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Pat George, Secretary

Sam Brownback, Governor

April 16, 2012

Employment and Training Administration  
U.S. Department of Labor  
Division of WIA Adult Services and Workforce System  
Attention: Heather Fleck  
200 Constitution Ave., NW, Room S-4209  
Washington, DC 20210

Dear Ms. Fleck,

Per TEGL 21-11, the State of Kansas respectfully requests a temporary extension of its current State Plan, waivers and performance measures until September 15, 2012.

Kansas will submit an Integrated Workforce Plan by the required due date, including the SCSEP state plan. Commerce has partnered with multiple state agencies for data sharing agreements, service delivery and other activities. Commerce now seeks to involve those state agencies and other entities in a comprehensive, strategic planning process. Because new planning guidance provided in TEGL 21-11 is a substantive change from previous planning guidance, the Kansas Department of Commerce needs additional time to engage and develop strategic direction from the State Departments of Social and Rehabilitation Services, Labor, Aging, Health and Environment, and the Kansas Association of Area Agencies on Aging. Additionally, Commerce will engage the Technical Education Authority and the Board of Regents to expand the strategic partnerships involved in the development of the Integrated Workforce Plan.

Kansas requests each of its current waivers be extended, including those most recently submitted per TEGL 09-11. The current waiver approval documentation and the recent waiver requests are attached.

Finally, Kansas requests that current negotiated performance measures be extended until new performance is negotiated in conjunction with the five-year state plan approval process.

Thank you for your consideration. If you have any questions, please contact me at 785-296-0607 or [casher@kansascommerce.com](mailto:casher@kansascommerce.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Caleb D. Asher".

Caleb D. Asher  
Deputy Secretary of Workforce Services



JUN 23 11:03 AM '11

The Honorable Sam Brownback  
Governor of Kansas  
State Capitol  
2nd Floor  
Topeka, Kansas 66612-1590

Dear Governor Brownback:

This letter provides approval of the modification to Kansas' State Plan for Title I of the Workforce Investment Act (WIA) and the Wagner-Peyser Act (W-P) for the period July 1, 2011 through June 30, 2012, Program Year (PY) 2011. The Employment and Training Administration (ETA) received the State's proposed modification on April 15, 2011. This letter also provides approval of extensions for Kansas' waivers.

Training and Employment Guidance Letter (TEGL) No. 17-10, issued on December 30, 2010, provides guidance for states that choose to submit a modification of the existing State Plan or submit requests for new waivers. We appreciate the State's responsiveness to this guidance.

#### Plan Review and Approval

ETA has reviewed the Kansas State Plan modification in accordance with Title I of WIA, the Wagner-Peyser Act, the corresponding regulations, the WIA/W-P Planning Guidance (73 Fed. Reg. 72853, December 1, 2008), and as appropriate TEGL No. 17-10. Pursuant to 20 CFR 661.230(e), this letter constitutes a written determination under WIA Section 112 (29 USC 2822) that ETA is approving the modification to Kansas' State Plan for the period July 1, 2011 through June 30, 2012. The State has already received its formula allotment for the WIA Youth program for PY 2011. The State is eligible to receive WIA formula allotments for Adult and Dislocated Worker programs and W-P initial base program allotments, effective July 1, 2011, under the PY 2011 annual funding agreement for WIA and the PY 2011/Fiscal Year 2012 annual funding agreement for W-P.

#### Performance Levels

Kansas requested to extend its existing PY 2010 WIA and W-P performance goals for PY 2011. ETA has incorporated these performance goals, identified as PY 2011 performance goals, into the Regional and National Office copies of the State

Plan. Please include these PY 2011 goals in the State's official copy of the State Plan. For your convenience and reference, a chart reflecting these goals is included at the close of this letter.

