

Approved: 3-30-09
Date

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Brenda Landwehr at 1:30 p.m. on February 16, 2009, in Room 784 of the Docking State Office Building.

Committee Members: All members were present except Representative Siegfried, excused.

Committee staff present:

Norm Furse, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Reed Holwegner, Kansas Legislative Research Department
Janet Grace, Committee Assistant

Conferees appearing before the Committee:

Mary Lou Davis, Board of Cosmetology (Attachment 1)
Representative Kasha Kelley (Attachment 2, 3, 4, 5, 6, 7)
Shanelle Dupree, Kansas Health Policy Authority (Attachment 8)
Secretary Don Jordan, Social and Rehabilitation Services (Attachment 9)
Balloon Amendment for **HB2198** (Attachment 10)

Others attending:

See attached list.

Chairman Landwehr called the meeting to order.

An objection was raised by Representative Ward that proper notification to the committee and the public was not done about this substitution prior to the meeting. Representative Merrick was in the committee as a substitute for Representative Siegfried.

HB 2243 - Cosmetology board fees.

Mary Lou Davis, Board of Cosmetology, provided proponent testimony for **HB 2243**. The Board's primary request for the statutory revision would allow the agency to implement on-line renewals for practitioners in the cosmetology professions. (Attachment 1) The renewal notices will continue to be sent without the packets. Both the practitioner and agency will benefit from this law revision. The practitioner who renews on-line will receive their license in a more timely manner. The Board will have a cost savings as well as more efficiency in their work processes. There is no restriction in law that will negate the implementation of on-line renewals for cosmetology, tanning and body art facilities. Currently, the Board licenses over 4,600 facilities. The Board does send courtesy notices for these annual renewals and will continue this practice. The second revision to this proposed legislation is due to several licensure fees being at their statutory limit, which the Board believes may need to be increased within the next 12-18 months. The fees have not been raised since 1998. The fees to be raised would be for the delinquent fee; the rest will remain the same under current law.

Norm Furse provided a review of the bill and the amendments to the committee.

The hearing was closed on **HB 2243**.

The committee worked **HB 2243**. Mary Lou explained the amendment to the committee. The Board originally asked for a delinquent fee. They have over 1,000 delinquents each year. Nothing is in statute for body art, tattooing, etc. The committee will continue to send renewal notices as they do for all other renewals; this would be added to the amendment. The current terminology is health and sanitation which encompasses infection control.

Representative Mast provided a motion to adopt the amendment before them, seconded by Representative Morrison. The amendment passed.

Renewal notices will be sent at least 30 days prior to expiration. Norm Furse added the language for the renewal notices into the bill. Representative Flaharty provided a motion to pass the amendment currently written by the Revisor. Representative Neighbor seconded the motion. The motion carried. Representatives

CONTINUATION SHEET

Minutes of the House Health and Human Services Committee at 1:30 p.m. on February 16, 2009, in Room 784 of the Docking State Office Building.

Representatives Siegfried and Finney were not available for the vote. Representative Merrick did not vote.

Representative Mast made the motion to pass **HB 2243** as amended. Representative Hermanson seconded the motion. The motion carried as amended. Representatives Finney and Siegfried were not available for the vote. Representative Merrick did not vote.

HB 2275 - Establishing a program for random drug screening of public assistance applicants and recipients.

Norm Furse provided an explanation of the new language for **HB 2275**.

Representative Kasha Kelley provided proponent testimony for **HB 2275** (Attachments 2, 3, 4, 5, 6, 7). She believes the amendments make this bill stronger. She provided the committee with the information on the 1996 Welfare Reform ACT, contract Awards, and State and Federal Forfeiture funds. Michigan was the first state to put forth such legislation in 1998. It was challenged by the ACLU on the grounds that it violated the Fourth Amendment. Michigan is not alone in its quest to see public dollars used legally, efficiently, and effectively. In a quick search on the Internet in 2008, California, Wisconsin, Virginia, and Missouri, among other states, took up the issue. So far in 2009, bills have been introduced in Indiana, Hawaii, Arkansas, Arizona, and West Virginia. Representative Kelley discussed the issue that drug users and abusers are legitimately in need, but it cannot be successfully argued that public funds should enable illegal activity. **HB 2275** does not seek to cast aside those with illegal drug-related problems. Instead, it seeks to identify those that are abusing a service meant for legitimate purposes, and helping them onto the path of rehabilitation. As unemployment rises and the citizens of Kansas struggle to make ends meet, the state has an obligation to make certain that programs sponsored by tax dollars are held accountable to the taxpayer for their effectiveness. The overarching intent of **HB 2275** is to preserve public assistance for its original intent, and to move those who abuse that intent into a treatment program where they can emerge a more proactive citizen, and if children are involved, parent. The aim of this bill is to save our state money and direct public funds toward their best and most effective use. Drug testing is one such proposal. Alcohol is not in this bill because it is not an illegal substance. **HB 2275** is meant for all on public assistance.

The committee discussed issues of how to handle the children of those with drug issues, methodologies of the screening, costs per test, if the food programs are part of this bill, and the ACLU challenging the bills on the basis of the Fourth Amendment.

Shanelle Dupree from the Kansas Health Policy Authority provided written testimony opposing **HB 2275** (Attachment 8).

Secretary Jordan provided neutral testimony for **HB 2275** (Attachment 9). Federal rules prohibit the Kansas Health Policy Authority from implementing drug screening as a condition of eligibility for Medicaid and SCHIP as well as SRS for the Food Assistance and Child Care programs. The goal of the SRS programs is to help people become employed and take care of their families. They currently do screen for drug and alcohol abuse now and can do random testing. Secretary Jordan's concern is to know what it would take to have a drug testing program equally available across all 105 counties.

The hearing on **HB 2275** was closed.

HB 2198 was worked by the committee. Representative Crum discussed the purpose of the amendment was to address the concerns presented by the committee when the bill was heard. Representative Crum moved the amendment. Representative Mast seconded the motion. There was discussion about the State mandating the health plan to small businesses. Currently, if you are an insurance company in Kansas, you have to offer a high deductible health care plan with this bill. This is done by most insurance companies now.

Norm Furse provided the balloon amendment to the committee (Attachment 10).

Representative Crum moved the balloon amendment, seconded by Representative Morrison. The motion was carried. Representative Merrick did not vote.

CONTINUATION SHEET

Minutes of the House Health and Human Services Committee at 1:30 p.m. on February 16, 2009, in Room 784 of the Docking State Office Building.

The committee continued discussion about the bill. The bill will help with rising health care costs. The insurance companies support this bill. Representative Crum moved the bill as amended with a second by Representative Morrison.

A division vote was called, 8 yes, with a Chair vote to make it 9 yes, and 8 no. Representatives Flaharty and Neighbor asked to have their vote recorded as no for this bill. Representative Merrick did not vote. Representative Siegfried was available for this bill vote.

HB 2289 was opened for working, with Representative Crum reviewing the amendment. The amendment does three things:

1. Restricts the division of the bill to the smaller employee market;
2. Outlines and spells out the mandate lite are eliminated in the mandate lite legislation;
3. Eliminates short term policy;
4. Sunsets bill January 1, 2014.

Representative Crum provided the motion to move the amendment. Representative Mast seconded the motion. The motion carried.

Back on the bill: Representative Ward moved to change the name of the bill to "Coverage Lite" instead of "Mandate Lite". Representative Slattery seconded the motion. Motion carried.

Representative Crum made a motion to move the bill out of committee as amended. Representative Mast seconded the motion.

There was discussion concerning the test tracking purposes and choices made in the health care policies. A division vote was called, 9 voted in favor with the Chair voting, 9 opposed. The motion failed.

The committee will work **HB 2287, HB 2259 and HB 2275** tomorrow.

The meeting was adjourned at 3:05 p.m.

HOUSE HEALTH & HUMAN SERVICES COMMITTEE

DATE: 2-16-09

NAME	REPRESENTING
Katy Belot	SRS
Don Jordan	SRS
Bobbi Mariani	SRS
Mary Lou Davis	KBOC
Michelle Buller	Cap. Strategics
Jeff Brandau	KBI
Amy Sappenfeld	VA- Kasha Kelley
Gary Robbins	KOA
Wight Beck	Hein Law firm
Samuel Jones	VHG
Kyle Smith	Topeka Police Dept
Patrick Vogelberg	Kearney and Assoc.
Graig Van Aalst	KID
Linda Sheppard	KID
Julie Holmes	KID
Barbara Johnson	KID
Cynthia Holmes	KID
Janice Murray	CHD - KUMC
Kate Orourke	CHD - KUMC

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HOUSE HEALTH & HUMAN SERVICES COMMITTEE

DATE: 2-16-09

NAME	REPRESENTING
Sangeeta Pardashale	CCHD KU MED
Krista Gbc	CCHD KU MED
Kelsey Fowler	Intern
Suzanne Cleveland	KHI
DENNY KOCH	PALSINELLI LAW
Kerri Spelman	KATA
Dan Murray	NFIB

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KANSAS BOARD OF COSMETOLOGY

KATHLEEN SEBELIUS, GOVERNOR

House Committee on Health and Human Services
February 16, 2009

Testimony by Mary Lou Davis, Executive Director

Madam Chair and Members of the Committee:

On-Line Renewal

House Bill 2243 revises two provisions within K.S.A. 65-1904. The Board's primary request for statutory revision would allow the agency to implement on-line renewals for practitioners in the cosmetology professions.

Currently, K.S.A. 65-1904 requires the Board send licensure renewal packets to cosmetology, nail technology, esthetic and electrology practitioners. The Board currently licenses over 21,000 practitioners in these professions.

Each licensure renewal packet expense is \$1.89; this is an annual expense of approximately \$20,412. Should this legislation be enacted, the Board will continue to send renewal notices to practitioners. However the cost would be reduced to \$0.48 per practitioner, thus potentially reducing the Board's annual expense to approximately \$5,184.

Both the practitioner and agency will benefit with this law revision. The practitioner who renews on-line will more timely receive their license and the Board will have a cost savings as well as more efficiency in work processes.

Please note there is no restriction in law that will negate the implementation of on-line renewals for cosmetology, tanning and body art facilities. Currently the Board licenses over 4,600 facilities. The Board does send courtesy notices for these annual renewals and will continue this practice.

Fee Revisions

The second revision to this proposed legislation is due to several licensure fees being at their statutory limit, which the Board believes may need to be increased within the next 12-18 months.

Each year the Board processes over 1,000 delinquent practitioner renewals. Delinquent payments adversely impact the work processes for accounting and licensure staff. Therefore the Board requests that the delinquent fee for cosmetology, cosmetology technicians, nail technology, esthetic and electrology practitioners, which is capped at \$25 and is the current fee assessed for delinquency, be increased to \$35.

Monthly expense related to practitioner renewal

900 renewal packets	Law booklets	x	.80	\$ 720		
	Envelope/label	x	.11	\$ 99		
	Renewal exams	x	.05	\$ 45		
	Postage	x	.93	\$ 837		
			\$1.89	\$ 1,701 per month	\$20,412 per year	

Monthly notice reminders with on-line renewal implementation

900 renewal notices	Envelope/label	x	.04	\$ 36		
	Renewal exam/letter	x	.10	\$ 90		
	Postage	x	.34	\$ 306		
			.48	\$ 432 per month	\$5,184 per year	

Delinquent fees

There were 1,097 delinquent renewals in FY 2008. Should this number remain stable for FY 2010, with a \$35 delinquent fee, the increased revenue would be over \$10,000.

2

Testimony to the House Health & Human Services Committee
Representative Kasha Kelley
February 16, 2009

Madam Chair, members of the HHS Committee, I appreciate the time you've afforded me today for a hearing on House Bill 2275.

House Bill 2275 deals with a very complex topic. I am mindful that my proposal is subject to amendment, and I would be pleased if there are suggestions that make this bill stronger or more likely to succeed in its aim to save our state money and direct public funds toward their best and most effective use.

Simply put, HB 2275 establishes a program of random drug screening for public assistance recipients and applicants. That said, in the interest of full transparency, some background and history are necessary.

The 1996 Welfare Reform Act (a.k.a. the Personal Responsibility and Work Opportunity Reconciliation Act), under TANF, authorized states to design their own public assistance programs, including authorization to test public assistance recipients for illegal drugs and impose consequences when such tests were failed. While some changes have been made to the welfare law under the current administration's stimulus package, research did not surface any changes to the above-stated section of the 1996 WRA.

Michigan was the first state to put forth such legislation in 1998. Michigan's law was challenged by the ACLU on grounds that it violated the Fourth Amendment (protection against unreasonable search and seizure). The measure was blocked by an injunction issued by a U.S. District Court judge in 1999. That decision was overturned by a three-judge panel of the Sixth Circuit Court of Appeals. They wrote that welfare recipients have a "diminished expectation of privacy," and were free to not accept benefits if they did not wish to be tested.

