority designated by our state association. That being the local control of the \$85 assessment paid by the offender and collected by the court and two, that out-of-state offenders would have the same requirements as those who live in our state.

In addition, our association would support the addition of language that would allow the sentencing court to order in-patient treatment on the third D.W.I offence after the minimum sentence is served. We would also support a .10 per se law rather than the present language in the statute. We would also support administrative action taken by the Department of Revenue on the offenders license who has a B.A.C. of .10 or above at least until that offender appears in court for disposition of his case. Then, after his appearance in court, it would be up to the sentencing courts judgment to determine whether that defendant is entitled to have a restricted license. We would also support some changes in the community service in lieu of jail time on those so-called first offenders. In the majority of these cases, the offender already has been granted diversion on a previous case and we are actually dealing with a second time offender.

In conclusion, generally speaking the judicial system is functioning quite adequately on the new D.W.I. legislation. However, the inclusion of the Alcohol and Drug Abuse Section seems to be hampering the efforts of the local Alcohol Safety Action Projects to complete their tasks in the education/rehabilitation of these D.W.I. offenders.

In addition, some of these agencies are running into a considerable amount of difficulty with a cash flow problem. Remember, some of these agencies have been doing this work since July 1, 1982, and not received any money for those evaluations. Our organizations wholeheartedly support Substitute House Bill 2132 as an effort to make our streets and highways in the State of Kansas a safer place to drive.

I will answer any questions. Thank you.

*Gene Johnson*

# 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 ecutor considers for eligibility or finds eligible to enter a diver-  
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

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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 (e). 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  
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 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 (a) or (b)~~ 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.";

# Kansas Community Alcohol Safety Action Project

2200 West 25th Street, Lawrence, Ks. 66044, (913) 841-2880



March 24, 1983

## KANSAS COORDINATORS OF ALCOHOL SAFETY ACTION PROJECTS

Senator Paul Hess  
Chairman  
Senate Ways & Means Committee  
Kansas State Capitol  
Topeka, KS 66612

Re: Substitute House Bill 2132

Dear Senator Hess,

Our association represents most of the drunk driving programs which this bill would directly effect. We are unanimous in our support of this bill. This legislation would eliminate our current cash flow problems and give local programs more autonomy in their day to day operations. Should a judicial district choose SRS control they may do so with this substitute bill. We hope that your committee will act on this bill favorably.

Respectfully Submitted,

A handwritten signature in cursive script that reads 'Bruce H. Beale'.

Bruce H. Beale  
Chairman

ATF 3-25-83  
11:00

HOUSE BILL NO. 2132 (REVISED)  
TESTIMONY  
MARCH 25, 1983  
SENATE WAYS AND MEANS COMMITTEE

The Kansas Association of Alcohol and Drug Program Directors wish to express our concern that House Bill No. 2132 (Revised) is acted upon favorably.

Areas of Concern:

1. We support the concept that out of state residents arrested for DUI be required to receive the same fines and penalties as Kansas residents.
2. We support the concept that pre-conviction and pre-diversion alcohol and drug evaluations qualify for the \$85 reimbursement.
3. We support the concept that there must be a common quality control of certification of every program in the State of Kansas. It is suggested that the Kansas Community Alcohol Safety Action Project organization be considered a recognized body qualified to give suggestions concerning this topic.
4. We support the concept that existing programs providing alcohol and drug evaluations and Alcohol and Drug Information Schools before July 1, 1982 be given preference in areas where one or more program exists.
5. We support the concept that DUI offenders must stay on probation until their fine and all other penalties court ordered have been met.
6. We support the concept that third-time offenders be court ordered to treatment and in addition spend 90 days in jail.
7. We support the concept that unutilized monies be returned to the programs that provided the services as stated in Senate Bill No. 699. We suggest this be completed through a voucher system with the option of submitting the vouchers to the local courts for which the services were provided or to the State Treasurer's office.

ATT G 3-25-83  
11:00

**INSAS**  
**Citizens**  
**Advisory**  
**Committee on Alcohol and other Drug Abuse**

P.O. BOX 4052 TOPEKA, KANSAS 66604

March 25, 1983

TO: Senate Ways and Means Committee

FROM: Ronald L. Eisenbarth, Chairperson, Kansas Citizens Committee  
on Alcohol and other Drug  
Abuse

Dear Chairman and Committee Members:

I would like to provide the following testimony on behalf of the Kansas Citizens Committee on Alcohol and other Drug Abuse in opposition to Substitute House Bill 2132.