## Waivers

As part of Kansas' modification of the WIA/W-P State Plan, and as described in TEGL No. 17-10, the State requested extensions of Kansas' PY 2010 waivers of statutory and regulatory requirements under WIA for PY 2011. The disposition of the State's waiver extensions is outlined below. This action is taken under the Secretary's authority at WIA Section 189(i) to waive certain requirements of WIA Title I, Subtitles B and E, and Sections 8-10 of the Wagner-Peyser Act.

### Extension of Waivers

#### Waiver of WIA Section 133(b)(4) to increase the allowable transfer amount between Adult and Dislocated Worker funding streams allocated to a local area.

The State was previously granted a waiver to permit an increase in the amount a state is allowed to transfer between the Adult and Dislocated Worker funding streams. The State is granted an extension of this waiver through June 30, 2012. Under the waiver, transfer authority is limited to 50 percent. This limitation provides states flexibility while ensuring consistency with Congressional intent regarding the level of funding appropriated for the WIA Adult and Dislocated Worker programs.

#### Waiver of WIA Section 134(a) to permit local areas to use a portion of local funds for incumbent worker training.

The State was previously granted a waiver to permit local areas to conduct allowable statewide activities as defined under WIA Section 134(a)(3) with local WIA formula funding, specifically incumbent worker training. The State is granted an extension of this waiver through June 30, 2012. Under this waiver, the State is permitted to allow local areas to use up to 15 percent of local Dislocated Worker funds and up to 5 percent of local Adult funds for incumbent worker training only as part of a layoff aversion strategy. Use of Adult funds must be restricted to serving lower income adults under this waiver. ETA believes limiting incumbent worker training to the specified level and requiring it to be a part of layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. Local areas must continue to conduct the required local employment and training activities at WIA Section 134(d), and the State is

required to report performance outcomes for any individual served under this waiver in the Workforce Investment Act Standardized Record Data system (WIASRD), field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of WIA Section 134(a)(1)(A) to permit a portion of the funds reserved for rapid response activities to be used for incumbent worker training.

The State was previously granted a waiver to permit use of rapid response funds to conduct allowable statewide activities as defined under WIA Section 134(a)(3), specifically incumbent worker training. The State is granted an extension of this waiver through June 30, 2012. Under this waiver, the State is permitted to use up to 20 percent of rapid response funds for incumbent worker training only as part of a layoff aversion strategy. ETA believes limiting incumbent worker training to layoff aversion is the best use of funds in the current economic climate where serving unemployed workers is a paramount responsibility of the workforce system. All training delivered under this waiver is restricted to skill attainment activities. The State is required to report performance outcomes for any incumbent workers served under this waiver in the WIASRD, field 309. TEGL No. 26-09, Section 7A, "Workforce Investment Act (WIA) Waiver Policy and Waiver Decisions for PY 2009 and 2010" and TEGL No. 30-09, "Layoff Aversion Definition and the Appropriate Use of Incumbent Worker Training for Layoff Aversion Using a Waiver" provide policy guidance related to implementation of this waiver.

Waiver of WIA Section 101(31)(B) to increase the employer reimbursement for on-the-job training.

The State was previously granted a waiver to permit an increase in employer reimbursement for on-the-job training through a sliding scale based on the size of the business. The State is granted an extension of this waiver through June 30, 2012. Under the waiver, the following reimbursement amounts will be permitted: 1) up to 90 percent for employers with 50 or fewer employees, and 2) up to 75 percent for employers with 51-250 employees. For employers with more than 250 employees, the current statutory requirements (50 percent reimbursement) will continue to apply. When determining the funding source for on-the-job training, the State must use the appropriate program funds for the appropriate WIA-eligible population. The State and local area may provide on-the-job training to individuals over age 18 with WIA Adult funds and must provide priority to low-income individuals when funds are limited; the State and

local area may provide on-the-job training to dislocated workers with WIA Dislocated Worker funds. On-the-job training provided with statewide funds must serve WIA eligible individuals.

Waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts for older and out-of-school youth.