When the full Sixth Circuit Court of Appeals reviewed the case, six of the judges sided with the state of Michigan, and six judges voted to void the law. The court's rules dictated that a tie vote meant a measure lost, affirming the district judge's initial decision. The pilot program was in effect for only five weeks before it was halted. Its dictate was to test 20% of recipients randomly every six months. During the short time the program was in effect, 21 of the 268 people tested were positive for illegal drug use, or roughly 8%.

With only one-fifth of the recipients turning up an 8% positive return rate in the first five weeks, it is conceivable that the program – had it been allowed to continue – would have identified a greater percentage of tax dollars being used for purposes other than intended. Although the state settled out of court, they did retain the right to test some public assistance recipients if suspected of substance abuse problems.

Michigan is not alone in its quest to see public dollars used legally, efficiently, and effectively. From a scratching-of-the-surface search of the internet, in 2008 alone, California, Wisconsin, Virginia, and Missouri took up the issue, among other states, and in 2009, bills have been introduced in Indiana, Hawaii, Arkansas, Arizona, and West Virginia, amongst others. Vermont and New York have taken up legislation in the past, and although requested from KLRD and searched for by both of us, we were unable to find a listing to present to the committee of those states currently drug testing public assistance recipients.

The question for each state that takes up this issue has and will continue to be that of crafting legislation deemed to pass the litmus test of the Fourth Amendment. Although I have presented you a bill today that markedly reflects practices used in the private industry as a condition of employment, and fulfills the stated authorization of the 1996 WRA, it is presented with the knowledge that consideration of constitutionality should be given when discussing this bill.

HEALTH AND HUMAN SERVICES
DATE: 02/16/09
ATTACHMENT: 2

Public assistance was, of course, intended to be a safety net for those who are legitimately in need. Though studies exist questioning the success of public assistance, in general, to have ever met its initial goal, this bill is not meant to address that discussion. It can be argued drug users and abusers are legitimately in need, but it cannot be successfully argued that public funds should enable illegal activity.

House Bill 2275 doesn't seek to cast aside those with illegal drug-related problems. Quite the opposite, it seeks to identify those who are abusing a service meant for legitimate purposes, and helping them onto the path of rehabilitation. Under HB2275, a first offense directs the state to provide drug counseling to the offender. Only after completing that counseling and offending a second time does a recipient lose their public assistance.

I requested the contracts the state currently uses for drug testing for the purposes of gaining a general perspective on screening costs. Attached to this testimony, you will find two contracts used to provide drug testing, as well as general information on addiction and prevention services. Whether more competitive contracts could be found or if bulk discounts exist, is unknown, although recommended for pursuit.

According to research from KLRD, contractually set pricing ranges from a one-drug panel, costing \$3.90, to a 10+-drug panel, costing \$5.30, in addition to a confirmation cost ranging between \$15 and \$20, depending on method used. The other contract includes a Medicaid Review Officer (MRO) with a fee of \$18 per screen, along with an average collection site fee of approximately \$22-\$27, depending on site location.

Under various current contracts, KLRD reports the cost of drug treatment services per person averages \$2,864 (unknown allocation of grants could affect this number). Based upon information gleaned from KLRD, services for an individual found to be using illegal substances while receiving public assistance could be approximately \$3000 under HB2275. It is good to bear in mind that drug testing is random with regard to calculating total cost, and that not all tested will result in the need for treatment.

When the economy suffers, requests for public assistance increase. According to a 2008 USA Today article, federal data showed 27 states reporting increases to their welfare rolls as the economy began to slide. With the current economy, both nationally and statewide, this number is growing. As such, it is incumbent upon elected officials to stay focused on the task at hand and not be sidetracked by arguments which are immaterial to the issue at hand. Ours is to ensure that public dollars are spent wisely, with an eye on the future.

I came across various arguments in opposition of legislation of this nature while researching. In an effort to preserve discussion time in committee, they are as follows:

- *Screening all applicants/recipients is demeaning to those applicants/recipients who do not use.*
Conversely, screening and identification of those with drug problems hastens the state's ability to move those who need drug treatment help into a program, thus reserving and allocating moneys for their intended, legal use as temporary financial assistance.
As an aside, California's consideration of this type of legislation came from a young man named RJ Feild. Feild was born at two pounds, two ounces with traces of heroin, marijuana, methamphetamine, alcohol and cocaine in his body. Now in high school, he lives afflicted by cerebral palsy. His pregnant mother had consumed illegal drugs while on state assistance, something many could say is the ultimate in child abuse. RJ questioned the state about supporting his mother's destructive cycle of addiction with public assistance moneys. In the case of RJ Feild, intervention – even random – could have ensured that a mother received necessary treatment, while her child was still receiving support, and making certain public funds were not subsidizing an addiction.
- *This type of legislation singles out the poor.*
While it is true that screening those requesting to be on/on public assistance does encompass a particular income strata, it should be noted the same practice occurs in the private sector where income levels are

greater. Where one is asked to take a drug test as a condition of receiving free tax dollars, the other is asked to take a drug test as a condition of employment. Income has nothing to do with the practice.

- *Legislation of this nature violates the Fourth Amendment.*
Initially successfully argued in the Michigan court case, because welfare is not an entitlement, states have the right to place reasonable restrictions or conditions on the receipt of discretionary government benefits, according to the Washington Legal Foundation. WLF went on to include in that statement the waiver of any Fourth Amendment rights that may be implicated by a minimally intrusive program of this nature. Moreover, identifying recipients who need treatment in an effort to move them out of addiction and poverty and back into a productive role in society, while aiding the prevention of abuse and neglect, can less be categorized as a violation, but rather a noble attempt at preserving a person's dignity.
- *Welfare recipients use illegal drugs at roughly the same rate as non-welfare recipients.*
Whether this statement is true or not has no bearing on the fact that public dollars are not appropriated for supporting illegal activity, and a certain responsibility is required when accepting public assistance.
- *A focus on drug use distracts from other problems that contribute to unemployment and child neglect.*
Conversely, the earlier the intervention, the sooner help can be given. Drug abuse harms families in both abuse and the propensity to spend money on drugs instead of necessities, while withdrawing incentive to hold stable employment. While other problems may be present (i.e. psychological disorders) that contribute to drug use, again, early intervention and proper placement can stem a tide of consequences.
- *Random drug testing for those on public assistance could lead to an expansion of drug testing.*
As long as illegal drugs remain illegal, where taxpayer funds are allocated for a specific use but are thus misused for illegal activity, an instrument such as drug testing for ensuring proper use of dollars as intended is reasonable and rational.
- *There is a difference between illegal drug use and a dependency on an illegal drug.*
Whether occasional use or a dependency exists is immaterial. The presence of an illegal substance is illegal, an abuse of taxpayer assistance, and a misuse of public programs.

As unemployment rises and the citizens of Kansas struggle to make ends meet, this state has an obligation to make certain that programs sponsored by tax dollars are held accountable to the taxpayer for their effectiveness. Many of us have heard frustrations from our taxpaying constituents or received chain emails about abuses of drug-using recipients of public assistance. The overarching intent of HB2275 is to preserve public assistance for its original intent, and to move those who abuse that intent into a treatment program where they can emerge a more productive citizen and, if children are involved, parent. Simply put, it is to ensure that tax dollars are going for diapers and detergent instead of drugs. As former Mayor Rudy Giuliani said of screening proposed during his administration, "If [drug users] are willing to take a step to help themselves, then we'll work with them. But if they are unwilling to do that, as some are, then in fact we should not be giving them benefits."

As the committee has read, HB2275 proscribes means for funding drug screenings and treatment. However, research shows fund balances in the State and Federal Forfeiture Funds are difficult to budget to or expend from until funds are realized. As such, the committee may wish to look at companion funding options (aside from Federal funding). Spending time in KHPA and SRS reporting on current expenditures is instructive with regard to possible funding options. Moreover, considering the outcome of the Michigan pilot program in its short five weeks, it is conceivable that longer-range savings could act as a future funding mechanism for screenings and treatments.

As mentioned at the beginning of my testimony, the aim of this bill is to save our state money and direct public funds toward their best and most effective use. Drug testing is one such proposal. Another option found during

research requires that questionnaires be completed by all public assistance applicants and recipients. Such questionnaires are said to accurately detect a high percentage of drug abusers, while also being helpful in detecting alcohol abuse. Whatever means the committee engages to better direct these specific dollars, I look forward to future discussions on the issue and working together to effect positive change in this arena.

Thank you, Madam Chair and members of the committee. At this time, I would stand for questions.

CONTRACT AWARD

Date of Award: September 4, 2007

Contract Number: **10598**

PR Number: 014777

Replaces Contract: **04778**

Procurement Officer: Beth Schafer
Telephone: 785-296-3122
E-Mail Address: beth.schafer@da.ks.gov
Web Address: <http://da.ks.gov/purch>

Item: **Drug Testing**

Agency: Kansas Department of Corrections
Location(s): Topeka, Kansas

Period of Contract: Date of Award through August 31, 2009
With four (4) additional one (1) year renewals

Contractor: National Toxicology Labs, Inc.
1100 California Avenue
Bakersfield, California 93304
Toll Free Telephone: 800-350-3515
Local Telephone: 661-322-4250
Fax: 661-322-4322
FEIN: 77-0132417

Contact Person: **Thomas Sneath**
tsneath@aol.com

Prices: See Attached

Payment Terms: Net 30 Days

Pricing is available to the political subdivisions of the State of Kansas.

Agencies **may not** use State of Kansas Business Procurement Card for purchases from this contract.

Conditions:

Conditions of Contract: The following terms and conditions of award are incorporated by reference and include: State of Kansas DA-45/146a; specifications and conditions of the proposal including any addenda; vendor's response including any addenda, appendices and exhibits.

Order of Preference: Any conflict to the provisions of this contract and the documents incorporated by reference shall be determined by the following priority order:

- a. State of Kansas Contract Provisions Attachment DA-45/146a;
- b. Written modifications and addenda to the executed contract;
- c. This contract document;
- d. The above referenced Request for Proposal (RFP) including any addenda;
- e. Contractors response including any addenda, appendices and exhibits.

GENERAL REQUIREMENTS:

(PRICE PER TEST)

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>	<u>Year 5</u>
1 drug	<u>3.90</u>	<u>3.90</u>	<u>3.90</u>	<u>3.90</u>	<u>3.90</u>
2 drugs	<u>4.05</u>	<u>4.05</u>	<u>4.05</u>	<u>4.05</u>	<u>4.05</u>
3 drugs	<u>4.20</u>	<u>4.20</u>	<u>4.20</u>	<u>4.20</u>	<u>4.20</u>
4 drugs	<u>4.35</u>	<u>4.35</u>	<u>4.35</u>	<u>4.35</u>	<u>4.35</u>
5 drugs	<u>4.50</u>	<u>4.50</u>	<u>4.50</u>	<u>4.50</u>	<u>4.50</u>
6 drugs	<u>4.65</u>	<u>4.65</u>	<u>4.65</u>	<u>4.65</u>	<u>4.65</u>
7 drugs	<u>4.80</u>	<u>4.80</u>	<u>4.80</u>	<u>4.80</u>	<u>4.80</u>
8 drugs	<u>4.95</u>	<u>4.95</u>	<u>4.95</u>	<u>4.95</u>	<u>4.95</u>
9 drugs	<u>5.10</u>	<u>5.10</u>	<u>5.10</u>	<u>5.10</u>	<u>5.10</u>
10 drugs or more	<u>5.30</u>	<u>5.30</u>	<u>5.30</u>	<u>5.30</u>	<u>5.30</u>
Confirmation for up to three (3) drugs	<u>20.00</u>	<u>20.00</u>	<u>20.00</u>	<u>20.00</u>	<u>20.00</u>
Confirmation for individual drugs tested by an initial on-site method	<u>15.00</u>	<u>15.00</u>	<u>15.00</u>	<u>15.00</u>	<u>15.00</u>
Confirmation for individual drugs tested by an initial saliva test	<u>20.00</u>	<u>20.00</u>	<u>20.00</u>	<u>20.00</u>	<u>20.00</u>

Additional access: It is requested that the vendor provide services upon request to any of the 31 Community Corrections agencies in the State of Kansas at the same cost cited in the contract with the Kansas Department of Corrections.