This proposed legislation would abolish the funding mechanism set forth in Senate Bill 699 which was passed last year by the Kansas Legislature and became Law July 1, 1982. Senate Bill 699 provides for an \$85.00 fee to be assessed against the offender by the Courts to be sent to the State Treasurer and the entire amount is then credited to an Alcohol and Drug Safety Action program fund created by Senate Bill 699. These monies are administered by the Secretary of Social and Rehabilitation Services (SRS) to Alcohol and Drug Safety Action programs that provide services specified in Senate Bill 699. Substitute House Bill 2132 proposes a funding mechanism through the Sentencing Court instead of the present funding system through SRS.

Initial statewide funding projections were \$558,000.00 for fiscal year 1983. Due to the collection mechanism and the funding process being in effect only since July 1, 1982, the fees did not begin coming into the State Treasurer until after October 1, 1982. As of January 31, 1983, approximately \$110,000.00 had come into the fund with steady increases each of the past four (4) months. Current projections are that approximately \$400,000.00 will be collected by the end of the first year (June 30, 1983). An evaluation after July 1, 1983, should determine whether (1) The initial \$558,000.00 projection was too high (2) Courts are not channeling the fees in accordance with directives of Senate Bill 699 or (3) If other factors are responsible for the decreased amount collected.

We feel that the seven (7) month period which Senate Bill 699 had been in effect is not sufficient time to determine the degree of effectiveness of this funding mechanism and a minimum of another year should be allowed to determine its effectiveness.

Substitute House Bill 2132 also proposes the abolishment of the Certification of Alcohol and Drug Safety Action programs by the Secretary of SRS and places authority with the administrative judge of

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the judicial district to designate such programs, or by the Secretary of SRS for judicial districts in which the administrative judge declines to certify such a program. Without the certification process, there will be no uniform criteria for the establishment of such programs and uniform accountability of services provided.

We believe the Department of Social and Rehabilitation Services through its Alcohol Drug Abuse Service (ADAS) has established itself as an effective state agency to administer alcohol and drug programs during the past few years, and definitely has the knowledge and experience to administer this program. Courts generally are swamped with a workload and do not profess to have expertise in the area of alcohol and drug abuse programming. With certification of programs being designated by the administrative judge of the judicial district, the process does not provide for uniformity in regulations and services.

In summary, we feel additional time should be given before making determination of the effectiveness of the funding and certification standards of Senate Bill 699. Therefore, the Kansas Citizens Committee on Alcohol and other Drug Abuse opposes Substitute House Bill 2132.





**Kansas  
Alcoholism  
Counselors  
Association**

(913) 234-3448

1318 Fillmore, Topeka, KS 66604

March 25, 1983

TESTIMONY

TO: Senate Ways and Means Committee

FROM: Glenn Leonardi, Representing, Kansas Alcoholism Counselors  
Association *GL*

RE: Substitute for House Bill No. 2132  
By the House Ways and Means Committee

The Kansas Alcoholism Counselors Association (K.A.C.A.) is an organization of approximately 200 certified alcoholism counselors representing the entire State of Kansas. The association's purpose is two-fold: to develop and maintain professional standards for alcoholism counselors and to insure the delivery of quality services by members of his profession.

I appear before you today on behalf of K.A.C.A. to voice our association's concerns about Substitute for House Bill No. 2132. In the legislative session of 1982, K.A.C.A. came out in full support of Senator Meyers' Senate Bill No. 699. Significant steps were taken by Senator Meyers to incorporate technical assistance from professionals throughout the field during Bill preparation. These steps were an effort to develop a piece of legislature that would effectively meet the social and technical needs of Kansas. We all knew at that time that there would be problems with SB-699 that would require attention and resolution in the future.