The State was previously granted a waiver of the prohibition at 20 CFR 664.510 on the use of Individual Training Accounts (ITAs) for older youth and out-of-school youth program participants. The State is granted an extension of this waiver through June 30, 2012. Under this waiver, the State can use ITAs for older youth and out-of-school youth program participants. The State must continue to make the 10 youth program elements available as described at WIA Section 129(c)(2). The State should ensure that funds used for ITAs are tracked and that the ITA is reflected in the individual service strategies for these youth.

Waiver of WIA Section 123 that requires that providers of Youth program elements be selected on a competitive basis.

The State was previously granted a waiver of the requirement for competitive procurement of service providers for three of the ten youth program elements: supportive services, follow-up services, and work experience. The State is granted an extension of this waiver through June 30, 2012. Under this waiver, the State is permitted to allow its One-Stop Career Centers or partner agencies to directly provide youth program elements. In utilizing this waiver, the State and local areas must still meet Office of Management and Budget requirements (codified in 29 CFR 95.40-95.48 and 97.36) and all state and local procurement laws and policies.

Waiver to permit the State to replace the performance measures at WIA Section 136(b) with the common measures.

The State was previously granted a waiver that allows the State to replace the 17 performance measures under WIA Section 136(b) with the common measures. The State is granted an extension of this waiver through June 30, 2012.

This waiver permits the State to negotiate and report WIA outcomes against the common performance measures only, rather than the performance measures described at WIA Section 136(b). The State will no longer negotiate and report to ETA on the following WIA measures: WIA adult and dislocated worker credential rates; participant and employer customer satisfaction; older youth measures; and younger youth measures. The State will use the three adult common performance measures to negotiate goals and report outcomes for the

WIA Adult and WIA Dislocated Worker programs. The State will use the three youth common performance measures to negotiate goals and report outcomes for the WIA Youth program. WIASRD item 619, Type of Recognized Credential, should be completed for each individual as appropriate, regardless of this waiver to report on common performance measure outcomes only.

Waiver of 20 CFR 666 and 667.300(a) to reduce the collection of participant data for incumbent workers.

The State was previously granted a waiver of the requirements to reduce the data collection burden for employers participating in WIA-funded incumbent worker training programs. The waiver permits the State to discontinue the collection of the following WIASRD elements: single parent (117), unemployment compensation eligible status at participation (118), low income (119), TANF (120), other public assistance (121), homeless individual and/or runaway (125), and offender (126). The State is granted an extension of this waiver through June 30, 2012.

Waiver of the provision at 20 CFR 663.530 that prescribes a time limit on the period of initial eligibility for training providers.

The State was previously granted a waiver of the time limit on the period of initial eligibility of training providers provided at 20 CFR 663.530. The State is granted an extension of this waiver through June 30, 2012. Under the waiver, the State is allowed to postpone the determination of subsequent eligibility of training providers. The waiver also allows the State to provide an opportunity for training providers to re-enroll and be considered enrolled as initially eligible providers.

The approved waivers are incorporated by reference into the State's WIA Grant Agreement, as provided for under paragraph 3 of the executed Agreement, and this constitutes a modification of the State Plan. A copy of this letter should be filed with the State's WIA Grant Agreement and the approved State Plan. In addition, as described in TEGP No. 09-10, page 3, the State should address the impact these waivers have had on the State's performance in the WIA annual performance report, due on October 1 of each year.

We look forward to working together as you implement your WIA/W-P State Plan for PY 2011, If you have any questions related to the issues discussed above, please contact Lori Harris, the Federal Project Officer for Kansas. at 312-596-5496 and Harris.Lori@dol.gov.