Yes X No

CONTRACT AWARD

Date of Award: January 10, 2007

Contract Number: **09981**

PR Number: 013970

Replaces Contract: **03736**

Procurement Officer: Beth Schafer
Telephone: 785-296-3122
E-Mail Address: beth.schafer@da.ks.gov
Web Address: <http://da.ks.gov/purch>

Item: Alcohol and Drug Screening Services

Agency: Division of Personnel Services
Location(s): Topeka, Kansas

Period of Contract: Date of Award through December 31, 2009
with two (2) additional optional one-year renewal periods

Contractor: Gerson Associates, PC t/a University Services
10551 Decatur Road Suite 200
Philadelphia, Pennsylvania 19154
Telephone: 215-637-6800
Fax: 215-637-6998
FEIN: 23-2584933

Contact Person: **Benjamin Gerson-Medical Director**
www.uservices.com

Prices: See Attached

Payment Terms: Net 30

Political Subdivisions: Pricing **is** or available to the political subdivisions of the State of Kansas.

Procurement Cards: Agencies **may** or use State of Kansas Business Procurement Card for purchases from this contract.

Administrative Fee: **No Administrative Fee** will be assessed against purchases from this contract.

Conditions:

Political Subdivisions: Political Subdivisions (City, County, School Districts and etc.) are permitted to utilize contracts administered by the Division of Purchases. Conditions included in this contract shall be the same for political subdivisions. The State has no responsibility for payments owed by political subdivisions. The vendor must deal directly with the political subdivision.

State Credit Card: Presently, many State Agencies use a State of Kansas Business Procurement Card (Visa) in lieu of a state warrant to pay for some of its purchases. No additional charges will be allowed for using the card.

Conditions of Contract: The following terms and conditions of award are incorporated by reference and include: State of Kansas DA-45/146a; specifications and conditions of the proposal including any addenda; vendor's response including any addenda, appendices and exhibits.

Order of Preference: Any conflict to the provisions of this contract and the documents incorporated by reference shall be determined by the following priority order:

- a. State of Kansas Contract Provisions Attachment DA-45/146a;
- b. Written modifications and addenda to the executed contract;
- c. This contract document;
- d. The above referenced Request for Proposal (RFP) including any addenda;
- e. Contractors response including any addenda, appendices and exhibits.

Term of Contract: The term of this contract is for a three (3) year(s) period from the Date of Award through December 31, 2009 with two (2) additional one (1) year renewal(s) by written agreement of the parties.

Inspection: The State reserves the right to reject, on arrival at destination, any items which do not conform with specification of this Request.

Termination for Cause: The Director of Purchases may terminate this contract, or any part of this contract, for cause under any one of the following circumstances:

- * the Contractor fails to make delivery of goods or services as specified in this contract; or
- * the Contractor fails to perform any of the provisions of this contract, or so fails to make progress as to endanger performance of this contract in accordance with its terms.

The Director of Purchases shall provide Contractor with written notice of the conditions endangering performance. If the Contractor fails to remedy the conditions within ten (10) days from the receipt of the notice (or such longer period as State may authorize in writing), the Director of Purchases shall issue the Contractor an order to stop work immediately. Receipt of the notice shall be presumed to have occurred within three (3) days of the date of the notice.

Termination for Convenience: The Director of Purchases may terminate performance of work under this contract in whole or in part whenever, for any reason, the Director of Purchases shall determine that the termination is in the best interest of the State of Kansas. In the event that the Director of Purchases elects to terminate this contract pursuant to this provision, it shall provide the Contractor written notice at least thirty (30) days prior to the termination date. The termination shall be effective as of the date specified in the notice. The Contractor shall continue to perform any part of the work that may have not been terminated by the notice.

Notices: All notices, demands, requests, approvals, reports, instructions, consents or other communications (collectively "notices") which may be required or desired to be given by either party to the other shall be **IN WRITING** and addressed as follows:

**Beth Schafer
Kansas Division of Purchases
900 SW Jackson St, Room 102N
Topeka, Kansas 66612-1286**

or to any other persons or addresses as may be designated by notice from one party to the other.

Rights and Remedies: If this contract is terminated, the State, in addition to any other rights provided for in this contract, may require the Contractor to transfer title and deliver to the State in the manner and to the extent directed, any completed materials. The State shall be obligated only for those services and materials rendered and accepted prior to the date of termination.

If it is determined, after notice of termination for cause, that Contractor's failure was due to causes beyond the control of or negligence of the Contractor, the termination shall be a termination for convenience.

In the event of termination, the Contractor shall receive payment pro rated for that portion of the contract period services were provided to and/or goods were accepted by State subject to any offset by State for actual damages including loss of federal matching funds.

The rights and remedies of the State provided for in this contract shall not be exclusive and are in addition to any other rights and remedies provided by law.

Force Majeure: The Contractor shall not be held liable if the failure to perform under this contract arises out of causes beyond the control of the Contractor. Causes may include, but are not limited to, acts of nature, fires, tornadoes, quarantine, strikes other than by Contractor's employees, and freight embargoes, etc.

Waiver: Waiver of any breach of any provision in this contract shall not be a waiver of any prior or subsequent breach. Any waiver shall be in writing and any forbearance or indulgence in any other form or manner by State shall not constitute a waiver.

Independent Contractor: Both parties, in the performance of this contract, shall be acting in their individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be construed to be the employees or agents of the other party for any purpose whatsoever.

The Contractor accepts full responsibility for payment of unemployment insurance, workers compensation and social security as well as all income tax deductions and any other taxes or payroll deductions required by law for its employees engaged in work authorized by this contract.

Staff Qualifications: The Contractor shall warrant that all persons assigned by it to the performance of this contract shall be employees of the Contractor (or specified Subcontractor) and shall be fully qualified to perform the work required. The Contractor shall include a similar provision in any contract with any Subcontractor selected to perform work under this contract.

Failure of the Contractor to provide qualified staffing at the level required by the proposal specifications may result in termination of this contract and/or damages.

Conflict of Interest: The Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any professional personnel who are also in the employ of the State and who are providing services involving this contract or services similar in nature to the scope of this contract to the State. Furthermore, the Contractor shall not knowingly employ, during the period of this contract or any extensions to it, any state employee who has participated in the making of this contract until at least two years after his/her termination of employment with the State.

Confidentiality: The Contractor may have access to private or confidential data maintained by State to the extent necessary to carry out its responsibilities under this contract. Contractor must comply with all the requirements of the Kansas Open Records Act in providing services under this contract. Contractor shall accept full responsibility for providing adequate supervision and training to its agents and employees to ensure compliance with the Act. No private or confidential data collected, maintained or used in the course of performance of this contract shall be disseminated by either party except as authorized by statute, either during the period of the contract or thereafter. Contractor must agree to return any or all data furnished by the State promptly at the request of State in whatever form it is maintained by contractor. On the termination or expiration of this contract, contractor will not use any of such data or any material derived from the data for any purpose and, where so instructed by State, will destroy or render it unreadable.

Reviews and Hearings: The Contractor agrees to advise the Director of Purchases of all complaints of recipients made known to the Contractor and refer all appeals or fair hearing requests to the Director of Purchases. The State has the discretion to require the Contractor to participate in any review, appeal, fair hearing or litigation involving issues related to this contract.

Nondiscrimination and Workplace Safety: The Contractor agrees to abide by all federal, state and local laws, rules and regulations prohibiting discrimination in employment and controlling workplace safety. Any violations of applicable laws, rules and regulations may result in termination of this contract.

Environmental Protection: The Contractor shall abide by all federal, state and local laws, rules and regulations regarding the protection of the environment. The Contractor shall report any violations to the applicable governmental agency. A violation of applicable laws, rule or regulations may result in termination

Hold Harmless: The Contractor shall indemnify the State against any and all loss or damage to the extent arising out of the Contractor's negligence in the performance of services under this contract and for infringement of any copyright or patent occurring in connection with or in any way incidental to or arising out of the occupancy, use, service, operations or performance of work under this contract.

The State shall not be precluded from receiving the benefits of any insurance the Contractor may carry which provides for indemnification for any loss or damage to property in the Contractor's custody and control, where such loss or destruction is to state property. The Contractor shall do nothing to prejudice the State's right to recover against third parties for any loss, destruction or damage to State property.

Care of State Property: The Contractor shall be responsible for the proper care and custody of any state-owned personal tangible property and real property furnished for Contractor's use in connection with the performance of this contract, and Contractor will reimburse State for such property's loss or damage caused by Contractor, normal wear and tear excepted.

Prohibition of Gratuities: Neither the Contractor nor any person, firm or corporation employed by the Contractor in the performance of this contract shall offer or give any gift, money or anything of value or any promise for future reward or compensation to any State employee at any time.

Retention of Records: Unless the State specifies in writing a shorter period of time, the Contractor agrees to preserve and make available all of its books, documents, papers, records and other evidence involving transactions related to this contract for a period of five (5) years from the date of the expiration or termination of this contract.

Matters involving litigation shall be kept for one (1) year following the termination of litigation, including all appeals, if the litigation exceeds five (5) years.

The Contractor agrees that authorized federal and state representatives, including but not limited to, personnel of the using agency; independent auditors acting on behalf of state and/or federal agencies shall have access to and the right to examine records during the contract period and during the five (5) year post-contract period. Delivery of and access to the records shall be at no cost to the state.

Federal, State and Local Taxes Contractor: The State make no representation as to the exemption from liability of any tax imposed by any governmental entity on the Contractor.

Antitrust: If the Contractor elects not to proceed, the Contractor assigns to the State all rights to and interests in any cause of action it has or may acquire under the anti-trust laws of the United States and the State of Kansas relating to the particular products or services purchased or acquired by the State pursuant to this contract.

Modification: This contract shall be modified only by the written agreement of the parties with the approval of the PNC. No alteration or variation of the terms and conditions of the contract shall be valid unless made in writing and signed by the parties. Every amendment shall specify the date on which its provisions shall be effective.

Assignment: The Contractor shall not assign, convey, encumber, or otherwise transfer its rights or duties under this contract without the prior written consent of the State.

This contract may terminate in the event of its assignment, conveyance, encumbrance or other transfer by the Contractor without the prior written consent of the State.

Third Party Beneficiaries: This contract shall not be construed as providing an enforceable right to any third party.

Captions: The captions or headings in this contract are for reference only and do not define, describe, extend, or limit the scope or intent of this contract.

Severability: If any provision of this contract is determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this contract shall not be affected and each provision of this contract shall be enforced to the fullest extent permitted by law.

Governing Law: This contract shall be governed by the laws of the State of Kansas and shall be deemed executed at Topeka, Shawnee County, Kansas.

Jurisdiction: The parties shall bring any and all legal proceedings arising hereunder in the State of Kansas, District Court of Shawnee County. The United States District Court for the State of Kansas sitting in Topeka, Shawnee County, Kansas, shall be the venue for any federal action or proceeding arising hereunder in which the State is a party.

Mandatory Provisions: The provisions found in Contractual Provisions Attachment (DA-146a) which is attached are incorporated by reference and made a part of this contract.

Integration: This contract, in its final composite form, shall represent the entire agreement between the parties and shall supersede all prior negotiations, representations or agreements, either written or oral, between the parties relating to the subject matter hereof. This contract between the parties shall be independent of and have no effect on any other contracts of either party.

Criminal Or Civil Offense Of An Individual Or Entity That Controls A Company Or Organization Or Will Perform Work Under This Contract: Any conviction for a criminal or civil offense that indicates a lack of business integrity or business honesty must be disclosed. This includes (1) conviction of a criminal offense as an incident to obtaining or attempting to obtain a public or private contract or subcontract or in the performance of such contract or subcontract; (2) conviction under state or federal statutes of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property; (3) conviction under state or federal antitrust statutes; and (4) any other offense to be so serious and compelling as to affect responsibility as a state contractor. For the purpose of this section, an individual or entity shall be presumed to have control of a company or organization if the individual or entity directly or indirectly, or acting in concert with one or more individuals or entities, owns or controls 25 percent or more of its equity, or otherwise controls its management or policies. Failure to disclose an offense may result in disqualification of the bid or termination of the contract.

Injunctions: Should Kansas be prevented or enjoined from proceeding with the acquisition before or after contract execution by reason of any litigation or other reason beyond the control of the State, vendor shall not be entitled to make or assert claim for damage by reason of said delay.

Acceptance: No contract provision or use of items by the State shall constitute acceptance or relieve the vendor of liability in respect to any expressed or implied warranties.

Breach: Waiver or any breach of any contract term or condition shall not be deemed a waiver of any prior or subsequent breach. No contract term or condition shall be held to be waived, modified, or deleted except by a written instrument signed by the parties thereto.

If any contract term or condition or application thereof to any person(s) or circumstances is held invalid, such invalidity shall not affect other terms, conditions, or applications which can be given effect without the invalid term, condition or application. To this end the contract terms and conditions are severable.

Statutes: Each and every provision of law and clause required by law to be inserted in the contract shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included herein. If through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then on the application of either party the contract shall be amended to make such insertion or correction.

Indefinite Quantity Contract: This is for an open-ended contract between the contractor and the State to furnish an undetermined quantity of a good or service in a given period of time. An estimated quantity based on past history or other means may be used as a guide.