K.A.C.A. is not opposed to amendments that will improve the legislative intent of SB-699. Our main concerns with Substitute for HB-2132 are: 1) That the removal of Social and Rehabilitation Services/Alcohol and Drug Abuse Services (SRS/ADAS) from the process of administering the funds generated by SB-699 could result in uncoordinated and inappropriate expansion of Alcohol and Drug Safety Action Program (ADSAP) services, 2) That the optional removal of SRS/ADAS from the process of certifying ADSAP programs eliminates the standardized accounting of quality assurance that is necessary and healthy for all programs within the field of human services, 3) That SB-699 has not been given sufficient enough time to accurately demonstrate the areas within the Bill that require adjustment.

K.A.C.A. therefore, does not support any change in SB-699 this legislative session that removes SRS/ADAS from the process of certifying ADSAP programs or the administration of funds generated by SB-699.

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To: Senate Committee on Ways and Means  
Friday, March 25, 1983

From: Dr. Lorne A. Phillips, Commissioner  
SRS/Alcohol and Drug Abuse Services

Re: Substitute H.B. 2132

Less than one year has passed since Senate Bill 699 became effective and toughened the drinking and driving laws in Kansas. During this short time the system of testing, evaluating, adjudicating, diverting and sentencing of offenders was supposed to have been changed in order to meet the mandates of the new law.

While most courts are complying with the new law, in many areas this is not the case. Since the law prohibits plea bargaining, we now have file bargaining. Pre-sentence evaluations are required to be performed on all guilty offenders, so now we have judges requiring pre-plea and post-sentence evaluations. It appears that the minimum sentences required by this statute are being "overlooked" in some of the courts in the state. Some judges are refusing to send the \$85.00 assessment fee to the State Treasurer.

Many of these "abuses" of the law have been noted by the news media. Just last month a Wichita news program spent a considerable amount of time detailing the way this system was, in actuality, working, compared to the way the law requires.

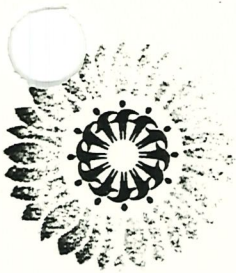
This bill gives local judges the authority to fund and certify Alcohol and Drug Safety Action Programs (ADSAP) within their Judicial Districts. Considering the backlog of cases in our court systems combined with the misunderstanding many judges have with the new law, it appears to be in the best interest of all persons concerned to leave the funding and certifying of these ADSAP programs with SRS. Even though the implementation of the ADSAP system has not been easy, I feel that we have reached an understanding with a majority of these programs so that they are pleased with the system that is proposed.

Additionally, this bill provides the option for the judges to decide if SRS or the judges themselves will certify the ADSAP programs. This system could lead to 31 different procedures and criteria throughout the state. I feel that this process should be directed by a centralized agency so that consistent and uniform criteria are utilized to assure program compliance. This bill also allows certification for a four (4) year period. All other licensing and certifying functions performed by SRS are for a one (1) year period. I feel it is negligent to allow such a long period of time to pass between determinations of a program's compliance with a uniform criteria.

The Attorney General has offered the opinion that SRS can not reimburse ADSAP programs for diversion evaluations. The new law includes diversion evaluations as a required responsibility of the ADSAP programs, however, SRS/ADAS does not have the authority to reimburse the programs, and therefore, I do support the effort in this piece of legislation that would allow for the payment of diversion evaluations.

I feel that there has not been enough time to truly assess the impact of SB 699. I believe that many of the problems that have arisen with the ADSAP implementation have been or will be solved to everyone's satisfaction. I feel that change just for the sake of change is not the best method of lawmaking and, therefore, encourage you to vote against this bill.

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11:00a.m.



# Kansas Association of Drug Abuse Counselors

March 25, 1983

## TESTIMONY

TO: Senate Ways and Means Committee

FROM: Don Pedroja, Representing, Kansas Association of Drug Abuse  
Counselors

RE: Substitute for House Bill No. 2132  
By the House Ways and Means Committee

The Kansas Association of Drug Abuse Counselors has 100 members with 50 certified counselors working in the field. Some of our members work in the ADSAP programs effected by this legislation. I am here to represent the association's concerns regarding the Substitute for House Bill No. 2132.

Our association met in January and discussed some of the issues addressed in this Substitute Bill. The association's opinion is that the administration of funds and certification of programs should be left in place according to the current legislation. The Association concensus is that it is too early to tell if changes would benefit the field.

Therefore, we do not support changing this part of SB-699.

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