Sincerely,

*( Li'i.J. Ci-XJ;*

**eOates**

Assistant Secretary

Enclosures

cc: Byron Zuidema, Regional Administrator, ETA Chicago Regional Office  
Lori Harris, Federal Project Officer for Kansas

Workforce Investment Act and Wagner-Peyser Act  
Performance Goals for PY 2011

Kansas

Workforce Investment Act Performance Goals PY 2011

Adult Measures

Adult Entered Employment Rate	70.0%
Adult Employment Retention Rate	84.0%
Adult Six-months Average Earnings	\$12,500

Dislocated Worker Measures

Dislocated Worker Entered Employment Rate	80.0%
Dislocated Worker Employment Retention Rate	87.0%
Dislocated Worker Six-months Average Earnings	\$15,700

Youth Measures

Youth Placement in Employment or Education	64.0%
Youth Attainment of Degree or Certificate	52.0%
Youth Literacy and Numeracy Gains	42.0%

Wagner-Peyser Act Performance Goals PY 2011

Measures

Entered Employment Rate	65.0%
Employment Retention Rate	80.0%
Six-months Average Earnings	\$11,500

# 4)KANSASWORKS

DEPARTMENT OF COMMERCE

*Sam Brownback, Governor*

*Pat Geoghegan, Secretary*

KANSASWORKS.com

KansasCommerce.com

April 5, 2011

Ms. Kimberly Vitelli  
Division of Workforce System Support  
Employment and Training Administration  
U.S. Department of Labor  
200 Constitution Ave., NW, Room S-4231  
Washington, DC 20210

Dear Ms. Vitelli:

The State of Kansas presents the attached modification to the State Plan for the administration of the Workforce Investment Act and the Wagner/Peyser Act.

As instructed in Training and Employment Guidance Letter No. 17-10, Kansas respectfully submits this plan, its attachments and assurances for your consideration.

Please note only those changes associated with the election of Governor Sam Brownback in November 2010 have been included in this request for plan modification. All other plan elements remain the same and it is requested all non-ARRA Waivers be extended.

Please direct any questions to Susan R. Weidenbach, manager of Adult and Youth Services at [sweidenbach@kansascommerce.com](mailto:sweidenbach@kansascommerce.com).

Sincerely,



Caleb D. Asher  
Deputy Secretary of Workforce Services  
WJA/Wagner-Peyser Signatory Official  
[casher@kansascommerce.com](mailto:casher@kansascommerce.com)

WORKFORCE SERVICES

1000 S.W. Jackson St., Suite 100; Topeka, KS 66612-1354 • Phone: (785) 296-0607 • Fax: (785) 296-1404

TTY: 711 • E-mail: [workforcesvcs@kansasworks.com](mailto:workforcesvcs@kansasworks.com)

Kansas Department of Commerce

## Workforce Investment Act Waiver Request

To submit a waiver request, e-mail this completed form (or state-developed form) along with a cover letter to [WIA.Plan@dol.gov](mailto:WIA.Plan@dol.gov) and the appropriate ETA regional administrator.

ETA will also accept hard copy submissions with an original signature sent to the Federal Coordinator for Plan Review and Approval and to the appropriate ETA Regional Administrator. The address for the Federal Coordinator is as follows:

Division of Workforce System Support,  
Employment and Training Administration  
U.S. Department of Labor 200 Constitution Ave., NW, Room S-4231 Washington, DC 20210 ATTN: Federal  
Coordinator for Plan Review and Approval

Date: January 19, 2012

State: Kansas

Agency: Department of Commerce

### Statutory and/or regulatory requirements to be waived

Kansas will seek each of the three waivers listed below:

Waiver of WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) requiring the conduct of evaluations of workforce investment activities for adults, dislocated workers, and youth.

Waiver of WIA Section 134(a)(2)(B)(iii) and 20 CFR 665.200(e) requiring provision of incentive grants to local **areas.**

Waiver of 20 CFR 665.200(b)(3) requiring dissemination of training provider performance and cost information.

Actions undertaken to remove state or local barriers: There are no state or local barriers.