Price Adjustments: On the yearly anniversary date of this contract, prices as bid shall remain at the price bid.

Services to be Provided by Contractor:

Group 1 - Specimen Collection and Drug Testing

General Services –The Contractor shall:

Provide specimen collection and laboratory drug testing services in accordance with the guidelines issued by the Federal Highway Administration as required by the Omnibus Transportation Employee Testing Act of 1991 and provisions of 49 C.F.R., Parts 40 and 382 as contained in Attachment A, as in effect on February 15, 1994, and any amendments thereto. The Contractor will be responsible for ensuring program compliance for testing services in accordance with the current U.S. Department of Transportation guidelines and any updates or changes to the guidelines as they are issued.

Provide for adherence to the Mandatory Guidelines for Federal Workplace Drug Testing Programs established by the U.S. Department of Health and Human Services, where applicable and appropriate, and any changes thereto for all services provided pursuant to this contract.

Provide for collection, shipment, receipt, screening, and storage of all specimens obtained pursuant to the State of Kansas drug testing programs as specified and maintain strict security, chain of custody, quality control and preventive maintenance measures for all such services provided within the contractor's direct control.

Provide for the establishment, management, training and oversight of a minimum of 40 fixed collection facilities with qualified staff. The number of sites can be changed as need determines and as agreed upon by the Division Director and the Contractor in writing. Collection site locations should enable all employees to be within approximately 35 miles of a collection site. (A list and map of the preferred testing site locations are attached.) In addition, provide mobile testing units with the capability to accommodate at least 30 people for random testing per day upon short notice. Testing shall be performed on a 24-hour basis as appropriate. Provide for overnight transport of specimens from all designated sites to the laboratory facility where screening will occur.

Provide for performance of initial and confirmatory drug screens, and reviews as specified at a single laboratory facility operated by the Contractor for the designated classes of illicit drugs at established threshold levels on all specimens. The Division Director or designee may request in writing that a given specimen be screened for any substance listed in Schedule I or II of the Kansas Controlled Substance Act at technically acceptable threshold levels at no additional cost.

Provide for the completion of all initial drug screens within 48 hours of the specimen's receipt at the laboratory.

Credentials of Staff – The Contractor shall:

Provide for the retention of an individual who is responsible for the day-to-day management of the urinalysis testing program, including quality control and meets the following minimum qualifications in analytical forensic toxicology:

- (1) certified in forensic or clinical laboratory toxicology; or
- (2) a Ph.D. in one of the natural sciences with an undergraduate and graduate education in biology, chemistry and pharmacology or toxicology; or
- (3) training and experience comparable to a Ph.D. in one of the natural sciences, such as a medical or scientific degree with additional training and laboratory/research experience in biology, chemistry and pharmacology or toxicology.

The aforementioned individual must also meet the following criteria:

- (1) appropriate experience in forensic toxicology including the analysis of biological material for illicit drugs; and
- (2) appropriate training and experience in analytical forensic applications such as publications, court testimony, research and other factors which qualify the individual as an expert witness in forensic toxicology.

Provide for the retention of an individual who is responsible for the day-to-day operations of the urine testing program and supervision of the technical analysts and meets the following minimum qualifications:

- (1) a bachelor's degree in the chemical sciences or medical technology or equivalent; and

- (2) training and experience in the theory and practice of laboratory procedures including quality control, chain of custody, interpretation of test results and remedial action for aberrant test results or quality control reports.

Employ sufficient personnel with the necessary training and experience (including in-service continuing education) to supervise and conduct the work of the urine testing facility and oversee proper functioning of the collection sites. Ensure competency of this staff by documenting their in-service training, reviewing their work and verifying their skills.

Maintain an up-to-date procedures manual which is available to personnel performing tests and shall be followed by staff.

Employ qualified personnel for test validation who review all pertinent data and quality control results and certify that the laboratory's test reports are valid. This may be the individual(s) responsible for the day to day management or operations or their designee(s).

Employ laboratory and collection site personnel who supervise or conduct drug screening or specimen collection pursuant to this project must pass a Kansas Bureau of Investigation background check at the Contractor's expense upon request. These employees must be available to the Department of Administration's legal staff for consultative or expert witness purposes.

Laboratory requirements – The Contractor shall:

Maintain stringent security measures to control access and document which personnel are authorized access to the testing area, specimens and records. Make available to the Division Director or their designee, records on laboratory access.

Execute rigorous chain of custody procedures consistent with forensic protocol to maintain control and accountability of all specimens through receipt, testing and storage.

Maintain the capability to perform initial and confirmatory tests at the same facility for classes of drugs specified in Schedule I or II of the Kansas Controlled Substance Act.

Prepare laboratory standards with pure drug standards that are properly marked as to content, concentration and usage dates.

Report final results of drug screens to the Division Director or their designee within five working days by means that ensure confidentiality.

Use instruments and equipment which are certified for accuracy and reproducibility or checked by gravimetric, calorimetric or other verification procedures before being placed into service and periodically thereafter. This includes volumetric and automatic pipettes, measuring devices and dilutors.

Establish written procedures for instrument set-up and normal operation, a schedule for checking critical operating characteristics, tolerance limits trouble shooting and repair. Make available to the Division records on preventive maintenance.

Employ capacity to store all of the state's specimens at the same facility where testing occurs in secure short-term refrigerated and long-term frozen storage which are maintained at acceptable temperatures.

Perform all testing with their own personnel and equipment and not subcontract for work unless otherwise authorized by the Division Director or their designee in advance.

Permit the state to conduct inspections of the laboratory facilities at will, with out prior notice.

Collection Site Requirements – The Contractor shall:

Provide for stringent security measures to control access and document personnel who are authorized access to areas where specimens and records are obtained or stored.

Provide rigorous chain of custody procedures to maintain control and accountability of all specimens through collection and shipping.

Establish safeguards to ensure that a specimen is not adulterated or contaminated and is properly identified.

Establish procedures that allow for individual privacy.

Provide refrigerated storage for all specimens awaiting shipment.

Operational Plan – The Contractor shall provide for the demonstration of acceptable procedures that ensure security, integrity, quality and confidentiality to:

Collect and store specimens in all required locations across the State.

Transport specimens within 24 hours from all established collection sites to the laboratory where testing occurs.

Receive, inspect and store specimens at the laboratory facility.

Conduct initial screening tests using immunoassay technology, either Enzyme Multiplied Immunoassay Technique (EMIT), Radioimmunoassay (RIA) or Fluorescence Polarization Immunoassay (FPIA), which meets the requirements of the Food and Drug Administration. Screen for at least the five standard classes of drugs at the threshold levels listed below:

<u>Drug Class</u>	<u>Cutoff Level (ng/ml)</u>
Marijuana/Cannabinoids (THC)	50
Cocaine metabolite	300
Opiates	300
Phencyclidine (PCP)	25
Amphetamines/Methamphetamines	1,000

Confirm all specimens that showed the presence of drugs above the cutoff levels from the initial test with a test using different technology to establish a confirmed positive test result.

Conduct confirmatory tests using Gas Chromatography/Mass Spectrometry (GC/MS) techniques. Use quantitative confirmation for at least the five specified classes of drugs at the cutoff levels listed below:

<u>Drug Class</u>	<u>Cutoff Level (ng/ml)</u>
Marijuana/Cannabinoids (THC)	15
Cocaine metabolite	150
Opiates	300
Phencyclidine (PCP)	25
Amphetamines/Methamphetamines	500

Submit to the Medical Review Officer for forensic verification all specimens that showed the presence of the designated substances above the cutoff level or showed the presence of an adulterant as the result of a confirmatory test, and were certified by designated laboratory personnel as accurate. Verify opiates identification with a review of prescription medicines. A confirmed positive result for this class of drugs from the urine test must coincide with clinical evidence of illegal use of opium, opiate or opium derivative such as morphine or codeine. This requirement does not apply if the confirmatory test for opiates identified the presence of 6-monoacetylmorphine.

Communicate the result to the Division Director or their designee by FAX or other secure electronic means.

Dispose of all samples with results reported as negative after seven days. Retain samples which produce confirmed positive test results in long-term frozen storage at acceptable temperatures for a minimum of one year, or until the appeal process and all legal remedies have been exhausted.

Quality Control Measures - The Contractor shall maintain a quality assurance program to ensure:

Proper performance of all tests and proper reporting of all test results;

Acceptable analytical performance for all controls and standards to provide accurate and reproducible results;

Maintenance of quality control testing; and

Documentation of validity, reliability, accuracy, precision and performance characteristics of each test and test system.

Participation in proficiency testing of the College of American Pathologists, or equivalents and obtain satisfactory results in such testing, proof of which must be furnished to the Division Director or their designee quarterly.

Demonstrate implementation procedures that ensure carryover does not contaminate the testing of an individual's specimen and document such procedures. A minimum of ten percent of all test samples are to be quality control samples.

Monitoring of Performance:

The Contractor's performance under any resulting contract shall be monitored by the Division Director, or designee.

Should the Director, or designee, determine that there are deficiencies in the services to be provided by the contractor, the contractor will be notified, in writing, as to the precise nature of any complaints. Within fifteen (15) days of delivery of such notice, the Contractor will be expected to correct or take reasonable action to correct the specified deficiencies, or the Director may assess a penalty of \$50 per day until deficiencies are corrected. If there is any violation of individual privacy or release of information, the contract may be canceled, with the concurrence of the Division of Purchases and the Procurement Negotiating Committee.

Reporting and Record Keeping Requirements – The Contractor shall:

Submit quarterly program and fiscal status reports describing the accomplishments of the program to the Division Director or their designee.

Follow the reporting systems established by the Division of Personnel Services. List all results by Sample Identification Number and forward them, along with the appropriate forms to the Division Director or their designee. Forward all test results to the Division by FAX or other secure electronic means. Ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system. Retain copies of test results and appropriate forms.

Provide monthly reports that list statistical information regarding the drug screening of state employees and applicants for state employment during that month. Report the statistical summaries in aggregate form without any personal identifying information.

For Initial Testing:

- (a) Number of specimens received
- (b) Number of specimens reported negative
- (c) Number of specimens screened positive for:
 - Marijuana metabolites
 - Cocaine metabolites
 - Opiate metabolites
 - Phencyclidine
 - Amphetamines

For Confirmatory Testing:

- (a) Number of specimens received for Confirmation
- (b) Number of specimens reported negative
- (c) Number of specimens confirmed positive for:
 - Marijuana metabolites
 - Cocaine metabolites
 - Opiate metabolites
 - Phencyclidine
 - Amphetamines
- (d) Number of specimens confirmed as adulterated.

Provide Chain of Custody (COC) forms that are acceptable to the Division Director or their designee. The COC form is to be used by collection site staff to initiate the drug screening process for an applicant or employee and will include a distinct specimen identification number for each specimen to be used for donor identification and reporting test results. The COC form shall include the State of Kansas agency identification number, the applicant or employee's name where appropriate, social security number, and space for noting any special circumstances identified by collection site staff. The COC is also used to log and note each action taken and each person involved, from the beginning of the drug screening process through the reporting of test results, for each urine sample.

Maintain and make available to the Division Director or their designee documentation on all aspects of the drug testing process for at least two years. Retain documentation for any tests under appeal or legal challenge until all remedies have been exhausted. Documentation includes:

- (1) personnel files on all individuals authorized to have access to specimens;
- (2) chain of custody documents;
- (3) quality assurance/quality control records;
- (4) procedure manuals;
- (5) all test data and reports;
- (6) performance records on performance testing; and
- (7) hard copies of computer-generated data.

Obtain prior approval from the Division Director or their designee for the release or dissemination of any information related to this contract. The Contractor may release to only authorized employees of the Contractor or to the Division Director or their designee, records pertaining to the State of Kansas Drug Screening Program.

Group 2 - Alcohol Testing

General Services – The Contractor shall:

Provide alcohol testing services in accordance with the guidelines issued by the Federal Highway Administration as required by the Omnibus Transportation Employee Testing Act of 1991 and provisions of 49 C.F.R., Parts 40 and 382 as contained in Attachment A, as in effect on February 15, 1994, and any amendments thereto. Ensure program compliance for testing services in accordance with the current U.S. Department of Transportation guidelines and any updates or changes to the guidelines as they are issued.

Provide for collection, initial and confirmatory screening, and reporting results for all alcohol tests conducted pursuant to the "State of Kansas Alcohol and Controlled Substances Testing Program for Commercial Drivers" as specified and will maintain strict security, quality control and preventive maintenance measures for all such services provided within the Contractor's direct control.

Provide all documents, materials, supplies, equipment and qualified personnel for alcohol testing.

Provide the following as required by the U.S. Department of Transportation alcohol testing guidelines:

- (a) Established procedures for alcohol testing.
- (b) Operational plan
- (c) Quality control measures
- (d) Reporting and record keeping requirements
- (e) Confidentiality of information

Provide expert witness testimony for test process and results verification; preparation of litigation package; consultative services as needed for alcohol testing.

Permit the state to conduct inspections of the collection sites at will, without prior notice.

Collection Site Requirements – The Contractor shall:

Provide for the establishment, management, training and oversight of a minimum of 30 fixed collection facilities with qualified staff. The number of sites can be changed as need determines and as agreed upon by the Division Director or their designee and the Contractor in writing. Collection site locations should enable all employees to be within approximately 35 miles of a collection site. (A list and map of the preferred testing site locations are attached.)

In addition, the Contractor shall provide mobile testing units with the capability to accommodate at least 30 people for random testing per day upon short notice. Testing shall be performed on a 24-hour basis as appropriate.

Credentials of Staff – The Contractor shall:

Employ Collection site personnel who supervise or conduct alcohol testing pursuant to this project that pass a Kansas Bureau of Investigation background check at the contractor's expense upon request. These employees must be available to the Department of Administration's legal staff for consultative or expert witness purposes.

Employ sufficient personnel with the necessary training and experience to supervise and conduct the work of the alcohol testing facilities and oversee proper functioning of the collection sites. Ensure competency of this staff by documenting their in-service training, reviewing their work and verifying their skills.

Maintain an up-to-date procedures manual which is available to personnel performing tests and shall be followed by staff.

Monitoring of Performance:

The Contractor's performance under any resulting contract shall be monitored by the Division Director, or their designee.

Should the Division Director, or their designee, determine that there are deficiencies in the services to be provided by the Contractor, the Contractor will be notified, in writing, as to the precise nature of any complaints. Within fifteen (15) days of delivery of such notice, the Contractor will be expected to correct or take reasonable action to correct the specified deficiencies, or the Director may assess a penalty of \$50 per day until deficiencies are corrected. If there is any violation of individual privacy or release of information, the contract may be canceled, with the concurrence of the Division of Purchases and the Procurement Negotiating Committee.

Reporting and record keeping requirements – The Contractor shall:

Follow the reporting systems established by the Division Director or their designee. Forward all test results to the Division Director or their designee by fax or other secure electronic means. Ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system. Retain copies of test results and appropriate forms.

Provide monthly reports that list statistical information regarding the alcohol testing of state employees and applicants for state employment during that month. Report the statistical summaries in aggregate form without any personal identifying information.

Maintain and make available to the Division Director or their designee documentation on all aspects of the alcohol testing process for the length of time required by the Federal Highway Administration and the Division Director or their designee. Retain documentation for any tests under appeal or legal challenge until all remedies have been exhausted.

Obtain prior approval from the Division Director or their designee for the release or dissemination of any information related to this contract. The Contractor may release to only authorized employees of the Contractor or to the Division Director or their designee, records pertaining to the State of Kansas Alcohol and Drug Testing Program for Commercial Drivers.

Group 3 - Medical Review Officer Services

General Services – The Contractor shall:

Provide Medical Review Officer services in accordance with the guidelines issued by the Federal Highway Administration as required by the Omnibus Transportation Employee Testing Act of 1991 and provisions of 49 C.F.R., Parts 40 and 382 as contained in Attachment A, as in effect on February 15, 1994, and any amendments thereto. Ensure program compliance for testing services in accordance with the current U.S. Department of Transportation guidelines and any updates or changes to the guidelines as they are issued.

Provide for adherence to the Mandatory Guidelines for Federal Workplace Drug Testing Programs established by the U.S. Department of Health and Human Services, where applicable and appropriate, and any changes thereto for all services provided pursuant to this contract.

Provide Medical Review Officer Services for the State of Kansas Drug Screening Program.

- (a) Receive and review test results of confirmed positive specimens submitted from the laboratory for appropriate chain of custody and/or signs of tampering. Any signs of tampering or chain of custody problems shall be reported immediately to the Division Director or their designee.
- (b) Review and interpret each confirmed positive test result and if appropriate or necessary:
 - 1. Review the applicant or employee's medical history as appropriate for review of the specimen.
 - 2. Attempt to contact the applicant or employee to discuss results and/or review medical records.
- (c) Verify the laboratory report and assessment.
- (d) Notify the Division Director or their designee of verified positive tests via FAX or other secure electronic means and follow-up in writing by U.S. Mail.
- (e) Recommend retest if appropriate.
- (f) Make return-to-duty or follow-up testing recommendations in conjunction with the State of Kansas' Employee Assistance Program.

Provide for the review of drug screen results for accuracy of testing methods and results as specified at a single facility operated by the Contractor for the designated classes of illicit drugs at established threshold levels on all specimens. The Division Director or their designee may request in writing that a given specimen be screened for any substance listed in Schedule I or II of the Kansas Controlled Substance Act at technically acceptable threshold levels.

Provide for the retention of a Medical Review Officer who is responsible for verifying all confirmatory test positive results and meets the following minimum qualifications:

- (a) licensed physician;
- (b) knowledge of substance abuse; and
- (c) appropriate medical or forensic training in the review of medical history and biomedical information.

Provide that personnel who supervise or conduct drug screening pursuant to this project must pass a Kansas Bureau of Investigation background check at the contractor's expense upon request and must be available to the Department of Administration's legal staff for consultative or expert witness purposes.

Facilities Requirements - The Contractor shall:

Provide stringent security measures to control access and document which personnel are authorized access to the records. Make available to the Division Director or their designee, records on facility access.

Report final results of drug screens to the Division Director or their designee within five working days by means that ensure confidentiality.

Establish procedures that allow for individual privacy.

Operational Plan - The Contractor must demonstrate acceptable procedures that ensure security, integrity, quality and confidentiality to:

Review for forensic verification all specimens that showed the presence of the designated substances above the cutoff level as the result of a confirmatory tests, and were certified by designated laboratory personnel as accurate at the threshold levels listed below:

<u>Drug Class</u>	<u>Cutoff Level (ng/ml)</u>
Marijuana/Cannabinoids (THC)	15
Cocaine metabolite	150
Opiates	300
Phencyclidine (PCP)	25
Amphetamines/Methamphetamines	500

Verify opiates identification in a confirmatory test with a review of prescription medicines. A confirmed positive result for this class of drugs from the urine test must coincide with clinical evidence of illegal use of opium, opiate or opium derivative such as morphine or codeine. This requirement does not apply if the confirmatory test for opiates identified the presence of 6-monoacetylmorphine.

Shall communicate the result to the Division Director or their designee by FAX, or other secure electronic means.

Monitoring of Performance:

The Contractor's performance under any resulting contract shall be monitored by the Division Director or their designee.

Should the Division Director, or their designee, determine that there are deficiencies in the services to be provided by the Contractor, the Contractor will be notified, in writing, as to the precise nature of any complaints. Within fifteen (15) days of delivery of such notice, the Contractor will be expected to correct or take reasonable action to correct the specified deficiencies, or the Director may assess a penalty of \$50 per day until deficiencies are corrected. If there is any violation of individual privacy or release of information, the contract may be canceled, with the concurrence of the Division of Purchases and the Procurement Negotiating Committee.

Reporting and Record Keeping Requirements – The Contractor shall:

Follow the reporting systems established by the Division Director or their designee. List all results by Sample Identification Number and forward them, along with the appropriate forms to the Division Director or their designee. Forward all test results to the Division Director or their designee by FAX, or other secure electronic means. Ensure the security of the data transmission and limit access to any data transmission, storage, and retrieval system. Retain copies of test results and appropriate forms.

Maintain and make available to the Division Director or their designee documentation on all aspects of the drug testing process for at least two years. Retain documentation for any tests under appeal or legal challenge until all remedies have been exhausted. Documentation includes:

- (1) personnel files on all individuals authorized to have access to records;
- (2) chain of custody forms;
- (3) procedure manuals;
- (4) all test data and reports; and
- (5) hard copies of computer-generated data.

Obtain prior approval from the Division Director or their designee for the release or dissemination of any information related to this contract. The Contractor may release to only authorized employees of the Contractor or to the Division Director or their designee, records pertaining to the State's Drug Screening Program.

Deliverables:

Group 1 - Specimen Collection and Drug Testing – The Contractor shall:

Provide final results of the drug screens within five working days of the specimen's receipt at the laboratory facility. Results will be transmitted by FAX or other secure electronic means, and access to data transmission or retrieval will be controlled.

Within 20 days following each three-month segment of the contract, provide a quarterly summary of program and fiscal status and proficiency testing results.

Within 20 days following each month of the contract, transmit written reports incorporating the monthly data as required in the following sections 1,2,3,4, and 5:

1. Total number of specimens received for initial screening, confirmatory tests and Laboratory Director review.
2. Total number of specimens reported negative for initial screening and confirmatory tests.
3. Number of specimens screened positive for and confirmed positive for the classes of drugs for which screening is to occur as specified in this contract.
4. Number of re-analysis requested by Medical Review Officer.

5. Total number of confirmatory test positive results not certified by the Medical Review Officer and the reason each result was not certified.

Provide all necessary materials, equipment and supplies for all services provided. This will include specimen containers with security features suitable for shipment; shipping and packing materials; specified forms; laboratory testing supplies including pure drug and laboratory standards; refrigerated and frozen specimen storage facilities; equipment and immunoassay and Gas Chromatography/Mass Spectrometry technology; equipment for electronic transfer of results; and computer hardware and software for laboratory reporting requirements.

At the Division Director's or their designee's request, provide expert witnesses for pretrial and trial at no cost, including any travel and lodging of such expert witnesses. Provide telephone consultation to the Division Director or their designee at no additional charge to the Division.

Provide training for collection sites at no cost to the Division. If such training is determined by the Division Director and the Contractor to require on site visits, the Contractor shall provide for the travel and lodging of such trainers.

Neither test nor receive compensation for any specimens that are not received with a complete and correct chain of custody form unless requested by the Division Director or their designee.

Bill authorized contract users for payment of specimen collection and drug screens. Authorized contract users are the Human Resource Managers or designees responsible for the drug and alcohol screening programs within their respective state agencies.

Group 2 - Alcohol Testing - The Contractor shall:

Provide final alcohol test results below 0.02 within five working days of the collection by FAX or other secure electronic means or by mail. Provide final alcohol test results at or above 0.02 by FAX immediately following collection. Access to data transmission or retrieval will be controlled.

Provide reports in the manner required by the Federal Highway Administration and the Division.

Provide all necessary materials, equipment and supplies for all services provided.

At the Division Director's or their designee's request, provide expert witnesses for pretrial and trial at no cost, including any travel and lodging of such expert witnesses. Provide telephone consultation to the Division Director or their designee at no additional charge to the Division.

Provide training for collection sites at no cost to the Director. If such training is determined by the Division Director or their designee and the Contractor to require on site visits, the Contractor shall provide for the travel and lodging of such trainers.

Receive no compensation for any alcohol tests that have not been conducted in accordance with program guidelines.

Bill authorized contract users for payment of alcohol tests. Authorized contract users are the Human Resource Managers or designees responsible for the drug and alcohol screening programs within their respective state agencies.

Group 3 - Medical Review Officer Services – The Contractor shall:

Provide final results of the drug screens within five working days of the specimen's receipt at the facility. Results will be transmitted by FAX or other secure electronic means and access to data transmission or retrieval will be controlled.

Provide a quarterly summary of program and fiscal status and proficiency testing results within 20 days following each three-month segment of the contract.

Provide written reports incorporating the monthly data as required in the following sections 1,2,3,4, and 5, within 20 days following each month of the contract:

1. Total number of confirmatory test positive results reviewed;

2. Number of reanalysis requested;
3. Number of retests requested;
4. Number of confirmatory test positive results not confirmed by MRO due to:
 - a. results being consistent with legal drug use; or
 - b. scientifically insufficient data.
5. Total number of results confirmed by the MRO for:

<u>Drug Class</u>	<u>Cutoff Level (ng/ml)</u>
Marijuana/Cannabinoids (THC)	15
Cocaine metabolite	150
Opiates	300
Phencyclidine (PCP)	25
Amphetamines/Methamphetamines	500
6. Total number of results confirmed by the MRO to be adulterated.

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Neither test nor review or receive compensation for any specimens that are not received with a complete and correct chain of custody form unless requested by the Division.

Bill authorized contract users for payment of Medical Review Officer services. Authorized contract users are the Human Resource Managers or designees responsible for the drug and alcohol screening programs within their respective state agencies.

State Resources to be Provided:

The Division Director or their designee will provide the Contractor with the names and telephone numbers of staff who have been assigned responsibility for administration of drug and alcohol testing program operations for the State of Kansas.

The Division Director or their designee will ensure that the Contractor is provided the necessary information regarding applicants and employees who are to be tested.