Goals and expected programmatic outcomes of waiver: The reduction to five percent in the WIA allotment for Program Year 2011 Governor's Reserve funds restricts the state's ability to effectively fund and carry out all of the required statewide workforce investment activities. The current funding level in the Governor's Reserve is insufficient to cover the cost of evaluations, incentive grants to local areas and dissemination of training provider performance, with current costs estimated at \$350,273.00. This total is comprised of up to \$200,000.00 in incentives for Local Areas and approximately \$150,273.60 in program staff salaries resulting from unfilled

United States Department of Labor, Employment and Training Administration \VIA\VP \Waiver Request Form updated 8 19-20 11 **ONf8**  
Number 1205-0398

positions. Required activities will be performed by a smaller staff, with work divided among remaining staff members. The state's reduced funds are being used to cover the following required activities:

Required Activities (Section 665.200)

Goals and expected programmatic outcomes of waiver: (continued)

- State Administration (limited to five percent maximum);
- Rapid Response (paid through Rapid Response fund stream);
- Disseminating: Eligible Training Provider information;
- Assure information on Training Providers is widely available;
- Conducting Evaluations under section 134(a)(2)(B)(ii) and 20 CFR 665.200(d);
- Providing incentive grants;
- Providing technical assistance;
- Assisting in the establishing and operation of One-Stop delivery systems;
- Providing additional assistance to local areas that have high concentrations of eligible youth;
- Operating a fiscal and management accountability information system.

Our goal in seeking this waiver is to ensure that the state may prioritize the use of Governor's Reserve funds for the required activities we deem most essential to the basic functions of the workforce investment system.

Individuals impacted by the waiver

This waiver will provide the state agency with more flexibility in directing Governor's Reserve funds to those activities that best preserve basic functions of the statewide workforce investment system.

Process for monitoring progress in implementation

The State will monitor progress and ensure accountability for Federal funds in connection with these waivers by reviewing monthly expenditure, performance and other reports, through regular contact with the ETA Regional Office liaisons, and through its monitoring and performance accountability system.

Notice to affected local boards

Local Workforce Investment Boards will be addressed personally through Commerce's attendance at regularly scheduled Kansas Association of Workforce Boards meeting.

Public Comment

Commerce posted the waiver request on the KANSASWORKS website and sent direct emails to interested parties per state policy. Public Comments were accepted and addressed as attached.

WIA Section 134(a)(2)(B)(ii) and 20 CFR 665.200(d) requiring the conduct of evaluations of workforce investment activities for adults, dislocated workers, and youth;

- Can you please clarify the specific activities that will not occur if waivers are approved? Please also include who is responsible for these activities currently as well as if this creates an additional burden to local areas in regard to monitoring.

Thank you,

Deb Scheib/er Program  
 Director Kansas  
 WorkforceONE FJmore  
 Center  
 631 E. Crauford, Suite 206  
 Salina, KS 67401

Office Phone: 785-493-8018  
 Cell Phone: 620-617-7106  
 Fax: 785-493-8244

<b>Recommended Action(s):</b>	
	Change Waiver Request
	Address through other Waiver Requests
X	No change to Waiver Request
X	State staff contact individual and answer questions or clarify issues

Workforce Compliance and Oversight will continue to conduct all required oversight activities; therefore no additional burden for monitoring will be created for Local Areas.

What is the difference between the evaluations the waiver will end and those they plan to continue?

What are the actual savings from eliminating dissemination of ETP performance and cost (which providers enter) and dissemination of ETP information which they will continue to do since all this is automated? Where do the savings come from?

What additional assistance to local areas having high concentrations of eligible youth is available and where is it being spent?

The operations budget for WIA administration at the state level should be shared to determine what impact the requested waivers would have on local operations. There is too little information presented to have an opinion.

Keith Lawing  
 Executive Director

<b>Recommended Action(s):</b>	
X	Change Waiver Request
	Address through other Waiver Requests
	No change to Waiver Request
X	State staff contact individual and answer questions or clarify issues

Waiver Request modified to further clarify cost savings.