The Contractor will be responsible for fringe benefit expenditures as well as provide for office supplies, training, mileage, furniture, office equipment or anything else not specifically identified as being provided by the Division.

The Division Director or their designee will provide the Contractor with a list of the authorized contract users. The list will include the State of Kansas agency name and department number, and the name, address and telephone numbers for the State of Kansas agency's Human Resource Managers and designees.

Definitions

Agency - A subdivision of state government that exists by statute to perform specific functions.

Department of Administration - the agency that provides centralized administrative functions for the State of Kansas.

Division - The State Division of Personnel Services, a Division of the Department of Administration.

Division Director - The Director of the State Division of Personnel Services, or the Director's designee.

Division of Purchases - A Division of the Department of Administration that authorizes purchases of goods and services for state government.

Contractor - The vendor or vendors that are successful bidders on this contract.

Procurement Negotiating Committee (PNC) – See page 4, paragraph 1.2.

Medical Review Officer (MRO) - A licensed physician who is an expert in drug and alcohol testing and the application of federal regulations in the process.

Cost – See Attached

State and Federal Forfeiture Funds

Kansas Highway Patrol and Kansas Bureau of Investigation

Fund Name	Fund Type	Source of Revenue	Purpose of Expenditures	Authority
State Forfeiture Fund	Fee	Proceeds from cash and other property seized by law enforcement as a result of certain conduct and offenses.	Per Kansas law, moneys in the State Forfeiture Fund "shall not be considered a source of revenue to meet normal operating expenses. Such funds shall be expended by the agencies or departments through the normal city, county or state appropriation system and shall be used for such special, additional law enforcement purposes as the law enforcement agency head deems appropriate. Neither future forfeitures nor the proceeds from such forfeitures shall be used in planning or adopting a law enforcement agency's budget." These revenues cannot be relied upon and are a result, not a purpose, of effective law enforcement efforts.	KSA 60-4117
Federal Forfeiture Fund	Fee (federal)	Proceeds from cash and other property seized by law enforcement as a result of certain conduct and offenses. A state law enforcement agency that directly participated in an investigation or prosecution that resulted in the federal forfeiture of property may apply to receive a portion of it.	Funds can be used for any permissible purpose (but not to supplant normal, budgeted operations) provided the funds increase the entirety of the agency's law enforcement effort. These funds are not budgeted since revenues cannot be relied upon and are a result, not a purpose, of effective law enforcement. These funds must undergo an federal annual audit.	Federal Equitable Sharing Agreement pursuant to the federal Dept. of Justice's Asset Forfeiture Program

HEALTH AND HUMAN SERVICES
 DATE: 02/16/09
 ATTACHMENT: 5

State and Federal Forfeiture Funds

Kansas Highway Patrol and Kansas Bureau of Investigation

Fund Name	Fund Type	Ending Balance		Expenditures		Receipts	
		FY 2009	FY 2010	FY 2009	FY 2010	FY 2009	FY 2010
Kansas Highway Patrol							
State Forfeiture	No-Limit	794,279	708,755	84,256	0	0	(2,094)
Federal Forfeiture	No-Limit	3,342,314	3,342,314	0	0	0	0

Fund Name	Fund Type	Ending Balance		Expenditures		Receipts	
		FY 2009	FY 2010	FY 2009	FY 2010	FY 2009	FY 2010
Kansas Bureau of Investigation							
State Forfeiture	No-Limit	51,359	51,359	0	0	0	0
Federal Forfeiture	No-Limit	73,327	91,686	61,299	61,299	79,658	79,658

6
NARRATIVE INFORMATION – DA 400
Division of the Budget
State of Kansas

AGENCY NAME: Social and Rehabilitation Services
PROGRAM TITLE: Disability and Behavioral Health Services
SUBPROGRAM TITLE: Addiction and Prevention Services

EXPENDITURE JUSTIFICATION - Addiction and Prevention Services (33000)

Program Overview: Addiction and Prevention Services (AAPS) supports a system of services for individuals experiencing alcoholism, drug dependence and/or a gambling addiction using State Grant, Federal Block Grant, and Medicaid funds. AAPS purchases a comprehensive system of services for the treatment of addictions in Kansas which:

- Utilize a consumer and community-centered philosophy and a strengths-based perspective;
- Encourages collaboration with agencies, including dissemination of information and integrating technology and resources which benefit the client;
- Ensures availability and accessibility to the continuum of care in every region of the State; and
- Promotes continuous quality improvement based on data, research, and outcomes.

Substance Abuse Treatment. AAPS purchases Substance Abuse Treatment Services for low-income Kansans using grants and Medicaid funding (program 33220). Services provided through these funding sources include: social detoxification, outpatient services, residential treatment, in-patient treatment, and case management. Beginning July 1, 2007, AAPS purchased these services through a managed care organization, Value Options-Kansas. Value Options-Kansas assists AAPS in meeting its mission by contracting with treatment providers across the state to provide quality, accessible, effective treatment services to the greatest number of persons.

AAPS grant funded substance abuse treatment emphasizes services to:

- Pregnant women and women with children;
- Intravenous drug users;
- Individuals with a positive tuberculosis screen or who are at high risk of tuberculosis;
- Individuals at high risk of becoming or who are HIV-positive;
- Involuntary clients,
- Persons who experience chronic relapses; and
- Individuals with co-occurring substance abuse and mental illness.

AAPS establishes and monitors compliance to standards for program licensure and treatment counselor credentialing, promotes outcomes-based planning and performance improvement, encourages utilization of evidenced-based practices, and provides workforce and leadership development through training opportunities for frontline staff and clinical supervisors.

NARRATIVE INFORMATION – DA 400
Division of the Budget
State of Kansas

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AAPS has adopted the National Institute of Drug Abuse (NIDA) principles, a research-based guide that lists scientifically-based treatment strategies for treatment providers. In addition, AAPS uses the following National Performance Outcomes Measures (NOMS) as performance measures:

- Abstinence from Drug/Alcohol Use;
- Increased and/or retained employment;
- Decreased Criminal Justice Involvement;
- Increased Stability in Housing;
- Increased Access to Services;
- Increased Retention in Treatment;
- Client Perception of Care;
- Cost Effectiveness;
- Use of Evidence-Based Practices; and
- Increased Social Supports/Social Connectedness.

AAPS administers \$1.4 million in TANF funds which are used to employ 25 Solutions Case Managers housed in SRS regional offices who serve TANF recipients who experience substance abuse problems. Services provided with this funding include - screening, evaluation, education, and case management to those consumers whose substance abuse problem is an impediment to successful employment. These positions provide services to individuals that are in need of intensive case management services to be successful in becoming gainfully employed.

Under a Memorandum of Agreement (MOA) with the Kansas Department of Corrections, AAPS administers treatment and probation supervision services for fourth-time convicted Driving while Under the Influence (DUI) offenders under the conditions set forth in K.S.A.1867. The fourth-time DUI provider-network consists of 48 providers that have offered services to over 2,800 individuals.

Problem Gambling. Problem Gambling Services provide first-contact, crisis intervention for problem gamblers and their families. The Problem Gambling Program provides a Problem Gambling Help Line 24 hours/7 days a week staffed by Masters-level professionals. Support is also provided to assist in establishing and maintaining a network of professionals who wish to become competent in assessing and treating those who suffer from problem gambling. Increasing awareness of the prevalence and consequences of problem gambling is accomplished through the provision of prevention activities such as education, information dissemination, problem identification and referral. These activities focus primarily on high risk populations such as older adults and youth. The program also funds public awareness materials such as billboards, brochures, and radio advertising.

In addition to current problem gambling activities, SB 66 authorized the establishment of slot machines in race tracks and regional state-operated casinos, and designated that two percent of the state proceeds from these expanded gaming activities would be made available to treat problem gambling and other addictions. While proceeds for treatment are not expected to begin until calendar year 2009, SRS has begun planning with

NARRATIVE INFORMATION – DA 400
Division of the Budget
State of Kansas

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advocates, providers, and experts regarding the most effective use of these funds. SRS expects to have a comprehensive list of recommendations and a proposed budget it will share with the 2009 Legislature. AAPS has hired a Problem Gambling Services Coordinator to facilitate the planning for and future management of this expanded program.

Prevention. The statewide prevention system includes thirteen Regional Prevention Centers, YouthFriends, Kansas Family Partnership, Greenbush Data and Information Systems Group, and the University of Kansas Work Group on Health Promotion and Community Development. These partners provide access to information, training and technical assistance to ensure effective substance abuse prevention in every community.

SYNAR AAPS Prevention also serves as the designated state contact for SYNAR compliance. Under the SYNAR Amendment, the State must conduct random, unannounced inspections of tobacco retail outlets to determine a level of compliance with the prohibition of selling tobacco products to minors. The inspections are conducted by the Kansas Department of Revenue’s Alcoholic Beverage Control (ABC) division.

Federal rules require eighty percent compliance with the prohibition of sale of tobacco to minors. Failure to reach the target for FY 2005 resulted in the Federal government requiring Kansas to increase its financial investment in reducing youth access to tobacco. AAPS completed this effort in FY 2007. During the 2007 legislative session, the Governor recommended and the Legislature appropriated \$400,000 to continue this effort. The \$400,000 appropriated for FY 2008 has been committed to the Kansas Department of Revenue to fund an expanded Tobacco Enforcement Team in its ABC Division to maintain and increase retailers’ compliance with Federal SYNAR requirements. Thus far, through these efforts, Kansas has attained compliance to the required Federal standard.

Object Code 100: Salaries and Wages

Summary: Included here are 11.74 FTE and 4 non-FTE Unclassified Permanent positions assigned to administer Addiction and Prevention Services and the Kansas Strategic Prevention Framework Grant.

Current Year FY 2009: \$835,982 - The salary request includes the 2.5 percent general increase and market rate adjustments authorized for FY 2009, longevity bonuses, and a shrinkage rate of 15.2 percent. All fringe benefit rates observe the cost indices provided by the Division of the Budget.

Allocated Budget FY 2010: \$844,271 – This request continues funding for the current staffing level. The request includes funding for longevity bonuses and continues shrinkage at 15.2 percent. All fringe benefits conform to the indices issued by the Division of the Budget.

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Division of the Budget
State of Kansas

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6-4

Object Codes 200 - 290: Contractual Services

Summary: The major portion of this budget request is for the Strategic Prevention Framework State Incentive Grant (SPF SIG). This grant provides funds to help communities prevent substance abuse and related problems. Other major portions of this budget request include communications, travel and subsistence, and the problem gambling program contracts. The communications budget is for anticipated postage, telephone and the

Management Information System (Federal Minimum Data Set and Addiction Severity Index) data transmission via modem. The travel and subsistence funds are requested to carry out mandated licensure/certification of Alcohol and Drug Treatment Programs, to provide technical reviews and technical assistance to existing treatment and recovery programs, to deliver training to community-based programs and to attend various job-related meetings. Included in this line item is funding for travel and subsistence for the 24-member Citizen’s Committee on Alcohol and Other Drug Abuse. By statute, this Committee is required to meet quarterly to advise the Secretary of SRS on matters of concern related to the substance abuse field.

Major Addiction and Prevention Services Contracts

Contract	All Funds	SGF	Purpose
Data Grant	\$28,000	\$0	Drug and alcohol services information system
Gambling Grant	\$100,000	\$0	Treatment of persons suffering a pathological gambling addiction
State Outcomes Measurement & Management System Grant	\$150,000	\$0	State outcomes measurement and management system
Strategic Prevention Framework State Incentive Grant	\$2,090,700	\$0	Substance abuse prevention framework
Center for Learning Tree Institute	\$483,534	\$0	Support for various AAPS projects
University of Kansas Center for Research	\$110,000	\$0	Online documentation support
Juvenile Justice Authority	\$137,136	\$0	Infrastructure capacity
Spencer Reed Group	\$127,000	\$0	Support and modification of SRS systems and databases
KS Association of Addiction Professionals	\$156,284	\$0	Training
Revell	\$67,800	\$0	Assistance in developing a policy and procedure manual
KS Family Partnership	\$61,000	\$0	Logistical support for KS Recovery Conference
KS Dept of Revenue	\$677,239	\$677,239	Maintain and increase retailers’ compliance with Federal Synar requirements
BARS Program	\$100,000	\$100,000	Assist convenience stores in ensuring their staff do not sell tobacco to minors

Current Year FY 2009: \$5,618,846 - Contractual obligations are adequately funded. The majority of the increase over FY 2008 actuals is the budget for the SPF SIG grant.

Allocated Budget FY 2010: \$5,418,846 - Continues estimates from FY 2009, with the exception of a \$200,000 reappropriation from FY 2008.

NARRATIVE INFORMATION – DA 400
Division of the Budget
State of Kansas

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6-5

Object Codes 300 - 390: Commodities

Summary: The major portion of this request relates to materials, supplies and parts not covered in other budget categories.

Current Year FY 2009: \$10,406 - Adequately funds office supplies and miscellaneous commodities necessary for operation.

Allocated Budget FY 2010: \$10,406 - Continues estimates from FY 2009.

Object Code 5xx: Aid to Local Units and Other Assistance

Summary: Addiction Services funds a continuum of Community-Based Treatment services in the five service delivery regions. From least restrictive to the most restrictive these include: Assessment, Social Detoxification, Outpatient and Residential.

These funds are from the State General Fund (SGF), Community Alcohol and Intoxication Fund (special revenue fund), Alcoholism Treatment (special revenue fund), Federal Substance Abuse Prevention and Treatment Block Grant, and TANF Block Grant.

NARRATIVE INFORMATION – DA 400
Division of the Budget
State of Kansas

AGENCY NAME: Social and Rehabilitation Services
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6-6

The following table details the Addiction and Prevention Services Grants:

How Are Funds Distributed – CG = Competitive Grants; EN = Entitlement; ER = Eligibility Requirements; CT = Contracts
 What Population is Served – C = Children; A = Adults; F = Families

Item	Dis	Pop	FY 2009 Current Year	FY 2010 Allocated Budget	Reduced Resources Shift AAPS Grants Funding from SGF to Gaming Revenue	Reduced Resources Eliminate BARS Contract	Resulting FY 2010 Total
Uses:							
Regional Prevention Center Grants	CG	All	\$2,305,704	\$2,305,704			\$2,305,704
Prevention Grants	CG	All	\$165,000	\$165,000		(\$100,000)	\$65,000
Treatment Grants	CG	All	\$11,518,809	\$11,518,809	\$0		\$11,518,809
RADAC Grants	CG	All	\$1,468,000	\$1,468,000			\$1,468,000
Women & Children Grants	CG	C/A	\$3,026,514	\$3,026,514			\$3,026,514
Case Management Grants	CG	All	\$1,408,000	\$1,408,000			\$1,408,000
DUI Grants	CG	All	\$895,000	\$895,000			\$895,000
KS Family Partnership Grants	CG	All	\$403,057	\$403,057			\$403,057
Miscellaneous Grants	CG	All	\$425,407	\$425,407			\$425,407
Total Expenditures			\$21,615,491	\$21,615,491	\$0	(\$100,000)	\$21,515,491
Financing							
SGF Alcohol & Drug Abuse			\$4,137,124	\$4,137,124	(\$500,000)	(\$100,000)	\$3,537,124
Other State Fee Fund			\$5,010,529	\$5,010,529			\$5,010,529
Problem Gambling and Addictions fund			\$0	\$0	\$500,000		\$500,000
Substance Abuse Prevention and Treatment Block Grant			\$11,059,838	\$11,059,838			\$11,059,838
TANF Block Grant			\$1,408,000	\$1,408,000			\$1,408,000
Total			\$21,615,491	\$21,615,491	\$0	(\$100,000)	\$21,515,491

Current Year FY 2009: \$21,615,491 - This level of funding maintains services at current levels.

Allocated Budget FY 2010: \$21,615,491 - Continues estimate from FY 2009.

NARRATIVE INFORMATION – DA 400
Division of the Budget
State of Kansas

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MAINTENANCE OF EFFORT: To comply with the Block Grant requirements, Addiction and Prevention Services (AAPS) must maintain state expenditures "at a level not less than the average level of such expenditures maintained by the State for the two-year period preceding the Fiscal Year for which the State is applying for the grant."

	<u>FY 2007</u>	<u>FY 2008 Current Year</u>	<u>FY 2009 Budget Year</u>
Aggregate State Expend Prevention & Treatment	\$13,831,276	\$20,275,939	\$21,317,790
Average of Two Fiscal Years	2005/2006	2006/2007	2007/2008
Maintenance of Effort Amount	\$13,352,175	\$13,730,902	\$17,053,608

2
NARRATIVE INFORMATION – DA 400
Division of the Budget
State of Kansas

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SUBPROGRAM TITLE: Addiction and Prevention Services

advocates, providers, and experts regarding the most effective use of these funds. SRS expects to have a comprehensive list of recommendations and a proposed budget it will share with the 2009 Legislature. AAPS has hired a Problem Gambling Services Coordinator to facilitate the planning for and future management of this expanded program.

Prevention. The statewide prevention system includes thirteen Regional Prevention Centers, YouthFriends, Kansas Family Partnership, Greenbush Data and Information Systems Group, and the University of Kansas Work Group on Health Promotion and Community Development. These partners provide access to information, training and technical assistance to ensure effective substance abuse prevention in every community.

SYNAR AAPS Prevention also serves as the designated state contact for SYNAR compliance. Under the SYNAR Amendment, the State must conduct random, unannounced inspections of tobacco retail outlets to determine a level of compliance with the prohibition of selling tobacco products to minors. The inspections are conducted by the Kansas Department of Revenue's Alcoholic Beverage Control (ABC) division.

Federal rules require eighty percent compliance with the prohibition of sale of tobacco to minors. Failure to reach the target for FY 2005 resulted in the Federal government requiring Kansas to increase its financial investment in reducing youth access to tobacco. AAPS completed this effort in FY 2007. During the 2007 legislative session, the Governor recommended and the Legislature appropriated \$400,000 to continue this effort. The \$400,000 appropriated for FY 2008 has been committed to the Kansas Department of Revenue to fund an expanded Tobacco Enforcement Team in its ABC Division to maintain and increase retailers' compliance with Federal SYNAR requirements. Thus far, through these efforts, Kansas has attained compliance to the required Federal standard.

Object Code 100: Salaries and Wages

Summary: Included here are 11.74 FTE and 4 non-FTE Unclassified Permanent positions assigned to administer Addiction and Prevention Services and the Kansas Strategic Prevention Framework Grant.

Current Year FY 2009: \$835,982 - The salary request includes the 2.5 percent general increase and market rate adjustments authorized for FY 2009, longevity bonuses, and a shrinkage rate of 15.2 percent. All fringe benefit rates observe the cost indices provided by the Division of the Budget.

Allocated Budget FY 2010: \$844,271 – This request continues funding for the current staffing level. The request includes funding for longevity bonuses and continues shrinkage at 15.2 percent. All fringe benefits conform to the indices issued by the Division of the Budget.

NARRATIVE INFORMATION – DA 400
Division of the Budget
State of Kansas

AGENCY NAME: Social and Rehabilitation Services
PROGRAM TITLE: Disability and Behavioral Health Services
SUBPROGRAM TITLE: Addiction and Prevention Services

7-5

Object Codes 200 - 290: Contractual Services

Summary: The major portion of this budget request is for the Strategic Prevention Framework State Incentive Grant (SPF SIG). This grant provides funds to help communities prevent substance abuse and related problems. Other major portions of this budget request include communications, travel and subsistence, and the problem gambling program contracts. The communications budget is for anticipated postage, telephone and the

Management Information System (Federal Minimum Data Set and Addiction Severity Index) data transmission via modem. The travel and subsistence funds are requested to carry out mandated licensure/certification of Alcohol and Drug Treatment Programs, to provide technical reviews and technical assistance to existing treatment and recovery programs, to deliver training to community-based programs and to attend various job-related meetings. Included in this line item is funding for travel and subsistence for the 24-member Citizen's Committee on Alcohol and Other Drug Abuse. By statute, this Committee is required to meet quarterly to advise the Secretary of SRS on matters of concern related to the substance abuse field.

Major Addiction and Prevention Services Contracts

Contract	All Funds	SGF	Purpose
Data Grant	\$28,000	\$0	Drug and alcohol services information system
Gambling Grant	\$100,000	\$0	Treatment of persons suffering a pathological gambling addiction
State Outcomes Measurement & Management System Grant	\$150,000	\$0	State outcomes measurement and management system
Strategic Prevention Framework State Incentive Grant	\$2,090,700	\$0	Substance abuse prevention framework
Center for Learning Tree Institute	\$483,534	\$0	Support for various AAPS projects
University of Kansas Center for Research	\$110,000	\$0	Online documentation support
Juvenile Justice Authority	\$137,136	\$0	Infrastructure capacity
Spencer Reed Group	\$127,000	\$0	Support and modification of SRS systems and databases
KS Association of Addiction Professionals	\$156,284	\$0	Training
Revell	\$67,800	\$0	Assistance in developing a policy and procedure manual
KS Family Partnership	\$61,000	\$0	Logistical support for KS Recovery Conference
KS Dept of Revenue	\$677,239	\$677,239	Maintain and increase retailers' compliance with Federal Synar requirements
BARS Program	\$100,000	\$100,000	Assist convenience stores in ensuring their staff do not sell tobacco to minors

Current Year FY 2009: \$5,618,846 - Contractual obligations are adequately funded. The majority of the increase over FY 2008 actuals is the budget for the SPF SIG grant.

Allocated Budget FY 2010: \$5,418,846 - Continues estimates from FY 2009, with the exception of a \$200,000 reappropriation from FY 2008.

NARRATIVE INFORMATION – DA 400
Division of the Budget
State of Kansas

AGENCY NAME: Social and Rehabilitation Services
PROGRAM TITLE: Disability and Behavioral Health Services
SUBPROGRAM TITLE: Addiction and Prevention Services

Object Codes 300 - 390: Commodities

Summary: The major portion of this request relates to materials, supplies and parts not covered in other budget categories.

Current Year FY 2009: \$10,406 - Adequately funds office supplies and miscellaneous commodities necessary for operation.

Allocated Budget FY 2010: \$10,406 - Continues estimates from FY 2009.

Object Code 5xx: Aid to Local Units and Other Assistance

Summary: Addiction Services funds a continuum of Community-Based Treatment services in the five service delivery regions. From least restrictive to the most restrictive these include: Assessment, Social Detoxification, Outpatient and Residential.

These funds are from the State General Fund (SGF), Community Alcohol and Intoxication Fund (special revenue fund), Alcoholism Treatment (special revenue fund), Federal Substance Abuse Prevention and Treatment Block Grant, and TANF Block Grant.

NARRATIVE INFORMATION – DA 400
Division of the Budget
State of Kansas

AGENCY NAME: Social and Rehabilitation Services
PROGRAM TITLE: Disability and Behavioral Health Services
SUBPROGRAM TITLE: Addiction and Prevention Services

The following table details the Addiction and Prevention Services Grants:

How Are Funds Distributed – CG = Competitive Grants; EN = Entitlement; ER = Eligibility Requirements; CT = Contracts
 What Population is Served – C = Children; A = Adults; F = Families

Item	Dis	Pop	FY 2009 Current Year	FY 2010 Allocated Budget	Reduced Resources Shift AAPS Grants Funding from SGF to Gaming Revenue	Reduced Resources Eliminate BARS Contract	Resulting FY 2010 Total
Uses:							
Regional Prevention Center Grants	CG	All	\$2,305,704	\$2,305,704			\$2,305,704
Prevention Grants	CG	All	\$165,000	\$165,000		(\$100,000)	\$65,000
Treatment Grants	CG	All	\$11,518,809	\$11,518,809	\$0		\$11,518,809
RADAC Grants	CG	All	\$1,468,000	\$1,468,000			\$1,468,000
Women & Children Grants	CG	C/A	\$3,026,514	\$3,026,514			\$3,026,514
Case Management Grants	CG	All	\$1,408,000	\$1,408,000			\$1,408,000
DUI Grants	CG	All	\$895,000	\$895,000			\$895,000
KS Family Partnership Grants	CG	All	\$403,057	\$403,057			\$403,057
Miscellaneous Grants	CG	All	\$425,407	\$425,407			\$425,407
Total Expenditures			\$21,615,491	\$21,615,491	\$0	(\$100,000)	\$21,515,491
Financing							
SGF Alcohol & Drug Abuse			\$4,137,124	\$4,137,124	(\$500,000)	(\$100,000)	\$3,537,124
Other State Fee Fund			\$5,010,529	\$5,010,529			\$5,010,529
Problem Gambling and Addictions fund			\$0	\$0	\$500,000		\$500,000
Substance Abuse Prevention and Treatment Block Grant			\$11,059,838	\$11,059,838			\$11,059,838
TANF Block Grant			\$1,408,000	\$1,408,000			\$1,408,000
Total			\$21,615,491	\$21,615,491	\$0	(\$100,000)	\$21,515,491

Current Year FY 2009: \$21,615,491 - This level of funding maintains services at current levels.

Allocated Budget FY 2010: \$21,615,491 - Continues estimate from FY 2009.

NARRATIVE INFORMATION – DA 400
Division of the Budget
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AGENCY NAME: Social and Rehabilitation Services
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SUBPROGRAM TITLE: Addiction and Prevention Services

MAINTENANCE OF EFFORT: To comply with the Block Grant requirements, Addiction and Prevention Services (AAPS) must maintain state expenditures "at a level not less than the average level of such expenditures maintained by the State for the two-year period preceding the Fiscal Year for which the State is applying for the grant."

	<u>FY 2007</u>	<u>FY 2008 Current Year</u>	<u>FY 2009 Budget Year</u>
Aggregate State Expend Prevention & Treatment	\$13,831,276	\$20,275,939	\$21,317,790
Average of Two Fiscal Years	2005/2006	2006/2007	2007/2008
Maintenance of Effort Amount	\$13,352,175	\$13,730,902	\$17,053,608

*Coordinating health & health care
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**House Health and Human Services Committee
HB 2275
February 16, 2009**

HB 2275 would establish drug screening for applicants and recipients of public assistance as a condition of eligibility. Persons failing the test would be required to seek needed treatment or education. Persons who failed a subsequent test would be terminated from assistance. The program is to be funded by revenues received by state agencies through drug- related property forfeitures.

Federal rules prohibit KHPA from implementing drug screening as a condition of eligibility for Medicaid and SCHIP as well as SRS for the Food Assistance, and Child Care programs.

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www.khpa.ks.gov

Medicaid and HealthWave:
Phone: 785-296-3981
Fax: 785-296-4813

State Employee Health Plan:
Phone: 785-368-6361
Fax: 785-368-7180

HEALTH AND HUMAN SERVICES
DATE: 02/16/09
ATTACHMENT: 8



DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

Don Jordan, Secretary

House Health and Human Services

February 13, 2009

Public Assistance and Random Drug Testing

For Additional Information Contact:
Katy Belot, Director of Public Policy
Docking State Office Building, 6th Floor North
(785) 296-3271

HEALTH AND HUMAN SERVICES
DATE: 02/16
ATTACHMENT: 9



Public Assistance and Random Drug Testing

House Health and Human Services

February 13, 2009

Madam Chair, thank you for the opportunity to present information regarding HB 2275, which establishes a program of random drug testing of public assistance applicants and recipients as a condition of eligibility for assistance. Public assistance applicants and recipients affected by this bill are assumed to be those who apply for or receive Temporary Assistance for Families (TAF), General Assistance, Food Assistance, or Medical Assistance.

Federal food assistance laws prohibit drug testing for purposes of eligibility or participation. The TAF and General Assistance programs have no regulations prohibiting drug testing as a condition of eligibility. SRS recognizes substance abuse as a serious barrier to employment and ongoing self sufficiency. With the onset of welfare reform in the mid 1990's, deliberate measures were initiated to identify applicants and recipients with substance abuse issues and to provide related treatment services essential in the recovery process.

All adult TAF recipients who are mandatory work participants are assessed for drug and alcohol abuse. Those with a potential substance abuse issue, as indicated on a validated assessment instrument, are referred to a Regional Alcohol/Drug Abuse Assessment Center (RADAC) case manager for further diagnosis and treatment. In FY 2008, 733 TAF recipients were referred for further diagnosis and treatment; of those, 20 percent entered treatment. Completion of the treatment plan, along with 20 weekly hours of work/work experience, is required. Failure to complete or comply with the treatment plan results in a loss of assistance. During FY 2008, 7 recipients failed to comply with their treatment plans and lost cash assistance.

No state currently conducts random drug testing of public assistance recipients. Michigan is the only state to have implemented a policy of drug testing TAF recipients as an eligibility condition. In 2003, the 6th circuit Court of Appeals struck down the Michigan law as unconstitutional based on violation of the Fourth Amendment rights against unreasonable search and seizure absent a reasonable suspicion that the recipients had committed a crime. Before the Michigan drug testing program was halted, only ten percent of recipients tested positive for drugs. Three percent of these tested positive for hard drugs such as cocaine and amphetamines. This is similar, if not lower, than rates of drug usage in the general population.

Implementing a formalized drug testing program will entail additional monitoring, tracking, sampling, recipient notification, and case coordination on the part of SRS staff and our treatment network. It is difficult to assess the associated costs of workload increases, screening and treatment.

Thank you for the opportunity to present information as the Committee weighs the merits and risks associated with HB2275.

HOUSE BILL NO. _____

By Committee on Health and Human Services

AN ACT regarding health insurance; relating to cafeteria plans, health savings accounts, high deductible health insurance plans and small employers; amending K.S.A. 2008 Supp. 40-2240, 40-2261 and 75-6501 and repealing the existing sections.

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

New Section 1. (a) Any insurer who offers small group health plans shall offer a high deductible health plan in conjunction with the establishment of a health savings account.

(b) As used in this section:

(1) "Health savings account" shall have the meaning ascribed to it in subsection (d) of 26 U.S.C. section 223.

(2) "High deductible health plan" shall mean a policy or contract of health insurance or health care plan that meets the criteria established in subsection (c) of 26 U.S.C. section 223 and any regulations promulgated thereunder.

(3) "Insurer" means any insurance company, fraternal benefit society, health maintenance organization and nonprofit hospital and medical service corporation authorized to transact accident and sickness insurance business in this state.

Sec. 2. K.S.A. 2008 Supp. 40-2240 is hereby amended to read as follows: 40-2240. (a) Any small employer as defined in subsection (4) of K.S.A. 40-2209d, and amendments thereto, may establish a small employer health benefit plan for the purpose of providing a health benefit plan as described in subsection (u) of K.S.A. 40-2209d, and amendments thereto, covering such employers' eligible employees and such employees' family members. If an association or trust is used for such

HEALTH AND HUMAN SERVICES
DATE: 02/16/09
ATTACHMENT: 10

PROPOSED AMENDMENTS TO HB 2198
(employer mandate changed to permissive)

purposes, the association or trust may not condition eligibility or membership on the health status of members or employees.

(b) The commissioner shall provide assistance to employers desiring to organize and maintain any such benefit plan and may aid in the acquisition of the health care insurance by the small employer health benefit plan.

(c) Any small employer who offers a health benefit plan [shall] **may** offer to all eligible individuals the option of receiving health care coverage through a high deductible plan and the establishment of a health savings account.

(d) For the purposes of this section, the term:

(1) "Health savings account" shall have the meaning ascribed to it in subsection (d) of 26 U.S.C. Section 223.

(2) "High deductible health plan" shall mean a policy or contract of health insurance or health care plan that meets the criteria established in subsection (c) of 26 U.S.C. Section 223 and any regulations promulgated thereunder.

Sec. 3. K.S.A. 2008 Supp. 40-2261 is hereby amended to read as follows: 40-2261. (a) ~~An~~ Any employer that provides health insurance coverage for which any portion of the premium is payable by an employee ~~may also offer [shall] **may** provide a health benefit plan that includes a~~ premium only cafeteria plan as permitted under 26 U.S.C. Section 125. The provisions of this subsection shall not apply to any employer who offers health insurance through any self-insured or self-funded group health benefit plan of any type or description.

(b) No provision of this section shall prohibit or otherwise restrict an employer's ability to either provide a group health benefit plan or create a premium only cafeteria plan with defined

PROPOSED AMENDMENTS TO HB 2198
(employer mandate changed to permissive)

contributions and in which the employee purchases the policy.

(c) (1) For any health benefit plan offered on or after January 1, 2010, if the employer's health benefit plan also includes the option of receiving health insurance through a high deductible health plan and the establishment of a health savings account and if an employee elects the high deductible health plan and health savings account, the employer's contribution shall be equal to the employer's contribution to any other health benefit plan offered by the employer. The cost savings to the employer for the high deductible health plan shall be deposited monthly into the employee's health savings account up to the maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended, for as long as the employee participates in the high deductible plan.

(2) If the employee had not previously participated in the employer's health benefit plan, the employer shall calculate the average savings to the employer of the high deductible plan compared to the other available plans and contribute that amount monthly to the employee's health savings account up to the maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended.

(3) The employer shall allow additional voluntary contributions by the employee to such employee's health savings account by payroll deduction up to the maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended.

(d) For the purposes of this section:

(1) "Health benefit plan" means any hospital or medical expense policy, health, hospital or medical service corporation contract and a plan provided by a municipal group-funded pool or a health maintenance organization contract offered by an employer or any certificate issued under any such policies, contracts or plans. Health benefit plan also includes a cafeteria plan authorized by 26 U.S.C. Section 125. The cafeteria plan may offer the option of paying all or any portion of the health

PROPOSED AMENDMENTS TO HB 2198
(employer mandate changed to permissive)

insurance premium or the option of receiving health insurance coverage through a high deductible health plan and the establishment of a health savings account. In order for an eligible individual to obtain a high deductible health plan through the cafeteria plan, such individual shall present evidence to the employer that such individual has established a health savings account in compliance with 26 U.S.C. Section 223 and any amendments and regulations. "Health benefit plan" does not include policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical-payment insurance or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(2) "Health savings account" shall have the same meaning ascribed to it as in subsection (d) of 26 U.S.C. Section 223.

(3) "High deductible health plan" shall mean a policy or contract of health insurance or health care plan that meets the criteria established in subsection (c) of 26 U.S.C. Section 223 and any amendments and regulations.

~~(d) The provisions of this section shall not take effect until July 1, 2008.~~

Sec. 4. K.S.A. 2008 Supp. 75-6501 is hereby amended to read as follows: 75-6501. (a) Within the limits of appropriations made or available therefor and subject to the provisions of appropriation acts relating thereto, the Kansas state employees health care commission shall develop and provide for the implementation and administration of a state health care benefits program.

(b) The state health care benefits program may provide benefits for persons qualified to participate in the program for hospitalization, medical services, surgical services, nonmedical

PROPOSED AMENDMENTS TO HB 2198
(employer mandate changed to permissive)

remedial care and treatment rendered in accordance with a religious method of healing and other health services. The program may include such provisions as are established by the Kansas state employees health care commission, including but not limited to qualifications for benefits, services covered, schedules and graduation of benefits, conversion privileges, deductible amounts, limitations on eligibility for benefits by reason of termination of employment or other change of status, leaves of absence, military service or other interruptions in service and other reasonable provisions as may be established by the commission.

(c) The Kansas state employees health care commission shall designate by rules and regulations those persons who are qualified to participate in the state health care benefits program, including active and retired public officers and employees and their dependents as defined by rules and regulations of the commission. Such rules and regulations shall not apply to students attending a state educational institution as defined in K.S.A. 76-711, and amendments thereto, who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto. In designating persons qualified to participate in the state health care benefits program, the commission may establish such conditions, restrictions, limitations and exclusions as the commission deems reasonable. Such conditions, restrictions, limitations and exclusions shall include the conditions contained in subsection (d) of K.S.A. 75-6506, and amendments thereto. Each person who was formerly elected or appointed and qualified to an elective state office and who was covered immediately preceding the date such person ceased to hold such office by the provisions of group health insurance or a health maintenance organization plan under the law in effect prior to August 1, 1984, or the state health care benefits program in effect after that date, shall continue to be qualified to participate in the state health care benefits program and shall pay the cost of participation in the program as established and in accordance with the procedures prescribed by the

PROPOSED AMENDMENTS TO HB 2198
(employer mandate changed to permissive)

commission if such person chooses to participate therein.

(d) (1) Commencing with the ~~2009~~ 2010 plan year that begins January 1, ~~2009~~, if 2010, the state health care benefits program shall offer a high deductible health plan and health savings account. If a state employee elects the high deductible health plan and health savings account, the state's employer contribution shall equal the state's contribution to any other health benefit plan offered by the state. The cost savings to the state for the high deductible health plan shall be deposited monthly into the employee's health savings account up to the maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended, for as long as the employee participates in the high deductible plan.

(2) If the employee had not previously participated in the state health benefits plan, the employer shall calculate the average savings to the employer of the high deductible plan compared to the other available plans and contribute that amount monthly to the employee's health savings account up to the maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended.

(3) The employer shall allow additional voluntary contributions by the employee to their health savings account by payroll deduction up to the maximum annual amount allowed pursuant to subsection (d) of 26 U.S.C. 223, as amended.

(e) The commission shall have no authority to assess charges for employer contributions under the student health care benefits component of the state health care benefits program for persons who are covered by insurance contracts entered into by the board of regents pursuant to K.S.A. 75-4101, and amendments thereto.

(f) Nothing in this act shall be construed to permit the Kansas state employees health care commission to discontinue the student health care benefits component of the state health care

**PROPOSED AMENDMENTS TO HB 2198
(employer mandate changed to permissive)**

benefits program until the state board of regents has contracts in effect that provide student coverage pursuant to the authority granted therefor in K.S.A. 75-4101, and amendments thereto.

Sec. 5. K.S.A. 2008 Supp. 40-2240, 40-2261 and 75-6501 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.